

**2017 ICN Cartel Workshop
Agenda**

Tuesday October 3rd

7:00-8:30 pm ***Evening Welcome Reception***
Grand Hall, Canadian Museum of History – 100 Laurier St. Gatineau

Day 1 – Wednesday October 4th – “Detection”

9:00-10:00am: ***Registration***
Chateau Laurier, French Corridor

10:00-10:30am: ***Opening Remarks***
Chateau Laurier, Ballroom

Speakers:
John Pecman, Commissioner of Competition, Competition Bureau
Canada
Michiel Denkers, Director of Competition, Netherlands Authority for
Consumers and Markets; Co-Chair of Subgroup 2 of the ICN Cartel
Working Group

10:30-10:45am: ***Break***
Chateau Laurier, French Corridor

10:45-12:15pm: ***Plenary 1:***
Experiences with bid-rigging in public and private procurement
Chateau Laurier, Ballroom

Panelists will discuss bid-rigging and the detection of bid-rigging generally, including highlighting their jurisdictions’ experiences generally and issues raised or lessons learned from one or two specific examples, with an emphasis on similarities and/or differences between bid-rigging in public procurement (government goods/services) versus private procurement. Participants will also touch upon relationships with procurement authorities, if relevant to their jurisdictions.

Moderator:
Stéphane Hould, Deputy Commissioner of Competition, Competition
Bureau Canada

Panellists:
Eric Van Genderachter, Directorate-General for Competition, European
Commission
Marvin Price, Acting Deputy Assistant Attorney General for Criminal
Enforcement, United States Department of Justice, Antitrust Division
Margarida Matos Rosa, President, Autoridade da Concorrência, Portugal
Diogo Thomson, Deputy Superintendent, Administrative Council for
Economic Defense, Brazil

12:15-1:15pm: **Lunch**
Chateau Laurier, Drawing Room

1:15-2:45pm: **Simultaneous Mini Plenary Sessions:**

Mini Plenary #1: Raising awareness of bid-rigging with (and generating leads from) public procurement agencies/authorities
Chateau Laurier, Québec Suite

The relationships between competition agencies and public procurers as a key tool to encourage/enable the reporting of suspected bid-rigging.

Moderator:

Renato Ferrandi, Senior Competition Officer, Italian Competition Authority

Panelists:

Megan Lewis, Trial Attorney, United States Department of Justice, Antitrust Division

Barbara Glover, Assistant Deputy Minister, Public Services and Procurement Canada

Pia Odqvist, Competition Counsellor, Swedish Competition Authority

Mini Plenary #2: Screening public procurement data to detect bid-rigging

Chateau Laurier, Macdonald Room

Agencies who have undertaken such a project could describe what they have done and the results they have seen/lessons they have learned. Agencies that have a screening tool that they can demonstrate could do so in this session.

Moderator:

Antonio Capobianco, Senior Competition Expert, Organization for Economic Cooperation and Development, France

Panelists:

Dr. Niklaus Wallimann, Chief Economist, Competition Commission, Switzerland

John Kirkpatrick, Senior Director Advocacy, Competition and Markets Authority

Mukhamed Khamukov, Deputy Head of Anti-Cartel Division, Federal Antimonopoly Service, Russia

Diogo Thomson, Deputy Superintendent, Administrative Council for Economic Defense, Brazil

Mini Plenary #3: Other methods of bid-rigging detection

Chateau Laurier, Renaissance Room

Panelists could provide their perspectives on detecting bid-rigging (with a focus on bid-rigging in public procurement) using: leniency programs, media monitoring, whistleblowers, informants, tips from the public, and/or compliance training for businesses. Panelists would be encouraged to explore any other methods of detection other than those that are already the subject of another session.

Moderator:

Masayuki Atsumi, Partner, Mori Hamada & Matsumoto, Japan

Panelists:

Byung Hoon Ahn, Director, International Cartel Division, Korea Fair Trade Commission

Isabel López Gálvez, Head of Cartels and Leniency Unit, National Authority for Markets and Competition, Spain

Charlotte Wezi Malonda, Executive Director, Competition and Fair Trading Commission, Malawi

2:45-3:00pm:

Break

Chateau Laurier, French Corridor

3:00-4:30pm:

Simultaneous Breakout Sessions:

Breakout Session #1: Organizing your agency to maximize cartel detection [French language session]

Chateau Laurier, Burgundy Room

Topics to discuss could include building institutional relationships with other antitrust authorities and other law enforcement bodies. Sub-topics could include formalizing these relationships through MOUs, etc., protocols surrounding the exchange of information with these partners, as well as internal structures such as centralized information or intelligence gathering units.

Discussion leaders:

Sophie Bresny, Head of the investigative service, Autorité de la concurrence, France

Jean-Sébastien Rivard, Major Case Director and Strategic Advisor, Competition Bureau Canada

Flavio Laina, Directorate-General for Competition, European Commission

Breakout Session #2: “Other” tech tools for cartel detection [AGENCY ONLY]

Chateau Laurier, Renaissance Room

Is your agency using new tools to gather evidence or information? What are they? What is working well? What isn't?

Discussion leaders:

Leah Won, Director, New South Wales Enforcement and Serious Cartels, Australian Competition and Consumer Commission
Tamir Reindel, Senior Intelligence Analyst, Israel Antitrust Authority
Peter Alstergren, Senior Advisor, Swedish Competition Authority

Breakout Session #3: Can algorithms form price-fixing cartels?

Chateau Laurier, Macdonald Room

Companies are reported to be using algorithms or other emerging technologies including with respect to pricing decisions. What is known about the use of such technologies and can they enable or facilitate cartel behaviour (inadvertently or otherwise)? If so, how? What are the risks that companies are assuming by using such technologies? What is the appropriate advice from competition counsel on responsible use? Are competition agencies providing sufficient guidance?

Discussion Leaders:

Paul Johnson, TD MacDonad Chair in Industrial Economics, Competition Bureau Canada
Anita Banicevic, Partner, Davies Ward Phillips & Vinceberg LLP
Mikhail Voronin, Antimonopoly Law Office LLC, Russia
Marc Hansen, Latham & Watkins, United Kingdom

Breakout Session #4: Handling informants [AGENCY ONLY]

Chateau Laurier, Tudor Room

Participants could discuss what kind of protections or benefits their agencies afford confidential informants, the risks of these kinds of programs (for both agencies and individuals), and informant reward programs.

Discussion leaders:

Maarten Schueler, Team Manager, The Netherlands Authority for Consumers and Markets
Rob Ghali, GM of Serious Cartels Group and Enforcement New South Wales, Australian Competition and Consumer Commission
Special Agent Devon Mahoney, Program Manager, International Corruption Squad, Federal Bureau of Investigation, United States of America
Ngoako Moropene, Principal Investigator (Cartels) Competition Commission of South Africa

Breakout Session #5: Screening public procurement data to detect bid-rigging [AGENCY ONLY]

Chateau Laurier, Québec Suite

Agencies currently developing a screening mechanism could discuss the challenges they are facing and what they have been doing to overcome these challenges.

Discussion leaders:

Francisco Tellez, Director, Cartel Investigation Division, Federal

Economic Competition Commission of Mexico

Lilian Petit, Case-handler and Economist, The Netherlands Authority for Consumers and Markets

Sergio Sinovas Caballero, Deputy Head of Cartels and Leniency Unit, National Authority for Markets and Competition, Spain

Day 2: Thursday October 5th – “Investigation”

8:45-9:15am: ***The Honourable Amarjeet Sohi, the Member of Parliament for Edmonton Mill Woods and the Minister of Infrastructure and Communities, will address the Workshop***

Chateau Laurier, Ballroom

9:15-10:30am: ***Plenary #2: The outer limits: the parameters of a bid-rigging investigation***

Chateau Laurier, Ballroom

How can a bid-rigging in public procurement investigation overlap with other jurisdictions, other areas of law, and other law enforcement agencies? How does that overlap influence and shape the investigation? Panelists will be encouraged to take a broad approach to this topic, to foreshadow the issues to be discussed in more detail as the day goes on.

Moderator:

Pierre-Yves Guay, Assistant Deputy Commissioner, Competition Bureau Canada

Panelists:

Silke Hossenfelder, Chairman of the 9th Decision Division, Bundeskartellamt, Germany

Lynette Chua, Senior Assistant Director, Legal and Enforcement, Competition Commission of Singapore

Antonio Capobianco, Senior Competition Expert, Organization for Economic Cooperation and Development, France

Sergio Lopez Rodriguez, Head of the Investigative Authority, Federal Economic Competition Commission of Mexico

10:30-10:45am:

Break

Chateau Laurier, French Corridor

10:45-12:15pm:

Simultaneous Mini Plenary Sessions:

Mini Plenary #4: Cooperation with other domestic law enforcement agencies: practical experiences and best practices in bid-rigging cases

Chateau Laurier, Macdonald Room

Panelists could discuss their experiences, and the best practices they would recommend in light of those experiences. This could include experiences related to receiving investigative assistance from other law enforcement agencies, and embedding competition law investigators in other law enforcement agencies (or vice versa).

Moderator:

Çağlar Deniz, Competition Expert, Turkish Competition Authority

Panelists:

Sarah Cannevel, Special Unit for Combating Cartels, Bundeskartellamt, Germany

Dr. Natalie Harsdorf, Deputy Managing Director, Austrian Federal Competition Authority

Christine Chan, Manager, Operations, Competition Commission, Hong Kong

Mini Plenary #5: Cooperation with international antitrust partners

Chateau Laurier, Renaissance Room

It is hoped that panelists will pay special attention to the issue of how this kind of international cooperation affects leniency programs, and particularly their appeal, success and future.

Moderator:

Makgale Mohlala, Manager of Cartels Division, Competition Commission of South Africa

Panelists:

Kris Dekeyser, Director, Policy and Strategy, Directorate-General for Competition, European Commission

Leah Won, Director, New South Wales Enforcement and Serious Cartels, Australian Competition and Consumer Commission

Romina Polley, Partner, Cleary Gottlieb Steen & Hamilton LLP, Germany

Mini Plenary #6: The role of Inspectors General, Ombudspersons or other public officials mandated to investigate malfeasance in public contracting

Chateau Laurier, Québec Suite

Discussion could focus on what Inspectors General are, where their work overlaps with that of the competition authority, and how their expertise can best be leveraged by competition authorities.

Moderator:

Matthew Boswell, Senior Deputy Commissioner, Competition Bureau Canada

Panelists

Denis Gallant, Inspector General, Office of the Inspector General of the City of Montreal, Canada

Michael E. Horowitz, Inspector General, Office of the Inspector General, United States Department of Justice

Pia Odqvist, Competition Counsellor, Swedish Competition Authority

12:15-1:15pm:

Lunch

Chateau Laurier, Drawing Room

1:15-2:45pm:

Simultaneous Breakout Sessions

Breakout Session #6: The role of traditional policing techniques in cartel investigations [AGENCY ONLY]

Chateau Laurier, Québec Suite

Just as agencies are developing and using new technologies to develop their investigations, some are also making increased use of more traditional policing techniques. Discussion topics could include the use of techniques such as handwriting and fingerprint analysis, and wiretapping. Discussion could also focus on how agencies are developing their knowledge and understanding of these techniques, i.e. by working with domestic law enforcement partners.

Discussion leaders:

Rob Ghali, GM, New South Wales Enforcement and Serious Cartels, Australian Competition and Consumer Commission

Eyal Perzon, Team Leader, Israel Antitrust Authority

Mukhamed Khamukov, Deputy Head of Anti-Cartel Department, Federal Antimonopoly Service, Russia

Breakout Session #7: The use of indirect evidence in building a cartel case [French language session]

Chateau Laurier, Burgundy Room

How can indirect evidence be used in your jurisdiction? Does your agency have examples of when it was used successfully/unsuccessfully that you could use to provide others with an illustration?

Discussion leaders:

Marisa Luisa Tierno Centella, Deputy Head of Unit, Cartels, Directorate-General for Competition, European Commission

Alexis Brunelle, Legal Advisor, Autorité de la concurrence, France

Colette Morin-Wade, Senior Competition Law Officer, Competition Bureau
Canada

Breakout Session #8: Bid-rigging, price-fixing, or both?

Chateau Laurier, Macdonald Room

How does your agency tackle “hybrid” cases, or cases with multiple theories of harm? Does your agency have defined criteria that it uses to decide how it will proceed? If so, what are they? What successful/unsuccessful cases of this kind have you had? What have you learned from these experiences?

Discussion leaders:

Luis Omar Guerrero Rodriguez, Partner, Hogan Lovells, Mexico

Sofia Vasileiou, Case handler, Directorate-General for Competition, European Commission

Subrata Bhattacharjee, Partner, Borden Ladner Gervais LLP, Canada

Ngoako Moropene, Principal Investigator, Competition Commission of South Africa

Juan Correa, Head of Anti-Cartels Unit, Fiscalía Nacional Económica, Chile

Breakout Session #9: Coordinating investigations involving multiple stakeholders

Chateau Laurier, Tudor Room

When dealing with multiple levels of government or prosecution, how are questions of jurisdiction resolved? Who takes the lead? What are the rules/parameters of cooperation that produce the best results? Are there specific considerations in granting leniency in these types of investigations?

Discussion leaders:

Mariana Villela, Officer, IBRAC, Brazil

Hiromitsu Miyakawa, Partner, Jones Day, Japan

Marcin Trepka, Co-head of Warsaw Competition Team, K&L Gates,
Poland
Chester Njobvu, Competition and Consumer Protection Commission,
Zambia

**Breakout Session #10: Tech tools for furthering a cartel
investigation [AGENCY ONLY]**

Chateau Laurier, Renaissance Room

Panelists discuss (and demonstrate!) the newest technologies they are using to further their investigations- particularly tools used to manage and summarize/present evidence.

Discussion leaders:

Juliette Enser, Director of Cartel Enforcement, Competition and Markets Authority, United Kingdom

Flavio Laina, Head of Unit, Cartels, Directorate-General for Competition, European Commission

Grant Chamberlain, New Zealand Commerce Commission

Matthew Kyrytow, Acting Coordinator of Electronic Evidence Unit, Competition Bureau Canada

Pedro Marques Bom, General Director of Investigation, Portuguese Competition Authority

2:45-3:00pm:

Break

Chateau Laurier, French Corridor

3:00 pm – 4:30 pm: Plenary #3: How to achieve deterrence

Chateau Laurier, Ballroom

This introduction to our final theme of deterrence could be fairly general in nature. Ideas for sub-topics include how best to work with procurement agencies to deter bid-rigging. (This could include a discussion of what fair/flawed bidding processes look like, and how competition law agencies can best influence tender design, particularly in the public sphere, including the use of electronic trade/bidding platforms.)

*Please note that, immediately preceding the start of this plenary, Co-Chairs of Subgroup 1 (**József Sárai**, Head, International Section, Hungarian Competition Authority) and Subgroup 2 (**Mukhamed Khamukov**, Deputy Head of Anti-Cartel Department, Federal Antimonopoly Service of Russia) of the ICN's Cartel Working Group will provide a brief update on ongoing and forthcoming projects.*

Moderator:

Paul Johnson, TD MacDonad Chair in Industrial Economics, Competition Bureau Canada

Panelists:

Yukinari Sugiyama, Director General, Criminal Investigation Department, Investigation Bureau, Japan Fair Trade Commission

Michiel Denkers, Director of Competition, The Netherlands Authority for Consumers and Markets

Kris Van Hove, Partner, Van Bael & Bellis, Belgium

Roxann Henry, Partner, Morrison Foerster, United States

5:00pm: ***Tours of Centre Block of Parliament will run in 10 minute intervals, departing from the main lobby of the Chateau Laurier***

5:30-7:00pm: ***Reception
Hors d'oeuvres and drinks will be served at Sir John A. Macdonald building***

Sir John A. Macdonald building – 144 Wellington Street

7:00pm: ***Dinner – served after the last tour group has arrived***
Sir John A. Macdonald building – 144 Wellington Street

Day 3: Friday, October 6th – “Deterrence and Prevention”

9:00-10:30am: ***Simultaneous Mini Plenary Sessions:***

Mini Plenary #7: Compliance training & Communication

Chateau Laurier, Renaissance Room

Training is just one form of communication, and the key is getting the message out most effectively. There are more ways to do this than just training.

Moderator:

Terrence Stechysin, Acting Director of Compliance, Competition Bureau Canada

Panelists:

Michael Osborne, Partner, Affleck Greene McMurtry, Canada

Joseph Murphy, Director of Public Policy, Society of Corporate Compliance & Ethics, United States

Kathryn Hellings, Partner, Hogan Lovells, United States

Anne Riley, Group Antitrust Counsel and Associate General Counsel
Shell International Limited, United Kingdom

Mini Plenary #8: How to get the compliance message out to smaller businesses

Chateau Laurier, Québec Suite

Panelists could discuss the techniques they use to get their anti-cartel/anti-bid-rigging message out to small businesses, with a particular emphasis on new techniques.

Moderator:

Vicky Eatrdes, Deputy Commissioner, Competition Bureau Canada

Panelists:

Nell Zhou, Associate Professor, University of International Business and Economics, China

Theodore Banks, Partner, Scharf Banks Marmor, United States

Miguel Mendes Pereira, Partner, Vieira de Almeida Associados, Portugal

Mini Plenary #9: Sanctions

Chateau Laurier, Macdonald Room

This session looks at the sanctions available for competition law infringements across a number of jurisdictions and will address (i) the system by which each jurisdiction determines and imposes sanctions; (ii) types of sanctions available, including monetary fines or penalties, debarment in procurement context, disqualification orders for individuals; (iii) factors to be considered when sanctions are being determined, such as size/turnover/sales of the company, private damages actions, relevance of group size, co-operation, recidivism; (iv) the effectiveness of each type of sanction; and (v) availability of judicial review of sanctions imposed.

Moderator:

Rafael Allendesalazar, Partner, Martinez Lage Allendesalazar & Brokelmann, Spain

Panelists:

Peter Renehan, Special Counsel, Australian Competition and Consumer Commission

Naohiko Komuro, Director, Information Analysis Office, Investigation Bureau, Japan Fair Trade Commission

Hae-Kyung Yoo, Director, Korea Fair Trade Commission

10:30-10:45am:

Break

Chateau Laurier, French Corridor

10:45-12:15pm:

Simultaneous Breakout Sessions

Breakout Session #11: When civil servants go bad: what to do when a government procurement agency is involved in bid-rigging

Chateau Laurier, Renaissance Room

Topics for discussion could include how to deal with the government department/agency- can/should it be charged? Or should education be the primary goal? What about the individuals (civil servants, or even politicians) involved? Can/should they be charged? Under competition law, or under a statute related to their duties as civil servants/elected officials?

Discussion leaders:

Guy Pinsonnault, Partner, McMillan LLP, Canada
Diogo Thomson, Deputy Superintendent, Administrative Council for Economic Defense, Brazil
Susan Ning, Senior Partner, King & Wood Mallesons, China
Narissa Somji, Counsel, Public Prosecution Service of Canada

Breakout Session #12: The treatment of individuals who engage in cartel conduct

Chateau Laurier, Macdonald Room

Should individuals be pursued? Under what circumstances? What is the most effective approach? Criminal sanctions? Director disqualification?

Discussion leaders:

Stephen Blake, Senior Director – Cartels and Criminal, Competition and Markets Authority, United Kingdom
Maarten Schueler, Team Manager, The Netherlands Authority for Consumers and Markets
Isabel López Gálvez, Head of Cartels and Leniency Unit, National Authority for Markets and Competition, Spain
Peter Whelan, Professor, University of Leeds, United Kingdom

Breakout Session #13: Structural risk

Chateau Laurier, Tudor Room

Are some types of government more at risk for bid-rigging of public procurement process? Are some market sectors? Are there steps competition law agencies can take to mitigate either of these kinds of risk?

Discussion Leaders:

John Kirkpatrick, Senior Director – Advocacy, Competition and Markets Authority, United Kingdom
Oleg Shpetrik, Competition Law Officer, Competition Bureau Canada
Claudia de los Rios, Partner, Ledesma Rodriguez Rivero, S.C., Mexico

Breakout Session #14: Private enforcement

Chateau Laurier, Québec Suite

Participants could discuss their respective agencies' roles with respect to private enforcement, particularly with respect to supporting procurement agencies/municipalities/taxpayers in recovering damages when there has been bid-rigging in the context of public procurement. The calculation of damages, either in public procurement cases or competition class actions more generally, could also be considered, as could the confidentiality of leniency/plea documents from the associated agency case.

Discussion leaders:

Tetsuya Kanda, Senior Planning Officer, Investigation Bureau, Japan Fair Trade Commission

Gordon Fraser, Competition Law Officer, Competition Bureau Canada

Christof Swaak, Partner, Stibbe, Amsterdam

Daniel Andreoli, Legal Counsel, TozziniFreire Advogados, Brazil

Breakout Session #15: Tactics in negotiating plea deals [AGENCY ONLY]

Chateau Laurier, Burgundy Room

The session will offer a cross-jurisdictional look at the various steps in the plea negotiation process, both before and after charges are filed, and will address: (i) the extent to which (and when) evidence should be revealed to a defendant; (ii) how to manage the process in jurisdictions where an independent prosecuting agency is ultimately responsible for approving any plea deal or the laying of charges; (iii) the extent to which a defendant should be given an opportunity to present reasons why they should not be charged or why the charges should be limited in some respect; (iv) the procedure by which jurisdictions calculate fines or prison sentences; and; (v) how different jurisdictions analyze inability to pay arguments in the context of plea deals.

Discussion leaders:

Peter Renehan, Special Counsel, Australian Competition and Consumer Commission

Alexis Brunelle, Legal Advisor, Autorité de la concurrence, France

Sean Farrell, Assistant Chief, New York Office, United States Department of Justice, Antitrust Division

12:15-12:45pm:

Closing Remarks

Chateau Laurier, Ballroom

Speakers:

Stéphane Hould, Deputy Commissioner, Competition Bureau Canada

Mukhamed Khamukov, Federal Antimonopoly Service of Russia; Co-

Chair of Subgroup 2 of the ICN Cartel Working Group

