

Final Text: 25 April 2008

**Cooperation Arrangement Between the Commissioner
of Competition, Competition Bureau of the Government
of Canada, and the Council for Economic Defense, the Secretariat of Economic
Law of the Ministry of Justice, and the Secretariat for Economic Monitoring of the
Ministry of Finance of the Government of the Federative Republic of Brazil
Regarding the Application of their Competition Laws**

The Commissioner of Competition, Competition Bureau of the Government of Canada (“Commissioner of Competition”), and 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, hereinafter referred to as the “Participants”;

Having regard to the importance of cooperation and coordination among the Participants to further effective competition law enforcement in both countries;

Recognizing that cooperation in enforcement activities and the coordination of such activities may result in a more effective resolution of the Participants’ respective competition law concerns than would be attained through independent action; and

Considering the important work being done at the International Competition Network, and the close working relationship among the Participants in this forum;

Have decided as follows:

I. PURPOSE AND DEFINITIONS

1. The purpose of this Arrangement is to promote cooperation and coordination among the Participants.

2. In this Arrangement, these terms will have the following definitions:

(a) “competition law(s)” means:

- (i) The statutory and regulatory provisions that address competition law, the administration and enforcement of which are charged to the Participants, as well as any amendments thereto, and such other statutory or regulatory provisions as the Participants may from time to time accept in writing to be a “competition law(s)” for the purpose of this Arrangement.
- (ii) For purposes of subparagraph 2(a)(i), the statutory and regulatory provisions charged to the Commissioner of Competition are listed in Annex A to this Arrangement, while the statutory and regulatory provisions charged to CADE, SDE and SEAE are listed in Annex B to this Arrangement.

- (b) “enforcement activity(ies)” means any investigation or proceeding conducted by a Participant in relation to the competition law it administers or enforces;¹ and
 - (c) “territory” means the territory in which a Participant has jurisdiction.
3. Each Participant will notify the others as soon as practicable of any amendments to its competition law.

II. NOTIFICATION

1. Subject to Paragraph VI, each Participant will notify the other Participants with respect to its enforcement activities which may affect the other Participants’ interests in the application of their competition law, including those that:
 - (a) are relevant to the enforcement activities of the other Participants;
 - (b) involve any conduct or transaction, other than mergers or acquisitions, carried out in whole or in part in the other Participants’ territory, that may be subject to penalties or other remedies under the competition law administered and enforced by the other Participants, except where such conduct or transaction is insubstantial;
 - (c) involve mergers or acquisitions in which one or more of the parties to the transaction carries out a business activity in the other Participants’ territory, or is under control of a body which is incorporated or organized under the laws of the Participants’ territory;
 - (d) involve penalties or other remedies that expressly require or prohibit conduct in the other Participants’ territory or are otherwise directed at conduct in that territory; and
 - (e) involve the seeking of information located in the other Participants’ territory, whether by personal visit by officials of a Participant or otherwise, except with respect to telephone contacts with a person in the other Participants’ territory where that person is not the subject of investigation and the contact seeks only an oral response on a voluntary basis. Such visits will be subject to the consent of the notified Participant.
2. Notification will ordinarily be given as soon as it becomes evident that the notifiable circumstances are present.
3. Once a particular matter has been notified, subsequent notifications on that matter need not be made unless the notifying Participant becomes aware of new issues bearing on the interests of the other Participants in the application of their competition law, or unless the notified Participants request otherwise.

¹ The Participants understand that for Brazil “investigation or proceeding” includes decisions taken by CADE.

4. Notifications will include the nature of the activities under investigation and the competition law provisions concerned and will be sufficiently detailed to enable the notified Participants to make an initial evaluation of the effect of the activities on their interests in the application of their competition law.

III. COOPERATION AND COORDINATION

1. The Participants acknowledge that it is in their common interest to cooperate and share information where appropriate and practicable.
2. Where the Participants are pursuing enforcement activities with regard to the same or related matters, they will endeavour to coordinate their enforcement activities where appropriate and practicable.
3. The Participants accept that it is in their common interest to work together in technical assistance initiatives related to competition law enforcement and policy. Subject to the Participants' reasonably available resources, these initiatives may include such forms of technical cooperation as the Participants decide are appropriate for purposes of this Arrangement.

IV. AVOIDANCE OF CONFLICTS

1. The Participants acknowledge that it is in their common interest to minimize any potentially adverse effects of one Participant's enforcement activities on the other Participants' interests in the application of their respective competition laws.
2. Where one Participant informs the others that a specific enforcement activity by a second Participant may affect the informing Participant's interests in the application of its competition law, the second Participant will endeavour to provide timely notice of significant developments relating to those interests and an opportunity to provide input regarding any proposed penalty or other remedy.
3. Any questions arising out of this Arrangement, including questions on the interpretation or the application of this Arrangement, will be discussed among the Participants and addressed in as timely and practicable a manner as circumstances permit.

V. MEETINGS

Officials of the Participants will meet periodically, as necessary, to:

- (a) exchange information on their enforcement efforts and priorities in relation to their competition law;
- (b) exchange information on economic sectors of common interest;

- (c) discuss changes which may be under consideration with respect to competition law; and
- (d) discuss other matters of mutual interest relating to the application of their competition law or the operation of this Arrangement.

VI. EXISTING LAWS AND CONFIDENTIALITY OF INFORMATION

1. Nothing in this Arrangement will require a Participant to take any action, or to refrain from acting, in a manner inconsistent with existing laws, or will require any change in the laws of Canada or the Federative Republic of Brazil.
2. Notwithstanding any other provision in this Arrangement, no Participant is required to communicate information to the other Participants if such communication is prohibited by the laws or regulations of the Participant possessing the information or would be incompatible with the interests of that Participant in the application of its competition law.
3. The degree to which one Participant communicates information to the others pursuant to this Arrangement may be subject to, and dependent upon, the acceptability of the assurances given by the other Participants with respect to confidentiality and with respect to the purposes for which the information will be used.
4. Unless otherwise decided by the Participants, each Participant will, to the fullest extent possible, maintain the confidentiality of any information communicated to it in confidence by the other Participants. Each Participant will oppose, to the fullest extent possible, any request by a third party for communication of such confidential information, unless the Participant providing the confidential information consents in writing to its communication.

VII. COMMUNICATIONS UNDER THIS ARRANGEMENT

Communications under this Arrangement will be carried out directly among the Participants. Each Participant may designate a contact point, as notified in writing to the other Participants.

VIII. FINAL PROVISIONS

1. This Arrangement will come into effect on the date of signature of the final signatory.
2. This Arrangement may be amended upon the mutual written consent of the Participants.

3. This Arrangement will remain in effect for an indefinite period of time unless one Participant notifies the others in writing that it wishes to terminate the Arrangement. In that case, the Arrangement will terminate for the notifying Participant 60 days after such written notice is given.

Signed in quadruplicate, at [], Brazil] this [day] of May, 2008, in the English, French and Portuguese languages, each text being equally valid.

SHERIDAN SCOTT

Commissioner of Competition,
Competition Bureau of the Government of
Canada

ELIZABETH M. M. Q. FARINA

President,
Council for Economic Defense of the
Government of the Federative Republic of
Brazil

MARIANA TAVARES DE ARAÚJO

Head,
Secretariat of Economic Law of the Ministry
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NELSON HENRIQUE BARBOSA FILHO

Head,
Secretariat for Economic Monitoring of the
Ministry of the Finance of the Government of
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Annex A

"Competition law(s)" charged to the Commissioner of Competition:

- (a) *Competition Act*, R.S. 1985, c. C-34, except for sections 52 to 60 and Part VII.1;
- (b) *Notifiable Transactions Regulations*, S.O.R. 87-348; and
- (c) *Regulations Respecting Anti-Competitive Acts of Persons Operating a Domestic Service*, S.O.R. 2000-324.

Annex B

"Competition law(s)" charged to CADE, SDE and SEAE:

- (a) *Brazilian Competition Law* (Law No. 8.884/94, amended by Law No. 9.021/1995, Law No. 10.149/2000, and Law No.11.482/2007);
- (b) Regulation CADE n. 46/07;
- (c) Regulation CADE n. 45/07;
- (d) Regulation CADE n. 44/07;
- (e) Regulation MJ n. 04/06;
- (f) Joint Regulation SEAE/SDE n. 33/06;
- (g) Regulation SEAE n. 46/06;
- (h) Regulation SEAE n. 24/05;
- (i) Regulation SDE 14/04;
- (j) Joint Regulation SEAE/SDE n. 08/04;
- (k) Joint Regulation SEAE/SDE n. 01/03;
- (l) Regulation MJ 961/02;
- (m) Joint Regulation SEAE/SDE n. 1/2003;
- (n) Joint Regulation SEAE/SDE n. 50/01; and
- (o) Regulation MF n. 305/99.