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COMPETITION COMMITTEE

LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM

Session III: Industrial Policy and the Promotion of Domestic Industry - Call for contributions

18-19 September 2018, Buenos Aires, Argentina

This document is circulated in preparation of the discussion under Session III of the Latin American and Caribbean Competition Forum that will take place on 18-19 September 2018 in Buenos Aires, Argentina. Delegates are requested to submit their written contributions to the Secretariat by 20 August 2018 at the latest. Advance notice of your intention to submit contributions before or by 25 July 2018 would be useful.

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Industrial Policy and the Promotion of Domestic Industry
Call for contributions

Introduction

1. This request for contributions is circulated in preparation for the discussions to be held at the 2018 Latin American and Caribbean Competition Forum (LACCF) during Session III on the topic of "Industrial Policy and the Promotion of Domestic Industry".

2. You are invited to prepare and submit a concise and synthetic written contribution for this session. In this call for contributions, we aim to identify some topics that you may wish to address in your written and oral contributions. Please note that this list is neither prescriptive nor exhaustive. You are free to raise other relevant issues that reflect your experiences.

3. To assist the OECD Secretariat in planning the session, please inform us by **Wednesday 25 July 2018** if you intend to submit a contribution. The contributions themselves should be sent by email (as a Word document in electronic format, 5 pages maximum in Spanish or English) to Angélique Servin [Angelique.Servin@oecd.org] and copied to: Chris Pike [Chris.Pike@oecd.org] by **Monday 20 August 2018** at the latest. Country contributions will be circulated to participants through the LACCF website www.oecd.org/competition/latinamerica and http://laccf2018argentina.com. Furthermore, if you would like to circulate other relevant material please submit a copy to the Secretariat before **20 August 2018**.

4. This session is scheduled to last three hours. A background note will be distributed in advance of the meeting and can be used as a starting point for discussions in this session. The Annex identifies a number of relevant topics for discussion and suggested reading material. The list can inform the preparation of contributions, but should not limit the debate nor the contributions of the issues discussed in this letter.

Annex A

1. Background

5. Industrial policy describes the set of interventions that governments use to affect the economic structure of the economy (Rodrik, 2004). Its success or failure therefore has a huge impact on the extent to which a country can achieve inclusive growth. Individual industrial policies can broadly be considered to have either horizontal effects on each industry, or selective effects on certain markets, sectors, firms, technologies or places. For instance, competition policy is itself a common element within most countries' overarching industrial policy. Depending on the coherence of that policy, a government may or may not find that its competition policy conflicts with the other elements of its industrial policy (for instance, its policies designed to achieve growth in less prosperous regions of the country).

6. There are a number of ways in which governments have sought to promote domestic industry through their industrial policies. This session will discuss the issues that arise and the experiences of competition agencies in Latin American and the Caribbean when encountering these policies.

7. Industrial policies that are horizontal or cross-cutting in nature are less likely to conflict with competition. These include reducing regulatory barriers to entry and funding merger control and the rigorous enforcement of competition law against exclusionary conduct. The likely beneficiaries of these neutral policies might nevertheless be smaller local firms since they are often the most vulnerable to these barriers and practices.

8. An increasingly common form of this approach is to apply some type of competitive neutrality framework that seeks to protect domestic producers from distortions created when rival firms receive subsidies or other support from their governments. These frameworks might be set at a national level and apply to local governments, as in Australia and China, or they might be set at a supra-national level and applied to local and national governments, as in the EU and at the WTO. In some cases, these frameworks might also be set by a national government and applied to its own actions, as in Australia, Sweden and Ukraine. In these cases, competition agencies may find themselves with responsibility for enforcing these frameworks, or they may need to work with the agency that does have this responsibility.

9. A different type of industrial policy is to selectively target measures. Here there is a greater risk of conflict with competition objectives. For instance, a government might adopt a selective industrial policy in order to obtain, on behalf of those firms located within the country, a competitive advantage in a key market over other regions or countries. However, it might also adopt a selective policy in order to correct specific market failures, other than those market failures that can be addressed through horizontal industrial policies. In general, where an industrial policy addresses a market failure rather than seeking to boost competitiveness, it can be complementary to competition policy. Selective policies therefore include those that conflict, for example, creating and supporting a national or local champion); as well as those that may or may not conflict, such as sector or technology specific policies that offer support to firms that choose to invest in certain industries or technologies.

10. One traditional market failure that governments might be seeking to address through such policies is the lack of or insufficient provision of public goods that generate valuable externalities. Such goods might be considered by firms to be uneconomic or too risky, or they might not even have been envisioned.

11. Governments might also be concerned that people, firms, skills, learning or capital are slow to respond to market incentives and that these frictions might not only require time and support to be resolved, but that they might leave long lasting scars if not addressed.

12. There may also be a view within government that the market power enjoyed by innovative and efficient firms, while beneficial on a global level, is unwelcome for a region that sees those profits extracted and spent in other countries or regions. In such circumstances, governments might decide to encourage trading between those that spend locally might increase local demand and raise living standards. Distorting competition for distributional purposes, for instance by only procuring from local firms will damage global welfare. However, in the absence of more effective policies to spread the benefits of trade and competition more evenly, these policies may nevertheless prove attractive to governments seeking to achieve balanced rather than maximised growth.

13. A further concern might be that macroeconomic decisions on interest or exchange rates are largely driven by the impact on a country’s large economic centres, and may therefore not be helpful for regions that require different conditions. While transfers and investment in human capital and infrastructure are more efficient solutions to these problems, it is sometimes argued that these have their own costs, for instance in building dependency.

14. In the case of national or local champions, competition agencies may need to review mergers that create or support a champion, and which are endorsed by the government. If they have powers to enforce a competitive neutrality framework, they may also find that they receive complaints from rivals that procurement processes favour local firms. Where a champion has market power, the agency may need to take enforcement action against suspected anticompetitive conduct. Finally, the agency might need to take responsibility for advocating for divestments or the removal of support for a champion in order to remove the competitive distortion and increase efficiency and consumer welfare.

15. In contrast to national champions, sector deals can be non-discriminatory in the sense that they are open to all firms. However there might also be conditional sector-deals, which for example, might depend on recipients not only operating in the domestic market, but perhaps also on having owners that are resident within that market, or on sourcing domestic content (for example in procurements). Sector deals may also differ in the sense that some will target well-established or declining sectors that the government wants to support, while others might focus on sectors or emerging technologies.

16. In the case of sector deals, competition agencies may have an important advocacy role to play as the pro-competition voice within a country or a government. They may therefore identify such distortions during the course of market studies, or through the delivery of opinions.

2. Some Suggested Issues and Questions for Consideration in Country Contributions

Please note this is not a questionnaire. Questions are provided as guidance and you are not required to respond to every question. We would appreciate a unified, concise contribution that considers the experiences of in your jurisdiction.

- What types of industrial policy does your country currently have? What are the objectives of these policies?
- What types of industrial policy has your country had in the past?
- Have you assessed the competitive impact of any of these policies?
- Have you assessed the competitive impact of any mergers to create what might be considered a national or local champion?
    - How did these cases differ from a standard merger case? Did the government express its support for the merger?
- Have you investigated any suspected abuse of dominance by what might be considered a national or local champion?
    - How did these cases differ from a standard abuse of dominance case? Did the government express any view on the conduct or the investigation?
- Do you have any responsibility for maintaining competitive neutrality? Does any other body?
    - How do you/they exercise that responsibility?
    - Can you provide an example?
- Have you encountered any selective industrial policies through market studies?
    - Did they distort competition? How did you arrive at that conclusion?
    - Did they have any off-setting benefits?
    - How did you respond to these distortions?
- Are you able to issue opinions on selective industrial policies?
    - Have you issued any? How did you arrive at your conclusion?
    - Did they have any off-setting benefits?
    - Can you provide an example?
- What do you consider to be the legitimate role of industrial policy?

3. Suggested Bibliography

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