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**CENTRE FOR CO-OPERATION WITH NON-MEMBERS
DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS**

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OECD Global Forum on Competition

CONTRIBUTION FROM LITHUANIA

This contribution is submitted by Lithuania as a background material for the second meeting of the Global Forum on Competition to be held on 14 and 15 February 2002.

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COMPETITION COUNCIL OF THE REPUBLIC OF LITHUANIA

I. EXPERIENCES OF AND NEEDS FOR CAPACITY BUILDING OR TECHNICAL ASSISTANCE

1. General overview

Like in previous years, in 2000 – 2001 the Lithuanian Competition Council received very extensive technical assistance in both anti-trust and state aid fields (see the attached table).

During the reporting period, the main needs for capacity building and technical assistance in antitrust field were directly related to the implementation of the Law on Competition, adopted by the Seimas in March 1999, in particular the necessity to reinforce the Competition Council, to issue a number of accompanying regulations and to establish operational procedures and rules in order to transparently promote and regulate fair competition. Another very important area for technical assistance was state aid, which is identified by the European Commission as one of the fields, which has to be reinforced by extending institutional capacity and investing relevant resources

The needs for technical assistance were highly prompted by Lithuania's obligations under the Association Agreement to comply with the Community rules on competition. In doing so, the Lithuanian Competition Council had to adopt a set of resolutions setting out the principal policy lines compatible with the EC legislation.

As regards administrative capacity, the enforcement practice of the Competition Council had also to be developed. The aim of the Lithuanian Competition Council was to concentrate on the removal of the most serious restrictions on competition, and increase proceedings directed against more powerful undertakings.

To implement the above-mentioned tasks technical assistance was vitally needed. The Competition Council tried to get technical assistance through all possible sources. Requests for technical assistance were submitted to all relevant institutions dealing with technical assistance far in advance. The draft terms of reference for the main technical assistance project (the Phare Twinning project) has been prepared and submitted to the Ministry of Foreign Affairs already in 1998.

The most valuable and useful for the Competition Council was technical assistance provided under special programs and projects funded by PHARE and other donors. The programs were designed and adjusted to the specific needs of the Competition Council and covered areas which badly needed outside assistance.

Until mid 2000, the Competition Council received technical assistance through the Phare SEIL (Support to European Integration in Lithuania) project (LI 9701-02), which served mainly to support activities to the adoption of the new Law on Competition of 1999. The assistance covered drafting of Statute and Working Regulations for the new Competition Council and its Administration, training and information activities. The assistance provided under this project was also a valuable support to the Competition Council in drafting the Law on Monitoring of State Aid to Undertakings and the order of application of procedures for assessment of State aid. The main outputs of the project were: two reports related to the development and reorganisation of the former State Competition and Consumer Protection Office into the Competition Council; seminar on comparative competition structures; draft regulations of the Competition Council;

draft Law on Monitoring of State Aid to Undertakings (adopted on 18 May 2000); and two seminars on state aid. The trainees at the seminars were experts from the Competition Council, representatives of the relevant ministries, local authorities and science institutions.

In December 2000, the un-going Phare Twinning project “Strengthening Enforcement of Competition Policy” (LI 99-IB-FI-02) was launched. The Twinning project was built on the activities under the Phare SEIL project, and continues the work started by the SEIL project. The partners of the Twinning project were Lithuania represented by the Competition Council and Germany represented by the Federal Ministry of Economics and Technology in co-operation with Sweden represented by the Swedish Competition Authority. The initial duration of the project was 12 months, but in November 2001 it was prolonged and will terminate on May 31, 2002 instead of November 30, 2001. The project was being implemented according to the Decentralized Implementation System (DIS). The overall co-ordination with other bilateral and multilateral donors was being ensured by the Lithuanian Ministry of Foreign Affairs. All missions of experts and matters related to the project were being coordinated by a Pre-Accession Adviser (PAA) who took up permanent residence for the initial duration of one year of the Twinning project. The beneficiary, the Lithuanian Competition Council, provided the team of experts with necessary facilities and counter-part support for implementation of the project.

The fundamental objective of the Twinning project is the strengthening of the administrative capacity of the Competition Council to implement and enforce the Law on Competition and the Law on Monitoring of State Aid to Undertakings by improving structures and procedures and by organizing an extensive staff-training program with the assistance of German and Swedish experts, as well as to raise awareness of competition policy within business community and administrative bodies. The twinning operation supports drafting and adoption of secondary legislation necessary for full compliance with the *acquis communautaire*, translations into English and Lithuanian languages, investigations of individual cases, and education of key targeted audiences in the public sector, judiciary and business society. The staff-training program includes seminars, training “on the job” in Lithuania, and training “on the job” and study visits to corresponding administrations in Germany and Sweden.

In the year 2001, the project experts provided assistance in drafting and adoption of regulations concerning granting of exemptions for certain categories of restrictive agreements, including agreements in transport, insurance, agriculture sectors, technology transfer agreements and horizontal specialization agreements. Written proposals and reports on the experience in Germany and other countries were very useful for the Competition Council in order to take its decisions regarding these sectors.

On the request of members of the Competition Council and its staff the experts and the PAA provided consultations and advice in individual cases carried out in the area of anti-trust and state aid, gave recommendations on possible improvements of the investigation procedures and the rules for attributing fines. Training activities “on the job” involving the participation of project experts in the discussion of current cases before the Competition Council have been recognized as very useful for the staff of the Competition Council. Experts information and advice helped the staff of the Competition Council to concentrate on the most important restrictions of competition, to initiate inquiries and to conduct proper proceedings in conformity with Community standards.

There were three seminars organized in both anti-trust and state aid fields. The anti-trust seminar was held in Vilnius on September 26, 2001. The topics included vertical restraints, abuse of dominance in energy distribution network and general overview of main anti-trust developments in the EU. The agenda attracted more than 60 persons, including participants from law firms, regulatory authorities, business firms and ministries. Two other seminars were organized on state aid rules. One of the seminars was held for judges in connection with a presentation by the Lithuanian Ministry of Economics of the new

Lithuanian laws on restructuring and bankruptcy. This seminar was organized in cooperation with the Lithuanian Training Centre for Judges.

According to the Working Program a senior expert of the Legal Division of the Competition Council received a three-month enforcement practice in the Bundeskartellamt, three members of the Competition Council spent one week in Bonn, visiting the Bundeskartellamt, the Ministry for Economy and Technology, the Regulator for Post and Telecommunications and the Monopolies Commission. The press officer of the Competition Council and two senior experts of the Competition Council participated for one week in the work of the Swedish Competition Authority in Stockholm. Six representatives of the Competition Council took part in a two-week training and information program in Potsdam at the Ministry of Economy of the state of Brandenburg. The training focused on decisional practice in the field of state aid.

Swedish experts provided valuable information about the experience of the Swedish Competition Authority with programs designed to raise public awareness of competition legislation and about the information and administration system of the Swedish Competition Authority.

State aid experts participated in editing of a booklet on State aid legislation for more convenient use for administration and interested parties. Some texts were provided in English as well as in Lithuanian.

Although the Twinning project has progressed successfully, its Working Program was not completed during the initial period of the project. The main reason of the delay was related to the planned visits by short and medium-term experts. They have remained below schedule because many experts have experienced difficulties in getting the necessary leave from their home administrations. It is expected that the extension of the project will allow to further implement the Working Program. The future activities under the project will mainly concentrate in on-the-job training by involving Member States experts in the discussion of new cases on the request of members of the Competition Council.

In terms of developing skills and pursuing regulatory reforms, especially valuable was the assistance received from the OECD under the special program for the Baltic region states (Baltic Regional Program), which was launched in 1998. The main objective of the BRP was to assist the Baltic competition authorities in implementing law enforcement and advocacy activities. The program provided each Baltic competition authority with annual written evaluations of selected issues, seminars that combined elements of the CLP's policy dialogue and peer review with capacity-building activities that targeted topics identified by the evaluations. The first program activity was the OECD's 1999 book on Competition Law and Policy in the Baltic Countries. It helped the Lithuanian Competition Council to meet "best practice" standards and provided information on existing practice to the EU, national governments and the business community. Thereafter, the OECD prepared an assessment of the Baltic authorities' policies and cases against hard-core cartels, abuse of dominance and merger control. The reports on these activities were discussed at the three-day seminars held in Vilnius (10-12 October 2000) and in Tallinn (24-26 October 2001). The BRP workshops on competition policy issues were very well designed. They provided best opportunities to concentrate the efforts on the enforcement process in order to adopt the OECD standards in competition area. The importance of the OECD assistance is significant also in the context of the EU enlargement, since the OECD program complements EU programs by focusing on policy issues and fields that are not part of the *acquis communautaire*.

The Lithuanian Competition Council highly values the visiting expert programme designed for a Lithuanian competition expert at the OECD Secretariat under the Baltic Regional Program. The expert from the Competition Council worked in the OECD for a three-month period in September – November 2001. The experience gained by the Lithuanian competition expert has proved a strong need and usefulness of such type of activities. It provided a unique opportunity to get experience and closer acquaintance with

the functions of the OECD Competition Law and Policy Division, the Competition Committee and its working groups, as well as contributed to the establishment of both personal and official contacts between OECD and Lithuanian officials. Taking into consideration the successful experience of the first visiting expert and significance of the acquired knowledge for further intensification of bilateral relations, the Competition Council would like to have more such trainee assignments.

The decision of the OECD Council to grant an observer status to Lithuania in the OECD Competition Committee provided the Lithuanian representatives with the additional opportunity to participate in the OECD subsidiary bodies and to obtain substantial mutual benefits by increasing effective competition law enforcement through application of the OECD practice.

Since 1999, a valuable bilateral assistance to the Competition Council has been providing by the Danish Ministry of Foreign Affairs under the FEU programme. The main aim of the programme was to support the process of transposing EC legislation into the national legislation. In 2000, the Danish experts assisted in drafting the Resolution of the Competition Council on block exemption to agreements between transport undertakings in certain transport sectors. The Danish experts not only consulted the Competition Council on this issue but also even provided the Competition Council with a completed draft Resolution. It is expected that later this year the similar assistance will be provided for drafting the following: guidelines for the existing Lithuanian block exemption on vertical restraints; Lithuanian block exemption on specialization agreements; Lithuanian block exemption on research and development agreements; and guidelines for the intended Lithuanian block exemptions on specialization, research and development agreements.

Significant support in arranging training for the staff of the Competition Council was provided by the DG Competition of the European Commission and the TAIEX Office.

The Lithuanian Competition Council highly valued the annual OECD competition policy activities held at the Joint Vienna Institute. Regular participation of Lithuanian experts at these events helped to improve the administrative capacities of the Lithuanian Competition Council, particularly those regarding the implementation of competition policy recommendations in the field of the actions against hard core cartels and in the case of abuse of dominance.

During the reporting period, representatives of the Competition Council were active participants of many international seminars and conferences, organized by the European Commission, OECD (Organization for Economic Co-operation and Development), UNCTAD (United Nations Conference on Trade and Development), various international organizations and competition institutions of other countries. Worthy of notice are the annual conferences of the European Commission in Tallinn and Lubljana, a conference in Stockholm "Struggle against cartels, - why and how", the European Commission conference in Brussels "Merger control", the competition conference and the European competition day in Lisbon, an international seminar on cartels in Brighton.

Besides, in the year 2001 certain national training programme designed for the staff of the CC was elaborated in close co-operation with the Lithuanian Institute of Public Administration. This training programme consisted of a number of lectures by in-house and outside experts, and covered more general topics on administration and law. According to this programme experts from the CC had an opportunity to take part in the said training.

The mentioned and other measures of technical assistance presented a good opportunity for the experts of the Competition Council to broaden their horizons and deepen their knowledge in the area of competition policy and law, implementation of the Law on Competition and conducting of investigations, exchange of information with officials of foreign competition institutions.

ACTUAL EXPERIENCE IN INTERNATIONAL CO-OPERATION IN CARTEL AND MERGER CASES

1. General overview

The Competition Council of the Republic of Lithuania (hereinafter – the Competition Council) is the core institution in the implementation of competition policy seeking to ensure conditions facilitating fair competition, efficient market operation, and the growth of economy. The Law on Competition of the Republic of Lithuania (hereinafter – the Law on Competition), adopted by the Seimas in March 1999, empowers the Competition Council to investigate, consider and end unlawful cartels, to perform control of concentration.

Very high emphasis in the activity of the Competition Council is placed upon potential cartel agreements, which are extremely prejudicial to competition and detrimental to consumers.

The experience of the European Union, for instance in the well-known international cartel cases, such as graphite electrodes, vitamins, showed the importance and significance of international co-operation in investigation of cartel cases. It is evident that cartel agreements disclosed by other countries can affect Lithuanian market as well. The recent investigation of the European Commission on the vitamin cartels, the quantity of discovered infringements induced the Lithuanian Competition Council to show an interest and to examine whether the resembling activities did not take place in Lithuanian market. In doing so, the Competition Council brought attention to the activities of the pharmacy companies participating in the market-sharing and price-fixing affecting vitamins products in the Lithuanian market. With that end in view the Ministry of Health of the Republic of Lithuania was requested for information on the import into Lithuania of the synthetic substances which belong to the certain groups of vitamins and are closely related products. At the moment the started investigation is continuing.

The international co-operation is a highly prioritised area of activity of the Competition Council. Each year leads to the further development of relations and formal and informal contacts between the Competition Council, the European Commission, the Organisation for Economic Co-operation and Development (OECD), other international organisations, and numerous competition institutions of the European countries and countries from other continents.

The Competition Council of the Republic of Lithuania has an interest in co-operation with competition authorities of all countries. The most productive and successful co-operation is possible between countries entered into co-operation agreements. At the moment the Competition Council has several co-operation agreements concluded with neighbouring Baltic States: Latvia, Estonia, Poland and Ukraine:

The Agreement on Co-operation between State Competition and Consumer Protection Office of the Lithuanian Republic and Antimonopoly Committee of Ukraine of 18 February 1996.

The Agreement of Co-operation between the State competition and consumer Protection Office of the Republic of Lithuania and the Antimonopoly Office of the Republic of Poland of 1 March 1996.

Memorandum of Understanding between the Competition Authorities of the Republic of Estonia, Republic of Latvia and Republic of Lithuania of 11 April 1996.

The Agreement of Co-operation between the competition Authorities of the Republic of Latvia and Republic of Lithuania of 11 April 1996.

The copies of said co-operation agreements are enclosed.

Very important legal background of co-operation was the Decision No 4/99 of the Association Council between the European Communities and their Members States, of one part, and the Republic of Lithuania, of the other part, of adopting the necessary rules for the implementation of Article 64(1)(i), (1)(ii) and (2) of the European Agreement establishing an association between European Communities and their Members States, of one part, and the Republic of Lithuania, of the other part of 26 May 1999.

2. General principles of the rules of co-operation agreements

Notification

The competition authorities shall notify each other in cases when it becomes aware that their enforcement activity may affect important interests of the other party. The notification is necessary in cases which involve investigation of the anticompetitive activities carried out by the economic entity having its residence in the other Party's territory or involve investigation required by the other Party or are relevant to enforcement activities of the other competition authority or involve remedies that would require or prohibit conduct in the other Party's territory.

Notification shall include sufficient information to permit an initial evaluation by the recipient party of any effect on its interests. Notification shall be made in advance, as soon as possible and at the stage of investigation still far enough in advance to adopt of a settlement or decision, so as to facilitate comments or consultations and to enable the proceeding authority to take into account the other authority's views.

Consultation and Comity

Whenever the Competition Authority consider that anti-competitive activities carried out on the territory of the other authority are substantially affecting important interests of the respective party, it may request consultation with the other authority, or it may request that the other authority initiate any appropriate procedure with a view to taking remedial action under its legislation on anti-competitive activities.

Finding of an understanding

The Competition Authority shall give full consideration to such views and factual materials as may be provided by the requesting authority and, in particular, to the nature of the anti-competitive activities in question, the enterprises involved and the alleged harmful effects on the important interests of the requesting party.

Request for information

Parties shall realise mutual exchange of information about legal acts and their amendments. The proceeding authority shall give sufficient information to the extent possible and a stage of its proceedings for enough in advance of the adoption of a decision or settlement to enable the requesting authority's views to be taken into account, otherwise it shall inform the requesting party indicating reasons of being unable to provide information.

Secrecy and confidentiality of information

Information shall be provided if it does not violate the laws of the providing Party, particularly if it concerns the secrecy of enterprise.

Each authority agrees to maintain, to the fullest extent possible, the confidentiality of any information provided to it in confidence by the other authority.

3. Co-operation in cartel investigation

In the recent years, the Competition Council of the Republic of Lithuania had several cases of international co-operation in cartels investigation.

On 9 June 1999, the Competition Council of the Republic of Latvia provided a formal request for co-operation on the investigation of potential cartel agreement between the Association of Egg Producers of Latvia and the Association of Poultry Farming of Lithuania on full discontinue of eggs export and import. Due to potential impact of the presumptive cartel agreement on the Lithuanian market, the Competition Council carried out the investigation in the Association of Poultry Farming of Lithuania. During the investigation co-operative parties shared the information and opinions in informal way - by telephone and email communications. The exchange of information let parties to reach consent on the investigation.

Another instance of co-operation in cartel investigation was also related to our neighbouring country Latvia. In 1998, the efforts of the Competition Council have been successful in identifying the first international agreement concluded between the competitors.

The aim of the investigation was to establish the compliance of the activities undertaken by Lithuanian, Icelandic and Swedish *Ilsanta* Closed Stock Company (Lithuania) and *Grindex* Company (Latvia) with the provisions of the Law on Competition. While being the competitors in Lithuanian intra-venous solution markets, the aforementioned companies have agreed among themselves to share the intra-venous solution markets following the territorial division principle. The competing companies concluded several agreements involving certain considerations on the supply of intra-venous solutions to the Baltic market. The competitors agreed that starting from the year of 1996 *Grindex* would terminate the supply of such solution to Lithuania either directly or via distributors. Also, the agreements involved the statement that only *Ilsanta* would be responsible for the supply of the aforementioned intra-venous solutions to Lithuania, in this way eliminating from the Lithuanian intra-venous solution market *Grindex* - one of *Ilsanta* Closed Stock company competitors. Before signing the agreements, the prices quoted for such solutions by *Grindex* were lower than those of *Ilsanta*.

For violation of the law fine of 20,000 litas was imposed by the Competition Council on *Ilsanta* Closed Stock Company.

According to the Agreement of Co-operation between the competition Authorities of the Republic of Latvia and Republic of Lithuania of 11 April 1996, the decision of the Council was communicated to the Latvian Competition Council.

The informal way of international co-operation may be illustrated by the following example.

In November 2001, the authorised officer of the Lithuanian Competition Council was invited to the informal meeting, arranged by the Danish Competition Authority, to discuss how competition was performed in the Scandinavian ferry market. Among participants of the meeting were representatives from competition authorities of Norway, Sweden, Denmark, Lithuania and the European Commission.

The participants shared information on the situation in harbours of representative countries, agreed that the situation in the market for transportation by ferries in the Baltic Sea was characterised by a limited number of operators, some of which were co-operating in different ways. Furthermore, the number could even decrease in the process of consolidation during the last 12 months. Free access to harbours for ferry operators and forthcoming liberalisation of harbour services was also discussed and it was agreed that access on a non-discriminatory and open conditions and a strengthening of competition in the harbour was vitally important.

ANNEX A

**QUESTIONNAIRE TO INVITEES AND OBSERVERS
ON INTERNATIONAL CO-OPERATION
IN CARTEL AND MERGER INVESTIGATIONS**

Most answers to the questionnaire can be found in the “General overview”, which is provided separately. Short answers to the specific questions are also provided below.

This questionnaire covers the period from 1 January 2000 to the present.

- 1. Provide a copy of each formal co-operation agreement between your country or your competition agency and a foreign country or competition agency relating to competition investigations or cases.**

The copies of co-operation agreements between the Competition Council of the Republic of Lithuania and foreign countries are enclosed.

- 2. Describe your country’s laws or regulations that relate to or affect your agency’s ability to exchange information or co-operate with a foreign competition agency.**

See the “General overview”.

Cartels

- 3. If your agency issued one or more formal requests to a foreign competition agency for information or assistance in an investigation or case involving a hard core cartel, please provide the following information about such requests (you need not identify specific cases):**

During the reporting period the Competition Council did not issue any formal request to a foreign competition agency for information or assistance in an investigation or case involving a hard core cartel.

- 4. If your agency received one or more formal requests from a foreign competition agency for information or assistance in an investigation or case involving a hard core cartel, please provide the following information about such requests (you need not identify specific cases):**

During the reporting period the Competition Council did not receive any formal request from a foreign competition agency for information or assistance in an investigation or case involving a hard core cartel.

- 5. Please describe any other instances of co-operation with a foreign competition agency in a hard core cartel investigation or case not described above, such as meetings, telephone or email communications, including, if possible, the co-operating country or countries, the nature of the co-operation and the importance or significance of the co-operation to your agency.**

See the “General overview”.

6. **State the number of instances in which a hard core cartel investigation or case could have benefited from information or co-operation from a foreign competition agency but your agency did not request such assistance because you knew that it could not or would not be granted. Describe the type of assistance that would have been useful and the impact of its unavailability on your enforcement effort.**

During the reporting period the Competition Council did not have needs for international co-operation in cartel investigation.

Mergers

7. **Identify each merger that your agency reviewed that, to your knowledge, was also reviewed by the competition agency of another country.**

The Competition Council of the Republic of Lithuania examined the following merger cases, which, to our knowledge, was also reviewed by the competition agency of Sweden, Finland, Denmark, Norway and the European Commission:

1. Metsa-Serla Corporation – Modo Paper AB (Sweden, Finland, the European Union)

The Competition Council was aware of companies before concentration because of their subsidiaries acting in Lithuania. That is why there was no communication between Competition Council and the competition agencies of Sweden and Finland.

2. Kemira OYJ-ALCO-Beckers AB (Finland, Sweden, the European Union)

During the investigation there was no co-operation. In Lithuania Kemira OYJ has been acting in fertiliser and plants protection market, ALCO-Beckers AB – in colour market.

3. Sampo Bank PLC – Leonia Bank PLC (Finland)

Actions of the economic entities under concentration did not introduce significant changes in the market structure of certain goods. In view of this fact, the Competition Council did not communicate with the competition authority of Finland.

4. Calsberg A/S – Orkla (Finland, Sweden, Denmark, Norway and other countries)

During the investigation there was co-operation with the Swedish competition authority through the Swedish experts, consulting in Lithuania under PHARE (Twining) technical assistance project “Strengthening Enforcement of the Competition Policy”.

5. Förenings Sparbanken – SEB (Sweden, The European Union, Latvia, Estonia)

During the investigation there was co-operation with the Swedish competition authority through the Swedish experts, consulting in Lithuania under PHARE (Twining) technical assistance project, also with the representatives of the Directorate Competition of the European Commission.

8. For each investigation or proceeding involving a merger in which there was communication between your competition agency and the competition agency of another country during the course of the investigation or proceeding, please state or describe:

- a) the identity of the merging parties;
- b) the foreign competition agency or agencies with whom there was communication;
- c) the nature of the communications, including the means of communication, the parties to the communications, the subject matter of the communications and the type of information exchanged, if any;
- d) whether the merging parties agreed to a waiver of confidentiality restraints, permitting the exchange of information directly between your agency and a foreign agency, and if there was such a waiver, its terms and the type of information that was exchanged;
- e) the effect of the communications on your investigation or proceeding.

1. Calsberg A/S – Orkla (Finland, Sweden, Denmark, Norway and other countries)

During the investigation there was co-operation with the Swedish competition authority through the Swedish experts, consulting in Lithuania under PHARE (Twining) technical assistance project “Strengthening Enforcement of the Competition Policy”. The officials shared only general information: determination of the product market, term of the investigation, possible ways of decision avoiding a competition restriction. However deeper co-operation was limited by the rules of confidentiality.

The competition laws of both countries provide different terms for merger case investigation. In Lithuania notification must be examined and resolution must be adopted within 4 months, at the latest. The investigation term in other countries is longer. Therefore the Competition Council of the Republic of Lithuania, taking into consideration the decisions of other competition agencies, obligated parties to sell an unspecified beer enterprise involved in the concentration within the prescribed time limit, in order to avoid a dominance in the beer market.

2. Förenings Sparbanken – SEB (Sweden, The European Union, Latvia, Estonia)

During the investigation there was co-operation with the Swedish competition authority through the Swedish experts, consulting in Lithuania under PHARE (Twining) technical assistance project, also with the representatives of the Directorate Competition of the European Commission.

The co-operation was conducted in both ways – directly and by correspondence. But in the essence parties exchanged only information of general nature (determination of the product market, terms of the investigation, possible ways of decision avoiding competition restriction). The main obstacle for more extensive co-operation was the restriction of confidentiality.

Under the informal communication the Competition Council reached an agreement with participants of concentration to avoid restriction of competition in the banking service market, if there would be obtained permission for the aforesaid concentration. The co-operation with officials of the European Commission could have influence on the decision to be taken by the European Commission. In consequence of that, Förenings Sparbanken and SEB abandoned merger intentions.

9. Describe any instances in a merger case or investigation

- a. in which your agency sought the assistance of a foreign competition agency but it was denied;**
- b. in which your agency sought a waiver of confidentiality restraint from one or more of the merging parties but it was denied.**

The co-operation under the PHARE (Twining) project “Strengthening Enforcement of the Competition Policy” was with competition agencies of Germany and Sweden on investigation of similar cases. However, due to restraints on confidentiality principally only information and experience of general nature have been exchanged.

10. Describe any investigation or proceeding involving a merger that would have benefited from co-operation with a foreign competition agency but your agency did not pursue such co-operation because you knew that it would not be possible. Describe the type of co-operation that would have been useful and the impact of its unavailability on your enforcement effort.

The Co-operation with foreign agency would be useful in every more complicated merger case at least for these reasons: the decision would be reached in the shorter term, exchange of information could help to avoid certain mistakes, it would allow to take into account efficiency and consequences of similar decisions. Possibility to obtain all files (not only fragments or resolutions of the cases) would be very valuable and useful.

ANNEX B

Questionnaire on Technical Assistance Experiences and Needs

Most answers to the questionnaire can be found in the “General overview”, which is provided separately. Short answers to the specific questions are also provided below.

1. **It would be useful if you could provide as much as reasonably possible of the data and information requested in the attached table on technical assistance your authority has received in 2000-001 and is expecting to receive in 2002. More important than this quantitative data, however, are you views on the issues raised below.**

See the general overview and the attached table.

2. **Based on your experiences:**

What topics have been most and least useful, and why?

All topics described in the general overview were very useful.

What kinds of assistance (conference, seminar, advisor, internship) have been most/least useful, and why?

It is impossible to distinguish one or another seminar, conference or some other event. All events were well organised and provided by highly experienced experts.

What are the advantages and disadvantages of single-country and regional events? Does the answer depend on the topic being covered? Please explain.

As regards single-country and regional events, they both are very useful and important. The single-country events allow participants to concentrate more on the country’s specific topic and satisfy its internal need. Usually such kind of events helps the competition authority to get relevant answers and to solve existing problems. Topics of the regional events are usually more of general character, but these events are also very important. They allow to get more information about competition policy and its implementation in neighbouring countries, to share experience and to establish and keep contacts with relevant officials from other competition institutions. Thus, both kinds of these events are highly needed.

Besides knowledge of competition law and policy, what skills and experience do you think are required or important for an assistance provider? How do you rank the following?

1. Experience working in a competition authority.
2. Detailed knowledge of your actual legal, institutional, and economic systems.
3. Experience in providing assistance to transition or developing economies?
4. Knowledge of competition law and policy systems in different parts of the world?

What are the advantages and disadvantages of receiving assistance from current competition officials and private consultants (including consulting firms, law firms, professors, etc.)? Does the answer depend on the topic being covered? Please explain.

Assistance provided by the current competition officials is the most effective and valuable. In addition to their working experience within the relevant competition authority, currently working competition officials usually possess much more updated information and knowledge of the competition law and policy developments both in their country and different parts of the world. The only one disadvantage in receiving assistance from current competition officials is that they usually experience difficulties in getting the necessary leave from their home administration and very often are not able to provide more extensive assistance.

As regards private consultants, the effectiveness of their assistance very much depends on the topic being covered. Private consultants, especially professors, usually are much better in dealing with the topics either of a very general or of a very specific character. The topics that need practical experience (e.g. investigation procedures in cartel cases) should be presented by current competition officials.

Approximately what share of the assistance you receive consists of multiyear programs, and what share consists of one-off events?

Multiyear programmes - 70 %, one-off events - 30%.

Approximately what share of the assistance you receive takes place in your economy, and what share is abroad?

In Lithuania – 40 %, abroad – 60 %.

Approximately what share of your assistance are seminars and conferences, and what share are resident advisors or internships in other economies?

Seminars and conferences - 50 %, resident advisors - 40 %, internships in other economies - 10%.

3. **Have there been instances when an apparent lack of co-ordination among providers has been a problem for you? Please explain. Also, please provide any comments you have on advantages or disadvantages to greater international co-ordination of technical assistance programs?**

In Lithuania the overall co-ordination of technical assistance programs has been ensured by the Ministry of Foreign Affairs, and practically the lack of co-ordination has not been a problem. The main advantage of greater international co-ordination is that the co-ordination allows to avoid the overlapping of technical assistance among different providers. The main disadvantage is that it slows down the project implementation.

4. **What do you currently consider your economy's greatest need in terms of competition law and policy assistance?**

The greatest needs in terms of competition law and policy assistance are related to the implementation of a competition law, especially against cartels and anticompetitive mergers. Most valuable assistance would include all kinds of staff training, in particular ensuring that

investigation, enforcement and reporting methodologies are based on the best worldwide practice and are in compliance with the EC rules.

The assistance for implementation of the awareness-raising campaign, including wider public sector and judiciary would also be very valuable.

Some technical assistance is also needed for drafting of secondary legislation/regulations and explanations, especially in the field of block exemptions.