

# **MEMORANDUM OF UNDERSTANDING BETWEEN THE ITALIAN COMPETITION AUTHORITY AND THE ADMINISTRATIVE COUNCIL FOR ECONOMIC DEFENSE OF BRAZIL**

This document addresses the Memorandum of Understanding (hereinafter referred to as “MOU”) signed by the following institutions (hereinafter referred to as “Parties”):

**The Italian Competition Authority (Autorità Garante della Concorrenza e del Mercato – AGCM) and the Administrative Council for Economic Defense of Brazil (CADE).**

The Parties have reached the following understanding:

## **1. DEFINITIONS**

1.1 For the purpose of this MOU, Competition Law shall mean:

- I. For **AGCM**, Law No. 287 of October 10, 1990 and successive modifications.
- II. For **CADE**, Law No. 12,529 of November 30, 2011, which came into force in May 30, 2012 and structures the Brazilian Competition Defense System, as well as its regulations and possible amendments.

1.2 It will be considered as actions of Competition Law enforcement:

- I. Preliminary investigations conducted by the Parties to verify the existence of reasonable evidence of anti-competitive conducts.
- II. Appropriate procedures, conducted by the Parties, aiming to determine the existence of infringements, impose sanctions, establish remedies or approve/reject merger authorizations, as appropriate, in accordance with the provisions of its respective Competition Law.

## **2. OBJECT AND PURPOSE**

2.1 The purpose of this MOU is to establish guidelines for interinstitutional cooperation between the Parties, aiming to share their respective experiences and strengthen the enforcement activities of their respective Competition Law.

## **3. COMMITMENTS**

3.1 By this MOU, the Parties undertake to do their best efforts to:

- I. Share public information related to the enforcement activities of their respective Competition Law.
- II. Coordinate and collaborate in the enforcement activities of their respective Competition Law.

III. Promote technical assistance activities, such as conferences, seminars, courses, workshops, visits and internships.

3.2 This MOU shall not oblige neither of the Parties to adopt measures that are against their respective national laws in force, nor shall impose any change in their respective national laws in force.

3.3 The documents resulting from the activities carried out in the implementation of this MOU shall be jointly owned by the parties. In case of publication of such documents, the parties shall be previously and formally consulted and mentioned in the published document.

#### **4. RESOURCES**

4.1 This MOU does not imply the transfer of resources or any kind of cost to the Parties. This document does not create any rights or impose any entailment legally enforceable between the Parties.

#### **5. EXCHANGE OF INFORMATION**

5.1 The Parties undertake to exchange public information and to respond each other's inquiries regarding the enforcement activities of their respective Competition Law, providing that it is not against their interests and does not affect any ongoing enforcement activities. This information may include, in general, information related to the enforcement activities of their respective Competition Law and, in particular, resolutions, judgments, technical reports, guidelines, among others.

5.2 The exchange of information shall be under each Party's national legislation regarding data confidentiality.

#### **6. CONSULTATIONS**

6.1 The Parties may consult each other when the activities conducted by one of the Parties may be of interest to the other Party.

6.2 Should a Party inform the other Party that activities conducted by the latter may be of interest to the former in its application of competition law, it may request the informed Party to hold consultations in connection with these activities.

6.3 Should a Party express its interest in holding such consultations, the other Party will make its best effort to arrange for these.

6.4 Wherever possible, the Parties shall refer to OECD's "Recommendation concerning International Co-operation on Competition Investigations and Proceedings".

#### **7. TECHNICAL ASSISTANCE**

7.1 The Parties undertake to perform technical assistance activities according to their respective financial resources, so that each Party can draw on the experiences of the other

Party and, therefore, both Parties can strengthen the enforcement activities of their respective Competition Law.

7.2 The Parties may meet periodically to exchange and share public information and experiences regarding the enforcement of their respective Competition Law, the amendments to their respective Competition Law, the latest criteria for interpretation established by their respective jurisprudence, and the economic sectors of common interest.

7.3 The Parties will take advantage of the opportunities to meet within the framework of international events in which they both take part.

## **8. RESTRICTED AND CONFIDENTIAL INFORMATION**

8.1 No party shall be required to provide information to the other if its law prohibits this provision of information or if it is incompatible with its national interests.

8.2 Considering the exchange of information between the Parties due to this MOU, the receiving Party shall, as far as possible and according to its national law, maintain the confidentiality of any information provided by the other Party. The Parties may object to any request of third parties to disclose such confidential information, as far as possible and according to its national law.

## **9. CONTACT OFFICES**

9.1 For the compliance with this MOU, the Parties hereby designate as responsible offices the following:

I. CADE's International Unit: Noemy Melo Colin (international@cade.gov.br);

II. AGCM's International Unit: Andrea Minuto Rizzo (international@agcm.it).

## **10. DISPUTE SETTLEMENT**

10.1 The interpretation and the application of this MOU shall be performed in good faith and following its object and purpose. Any difference arising from the interpretation, application and/or omission of this MOU shall be settled peacefully and between both Parties.

## **11. MODIFICATION AND/OR EXTENSION OF THE MOU**

11.1 This MOU may be amended or extended by mutual agreement between the Parties, formalized through written communications that specify the effective date of the corresponding modification or extension.

## **12. DURATION AND TERMINATION OF THE MOU**

12.1 This MOU shall come into force upon signature by both Parties and shall be effective for a period of three (03) years, renewable for the same period, as agreed by the parties.

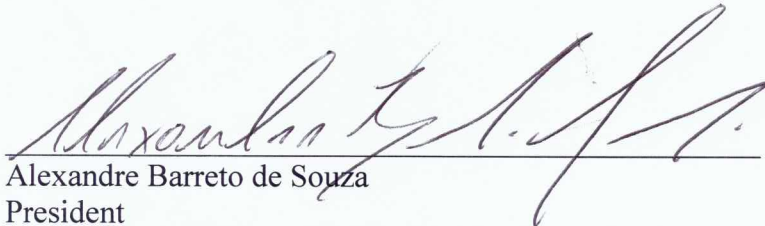
12.2 The Parties shall publish this MOU in their respective Federal Official Gazettes, in case their respective Law requires it.

12.3 The Parties may terminate this MOU at any time unconditionally. The Party that terminates this MOU shall notify the other Party at least 15 (fifteen) days before the intended date of termination. This decision shall not give rise to any right to compensation of any kind to any of the Parties.

12.4 This MOU does not create rights or obligations under international law.


12.5 The Parties shall take the necessary measures to make this MOU public, by any means considered appropriate. **CADE** will do so by publishing the extract of this MOU at CADE's website. **AGCM** will do so by publishing the extract of this MOU at AGCM's website.

As a sign of compliance, the Parties sign this MOU in six (6) copies of equal content and value, two (2) in English, two (2) in Portuguese and two (2) in Italian, on February 11<sup>th</sup>, 2020.



Alexandre Barreto de Souza  
President

Conselho Administrativo de Defesa Econômica (CADE)



Roberto Rustichelli  
President

Autorità Garante della Concorrenza e del Mercato (AGCM)