

12 February 2018

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE****Cancels & replaces the same document of 23 November 2017****SUMMARY RECORD****LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM****-- Note by the Secretariat --****14th Meeting, 12-13 April 2016, Mexico**

This document prepared by the OECD Secretariat is a summary record of the fourteenth meeting of the OECD-IDB Latin American and Caribbean Competition Forum held on 12-13 April 2016 in Mexico.

More documents related to the Forum can be found at: <http://www.oecd.org/competition/latinamerica/>

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Latin American and Caribbean Competition Forum

Mexico DF, 12-13 April 2016

Introduction

1. The Latin American and Caribbean Competition Forum (LACCF) is sponsored jointly by the OECD and the Inter-American Development Bank (IDB). The LACCF is used to identify, and disseminate best practices in competition law and policy while promoting a sharing of experiences and networking among the region's competition policymakers and law enforcers. Heads of Agencies and senior officials of Latin American competition institutions participate in the Forum. Competition experts and international organisations are invited to participate to provide additional perspectives and experiences.

2. The fourteenth meeting of the Latin American and Caribbean Competition Forum took place in Mexico DF, Mexico on 12-13 April 2016. The Comisión Federal de Competencia Económica (COFECE) and the Instituto Federal de Telecomunicaciones (IFETEL) co-hosted the event. The Ibero-American Forum on Competition preceded the LACCF on the morning of 12 April. Prior to the fourth meeting of the Regional Competition Center of Latin America on 14 April 2016, COFECE organised a "Diálogo sobre contrataciones públicas" event (Public Procurement Dialogue). The panel was composed by Mr Virgilio Andrade, Minister of Public Administration; Ms Alejandra Palacios, COFECE's Chairwoman; Mr Mikel Arriola, Director General of the Mexican Institute of Social Security and Ms Maria Marván, President of the Council for Transparencia Mexicana.

3. The agenda of the LACCF included two special presentations: i) a keynote address "*When will Schumpeter arrive in Mexico? Informality and Competition Policy*" given by Santiago Levy Algazi, Vice-President for Sector and Knowledge, IDB; and, ii) presentation on "*Report on Competition and International Commerce*" by Eduardo Perez Motta, Partner at AGON and former Chairman of the Federal Competition Commission (CFC), Mexico.

4. This note will focus on the Latin American and Caribbean Competition Forum (LACCF) and will summarise: i) the discussions at the meeting; and ii) the results of participants' evaluations and suggestions for future Forum topics.

1. Summary of the LACCF meeting

5. The fourteenth annual meeting of the *Latin American and Caribbean Competition Forum* (LACCF) took place on the afternoon of 12 April and on 13 April. The agenda included three sessions: i) *Disruptive Innovation in Latin America and the Caribbean: Competition Enforcement Challenges and Advocacy Opportunities*; ii) *Leniency Programmes in Latin America and the Caribbean: Recent Experiences and Lessons Learned*; and iii) *Promoting Effective Competition in Public Procurement*. This last session comprised two sections: Part 1: *Co-operation between anti-corruption bodies and*

competition authorities in public procurement and Part 2: *The use of screens to prevent and detect bid rigging in public procurement*¹

6. The LACCF was attended by over 150 people representing 23 country delegations, as well as representatives from the Andean Community, IDB, OECD, UNCTAD and the World Bank.² Once more, the IDB played a key role in providing financial support to the event, notably by financing Latin American country participants. Most of the LACCF participants were present in the morning at the Ibero-American Competition Forum.

7. The **Latin American and Caribbean Competition Forum** was opened by María del Rocío Ruíz Chávez Undersecretary for Competitiveness and Regulation Ministry of Economy, Mexico who emphasized the importance of competition assessment to ensure efficient markets. Regulations must be at least competition neutral and all proposed regulations must submit to a competition assessment as proposed by the OECD Competition Assessment Toolkit. Undersecretary del Rocio Ruiz also announced the launch of a [manual of market examinations undertaken with the OECD](#), in December 2016. Santiago Levy Algazi Vice-President for Sector and Knowledge, IDB focused on the importance of the LACCF to competition authorities across the region. Alejandra Palacios Prieto Chairwoman, COFECE, noted that international co-operation in competition enforcement was a key element to strengthen economies across the Latin America and Caribbean region. Gabriel Contreras Saldívar Chairman, IFETEL discussed the current trends of disruptive innovation in the telecommunications industry and the challenges to competition authorities. Frédéric Jenny Chairman, OECD Competition Committee, then opened the Forum. He observed the progress made by the region's countries in enforcement competition as evidenced by the growing number of delegations to the LACCF. By way of introduction to the next session, a keynote address by Mr. Levy, Mr. Jenny cited a growing interest in examining the linkages between competition and other policy areas.

8. Mr. Levy followed the opening session with a keynote address entitled, "*When will Schumpeter arrive in Mexico? Informality and Competition Policy*". Mr. Levy discussed how distortions in the labour market created by informality reduce total factor productivity.

1.1. Session I - Disruptive Innovation in Latin America and the Caribbean: Competition Enforcement Challenges and Advocacy Opportunities

9. This session focused on enforcement challenges of disruptive innovations with particular emphasis on the Latin American and Caribbean context examining three main areas– market studies, regulation, and advocacy – and raised questions about whether traditional competition enforcement instruments are sufficient and applicable in cases involving disruptive innovations. The session benefited from a panel comprised of: Mr.

¹ See the agenda for the fourteenth meeting of the LACF: DAF/COMP/LACF/A(2016)1. All the documentation for all LACF meetings held to date, including Secretariat background notes and country contributions, is available at: <http://www.oecd.org/competition/latinamerica>.

² The twenty-three countries were: Brazil, Bolivia, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, France, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Portugal, Spain, United States and Uruguay. CARICOM was unable to join the LACCF but did provide contributions.

Alejandro Faya Rodriguez, Chief of Planning, Evaluation and International Affairs Unit at COFECE, Mexico; Ms. Maria Elena Estavillo Flores, Commissioner at ITF Mexico; Mr. Ignacio de Leon, Private Sector Lead Specialist from the IDB; and Mr. David Stallibrass, Director at Fingleton Associates.

10. The OECD Secretariat presentation by Lynn Robertson provided the key findings of the Secretariat's background paper [DAF/COMP/LACF(2016)4]. The paper defined disruptive innovations as new products, processes or business models that redefine a market and displace incumbent firms. They contrast with innovations coming from within a market's value network and which are focused on improving product quality at the higher end. Disruptions often come from smaller firms (including new entrants) and, particularly in the case of internet or mobile technologies, scale up quickly at the expense of entrenched incumbents. While there is disagreement among theorists about the precise mechanism through which disruptive innovations influence markets and which recent innovations qualify as disruptive, it is clear that technology-enabled innovations will continue to fundamentally change markets in the years ahead. The Latin America and Caribbean region has in recent years seen web- and mobile-based innovations as well. These include services offered by large players from outside the region, such as Uber and Airbnb, as well as locally-developed and rapidly growing businesses such as Cumplo and Easy Taxi. Several recent innovations in the financial services sector have targeted under-served segments of markets, including individuals without bank accounts, credit ratings or payment cards, as well as those reliant on international remittances. Competition authorities face two significant challenges: applying competition laws to markets whose analysis can be made difficult by disruptive innovation, and advocating for competition in an atmosphere of significant controversy. However, both new and established tools effectively can be used by competition authorities.

11. Markets characterised by disruptive innovations present competition authorities with challenges in determining market definitions, and the identification of a dominant player or vested market power. As an example, María Elena Estavillo Flores discussed the blurring of the frontier between television and the internet noting that in cases of disruptive innovation, competition can originate another, apparently distinct, market. For example, as described by Costa Rica (SUTEL), when investigating a case involving international telephone services, the defining the relevant market called into question whether to include apps such as Skype. When defining a market, authorities should determine if the new innovation is a variant of an existing business model or if it is truly an innovation. For Spain, traditional approaches and models of competition pose problems when applied to the collaborative and platform economy. The main challenges in these markets are the existence of network externalities that can increase the barriers of entry to the market for new operators and can favour the appearance of operators with market power; and, the risk of concerted practices or co-ordinated effects between different platforms.

12. Turning to the second topic of the session, on regulation, Ms. Estavillo Flores' noted that in many jurisdictions, regulations tend to be static, and unresponsive to changes in dynamic markets as well as to new business models. Regulation if reviewed at regular intervals can be a positive force, encouraging more competition in markets experiencing disruptive innovations.

13. In his presentation, Mr. Ignacio de Leon, stated that mainstream analysis is unable to gauge innovation as it focuses on deducing implications of past historical and empirical data which by their very nature cannot forecast future events, trends and novelties. Furthermore, for public policy purpose, branding innovation as “radical”, or “disruptive” may, at best, be irrelevant and, at worst, be misleading. In particular Mr. de Leon noted that the application of conventional market analysis methodologies can be unsatisfying. He suggested that the focus should be on identifying barriers to entry, including anticompetitive regulation, abuses of intellectual property that create barriers to entry. Commenting on Mr. de Leon’s presentation, Mr. Stallibrass noted that traditional tools, jurisprudence and precedence cannot be blindly applied to a new area.

14. Mr. Ignacio de Leon noted that more often than not existing regulations are obsolete and the data used to design provisions is not adjusted to the new realities of the market and can, therefore, be considered as obsolete as well. In its presentation, Portugal (PCA) cited the success of new legislation for businesses such as Airbnb, however, regulation in the taxi industry continues to be outdated and does not accommodate new arrivals such as Uber. The PCA has called for a revisiting of taxi regulation. In its written contribution, Portugal noted that innovations tend to be most developed in markets with light, or relatively light, regulatory frameworks. During its intervention on the third topic of advocacy, the USA FTC emphasized the importance of recognising the expertise of the regulators, who have different and complementary expertise to bring to the table. Such a soft co-operative approach has proven successful when advocating within the health care industry.

15. David Stallibrass contributed a paper to the LACCF, which discussed the role for competition authorities in promoting competition from peer-to-peer businesses. He noted the positive contribution competition authorities can make by supporting the kind of disruption and innovation that contributes to economic growth. Mr. Stallibrass noted that different types of regulation are necessary and useful, and there are several methodologies to develop regulations, the importance being that they accurately reflect current market realities.

16. The third topic of the session examined advocacy. Several interventions noted that legislators are usually the most important focus of advocacy efforts because they are vested with the power to revise legislation, in particular removing legislation that has anticompetitive effects. In this vein, CADE noted the success it had achieved in working with municipal legislators in the city of Sao Paulo to adapt legislation in light of the arrival of UBER. CADE explained that the dialogue with legislators was based on two working papers on passenger transportation services that evaluated the competitive effects that apps like Uber may have in this market. The FTC agreed that addressing government barriers that impede the functioning of market mechanisms represents a significant part of their work. To demonstrate the political nature of advocacy, the FTC recounted the case of car dealerships and the arrival of Tesla which engaged state level legislators. Mr. Alejandro Rodríguez discussed COFECE’s opinion on Transportation Network Companies and the regulatory approaches taken by some Mexican States, noting the important contribution of the right advocacy strategy in order to generate pro-competitive outcomes.

1.2. Session II - Leniency programmes in Latin America and the Caribbean: Recent experiences and lessons learned

17. This session discussed issues in connection with leniency programmes and specifically, recent experiences and lessons learned focussing the discussions on three key areas:

1. Modifications in the sanctions for cartel conduct and the benefits granted to leniency applicants;
2. Modifications in the administration, enforcement and procedure of leniency programs;
3. Interplay between the leniency program and other regimes (settlements, anticorruption laws).

18. The discussions benefitted from a panel comprised of: Carlos Mena Labarthe, Head of Investigative Authority at COFECE; Lucia Ojeda Cardenas, Partner at SAI Consultores SC; and, Mr. Felipe Serrano Pinilla, former Head Advisor and Deputy Superintendent at SIC Colombia who presented the background paper prepared as a reference for this session. The session was chaired by Mr. Tomas Menchaca, then Chair of TDLC, Chile.

19. The session opened with a presentation by Mr. Serrano Pinilla providing an overview of leniency programmes in the region based on his background paper. In the past five years, the region has seen a wave of new leniency programmes and amendments already in place before 2010. Countries are moving towards higher sanctions and predictability relying increasingly on leniency applications. As the amount of the sanctions increase, it is expected that the number of leniency applicants will also rise. To increase transparency and certainty, countries such as Chile, Brazil, Mexico (COFECE and IFT) and Panama have developed guidelines that provide detailed explanations of the leniency programme and address the main concerns which applicants may have when deciding whether to co-operate with the authority or not. Antitrust regimes in Latin America and the Caribbean are divided regarding criminal sanctions for cartel conduct. In those countries which do have criminal sanctions, Brazil and Mexico allow immunity for leniency applicants both from administrative and criminal sanctions. Colombia only punishes one bid-rigging criminal sanctions and leniency applicants can be accorded one third reduction of the criminal sanction (6 to 12 years) would be available, but not full criminal immunity. Chile, Colombia, El Salvador, Panama, and Uruguay as well as Panama prohibit the market leader to obtain leniency benefits. Jurisdictions, like Ecuador, bar the entry to the programme only if the leader has coerced other cartel members to enter into the agreement. Some jurisdictions are now considering that this prohibition reduces the effectiveness of the programme. As a result, Brazil, Peru, and Colombia have to greater or lesser extents repealed this prohibition.

20. Some jurisdictions require applicants to start the process by submitting a written document. Such a requirement can be a disincentive to applicants, especially US companies, since US courts may demand disclosure of documents produced by the defendant, including corporate statements recognising conduct, thus exposing the company also to civil damage claims. One solution, as seen in Colombia, is to allow oral applications and provide the alternative of not requiring corporate statements.

21. Finally, across Latin America and the Caribbean, we see a rising trend for agencies to be strict and require strong evidence of cartel conduct. For example, CADE increasingly requires a higher standard of evidence and Panama requires evidence that by itself is enough to prove the cartel.

22. The USDOJ supported these findings – the importance of significant sanctions, predictability and transparency - as well as the use of a marker system. In its intervention, the USDOJ also emphasized the importance of international co-operation among agencies as well as the significant advocacy efforts directed towards bar associations and firms.

23. Many different dimensions of leniency programmes were raised during the discussions. Co-operation with other government bodies can boost competition leniency programmes. In CADE's experience the provision for leniency in Brazil's anticorruption act can boost CADE's antitrust leniency programme, as many cartel cases occur in the context of public bids, in which there are also corruption related offences involved.

24. Portugal's intervention discussed the relationship between settlement procedures and leniency programmes. While these instruments are independent from each other in clear-cut cases of cartel, they are likely to co-exist. The leniency programme is aimed at gathering the necessary evidence to help prove the infringement whereas in the settlement procedure the goal is to expedite the procedural steps and allowing for a faster decision.

25. Finally, the session also touched briefly on how private damage actions and leniency interact in the United States. The Antitrust Criminal Penalty Enhancement Reform Act allows for leniency applicants to pay single damages rather than treble or three times damages and removes joint and several liability.

1.3. Session III - Promoting effective competition in public procurement

26. This session was divided into two parts: Part 1 addressed the co-operation between anti-corruption bodies and competition authorities in public procurement in the Latin American and Caribbean region, and Part 2 dealt with the use of screens to prevent and detect bid rigging in public procurement.

27. Session III was chaired by Alejandra Palacios Prieto, Chairwoman of Mexico's competition authority COFECE, who, in her opening remarks, highlighted the importance of this Forum in sharing experiences and exchanging views on best ways of making procurement free from corruption and collusion.

28. The first part of the discussion on the co-operation between anti-corruption and competition authorities in public procurement was opened by Despina Pachnou of the OECD Competition Division who gave an overview of the work of the OECD on public procurement, fighting bid rigging, and foreign bribery. Ms Pachnou discussed forms of co-operation between public procurement and competition authorities, which can be based on formal co-operation agreements between the authorities, or can be informal contacts. Co-operation can cover asking and receiving information and advice, the exchange of data (usually procurement data), and, in some cases, joint investigations in bid rigging cases. Ms Pachnou stressed that delegates responding to a survey that the OECD run in 2015 on the implementation of the OECD Recommendation on Fighting Bid Rigging in Public Procurement highlighted the value of informal co-operation, and mentioned that future work at the OECD may involve looking at the co-operation between anti-corruption and competition authorities.

29. Pierre-Yves Guay, Assistant Deputy Commissioner at the Cartels Directorate of the Competition Bureau of Canada, gave an overview of cases in Canada which aimed to combat both corruption and cartel conduct in public procurement. In recent years, the Bureau has taken steps to improve its co-operation with police forces, procurement authorities and anti-corruption officials in Canada, in order to complement each other's efforts to promote competition and fight bid rigging. The Bureau embeds its own officers within police forces to allow Bureau and police officers to share best practices, learn investigative techniques, and understand each other's mandates. Mr Guay mentioned the joint investigation by the Bureau and the Quebec anti-corruption unit UPAC in the construction industry in a region of Montreal, which resulted in 77 criminal charges against 9 companies and 11 individuals. The Bureau also successfully co-operated with the Commission Charbonneau, which was mandated to make recommendations on measures to identify, prevent and reduce corruption and collusion in public procurement. The Commission's report stressed the need for law enforcement agencies responsible for combatting corruption and collusion to better co-operate and co-ordinate their efforts. Mr Guay highlighted the usefulness of formal co-operation forms, like MoUs or agreements between different authorities, to make sure that the quality of co-operation and exchange of information does not only depend on good personal relationships.

30. Cesar Morales, the head of procurement of Mexico's electricity utility CFE, spoke on CFE's new procurement rules and plans to increase the competitiveness of its procurement procedures. These plans include the provision of capacity building to procurement officers, better market studies in advance of the tender procedures, and better designed procurement procedures and contract award criteria. CFE plans to open its tenders to all candidates (open tender procedures), and conduct its procurement electronically, to allow more bids, increase transparency and probity, and improve record keeping. The OECD is reviewing CFE's procurement rules and practices and, by the end of 2016, will issue a report with recommendations on how to improve competition among suppliers.

31. Mario Umaña, Lead Trade and Competition Specialist at the IDB's Integration and Trade Sector, gave a brief overview of the IDB's experience in the areas of fighting corruption and collusion. Mr Umaña highlighted that anti-corruption and competition policies are complementary mechanisms to correct market dysfunctions. Sound anti-cartel and anti-corruption measures can increase transparency, level the playing field, and contribute to improve the investment climate of countries, and so can enhance growth. Mr Umaña mentioned that, for example, strict anticorruption measures and a modernisation of Korea's competition system ensured an increase in productivity levels. The IDB's Office of Institutional Integrity (OII) investigates corruption, fraud, collusion and other prohibited practices in IDB financed activities collusion, and can request the debarment of firms who have engaged in collusive or corrupt conduct. The OII also conducts advocacy activities. Mr Umaña presented formal (e.g. MoUs) and informal forms (e.g. regional policy dialogue) of co-operation, and concluded that there is more to be done on a regional level in the Latin American and Caribbean region.

32. Spain, Nicaragua, Costa Rica and Ecuador spoke on their work in fighting bid rigging in public procurement. Spain mentioned the competition authority's (the CNMC) power to advise on competition aspects of proposed laws and regulations as well as on tender documents for centralised purchases. The CNMC can propose amendments where there are alternatives more favourable to competition. All countries stressed the importance of working together with public procurement authorities, the value of training procurement officers to identify and prevent bid rigging, and the usefulness of guidelines to combat cartels in procurement, aligned with the OECD Guidelines on fighting bid rigging.

33. Ms Palacios closed the first part of this session, mentioning that it would be useful to have OECD guidance or case studies on, first, the interplay of anti-corruption and anti-cartel enforcement, and in particular the possibility of anti-corruption investigations against leniency applicants, and, secondly, the impact that debarment decisions may have on competition in the market.

34. Ms Palacios then opened the second part of this session on the use of screens in public procurement to prevent and detect bid rigging. She mentioned that the usefulness of screens depends on the quality of the data used in them and referred to initiatives in the Latin American and Caribbean region.

35. Rosa Abrantes-Metz, Managing Director at the Global Economics Group and Adjunct Professor at the NYU Stern School of Business, gave an overview of the use and usefulness of screens to detect bid rigging. Professor Abrantes-Metz explained that a screen is a process based on a model, checking observed behaviour and delivering a testable hypothesis. She described how screening led to the detection of collusion in LIBOR, London Gold Fixing and ISDAfix financial benchmarks. Professor Abrantes-Metz concluded that markets, including procurement markets, should be screened regularly and that procurement markets, in particular, often offer sufficient data for screening purposes.

36. Javier Davila Perez, Senior Procurement Specialist at the IDB, discussed the use of screens to prevent abnormally low tenders, and presented data from IDB financed projects. Screens can help establish the qualifications of the bidders and the elements of the bids, so that procurement contracts are viable.

37. Ernesto Estrada Gonzales, Commissioner at Mexico's Federal Institute of Telecommunications, IFT, presented a Mexican cartel detection case, concerning the procurement of saline solutions and human insulin by Mexico's Institute of Social Security, IMSS. In this case, there was no direct evidence of the existence of a cartel, there was however indirect economic evidence which was found through screening of procurement data. Namely, IMSS observed similar high prices in its tenders, which it brought to the attention of Mexico's competition authority in 2006. Also in 2006, IMSS redesigned the procurement procedure by consolidating purchases, i.e. conducted larger procurements for a higher volume of supplies. The larger volumes attracted new bidders who offered drastically lower prices, thus indicating that a price-fixing agreement among the incumbent bidders may previously have existed. Mexico's competition authority investigated the case, screened IMSS' procurement data and found suspicious patterns indicating collusion in tenders covering the period 2003 to 2006, and discovered communications among the incumbents. The authority imposed sanctions on the combined basis of the economic evidence of reduced prices, and the existence of communications among the presumed cartel members. The courts accepted that there was bid rigging. This case was made possible through the good co-operation of the procurement body, IMSS, and Mexico's competition authority, and set case law standards for future cases.

38. Ana Rodrigues, Chief Economist at the Portuguese Competition Authority (PCA) presented PCA's strategic action plan for public procurement. The action plan is built on three interrelated cornerstones (fighting bid rigging, promoting procurement efficiency and increasing the awareness of the benefits of competition). It envisages scaling up advocacy and enforcement against bid rigging cartels; increasing efficiency through better tender design; and the alignment of the incentives of all entities involved in public procurement through raising the awareness of procurement officials on the importance of competition for good procurement outcomes, and their own performance. The PCA's

strategic plan aims at a right policy mix: ex ante advocacy and ex post enforcement against bid rigging; reactive and proactive detection tools to uncover cartels. The PCA is collecting experiences from other competition authorities that use proactive detection methods and plans to consult with experts for the design of screening algorithms. Ms Rodrigues highlighted that electronic procurement is a powerful tool that enables screening, increases transparency and competition, and helps assess the performance of competition authorities based on evidenced achieved outcomes. She concluded stressing the importance of mobilising the procurement community to detect cartels, and PCA's advocacy and outreach efforts in this respect.

39. Brazil's CADE mentioned the screening technique it developed called the Brain (Cérebro), which incorporates data mining and economic screens. The team that developed Cérebro used analysis roadmaps based on international guidelines, such as OECD Guidelines on Fighting bid rigging in public procurement. It also used specialised econometric literature describing the behaviour of companies in real cartel cases. The identified behaviours were then translated into mathematical models as algorithms that search for patterns in public procurement databases. Cérebro is still in progress, but at the end of 2015, data analyses played an important role in starting one dawn raid, and have allowed the opening of other investigations in public procurement. The greatest challenges are data quality and reliability, and data handling, which is intensive in human resources; CADE noted the difficulty in finding professionals with specific data and computing skills.

40. Colombia's competition authority, la Superintendencia de Industria y Comercio, developed an application called ALCO to allow public procurement authorities to identify indications of bid rigging. The application was inspired by OECD and ICN best practices and guidelines on fighting bid rigging, and helps estimate a procurement's risk levels and probability of collusion.

41. El Salvador's competition authority, la Superintendencia de Competencia, developed in 2016 a pilot on competition principles in public procurement to help procurement authorities self-monitor competition in their tenders. The authority has also developed a quick screening test for public procurement bodies, so that they identify patterns or indications of bid rigging, and report them to the competition authority. Peru's competition authority INDECOPI is also developing indicators to show whether there was competition in tenders, and will test them on insurance and fuel procurement data from 2007 to 2015.

42. The chair, Ms Palacios, concluded that developments on screens are on-going, and the Forum may return to them to assess progress made, challenges encountered, and proposed solutions.

1.4. Final session

43. In the closing session, Nicaragua proposed to host the next LACCF, on 4-6 April 2017. This was seconded by the Chair and by the IDB. Honduras and Argentina both offered to host the LACCF in 2018. The decision of 2018 host will be taken at a later date.

44. The roundtable discussion on future topics revealed a strong desire to discuss mergers, in particular cross-border mergers as well as estimation of harm from cartels and competition in the financial sector. Other topics proposed included a continuation of the discussions on bid-rigging in public procurement

45. Note that a conference call to discuss the 2017 LACCF will take place in July 2016 and as in previous years, a meeting of LACCF delegates will be organised in the margins during the next Global Forum on Competition (1-2 December 2016) at OECD headquarters in Paris. Further details will be provided in due course.

2. Results of participants' evaluations and suggestions for future work

46. The participants considered the Forum to have been successful, judging by their feedback in the concluding session and replies to the evaluation questionnaires. Evaluation questionnaires were received from 15 out of 23 participating countries, and from two international organisations and one anonymous (see summary results in **Annex I**).

47. All the meeting documentation, including the calls for contributions, background papers and country contributions, was made available in English and Spanish prior to the meeting.³

48. Twenty-two evaluation forms were returned (representing a respectable turnout of 68 %) (*for info last year it was 81%*), the results of which are analysed in detail in **Annex II** of this report. Participants rated the *overall usefulness of the meeting* at a high mark of 4.8 out of 5 (higher than last year's rating of 4.6); showing that the Forum continues to be an event of high importance in the agenda of Latin American and Caribbean competition authorities.

49. Participants were in strong agreement about the high quality and relevance of the papers and sessions. The overall usefulness of *forum materials* received an average score of 4.8. The overall usefulness for participants of *the topics addressed* was highly rated (4.8). The overall *quality of the presentations* was well rated (4.6) compared to last year result (4.3). The sessions on "Disruptive Innovation in Latin America and the Caribbean: Competition enforcement challenges and advocacy" and "Promoting effective competition in public procurement" received the highest scores with regards to *interest in the topic* (4.8 and 4.7), while the session "Leniency programmes in Latin America and the Caribbean: recent experiences and lessons learned" received a good score in terms of *usefulness of the Background/issues papers* (4.5). The *overall quality of the facilities* was rated at 4.7 slightly higher to 4.6 last year, while the *overall quality of the Forum preparations* received the score of 4.8 out of 5, higher to last year's rate (4.2). The *overall average score across all 6 categories* is at 4.8 (out of 5), compared to 4.5 for last year's meeting [see Evaluation table in **Annex I**].

³ Full documentation is available in English and Spanish on the website of the Latin American and Caribbean Competition Forum at: www.oecd.org/competition/latinamerica/, as well as on OLIS.

50. As far as future work is concerned, a high interest (above 4 out of 5) was expressed for 14 of the 32 topics identified for future discussion in the questionnaire (see the full list in **Annex II.2.1**), as follows:

- Cartels: Estimation of harm from cartels
- Ex-officio investigations-with a focus on economic evidence
- Evidence in court proceedings
- Handling of confidential information in light of the right of defence
- Gathering of evidence in cartel investigation
- Cross-border mergers and practices
- Market studies as efficient tools for competition advocacy
- Sanctions, remedies in abuse/monopolisation cases
- How to assess abuse of dominance
- Abuse of dominant position trans-border
- Competition in financial sector
- Failing Firm Defence in Merger Reviews
- Competition in the health sector
- Guidance to the private sector
- Statistical methods applicable to competition law
- Merger analysis, methodology and use of merger indicators
- Countervailing market power e.g. buyers cartels intellectual property and competition
- Interaction between Competition Authorities and Sector Regulators
- Competition in infrastructure sectors
- Cartels: jurisdictional challenges to enforcement

51. The 12 remaining topics scored between 4 (e.g. “Analysis of the subsidiary role of the state and how it affects (or not) competition”) and 3.3 (“Exclusive rights”). Further details are available in **Annex II.2.1**. Participants were also asked to suggest additional topics of interest to authorities; the entire list is provided in **Annex II.2.2**.

3. Additional meetings held alongside the Latin American and Caribbean Competition Forum

52. The *Ibero-American Forum on Competition* was held before the LACCF in the morning of the 12 April. A principal aim of this Forum is further co-operation between the Heads of Latin American competition authorities, as well as the Heads of the competition agencies in Spain and Portugal. This year, the event included two sessions: i) *Roundtable Functioning of Competition Agencies: fundamentals and practical experience*; and, ii) *Roundtable Exchange of information between competitors – Where to draw the line?* The roundtable on *Functioning of Competition Agencies: fundamentals and practical experience* included presentations by Mr José María Marín (Chairman, National Authority for Markets and Competition, CNMC, Spain), Ms Alejandra Palacios (President, Federal Economic Competition Commission, Mexico), Ms Maria Elena Estavillo (Commissioner, Federal Institute of Telecommunications, Mexico) and by Mr Carlos Filartiga Lacroix (President, Comisión Nacional de la Competencia, Paraguay) under the moderation of Mr Jesús Espinoza (Technical Secretary, National Institute for the Defence of Competition and the Protection of Intellectual Property, Peru). The roundtable on *Exchange of information between competitors – Where to draw the line?*

moderated by Ms Luciana Macedo (Commissioner, Commission for the Promotion and Defence of Competition, Uruguay), included presentations by Mr Antonio Gomes (President, Portuguese Competition Authority), Mr Jorge Enrique Sánchez Medina (Deputy Superintendent for the Protection of Competition, Superintendence for Industry and Commerce, Colombia), Ms Vanessa Facuse (Head of the Litigation Division, Fiscalía Nacional Económica) and Ms Luiza Kharmandayan (Head of the International Unit, Administrative Council for Economic Defence, Brazil).

53. The discussions engaged authorities present in a peer-exchanging exercise, with agencies sharing case studies and data in a lively discussion. While the first session focused on the day to day issues facing competition authorities, including practical solutions to common challenges, such as case prioritisation, the second session provided guidance on how authorities can ascertain when competitors are entering into collusive behaviours

54. The fifth *Seminar for the Regional Competition Centre for Latin America* took place during the afternoon of 14 April. At the seminar, delegates received the results of the study "Trends in collusive agreements in the region", prepared by the World Bank which was followed by two presentations on the progress of the studies on the *Effectiveness of the Implementation of Different Legal Frameworks* and *Institutional Strategies to Promote Effective Competition in Key Markets*.

Annex I.

EVENT SUMMARY

EVENT TITLE	LATIN AMERICAN COMPETITION FORUM
PLACE	Mexico City, Mexico
DATES (DAY, MONTH, YEAR)	12-13 April 2016
OECD/IDB STAFF AT EVENT	John Davies (OECD), Lynn Robertson (OECD), Despina Pachnou (OECD), Angélique Servin (OECD) and Frédéric Jenny; Mario A Umaña (IDB)
EXPERTS (NAMES AND COUNTRY)	Alejandro Faya Rodríguez (Mexico), María Elena Estavillo Flores (Mexico), Ignacio de Leon (IDB), David Stallibrass (UK), Carlos Mena Labarthe (Mexico), Lucía Ojeda Cárdenas (Mexico), Felipe Serrano Pinilla (Colombia), Pierre-Yves Guay (Canada), Mario A Umaña (IDB), Rosa Abrantes-Metz (United States), Javier Dávila Perez (IDB), Ernesto Estrada González (Mexico) and Ana Rodrigues (Portugal)
TOTAL NUMBER OF PARTICIPANTS	Approximately 150, including a large participation from Mexico
PARTICIPANT COUNTRIES (NUMBER FROM EACH)	Brazil (1), Bolivia (1), Canada (1), Chile (3), Colombia (3), Costa Rica (4), Dominican Republic (3), Ecuador (1), El Salvador (2), France (1), Guatemala (2), Guyana (1), Honduras (5), Jamaica (1), Mexico (25), Nicaragua (3), Panama (3), Paraguay (1), Peru (3), Portugal (3), Spain (4), United States (2), Uruguay (1),

OVERALL EVALUATION OF THE 2016 LACCF

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES	4.8 (OUT OF 5)
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Detailed Responses to Questions (Numerical score for each category)	Average Score	Number of Responses	% in Highest Category	Number of Responses				
				Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)
1.5.1 Overall usefulness of this event	4.8	22	77%	17	5	0	0	0
1.5.2 The overall usefulness for your work of the topics addressed	4.8	22	77%	17	5	0	0	0
1.5.3 The overall quality of the presentations	4.6	22	59%	13	9	0	0	0
1.5.4 The overall usefulness of the Forum materials	4.8	22	77%	17	5	0	0	0
1.5.5 The overall quality of the facilities	4.7	22	77%	17	4	1	0	0
1.5.6 The overall quality of the Forum preparations prior to the event	4.9	22	86%	19	3	0	0	0

Annex II.

PART 1. EVALUATION OF THE FOURTEEN MEETING OF THE LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM ON 12-13 APRIL 2016

Detailed Responses to Questions <i>(Numerical score for each category)</i>	Average Score (out of 5)	Number of Responses	% in Highest Category	Number of Responses				
				Very High	High	Moderate	Low	Very Low
				5	4	3	2	1
1.1 Organisation of the meeting								
1.1.1 The length of the meeting was appropriate	4.6	22	68%	15	6	0	1	0
1.1.2 The amount of information made available to participants in advance of the meeting was satisfying	4.4	22	59%	13	6	2	1	0
1.1.3 The overall amount of documentation made available in connection with the meeting was appropriate	4.6	22	68%	15	6	1	0	0
1.1.4 The time allocated to interventions and discussion was appropriate	4.1	21	48%	10	7	2	1	1
1.1.5 Mexico, supported by the OECD, organised the meeting in an effective way	4.9	22	86%	19	3	0	0	0
1.2 Individual sessions: Interest in the topic								
1.2.1 Disruptive Innovation in LATAM and the Caribbean: Competition enforcement challenges and advocacy opportunities	4.8	22	77%	17	5	0	0	0
1.2.2 Leniency programmes in Latin America and the Caribbean: recent experiences and lessons learned	4.5	22	64%	14	6	2	0	0
1.2.3 Promoting effective competition in public procurement	4.7	22	73%	16	5	1	0	0

1.3 Individual sessions: Usefulness of the Background/Issues Papers								
1.3.1 Disruptive Innovation in LATAM and the Caribbean: Competition enforcement challenges and advocacy	4.7	22	73%	16	6	0	0	0
1.3.2 Leniency programmes in Latin America and the Caribbean: recent experiences and lessons learned	4.5	22	59%	13	8	1	0	0
1.3.3 Promoting effective competition in public procurement	4.5	22	64%	14	5	3	0	0
1.4 Individual sessions: Usefulness of the discussion								
1.4.1 Disruptive Innovation in LATAM and the Caribbean: Competition enforcement challenges and advocacy	4.6	22	64%	14	7	1	0	0
1.4.2 Leniency programmes in Latin America and the Caribbean: recent experiences and lessons learned	4.4	22	55%	12	7	3	0	0
1.4.3 Promoting effective competition in public procurement	4.3	21	43%	9	9	3	0	0

PART 2. SUGGESTIONS FOR FUTURE WORK OF THE LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM

[In bold, topics having score above 4]

Detailed Responses to Questions (Numerical score for each category)	Average Score (out of 5)	Number of Responses
2.1 Future Discussion Topics		
Cartels: Estimation of harm from cartels	4.5	20.0
Ex-officio investigations-with a focus on economic evidence	4.5	16.0
Evidence in court proceedings	4.4	14.0
Handling of confidential information in light of the right of defence	4.3	15.0
Gathering of evidence in cartel investigation	4.3	16.0
Cross-border mergers and practices	4.3	16.0
Market studies as efficient tools for competition advocacy	4.3	17.0
Sanctions, remedies in abuse/monopolisation cases	4.3	17.0
How to assess abuse of dominance	4.3	14.0
Abuse of dominant position trans-border	4.3	19.0
Competition in financial sector	4.2	13.0
Failing Firm Defence in Merger Reviews	4.2	14.0
Competition in the health sector	4.2	14.0
Guidance to the private sector	4.2	17.0
Statistical methods applicable to competition law	4.2	18.0
Merger analysis, methodology and use of merger indicators	4.1	15.0
Countervailing market power e.g. buyers cartels intellectual property and competition	4.1	16.0
Interaction between Competition Authorities and Sector Regulators	4.1	17.0
Competition in infrastructure sectors	4.1	17.0
Cartels: jurisdictional challenges to enforcement	4.1	17.0
Analysis of the subsidiary role of the state and how it affects (or not) competition	4.0	18.0
Legal exceptions in competition	4.0	16.0
State Owned Enterprises	4.0	14.0
Mainstreaming competition in economic policy	3.9	17.0
Efficiency analysis in vertical agreements and abuses	3.9	16.0
International co-operation in competition law enforcement	3.9	15.0
Abuses or unilateral conduct in network industries	3.9	15.0
Competition policy and environmental protection/green energy	3.8	16.0
Independence of Competition Authorities	3.8	17.0
Competition and sports	3.5	15.0
Non-competition objectives in competition law	3.5	15.0
Exclusive rights	3.3	15.0

2.2 List of additional topics raised by participants:

- Cartels:
 - Using computer as forensic tools?
- Advocacy:
 - Competition law policy implementation
 - Link/Relationship between Competition Policy with other policies
- Abuse of dominance:
 - Abuses in markets platforms
 - Countervailing Market power
 - Vertical agreements
- Effective compliance agreements
- Estimation of harm
 - Damage causes calculation for anticompetitive conduct and sanctions determination
 - Collective processes "class" (type) to claim damages on behalf of consumers
- International Co-operation and Regional Integration
 - International trade
- Competitive neutrality
- Informal economy
- Innovation
- Intellectual property rights
- Institutional design
 - Agency effectiveness
 - Evaluation of competition authorities
- Mergers
- Professional Associations
- Regulated sectors
- Sector study
- Settlements & anticipate termination procedure