

## MEMORANDUM OF UNDERSTANDING ON COOPERATION

between, on the one side,

The Council for Economic Defense (CADE), the Secretariat of Economic Law of the Ministry of Justice (SDE), and the Secretariat for Economic Monitoring of the Ministry of Finance (SEAE) of the Government of the Federative Republic of Brazil,

and, on the other side,

The Directorate-General for Competition of the European Commission (DG Competition),

hereinafter referred to as the "two Sides".

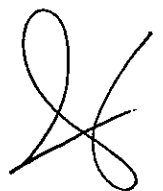
Having regard to the importance of cooperation and coordination between the two Sides for the enhancement of the effective, transparent and non-discriminatory enforcement of the competition laws of both jurisdictions, the two Sides have reached the following understanding:

### I. PURPOSE

- (1) The purpose of this Memorandum of Understanding ("MoU") is to promote and strengthen cooperation and coordination between the two Sides, to increase their understanding and awareness of current and forthcoming policy approaches in their respective jurisdictions in the area of competition policy, legislation and enforcement. This MoU is based on the principles of equality and mutual benefit.

### II. COOPERATION AND COORDINATION

- (2) Cooperation between the two Sides under this MoU is subject to the respective laws of each Side's jurisdictions and, in particular, those protecting confidential information and business secrets.
- (3) The two Sides acknowledge that it is in their common interest to exchange non-confidential information, experiences and views with regard to case investigations and competition policy issues, where this is appropriate and practicable.
- (4) Should the two Sides pursue enforcement activities concerning the same or related matters, they will endeavour to coordinate their enforcement activities, where this is appropriate and practicable.
- (5) The two Sides consider that it is in their common interest to provide each other technical assistance related to competition law enforcement and policy for the purpose of sharing experience and views. Subject to the two Sides' reasonably available resources, these initiatives may include, among others:
  - (a) the exchange of staff;
  - (b) the promotion and organization of seminars, fora, courses and related initiatives;
  - (c) the exchange of publications and other publicly available documents.





(15) Nothing in this MoU will require a Side to take any action, or to refrain from acting, in a manner inconsistent with existing laws, or will require any change to those laws.

#### VI. EXISTING LAWS AND CONFIDENTIALITY OF INFORMATION

(14) Each Side will cover its own costs, including interpretation, travel and accommodation.

(13) The two Sides will take advantage of the opportunities to meet granted by fora of dialogue already in place and in which the two Sides take part.

(e) exchange experience and information through study visits, seminars or comparable initiatives.

(d) exchange views with respect to multi-lateral competition initiatives;

(b) exchange information on economic sectors of common interest;

(a) discuss current issues, experiences, and new developments of mutual interest with respect to competition policy, legislation and enforcement of the operation of this Arrangement;

(12) The two Sides will endeavour to meet periodically, as necessary, to:

#### V. MEETINGS

(11) The two Sides will discuss between them any questions arising from this MoU, including questions on the interpretation or the application of this MoU, in as timely and practicable a manner as circumstances permit.

(10) Should one Side inform the other Side that an enforcement activity of the latter may affect the informing Side's important interests in the application of its competition law, the other Side will endeavour to provide an opportunity to exchange views and to update the informing Side on significant developments relating to those interests.

(9) The two Sides acknowledge that it is in their common interest to minimize any potentially adverse effects of one Side's enforcement activities on the other Side's interests in the application of their respective competition laws.

#### IV. AVOIDANCE OF CONFLICTS

(8) Nothing in this MoU limits the discretion of the requested Side to decide whether to undertake enforcement activities with respect to the anti-competitive activities identified in the request, or precludes the requesting Side from withdrawing its request.

(7) The requested Side will consider whether to initiate enforcement activities or whether to expand ongoing enforcement activities with respect to the anti-competitive activities identified by the requesting Side.

(6) If a Side believes that anti-competitive activities carried out in the jurisdiction of the other Side adversely affect important interests of the first Side, it may request that the other Side initiates appropriate enforcement activities.

#### III. ASSISTANCE TO BE PROVIDED BETWEEN THE TWO SIDES

(16) No Side is required to communicate information to the other Side if such communication is prohibited by the laws or regulations of the Side possessing the information, or if it would be incompatible with the interests of that Side in the application of its laws.

**VII. COMMUNICATIONS UNDER THIS ARRANGEMENT**

(17) Each Side will designate a contact point to which the information necessary for the good execution of this MoU will be communicated. The two Sides intend to notify each other promptly of all changes in their authorities responsible for competition policy legislation and enforcement. The working language will be English.

**VIII. FINAL PROVISIONS**

(18) This MoU will come into effect as of the date of signature of the final signatory.

(19) The two Sides will apply the provisions of this MoU on a voluntary basis.

(20) The provisions of the MoU are not designated to create legal rights or obligations under international law.

Signed in quadruplicate, at Brasilia this 8<sup>th</sup> day of October, 2009, in the Portuguese and English languages,

TARSO GENRO  
Minister of Justice,  
Government of the Federative Republic of  
Brazil

Mariana TAVARES DE ARAUJO  
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Secretariat of Economic Law of the Ministry of  
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Neelie KROES  
Commissioner for Competition,  
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Arthur BADIN  
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Council for Economic Defense  
Government of the Federative Republic of  
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