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International coordination of competition policy. Building the competition order in the world economy

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The liberalization of the world trade, although it does not develop steadily in numerous sectors, makes the world economy become one big platform on which competition occurs. The national economic interests of particular countries, which have to be always considered, make it impossible for states to pass such a phenomenon indifferently by. At the same time international organizations becoming more and more independent from their principals, providing that they were successful in it, try to reconcile the contradictory goals or, if the system of decision making provides so, they are quite often used by the dominant world economic actors to secure their strategic advantage.

Thus, one can doubt, if the dimension of such system, its scope, complexity of regulations and also distinct approaches to shaping the so-called market order by using certain economic policy tools prove that the whole system is too complicated to be governed. It makes this idea to be a politically correct declaration without factual and durable result. When the goal of cooperation have been successfully accomplished, the next question to be raised in this monograph is how to accelerate the process of cooperation and how to convince, or even subtly compel, those who are reluctant to participate in it.

The problems mentioned above were crucial for the author's motivation to explore the issue of international coordination of competition policy and to find out whether this cooperation has a potential to build competition order in the world economy. This is the fundamental purpose of this monograph. The author's aim was also to examine this issue according to institutional-evolutionary approach. Consequently, the following structure and contents have been adopted.

The first chapter is a short introduction into the origin of competition policy, its functions and goals. This part of the monograph explains the fundamental terms, that is why a more advanced reader can omit it. On the other hand, it is essential to introduce those issues, because the most popular academic handbooks do not refer to them and one is also induced to confront with other opinions and to assess the significance and the role of competition policy in the economic policy system. To justify this theoretical approach which makes the strategic political and economic interests the key problem, in the last part of the first chapter the issue of shaping and strengthening the international competitiveness of economy was thoroughly analyzed.

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The following four chapters are devoted to the variety of activities undertaken by the World Trade Organization (WTO), Organisation for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD) and the International Competition Network (ICN). The author claims that from all the international initiatives that have the ambition to govern globally and to influence the coordination of competition policy, only those mentioned above focus on this phenomenon comprehensively. To tell the truth, UNCTAD and ICN do not coordinate competition law and policy matters in the strict sense, but only deal with certain activities (especially technical assistance to build capacities and to share experiences, opinions and valuable knowledge) that have an indirect effect on shaping regulations and policy in the countries which have not implemented them yet, and on the way the international obligations and recommendations are fulfilled.

The author consciously did not take into account the European Community, as it is only a regional organization. Its perennial experiences and the intensity of cooperation together with the level of economic development of its member states however are a good justification for their effect on the solutions applied on the global level.

The second chapter was dedicated to the title issue and activities undertaken by the WTO. The emphasis was put on the delineation of the cooperation's genesis concerning the law and competition policy, on the most important proposals made and discussed, as well as on the interrelations between these problems and the liberalization of world trade. This implies certain expectations related to the economic growth and development; the use and abuse of the market power recognized as the anticompetitive, capital flows in the form of foreign direct investments and international cooperation focused on the elimination of illegal agreements and activities of corporations. A very important issue is also WTO's activity, now suspended, to achieve global consensus and to complete a formal agreement on competition policy matters.

The third chapter is an introduction to the coordination of competition policy among the members of OECD. Because of their economic advancement all of them have implemented and enforced competition law, so the discussion is usually focused on more complicated issues. The author presented the typical challenges of competition policy (abuse of the dominant position, cartels, anticompetitive mergers, sectors regulated by the state actors) and indicated that the suggested reforms will make the "invisible hand of market" work free, without any bureaucratic restrictions. This chapter can be also treated as a short explanation of the practical enforcement of competition policy and deepening of the international cooperation.

The fourth chapter of this monograph contains an analysis of UNCTAD's activities. Having presented its legal and organizational aspects, the author explored the idea which finds competition law and policy the factors which stimulate economic growth and development of the least developed countries. Such an approach raises many questions, that is why the most important ones have been thoroughly discussed.

The fifth chapter deals with the new form of international cooperation — the International Competition Network — a relatively new initiative, but owing to its dynamics, it has brought many beneficial consequences so far, especially for the transfer of knowledge. It also has made the authorities of particular countries gain experiences of competition in developing their countries. The ICN focuses on the issues that are essential from the perspective of the world's economy (multijurisdictional mergers, cartel agreements, technical assistance related

to the competition policy implementation, regulated and state-owned sectors), that is why this chapter is devoted to them.

This monograph is based on source documents such as reports, recommendations, minutes of meetings from the organizations enumerated above. They were available in online data bases, especially e-libraries and archives. Apart from them, studies of Polish and foreign researchers, academics and scholars, whose scientific interests relate not only to competition law and policy, but also to the issues of: economic policy, development, competitiveness of economic systems and enterprises, theory of economics and politics as well as to the international business contributed to the conclusion of this paper.

On the basis of the research carried out in this monograph one could observe that the formalization and reinforcement of the cooperation related to competition policy results from the fact that the maximum effect in the context of trade liberalization have been achieved. It resembles, to a certain degree, the phenomenon of progression in the process of economic integration which leads from simple to complex stages. If one regards the present world economy as one big free trade area (or a customs union), he can be sure that new ideas of how to govern this economic sphere using either coherent or unilateral regulations will appear soon. Consequently, the international organizations undertake certain activities to protect the benefits of trade liberalization from new tools of state protectionism or anticompetitive practices of international business. Furthermore, some academic circles believe that the world's economy has no other choice than to introduce one global currency that would bind all the projects of integration together and stimulate the economic interrelations.

Such activities are resisted by the countries whose economic systems (because of "the heritage of the past") are not yet prepared for the potential challenges of the new reality. It is common knowledge that the principles of the world's economic order that has been adopted nowadays exclude the actions which were used in recent times by the contemporary highly developed economies in order to stimulate economic growth and development. Thus the theory has not yet been put into practice; it stands in opposition to declarations and suggested reforms. The skepticism about the new principles takes destructive forms (e.g. see negotiation deadlock in the WTO) or it is characterized by very slow, gradual implementation of the recommended regulations. The most effective way of convincing the ones whose point of view is conservative seems to be the so-called soft cooperation which supports methodically the neutralization of expressed fears in a moderate way. If one can bear in mind the above information and is familiar with the specific character of all the presented organizations (WTO, OECD, UNCTAD and ICN), he can rightly claim that only UNCTAD and ICN have the strongest potential to influence the law and policy of reform, although they did not have any spectacular success. WTO as well as OECD are still regarded as the clubs dominated by the riches, that is why their credibility in the sense of offering projects of improving the social and economic conditions of development in the respect of the least developed countries seems to be, euphemistically speaking, quite limited. What is more, the effectiveness of WTO is limited by a single undertaking principle ("nothing is agreed until everything is agreed") and even reduction of issues to be negotiated (see: suspension of competition policy during the Doha Round) is a measure which could not overcome so easily the crisis of trust.

To sum up, it is easy to understand why such a strong opposition between pressing changes and strict regulations exists. A formal agreement would certainly reduce the scope of the perceived decision freedom and sovereignty

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of many countries. As a result the activities of organizations which deal with the issues of competition law and policy are focused on soft solutions (recommendations; it should be stressed that the complementary character of institutions is more important for the efficiency of an economy than their explicitly defined type). On the other hand, they are connected with capacity building projects aimed at shaping effective and technical assistance programs tailored to needs. The overall goal of such activities is to strengthen the social awareness of economic changes – the crucial factor of success in the democratic systems. Nevertheless, they could also result with a threat that only second or even third-best solutions will be put into practice as the ones that are too profound and complex would evoke social and political perturbations, and consequently complicate further essential reforms. Tentativeness and politically oriented myopia supported by the alleged concerns with the national interest can also contribute to the problem of global internalization of domestic negative externalities (effect of negligence).