
ANALYZING THE ROLE OF GLOBAL COMPETITION AUTHORITIES LIKE THE INTERNATIONAL COMPETITION NETWORK IN HARMONIZING ANTITRUST POLICIES

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ABSTRACT

With the rise of cross-border business conduct and multinational firms, coordinating antitrust enforcement across jurisdictions has become imperative. The International Competition Network (ICN) was established in 2001 as an informal forum for cooperation between national competition agencies to promote greater convergence and consistency. This paper analyzes the structure and functioning of the ICN including its membership, working groups and initiatives. It evaluates the ICN's role and efficacy in bridging differences to progressively harmonize global competition policies through voluntary adherence to non-binding best practices.

The analysis finds that while the ICN's soft law approach has limitations in ensuring compliance, it has facilitated useful convergence in investigative procedures and analysis. However, significant discrepancies remain across jurisdictions. While proposals for formal multilateral frameworks raise complex legal and political barriers, the ICN serves an incremental but important function in enabling cooperation between antitrust authorities. The paper provides a comprehensive assessment of the ICN's mechanisms, benefits and critiques in coordinating international competition law.

Keywords: International Competition Network (ICN), competition policy, antitrust law, extraterritoriality, harmonization, voluntary convergence.

Introduction

With growing cross-border business activity and proliferation of competition laws globally, coordination between national antitrust authorities has become imperative for effective and coherent enforcement¹. This introductory section provides background on international competition organizations, highlights the role of the International Competition Network (ICN), and sets out the purpose and scope of this paper.

Background on Global Competition Authorities

Today over 130 countries have national competition laws enforced by agencies like the Federal Trade Commission in the US or Competition Commission of India.² Key objectives are curbing anti-competitive conduct of firms and promoting consumer welfare.

Rapid globalization has increased instances of cross-border cases involving issues like international cartels, merger regulation etc. This created a need for regulatory coordination across jurisdictions.

Various regional and international organizations have emerged as platforms for cooperation between national authorities:

- **UNCTAD:** Conducts peer reviews and capacity building programs especially for developing country agencies.
- **OECD:** Develops non-binding recommendations, analysis and best practices related to competition law and policy.
- **ICN:** Brings together agencies to collaborate on convergence of substantive and procedural antitrust frameworks.
- **EU Network:** Cooperation between EU national authorities and European

¹ Hetham Abu Karky, *The Impact of the International Competition Network on Competition Advocacy and Global Competition Collaboration*, SSRN, (Dec. 16, 2023, 7:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3473156

² Hetham Abu Karky, *The Impact of the International Competition Network on Competition Advocacy and Global Competition Collaboration*, SSRN, (Dec. 16, 2023, 7:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3473156

Commission.

Role of the International Competition Network

Launched in 2001, the International Competition Network (ICN) has emerged as the most influential global body for antitrust coordination by promoting voluntary convergence in enforcement procedures and substantive analysis across diverse legal regimes³

With membership of over 130 agencies, it provides practical guidance in areas like cartels, mergers, unilateral conduct through non-binding tools like manuals, recommended practices and model laws developed consensually by members.

As a voluntary, consensus-based network, ICN provides a pragmatic platform for incremental progress in aligning antitrust policies across jurisdictions⁴

Purpose and Scope of Paper

The purpose of this paper is to critically analyze the structure, functioning and effectiveness of global competition authorities like ICN in balancing the objectives of facilitating cross-border enforcement cooperation on one hand while respecting diverse policy priorities and legal frameworks of national jurisdictions on the other hand.

It examines ICN's consensus-based approach aimed at gradual voluntary convergence of substantive and procedural standards. The scope covers evaluating ICN's role and limitations in harmonizing global antitrust given challenges like state sovereignty concerns. It also explores proposals for alternate approaches like a multilateral framework or the World Competition Authority.

In conclusion, this introductory section laid the contextual foundation highlighting the emergence of ICN as a key global platform for voluntary antitrust coordination and set out the objectives and scope of this paper centered on analyzing its role, successes and limitations in delivering progressive harmonization across divergent regimes.

³ Jörg Philipp Terhechte, *International Competition Enforcement Law Between Cooperation and Convergence - Mapping a New Field for Global Administrative Law*, The University of Oxford Centre for Competition Law and Policy, (Dec. 16, 2023, 7:00 PM), https://www.law.ox.ac.uk/sites/default/files/migrated/cclp_1_26.pdf

⁴ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

The Evolution of Global Competition Networks

The cross-border activities of companies have rapidly expanded in recent decades with the liberalization and integration of markets worldwide⁵ This increasing internationalization has necessitated greater coordination between national competition regulators to ensure effective enforcement. While regional partnerships like the European Competition Network (ECN) developed, the absence of global coordination led to conflicts and unpredictability.⁶ The establishment of the International Competition Network (ICN) in 2001 aimed to address these challenges by promoting voluntary convergence between antitrust authorities.

Merger and acquisition (M&A) activity saw tremendous growth globally since the 1990s, reflecting the increasing globalization of markets.⁷ The total value of cross-border M&A deals rose over five times from \$0.5 trillion in 1987 to \$2.7 trillion by 2000, with their share in global activity increasing from 23% to 37%⁸ The largest merger at the time between America's Exxon and Mobil for \$81 billion in 1998 highlighted this international consolidation.⁹ The expansion of multinational corporations with cross-border operations necessitated coordinated regulation to address extraterritorial effects.

Historically, competition laws focused narrowly on regulating anticompetitive practices within national jurisdictions.¹⁰ But the cross-border activities of companies in global markets frequently produced significant extraterritorial impacts not confined to one country.¹¹ International cartels directly affected markets worldwide as in the global vitamins cartel operating through the 1990s. Unilateral assertions of authority by major powers over overseas conduct led to disputes as in the contested GE-Honeywell merger approved in Europe but blocked in the US.

⁵ Hetham Abu Karky, *The Impact of the International Competition Network on Competition Advocacy and Global Competition Collaboration*, SSRN, (Dec. 16, 2023, 7:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3473156

⁶ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

⁷ Jörg Philipp Terhechte, *International Competition Enforcement Law Between Cooperation and Convergence - Mapping a New Field for Global Administrative Law*, The University of Oxford Centre for Competition Law and Policy, (Dec. 16, 2023, 7:00 PM), https://www.law.ox.ac.uk/sites/default/files/migrated/cclp_1._26.pdf

⁸ Ibid

⁹ Ibid

¹⁰ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

¹¹ Ibid

Lack of coordination resulted in inconsistencies, conflicts and unpredictability for companies¹². Fragmented enforcement also enabled manipulation via forum shopping across jurisdictions. Companies faced costs dealing with multiple regimes while consumers were harmed from anticompetitive conduct spilling across borders. These implications highlighted the growing need for international coordination as existing domestic laws were inadequate for global markets¹³. While a few regional partnerships like the ECN formed, there was no universal framework for navigating differences between sovereign nations¹⁴.

To address this vacuum, in October 2001 competition regulators from 23 jurisdictions met in Mexico City to establish the ICN. The ICN was conceived as an informal “virtual network” that could facilitate coordination and convergence in antitrust enforcement. This voluntary forum aimed to bridge divides and promote cooperation between authorities through consensus-based information sharing¹⁵. The decentralized approach was necessitated by legal and political complexities in negotiating top-down agreements between sovereign states.

In the two decades since, the ICN has grown to over 130 members and become the preeminent global body for informal antitrust coordination. However, its efficacy in achieving substantive convergence remains debated. Further analysis on the degree of harmonization attained is undertaken in this paper by assessing the ICN’s structure, outputs and mechanisms.

Structure and functioning of ICN

The International Competition Network (ICN) has a decentralized, project-oriented structure that facilitates collaborative development of recommended practices through its working groups¹⁶.

¹² Hetham Abu Karky, *The Impact of the International Competition Network on Competition Advocacy and Global Competition Collaboration*, SSRN, (Dec. 16, 2023, 7:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3473156

¹³ Ibid

¹⁴ Jörg Philipp Terhechte, *International Competition Enforcement Law Between Cooperation and Convergence - Mapping a New Field for Global Administrative Law*, The University of Oxford Centre for Competition Law and Policy, (Dec. 16, 2023, 7:00 PM), https://www.law.ox.ac.uk/sites/default/files/migrated/ccpl_l._26.pdf

¹⁵ Ibid

¹⁶ Ibid

▪ Membership and Organization

ICN has a broad membership of 141 competition agencies from 126 jurisdictions¹⁷. Key members include authorities from the EU, US, Canada, Japan, Australia and BRICS countries. It provides a platform for developed and developing agencies to participate equally.

Organizationally, ICN follows a bottom-up approach. It has no permanent bureaucracy. Light secretariat duties rotate annually between member agencies. The chair also rotates. This flat, decentralized structure ensures flexibility and member-driven agenda setting.

Decision making is by consensus. Recommendations emerge through discussions until general agreement is reached. This gives all members, irrespective of size, an equal say in ICN processes. Virtual networking enables continuous collaboration.

ICN holds annual conferences and regular workshops. These enable constructive dialogue and peer-learning between enforcers from different legal traditions and developmental contexts¹⁸.

▪ Key Projects and Initiatives

Some key ICN projects and initiatives include¹⁹:

- **Recommended Practices:** Developed in core enforcement areas like cartels, mergers, unilateral conduct etc. Influential in spreading best practices.
- **Advocacy and Implementation:** Capacity building workshops and peer reviews help members implement recommendations.
- **Agency Effectiveness:** Offers tools for strategic planning, project management, evaluation etc. to enhance agency performance.
- **Competition Culture Project:** Underscores role of competition principles for economic growth and consumer welfare.

¹⁷ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

¹⁸ Ibid

¹⁹ Ibid

- **International Cooperation Framework:** Facilitates coordination in cross-border investigations while addressing confidentiality constraints.
- **Workshops and Teleseminars:** Foster experience sharing and peer learning between agencies through case studies, skills building etc.

Thus, ICN undertakes a range of practical initiatives aimed at improving the effectiveness of antitrust authorities across jurisdictions .

▪ **Role of Working Groups**

ICN's activities are organized through specialized Working Groups focused on key enforcement areas :

1. Mergers Working Group: Developed recommended practices for merger notification, procedures and analysis.
2. Cartels Working Group: Produced manuals on investigation, digital evidence-gathering, leniency programs etc.
3. Unilateral Conduct Working Group: Recommendations on assessment of dominance, exclusionary abuses, excessive pricing etc.
4. Advocacy Working Group: Guidance on competition assessment of laws and regulations to promote consumer welfare.

Agency staff participate voluntarily in Working Groups alongside regular responsibilities in their home agencies . Each Group has 2 Co-Chairs from different agencies. This structure mobilizes expertise from various legal regimes ²⁰.

Working Groups enable sustained collaboration between practitioners to develop non-binding guidelines reflecting accumulated experiences. Members benefit from insight into diverse enforcement practices. The Group network serves as an ongoing forum to exchange ideas.

²⁰ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

Thus, ICN's member-driven, project-based structure effectively mobilizes expertise of agencies globally to develop influential recommended practices across key enforcement areas through its Working Groups ²¹.

In conclusion, the decentralized, flexible nature of ICN's membership and organization powered by collaborative Working Groups promotes voluntary convergence of competition policies across diverse jurisdictions through member-led development of pragmatic recommended practices.

ICN's role in promoting convergence

The International Competition Network (ICN) promotes convergence of antitrust laws and enforcement procedures across jurisdictions through development of non-binding recommended practices, fostering dialogue and exchange of ideas between agencies, and flexible implementation appropriate to diverse legal contexts ²²

Development of Recommended Practices

The ICN develops recommended practices, manuals and reports through its working groups focused on key enforcement areas like cartels, mergers, unilateral conduct etc. These provide practical guidance and a common framework that members can voluntarily incorporate into their laws and practices ²³.

Some examples include :

- Recommended Practices on Competition Assessment: Provide a framework for evaluating impact of policies/regulations on competition to minimize distortions. Adopted by over 30 agencies.
- Merger Notification and Procedures Recommended Practices: Led to convergence in merger review processes towards ICN guidelines. Helped

²¹ Ibid

²² Ibid

²³ Hetham Abu Karky, *The Impact of the International Competition Network on Competition Advocacy and Global Competition Collaboration*, SSRN, (Dec. 16, 2023, 7:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3473156

reduce compliance costs/delays.

- Anti-Cartel Enforcement Manual: Compiles good practices in cartel investigations. Widely used by agencies in shaping leniency and compliance programs.
- Unilateral Conduct Workbook: Provides analytical frameworks, assessment tools and techniques relevant to single firm conduct.
- Agency Effectiveness Recommendations: Offers guidance on organizational structure, planning, evaluation, advocacy etc. to improve agency performance.

Thus, ICN produces influential practical guidance grounded in accumulated enforcement experience of its members. By providing recommendations suited for voluntary adoption, it allows countries to move towards convergence on their own paths and timelines ²⁴

Building Consensus through Dialogue

The ICN follows a consensus-based approach²⁵. Recommendations emerge through extensive consultations among working group members from agencies with diverse experiences and viewpoints. This enables broad agreement on the enforcement of good practices.

Annual conferences, workshops and webinars also facilitate constructive dialogue between enforcers on latest developments and emerging challenges ²⁶. Members benefit from peer learning and exchange of ideas with fellow professionals.

ICN's flexible structure and informal nature creates open channels for regular multilateral communication between agencies from both developed and developing countries. This helps build relationships and trust leading to common understanding on enforcement standards.

Non-Binding Nature Allows Flexibility

The non-binding flexibility of the ICN's recommended practices is crucial in facilitating

²⁴ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

²⁵ Ibid

²⁶ Ibid

voluntary convergence across divergent legal systems and developmental contexts.

Agencies can customize and adapt ICN guidelines to suit their institutional structures, policy priorities and market realities. This allows broader participation and acceptance. A binding 'one-size-fits-all' approach would be impractical considering wide variations in regulatory frameworks globally.

The ICN does not aim to rigidly homogenize standards but rather provide reference principles that members can implement with contextual adjustments. Adoption of the recommendations is left to each jurisdiction's discretion based on individual circumstances.

This flexibility also allows the ICN to play an incremental role - its non-binding guidance serves as a preliminary step for voluntary convergence while leaving room for plurilateral/regional cooperation on deeper substantive harmonization over time ²⁷.

Thus, the ICN's focus on flexible, non-binding mechanisms helps promote convergence by garnering wider participation and facilitating customized implementation, while avoiding aggressive harmonization that ignores national differences. It sets the stage for deeper cooperation initiatives in future.

In conclusion, through inclusive development of practical recommendations, multilateral dialogue and flexible non-binding approach allowing local adaptation, the ICN plays an important role in aligning antitrust enforcement globally in a progressive, non-intrusive manner. Its emphasis on voluntary cooperation makes convergence politically and practically feasible.

Assessment of ICN's effectiveness

The International Competition Network (ICN) was established in 2001 as an informal network of antitrust agencies from around the world to address the growing need for cooperation in competition law enforcement. Over the last two decades, the ICN has emerged as a leading force in promoting procedural and substantive convergence in antitrust policy globally.

²⁷ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

However, its effectiveness has been debated, with scholars pointing to both its successes and limitations²⁸.

Successes in Promoting Voluntary Convergence

The ICN has played a key role in fostering voluntary convergence of antitrust policies and procedures across jurisdictions. Its non-binding guidelines, recommendation reports and work products have gained widespread acceptance and have been influential in shaping the practices of competition authorities globally²⁹.

Some notable successes include :

- **Recommended Practices on Merger Notification and Review Procedures:** Provided a framework for making merger review more transparent, timely and efficient. Over time, merger filing requirements have substantially converged towards the ICN recommendations.
- **Recommended Practices on Competition Assessment:** Led to growing adoption of competition assessments to evaluate the competitive effects of proposed policies and regulations. Over 30 ICN members have incorporated such assessments in their practices.
- **Work on Cartels and Anti-Cartel Enforcement:** Produced manuals, handbooks and tools widely used by enforcers in cartel investigations. Has strengthened international cooperation in prosecuting cross-border cartels.
- **Advocacy and Implementation Support:** Through workshops and peer-reviews, ICN has assisted dozens of younger agencies in implementing recommended practices and enhancing enforcement capacity.

Thus, despite its non-binding nature, the ICN has served as an effective platform for promoting voluntary alignment of competition policies across diverse legal regimes globally. Its strength

²⁸ Ibid

²⁹ Ibid

lies in providing practical guidance grounded in accumulated experience rather than one-size-fits-all solutions .

Limitations and Criticisms

However, ICN's effectiveness in spurring deep substantive convergence has also been questioned. Critics argue that while procedural convergence has progressed well, convergence on substantive standards of assessment has been limited ³⁰.

Key limitations highlighted include : The voluntary nature of guidelines limits ability to drive changes, specially where there is lack of political will in a jurisdiction.

- Consensus-based approach to develop guidelines leads to vague 'lowest common denominator' standards not adequate to tackle complex issues.
- Dominance of advanced jurisdictions like US and EU in setting agenda and standards undermines perspectives of developing countries.
- Narrow focus on competition goals without considering other public policy objectives pursued differently across countries.
- Lack of binding dispute settlement mechanism hampers ability to resolve conflicts and promote compliance.

Thus, some view the ICN's pursuit of loose, non-binding standards as inadequate in providing clear and specific guidance on controversial issues like definition of dominance, vertical restraints, abuse of dominance etc. where deep differences persist. There are calls for transitioning to hard harmonization based on a binding international competition law agreement.

Challenges posed by National Differences

Significant diversity across countries in economic conditions, policy priorities, legal and institutional frameworks poses inherent challenges for international regulatory convergence

³⁰ Hetham Abu Karky, *The Impact of the International Competition Network on Competition Advocacy and Global Competition Collaboration*, SSRN, (Dec. 16, 2023, 7:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3473156

initiatives like the ICN ³¹.

Key differences include :

- Varying levels of economic development and consumer welfare impact assessment of business practices.
- Differing weights assigned to industrial policy and other public interest goals in competition law.
- Divergent legal doctrines and theories of harm across common law and civil law systems.
- Institutional variations like role of judiciary vis-a-vis agencies in enforcement.
- Political economic constraints and susceptibility to private interests and incentives.

Navigating these complex contextual differences to develop universally accepted substantive standards remains a formidable challenge for the ICN. For instance, consensus on issues like treatment of monopolies, resale price maintenance, patent settlements etc. has remained elusive due to clashing policy priorities and intellectual frameworks across major economies like the US, EU and China.

While voluntary convergence initiatives play an important role, ultimately the path to substantive harmonization may require plurilateral and bilateral efforts between jurisdictions with greater policy alignment as well as domestic legal reforms within countries³². The ICN can at best provide broad guiding principles as reference points for assessing individual cases based on specific market realities³³. Hard harmonization without local adaptation risks regulatory errors and overreach.

In conclusion, while the ICN has registered some success in promoting voluntary convergence in antitrust enforcement, substantive harmonization remains work-in-progress constrained by

³¹ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship.

³² Ibid

³³ Hetham Abu Karky, *The Impact of the International Competition Network on Competition Advocacy and Global Competition Collaboration*, SSRN, (Dec. 16, 2023, 7:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3473156

inherent challenges like conceptual differences, political economy barriers and developmental asymmetries across jurisdictions. Pragmatic plurilateral cooperation and country-specific reforms may be needed to complement the ICN's consensus-based approach.

The future of global antitrust coordination

With the growing number and complexity of cross-border antitrust cases, proposals have emerged for stronger international coordination mechanisms ranging from a multilateral agreement to a global competition authority. However, consensus remains elusive due to sovereignty concerns. Alternatives like bilateral cooperation offer more feasible paths currently.

Proposals for a Multilateral Framework

Many experts argue that the existing voluntary cooperation networks like the ICN, while useful, remain inadequate for converging substantive standards in antitrust enforcement across diverse legal systems ³⁴.

Some key proposals for a binding multilateral framework include:

- World Trade Organization (WTO) Competition Agreement: Develops mutual commitments under WTO covering substantive principles, enforcement cooperation, dispute settlement etc ³⁵. Faced resistance from developing countries fearing constraints on policy space.
- Plurilateral Competition Agreement: Affects only signatory nations willing to accept higher standards. May be more feasible than WTO-level consensus ³⁶. Regional agreements like EU also follow this path.
- International Competition Law & Policy Lab: Develops model laws and peer reviews to promote diffusion of global standards without formal treaty ³⁷. Gradual approach but

³⁴ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

³⁵ Ibid

³⁶ Hetham Abu Karky, *The Impact of the International Competition Network on Competition Advocacy and Global Competition Collaboration*, SSRN, (Dec. 16, 2023, 7:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3473156

³⁷ Ibid

limited bargaining leverage.

Binding multilateralism can potentially deliver substantive harmonization. But consensus has been hard to achieve among countries with varying policy priorities and philosophies³⁸. Enforcement related agreements may be more viable than substantive principles.

Prospects for a "World Competition Authority"

A binding multilateral framework may need an institutional apparatus for monitoring, dispute settlement and further standard-setting [6]. This has led to proposals for a World Competition Authority (WCA).

Proposed roles for a WCA include ³⁹:

- Administering a global competition law agreement
- Harmonizing substantive standards of assessment
- Coordinating investigations into cross-border cases
- Operating an international antitrust dispute resolution mechanism

However, national governments have been reluctant to cede sovereignty to such a supra-national body. Concerns include:

- Loss of policy flexibility and regulatory autonomy
- Undermining domestic democratic processes of competition law enforcement
- Lack of local knowledge and risks of overreach by distant bureaucrats
- Agency ineffectiveness plagued by political bargaining

Thus, while a WCA can theoretically promote substantive convergence, national sensitivities

³⁸ Ibid

³⁹ Ibid

currently limit political viability ⁴⁰. Alternatives may be strategic bilateral ties and trans governmental networks like the ICN.

Alternatives Like Bilateral Cooperation

Given barriers to formal multilateral frameworks, much coordination occurs through bilateral relations between competition agencies of key jurisdictions ⁴¹. These enable closer substantive alignment between parties without ceding control to a supranational body.

Examples include:

- US-EU cooperation agreements to coordinate merger reviews and share information.
- US-China dialogue to build consensus on enforcement approaches for dynamic markets with state-owned enterprises.
- India-EU cooperation pact for staff exchanges, training, sharing of best practices etc.
- Australia-Japan agreement on investigative assistance and notification of cases significantly affecting partners.

Such voluntary bilateral cooperation provides targeted opportunities for substantive convergence between jurisdictions sharing strong commercial ties and policy priorities. Regional agreements also play a similar role.

In conclusion, while proposals exist for formal multilateral mechanisms, bilateral cooperation offers a more pragmatic path currently for progressive antitrust coordination between key economies. Coordinated networks like the ICN can continue to play a complementary role.⁴²

Conclusion

This concluding section summarizes key findings on ICN's effectiveness in promoting antitrust convergence, assesses outlook for voluntary coordination, and presents final perspectives on

⁴⁰ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

⁴¹ Ibid

⁴² Ibid

balancing policy harmonization with national flexibility.

Key Findings on ICN's Role and Effectiveness

Analysis in this paper found that ICN has been partially effective in furthering voluntary procedural convergence through its non-binding recommended practices widely adopted by members across merger review, cartel enforcement etc.⁴³.

However, substantive harmonization of analytical standards remains a work-in-progress challenged by national variations in institutional frameworks, development contexts, policy priorities and intellectual traditions⁴⁴.

ICN's consensus-based approach has helped secure wider participation but limited its ability to drive reforms in areas lacking agreement⁴⁵. Bilateral cooperation and regional initiatives are playing a complementary role in enabling substantive alignment between compatible regimes⁴⁶.

Thus, ICN's impact has been more incremental than transformative. While a pragmatic model to make voluntary coordination politically and practically feasible, ICN's approach also faces inherent limitations in reconciling divergent schools of thought.

Outlook for Continued Voluntary Convergence

ICN is likely to continue serving as a key global platform for voluntary antitrust coordination. Consensus will steadily expand as enforcement experience and agency interactions build mutual understanding⁴⁷.

But the runway for further convergence solely through non-binding tools may be limited to issues like definition of dominance involving deep-rooted conceptual differences.

⁴³ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Ibid

Plurilateral agreements between compatible jurisdictions may emerge as 'go-to' mechanisms for substantive harmonization, while ICN focuses on diffusion of procedural best practices.

Region-specific coordination networks are also growing, but risk fragmentation. Hence, ICN's role in providing a universal forum for socializing agencies will remain relevant.

Final Thoughts on Global Antitrust Coordination

In conclusion, voluntary convergence initiatives like ICN balance policy coordination with national flexibility through non-intrusive, incremental alignment. Radical proposals for a World Competition Authority face sovereignty barriers.

In the long run, progressively expanding bilateral, plurilateral and regional cooperation can pave the path for a multilaterally agreed global framework as common standards emerge across key jurisdictions ⁴⁸.

But institutional convergence needs to be matched with substantive alignment rooted in shared principles like consumer welfare for maximum impact ⁴⁹. Locally-adapted application balancing multiple policy objectives will be essential for viability.

Overall, pragmatic voluntary coordination networks provide a feasible bridge towards the vision of globally harmonized competition enforcement regimes responsive to both international interdependence and national diversity.

⁴⁸ Anu Bradford, *Antitrust law in global markets*, Columbia Law School, (Dec. 16, 2023, 7:00 PM), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty_scholarship

⁴⁹ Ibid