DEPARTMENT OF JUSTICE

USING COMPETITION POLICY TO PROMOTE INTERNATIONAL COMPETITIVENESS

Address by

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Before the

American Chamber of Commerce
Seoul, Republic of Korea

November 14, 2002

Good morning. It's a great pleasure to be with you this morning. This is my first visit to Korea and I very much look forward to hearing your perspectives on the state of competition here.

When we arrived in Seoul last night, I happened to pick up a copy of *The Korea Times*. One of the leading stories was a report that the newly released World Economic Forum report on international competitiveness ranks Korea 21st, up two places from last year. Buried inside the paper was another story reporting that the Heritage Foundation also just released its annual report on economic freedom, ranking Korea 52nd, in part because there is still a relatively high level of government intervention in the economy. It would appear, therefore, that while congratulations are in order for Korea's continued progress in moving up the competitiveness league tables, more work remains to be done in building a strong free market economy.

On Wednesday while we were in Japan for our annual bilateral consultations with the Japanese Fair Trade Commission ("JFTC"), I delivered a talk at the TokyoAmerica Center on the important role competition policy can play in promoting dynamic markets, economic growth, and international competitiveness.[2] That speech built on the research done by Michael Porter and others showing that the Japanese industries that have performed best internationally are those with the strongest domestic rivalry.[3]

My speech was also based on our experience in the United States over the last quarter century. As you will remember, 25 years ago we were suffering from a period of serious stagflation — stagnant economic growth coupled with high inflation. In response, we deregulated several key sectors on our economy and reoriented our antitrust laws to focus on promoting consumer welfare, rather than on protecting competitors. Our axiom became that the antitrust laws should protect competition, not competitors. Applying this axiom, we defined competition in terms of efficiency, not the number of competitors. What this means is, as we like to say, that "efficiency is the goal, competition is the process." Taking this approach we work very hard not to use the antitrust laws to interfere with efficient conduct and transactions.

As I explained in my talk in Tokyo, we believe there are three key elements to a growth-oriented competition policy.

The first element is to make fighting hard cartels our number one enforcement priority. Cartels not only rob consumers; they also raise the cost of doing business for producers by raising the cost of vital inputs. Cartels also retard economic growth by holding a price umbrella over inefficient small firms, reducing the pressure on them to restructure to become more efficient.

The second element is a relatively liberal policy toward mergers. This is necessary to allow restructuring to occur. Over the last ten years, more than half the mergers we have reviewed have been in recently deregulated industries, where the elimination of regulation forced firms to become more efficient. We permitted all but a few of these mergers. The resulting combination of deregulation and restructuring delivered huge benefits to consumers, reducing prices in these industries anywhere from 30 to 75 percent.[4]

The third element is to provide greater latitude for aggressive price cutting by leading firms and for vertical distribution arrangements. Both of these generally lead to more, rather than less competition, benefitting consumers through lower prices and better services. Our view is that we should not use the antitrust laws to regulate competition, but rather should let firms compete.

We are now going through a period of transition at the Justice Department. Charles

James and I are both leaving at the end of this month. We do not yet know who Charles' successor will be and may not until early next year. But we are confident that whoever it is, he or she will carry on the growth-oriented competition policies we have pursued.

Over the last three days in Japan, we had very good discussions with the JFTC, the Ministry of Justice, and the Ministry of Economy, Trade and Industry. We look forward to equally good discussions with the Korean Fair Trade Commission ("KFTC") today in our sixth annual bilateral.

We were pleased that METI and the JFTC both clearly understand not only the urgent need to restructure the Japanese economy in order to promote economic growth, but also that competition law has a critical role to play. They understand that strong anti-cartel enforcement is needed to give firms the incentive to restructure and that merger law should be applied in a sensible manner to allow mergers that will create more efficient firms that will compete more aggressively. We know from our contacts with the KFTC that they share this vision.

We have been working closely with the KFTC over the last year both in the OECD and in building the new International Competition Network ("ICN"). The KFTC has played a key role in the success of the ICN. Represented by Joseph Hur, the KFTC chaired the membership development working group, which recruited 75 competition authorities around the world to become members of the network. We are enormously grateful to Joseph and the KFTC for their efforts, without which the ICN could never have become the powerful force for international convergence and cooperation it now represents.

Going forward, I fully expect that the KFTC and the JFTC, as the two most mature competition authorities in East Asia, will join us in trying to lead by example, especially through vigorous anti-cartel enforcement. Working together, we can do much to realize our vision and ambition for a world in which free markets, protected by sound competition laws and policies, will drive economic progress throughout the world.

ENDNOTES

1. Deputy Assistant Attorney General for International Enforcement, Antitrust Division, U.S. Department of Justice. These remarks reflect my personal views and not necessarily those of the Department. Any mistakes are, of course, my own.

2. William J. Kolasky, "The Role of Competition in Promoting Dynamic Markets and Economic Growth," Addressed at the TokyoAmerica Center (November 12, 2002) (transcript available on U.S. Department of Justice Antitrust Division web site, http://www.usdoj.gov/atr/public/speeches).

3. Michael E. Porter, Hirotaka Takeuchi, & Mariko Sakakibara, *Can Japan Compete?* (2001).

4. *See* Clifford Winston, *U.S. Industry Adjustment to Deregulation*, 12 J. Econ. Persp. 91-100 (1998).