

Editorial: *Looking forward to meeting the challenges of an assessment of regulatory constraints on competition in three key sectors*

On October 15, 2014, The Organization for Economic Co-operation and Development (OECD) announced that a pro-competitive regulatory review of three key sectors was launched in Bucharest by the **Romanian Prime Minister Victor Ponta** and **OECD Deputy Secretary General William Danvers**. This significant project (using the method of the OECD's Competition Assessment Toolkit) will be carried out by an OECD project team involving staff of the Romanian Competition Council and input from the Romanian Government and relevant ministries. The analytical competition assessment report will be completed by the end of 2015 (by making recommendations for revisions to certain laws and regulations aimed at improving competitive conditions), after reviewing laws and regulations in *food processing, transport and construction*. This assessment will take place in *five stages*: initial mapping of all relevant legislation for the three sectors; in-depth scan of legislation to identify potential obstacles to competition; analysis of the selected regulations to assess the harm to competition (qualitative and, where possible, quantitative to demonstrate the potential economic benefits from lifting any identified barriers to competition); formulation of recommendations for the redesign or even abolishment of regulations shown to be harmful to competition; publication of a final report with recommendations for redesigning regulations (please see: <http://www.oecd.org/competition/romaniacompetitionassessment.htm>).



Prime Minister of Romania, Mr. Victor Ponta gave a speech at the special event



Mr. William Danvers, Deputy Secretary-General of the OECD, gave a speech at the special event

The launch event of this significant project took place at the *Chamber of Commerce and Industry of Romania*. **Mr. Victor Ponta, Prime-Minister of Romania**, underlined the efforts made by Romania lately to meet high standards of competitiveness, transparency, operation of public institutions and legislation that OECD established very clearly, the intention and determination of Romania (written in the Government' strategic documents) at government and institutional level but also at the private environment level not only to meet all the standards of OECD and to become full-fledged member, and expressed his opinion that a fair, transparent competition represents in fact Romania's development chance, a competitive and open economy being the only right basis on which we can further build, including from the point of view of the role that Romania can and should play in this difficult period in our region, considering economic competitiveness standards, operating standards of public institutions, standards of transparency, specifically those promoted and kept by OECD (please see: <http://www.noodls.com/view/023C6DBFA9EDF989DF29AA9E1677F8E827D9902C?5908xxx1413395600#sthash.HPvoH3Ev.dpuf>).



On October 15, 2014, at the Chamber of Commerce and Industry of Romania

It is also worth to remember, within this context, that on April 8, 2014 the Romanian Competition Council launched the *OECD Report* entitled “*Peer-Review of competition law and policy in Romania*”, **the event being attended by the Prime Minister of Romania, Mr. Victor Ponta**. On this last mentioned occasion, Mr. *Frederic Jenny*, Professor of economics, ESSEC Business School, Chairman OECD Competition Committee, confirmed that the Romanian Competition Council (RCC) is focused on improving the enforcement regime, and approached the “Future directions of Action Following the OECD Peer-Review of Romania’s competition law”, highlighting the necessity of ensuring continuity and the systematic implementation of reforms of the competition regime, and underlining different policy recommendations such as: on cartel enforcement, on mergers, RCC’s independency, reconsidering the RCC’s enforcement powers in unfair competition law, possible reforms concerning territorial offices of the RCC, providing a relatively more competitive salary scheme in order to retain crucial staff, keeping focus on electricity and gas markets and strengthening RCC’s expertise, building a positive work relationship with ANRE.

Romanian Distribution Committee actions, enrolled in a common endeavor for the normalization of the competitive environment

It is well-known that Romanian Distribution Committee (CRD) actions were enrolled in a common endeavor for the normalization of the competitive environment, to prevent inefficiency and to increase the overall level of performance, for partnerships and loyal competition in the distribution process, to increase welfare by offering the possibility of options. It is worth remembering, in this context, the aspects mentioned in the 1997 Report (p. 561), 1998 Report (p. 66-67), 1999 Report (p. 53) and 2001 Report (p. 64), of the Competition Council, concerning the collaboration with the CRD.

The formation, in 1996, of the Romanian Distribution Committee as a *Scientific Association – Romanian legal private non-governmental person, apolitical, non-profit, open-associative type* (through the association of 42 founding members) represented a milestone (CRD is mentioned in “*European Marketing Information Sourcebook*”, 1st edition, Euromonitor International, p. 132; following, reference is made to CRD in the study “Marketing issues in transitional economies”, Springer, 1st edition, August 31, 1999, Rajeev Batra, *William Davidson Institute*, Business & Economics, p. 167) for acknowledging the specific Romanian undertakings of adapting to European and world economic structures. Otherwise, even in the „virtual world”, this fact was recorded in „*Position Paper, Chapter16*”: SME (http://www.mie.ro/Negocieri/Romana /Documente_ pozitieRom/CAP16-DP), at point 3 – „Capacity to implement the *acquis communautaire*”: „that in the field of commerce and distribution, in 1996, the Romanian Distribution Committee was established as a legal association, affiliated to the International Association for the Distributive Trade” (scientific and pedagogical association – A.I.D.A. Bruxelles). Since the second half of 1996, CRD already published (in a partnering relation with the Romanian Foreign Trade Center) a Documentary Summary (opening the Collection “Information and Documentation Synthesis in the distribution field”) “Distribution in Europe”, as a Supplement of the Journal “Romanian Trade Monitor”(please see: <http://www.crd-aida.ro/originsvocation/>).

Paying tribute to all those who were involved in the continuous promotion of the competition culture in Romania

Within this framework of continuous promotion of the competition culture in Romania (starting with some significant messages such as: “*An intersection towards future, competition – consumer protection*”, in “Adevărul Economic”, no. 51-52/17-31 dec.1994; “*There are chances for a normal competitive environment*”, in “Adevărul Economic”, no. 48(194)/25 nov.-1 dec.1995; please see: <http://holisticmarketingmanagement.ro/wp-content/uploads/2014/09/Theodor-PURCAREA-CV-English.pdf>), it is also worth recalling some reflections made seven years ago on the occasion of Council’s 10th Anniversary (<http://www.crd-aida.ro/2007/09/romanian-competition-council%E2%80%99s-10th-anniversary/>). On that special occasion we underlined that: September 6, 2007 represented a real marker to determine how much farther it is to go yet while reaching the milestone of Romanian Competition Council’s 10th Anniversary, within its huge ethical dimension of protecting competition, not competitors in the evolving competition environment; this was a good time to reflect on progress made toward building a sound institutional framework, in designing effective competition regime, in enforcing the competition law and also looking on the windows of opportunity provided for an in-depth substantive European and global conversation on competition policy and acting accordingly (considering, for example, the progress made at the level of the International Competition Network concerning the techniques to improve competition law enforcement); *in 2002, the annual Report of the Romanian Competition Council has been sent to all key stakeholders in Romanian economy, including, for the first time, academics* (also considering that Competition Council must continue to co-operate better with all our Universities in ensuring the adequate training of the future lawyers and economists (including also “the long life learning”) who will join the “Competition Family”; competition policy approach in the context of present international challenges it is supposed to consider both, national objectives (competitive markets; consumers’ protection), and international challenges (globalization of markets; economic disparities between countries), competition policy being one of the main issues discussed within EU Commission, OECD, WTO, and UNCTAD and so on, while key stakeholders in an economy (politicians, government officials, the business, labor and legal communities, sectorial and other regulators, academics and the press) must understand the benefits of competition and be willing to support it; in a letter sent on October 9, 2003 to Frederic Jenny we showed that Professor’s letter published on Financial Times as a post-Cancun reflection represented a new challenge for the worldwide competition family to recall the past, to learn from the most recent experience and to reflect about the future, being important to discuss and to establish the rules for the future economy within the multilateral negotiation framework; Romania has now in place the institutional framework it needs to go farther by ensuring on the market a fair playing field where efficiency and innovation are encouraged to prosper, also taking care in using the phrase “competition on the merits”; it is now largely agreed that the objective of antitrust is consumer welfare and it is incorporating sound economics into the antitrust analysis, while developing an adequate analytical framework for applying an administrative system; there is a continuous debate about the goal of competition policy, “over whether consumer or total (consumer plus producer) welfare is the right standard for competition policy”; competition (the process), as argued by Dr. Kenneth Heyer, is the most effective means to promote consumer welfare and efficiency (the goal) is a cornerstone of sound antitrust policy; we also have to look more at the so-called “Attention Diversion Ratio” (ADR, defined by

Michael Katz as the percentage of effort that should have been spent on competitive effects but instead was spent on defining the relevant market); Romanian Competition Council's people, that were professional developed owing to both their professional commitment and technical assistance ensured by Italian, German and last but not the least American Advisors, have proved the necessary competences to protect competition on the Romanian market and to contribute farther to the progress of the "International Competition Family"; in the same time we must remember all those "Romanian Competition Family" members who are no longer with us, like: IOAN BUDA, NICU TANASE, PETRE TARU.

Theodor Valentin Purcărea

Editor - in - Chief



The following picture presents European Commissioner Mario Monti and Theodor Purcărea, in 2002.
It is worth mentioning that in a letter sent by Professor Monti on November 6, 2002 it is pointed out that:
"it is issue of real, effective, full independence of competition decision-making".
Independence from business pressures and independence from political pressures.
This regards anti-trust and also State aid."



The picture shows the room where the First Annual ICN's Conference took place, in Naples, Italy, 2002.

Source: <http://www.crd-aida.ro/2007/09/romanian-competition-council%E2%80%99s-10th-anniversary/>

Tachibana

Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

19-Dec-2003

English version

**CENTRE FOR CO-OPERATION WITH NON-MEMBER
DEVELOPING POLITICAL, POLICE AND ECONOMIC AFFAIRS**

OECD Global Forum on Competition

**HOW ENFORCEMENT AGAINST PRIVATE ANTI-COMPETITIVE CONDUCT
HAS CONTRIBUTED TO ECONOMIC DEVELOPMENT**

— CONTRIBUTION FROM ROMANIA —

Section II

This contribution is submitted by Romania under Section II of the Global Forum on Competition in its final on 11 and 12 February 2004

CONSEJO COMPROVID/2004

CONSEJO COMPROVID/2004

**HOW ENFORCEMENT AGAINST PRIVATE ANTI-COMPETITIVE CONDUCT
HAS CONTRIBUTED TO ECONOMIC DEVELOPMENT**

*by Theodor Valentin Purcarea, PhD
President of the Competition Council of Romania*

1. Understanding the importance of competition law and policy, as a result of both the economic development and the strengthening of the whole Romanian economy, has become a necessity to obtain the objectives of a market economy. Competition law usually prohibits:
 - a firm from abusing monopoly power;
 - the abuse of dominance;
 - the cartel arrangements in which two or more firms agree to act jointly as a monopolist.
2. Competition policy is a broader concept that includes aspects of regulatory reform, deregulation and privatisation, and seeks to build the basis to society that is covered by a broader range of anti-competitive actions and policies. In the context of economic transition, the concept of competition culture is of key importance. With a view to promoting the principle of the competition culture, we have to take into account a range of activities that contribute to its success in the transparency of the competition mechanism. Presently, these activities can be categorised as follows:
 - anti-trust, interest, publicisation (business, market, open, price reform);
 - consumer and customer-oriented in order to promote competition policy;
 - co-operation with regulatory reform the process of privatisation and deregulation;
 - consultancy offered by experts;
 - policy of setting laws that create greater incentives and promote income dynamics of competition.

Reproducere dupa materialul OECD 21669387.pdf, 09-Dec-2003, 6 pag.

From left to right:

- Theodor Valentin Purcarea – President of the Romanian Competition Council;
- Frederic Jenny – President of the OECD Competition Committee, Vice-President of the French Competition Council; President of the Working Interchange “Competition and Competition Policy” WTO;
- Kurt Bockemuhl – Vice-president of the Bundeskartellamt;
- Leifhart Gohssein – Principal Administrator, OECD Competition Division;
- Barbara Lott – Executive Director, Fair Trade Commission, Jamaica;
- Chai-Gul Kim – Director International Organization Division, Korea Fair Trade Commission.

Global Forum on Competition, OECD, Paris, 2003



Dear Prof. Jenny,

Un comentariu
Theodor Purcarea
la articolul
Profesorului
Frederic Jenny
apărut în
„Financial Times”

Your letter published on Financial Times as a post-Cancun reflection represents a new challenge for the world wide competition family to recall the past, to learn from the most recent experience and to reflect about the future. In this context I dare to write a few lines as my personal reflection thoughts on these events.

I wrote about a “competition family” and I like to believe that it is not only a political expression or a utopian desire. Sometimes the families are the scene of various different opinions and these are, I am sure, the engines of the progress. Someone hurried to speak about the “Cancun’s failure” but I think that we should look beyond this. I think that it is more useful to talk about “Cancun’s lessons”. There are opposite opinions between developed and developing countries and there are opposite opinions within the developed and developing countries on competition issues. We do not have to forgive other elements of the equation: multinational companies, civil society, anti-globalization movements and media. But as you underlined, their aims are the same: the economic growth and the welfare of the consumers.

It remains to discuss the actions. So, it is important to discuss. The dialog is the only response that could be offered for both opponents to negotiating commitments within the future WTO round and anti-globalisation movements. But the time of colloquial debates is gone. We have to establish the rules for the future economy within the multilateral negotiation framework. We are challenged to prove that applying the competition rules around the world it is not a null sum game but a potential opportunity for all the actors to win. I support your message that it is the time of mature actions. I remain sincerely yours,

Theodor Valentin Purcarea

CHALLENGES/OBSTACLES FACED BY COMPETITION AUTHORITIES
IN ACHIEVING GREATER ECONOMIC DEVELOPMENT
THROUGH THE PROMOTION OF COMPETITION

*by Theodor Valentin Perschke, PhD
President of the Competitive Council of Romania*

"The challenge is becoming an opportunity: an opportunity for more effective enforcement of competition policy in the benefit of the consumer, an opportunity to contribute through competition policy instrument to faster market oriented reforms and to improve the confidence for sustainable growth." Mario Monti, European Commissioner for competition policy

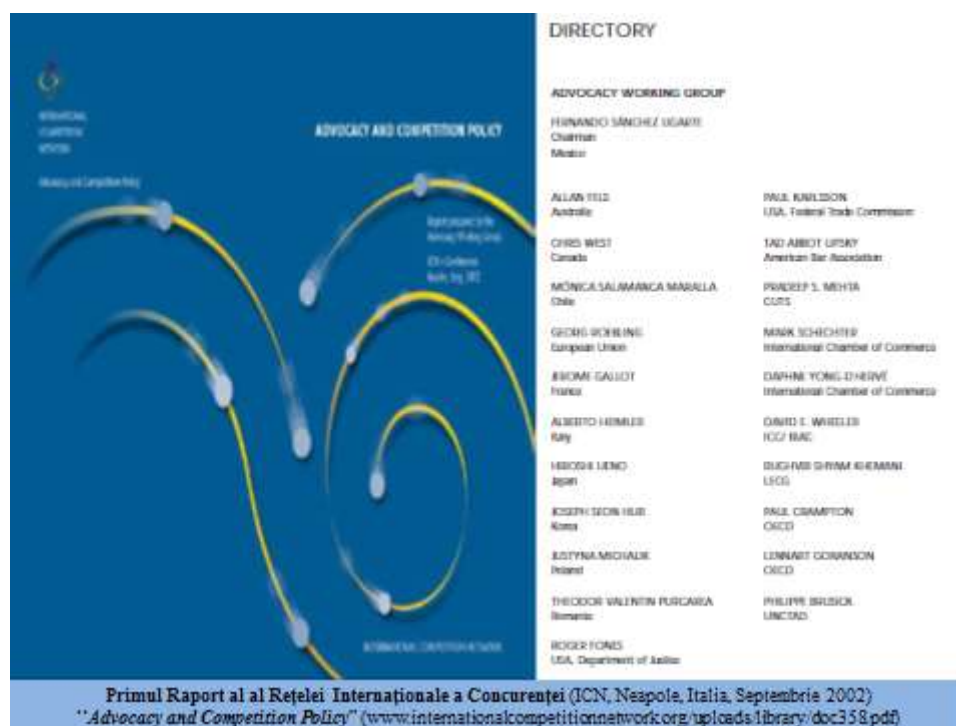
1. The content - the first challenge

1 Romania - developing country, building an efficient and well functioning market economy - is characterised by a fast changing economic environment (from a centralised system to market economy). Facing the Romanian economy to a market economy, compulsory conflict by Accession to the European Union, has represented for our country the market advancement of the privatisation and competition policy for the industrial sector.

2. Our efforts are limited on the grounds of an appropriate connection between the socialization of private property, competition, market price-regulation mechanism, economic and financial laws; key factors, on the one hand, and stable legal norms, on the other hand. The market economy cannot be introduced in a country if the legal system, competition is lacking and the market is not free. The market cannot be created and applied effectively if the system of competition is a public burden, but which is the competition policy is to maintain and develop an effective state of competition, which on the students' structures and actors' behavior. By expanding understanding to compete and, often, the mechanism is suggested, the production costs are reduced, the economic efficiency is growing and consequently the economic competitiveness is strengthened. Thus, it may be explained how understanding is transferred through competition to other competitive members and services in terms of risks and needs.

The conference is scheduled by Economic and Social Sector 2 of the Global Forum on Competition to be held on 12 and 13 February 2008.

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SCRISOAREA DIN 6 NOIEMBRIE 2002 A
COMISARULUI EUROPEAN RESPONSABIL CU POLITICA IN DOMENIUL CONCURENȚEI , MARIO MONTI,
ADRESATĂ PREȘEDINTELUI CONSILIULUI CONCURENȚEI DIN ROMÂNIA,
THEODOR VALENTIN PURCĂREA

MARIO MONTI
MEMBER OF THE EUROPEAN COMMISSION

Dear Mr. Purcărea,

6.11.02 D/ 001049

Thank you very much for your cordial letter of 2 October 2002.

I greatly appreciate your willingness to engage in a direct international dialogue.

It is in my view extraordinarily reassuring to see that so many countries world-wide have recognised the centrality of competition policy to the proper functioning of a market economy. Romania, like many of these countries, has only recently adopted market-based economic systems. I believe that the pursuit of a robust competition policy by Romania is a key ingredient in any market-driven reform: it encourages industrial competitiveness by rewarding efficiency and innovation, thereby fostering investment, raising incomes and creating wealth in the process.

However, the establishment of a market based economy is dependent on a wide range of factors: political stability, encouragement of trade, and capacity building in both the public and private sectors so that advantage can be taken of new trade opportunities.

Capacity building at the public level is, in itself, an incentive for much needed private investment as private investors are anxious to ensure that their rights are protected and that investment risks are reduced. Competition policy can play an essential component in ensuring that economic liberalisation takes place in a way that allows markets to develop towards free and fair competition. In this context, the competition policy capacity is part of a wider effort of integration into the world trading system.

As you pointed out in your letter, it is the issue of real, effective, full independence of competition decision-making: Independence from business pressures and independence from political pressures. This regards anti-trust and also State aid. And an effective competition policy definitely requires a well organised and competent organisation as well as an efficient interaction between the Romanian national Competition Authorities, the business Community and the Romanian Government. This being said, I know that Romania still has a way to go and I greatly appreciate your commitment to building up an effective competition policy.

Yours sincerely,



Mr. Theodor Valentin Purcărea
President
Romanian Competition Council
1, Calea 13 Septembrie
Palace of Romanian Parliament
Bucharest, Romania

Source: http://www.consiliulconcurentei.ro/uploads/docs/items/id6431/rev_2002_nr_2.pdf



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SEOUL FORUM ON COMPETITION POLICY 2002

Co-hosted by the KFTC, OECD and UNCTAD

Shilla Hotel, Seoul, Korea

November 6~8, 2002

<http://seoulforum.ftc.go.kr>

Wednesday, November 6

Opening Speech

- Nam-Kee Lee, Chairman, Fair Trade Commission, Korea

Congratulatory Remarks

- Syamsul Maarif, Chairman, Commission for the Supervisory of Business Competition, Indonesia
- Theodor Valentin Purcarea, President, Competition Council, Romania
- Timothy J. Muris, Chairman, Federal Trade Commission, U.S.A. (pre-recorded message)
- Mario Monti, Commissioner, European Commission (pre-recorded message)

KFTC, OECD and UNCTAD

Source: Romanian Competition Council, *Profil Concurenta*, 2002_2_2.pdf



Theodor Purcarea speaking at the opening ceremony of KFTC, OECD, and UNCTAD Forum on Competition Policy, Seoul, 2002



Reproducere după Romanian Business Journal, July 2003

Working Group with the opportunity to monitor progress on activities undertaken pursuant to paragraph 24 of the Declaration, whether undertaken by the WTO Secretariat, other intergovernmental organizations and/or by Members acting through bilateral and regional channels;

4. ELEMENTS CONTAINED IN PARAGRAPH 25 OF THE Doha Ministerial Declaration, WITH FOCUSED ATTENTION ON SUPPORT FOR PROGRESSIVE REINFORCEMENT OF COMPETITION INSTITUTIONS IN DEVELOPING COUNTRIES THROUGH CAPACITY BUILDING

4. The representatives of Romania, Canada, the European Community and its member States, the United States, Japan, Egypt, Thailand, Korea and Australia introduced written contributions relevant to this item (documents WT/WGTCP/W/513/Rev.1, U.S., 184, 185, 186, 187, 188, 189 and 190, respectively). In addition, as had been requested by the Working Group at its informal meeting on 26 February, the Working Group had before it a background note by the Secretariat (document WT/WGTCP/W/512) on the topic, which aimed to provide a synthesis of the issues raised and points made by Members on the subject of support for progressive reinforcement of competition institutions in developing countries in previous meetings of the Working Group. The representative of the Czech Republic, Cornelia Krieger-Schneiders, Honduras, Hong Kong, China, India, Jamaica, Jordan, Malaysia, Morocco, Norway, Pakistan, the Philippines, South Africa, Switzerland, and Trinidad and Tobago made oral statements or posed questions on this item and representatives of the OECD provided an update on relevant activities of that organization.

5. With regard to capacity-building needs and the challenges and difficulties encountered in implementing competition policy in developing and transition countries, the representative of Romania, introducing document WT/WGTCP/W/513/Rev.1, said that in the twenty-first century, both rich and poor countries faced a new challenge of globalization, including a changing economic environment in which know-how and information had replaced labour and even capital as key sources of competitiveness. The current environment was simultaneously competitive and cooperative. To answer the challenge, a system was needed that could both regulate and stimulate, a system that facilitated fair and sustainable development and that provided for interconnections between governments, markets and civil society. In order to protect the benefits that had been gained in terms of opening markets, it was essential that companies not be allowed to enter into restrictive agreements or abuse their market power. Moreover, increasingly, the work of competition authorities was transnational in scope. During investigations, there was the problem of obtaining information from other jurisdictions and after a decision had been made, there was the problem of enforcing the decision. International agreements included substantive competition rules and/or provided for cooperation between competition authorities. Such agreements enabled coordination of enforcement activities and an exchange of views on issues such as markets and possible remedies. Cooperation had worked well in merger cases but in non-merger cases, there had been less cooperation. In the current environment, there was a valid case for the WTO to negotiate and conclude a multilateral agreement on trade and competition policy. Effective competition policies and regulatory mechanisms were an important part of the governance framework of States. In the absence of an explicit competition policy, there was a risk that the competition process might be obstructed or distorted by the actions of private parties or by the State itself. Furthermore, competition policy contributed greatly to advancing not only the national economy but also the global economy as a whole. It was a necessity for all, including developing countries. Accordingly, his delegation welcomed and affirmed two results of the WTO Doha Ministerial Conference: giving the needs and interests of developing countries at the heart of the Work Programme adopted in the Ministerial Declaration and recognizing the need for a multilateral framework to enhance the contribution of competition policy to international trade and development. An essential related element was recognition of the need for enhanced technical assistance and capacity building in this area as was done in the Doha Declaration. Building trust in market forces and promoting understanding of the contribution of competition policy to sustainable economic development were major challenges. However, when combined with successful experience in competition law joined these efforts, the

prospects for success were much greater. The same held true for designing a framework of competition policy that was suitable for each country's specific economic situation. Technical assistance was only one of various interrelated forms of international cooperation that were contemplated in the Doha Declaration. Furthermore, it was important to note that programmes were more efficient if they were based on effective partnerships between the donor and the beneficiary. The diversity of companies' behaviour and the complexity of relations established on international markets were raising new challenges for international cooperation in the competition area. The elaboration of common approaches to competition policy and cooperation between competition authorities on real cases would enhance the contribution of competition policy to international trade and development. The elaboration of a multilateral framework on competition policy in the WTO had been widely discussed. The fundamental objective of technical cooperation was to assist recipient countries in their understanding and implementation of agreed international economic rules, ensuring their full participation in the multilateral trading system and a lasting beneficial impact on the recipient country. In sum, there was a growing need for access to information, transfer of competition policy know-how, competition advocacy, removal of barriers to entry, elimination of bottlenecks in key network sectors, etc., which could only be met through increased cooperation including in the WTO.

**Working Group on the Interaction
between Trade and Competition Policy**

**Intervenție Theodor Purcărea în cadrul Grupului de lucru pentru
Comerț și Politică în domeniul Concurenței, WTO, Geneva,
aprilie 2002, reflectată ca primă poziție în Raport**

REPORT ON THE MEETING OF 23-24 APRIL 2002

1. The seventeenth meeting of the Working Group on the Interaction between Trade and Competition Policy took place on 23-24 April 2002, under the Chairmanship of Professor Federico Juncos.



De la stânga la dreapta: Allan Fels, președinte al Autorității de Concurență din Australia; Deborah Majoras, asistent al procurorului general al Departamentului Justiției din Statele Unite ale Americii; dr. Ulf Böge, președintele Autorității de Concurență din Germania; Bärbel Dieckmann, primarul orașului Bonn; dr. Theodor Valentin Purcărea, președintele Consiliului Concurenței din România; dr. Kurt Stockmann, vicepreședintele Autorității de Concurență din Germania; Andrej Plahutnik, șeful Autorității de Concurență din Slovenia.

(Reproducere după ziarul Kölnische Rundschau din 19 mai 03)

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