



LIDC

LIGUE INTERNATIONALE DU DROIT DE LA CONCURRENCE

INTERNATIONAL LEAGUE OF COMPETITION LAW

INTERNATIONALE LIGA FÜR WETTBEWERBSRECHT

DIRECTIVES OF THE GENERAL RAPPOREUR AND OF THE DEPUTY

GENERAL RAPPOREUR OF THE INTERNATIONAL LEAGUE FOR

COMPETITION LAW (LIDC) TO THE INTERNATIONAL AND NATIONAL

RAPPOREURS, TO THE CHAIRMEN AND TO THE PRESIDENTS OF

THE NATIONAL GROUPS

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1. PRELIMINARY

- 1.1 The aim of these directives is to assist the International and National Rapporteurs in preparing and drafting their reports and to assist the Presidents of the National Groups who appoint the National Rapporteurs and monitor their progress until their tasks are complete.

- 1.2 The LIDC studies four issues in each two year study cycle. During the first year the National Rapporteurs provide a review of the relevant laws of their countries. The International Rapporteur then produces a comparative study of those laws in his report together with a draft resolution for discussion at the Study Days. During the second year of the two year cycle the formulation of the draft resolutions will continue with a view to their discussion and adoption at the Congress.
- 1.3 Sometimes national reports are published in the RIC (Revue Internationale de la Concurrence). The international reports are always published prior to both the Study Days and the Congress. The resolutions adopted at the Congress are also published in the RIC and subsequently forwarded to approximately 100 international and national institutions concerned with competition law.
- 1.4 The International and National Rapporteurs are therefore encouraged to use their legal skills and experience in this task which we believe will enhance the growing influence of the LIDC. We thank them in advance for their efforts.

2. INSTRUCTIONS TO THE INTERNATIONAL RAPPORTEURS

- 2.1 At the time of their appointment by the LIDC, the International Rapporteurs receive details of the question each will study and an outline of the subject. This outline is intended to define the scope of the questions as well as indicate the main points to be reviewed. The International Rapporteurs also receive a timetable to which they must work.
- 2.2 Each International Rapporteur should then devise a programme for the study of his question and draft an international questionnaire (of a reasonable length) to be sent to the National Rapporteurs. This questionnaire should be drafted along the lines of a comparative study, leaving some scope for the provision of information specific to each legal system. This questionnaire should be sent to the General Rapporteur and to the individual National Rapporteurs whose names have been provided to the International Rapporteur.

- 2.3 The National Rapporteurs will in due course provide to the International Rapporteur a national report which has been approved by the relevant national group.
- 2.4 The International Rapporteur should then draft his first international report which will be in the form of a summary comparative study followed by conclusions drawn from his personal perspective. Whenever possible he should seek to provide a preliminary draft resolution based on his own views. He may if he has not already done so use this opportunity to discuss the question with the chairman of his question.
- 2.5 The international report must be provided by the date shown in the timetable. This may mean that the report is prepared before the International Rapporteur has received all the national reports which he is expecting. The International Rapporteur should send the draft report to each National Rapporteur, or at the very least the part of the draft which relates to the legal regime of each National Rapporteur in order that its accuracy may be reviewed.
- 2.6 The first international report must be forwarded to the General Rapporteur and to the RIC on a disk or by e-mail for publication. The international report must be written in one of the three languages used by the LIDC (French, English or German), should be accompanied by a brief summary in the other two languages. The RIC is sent by the organisers of the Study Days to the participants so that they may review it and prepare their comments prior to the working sessions.
- 2.7 The objective of the Study Days is two-fold:
- to consider the essential parts of the legal comparative study:
 - to form a general idea of the line that the study should take in the following year,

this may be done by considering one or more draft resolutions.

- 2.8 After the Study Days, the International Rapporteurs should forward to the National Rapporteurs:

- if relevant a supplementary questionnaire relating to National legal issues, which seemed to be relevant during the Study Days, but which were not adequately discussed;
- a request to the National Rapporteurs to update the answers to the first questionnaire in order to take account of any important changes in the law which may have occurred during the previous year;
- a request for comment on draft resolution(s), proposed by the working groups during the Study Days or subsequently by the International Rapporteur.

2.9 The International Rapporteur should then produce a second international report which includes a summary of the comparative legal study. The title to the question may at this point be refined in consultation with the General Rapporteur if appropriate. It is essential to realise, however, that the report must include one or more draft resolutions (possibly in the alternative) together with their theoretical and practical justification, for discussion during the Congress.

2.10 The second international report must be forwarded to the General Rapporteur and the RIC as before by disk or e-mail for publication. It is very important that the International Rapporteur keeps to the deadlines set to ensure timely publication of the report in the RIC which is distributed to those attending at the Congress.

2.11 The aim of the Congress is two-fold:

- to introduce the international report and resolutions and discuss them within the forum of the General Assembly;
- to take a vote on the resolutions proposed by a drafting committee chaired by the International Rapporteur.

The procedures at the Study Days and Congress are dealt with in more detail in Sections 6 and 7 below.

2.12 In recognition of the important and time consuming work of the National Rapporteurs, the International Rapporteurs are asked to mention each

National Rapporteur by name and country in both first and second international reports.

3. INSTRUCTIONS TO THE NATIONAL RAPPORTEURS

- 3.1 They should be appointed by the national or regional groups by no later than the end of November. They will receive a work programme and an international questionnaire from the International Rapporteur.
- 3.2 Each National Rapporteur should draft a full national report in which they should answer questions posed by the International Rapporteur and in which they should draw the attention of the International Rapporteur to important questions specifically relating to their national law, which the International Rapporteur may decide to add to the work programme and international questionnaire.
- 3.3 We ask the National Rapporteurs to write their report in one of the three languages used by the L.I.D.C. (French, English or German) and if possible in the language adopted by the International Rapporteur involved.
- 3.4 The national report must include a bibliographical note containing references to the main sources of law including:
 - (a) statutes and regulations currently in force;
 - (b) doctrine; and
 - (c) case law.
- 3.5 It is imperative that the National Rapporteurs discuss their draft reports with and have them approved by their national or regional groups in order to avoid discussions at the Study Days focussing on issues which should be settled within the national group.
- 3.6 We would particularly request the National Rapporteurs to attend the Study Days and to participate in relevant parts of the discussions of the working group.

- 3.7 Following the Study Days the National Rapporteurs will receive from their International Rapporteurs the documents set out at paragraph 2.8 above.

The National Rapporteurs should draft a second report designed to adopt a definitive position on the draft resolutions with a view to finalising them, or even propose any alternatives which appear to them to be more likely to command majority support at the next Congress. This second report must also be discussed within the national groups before being sent to the International Rapporteurs.

- 3.8 The presence of the National Rapporteurs at the Congress is indispensable in order to ensure that their work is reflected in a final resolution which is balanced, interesting and binding. National Rapporteurs will be accorded the special status of privileged intervening parties during the Study Days and at the Congress.

4. INSTRUCTIONS TO PRESIDENTS OF THE NATIONAL GROUPS

- 4.1 We ask that the Presidents of the National Groups appoint their National Rapporteurs for the four questions of the L.I.D.C.'s Agenda **as a matter of urgency**. The General Rapporteur and the Secretariat at Paris should then be notified of the names.
- 4.2 The Presidents of national groups should organise one or more discussion sessions with the members of their national group before the national reports are finally drawn-up and sent to the International Rapporteurs.
- 4.3 Any difficulties experienced in appointing the National Rapporteur should be drawn to the attention of the General Rapporteur in writing, who will where practicable assist the President of the national group concerned to find a solution.

5. INSTRUCTIONS TO CHAIRMEN OF THE QUESTIONS

- 5.1 Each question being studied by the LIDC will be assigned a chairman, in addition to an International Rapporteur.
- 5.2 The role of the chairmen is to guide the overall discussions of the working groups. He will also introduce the International Rapporteur to

the General Assembly on the second day of the Study Days and chair the subsequent discussions. The chairman will also take part in the working of the drafting committee and chair the question at the Congress in the General Assembly.

- 5.3 The chairman will normally be a member of the LIDC who will provide general support to the International Rapporteur during the Study Days and the Congress. Where the International Rapporteur has had no previous dealings with the LIDC the chairman will be able to provide advice and assistance on the overall aims of the LIDC and the procedures to be followed.
- 5.4 It is recommended that chairman contact the International Rapporteur as soon as possible to establish how they intend working together.

6. THE STUDY DAYS: TIMETABLE AND PROCEDURE

The Study Days operate with a timetable of 2 full working days.

6.1 Day 1

Four Working groups meet in parallel session for the entire day. Each group will comprise the chairman of the question, the International Rapporteur, as many National Rapporteurs as possible and all other delegates wishing to participate. The General Rapporteur and the Deputy General Rapporteur will alternate between the various groups. The working languages are French, English and German. Each person must be able to communicate in at least one of these three languages without the assistance of a simultaneous translation.

The discussions in the working group will concentrate on explanations by the National Rapporteurs of the points which they consider to be important and which the International Rapporteur has not mentioned; important issues arising from the impact of national provisions, or from their absence; as well as the preliminary direction to be taken in the draft resolution.

6.2 Day 2

Morning

A General Assembly meeting at which each of 2 International Rapporteurs will give a brief summary of:

- the work programme;
- the questionnaire;
- interesting issues on the general and comparative direction of the subject;
- a brief summary of what took place in committee on the previous day

The International Rapporteur must summarise the national systems as they appear in the national reports. The International Rapporteur must also pinpoint the main similarities between the national systems and also significant differences, particularly if they are such as to produce distortions in international competition. The International Rapporteur may, if appropriate, end his presentation by making a preliminary proposal for a resolution.

This summary will be followed by a general discussion to allow delegates, particularly those who attended one of the other committees to put forward their views.

During this general session there will be a simultaneous translation facility for the three working languages.

Afternoon

The format of the morning is followed again for the remaining two questions.

7. THE CONGRESS

7.3 The fundamental objective of the Congress is to vote on and adopt resolutions of substance on the questions studied and discussed during the preceding year's Study Days. These resolutions should be more developed than the draft resolutions tabled at the conclusion of the Study Days.

- 7.4 The fundamental objective of the work up to and including the Study Days, was in establishing the status quo. Now the emphasis must be on the way forward and the making of recommendations for changes in the law which seems desirable in the light of the previous 2 years study. The resolutions must be constructive and must make clear the objectives to be attained. In particular they must be convincing.
- 7.5 The Congress will take up 3 working days. Each question will be discussed in General Assembly in turn during the first 2 days, each question being allocated half a day for introduction and general discussion. Each International Rapporteur will be asked to make an oral statement introducing their subject and the proposed resolution. This introduction should not consist of a reading of the international report which will already have been supplied to all Congress attendees. The chairman of the question will preside over the subsequent general discussion, but the approach in relation to essential points shall remain the prerogative of the relevant International Rapporteur.
- 7.6 On the morning of the third working day a drafting committee will be convened to prepare the final draft of the resolutions which will be put before the General Assembly. Everyone with an interest in the issues involved should be encouraged to attend the drafting committee. It will assist its work if the International Rapporteur has the draft resolution on disc or electronic format. Where there are too many people involved for efficient drafting it is for the chairman to do all he can to reflect the opinions expressed. The committee should however seek to make resolutions which are constructive and relevant and do not merely reflect the status quo. It will assist the efficient working of the committee if the draft resolution is available on disc or electronically. The drafting committee should also seek to reflect the views expressed in the General Assembly discussions. In the afternoon each International Rapporteur and chairman will be invited to make a short presentation of the resolution to the plenary session of the General Assembly. Generally no further amendment to the resolution can be permitted at this point, unless a national or regional group (or its President or his deputy) does so in plenty of time before the plenary session and the chairman of the question or the General Rapporteur or his deputy agrees. The General Assembly is then invited to vote on the resolution. It is left to the discretion of the International Rapporteur to

put the resolution to the vote in sections so that parts can be accepted and parts rejected. He may propose alternatives also. The International Rapporteur decides the language of which the resolution is put to the General Assembly. Translation points may be raised in the General Assembly and should be noted by the International Rapporteur and chairman and should be taken into account by them when checking the translations. Translation points should not become the subject of debate in General Assembly.

8. CONCLUSIONS

We ask that everyone complies with the deadlines in the attached work calendar. The absence of a national report will lead to other delays and problems, leading to the impossibility of producing a convincing international report. Accordingly it is vital that the deadline in respect of obligations that have been voluntarily accepted are complied with.

We would like to wish everyone success and to thank you in advance for your co-operation.

Michel Flamée

Mary-Claude Mitchell

General Rapporteur
Rapporteur

Deputy

General

WORK CALENDAR

YEAR 2003 *

Dates

Actions

1st November 2002

Despatch
of Directives and

Work Calendar
to International
Rapporteurs.

1st January 2003

(1)
Despatch by
each
International
Rapporteur to
the General
Rapporteur of a
questionnaire
and outline of
ideas if any for
an international
report.

(2) Despatch by each International Rapporteur to the National Rapporteurs (or to the General Rapporteur for onward transmission to the Presidents of the national group if no National Rapporteur has been appointed) of this questionnaire and outline ideas.

Jan 2003 - 31 March 2003

Discussion and
drafting of the
national reports
and approval of
these by the
national groups.

1st May 2003

Despatch
of national
reports to
International
Rapporteurs with
copy to the
General
Rapporteur.

30 June 2003

Despatch
of draft
international
reports to
National
Rapporteurs,
with two week
deadline for
comments.

15 July 2003

Despatch
of definitive
international
reports to
General
Rapporteur on
disc or by e-mail
to be insert on
the website of
the LIDC

15 September 2003

Insertion
on the website of
the LIDC.

9-12 Oct 2003

Study
days in
Barcelone.

15 Dec 2003

Despatch
by each
International
Rapporteur to
the National
Rapporteur (or to

the General Rapporteur for onward transmission to the Presidents of the national groups if no National Rapporteur has been appointed) of the following:

- (1) a brief note summarising the work during the Study Days;
- (2) if necessary the final title of the question;
- (3) the final outline of the international report to be presented at the Congress;
- (4) the final questionnaire for the National Rapporteurs

* copy of the documents is addressed to the General Rapporteur Michel FLAMEE, Faculteit Der Rechtsgeleerdheid Vakgroep Economisch Recht, Pleinlaan 2, 1050 BRUSSEL, tel: 322 629 26 38, fax: 322 629 36 98, e-mail : mflamee@vub.ac.be and to the Deputy General Rapporteur, Mary-Claude Mitchell, Avocat, Lebray & Associés, 4 rue Bayard, 75008 Paris, Tel : 331 56 88 29 29, fax : 331 56 88 29 20, e-mail : mc.mitchell@lebray.fr , and to the General Secretariat in Lausanne, 1 rue de Bourg, CP 2273, 1002 LAUSANNE, tel : 41 21 324 78 00, fax : 41 21 324 78 01, e-mail : besseverdun@bluewin.ch

YEAR 2004 *

15 Apr 2004

Preparation of the final national reports, including discussion and modification of the national reports within the national or regional groups.

15 May 2004

Final amendments to the national reports and despatch to the International Rapporteurs (with copy to the General Rapporteur as above).

End of July 2004

Preparation and despatch of

(1) the international reports INCLUDING ONE OR MORE PROPOSED RESOLUTIONS;

(2) a brief summary of the report in the other two languages of the LIDC;

(3) the resolutions in the other two languages of the LIDC.

- to the General Rapporteur, the Deputy General Rapporteur and the General Secretariat in Lausanne

Aug-September 2004

Insertion on the website of the LIDC .

September 2004

Congress
in Budapest.

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[COMMENT1]Travelling Draft - Single Line Spacing - One Copy on Plain Paper.
"DO" CVR to append Cover Sheet, ENG to alter document to an engrossment or
PLN to append Plain Paper.