International co-operation in competition law enforcement is at the core of the OECD competition-related work.

As part of this work, the OECD Competition Division has put together a list (in Word and Excel format) of bi-lateral or multi-lateral arrangements by competition agencies relating to competition enforcement co-operation, where at least one party is an OECD Member or an Associate or Participant of the OECD Competition Committee. These lists were last updated in November 2022.

Based on this list, the OECD Competition Division created and regularly updates an inventory of the key provisions included in these agreements, with examples of some clauses from the agreements. The inventory lists examples of typical and atypical provisions.

Each section of the inventory is presented separately, along with the relevant provision of the 2014 OECD Recommendation concerning International Co-operation on Competition Investigations and Proceedings.

The first version of the inventory was made in 2016 and can be accessed at https://one.oecd.org/document/DAF/COMP/WP3(2016)1/REV2/en/pdf

***

Competition authorities who would like to submit updates of new/amended agreements are welcome to send to Antonio Capobianco (Antonio.Capobianco@OECD.org).
LIST OF AUTHORITY ENFORCEMENT CO-OPERATION AGREEMENTS*

This document contains a list of agreements concluded by authorities relating to international co-operation in competition enforcement. When available, links to online versions of texts have been added to the title of the agreements (last updated November 2022).

An inventory of the key provisions in these agreements (with examples), the OECD Recommendation relating to international co-operation in competition enforcement and accompanying documents can be found online at www.oecd.org/competition/inventory-competition-agency-mous.htm.

This document contains a list of 233 bi-lateral or multi-lateral arrangements between competition authorities relating to competition enforcement co-operation, where at least one party is a Member, Associate or Participant of the OECD Competition Committee or is the European Union. They have been ordered chronologically from most recent to least recent. In addition, all agreements are included in an Excel document, with a search function that allows the agreements to be sorted by party, year, agreement type etc.

These agreements vary in the extent to which they are binding and the degree to which they seek to impose specific obligations on each party. Some contain all the basic elements of comprehensive co-operation agreements, such as: notifications, enforcement co-operation, co-ordination, negative and positive comity and information exchange. Others focus more on establishing a basic framework to allow for a dialogue between the two competition authorities; for example, they have provisions on transparency, communication and/or technical co-operation, like conducting or participating in conferences, seminars, workshops or training courses, exchange of personnel or study trips, providing assistance in advocacy activities.

Many of the agreements are Memoranda of Understanding (MOU), which are usually non-binding and these represent the vast majority of bi-lateral arrangements between authorities. There is a potential difference between the legal status of MOUs in private, commercial law and practice (where they are generally considered non-binding and to be differentiated from other forms of binding agreements) and the status of MOUs in international law (where they may be considered a form of treaty if made between governments). The legal status of an MOU may vary depending on the context in which it is made.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

*This list replaces the list previously published “List of Agency-to-Agency Memoranda of Understanding.” The title has been amended to include agreements that are not Memoranda of Understanding, and agreements with other authorities/international organisations.

© OECD 2022 www.oecd.org/competition/inventory-competition-agency-mous.htm
AGREEMENTS BY YEAR

<table>
<thead>
<tr>
<th>Year</th>
<th>Agreement Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022</td>
<td><strong>India-Mauritius (2022)</strong>: Memorandum of Understanding between the Competition Commission of Mauritius and the Competition Commission of India (23 February 2022)</td>
</tr>
<tr>
<td>2021</td>
<td><strong>Greece-Armenia (2021)</strong>: Memorandum on partnership in the field of competition law enforcement and policy between the Hellenic Competition Commission and the Competition Protection Commission of the Republic of Armenia (7 October 2021)</td>
</tr>
<tr>
<td></td>
<td><strong>Russia-Armenia (2021)</strong>: Memorandum of Understanding on Cooperation in the field of competition policy between Federal Antimonopoly service of Russian Federation and the State Commission for the Protection of Economic Competition of the Republic of Armenia</td>
</tr>
<tr>
<td></td>
<td><strong>Colombia-Mexico (2021)</strong>: Convenio de Cooperacion entre la Comision Federal de Competencia de los Estados Unidos Mexicanos y la Superintendencia de Industria y Comercio de la Republica de Colombia [Cooperation Agreement between the Federal Competition Commission of the United Mexican States and the Superintendence of Industry and Commerce of the Republic of Colombia]</td>
</tr>
<tr>
<td></td>
<td><strong>Japan-India (2021)</strong>: Memorandum on Cooperation Between Japan Fair Trade Commission and the Competition Commission of India (6 August 2021)</td>
</tr>
<tr>
<td></td>
<td><strong>Mexico-Paraguay (2021)</strong>: Cooperation agreement between COFECCE and the Comision Nacional de la Competencia de Paraguay (July 2021)</td>
</tr>
<tr>
<td></td>
<td><strong>Türkiye-Morocco (2021)</strong>: Memorandum for Cooperation in the field of competition policy between the Turkish Competition Authority and the Competition Council of the Kingdom of Morocco (12 January 2021)</td>
</tr>
</tbody>
</table>
Albania-Spain (2020)
Memorandum for Cooperation in the Field of Competition Policy between yhe Albanian Competition Authority (Aca) and the Spanish Authority for Markets and Competition (CNMC) (23 November 2020)

Australia-New Zealand-Canada-US-UK (2020)
Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities - Memorandum of Understanding (MMAC) (2 September 2020)

Chinese Taipei-Indonesia (2020)
Memorandum of Understanding between the Taipei Economic and Trade Office, Jakarta, Indonesia and the Indonesian Economic and Trade Office to Taipei Regarding the Application of Competition Laws (19 March 2020)

Italy-Brazil (2020)
Memorandum of Understanding between the Italian Competition Authority and the Administrative Council for Economic Defense (CADE) (11 February 2020)

Mexico-Costa Rica (2020)
Technical cooperation agreement between COFECE and the COPROCOM and SUTEL of Costa Rica (August 2020)

Mexico-CARICOM (2020)
Agreement of Technical Cooperation between the Federal Economic Competition Commission of the United Mexican States and the CARICOM Competition Commission (September 2020)

Portugal-Angola (2020)
Memorando de Entendimento entre a Autoridade da Concorrencia (AdC) e a Autoridade Reguladora da Concorrencia (ARC), Angola [Memorandum of Understanding between the Portuguese Competition Authority (PCA) and the Portuguese Competition Regulatory Authority (ARC), Angola] (21 December 2020)

Türkiye-Azerbaijan (2020)
Memorandum for Cooperation in the field of competition policy between the Turkish Competition Authority and Republic of Azerbaijan Ministry of Economy, State Service for Antimonopoly Policy and Consumer Rights Protection (25 February 2020)

United States-Korea (2020)
Memorandum of Understanding on Criminal Cartel Enforcement Cooperation between the United States Department of Justice and the Korean Prosecution Service (18 November 2020)
Brazil-Columbia (2019)

European Commission-China (2019)
Memorandum of Understanding on a dialogue in the area of the State aid control regime and the Fair competition Review System between The State Administration for Market Regulation of The People’s Republic of China and the Directorate-General for Competition of the European Commission with the objective to establish a forum of consultation and transparency (9 April 2019)

European Commission-China (2019)
Terms of Reference of the EU - China Competition Policy Dialogue between the Directorate-General for Competition of the European Commission and The State Administration for Market Regulation of the people’s Republic of China with the objective to establish on a voluntary basis a dialogue between the sides on competition legislation and enforcement in both jurisdictions in aim to strengthen cooperation and coordination in this area (9 April 2019)

Ecuador-Peru (2019)

Japan-China (SAMR) (2019)
Memorandum on Antimonopoly Cooperation between the Fair Trade Commission of Japan and the State Administration for Market Regulation of the People’s Republic of China (27 May 2019)

Korea-China (SAMR) (2019)
Memorandum of Understanding on Competition Co-operation between the Fair Trade Commission of the Republic of Korea and the State Administration for Market Regulation of the People’s Republic of China (23 May 2019)

Portugal-Morocco (2019)
Projet de Mémorandum d’entente entre le Conseil de la Concurrence du Royaume du Maroc et l’Autorité de la Concurrence de la République du Portugal [Project of Memorandum of Understanding between the Competition Council of the Kingdom of Morocco and the Competition Authority of the Republic of Portugal] (13 November 2019)

Spain-Morocco (2019)
Memorandum of cooperation between the Competition Council of the Kingdom of Morocco and National Competition Commission of Spain (28 January 2019)
Brazil-Costa Rica (2018)

Brazil-Paraguay (2018)
Cooperation Agreement between the National Competition Commission of the Republic of Paraguay and the Administrative Council for Economic Defense of the Federative Republic of Brazil (10 October 2018)

Chinese Taipei-Swaziland (2018)
Memorandum of Understanding Between the Fair Trade Commission of the Republic of China (Taiwan) and the Swaziland Competition Commission of the Kingdom of Eswatini Regarding the Application of Competition Laws (11 December 2018)

Czech Republic-Honduras (2018)
Memorandum on partnership between in the field of the competition law enforcement between the Office for the Protection of the Competition of the Czech Republic and the Commission for the Defense and Promotion of Competition of the Republic of Honduras (14 November 2018)
No link to the document is publicly available

France-Algeria (2018)
Cooperation and assistance agreement between the Competition Council of Algeria and the Autorité de la concurrence (14 February 2018). No link to the document is publicly available.

Indonesia-Singapore (2018)
Memorandum of Understanding on implementation of competition law between the Commission for the supervision of business competition (KPPU) of the Republic of Indonesia and the competition and consumer commission of Singapore (CCCS) of the Republic of Singapore with the purpose to contribute to the effective enforcement of the competition laws in Indonesia and Singapore through the establishment of a framework for cooperation between the Commission for the Supervision of Business Competition and the Competition and Consumer Commission of Singapore (August 2018)

Italy-France (2018)
Memorandum of Understanding between the Italian Competition Authority and the French Competition Authority (25 September 2018)
No link to the document is publicly available

Mexico-EU (2018)
Administrative Arrangement on Cooperation in the Field of Competition Law and Enforcement between the Directorate-General for Competition of the European Commission and The Federal Economic Competition Commission of Mexico (June 2018)
Türkiye-Albania (2018)
Memorandum for Cooperation in the Field of Competition Policy Between the Turkish Competition Authority and the Competition Authority of Albania (18 September 2018)

Türkiye-Kosovo1 (2018)
Memorandum for Cooperation in the Field of Competition Policy Between the Turkish Competition Authority and the Kosovo Competition Authority (10 April 2018)

Türkiye-North Macedonia (2018)
Memorandum for Cooperation in the Field of Competition Policy Between the Turkish Competition Authority and the Macedonia Commission for Protection of Competition (12 April 2018)

Türkiye-Serbia (2018)
Memorandum for Cooperation in the Field of Competition Policy Between the Turkish Competition Authority and the Commission for Protection of Competition of the Republic of Serbia (20 April 2018)

Ukraine-Georgia (2018)
Memorandum on Cooperation in the Sphere of Competition Policy between the Antimonopoly Committee of Ukraine and the Competition Agency of Georgia (28 September 2018)

2017

Canada-Colombia (2017)
Memorandum of Understanding between the Commissioner of Competition, Competition Bureau of the Government of Canada, and the Superintendence of Industry and Commerce of the Republic of Colombia, regarding the application of Competition Laws (21 June 2017)

Canada-Japan (2017)

China (MOFCOM)-UK (2017)

---

1 This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Opinion of the International Court of Justice on Kosovo’s declaration of independence.
China (NDRC)-UK (2017)
Memorandum of Understanding between The Office of Fair Trading of the United Kingdom of Great Britain and Northern Ireland and National Development and Reform Commission of the People’s Republic of China (20 April 2017)

Czech Republic-Georgia (2017)
Memorandum on partnership between in the field of the competition law enforcement between the Office for the Protection of the Competition of the Czech Republic and the Competition Agency of Georgia (17 November 2017)
No link to the document is publicly available

Czech Republic-Republic of Moldova (2017)
Statement of intent for cooperation in the field of competition between the Office for the Protection of Competition of the Czech Republic and the Competition Council of the Republic of Moldova (16 March 2017)
No link to the document is publicly available

Estonia-Georgia (2017)
Memorandum on Partnership in the Field of Competition Law Enforcement between the Competition Authority of the Republic of Estonia and the Competition Agency of Georgia (17 November 2017)
No link to the document is publicly available

France-Peru (2017)
Memorandum of Understanding between the Autorité de la concurrence and the National Institute for the Defence of Competition and the Protection of Intellectual Property of Peru (INDECOPI) (4 December 2017). No link to the document is publicly available.

Japan-Mongolia (2017)

Japan-Singapore (2017)
Memorandum of cooperation between the Fair Trade Commission of Japan and the Competition Commission of Singapore (22 June 2017)

Spain-China (MOFCOM) (2017)
Memorandum de Entendimiento de Cooperacion Antimonopolio entre la Comision Nacional de los Mercados y la Competencia del Reino de Espana y el Ministerio de Comercio de la Republica Popular de China (6 November 2017)

Spain-Republic of Moldova (2017)
Memorandum For Cooperation in the Field of Competition Policy between the Competition Council of the Republic of Moldova and Comision Nacional de los Mercados y la Competencia del Reino de España (The National Authority for Markets and Competition of the Kingdom of Spain) (5 October 2017)
Türkiye-Peru (2017)
Memorandum for Cooperation in the Field of Competition Policy Between the Turkish Competition Authority and the National Institute for the Defense of Competition and Protection of Intellectual Property of the Republic of Peru (31 October 2017)

Türkiye-Tunisia (2017)
Memorandum for Cooperation in the Field Of Competition Policy Between the Turkish Competition Authority And the Tunisian Competition Authorities (Ministry of Industry and Trade and Competition Council) (21 June 2017)

2016

Brazil – Mexico (2016)
Memorandum of Understanding between the Administrative Council for Economic Defense of the Federal Republic of Brazil (CADE) and the Federal Economic Competition Commission of Mexico (COFECE) (30 November 2016)

Brazil-South Africa (2016)
Memorandum of Understanding between the Competition Commission of South Africa and the Administrative Council for Economic Defense of the Federal Republic of Brazil (CADE) (1 December 2016)

BRICS countries (2016)
Memorandum of Understanding between the competition authorities of the Federative Republic of Brazil, the Russian Federation, the Republic of India, the People’s Republic of China and the Republic of South Africa on cooperation in the field of competition law and policy (19 May 2016)

Canada-China (NDRC) (2016)
Memorandum of Understanding on Cooperation between the Commissioner of Competition, Competition Bureau of the Government of Canada and the National Development and Reform Commission of the People’s Republic of China (1 February 2016)

Canada-Hong Kong, China (2016)
Memorandum of Understanding between the Commissioner of Competition, Competition Bureau of the Government of Canada and the Competition Commission of the Hong Kong Special Administrative Region of the People’s Republic of China regarding the application of competition laws and the sharing of information (2 December 2016)

Canada-New Zealand (2016)
Cooperation Arrangement between the New Zealand Commerce Commission and the Commissioner of Competition (Canada) in relation to the Sharing of Information and Provision of Investigative Assistance (12 April 2016)

China (MOFCOM)-Japan (2016)
Memorandum on antimonopoly cooperation between the Fair Trade Commission of Japan and the Ministry of Commerce of the People’s Republic of China (11 April 2016)
China (SAIC)-UK (2016)
Memorandum of Understanding between the State Administration for Industry and Commerce and the Competition Markets Authority (15 December 2016)

Ecuador-Peru (2016)
No link to the document is publicly available
Subsequent agreement signed in 2019

EU-South Africa (2016)
Memorandum of Understanding between the Directorate-General Competition of the European Commission and the Competition Commission of South Africa on cooperation in the field of competition law and enforcement (22 June 2016)

Georgia-Türkiye (2016)
Memorandum for Cooperation in the field of competition policy between the Turkish Competition Authority and the Competition Agency of Georgia (29 November 2016)

Honduras-Spain (2016)
Memorandum of Understanding on Co-operation between the Commission for the Defense and Promotion of Competition (Comisión para la Defensa y Promoción de la Competencia) of Honduras and the Spanish National Authority for Markets and Competition (3 October 2016)
No link to the document is publicly available

Japan-Kenya (2016)
Memorandum of Cooperation between the Fair Trade Commission of Japan and the Competition Authority of Kenya (9 June 2016)

Kenya-South Africa (2016)
Memorandum of Understanding on bilateral cooperation between the Competition Commission of South Africa and the Competition Authority of Kenya (6 October 2016)

Mauritius-South Africa (2016)
Memorandum of Understanding between Competition Commission of Mauritius and Competition Commission South Africa in the field of competition law, enforcement and policy (13 October 2016)

Member States of the Southern African Development Community (2016)
Memorandum of Understanding amongst competition authorities of the Member States of the Southern African Development Community on co-operation in the field of competition policy, law and enforcement (26 May 2016)

Mexico-El Salvador (2016)
Technical cooperation agreement between COFECE and the Superintendencia de Competencia of El Salvador (July 2016)
Mexico-Honduras (2016)
Cooperation agreement between COFECE and the Comisión para la Defensa y Promoción de la Competencia of Honduras (April 2016)

Mexico-Panama (2016)
Cooperation agreement between COFECE and Autoridad de Protección al Consumidor y Defensa de la Competencia (ACODECO) of Panamá (October 2016)

Mexico-Peru (2016)
Cooperation agreement between COFECE and the Indecopi of Peru (May 2016)

Mexico-Dominican Republic (2016)
Cooperation agreement between COFECE and the Comisión Nacional de Defensa de la Competencia of the Dominican Republic (April 2016)

Nicaragua-Peru (2016)
Technical Cooperation Agreement between the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI) of the Republic of Peru and the National Institute of Competition Promotion of Nicaragua (PROCOMPETENCIA) (9 September 2016)

Peru-US (2016)
Agreement on Antitrust Cooperation between the United States Department of Justice and the United States Federal Trade Commission, of the one part, and the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI) of the Republic of Peru, on the other part (26 May 2016)

Russia-South Africa (2016)
Memorandum of Understanding in the field of competition policy between the Federal Antimonopoly Service (the Russian Federation) and the Competition Commission of South Africa (6 October 2016)

Russia-North Macedonia (2016)
Memorandum of Understanding on cooperation in the sphere competition policy between the Federal Antimonopoly Service (Russian Federation) and the Commission for Protection of Competition of Macedonia (September 2016)

Ukraine-Republic of Moldova (2016)
Memorandum on cooperation in the field of competition policy between the Antimonopoly Committee of Ukraine and the Competition Council of the Republic of Moldova (30 June 2016)
Australia-China (NDRC) (2015)
Memorandum of Understanding between the National Development and Reform Commission of the People’s Republic of China and the Australian Competition and Consumer Commission (5 November 2015)

Australia-Japan (2015)
Co-operation Arrangement between the Australian Competition and Consumer Commission and the Fair Trade Commission of Japan (29 April 2015)

Canada-China (MOFCOM) (2015)

Canada-China (SAIC) (2015)
Memorandum of Understanding on Co-operation between the Commissioner of Competition, Competition Bureau of the Government of Canada and the State Administration for Industry and Commerce of the People’s Republic of China (23 March 2015)

China (MOFCOM)-EU (2015)
Practical Guidance for Co-operation on Reviewing Merger Cases between Directorate-General for Competition of European Commission and Ministry of Commerce of People’s Republic of China (15 October 2015)

China (NDRC)-Japan (2015)
Memorandum on Antimonopoly Co-operation between the Fair Trade Commission of Japan and the National Development and Reform Commission of the People’s Republic of China (13 October 2015)

China (NDRC)-Korea (2015)
Memorandum of Understanding on Antimonopoly and Antitrust Co-operation between the Fair Trade Commission of the Republic of Korea and the National Development and Reform Commission of the People’s Republic of China (signed on 30 May 2012, extended on 29 January 2015)

China (SAIC)-Russia (2015)

No link to the document is publicly available
Georgia-Lithuania (2015)
Memorandum of Partnership in the field of the Competition Law Enforcement between the Competition Council of the Republic of Lithuania and the Competition Agency of Georgia (16 December 2015)

Kyrgyzstan-Türkiye (2015)
Memorandum for Co-operation in the Sphere of Competition Policy between the Turkish Competition Authority and the Government Antimonopoly Regulation Agency under the Government of Kyrgyz Republic (25 February 2015)

Memorandum of Understanding on Antitrust Co-operation between the United States Department of Justice and the United States Federal Trade Commission, on the one part, and the Korea Fair Trade Commission, on the other part (8 September 2015)

Mexico-Nicaragua (2015)
Cooperation agreement between COFECE and the Instituto Nacional de Promoción de la Competencia of Nicaragua (July 2015)

Namibia-South Africa (2015)
Memorandum of Understanding between Competition Commission South Africa and Namibian Competition Commission in the field of Competition law, enforcement and policy (11 November 2015)

Australia-China (MOFCOM) (2014)
Memorandum of Understanding on Anti-Monopoly Co-operation between the Australian Competition and Consumer Commission and the Ministry of Commerce of the People’s Republic of China (20 May 2014)

Australia-Philippines (2014)
Memorandum of Co-operation between the Department of Justice in the Republic of the Philippines and the Australian Competition and Consumer Commission (16 September 2014)

Argentina-Spain (2014)
Memorandum of Understanding on Co-operation between the National Commission for the Defense of Competition (Comisión Nacional de Defensa de la Competencia) of Argentina and the Spanish National Authority for Markets and Competition (15 September 2014)
No link to the document is publicly available

Brazil-Colombia (2014)
Co-operation Agreement between the Superintendence of Industry and Commerce (SIC) of Colombia and the Administrative Council for Economic Defense of the Federal Republic of Brazil (CADE) (23 April 2014)
Brazil-Japan (2014)

Brazil-Korea (2014)

Canada-India (2014)
Memorandum of Understanding between the Commissioner of Competition, Competition Bureau Canada and the Competition Commission of India on Co-operation in the Application of Competition Laws (1 December 2014)

China (MOFCOM)-Russia (2014)
Memorandum of Cooperation between the Federal Antimonopoly Service of the Russian Federation and the Ministry of Commerce of the People’s Republic of China (13 October 2014)

Colombia-US (2014)
Agreement on Antitrust Co-operation Between the United States Department of Justice and the United States Federal Trade Commission, of the One Part, and the Superintendence of Industry and Commerce (SIC) of Colombia2, of the Other Part (16 September 2014)

Cyprus-Greece³ (2014)

Czech-Slovak Republic (2014)

---

2 SIC concluded 9 other MoUs (10 MoUs in total) on international co-operation. 8 bilateral MoUs were entered into with Brazil, Ecuador (2 MoUs), Mexico, Panama, Peru, Spain, and the US. There is one multilateral MoU among Colombia, Chile and Peru, and another among 12 Latin American countries. http://www.sic.gov.co/en/sic-international-agreements

3 Note by Türkiye: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.
**Ecuador-Russia (2014)**
Memorandum of Understanding in the sphere of competition policy between the Federal Antimonopoly Service (Russian Federation) and the Superintendence for Market Power Control of the Republic of Ecuador (18 April 2014)

**Estonia-Republic of Moldova (2014)**
Cooperation Agreement between the Estonian Competition Authority and the Competition Council of the Republic of Moldova (7 May 2014)

**France-Chinese Taipei (2014)**
Memorandum of Understanding between the Taiwan Fair trade Commission and the French Autorité de la concurrence Regarding the Application of Competition Laws (18 December 2014)

**Japan-Korea (2014)**

**Slovak Republic-Republic of Moldova (2014)**
Cooperation Agreement between Competition Council of the Republic of Moldova and Antimonopoly Office of the Slovak Republic (20 November 2014)

**2013**

**Albania-Italy (2013)**
Memorandum of Understanding between the Italian Competition Authority and the Competition Authority of Albania in the competition policy field (18 September 2013)

**Australia-India (2013)**
Memorandum of Understanding on Co-operation between the Competition Commission of India and the Australian Competition and Consumer Commission (3 June 2013)

**Brazil-Ecuador (2013)**

**Chile-Colombia-Peru (2013)**
Declaración de Lima (September 2013)

**China (SAIC)-Portugal (2013)**
Memorandum of Understanding between the Portuguese Competition Authority and with the State Administration for Industry and Commerce (15 November 2013).
**EU-India (2013)**
Memorandum of Understanding between the Directorate-General for Competition of the European Commission and the Competition Commission of India on co-operation in the field of competition laws (21 November 2013)

**Indonesia-Korea (2013)**
Co-operation Arrangement between the Fair Trade Commission of the Republic of Korea and the Competition Authority (Komisi Pengawas Persaingan Usaha) of Indonesia (8 November 2013)

**Japan-Philippines (2013)**
Memorandum on Co-operation between the Fair Trade Commission of Japan and the Department of Justice of the Republic of the Philippines (28 August 2013)

**Japan-Viet Nam (2013)**
Co-operation Arrangement between the Fair Trade Commission of Japan and the Competition Authority of the Socialist Republic of Viet Nam (28 August 2013)

**Kazakhstan-Türkiye (2013)**
Memorandum for Co-operation in the Sphere of Competition Policy between the Turkish Competition Authority and the Agency of the Republic of Kazakhstan for Competition Protection (Antimonopoly agency) (23 May 2013)

**New Zealand-Australia on compulsorily-acquired information and investigative assistance (2013)**
Co-operation Arrangement between the New Zealand Commerce Commission and the Australian Competition and Consumer Commission in relation to the provision of compulsorily-acquired information and investigative assistance (19 April 2013)

**Serbia-Croatia (2013)**
Memorandum on Cooperation between the Commission for Protection of Competition of the Republic of Serbia and the Competition Agency of the Republic of Croatia (2013). No link to the document is publicly available.

**Serbia-Slovenia (2013)**
Memorandum of Understanding on bilateral cooperation between the Commission for Protection of Competition of the Republic of Serbia and the Commission for Protection of Competition of the Republic of Slovenia (2013). No link to the document is publicly available.

**Panama-Chinese Taipei (2013)**
Agreement between the Fair Trade Commission of the Republic of China (Taiwan) and the Authority of Consumer Protection and Competition Defense of the Republic of Panama regarding the application of Competition laws (4 December 2013)

**Türkiye-Ukraine (2013)**
Memorandum for Co-operation in the Field of Competition Policy between the Turkish Competition Authority and the Antimonopoly Committee of Ukraine⁴ (9 October 2013)

---

⁴ The Antimonopoly Committee of Ukraine concluded 12 other MoUs (13 MoUs in total) on international co-operation with the Czech Republic, Belarus, Lithuania, Poland, Latvia, Hungary, Slovak Republic, Bulgaria,
Australia-China (SAIC) (2012)
Memorandum of Understanding on Co-operation between the State Administration for Industry and Commerce of the People’s Republic of China and the Australian Competition and Consumer Commission (18 September 2012)

Brazil-China (SAIC) (2012)
Memorandum of Understanding on Cooperation in Competition Field between the Administrative Council for Economic Defense of the Federal Republic of Brazil (CADE) and the State Administration for Industry and Commerce of the People’s Republic of China (13 September 2012)

Brazil-Peru (2012)

Chile-Ecuador (2012)
Agreement of Technical Assistance between the FNE and the Ministry of Industry and Productivity of Ecuador (15 December 2012)

China (NDRC and SAIC)-EU (2012)
Memorandum of Understanding on Cooperation in the area of anti-monopoly law between on the one side the European Commission (Directorate-General for Competition) and on the other side the National Development and Reform Commission and the State Administration for Industry and Commerce of the People’s Republic of China (20 September 2012)

China (MOFCOM)-Korea (2012)
Memorandum of Understanding on Antimonopoly Co-operation between the Fair Trade Commission of the Republic of Korea, and the Ministry of Commerce of the People’s Republic of China (29 May 2012)

China (SAIC)-Korea (2012)
Memorandum of Understanding on Competition Co-operation between the Fair Trade Commission of the Republic of Korea and the State Administration for Industry and Commerce of the People’s Republic of China (30 May 2012)

China (MOFCOM)-UK (2012)

Austria, Romania, Switzerland and Republic of Moldova (MoUs with the Romanian Competition Council on 18 November 2010, with the Hungarian Competition Authority on 27 January 2006, and with the State Competition and Consumer Protection Office of the Republic of Lithuania on 18 February 1997 are listed separately).
Egypt-Türkiye (2012)
Memorandum of Understanding on bilateral co-operation between the Turkish Competition Authority and the Egyptian Competition Authority (17 November 2012)

France-Armenia (2012)
Memorandum of Understanding on Cooperation between the State Commission for the Protection of Economic Competition of the Republic of Armenia and the French Autorité de la Concurrence (19 March 2012)

France-Mauritius (2012)
Memorandum of Understanding between the Autorité de la concurrence and the Competition Commission of Mauritius (25 October 2012). No link to the document is publicly available.

France-Russia (2012)
Memorandum of Understanding between the Federal Antimonopoly Service of the Russian Federation and Autorité de la concurrence (16 February 2012)

India-US (2012)
Memorandum of Understanding on Antitrust Co-operation Between the United States Department of Justice and the United States Federal Trade Commission, and the Ministry of Corporate Affairs (Government of India) and the Competition Commission of India (27 September 2012)

Mexico-Colombia (2012)
Agreement between CFC and SIC (2012)
No link to the document is publicly available

Mexico-Ecuador (2012)
Technical cooperation agreement between CFC and the Superintendencia de Control de Poder de Mercado of Ecuador (November 2012)

Serbia-Kazakhstan (2012)
Memorandum on Cooperation in the field of Competition Law and Policy between the Commission for Protection of Competition of the Republic of Serbia and the Agency of the Republic of Kazakhstan for Competition Protection (Antimonopoly agency) (2012). No link to the document is publicly available.

Romania-Serbia (2012)

Russia-Portugal (2012)
Memorandum of Understanding on co-operation in the field of competition law and policy between the Federal Antimonopoly Service of the Russian Federation and the Portuguese Competition Authority (18 April 2012)

Russia-Serbia (2012)
Cooperation Agreement in the field of competition policy between the Federal Antimonopoly Service of the Russian Federation and the Commission for Protection of Competition of the Republic of Serbia (5 December 2012)

Spain-Colombia (2012)
Agreement between CNC and SIC (2012)
No link to the document is publicly available

Türkiye-Turkish Republic of Northern Cyprus (2012)
Memorandum for cooperation in the field of competition policy between the Turkish Competition Authority and the Turkish Republic of Northern Cyprus Competition Board (14 February 2012)

2011

Agreement to Constitute the Latin American Regional Center of Competition

Austria-Russia (2011)
Co-operation Agreement in the field of competition policy between the Federal Antimonopoly Service of the Russian Federation and the Austrian Federal Competition Authority (19 May 2011)

Austria-Türkiye (2011)
Memorandum of Understanding on Bilateral Co-operation in the Field of Competition Law and Policy between the Turkish Competition Authority and the Austrian Federal Competition Authority (1 December 2011)

Brazil-France (2011)
Technical Cooperation Agreement between the Administrative Council for Economic Defense of the Federal Republic of Brazil (CADE) and the Autorité de la concurrence (16 December 2011)

---

5 Austria and Russian Federation signed another MoU on 2 September 2009. Available at: http://en.fas.gov.ru/upload/other/Memorandum%20of%20Understanding%20between%20the%20FAS%20Russia%20and%20the%20Federal%20Competition%20Authority.pdf

6 The Austrian Federal Competition Authority concluded 14 other MoUs (15 MoUs in total) on international co-operation with Albania, Algeria, Croatia, Ecuador, Egypt, Kazakhstan, Moldova, Montenegro, Morocco, Serbia, Tunisia, Ukraine, the Russian Federation and Romania (MoUs with the Federal Antimonopoly Service of the Russian Federation on 9 May 2011, and the Romanian Competition Council on 27 May 2008 are listed above separately). http://www.en.bwb.gv.at/InternationalCooperation/MemorandumofUnderstanding/Seiten/default.aspx

**Chile-US (2011)**
Agreement on Antitrust Co-operation between the United States Department of Justice and the United States Federal Trade Commission, of the One Part, and the Fiscalía Nacional Económica of Chile, of the Other Part (31 March 2011)

**China (NDRC)-UK (2011)**
Memorandum of Understanding between The Office of Fair Trading of the United Kingdom of Great Britain and Northern Ireland and National Development and Reform Commission of the People’s Republic of China (10 January 2011)
No link to the document is publicly available
Subsequent agreement signed in 2017

**China (SAIC)-UK (2011)**
Memorandum of Understanding on Cooperation between the Office of Fair Trading of the United Kingdom of Great Britain and Northern Ireland and the State Administration for Industry and Commerce of the People’s Republic of China (21 May 2011)
No link to the document is publicly available
Subsequent agreement signed in 2016

**China-US (2011)**

**Croatia-Türkiye (2011)**
Memorandum of Understanding on bilateral co-operation between the Croatian Competition Agency and the Turkish Competition Authority (17 February 2011)

**Ecuador-Colombia (2011)**
Convenio de cooperación interinstitucional entre Ministerio de Industrias y Productividad del Ecuador la Superintendencia de Industria y Comercio - SIC - de la República de Colombia (15 September 2011)

**EU-Russia (2011)**
Memorandum of Understanding on Co-operation (10 March 2011)

**India-Russia (2011)**
Memorandum of Understanding between Competition Commission of India and the Federal Antimonopoly Service of the Russian Federation (16 December 2011)

**Peru-Colombia (2011)**
Convenio de cooperación interinstitucional entre el Instituto National de Defensa de la Competencia y de la Proteccion de la Propiedad Intelectual – INDECOPI – de la República de Perú y la Superintendencia de Industria y Comercio – SIC – de la República de Colombia (2011)
Russia-Spain (2011)
Memorandum of Understanding on cooperation between the Federal Antimonopoly Service (Russian Federation) and the National Commission on Competition of Spain (12 December 2011)

Russia-Türkiye (2011)
Memorandum on Co-operation between the Turkish Competition Authority and the Federal Antimonopoly Service of the Russian Federation (16 February 2011)

Ukraine-Switzerland (2011)
Memorandum on Cooperation in the Field of Competition Policy between the Antimonopoly Committee of Ukraine and the Competition Commission of the Swiss Confederation (8 September 2011)

Brazil-Portugal (2010)
Technical Cooperation Agreement between the Portuguese Competition Authority and the Brazilian Competition Defense System (14 January 2010)

Bosnia and Herzegovina-Türkiye (2010)
Memorandum of Understanding on Co-operation between the Council of Competition of Bosnia and Herzegovina and the Turkish Competition Authority (28 April 2010)

China (SAIC)-Romania (2010)

Ecuador-Colombia (2010)
Memorando de entendimiento para el desarollos de mejores prácticas en materia de protección de la competencia y defensa al consumidor, celebrado entre el Ministerio de Industrias y Productividad del Ecuador y la Superintendencia de Industria y Comercio de Colombia (28 January 2010)

Hungary-Chinese Taipei (2010)
Co-operation Agreement between the Hungarian Competition Authority and the Taiwan Fair Trade Commission Regarding the Application of Competition and Fair Trading Laws (28 October 2010)

Hungary-Russia (2010)
Co-operation Agreement in the field of competition policy between the Federal Antimonopoly Service (the Russian Federation) and the Hungarian Competition Authority (28 September 2010)
**Hungary-Serbia (2010)**
Agreement on Cooperation in the field of Competition Policy between the Commission for Protection of Competition, Republic of Serbia and the Hungarian Competition Authority (24 June 2010)

**Kazakhstan-Lithuania (2010)**
Agreement between the Competition Council of the Republic of Lithuania and the Agency of the Republic of Kazakhstan for Competition Protection (Antimonopoly Agency) concerning cooperation in the area of competition policy (2 August 2010)

**Mexico-Russia (2010)**

**Mongolia-Türkiye (2010)**
Memorandum of Understanding on Co-operation between the Authority for Fair Competition and Consumer Protection of Mongolia and Turkish Competition Authority (28 April 2010)

**Panama-Colombia (2010)**
Convenio celebrado entre la Autoridad de Protección al Consumidor y Defensa de la Competencia (ACODECO), de la República de Panamá y la Superintendencia de Industria y Comercio (SIC), de la República de Colombia (28 June 2010)

**Romania-Ukraine (2010)**
Memorandum of Cooperation between the Antimonopoly Committee of Ukraine and the Romanian Competition Council (18 November 2010).

**Russia-Viet Nam (2010)**
Memorandum of Cooperation between the Federal Antimonopoly Service of the Russian Federation and the Competition Administration Department of the Socialist Republic of Vietnam (24 March 2010)

**SEECP (2010)**

**Serbia-Austria (2010)**
Memorandum on Cooperation in the field of Competition Policy between the Commission for Protection of Competition of the Republic of Serbia and the Austrian Federal Competition Authority (2010). No link to the document is publicly available.
Albania-Hungary (2009)
Agreement on Co-operation in Competition Policy between the Albanian Competition Authority and the Hungarian Competition Authority (18 June 2009)

Armenia-Romania (2009)

Brazil-EU (2009)
Memorandum of Understanding on Co-operation between, on the one side, the Directorate-General for Competition of the European Commission (DG Competition), and, on the other side, the Administrative 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 Federal Republic of Brazil (8 October 2009)

Canada-Chinese Taipei (2009)
Memorandum of Understanding Between the Taipei Economic and Cultural Office in Canada and the Canadian Trade Office in Taipei Regarding the Application of Competition Laws (14 July 2009)

Chile-El Salvador (2009)
Memorandum of Understanding for Technical Assistance between the FNE and the Superintendence of Competition of the Republic of El Salvador (11 September 2009)

Chile-Spain (2009)
Collaboration Agreement between the National Competition Commission (CNC) and the FNE for the technical cooperation between both agencies (11 September 2009)
No link to the document is publicly available

Estonia-Russia (2009)
Agreement on Cooperation in the Field of Competition between the Federal Antimonopoly Service of Russian Federation and the Competition Authority of the Republic of Estonia (2 September 2009)
No link to the document is publicly available

Hungary-Poland (2009)
Agreement on Co-operation between the Polish Office of Competition and Consumer Protection and the Hungarian Competition Authority (14 October 2009)

Russia-US (2009)
Memorandum of Understanding on Antitrust Co-operation between the United States Department of Justice and the United States Federal Trade Commission, on the One Hand, and the Russian Federal Anti-monopoly Service, on the Other Hand (10 November 2009)
**Switzerland-ONU-Colombia (2009)**
Memorandum of Understanding between SECO, UNCTAD, and SIC – COMPAL II (2009)
No link to the document is publicly available

**Ukraine-Austria (2009)**
Memorandum on cooperation in the field of competition policy between the Antimonopoly Committee of Ukraine and the Federal Competition Authority of the Republic of Austria

**Austria-Romania (2008)**

**Brazil-Canada (2008)**

**Brazil-Chile (2008)**
Cooperation Agreement between the FNE and the Administrative Council for Economic Defense (CADE), the Secretariat of Economic Law of the Ministry of Justice (SDE) and the Secretariat of Economic Supervision of the Ministry of Finance (SEAE) of the Federal Republic of Brazil, in relation to the enforcement of their respective competition laws (23 October 2008)

**Croatia-Hungary (2008)**
Co-operation Agreement in the Competition Policy field concluded between the Hungarian Competition Authority and the Croatian Competition Authority (11 June 2008)

**Italy-Russia (2008)**
Memorandum of Understanding between the Federal Antimonopoly Service (Russian Federation) and the Italian Competition Authority (19 September 2008)

**Portugal-Türkive (2008)**
Memorandum of Understanding on Co-operation between the Portuguese Competition Authority and the Turkish Competition Authority (28 July 2008)

**Serbia-Bulgaria (2008)**
Romania-Russia (2008)
Memorandum for Cooperation between the Federal Antimonopoly Service of the Russian Federation and the Romanian Competition Council (21 October 2008)

Russia-Venezuela (2008)
Agreement on cooperation in the field of competition policy between the Federal Antimonopoly Service (Russian Federation) and the People’s Power Ministry for Light Industries and Trade of the Bolivarian Republic of Venezuela (26 November 2008)

2007

Australia-New Zealand (2007)
Co-operation Agreement between the Australian Competition and Consumer Commission and the New Zealand Commerce Commission (31 July 2007)

Bulgaria-Hungary (2007)
Memorandum of Understanding for Enhancing Bilateral Co-operation between the Bulgarian Commission on Protection of Competition and the Hungarian Competition Authority (19 February 2007)

Bulgaria-Türkiye (2007)
Memorandum of Understanding on co-operation between the Turkish Competition Authority and the Bulgarian Commission on Protection of Competition (1 December 2007)

Czech Republic-Russia (2007)
Memorandum on Co-operation between the Federal Antimonopoly Service of the Russian Federation and the Office for the Protection of Competition of the Czech Republic (31 May 2007)

Hungary-Republic of Moldova (2007)
Agreement on Co-operation in Competition Policy between the Hungarian Competition Authority and National Agency for the Protection of Competition of Moldova (16 October 2007, amended on 12 November 2007)

Mongolia-Chinese Taipei (2007)
Memorandum of Understanding regarding the Cooperation of Competition Law Implementation between the Fair Trade Commission of Taiwan and the Unfair Competition Regulatory Authority of Mongolia (15 March 2007)

---

8 The Commission on Protection of Competition of Bulgaria concluded 9 other MoUs (10 MoUs in total) on international co-operation with the Former Yugoslav Republic of Macedonia, Ukraine, Azerbaijan, Albania, Bosnia and Herzegovina, Serbia, Croatia and Romania (MoUs with the Hungarian Competition Authority on 19 February 2007 and the Romanian Competition Council on 15 March 2006 are listed above separately). [http://www.cpc.bg/Competence/Cooperation.aspx](http://www.cpc.bg/Competence/Cooperation.aspx)
**Ukraine-Bulgaria (2007)**
Memorandum on cooperation in the field of protection of economic competition between the Antimonopoly Committee of Ukraine and the Commission for Protection of Competition of the Republic of Bulgaria (12 December 2007)

**Ukraine-Slovak Republic (2007)**
Memorandum of Cooperation in the Field of Protection of Economic Competition between the Antimonopoly Committee of Ukraine and the Antimonopoly Office of the Slovak Republic (30 March 2007)

**2006**

**Australia-New Zealand (2006)**

**China (MOFCOM)-Hungary (2006)**
Agreed Minutes on China-Hungary Competition Policy Co-operation (22 June 2006)

**Canada-Korea (2006)**

**Bulgaria-Romania (2006)**
Memorandum of Understanding between the Commission on Protection of Competition of Bulgaria and the Romanian Competition Council (15 March 2006).

**Hungary-Ukraine (2006)**
Agreement on co-operation on competition policy between the Competition Authority of the Republic of Hungary and the Antimonopoly Committee of Ukraine (27 January 2006)
2005

**Hungary-Romania (2005)**
Agreement on Co-operation on Competition Policy between Competition Council of Romania and the Hungarian Competition Authority (27 September 2005)

**Korea-Türkiye (2005)**
Memorandum of Understanding on co-operation between the Fair Trade Commission of the Republic of Korea and the Competition Authority of the Republic of Türkiye (17 November 2005)

**Romania-Türkiye (2005)**
Memorandum of understanding for enhancing bilateral co-operation between the Romanian Competition Council and the Turkish Competition Authority (12 December 2005)

**Ukraine-Latvia (2005)**
Agreement between the Antimonopoly Committee of Ukraine and the Competition Council of the Republic of Latvia on cooperation in the field of competition policy

2004

**Chile-Mexico (2004)**
Agreement between the Federal Competition Commission (CFC) of Mexico and the FNE on enforcement of legislation concerning competition matters (14 June 2004)

**China (MOFCOM)-EU (2004)**
Terms of Reference of the EU-China Competition Policy Dialogue (6 May 2004)

**Korea-EU (2004)**

**Korea-Mexico (2004)**
2003

**Australia-New Zealand-United Kingdom (2003)**
Co-operation Arrangement between the Australian Competition and Consumer Commission, the Commerce Commission in New Zealand and Her Majesty’s Secretary of State For Trade and Industry And the Office of Fair Trading in the United Kingdom regarding the application of their competition and consumer laws (16 October 2003)

**Canada-UK (2003)**
Co-operation Arrangement between the Commissioner of Competition (Canada) and Her Majesty’s Secretary of State for Trade and Industry and the Office of Fair Trading in the United Kingdom Regarding the Application of Their Competition and Consumer Laws (14 October 2003)

**Chile-Costa Rica (2003)**

**Korea-Latvia-Romania-CIS countries (2003)**
Memorandum Regarding Co-operation in Competition Policy among the Fair Trade Commission of the Republic of Korea, the Competition Council of the Republic of Latvia, the Competition Council of Romania and the Interstate Council for Antimonopoly Policy of CIS countries (17 September 2003)

2002

**Australia-Fiji Islands (2002)**
Memorandum of Understanding between the Commerce Commission of the Fiji Islands and the Australian Competition and Consumer Commission (16 May 2002)

**Australia-Korea (2002)**

**Australia-New Zealand-Chinese Taipei (2002)**
Co-operation Arrangement between the Australian Competition and Consumer Commission, the New Zealand Commerce Commission, and the Taiwan Fair Trade Commission Regarding the Application of Competition and Fair Trading Laws (30 July 2002)

**France-Ukraine (2002)**
Memorandum of Cooperation between the Directorate-General for Competition, Consumption and Anti-Fraud of the Ministry of Economy, Finance and Industry of the French Republic and the Antimonopoly Committee of Ukraine (1 October 2002)
Korea-Romania (2002)
Memorandum on Co-operation between the Fair Trade Commission of the Republic of Korea and the
Competition Council of Romania (23 July 2002)

1994-2001

Canada-Chile (2001)
Memorandum of Understanding between the Commissioner of Competition (Canada) and the Fiscalía Nacional Económica (Chile) Regarding the Application of Their Competition Laws (17 December 2001)

Australia-Canada-New Zealand (2000)
Co-operation Arrangement between the Commissioner of Competition (Canada), the Australian Competition and Consumer Commission and the New Zealand Commerce Commission Regarding the Application of Their Competition and Consumer Laws (October 2000)

Korea-Russia (1999)
Memorandum on co-operation between the Ministry of the Russian Federation for Antimonopoly Policy and Support to Entrepreneurship and the Fair Trade Commission of the Republic of Korea (7 December 1999)

Australia-Papua New Guinea (1999)
Co-operation and Co-ordination Agreement between the Australian Competition and Consumer Commission and Papua New Guinea Consumer Affairs Council (26 November 1999)

Belarus-Ukraine (1997)
Agreement on cooperation between the Ministry of Entrepreneurship and Investment of the Republic of Belarus and the Antimonopoly Committee of Ukraine (18 February 1997)

Lithuania-Ukraine (1997)
Agreement on co-operation between the State Competition and Consumer Protection Office of the Republic of Lithuania and the Antimonopoly Committee of Ukraine (18 February 1997)

Ukraine-Poland (1997)
Agreement on cooperation between the Antimonopoly Committee of Ukraine and the President of the Office for Competition and Consumer Protection of the Republic of Poland (05 June 1997)

Australia-Chinese Taipei (1996)
Co-operation and Coordination Arrangement Between the Taipei Economic and Cultural Office and the Australian Commerce and Industry Office Regarding the Application of Competition and Fair Trading Laws (13 September 1996)

Czech Republic-Ukraine (1994)
Agreement on cooperation on competition policy between the Antimonopoly Committee of Ukraine and the Ministry of Economic Competition of the Czech Republic (19 December 1994)
Finland-Russia (1994)
Agreement on Cooperation between the State Committee of the Russian Federation for Antimonopoly Policy and Promotion of New Economic Structures and the Office of Free Competition of Finland (21 September 1994). No link to the document is publicly available.

Authority agreements with other government agencies/international organisations

**Australia-FBI (2019)**
Memorandum of Cooperation between the Federal Bureau of Investigation and the Australian Competition & Consumer Commission (12 April 2019)

**Brazil-BID (2015)**
Agreement for Cooperation and Sharing of Information between the Inter-American Development Bank, through the Office of Institutional Integrity (OII), and the Administrative Council for Economic Defense (CADE) (06 January 2015)

**Brazil-World Bank Group (2014)**
Memorandum of Understanding between the Integrity Vice Presidency of the World Bank Group and the Administrative Council for Economic Defense, CADE, of the Federative Republic of Brazil (22 December 2014)

**Note**

The original texts of inter-agency agreements and other information can be also obtained through the following (parent) websites of some of the competition authorities of the OECD Members, Associate and Participants in the OECD Competition Committee.

A<br/>

Australia  Colombia  Korea  Russian Federation  
Austria  Hong Kong, China  Lithuania  Chinese Taipei  
Bulgaria  Hungary  New Zealand  Türkiye  
Canada  India  Portugal  United States DOJ | FTC  
Chile  Japan  Romania  European Union

---

9 The latest programme based on this agreement is available at; http://en.fas.gov.ru/upload/other/Program%20on%20cooperation%20between%20the%20FAS%20Russia%20and%20the%20Finnish%20Competition%20and%20Consumer%20Authority%20.pdf
PROVISIONS ON PURPOSE

The OECD has put together an inventory of provisions of international co-operation MoUs (Memoranda of Understanding) between competition agencies. This document includes:

- a description of provisions on purpose found in these MoUs
- a selection of typical and atypical relevant provisions

The full inventory, the OECD Recommendation and relevant OECD work can be found online at [www.oecd.org/competition/inventory-competition-agency-mous.htm](http://www.oecd.org/competition/inventory-competition-agency-mous.htm).

The large majority of inter-agency MoUs [e.g. Turkey-Morocco (2021), Moldova-Slovak Republic (2014), China-EU (2012), Brazil-Korea (2014), Chinese Taipei-France (2014), Brazil-EU (2009), and China-Hungary (2006)] state as their purpose the enhancement of co-operation between the parties and the promotion of competition awareness in general, rather than co-ordination of enforcement in specific cases.

Some MoUs [e.g. Australia-China (MOFCOM) (2014), Canada-India (2014), Australia-India (2013), Australia-China (SAIC) (2012), and China-US (2011)] expressly mention that they aim to support communication as a means to strengthen the relationship between parties in the field of competition law and policy.
### Relevant provisions in the 2014 OECD Recommendation on International Co-operation

**Commitment to Effective International Co-operation**

II. RECOMMENDS that Adherents commit to effective international co-operation and take appropriate steps to minimise direct or indirect obstacles or restrictions to effective enforcement co-operation between competition authorities.

To this end, Adherents should aim inter alia to:

1. Minimise the impact of legislation and regulations that might have the effect of restricting co-operation between competition authorities or hindering an investigation or proceeding of other Adherents, such as legislation and regulations prohibiting domestic enterprises or individuals from co-operating in an investigation or proceeding conducted by competition authorities of other Adherents;

2. Make publicly available sufficient information on their substantive and procedural rules, including those relating to confidentiality, by appropriate means with a view to facilitating mutual understanding of how national enforcement systems operate; and

3. Minimise inconsistencies between their leniency or amnesty programmes that adversely affect co-operation.

### Relevant provisions in MoUs:

(i) those similar to the co-operation agreements at the government level, stating two broad purposes, namely to (1) contribute to the effective enforcement of each party’s competition laws through co-operation and co-ordination and (2) avoid, lessen or minimise the risk of conflicts in the application of the each party’s competition laws

<table>
<thead>
<tr>
<th>Korea-Mexico (2004)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 1 Purpose and Definitions</strong></td>
</tr>
<tr>
<td>1. The purposes of this Arrangement are to promote co-operation, including both enforcement and technical co-operation, and coordination between the Agencies, to avoid conflicts arising from the application of their competition laws, and to minimize the impact on their respective important interests of any differences that may arise.</td>
</tr>
</tbody>
</table>

(ii) those focusing on enhancing co-operation and mutual understanding

<table>
<thead>
<tr>
<th>France-Chinese Taipei (2014)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 1 Purpose of the Memorandum of Understanding and Definitions</strong></td>
</tr>
<tr>
<td>The purpose of the present Memorandum of Understanding (“the Memorandum”) is to promote co-operation and mutual understanding between the Parties in the field of competition law enforcement and competition advocacy.</td>
</tr>
</tbody>
</table>
EU-India (2009)

Article 1 Purpose

(1) The purpose of this Memorandum of Understanding (“MoU”) is to promote and strengthen co-operation 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.

(iii) those focusing on establishing a framework for co-operation

Japan-Singapore (2017)

Paragraph 1 Purpose

1.1 This Memorandum of Cooperation (“MoC”) is to contribute to the effective enforcement of the competition laws in Japan and Singapore through the establishment of a framework for cooperation between the Fair Trade Commission of Japan and the Competition Commission of Singapore (hereinafter collectively referred to as “the competition authorities”, and individually referred to as “the competition authority”).

(iv) those simply stipulating co-operation

Australia-China (SIAC) (2012)

Article 1 Purpose

The purpose of this Memorandum is to set up an institutional partnership between the Participants by establishing a general framework for bilateral co-operation.

Turkey-Morocco (2021)

Paragraph 1

The Parties will promote and strengthen cooperation in competition law enforcement of the States of the Parties and competition policy in line with this Memorandum.

EU-India (2013)

Article 1 Purpose

1. The purpose of the present Memorandum of Understanding is to further strengthen co-operation between the two Sides in the area of competition law enforcement and applicable domestic laws of the Sides.
Australia-Fiji (2002)

Article 1.0 Purpose

1.1 The purpose of the Memorandum is to:
(i) promote co-operation and coordination between the Parties, recognising that such co-operation and coordination of enforcement, training and technical assistance activities may result in more effective resolution of the Parties’ respective competition and consumer law issues than would otherwise be attained through independent action;
(ii) achieve a more efficient use of the Parties’ scarce resources; and
(iii) create benefits for the economies of both Australia and the Fiji Islands.

Chinese Taipei-Indonesia (2020)

Article 1 Purpose

The purpose of this Memorandum of Understanding (hereinafter referred to as “MOU”) is to improve fair business competition and contribute to the effective implementation of the competition policy and law of both Parties.

Australia-Philippines (2014)

II. Anti-competitive Activities

The competition authorities will promote competition by addressing anti-competitive activities in accordance with the laws and regulations of their respective countries, in order to facilitate the efficient functioning of the markets of their respective countries. The competition authorities express their intention to take appropriate measures for such purposes in conformity with the principles of transparency, non-discrimination and procedural fairness.

Russia-South Africa (2016)

Purpose:

1. The present Memorandum of Understanding (hereinafter referred to as “the Memorandum”) is based on the principles of equality and mutual benefit.

2. The Memorandum aims at developing and strengthening cooperation between the Parties in the field of competition law enforcement, competition policy development, as well as in respect of the promotion of competition within socially sensitive markets of common interest.

3. The parties will jointly identify socially sensitive markets of common interest as priority directions for their cooperation.

EU-South Africa (2016)

I. Purpose

1. The purpose of the present Memorandum of Understanding is to further strengthen cooperation between the two Sides in the area of competition law enforcement.

2. The present Memorandum of Understanding is based on the understanding of equality and mutual benefit.
Many inter-agency MoUs do not have provisions on definitions. When MoUs do have provisions on definitions, these are mostly key terms and concepts, such as “competition laws”, “competition authorities”, “enforcement activities” and “anticOMPETITIVE activities” [e.g. Japan-Singapore (2017)) , Canada-Colombia (2017) and Colombia-US (2014)]. The second generation MoU between New Zealand and Australia on compulsorily-acquired information and investigative assistance (2013) further provides definitions for “compulsorily-acquired information”, “investigative assistance”, “protected information” and “request”.
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

I. AGREES that, for the purpose of the present Recommendation, the following definitions are used:

- “[…]”

- “Anticompetitive practice” refers to business conduct that restricts competition, as defined in the competition law and practice of an Adherent;

- “Competition authority” means an Adherent’s government entity, other than a court, charged with primary responsibility for the enforcement of the Adherent’s competition law;

- “Confidential information” refers to information the disclosure of which is either prohibited or subject to restrictions under the laws, regulations, or policies of an Adherent, e.g., non-public business information the disclosure of which could prejudice the legitimate commercial interests of an enterprise;

- “Co-operation” includes a broad range of practices, from informal discussions to more formal co-operation activities based on legal instruments at the national or international level, employed by competition authorities of Adherents to ensure efficient and effective reviews of anticompetitive practices and mergers with anticompetitive effects affecting one or more Adherents. It may also include more general discussions relating to competition policy and enforcement practices;

- “Investigation or proceeding” means any official factual inquiry or enforcement action authorised or undertaken by a competition authority of an Adherent pursuant to the competition laws of the Adherent;

- “Merger” means merger, acquisition, joint venture or any other form of business amalgamation that falls within the scope and definitions of the competition laws of an Adherent governing business concentrations or combinations;

- “Merger with anticompetitive effects” means a merger that restricts or is likely to restrict competition, as defined in the competition law and practice of an Adherent and, for the purpose of this Recommendation, may include a merger that is under review by the competition authority of an Adherent according to its merger laws with a view to establishing if it has anticompetitive effects;

- “Waiver” or “confidentiality waiver” means permission granted by a party subject to an investigation or proceeding, or by a third party, that enables competition authorities to discuss and/or exchange information, otherwise protected by confidentiality rules of the Adherent(s) involved, which has been obtained from the party in question.
### Relevant provisions in MoUs:

*(i) typical examples of provisions on definitions*

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
<th>Article 1 Purpose and definitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colombia</td>
<td>2014</td>
<td>2. For the purposes of this Agreement, the following terms shall have the following definitions:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a) &quot;Anticompetitive practice(s)&quot; means any conduct or transaction that may be subject to penalties or other relief under the competition laws enforced by the U.S. antitrust agencies or the SIC;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) &quot;Competition authority(ies)&quot; means the U.S. antitrust agencies and the SIC;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) &quot;Competition law(s)&quot; means</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(i) For the SIC, Laws 155 of 1959, 256 of 1996, and 1340 of 2009; Decrees 2153 of 1992 and 4886 of 2011, and specific legislation directly associated with these legal instruments, as well as any amendments thereto;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(d) &quot;Enforcement activity(ies)&quot; means any investigation or proceeding conducted by the U.S. antitrust agencies or the SIC in relation to the competition laws they enforce.</td>
</tr>
<tr>
<td>Mongolia</td>
<td>2010</td>
<td>2. In this MoU:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a) &quot;competition laws&quot; will mean:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>i. for the AFCCP, The Law on Prohibiting Unfair Competition</td>
</tr>
<tr>
<td></td>
<td></td>
<td>ii. for the TCA, Act No 4054 on the Protection of Competition</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) &quot;enforcement activity(ies)&quot; will mean any application of competition laws by way of investigation or proceeding conducted by a Party.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) &quot;territory(ies)&quot; will mean the territories in respect of which the competition laws are administered by the Parties.</td>
</tr>
</tbody>
</table>
Japan-Korea (2014)

Paragraph 3 Definitions

3. For the purposes of this Memorandum:

(a) the term “competition law” means:

(i) for Japan, the Law Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Law No. 54, 1947) and its implementing regulations as well as any amendments thereto; and

(ii) for the Republic of Korea, the Monopoly Regulation and Fair Trade Act (Law No. 3320, 1980) and its implementing regulations as well as any amendments thereto;

(b) the term “enforcement activities” means any investigation or proceeding conducted by a Side in relation to the application of the competition law of its country, but will not include:

(i) the review of business conduct or routine filings; and

(ii) research, studies or surveys with the objective of examining the general economic situation or general conditions in specific sectors; and

(c) the term “anti-competitive activities” means any activities that may be subject to penalties or relief by either Side under the competition law of its country.

(ii) provisions on definitions in second generation MoUs

Australia,-Canada-New Zealand-UK-US (2020)

Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities

2. Definitions

In this Framework, terms have the following definitions:

“Agency Confidential Information” means information that is in the possession of a Participant that it is not prohibited from disclosing by law, but normally treats as non-public.

“Competition Laws” means the law of each Participant’s jurisdiction in relation to cartels and other anti-competitive agreements and arrangements, unilateral conduct or monopolistic practices, and merger control, as amended.

“Framework” means this Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities.

“Investigation” means an enforcement matter, inquiry or review conducted by a Participant pursuant to applicable Competition Laws.

“Investigative Information” means information related to an Investigation that is not in the public domain, which has been either compulsorily acquired by, or provided voluntarily to, a Participant and that the Participant is required to protect from disclosure.

“Model Agreement” means the agreement in Annexure A to this Framework.

“Participants” means the competition authorities that are signatories to this Framework as set out on the signature pages.
Definitions

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

6.1. "competition and consumer laws" means:

6.1.1. for the Commissioner of Competition, the *Competition Act*, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Precious Metals Marking Act*, the *Textile Labelling Act* and any regulations made under those Acts; and

6.1.2. for the NZCC, the *Commerce Act 1986* and the *Fair Trading Act 1986*.

as well as any amendments to these Acts;

6.2. "information" means:

6.2.1. for the Commissioner of Competition, any information in its possession or control; and

6.2.2. for the NZCC, information that is not in the public domain, and which has been compulsorily-acquired by the NZCC as a result of, or in relation to, the exercise by the NZCC of its search and notice powers under its competition and consumer laws and any power incidental to those powers ("compulsorily-acquired information");

6.3. "investigative assistance" includes the provision of assistance by way of the NZCC exercising any of its search and notice powers under, or in relation to, its competition and consumer law and any power express or implied that is incidental to those powers;

6.4 "request" means:

6.4.1. a request from the Commissioner of Competition to the NZCC for the NZCC to provide information or investigative assistance; or

6.4.2. a request from the NZCC to the Commissioner of Competition for the Commissioner of Competition to provide information and/or assistance under, or in relation to, Canada's competition and consumer laws;

6.5 "search and notice powers" means any of the NZCC's powers under:

6.5.1. sections 98, 98A and 98H of the *Commerce Act 1986*; and

6.5.2. sections 47 and 47G of the *Fair Trading Act 1986*. 
Differences in legal standards and enforcement systems (criminal vs. civil/administrative) are the most important limitations on international co-operation. In order for competition authorities with different enforcement systems to co-operate effectively and efficiently, it is imperative that the co-operating parties have a good knowledge of the respective substantive and procedural rules, including confidentiality and disclosure rules, and understand the differences in their legal systems and any existing limitations or constraints.

Most inter-agency MoUs have provisions on transparency to enable the parties to share information on competition law, policy, and enforcement. Some MoUs just require the parties to make publicly available sufficient information on their competition regimes by appropriate means. Other MoUs require the parties to actively inform each other of any substantive changes in their national legislative and enforcement systems.
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

Commitment to Effective International Co-operation

II. RECOMMENDS that Adherents commit to effective international co-operation and take appropriate steps to minimise direct or indirect obstacles or restrictions to effective enforcement co-operation between competition authorities.

To this end, Adherents should aim inter alia to:

2. make publicly available sufficient information on their substantive and procedural rules, including those relating to confidentiality, by appropriate means with a view to facilitating mutual understanding of how national enforcement systems operate;

Relevant provisions in MoUs:

(i) those requiring the parties to make publicly sufficient information on their competition law regimes by appropriate means

France-Chinese Taipei (2014)

Article 2- Cooperation on general matters

As regards cooperation on general issues of competition policy, the Parties' initiatives shall be mutually agreed between them and shall, inter alia, and subject to their reasonably available resources, comprise the following:

4. making available to each other information related to legislation, decisions, case law, procedural notices, annual reports, and other publicly available relevant material;


Section III Communications

1. The U.S. antitrust agencies and the KFTC intend to keep each other informed of significant competition policy and enforcement developments in their respective jurisdictions, including policy changes proposed by each competition authority and significant legislative proposals.

(ii) those requiring the parties to inform each other of changes in their legislative and enforcement systems

Australia-Canada-New Zealand-UK-US (2020)

Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities
Annexure A: Model Agreement

14. Changes in Applicable Law

14.1 The Parties shall provide to each other prompt written notice of any significant modifications to their relevant Competition Laws or relevant confidentiality laws and procedures.
**EU-Russia (2009)**

VII. Communications under the present Memorandum of Understanding

17. The Sides will intend to notify each other promptly of all changes in their authorities with regard to competition law and competition enforcement.

**Canada-Chile (2001)**

I. Purpose and definitions

3. Each Party will promptly notify the other of any amendments to its competition law.

*(iii) those relatively unique*

**Australia-New Zealand (2007)**

Article 6.0 Changes in Applicable Functions

6.1 The Parties should use their best efforts to provide to each other prompt written notice of any changes to the Party’s competition, consumer and regulatory functions.

6.2 In the event of a significant modification to a Party’s competition, consumer and regulatory functions, the Parties should use their best efforts to consult promptly to determine whether this Agreement or subsidiary Protocols should be amended.

**Panama-Chinese Taipei (2013)**

Article 3. General Principles

2. Each Party shall ensure that the application procedures of the competition law are carried out in compliance with non-discrimination, transparency, and principles and guarantees that ensure due process.

Article 6. Transparency and Exchange of Information

1. The Parties recognize the value of transparency in competition policies.
PROVISIONS ON NOTIFICATIONS

The OECD has put together an inventory of provisions of international co-operation MoUs (Memoranda of Understanding) between competition agencies. This document includes:

- a description of provisions on notifications found in these MoUs
- a selection of typical and atypical relevant provisions

The full inventory, the OECD Recommendation and relevant OECD work can be found online at www.oecd.org/competition/inventory-competition-agency-mous.htm.

Provisions on notifications of competition investigations and proceedings help to establish effective co-operation among competition authorities. Notifications make the notified party aware of the notifying party’s enforcement activity and may trigger subsequent co-operation activities, such as co-ordination or consultations. In practice, notifications on enforcement activities are typically made when a competition authority initiates the investigation of an international activity or makes important progress in the investigation, or when a competition authority issues a request for information in cross-border investigations.

Most MoUs have provisions on notifications, generally limited to the basic structure of the notification and requiring only few formalities. Other MoUs simply lay down a general principle that parties will notify each other of enforcement activities that may affect their important interests, without specifying anything else [e.g. Indonesia-Chinese Taipei (2020)]. Only a few MoUs, such as Canada-Colombia (2017), Australia-Japan (2015) and Korea-Mexico (2004), define detailed notification requirements, such as the circumstances requiring notifications, timing, content and modality. Some MoUs do not have provisions on notifications at all, although each party can notify the other party of its enforcement activities through ad hoc consultation or communication.
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

Notifications of Competition Investigations or Proceedings

V. RECOMMENDS that an Adherent should ordinarily notify another Adherent when its investigation or proceeding can be expected to affect the other Adherent’s important interests.

1. Circumstances that may justify a notification include, but are not limited to (i) formally seeking non-public information located in another Adherent; (ii) the investigation of an enterprise located in or incorporated or organised under the laws of another Adherent; (iii) the investigation of a practice occurring in whole or in part in the territory of another Adherent, or required, encouraged, or approved by the government of another Adherent; or (iv) the consideration of remedies that would require or prohibit conduct in the territory of another Adherent.

2. The notification should be made by the competition authority of the investigating Adherent through the channels requested by each Adherent as indicated in a list to be established and periodically updated by the Competition Committee; to the extent possible, Adherents should favour notifications directly to competition authorities. Notifications should be in writing, using any effective and appropriate means of communication, including e-mail. To the extent possible without prejudicing an investigation or proceeding, the notification should be made when it becomes evident that another Adherent’s important interests are likely to be affected, and with sufficient detail so as to permit an initial evaluation by the notified Adherent of the likelihood of effects on its important interests.

3. The notifying Adherent, while retaining full freedom of ultimate decision, should take account of the views that the other Adherent may wish to express and of any remedial action that the other Adherent may consider under its own laws, to address the anticompetitive practice or mergers with anticompetitive effects.

Relevant provisions in MoUs:

Indonesia-Chinese Taipei (2020)

Paragraph 4 Notification

Each Party shall through its respective competition authority endeavour to notify the other Party of any enforcement or potential anti-competitive activities that it considers may affect the important interests of the other Party.

Brazil-Japan (2014)

Paragraph 4 Notification

4.1. Each competition authority will notify the other of the enforcement activities of the notifying competition authority that the notifying competition authority considers may affect the important interests of the other competition authority.

4.2. Provided that it is not contrary to the laws and regulations of the country of the notifying competition authority and does not affect any investigation or proceedings being carried out by the notifying competition authority, notification under subparagraph 4.1 will be given as promptly as possible when the notifying competition authority becomes aware that its enforcement activities may affect the important interests of the other competition authority.
### Australia-Korea (2002)

**Paragraph 5 Scope of Cooperation**

2. Notification of enforcement and related activities

   (a) In respect of investigations by the Agencies, each Agency will notify the other whenever an investigation, enforcement or a related activity may affect the essential interests of the other. Each Agency will, in particular, notify the other when it makes inquiries of persons located in the other’s jurisdiction.

   (b) Notifications will include sufficient information to facilitate a proper evaluation by the recipient Agency of any effect on its interests. The recipient Agency may request from the notifying Agency any further information it deems necessary for such evaluation.

### Panama-Chinese Taipei (2013)

**II. Notifications**

1. If one of the Parties establishes that actions of enterprises in its own territory may have a negative impact on competition in the territory of the other Party, the former shall notify the latter.

2. If one of the Parties establishes that competition in its own territory may be negatively affected by the actions of enterprises taking place in the territory of the other Party, the former shall notify the latter.

3. Notifications shall be sent in written form and shall contain a brief account of the essence of the case, references to relevant legal norms, and related information which the sending Party considers necessary.

4. The Party receiving notification shall study the possibility of taking appropriate measures pursuant to the requirements of laws enforced by the Parties and inform the other Party of the results.

### Canada-UK (2003)

**II Notification**

1. Subject to Section VI, a Participant will notify another Participant with respect to its enforcement activities which may affect the other Participant’s interests in the application of its competition and consumer laws, including those that:

   a. are relevant to the enforcement activities of the other Participant;
   
   b. involve any conduct or transaction that may be subject to penalties or other relief under the competition and consumer laws administered and enforced by the Participants, other than mergers or acquisitions, carried out in whole or in part in the other Participant’s territory, except where those activities are insubstantial;
   
   c. involve mergers or acquisitions in which one or more of the parties to the transaction carries on a business activity in the other Participant’s territory, or is under the control of a body which is incorporated or organized under the laws of the other Participant’s territory;
   
   d. involve remedies that expressly require or prohibit conduct in the other Participant’s territory or are otherwise directed at conduct in that territory;
   
   e. involve the seeking of information located in the other Participant’s territory, whether by personal visit by officials of a Participant or otherwise, except with respect to telephone contacts with a person in the other Participant’s territory where that person is not the subject of investigation and the contact seeks only an oral response on a voluntary basis.

2. Notification will ordinarily be given as soon as it becomes evident that 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 Participant in the application of its competition and consumer laws, or unless the notified Participant requests otherwise.

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

5. Enforcement activities notified pursuant to the Agreement Between the Government of Canada and the European Communities Regarding the Application of Their Competition Laws are not required to be notified pursuant to this Arrangement.
Canada-Colombia (2017)

Notification

2. Subject to paragraphs 12 to 14, each Participant will notify the other with respect to its enforcement activities that may affect the other’s interests in the application of its competition laws, including those that:
   i. are relevant to the enforcement activities of the other Participant;
   ii. involve any conduct or transaction, other than mergers or acquisitions, carried out in whole or in part in the other Participant’s territory that may be subject to penalties or other remedies under the competition laws administered and enforced by the other Participant, except where such conduct or transaction is insubstantial;
   iii. involve mergers or acquisitions in which one or more of the parties to the transaction carries out a business activity in the other Participant’s territory, or is under control of a body that is incorporated or organized under the domestic laws of the other Participant;
   iv. involve conduct referred to in (ii) and (iii) by persons, within the knowledge of the notifying Participant, that directly or through a related person, carry out a business activity in the other Participant’s territory;
   v. involve penalties or other remedies that expressly require or prohibit conduct in the other Participant’s territory or are otherwise directed at conduct in that territory; and
   vi. involve the seeking of information located in the other Participant’s territory, whether by personal visit by officials of a Participant or otherwise, except with respect to telephone contacts with a person in the other Participant’s 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.

3. A Participant will ordinarily give notification to the other Participant as soon as it becomes evident that notifiable circumstances are present.

4. Once a particular matter has been notified, the Participants will not make subsequent notifications on that matter unless the notifying Participant becomes aware of new issues bearing on the interests of the other Participant in the application of its competition laws, or unless the notified Participant requests otherwise.

5. The Participants will ensure that notifications include the nature of the activities under investigation and the provisions of the competition laws concerned, and are sufficiently detailed to enable the notified Participant to make an initial evaluation of the effect of the activities on its interests in the application of its competition laws.

Australia-Japan (2015)

Paragraph [*03] Notification

3.1. Each competition authority will endeavour to notify the other competition authority of the enforcement activities of the notifying competition authority that the notifying competition authority considers are likely to affect the important interests of the other competition authority.

3.2. Enforcement activities of a competition authority that are likely to affect the important interests of the other competition authority are investigations or proceedings that:
   (a) are directly relevant to enforcement activities of the other competition authority;
   (b) are known by the notifying competition authority to be against a national or nationals of the country of the other competition authority, or against an enterprise or enterprises incorporated or organised under the applicable laws and regulations of the country of the other competition authority;
   (c) involve anticompetitive activities, other than mergers or acquisitions, substantially carried out in the country of the other competition authority;
   (d) involve conduct required, encouraged or approved by the other competition authority; or
   (e) involve relief that requires or prohibits conduct in the country of the other competition authority.

3.3. Provided that it is not contrary to the laws and regulations of the country of the notifying competition authority and does not affect any investigation or proceedings being carried out by the notifying competition authority, notification pursuant to subparagraph 3.1 will be given as promptly as possible after the notifying competition authority becomes aware that its enforcement activities are likely to affect the important interests of the other competition authority.

3.4. Notifications provided under this Paragraph need not be formal (email will usually suffice for initial contact, followed by telephone dialogue) but will be sufficiently detailed to enable the notified competition authority to make an initial evaluation of the effect on its important interests.
Mexico-Russia (2010)

Article III Notification

1. Pursuant to the Point 1 of the Article V each Party shall notify the other Party in the manner provided by the present Article and Article VIII with respect to its enforcement activities that:
   a. may influence the enforcement activities of the other Party;
   b. involve anticompetitive practices, including abuse of dominant position and anticompetitive agreements, carried out in whole or in substantial part within the jurisdiction of the other Party;
   c. involve mergers, acquisitions and other actions, where one or more of the parties involved in the transaction, or a company controlling one or more of the parties of the transaction is a person registered or established under the other Party’s laws and legislation;
   d. involve activity of economic entities specified in the laws of the other Party’s state;
   e. involve remedies that expressly require or prohibit conduct in the territory of the other Party’s state or are otherwise directed at conduct in the territory of the other country Party’s state within the frameworks of ensuring competition law compliance;

2. Notification on actions indicated in Point 1 of the present Article shall be sent in sufficient time to allow the other Party to take appropriate measures.

3. Where notifications pertain to private persons’ information, each Party shall observe its domestic legislation on privacy, confidentiality and reserved information.

4. Notification pursuant to the present Article is not required for each subsequent request for information in relation to the same matter unless the Party seeking information becomes aware of new facts, indicated in Point 1 of the present Article, or the other Party requests otherwise in relation to a particular issue.

5. Notification pursuant to the present Article shall be sent in writing and shall be sufficiently detailed to enable the notified Party to make an initial evaluation of the effect of the enforcement activity carried by the notifying Party. The notification shall include information on the nature of the enforcement activities, the legal provisions concerned of the laws of the Parties’ states. Where possible, notifications shall include the names and locations of the persons involved in the enforcement procedure.

6. Each Party shall endeavor to immediately notify the other Party on any amendments to its competition law.
Competition authorities face an increasing number of cases with an international dimension, where they need to access information or evidence located outside their jurisdiction; thus, enforcement co-operation can contribute to competition law enforcement.

Many MoUs have provisions on enforcement co-operation, but the level of detail varies. A few MoUs have detailed provisions requiring the parties to endeavour to assist each other or listing the activities that might be part of enforcement co-operation. Most MoUs only lay down a general principle of enforcement co-operation, without listing activities or providing details. Some MoUs only refer to exchange of information in general terms, and allow ad hoc consultation and communication to enable enforcement co-operation. Some second generation MoUs [e.g. Model Agreement attached to Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities signed by competition authorities from Australia, Canada, New Zealand, the United Kingdoms and the United States (2020), New Zealand-Australia on compulsorily-acquired information and investigative assistance (2013) and Australia-Japan (2015)] provide for enhanced investigative assistance, such as obtaining testimony/statements or conducting searches on behalf of the other authority.
Investigative Assistance to another Competition Authority

VIII. RECOMMENDS that regardless of whether two or more Adherents proceed against the same or related anticompetitive practice or merger with anticompetitive effects, competition authorities of the Adherents should support each other on a voluntary basis in their enforcement activity by providing each other with investigative assistance as appropriate and practicable, taking into account available resources and priorities.

1. Without prejudice to the applicable confidentiality rules, investigative assistance may include any of the following activities:

   (i) Providing information in the public domain relating to the relevant conduct or practice;

   (ii) Assisting in obtaining information from within the assisting Adherent;

   (iii) Employing on behalf of the requesting Adherent the assisting Adherent’s authority to compel the production of information in the form of testimony or documents;

   (iv) Ensuring to the extent possible that official documents are served on behalf of the requesting Adherent in a timely manner; and

   (v) Executing searches on behalf of the requesting Adherent country to obtain evidence that can assist the requesting Adherent country’s investigation, especially in the case of investigations or proceedings regarding hard core cartel conduct.

2. Any investigative assistance requested should be governed by the procedural rules in the assisting Adherent and should respect the provisions and safeguards provided for in this Recommendation. The request for assistance should take into consideration the powers, authority and applicable confidentiality rules of the competition authority of the assisting Adherent.

3. Adherents should take into account the substantive laws and procedural rules in other Adherents when making requests for assistance to obtain information located abroad. Before seeking information located abroad, Adherents should consider whether adequate information is available from sources within their territory. Requests for information located abroad should be framed in terms that are as specific as possible.

4. When the request for assistance cannot be granted in whole or in part, the assisting Adherent should inform the requesting Adherent accordingly, and consider providing the reasons why the request could not be complied with.

5. The provision of investigative assistance between Adherents may be subject to consultations regarding the sharing of costs of these activities, upon request of the competition authority of the assisting Adherent.
**Relevant provisions in MoUs:**

(i) *examples of simple provisions*

**Canada-Korea (2006)**

**III Cooperation and coordination**

1. The Participants acknowledge that it is in their common interest to cooperate and share information where appropriate and practicable.

**Australia-New Zealand-Chinese Taipei (2002)**

**Paragraph III Coordination of enforcement activities**

1. Each Participant will endeavor to render assistance to another Participant in its enforcement activities to the extent compatible with the laws and important interests of the jurisdictions of the assisting participant.

(ii) *provisions on technical co-operation*

**Indonesia-Chinese Taipei (2020)**

**Article 6 Technical co-operation**

The Parties agree that it is in their common interest to work together in capacity building activities related to strengthening of competition policy and implementation of the competition law of each Party, through their competition authorities. The forms of such activities shall be mutually agreed upon by the competition authorities of the Parties, subject to their available resources.

**Japan-Philippine (2013)**

**VI. Technical Cooperation**

6.1. The competition authorities recognize that it is in their common interest to work together in technical cooperation activities related to strengthening of competition policy and implementation of the competition law of each country.

6.2. The technical cooperation activities may include, within the reasonably available resources of the competition authorities, the following:

(a) exchange of personnel of the competition authorities for training purposes;

(b) participation of personnel of the competition authorities as lecturers or consultants at training courses on the implementation of competition law and policy organized or sponsored by either or both competition authorities; and

(c) any other form of technical cooperation as the competition authorities may decide.
Panama-Chinese Taipei (2013)

Article 7. Technical Assistance

1. The Parties agree to share technical assistance so as to benefit from their experiences and reinforce the application of their competition laws.

2. All activities related to the exchange of experiences concerning technical assistance to be held under this Agreement are subject to the availability of funds budgeted by each Party:

   (a) The Party benefiting from the technical assistance shall assume the necessary expenses for the carrying out of the technical assistance, to include such items as the cost of airfare and travel expenses for the expert providing the assistance, materials, and availability of installations necessary for the execution of the Program.

   (b) The Party that offers the technical assistance shall maintain the salaries and benefits the expert enjoys in his home country.

(iii) those relatively detailed

Brazil-Japan (2014)

Paragraph 5 Cooperation in Enforcement Activities

5.1. Each competition authority will render assistance to the other competition authority in its enforcement activities to the extent consistent with the laws and regulations of the country of the assisting competition authority and the important interests of the assisting competition authority, and within its reasonably available resources.

5.2. Each competition authority will, to the extent consistent with the laws and regulations of its country and its important interests:

   (a) inform the other competition authority on its enforcement activities involving anti-competitive activities that the informing competition authority considers may also have an adverse effect on competition in the country of the other competition authority;

   (b) provide the other competition authority with any significant information, within its possession and that comes to its attention, about anti-competitive activities that the providing competition authority considers may be relevant to, or may warrant, enforcement activities of the other competition authority; and

   (c) provide the other competition authority, upon request and in accordance with this Memorandum, with information within its possession that is relevant to the enforcement activities of the other competition authority.

Chile-US (2011)

Article II Enforcement cooperation

1. The U.S. antitrust agencies and the FNE agree that it is in their common interest to cooperate in the detection of anticompetitive practices and the enforcement of their competition laws, and to share information that will facilitate the effective application of those laws and promote better understanding of each other’s competition enforcement policies and activities, to the extent compatible with their respective laws and important interests, and within their reasonably available resources.

2. Nothing in this Agreement shall prevent the U.S. antitrust agencies or the FNE from seeking or providing assistance to one another pursuant to other agreements, treaties, arrangements, or practices applicable to them.
Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities
Annexure A: Model Agreement

3. Scope of Investigative Assistance

3.1. The Parties intend to provide Investigative Assistance to each other on a broadly reciprocal basis in facilitating the administration and enforcement of their Competition Laws. If there are limitations on a Party’s ability to reciprocate or restrictions on the assistance that a Party can provide under its law, that Party shall explain such limitations or restrictions.

3.2. The Parties shall provide timely Investigative Assistance to the fullest extent permissible under their respective law.

3.3. Investigative Assistance contemplated by this Agreement includes:

a) disclosing, providing or discussing Investigative Information in the possession of a Party;

b) obtaining Investigative Information at the request of a Party, including:

i. taking the testimony or statements of Persons or otherwise obtaining Investigative Information from Persons;

ii. obtaining documents, records, or other forms of Investigative Information;

iii. locating or identifying Persons or things; and

iv. executing searches and seizures; together with disclosing, providing or discussing any such Investigative Information obtained.

3.4. This Agreement does not prevent a Party from seeking Investigative Assistance from or providing Investigative Assistance to the other Party pursuant to other agreements, arrangements, or practices, either in place of or in conjunction with Investigative Assistance that may be provided pursuant to this Agreement.

3.5. Investigative Assistance may be provided whether or not the conduct underlying a request would constitute a violation of the Competition Laws of the Responding Party, unless a Party is prevented from doing so under its law.

3.6. This Agreement does not authorise a Party to compel a Person to provide Investigative Information in violation of a legally applicable right or privilege.

3.7. This Agreement does not affect the ability of a Party to seek information on a voluntary basis from a Person located in the territory of the other Party and does not preclude any such Person from voluntarily providing information to a Party.
**Australia-New Zealand on compulsorily-acquired information and investigative assistance (2013)**

**Definitions**

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

8.3 “investigative assistance” includes the provisions of assistance by way of the NZCC exercising any of its search and notice powers under or in relation to its competition and consumer law and any power express or implied that is incidental to those powers;

---

**Australia-Japan (2015)**

**Paragraph [*04] Cooperation and Information Exchange in Enforcement Activities**

4.1. Each competition authority will endeavour to render assistance to the other competition authority in the other’s enforcement activities to the extent consistent with the laws and regulations of the country of the assisting competition authority and the important interests of the assisting competition authority, and within its reasonably available resources. Such assistance may include supporting the other competition authority in the application for approval of a separate governmental body of the country of the assisting competition authority if such approval is required to obtain information or evidence from enterprises or individuals of the country of the assisting competition authority.
PROVISIONS ON EXCHANGE OF INFORMATION

The OECD has put together an inventory of provisions of international co-operation MoUs (Memoranda of Understanding) between competition agencies. This document includes:

- a description of provisions on exchange of information found in these MoUs
- a selection of typical and atypical relevant provisions

The full inventory, the OECD Recommendation and relevant OECD work can be found online at www.oecd.org/competition/inventory-competition-agency-mous.htm.

Information exchange is one form of investigative assistance and the ability to exchange information, particularly confidential information, is crucial for competition authorities to co-operate effectively. Exchange of confidential information may take place either through confidentiality waivers or through the so-called “information gateway” provisions (i.e. legal provisions allowing for the exchange of confidential information between competition authorities without the need to obtain prior consent from the source of the information).

Most MoUs concluded to date are first generation agreements which allow only the exchange of non-confidential information, usually in the enforcement co-operation section. Some second generation MoUs contain information gateway provisions, which cover ways of information exchange (i.e. the ability to discuss, transmit or obtain information, etc.) and include confidentiality safeguards, limitations on use or further disclosure of the information.
Exchange of Information in Competition Investigations or Proceedings

VII. RECOMMENDS that in co-operating with other Adherents, where appropriate and practicable, Adherents should provide each other with relevant information that enables their competition authorities to investigate and take appropriate and effective actions with respect to anticompetitive practices and mergers with anticompetitive effects.

1. The exchange of information should be undertaken on a case-by-case basis between the competition authority of the Adherent that transmits the information (“the transmitting Adherent”) and the competition authority of the Adherent that receives the information (“the receiving Adherent”), and it should cover only information that is relevant to an investigation or proceeding of the receiving Adherent. In its request for information, the receiving Adherent should explain to the transmitting authority the purpose for which the information is sought.

2. The transmitting Adherent retains full discretion when deciding whether to transmit information.

3. In order to achieve effective co-operation, Adherents are encouraged to exchange information that is not subject to legal restrictions under international or domestic law, including the exchange of information in the public domain and other non-confidential information.

4. Adherents may also consider the exchange of information internally generated by the competition authority that the authority does not routinely disclose and for which there is no statutory prohibition or restriction on disclosure, and which does not specifically identify confidential information of individual enterprises. In this case, the transmitting Adherent may choose to impose conditions restricting the further dissemination and use of the information by the receiving Adherent. The receiving Adherent should protect it in accordance with its own legislation and regulations and should not disclose the views of the transmitting Adherent without its consent.

5. When the exchange of the above information cannot fully meet the need for effective co-operation in a matter, Adherents should consider engaging in the exchange of confidential information subject to the following provisions.

Exchange of confidential information through the use of confidentiality waivers

6. Where appropriate, Adherents should promote the use of waivers, for example by developing model confidentiality waivers, and should promote their use in all enforcement areas.

7. The decision of an enterprise or an individual to waive the right to confidentiality protection is voluntary.

8. When receiving confidential information pursuant to a confidentiality waiver, the receiving Adherent should use the information received in accordance with the terms of the waiver.

9. The information should be used solely by the competition authority of the receiving Adherent, unless the waiver provides for further use or disclosure.

Exchange of confidential information through “information gateways” and appropriate safeguards

10. Adherents should consider promoting the adoption of legal provisions allowing for the exchange of confidential information between competition authorities without the need to obtain prior consent from the source of the information (“information gateways”).

11. Adherents should clarify the requirements with which both the transmitting and receiving authorities have to comply in order to exchange confidential information and should establish sufficient safeguards to protect the confidential information exchanged, as provided in this Recommendation. Adherents might differentiate the application of the provisions, e.g., on the basis of the type of investigation or of the type of information.

12. The transmitting Adherent should retain full discretion whether to provide the information under the information gateway, and may choose to provide it subject to restrictions on use or disclosure. When deciding whether to respond positively to a request to transmit confidential information to another Adherent, the transmitting Adherent may consider the following factors in particular:

(i) The nature and seriousness of the matter, the affected interests of the receiving Adherent, and whether the investigation or proceeding is likely to adequately safeguard the procedural rights of the parties concerned;

(ii) Whether the disclosure is relevant to the receiving authority’s investigation or proceeding;

(iii) Whether competition authorities of both the transmitting and receiving Adherents are investigating the same or related anticompetitive practice or merger with anticompetitive effects;

(iv) Whether the receiving Adherent grants reciprocal treatment;
(v) Whether the information obtained by the transmitting Adherent under an administrative or other non-criminal proceeding can be used by the receiving Adherent in a criminal proceeding; and

(vi) Whether the level of protection that would be granted to the information by the receiving Adherent would be at least equivalent to the confidentiality protection in the transmitting Adherent.

13. The transmitting Adherent should take special care in considering whether and how to respond to requests involving particularly sensitive confidential information, such as forward-looking strategic and pricing plans.

14. Before the transmission of the confidential information can take place, the receiving Adherent should confirm to the transmitting Adherent that it will:

(i) Maintain the confidentiality of the exchanged information to the extent agreed with the transmitting Adherent with respect to its use and disclosure;

(ii) Notify the transmitting Adherent of any third party request related to the information disclosed; and

(iii) Oppose the disclosure of information to third parties, unless it has informed the transmitting Adherent and the transmitting Adherent has confirmed that it does not object to the disclosure.

15. When an Adherent transmits confidential information under an information gateway, the receiving Adherent should ensure that it will comply with any conditions stipulated by the transmitting Adherent. Prior to transmission, the receiving Adherent should confirm to the transmitting Adherent the safeguards it has in place in order to:

(i) Protect the confidentiality of the information transmitted. To this end, the receiving Adherent should identify and comply with appropriate confidentiality rules and practices to protect the information transmitted, including: (a) appropriate protection, such as electronic protection or password protection; (b) limiting access to the information to individuals on a need-to-know basis; and (c) procedures for the return to the competition authority of the transmitting Adherent or disposal of the information transmitted in a manner agreed upon with the transmitting Adherent, once the information exchanged has served its purpose; and

(ii) Limit its use or its further dissemination in the receiving Adherent. To this end, the information should be used solely by the competition authority of the receiving Adherent and solely for the purpose for which the information was originally sought, unless the transmitting Adherent has explicitly granted prior approval for further use or disclosure of the information.

16. The receiving Adherent should take all necessary and appropriate measures to ensure that unauthorised disclosure of exchanged information does not occur. If an unauthorised disclosure occurs, the receiving Adherent should take appropriate steps to minimise any harm resulting from the unauthorised disclosure, including promptly notifying and, as appropriate, co-ordinating with the transmitting Adherent, to ensure that such unauthorised disclosure does not recur. The transmitting Adherent should notify the source of the information about the unauthorised disclosure, except where to do so would undermine the investigation or proceeding in the transmitting or receiving country.

Provisions applicable to information exchange systems

17. The Adherent receiving confidential information should protect the confidentiality of the information received in accordance with its own legislation and regulations and in line with this Recommendation.

18. Adherents should provide appropriate sanctions for breaches of the confidentiality provisions relating to the exchange of confidential information.

19. The present Recommendation is not intended to affect any special regime adopted or maintained by an Adherent with respect to exchange of information received from a leniency or amnesty applicant or an applicant under specialised settlement procedures.

20. The transmitting Adherent should apply its own rules governing applicable privileges, including the privilege against self-incrimination and professional privileges, when transmitting the requested confidential information, and endeavour not to provide information deemed privileged in the receiving Adherent. The transmitting Adherent may consider working with the parties to identify privileged information in the receiving Adherent in appropriate cases.

21. The receiving Adherent should, to the fullest extent possible:

(i) not call for information that would be protected by those privileges, and

(ii) ensure that no use will be made of any information provided by the transmitting Adherent that is subject to applicable privileges of the receiving Adherent.

22. Adherents should ensure an appropriate privacy protection framework in accordance with their respective legislation.
Relevant provisions in MoUs:

(i) provisions on exchange of non-confidential information

Japan-India (2021)

Paragraph II. COOPERATION

(3) The competition authorities would, to the extent consistent with the laws and regulations of each country and the important interests of each competition authority, and within its reasonably available resources, exchange information on:

(a) each other’s laws, regulations and competition policy and developments of enforcement in their respective jurisdictions;
(b) experience in improving legal framework of competition policy;
(c) experience in conducting investigations of anti-competitive activities in their respective jurisdictions;
(d) improvement of competition conditions in markets; and
(e) development of research in the field of competition law.

Japan-Viet Nam (2013)

Paragraph 4 Exchange of Information

Each competition authority will, as appropriate, provide the other competition authority with information that is relevant to the enforcement activities of the other competition authority to the extent consistent with the laws and regulations of the country of the providing competition authority and the important interests of the providing competition authority, subject to its reasonably available resources.

Panama-Chinese Taipei (2013)

Article 6. Transparency and Exchange of Information

2. Where it does not contravene the legislation or an undergoing investigation, at the request of any of the Parties, the other Party shall provide information related to the activities of application of its legislation.

EU-India (2013)

II. COOPERATION

3. Cooperation between the Sides under the present Memorandum of Understanding will be subject to the respective laws of the Sides, and in particular the protection of confidential information and business secrets as provided under relevant competition laws of the Sides.

4. The Sides acknowledge that it will be in their mutual interest to exchange non-confidential information, experiences and views with regard to:

a) Competition policy and enforcement developments in their respective jurisdictions, including with regard to
investigations of competition law infringements;
b) Operational issues affecting the efficiency and/or effectiveness of the respective Sides;
c) Multilateral competition initiatives, such as interactions with the International Competition Network, the Organization for Economic Cooperation and Development, the World Intellectual Property Organization and the United Nations Conference on Trade and Development.
d) Competition advocacy including raising awareness of companies and the wider public about competition legislation and enforcement,
e) Technical cooperation initiatives in the area of competition law and its enforcement.

Australia-Papua New Guinea (1999)

4.1 Exchange of information

4.1.1 The agencies agree that it is in their common interests to share information that will:
- facilitate effective application for their respective competition and consumer laws;
- avoid unnecessary duplication;
- facilitate co-ordinated investigations, research and education;
- promote a better understanding by each of economic and legal conditions and theories relevant to their respective competition and consumer law enforcement and related activities; and
- keep each other informed of developments in their respective countries or companies based in that country.

4.1.2 In furtherance of this common interest the agencies will, on a regular basis, exchange and provide information in relation to:
- regular publications, including annual reports, journals and information bulletins;
- investigations and research;
- speeches, research papers, journal articles, etc;
- compliance education programs;
- amendments to relevant legislation; and
- human resource development and corporate resources.

Brazil-Korea (2014)

Paragraph 4 – Exchange of Information

4.1 Each Participant will, to the extent consistent with its laws and regulations of, and its important interests, provide the other Participant, upon request by the other Participant and in accordance with the provisions of this Memorandum of Understanding, with information within its possession that is relevant to the enforcement activities of the other Participant.

4.2 The exchange of information will be made via mail, email or, where appropriate, via telephone. In order to facilitate communication, the language used should be English.

4.3 It is understood that the Participants do not intend to communicate information to the each other, if such communication is prohibited by the laws governing the Participant that possesses the information or if it is incompatible with that Participant’s interests.

4.4 Each Participant will keep confidential the information provided by the other according to this Memorandum of Understanding in line with the laws of its country, unless agreements are reached through negotiations stating otherwise.

4.5 All exchange of information will be conducted in strict confidentiality in line with the Participant’s applicable laws unless stated otherwise in agreements reached through negotiations.
Paragraph [*04] Cooperation and Information Exchange in Enforcement Activities

4.2. Each competition authority will endeavour, to the extent consistent with the laws and regulations of its country and its important interests, to:

(a) provide the other competition authority with any significant information, within its possession and that comes to its attention, about anticompetitive activities that the providing competition authority considers may be relevant to, or may warrant, enforcement activities of the other competition authority; and

(b) provide the other competition authority, upon request and in line with the contents of this Arrangement, with information within its possession that is relevant to the enforcement activities of the other competition authority.

4.3. Each competition authority will, where practicable and to the extent consistent with the laws and regulations of its country, give due consideration to sharing information obtained during the course of an investigation. Each competition authority retains full discretion when deciding whether to share such information or not. The terms of use and disclosure of such information will be decided in writing on a case-by-case basis.

4.4. Where both competition authorities are simultaneously conducting a review of the same merger transaction and one of them becomes aware of the likelihood that the transaction may impact on a market within the jurisdiction of the other competition authority, each competition authority recognises the benefits of contacting one or more of the merging parties to seek approval to disclose confidential information of such merging party or parties to the other competition authority under appropriate conditions in order to facilitate the discussions between the competition authorities on such impact.

4.5. Both competition authorities recognise that this Arrangement is not intended to affect any regulation, policy or practice adopted or maintained by each competition authority with respect to exchange of information including that received from a leniency applicant.
Canada-New Zealand (2016)

Definitions

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

6.2. "information" means:

6.2.1. for the Commissioner of Competition, any information in its possession or control; and

6.2.2. for the NZCC, information that is not in the public domain, and which has been compulsorily-acquired by the NZCC as a result of, or in relation to, the exercise by the NZCC of its search and notice powers under its competition and consumer laws and any power incidental to those powers ("compulsorily-acquired information");

6.4 "request" means:

6.4.1. a request from the Commissioner of Competition to the NZCC for the NZCC to provide information or investigative assistance; or

6.4.2. a request from the NZCC to the Commissioner of Competition for the Commissioner of Competition to provide information and/or assistance under, or in relation to, Canada’s competition and consumer laws;

Requests for information and/or assistance

7. The Participants may make a request under this Arrangement:

8. Any request under paragraph 7 will be accompanied by a statement:

8.1. confirming that the requesting Participant considers that the provision of the information and/or assistance will assist, or will be likely to assist, the requesting Participant in performing functions or exercising powers in relation to its competition and consumer laws; and

8.2. explaining why the requesting Participant considers that the information and/or assistance may not be more conveniently obtained from another source.

11. In responding to a request, a Participant may impose conditions (including privacy protections) on the provision of information and/or assistance, including as to:

11.1. the confidentiality of information;

11.2. the storage, use of, or access to any information provided;

11.3. the copying, returning, or disposal of copies of any information provided; and

11.4. the payment of costs reasonably incurred by the responding Participant.

12. The NZCC will not provide any communication or information that is protected by the privilege for settlement negotiations or mediation provided for in section 57 of the Evidence Act 2006 (New Zealand) (2006 No 69), without the consent of every other party who holds that privilege.

13. In accordance with section 99J of the Commerce Act 1986, the NZCC will not provide copies of statements made by any person in answer to a question put by or before the NZCC that might tend to incriminate the person, unless the Commissioner of Competition gives a written undertaking that:

13.1. the Commissioner of Competition will not use the statements as evidence in criminal proceedings against the person (other than in respect of the falsity of the person’s testimony) or in proceedings against the person for a pecuniary penalty; and

13.2. to the extent possible, the Commissioner of Competition will ensure that the statements are not used by any other person, authority, or agency as evidence in such proceedings.
PROVISIONS ON CO-ORDINATION OF INVESTIGATIONS AND PROCEEDINGS

The OECD has put together an inventory of provisions of international co-operation MoUs (Memoranda of Understanding) between competition agencies. This document includes:

- a description of provisions on co-ordination of investigations and proceedings found in these MoUs
- a selection of typical and atypical relevant provisions

The full inventory, the OECD Recommendation and relevant OECD work can be found online at www.oecd.org/competition/inventory-competition-agency-mous.htm.

Provisions on co-ordination of investigations and proceedings require the parties to co-ordinate their enforcement activities in parallel investigations. They are increasingly important as competition authorities often investigate the same or related matters. Agencies may co-ordinate with each other:

- before opening formal investigations/proceedings, to discuss the case or co-ordinate dawn raids;
- in the course of the proceedings, to discuss the theory of harm or the likely anti-competitive effects of the investigated conduct/transaction; or
- when the investigation is completed, to discuss possible remedies or sanctions.

The 2014 OECD Recommendation on International Co-operation recommends co-ordinating parallel investigations or proceedings and lists examples of possible co-ordination arrangements.

More than half of the MoUs that the Secretariat reviewed do not include a provision on co-ordination of investigations and proceedings. This can be due to the fact that MoUs focus on establishing general co-operation, a good relationship or communications between competition authorities rather than co-ordination in specific cases. Some MoUs [e.g. Australia-Japan (2015), Korea-Mexico (2004), Australia-Korea (2002), Australia-Papua New Guinea (1999), and Australia-Chinese Taipei (1996)] have detailed clauses on co-ordination. Others provide just a general statement on co-ordination, such as “(w)here the competition authorities of both Parties are pursuing enforcement activities with regard to related matters, each intends to consider co-ordination of their enforcement activities as appropriate” (Section I-2 of Korea-US (2015)).
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

Co-ordination of Competition Investigations or Proceedings

VI. RECOMMENDS that where two or more Adherents investigate or proceed against the same or related anticompetitive practice or merger with anticompetitive effects, they should endeavour to co-ordinate their investigations or proceedings where their competition authorities agree that it would be in their interest to do so.

To this end, co-ordination between Adherents:

4. might include any of the following steps, insofar as appropriate and practicable, and subject to appropriate safeguards including those relating to confidential information:

(i) Providing notice of applicable time periods and schedules for decision-making;
(ii) Co-ordinating the timing of procedures;
(iii) Requesting, in appropriate circumstances, that the parties to the investigation and third parties voluntarily grant waivers of confidentiality to co-operating competition authorities;
(iv) Co-ordinating and discussing the competition authorities’ respective analyses;
(v) Co-ordinating the design and implementation of remedies to address anticompetitive concerns identified by competition authorities in different Adherents;
(vi) In Adherents in which advance notification of mergers is required or permitted, requesting that the notification include a statement identifying notifications also made or likely to be made to other Adherents; and
(vii) Exploring new forms of co-operation.

Relevant provisions in MoUs:

(i) those having a general statement on enforcement co-ordination

Japan-Singapore (2017)

Paragraph 6 Coordination of Enforcement Activities

6.1 Where the competition authorities are pursuing enforcement activities with regard to the same matter or matters that are related to each other, the competition authorities will consider coordination of their enforcement activities.

6.2 Each competition authority may at any time, subject to appropriate notification to the other competition authority, limit or terminate the coordination of enforcement activities and pursue its enforcement activities independently.


Section 1 Cooperation and coordination

2. Where one of the U.S. antitrust agencies and the KFTC are both pursuing enforcement activities with regard to related matters, each intends to consider coordination of their enforcement activities as appropriate.
China (NDRC and SAIC)-EU (2012)

2. Content of the cooperation and coordination activities between the two Sides

2.3 Should the two Sides pursue enforcement activities concerning the same or related matters, they may exchange non-confidential information, experiences views on the matter and coordinate directly their enforcement activities, where appropriate and practicable.

Colombia-US (2015)

Article III Coordination with regard to related matters

1. Where one of the U.S. antitrust agencies and the SIC are both pursuing enforcement activities with regard to related matters, they shall consider coordination of their enforcement activities.

2. In any coordination arrangement, each competition authority shall seek to conduct its enforcement activities consistently with the enforcement objectives of the other competition authority.

(ii) examples of relatively detailed provisions

Australia-Japan (2015)

Paragraph [*05] Coordination of Enforcement Activities

5.1. Where the competition authorities are pursuing enforcement activities with regard to matters that are related to each other:

(a) the competition authorities will consider coordination of their enforcement activities; and

(b) each competition authority will consider, upon request by the other competition authority and where consistent with the respective important interests of the competition authorities, inquiring whether persons who have provided confidential information in connection with the enforcement activities will consent to the sharing of such information with the other competition authority.

5.2. In considering whether particular enforcement activities should be coordinated, the competition authorities will take into account the following factors, among others:

(a) the effect of such coordination on their ability to achieve the objectives of their enforcement activities;

(b) the relative abilities of the competition authorities to obtain information necessary to conduct the enforcement activities;

(c) the extent to which either competition authority can secure effective relief against the anticompetitive activities involved;

(d) the possible reduction of cost to the competition authorities and to the persons subject to the enforcement activities; and

(e) the potential advantages of coordinated relief to the competition authorities and to the persons subject to the enforcement activities.

5.3. Each competition authority may at any time, after notifying the other competition authority of its decision, limit or terminate the coordination of enforcement activities and pursue its enforcement activities independently.
Paragraph IV Coordination with regard to related matters

1. Where both Agencies are pursuing enforcement activities with regard to related matters, they will consider coordination of their enforcement activities.

2. In considering whether particular enforcement activities should be coordinated, either in whole or in part, the Agencies will take into account the following factors, among others:
   (a) the effect of such coordination on the ability of both Agencies to achieve their respective enforcement objectives;
   (b) the relative abilities of the Agencies to obtain information necessary to conduct the enforcement activities;
   (c) the extent to which either Agency can secure effective relief against the anticompetitive practices involved;
   (d) the possible reduction of cost to the Agencies and to the persons subject to enforcement activities; and
   (e) the potential advantages of coordinated remedies to the Agencies and to the persons subject to the enforcement activities.

3. In any coordination arrangement, each Agency will seek to conduct their enforcement activities consistently with the enforcement objectives of the other Agency.

4. In the case of concurrent or coordinated enforcement activities, each Agency will consider, upon request by the other Agency and where consistent with the important interests of the requested Agency, ascertaining whether persons that have provided confidential information in connection with those enforcement activities will consent to the sharing of such information between the Agencies.

5. Either Agency may at any time notify the other Agency that they intend to limit or terminate coordinated enforcement and pursue their enforcement activities independently and subject to the other provisions of this Arrangement.
Comity is a legal principle in international law whereby a country should take other countries’ important interests into account while conducting its law enforcement activities, in return for their doing the same. Thus, comity is a means for tempering the effects of the unilateral assertion of extraterritorial jurisdiction.

Negative comity, also called “traditional comity”, involves a country’s consideration of how to prevent its laws and law enforcement actions from harming another country’s important interests, and avoid conflicts. The principle is based on the recognition that a particular enforcement activity by one jurisdiction may adversely affect important interests of the other jurisdiction and may produce conflicts. For example, competition authorities may arrive at conflicting outcomes after independent proceedings that may undermine the remedial objective of at least one of the authorities involved. Negative comity can consist of obligations on the party taking the enforcement action to notify any activity which may affect important interests of the other party, and take appropriate measures to address the conflict.

More than half of the MoUs reviewed do not have a provision on negative comity. Some MoUs [e.g. Chile-US (2011) and Canada-Korea (2006)] have only a general principle of negative comity. A few MoUs [e.g. Brazil-Japan (2014) and Japan-Korea (2014)] have detailed negative comity provisions.
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

Notifications of Competition Investigations or Proceedings

V. RECOMMENDS that an Adherent should ordinarily notify another Adherent when its investigation or proceeding can be expected to affect the other Adherent’s important interests.

3. The notifying Adherent, while retaining full freedom of ultimate decision, should take account of the views that the other Adherent may wish to express and of any remedial action that the other Adherent may consider under its own laws, to address the anticompetitive practice or mergers with anticompetitive effects.

Consultation and Comity

III. RECOMMENDS that an Adherent that considers that an investigation or proceeding being conducted by another Adherent under its competition laws may affect its important interests should transmit its views on the matter to, or request consultation with, the other Adherent.

1. To this end, without prejudice to the continuation of its action under its competition law and to its full freedom of ultimate decision, the Adherent so addressed should give full and sympathetic consideration to the views expressed by the requesting Adherent, and in particular to any suggestions as to alternative means of fulfilling the needs or objectives of the competition investigation or proceeding.

Relevant provisions in MoUs:

(i) typical examples

**Colombia-US (2014)**

Article IV Avoidance of conflicts; consultations

1. The U.S. antitrust agencies and the SIC shall, within the framework of their own laws and to the extent compatible with their important interests, give careful consideration to the other country’s competition authority’s important interests throughout all phases of their enforcement activities, including decisions regarding the initiation of an investigation or proceeding, the scope of an investigation or proceeding, and the nature of the remedies or penalties sought in each case.

**Canada-Korea (2006)**

Article 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 Participant’s interests in the application of its competition and consumer laws.

2. Where one Participant informs the other that a specific enforcement activity by the second Participant may affect the first Participant’s interests in the application of its competition and consumer laws, 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 remedy.
Australia-Chinese Taipei (1996)

Article 9. Avoidance of Conflict

9.1 Within the framework of its own laws, and to the extent compatible with its own interests, each agency is to seek at all
stages in its activities to take into account the important interests of the other. Where there are any instances where the other's
interests may be impinged, urgent and immediate consultation should take place.

EU-India (2013)/ EU-China (2019)

Article IV. Avoidance of conflicts/Article 5

9. The Sides acknowledge that it will be 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.

10. Should one Side inform the other Side that enforcement activities of the latter may affect the informing Side’s interests in
its application of its competition law, the other Side will endeavour to provide an opportunity to exchange views and conduct
consultations on the issues raised by the informing Side consistent with the interests of the Sides.

(ii) an example with detailed provisions

Brazil-Japan (2014)

Paragraph 8 Avoidance of Conflicts over Enforcement Activities

8.1. Each competition authority will give careful consideration to the important interests of the other competition authority
throughout all phases of its enforcement activities, including decisions regarding the initiation of enforcement activities, the
scope of enforcement activities and the nature of penalties or relief sought in each case.

8.2. When either competition authority informs the other competition authority that specific enforcement activities of the
latter competition authority may affect the important interests of the former competition authority, the latter competition
authority will endeavour to provide timely notice of significant developments of such enforcement activities.

8.3. Where either competition authority considers that its enforcement activities may adversely affect the important interests
of the other competition authority, the competition authorities will consider the following factors, in addition to any other
factor that may be relevant in the circumstances in seeking an appropriate accommodation of the competing interests:

(a) the relative significance to the anti-competitive activities of conduct or transactions occurring in the country of the
competition authority conducting the enforcement activities as compared to conduct or transactions occurring in the country of
the other competition authority;
(b) the relative impact of the anti-competitive activities on the important interests of the respective competition authorities;
(c) the presence or absence of evidence of an intention on the part of those engaged in the anti-competitive activities to affect
consumers, suppliers, or competitors in the country of the competition authority conducting the enforcement activities;
(d) the extent to which the anti-competitive activities substantially lessen competition in the markets of their respective
countries;
(e) the degree of conflict or consistency between the enforcement activities of a competition authority and the laws and
regulations of the country of the other competition authority, or the policies or important interests of the other competition
authority;
(f) whether private persons, either natural or legal, will be placed under conflicting requirements by both competition authorities;
(g) the location of relevant assets and parties to the transaction;
(h) the degree to which effective penalties or relief can be secured by the enforcement activities of the competition authority
against the anti-competitive activities; and
(i) the extent to which enforcement activities of the other competition authority with respect to the same persons, either natural
or legal, would be affected.
“Positive comity” allows one party (requesting) to request the other party (requested) to take appropriate enforcement actions with respect to anti-competitive activities occurring in the territory of the requested party that adversely affect important interests of the requesting party. It is aimed at effective allocation of enforcement resources by allowing the better-placed party to deal with the problem (for example, it avoids difficulties of obtaining evidence in a foreign jurisdiction) and minimises conflicts that may be caused by enforcement actions against activities occurring in another jurisdiction. Positive comity provisions can, for example, set forth the conditions for a request for positive comity, and how the requested party should respond to the request.

Most MoUs do not have provisions on positive comity. Only a few MoUs [e.g. Japan-Singapore (2017), Brazil-Japan (2014) and Japan-Korea (2014)] have detailed positive comity provisions.
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

Consultation and Comity

IV. RECOMMENDS that an Adherent that considers that one or more enterprises or individuals situated in one or more other Adherents are or have been engaged in anticompetitive practices or mergers with anticompetitive effects that substantially and adversely affect its important interests, may request consultations with such other Adherent or Adherents.

1. Entering into such consultations is without prejudice to any action under the competition law and to the full freedom of ultimate decision of the Adherents concerned.

2. Any Adherent so addressed should give full and sympathetic consideration to such views and factual materials as may be provided by the requesting Adherent and, in particular, to the nature of the alleged anticompetitive practices or mergers with anticompetitive effects in question, the enterprises or individuals involved and the alleged harmful effects on the interests of the requesting Adherent.

3. If the Adherent so addressed agrees that enterprises or individuals situated in its territory are engaged in anticompetitive practices or in mergers with anticompetitive effects harmful to the interests of the requesting Adherent, it should take whatever remedial action it considers appropriate, including actions under its competition law, on a voluntary basis and considering its legitimate interests.

4. In requesting consultations, Adherents should explain the national interests affected in sufficient detail to enable their full and sympathetic consideration.

5. Without prejudice to any of their rights, the Adherents involved in consultations should endeavour to find a mutually acceptable solution in light of the respective interests involved.

Relevant provisions in MoUs:

(i) those similar to the co-operation agreements at the government level

Japan-Korea (2014)

Paragraph 7 Cooperation Regarding Anti-competitive Activities in the Country of a Side that Adversely Affect the Interests of the Other Side

7.1. If a Side believes that anti-competitive activities carried out in the country of the other Side adversely affect its important interests, that Side, taking into account the importance of avoiding conflicts resulting from its enforcement activities with regard to such anti-competitive activities and taking into account that the other Side may be in a position to conduct more effective enforcement activities with regard to such anti-competitive activities, may request that the other Side initiate appropriate enforcement activities.

7.2. The request made under subparagraph 7.1 should be as specific as possible about the nature of the anti-competitive activities and their effect on the important interests of the requesting Side, and should include an offer of such further information and other cooperation as the requesting Side is able to provide.

7.3. The requested Side will carefully consider whether to initiate enforcement activities, or whether to expand ongoing enforcement activities, with respect to the anti-competitive activities identified in the request made under subparagraph 7.1. The requested Side will inform the requesting Side of its decision as soon as practically possible. If enforcement activities are initiated, the requested Side will inform the requesting Side of their outcome and, to the extent possible, of significant interim developments.

7.4. Nothing in this paragraph limits the discretion of the requested Side under the competition law of its country and its enforcement policies to determine whether or not to undertake enforcement activities with respect to the anti-competitive activities identified in the request, or precludes the requesting Side from withdrawing its request.
Brazil-Japan (2014)
Japan-Singapore (2017)

Paragraph 7 Cooperation Regarding Anti-competitive Activities in the Country of a Competition Authority that Adversely Affect the Interests of the Other Competition Authority

7.1. If a competition authority believes that anti-competitive activities carried out in the country of the other competition authority adversely affect the important interests of the former competition authority, the former competition authority, taking into account the importance of avoiding conflicts resulting from its enforcement activities with regard to such anti-competitive activities and taking into account that the other competition authority may be in a position to conduct more effective enforcement activities with regard to such anti-competitive activities, may request that the other competition authority initiate appropriate enforcement activities.

7.2. The request made under subparagraph 7.1 will be as specific as possible about the nature of the anti-competitive activities and their effect on the important interests of the requesting competition authority, and will include an offer of such further information and other cooperation as the requesting competition authority is able to provide.

7.3. The requested competition authority will carefully consider whether to initiate enforcement activities, or whether to expand ongoing enforcement activities, with respect to the anti-competitive activities identified in the request made under subparagraph 7.1. The requested competition authority will inform the requesting competition authority of its decision as soon as practically possible. If enforcement activities are initiated, the requested competition authority will inform the requesting competition authority of their outcome and, to the extent possible, of significant interim developments.

7.4. Nothing in this paragraph limits the discretion of the requested competition authority under the competition law of its country and its enforcement policies as to whether or not to undertake enforcement activities with respect to the anti-competitive activities identified in the request, or precludes the requesting competition authority from withdrawing its request.

EU-China (2019)

Paragraph 4 Assistance to be provided between the Sides

4.1. If one of the Sides believes that anti-competitive behaviour carried out on the territory of the other Side adversely affects competition in its territory, it may request that the other Side initiates appropriate enforcement activities as per their applicable competition law.

4.2. The requested Side may, in accordance with the requirements of its legislation, consider the possibility of initiating enforcement activities or expanding on-going enforcement activities with respect to the alleged anti-competitive behaviour, identified by the requesting Side. The requested Side may inform the other side about the results of such consideration.

4.3. Nothing in this Terms of Reference limits the discretion of the requested Side to decide whether to undertake enforcement activities with respect to the anti-competitive actions identified in the request, or may preclude the requesting Side from withdrawing its request.
Paragraph [*06] Cooperation Regarding Anticompetitive Activities in the Country of a Competition Authority that Adversely Affect the Interests of the Other Competition Authority

6.1. If a competition authority believes that anticompetitive activities carried out in the country of the other competition authority substantially and adversely affect the important interests of the former competition authority, the former competition authority may request consultation with such other competition authority.

6.2. The request made pursuant to subparagraph 6.1 will be as specific as possible about the nature of the anticompetitive activities and their effect on the important interests of the requesting competition authority.

6.3. The requested competition authority will give full and sympathetic consideration to such views and factual materials as may be provided by the requesting competition authority and, in particular, to the nature of the alleged anticompetitive activities in question, the enterprises or individuals involved and the alleged harmful effects on the interests of the requesting competition authority. Without prejudice to any of their rights, the competition authorities will endeavour to find a mutually acceptable solution in light of the respective interests involved.

6.4. Nothing in this Paragraph (or the withdrawal of the requesting competition authority’s request) will limit the discretion of the requested competition authority under the competition law and enforcement policies of its country as to whether or not to conduct enforcement activities with respect to the anticompetitive activities identified in the request. Any request by a competition authority under this Paragraph is without prejudice to its freedom to take any action it may choose to under its own competition laws.
Competition authorities frequently consult each other, but consultations are mostly done informally. Formal consultations are less frequent.

Approximately half of the reviewed MoUs do not include detailed provisions on consultations. Some MoUs include a general provision that consultations may be requested by either party regarding any matter relating to the agreements, without setting forth formal duties of the parties in relation to the requests for consultation, and the responses.
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

Consultation and Comity

III. RECOMMENDS that an Adherent that considers that an investigation or proceeding being conducted by another Adherent under its competition laws may affect its important interests should transmit its views on the matter to, or request consultation with, the other Adherent.

1. To this end, without prejudice to the continuation of its action under its competition law and to its full freedom of ultimate decision, the Adherent so addressed should give full and sympathetic consideration to the views expressed by the requesting Adherent, and in particular to any suggestions as to alternative means of fulfilling the needs or objectives of the competition investigation or proceeding.

IV. RECOMMENDS that an Adherent that considers that one or more enterprises or individuals situated in one or more other Adherents are or have been engaged in anticompetitive practices or mergers with anticompetitive effects that substantially and adversely affect its important interests, may request consultations with such other Adherent or Adherents.

1. Entering into such consultations is without prejudice to any action under the competition law and to the full freedom of ultimate decision of the Adherents concerned.

2. Any Adherent so addressed should give full and sympathetic consideration to such views and factual materials as may be provided by the requesting Adherent and, in particular, to the nature of the alleged anticompetitive practices or mergers with anticompetitive effects in question, the enterprises or individuals involved and the alleged harmful effects on the interests of the requesting Adherent.

3. If the Adherent so addressed agrees that enterprises or individuals situated in its territory are engaged in anticompetitive practices or in mergers with anticompetitive effects harmful to the interests of the requesting Adherent, it should take whatever remedial action it considers appropriate, including actions under its competition law, on a voluntary basis and considering its legitimate interests.

4. In requesting consultations, Adherents should explain the national interests affected in sufficient detail to enable their full and sympathetic consideration.

5. Without prejudice to any of their rights, the Adherents involved in consultations should endeavour to find a mutually acceptable solution in light of the respective interests involved.

Relevant provisions in MoUs:

(i) examples of simple provisions

Australia-Japan (2015)

Paragraph [*09] Consultations

9.1. The competition authorities will consult with each other, upon request of either competition authority, on any matter which may arise in connection with this Arrangement.

Japan-Korea (2014)

Paragraph 12 Miscellaneous

12.3 The Sides will consult any questions concerning this Memorandum.
(ii) examples of detailed provisions

**Korea-US (2015)**

**Section III Communications**

3. Each competition authority may request consultations with the other country’s competition authority or authorities regarding any matter relating to this Memorandum. A request for consultations should indicate the reasons for the request and whether any procedural time limits or other constraints require that consultations be expedited. Each competition authority intends to consult promptly when so requested, with a view to reaching a conclusion that is consistent with the purpose of this Memorandum.

**Austria-Russia (2011)**

**Article 5. Consultations**

1. During the investigation of actions of the economic entities that affect or could affect competition on the territory of the Parties’ states, each Party shall have the right to request another Party for holding consultations on any matters related to the investigation.

2. The Party interested in holding consultations shall submit the written request on holding the consultations with attachment of the necessary documents as well as with the grounds and conditions for holding such consultations.

3. The Parties shall hold the consultation not later than three months after receipt of the request unless otherwise agreed by the Parties.

**France-Chinese Taipei (2014)**

**Article 3. Consultations**

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

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.

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

**Hungary-Romania (2005)**

**Article 6. Consultations**

1. If requested the Parties shall hold consultations on matters covered by the present agreement in order to avoid conflicting decisions in the case of the same infringement.

2. Request on holding the consultation should contain grounds of its necessity.

3. The Parties shall hold the consultation in the terms not later than three months after the receipt of the request unless otherwise agreed.

4. In the case of disagreement the result of the consultations does not preclude the Parties to adopt final decisions.
Korea-Mexico (2004)

Paragraph VIII Consultations

1. Either Agency may request consultations regarding any matter relating to this Arrangement. The request for consultations will indicate the reasons for the request and whether any procedural time limits or other constraints require that consultations be expedited. Each Agency will consult promptly when so requested with the view of reaching a conclusion that is consistent with the principles set forth in this Arrangement.

2. Consultations under this Paragraph will take place at the appropriate level as determined by each Agency.

3. During consultations under this Paragraph, each Agency will provide to the other as much information as it is able in order to facilitate the broadest possible discussion regarding the relevant aspects of the matter that is the subject of consultations. Each Agency will carefully consider the representations of the other Agency in light of the principles set out in this Arrangement and will be prepared to explain the specific results of its application of those principles to the matter that is the subject of consultations.
More than half of the MoUs have provisions requiring the parties to hold periodic meetings to promote communication and mutual understanding, if deemed necessary, in a flexible manner. Only a relatively small number of MoUs specify the frequency of the periodic meetings and their purposes.

**Relevant provisions in MoUs:**

*(i) several examples of typical provisions*

**Korea-China (2019)**

**Paragraph 4 Regular Consultation**

1. The Participants will meet at least once a year for the following purposes:

   (a) information sharing on recent enforcement efforts and key issues regarding each Participant's competition laws;

   (b) discussion on policy issues of bilateral or unilateral interest.

**Australia-Japan (2015)**

**Paragraph [*09] Consultations**

9.2. The competition authorities will hold a consultation meeting once a year in principle in order to enhance mutual understanding and reinforce cooperation.
Russia-US (2009)

Communications

Officials of the U.S. antitrust agencies and FAS Russia should meet, as appropriate, to exchange information on their current and contemplated policy and enforcement efforts and priorities.

EU-India (2013)

V. Meetings

12. The Sides will endeavour, in case of need, to conduct meetings to:

   a. discuss current issues, experiences and new developments of mutual interest with respect to competition policy development, legislation and enforcement or the operation of the present Memorandum of Understanding;
   
   b. exchange non-confidential information on the competition environment in economic sectors of common interest;
   
   c. exchange views with respect to multilateral competition initiatives.


Section III Communications

6. Officials of the U.S. antitrust agencies and the KFTC may meet periodically to exchange information on their current enforcement and priorities in relation to their competition laws.

(ii) examples of relatively detailed provisions

Canada-Colombia (2017)

Meetings

10. The Participants will meet periodically, as necessary, to:

   a. exchange information on their enforcement efforts and priorities in relation to their competition laws;
   
   b. exchange information on economic sectors of common interest;
   
   c. discuss changes that may be under consideration with respect to competition laws;
   
   d. discuss competition advocacy initiatives;
   
   e. discuss the content of, and arrangements for, technical cooperation initiatives that they have decided to establish; and
   
   f. discuss other matters of mutual interest relating to the application of their competition laws or the operation of this MOU.
**Indonesia-Korea (2013)**

*Article 4 Cooperation through Regular Joint Dialogue*

1. The Parties shall endeavor to have regular joint dialogue between the head of competition authorities and meet periodically every two year to exchange information on recent enforcement efforts and key issues regarding each Party’s competition laws, and/or on economic and policy issues of mutual interest;

2. The Parties may have technical meeting or working-level meeting on request of a Party;

3. The meeting shall take place in one of the Party’s countries in which the venue shall be decided with prior communication and consent;

**Mongolia-Chinese Taipei (2007)**

*Article 3 Mutual Visits*

1. The mutual exchange visits shall include:
   a) Visiting of top level officials of the Parties;
   b) Organizing study visits for UCRA staff in Taiwan;
   c) Providing instructors/lecturers by TFTC for staff training programs, seminars held in Mongolia.

2. In principle, the visiting of top level officials shall take place every other year by each party, alternating between the Parties.

3. In principle, study visits and staff training programs shall take place every year between the Parties.

4. The purpose, timing, duration, and the content of each visit shall be determined after consultation between the Parties.

**Canada-Korea (2006)**

*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 and consumer laws;

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

(c) discuss competition and consumer law changes under consideration; and

(d) discuss other matters of mutual interest relating to the application of their competition and consumer laws or the operation of this Arrangement.
Japan-Korea (2015)

Paragraph 9 Annual Consultation

9.1. Unless otherwise jointly decided, the Sides will hold consultations at least once a year to:

(a) exchange information on their current enforcement efforts and priorities in relation to the competition law of each country;
(b) exchange information on business sectors of their common interest;
(c) discuss policy matters in which they are interested;
(d) discuss other matters of mutual interest relating to the application of the competition law of each country;
(e) discuss development relating to bilateral or multilateral fora that may be relevant to the cooperative relationship between the Sides; and
(f) discuss any other matters that may be jointly decided upon by the Sides.

9.2. Unless otherwise jointly decided by the Sides, the consultations mentioned in subparagraph 9.1 will be held alternately in Japan and the Republic of Korea.

Australia-New Zealand (2007)

7.0 Meetings

7.1 Officials of the Parties shall meet annually, or as necessary, to:

(a) review and discuss the cooperation, coordination and enforcement assistance undertaken between the Parties for each 12 month period;
(b) exchange information on their enforcement efforts and priorities in relation to their competition, consumer and regulatory functions;
(c) exchange information on economic sectors of common interest;
(d) discuss and coordinate contributions to international competition, consumer and regulatory fora;
(e) discuss review or amendments under consideration with respect to their competition, consumer or regulatory functions;
(f) discuss other matters of mutual interest relating to the application of their competition, consumer and regulatory functions or the operation of this Agreement, including the development of frameworks, guidelines or international developments in the application of economic theory; and
(g) discuss visits of officials, as appropriate.

8.0 Joint Meeting of Commission

On an annual basis, or as otherwise agreed, there will be a meeting of Commissioners of the Parties to discuss cooperation and coordination efforts between the Parties.
Adequate protection of information exchanged is key to the success of co-operation in investigations. Divulging sensitive information may undermine the incentive of private parties to co-operate with the agency and affect the integrity and credibility of the investigations, as well as co-operation between competition authorities.

Most MoUs also have provisions on confidentiality of the information exchanged, including an obligation to maintain the confidentiality of information exchanged, and the sending party’s discretion to set terms and conditions on the use and disclosure of the confidential information exchanged.
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

Exchange of Information in Competition Investigations or Proceedings

VII. RECOMMENDS that in co-operating with other Adherents, where appropriate and practicable, Adherents should provide each other with relevant information that enables their competition authorities to investigate and take appropriate and effective actions with respect to anticompetitive practices and mergers with anticompetitive effects.

2. The transmitting Adherent retains full discretion when deciding whether to transmit information.

4. Adherents may also consider the exchange of information internally generated by the competition authority that the authority does not routinely disclose and for which there is no statutory prohibition or restriction on disclosure, and which does not specifically identify confidential information of individual enterprises. In this case, the transmitting Adherent may choose to impose conditions restricting the further dissemination and use of the information by the receiving Adherent. The receiving Adherent should protect it in accordance with its own legislation and regulations and should not disclose the views of the transmitting Adherent without its consent.

Exchange of confidential information through “information gateways” and appropriate safeguards

10. Adherents should consider promoting the adoption of legal provisions allowing for the exchange of confidential information between competition authorities without the need to obtain prior consent from the source of the information (“information gateways”).

11. Adherents should clarify the requirements with which both the transmitting and receiving authorities have to comply in order to exchange confidential information and should establish sufficient safeguards to protect the confidential information exchanged, as provided in this Recommendation. Adherents might differentiate the application of the provisions, e.g., on the basis of the type of investigation or of the type of information.

12. The transmitting Adherent should retain full discretion whether to provide the information under the information gateway, and may choose to provide it subject to restrictions on use or disclosure. When deciding whether to respond positively to a request to transmit confidential information to another Adherent, the transmitting Adherent may consider the following factors in particular:

(i) The nature and seriousness of the matter, the affected interests of the receiving Adherent, and whether the investigation or proceeding is likely to adequately safeguard the procedural rights of the parties concerned;
(ii) Whether the disclosure is relevant to the receiving authority’s investigation or proceeding;
(iii) Whether competition authorities of both the transmitting and receiving Adherents are investigating the same or related anticompetitive practice or merger with anticompetitive effects;
(iv) Whether the receiving Adherent grants reciprocal treatment;
(v) Whether the information obtained by the transmitting Adherent under an administrative or other non-criminal proceeding can be used by the receiving Adherent in a criminal proceeding; and
(vi) Whether the level of protection that would be granted to the information by the receiving Adherent would be at least equivalent to the confidentiality protection in the transmitting Adherent.

13. The transmitting Adherent should take special care in considering whether and how to respond to requests involving particularly sensitive confidential information, such as forward-looking strategic and pricing plans.

14. Before the transmission of the confidential information can take place, the receiving Adherent should confirm to the transmitting Adherent that it will:

(i) Maintain the confidentiality of the exchanged information to the extent agreed with the transmitting Adherent with respect to its use and disclosure;
(ii) Notify the transmitting Adherent of any third party request related to the information disclosed; and
(iii) Oppose the disclosure of information to third parties, unless it has informed the transmitting Adherent and the transmitting Adherent has confirmed that it does not object to the disclosure.

15. When an Adherent transmits confidential information under an information gateway, the receiving Adherent should ensure that it will comply with any conditions stipulated by the transmitting Adherent. Prior to transmission, the receiving Adherent should confirm to the transmitting Adherent the safeguards it has in place in order to:
(i) Protect the confidentiality of the information transmitted. To this end, the receiving Adherent should identify and comply with appropriate confidentiality rules and practices to protect the information transmitted, including: (a) appropriate protection, such as electronic protection or password protection; (b) limiting access to the information to individuals on a need-to-know basis; and (c) procedures for the return to the competition authority of the transmitting Adherent or disposal of the information transmitted in a manner agreed upon with the transmitting Adherent, once the information exchanged has served its purpose; and

(ii) Limit its use or its further dissemination in the receiving Adherent. To this end, the information should be used solely by the competition authority of the receiving Adherent and solely for the purpose for which the information was originally sought, unless the transmitting Adherent has explicitly granted prior approval for further use or disclosure of the information.

16. The receiving Adherent should take all necessary and appropriate measures to ensure that unauthorised disclosure of exchanged information does not occur. If an unauthorised disclosure occurs, the receiving Adherent should take appropriate steps to minimise any harm resulting from the unauthorised disclosure, including promptly notifying and, as appropriate, co-ordinating with the transmitting Adherent, to ensure that such unauthorised disclosure does not recur. The transmitting Adherent should notify the source of the information about the unauthorised disclosure, except where to do so would undermine the investigation or proceeding in the transmitting or receiving country.

Provisions applicable to information exchange systems

17. The Adherent receiving confidential information should protect the confidentiality of the information received in accordance with its own legislation and regulations and in line with this Recommendation.

18. Adherents should provide appropriate sanctions for breaches of the confidentiality provisions relating to the exchange of confidential information.

19. The present Recommendation is not intended to affect any special regime adopted or maintained by an Adherent with respect to exchange of information received from a leniency or amnesty applicant or an applicant under specialised settlement procedures.

20. The transmitting Adherent should apply its own rules governing applicable privileges, including the privilege against self-incrimination and professional privileges, when transmitting the requested confidential information, and endeavour not to provide information deemed privileged in the receiving Adherent. The transmitting Adherent may consider working with the parties to identify privileged information in the receiving Adherent in appropriate cases.
Relevant provisions in MoUs:

(i) typical examples

**Canada-Korea (2006)**

VI. Existing laws and confidentiality of information

2. Notwithstanding any other provision in this Arrangement, no Participant is required to communicate information to the other Participant if such communication is prohibited by the laws of the Participant possessing the information or would be incompatible with the interests of that Participant in the application of its competition and consumer laws.

3. The degree to which one Participant communicates information to the other pursuant to this Arrangement may be subject to, and dependent upon, the acceptability of the assurances given by the other Participant 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 Participant. 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.

**France-Chinese Taipei (2014)**

Article 5 - Confidentiality

Each Party recognises the necessity to ensure confidentiality of all information communicated by the other Party in the framework of the Memorandum in accordance with their national legislations.

Each Party commits to complying with all applicable legal rules including, but not limited to, business confidentiality, professional secrecy and the protection of personal data.

**EU-India (2013)**

VI. Existing legislation and confidentiality of information

16. Neither Side will be required to communicate information to the other Side if communication of such information is prohibited by the legislation of the Side possessing this information or if it would be incompatible with the interests of that Side in its application of the competition law.

**Korea-US (2015)**

SECTION II Confidentiality

1. Notwithstanding any other provision of this Memorandum, the U.S. antitrust agencies and the KFTC commit not to communicate information to the other if such communication is prohibited by the laws governing the agency possessing the information or would be incompatible with that agency’s interest.

2. Insofar as information is communicated between competition authorities pursuant to this Memorandum, the recipient should, to the extent consistent with any applicable domestic laws, maintain the confidentiality of any such information communicated to it in confidence. Each competition agency should oppose, to the fullest extent possible consistent with applicable domestic laws, any application by a third party for disclosure of such information.
**Japan-Korea (2014)**

**Paragraph 11 Confidentiality**

11.1. Each Side will, in accordance with the laws and regulations of its country, maintain the confidentiality of any information provided to it in confidence by the other Side under this Memorandum.

11.2. Information, other than publicly available information, provided by a Side to the other Side under this Memorandum, will be used by the receiving Side only for the purpose of the effective enforcement of the competition law and will not be disclosed by the receiving Side to other authorities or to any third party.

11.3. Notwithstanding any other paragraphs of this Memorandum, neither Side is required to provide information to the other Side if it is prohibited from providing the information by the laws and regulations of its country or if it finds providing the information incompatible with its important interests.

11.4. Information, other than publicly available information, provided by a Side to the other Side under this Memorandum, will not be used by the receiving Side in criminal proceedings carried out by a court or a judge of the country of the receiving Side.

11.5. This paragraph will not preclude the use or disclosure of information provided under this Memorandum to the extent such use or disclosure is required by the laws and regulations of the country of the receiving Side. In such case, the receiving Side will, wherever possible, give advance notice of any such use or disclosure to the providing Side.

**(ii) confidentiality provisions in second generation MoUs**

**Australia-Canada-New Zealand-UK-US (2020)**

**Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities**

**Annexure A: Model Agreement**

**11. Confidentiality**

11.1. Each Party represents that the confidentiality of Investigative Information communicated and received under this Agreement is protected by its law and procedures, that its law and procedures are sufficient to securely maintain the confidentiality of Investigative Information provided under this Agreement, and that the Parties are themselves subject to the confidentiality restrictions imposed by their respective law and procedures.

11.2. Except as otherwise provided by this Section and Section 12, each Party shall, to the fullest extent possible and consistent with its law, maintain confidentiality of any Investigative Information communicated and received under this Agreement, including the fact that a request for Investigative Information has been communicated or received.

11.3. Each Party shall protect Investigative Information received under this Agreement from disclosure to the fullest extent possible under its law, as determined by the Party, except as outlined in Sub-section 11.4 and Sub-section 11.5.

11.4. This Agreement does not prevent disclosure of Investigative Information received under this Agreement:

a) to Persons that are subject to an enforcement proceeding brought by a Requesting Party if such disclosure is required by its law as determined by the Requesting Party;

b) to courts and tribunals in the course of a judicial or administrative proceeding; or

c) when the Requesting Party advises the Responding Party it is required to do so under its law.

11.5. Investigative Information received pursuant to this Agreement that has been disclosed by virtue of Sub-section 11.4 and that has been made public consistent with the terms of this Section may thereafter be used by the Requesting Party for any purpose consistent with its law.

11.6. The Requesting Party shall notify the Responding Party at least 14 calendar days in advance of any proposed disclosure under Sub-section 11.4, or, if such notice cannot be given because of a court or tribunal order, then as promptly as possible.
Australia-Japan (2015)

Paragraph [*10] Confidentiality of Information

10.1. Each competition authority will, in line with the laws and regulations of its country, maintain the confidentiality of any information communicated by the other competition authority that is not publicly available, and will protect such information against disclosure in response to a request by a third party, unless the competition authority providing the confidential information otherwise consents in writing.

10.2. Information, other than publicly available information, provided by a competition authority to the other competition authority under this Arrangement, will only be used by the receiving competition authority for the purpose of effective enforcement of its competition law, and will not be communicated by the receiving competition authority to other authorities or a third party except when the information is communicated in line with paragraph 4 of Article 15.8 of the Agreement.

10.3. Notwithstanding subparagraph 10.2, information shared pursuant to subparagraph 4.3 will, unless otherwise decided in writing, only be used by the receiving competition authority for its current or future enforcement activities with regard to:

(a) the conduct or transaction; and/or

(b) the goods or services of one or more of the enterprises,

which are, or were, the subject of the enforcement activities of the competition authority sharing the information, or other conduct or transaction and/or goods or services related thereto.

Australia-New Zealand on compulsorily-acquired information and investigative assistance (2013)

Protection and use of information

15. Where the NZCC provides the ACCC with compulsorily-acquired information in response to a request, the ACCC will:

15.1 use the information only in accordance with any conditions imposed by the NZCC under clause 12.2 of this Arrangement and in accordance with section 155AAA of the CCA;

15.2 keep the information secure in accordance with the ACCC’s standard evidence handling procedures, and in accordance with any conditions imposed by the NZCC under clause 12.2 of this Arrangement; and

15.3 protect to the fullest extent possible confidential information provided in accordance with this Arrangement, including in response to requests made by third parties under the Freedom of Information Act 1982.

16. Where the NZCC provides any information or communication which is protected by privilege under New Zealand law:

16.1 the NZCC is not to be regarded as having waived that privilege; and

16.2 the ACCC will treat that information or communication as being subject to the analogous privilege under Australian law.

Commencement, amendment and termination

18. All understandings created under the section entitled “Protection and use of information” will remain in effect despite any termination of this Arrangement.
Most MoUs are not legally binding and therefore do not create any legally enforceable right or duty.

Regardless of this, approximately half of the reviewed MoUs have provisions on existing law, stating for example that (1) a competition authority need not take any action that is inconsistent with the laws and regulations in each jurisdiction, and (2) no change in the laws of the parties will be required as a result of the application of the agreement.
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

IV. RECOMMENDS that an Adherent that considers that one or more enterprises or individuals situated in one or more other Adherents are or have been engaged in anticompetitive practices or mergers with anticompetitive effects that substantially and adversely affect its important interests, may request consultations with such other Adherent or Adherents.

   1. Entering into such consultations is without prejudice to any action under the competition law and to the full freedom of ultimate decision of the Adherents concerned.

VI. RECOMMENDS that where two or more Adherents investigate or proceed against the same or related anticompetitive practice or merger with anticompetitive effects, they should endeavour to co-ordinate their investigations or proceedings where their competition authorities agree that it would be in their interest to do so.

To this end, co-ordination between Adherents:

   2. should not affect Adherents’ right to make decisions independently, based on their own investigation or proceeding.

Relevant provisions in MoUs:

Canada-Colombia (2017)

Existing laws and confidentiality of information

   12. Nothing in this MOU 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 Republic of Colombia.

US-Korea (Korean Prosecution Service) (2020)

SECTION IV GENERAL PROVISIONS

   2. This Memorandum is intended to set forth a framework for cooperation. DOJ and KPS reserve their full discretion in implementing this Memorandum, and nothing in it is intended to change existing laws, agreements, or treaties, or to create rights or obligations under international law or the domestic laws of the United States of America or the Republic of Korea.

Australia-Japan (2015)

Paragraph [*11] Miscellaneous

   11.3. All cooperation under this Arrangement between the competition authorities will be conducted subject to laws and regulations in force in their respective countries and within the reasonably available resources of each competition authority.
Brazil-Canada (2008)

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.

Korea-Mexico (2004)

Paragraph XI Existing Laws

Nothing in this Arrangement will require an Agency to take any action, or to refrain from acting, in a manner that is inconsistent with the existing laws, or require any change in the country’s laws.

Chile-US (2011)

Article VIII Existing laws

Nothing in this Agreement shall require a competition authority to take any action, or to refrain from acting, in a manner that is inconsistent with the existing laws, or require any change in the laws it enforces.

EU-India (2013)

VI. Existing legislation and confidentiality of information

15. Nothing in the present Memorandum of Understanding will require any Side to take any actions or to refrain from acting in a manner inconsistent with the existing legislation of the Sides or will require any change to that legislation.
Many MoUs have provisions on informal communication between the parties. They often stipulate that communication may be carried out via telephone, email, video conference or other methods as appropriate, thereby enabling agencies to communicate in a timely and flexible manner.

MoUs often require designating a contact point/liaison/communications officer for each party for the purpose of facilitating effective communication.
Relevant provisions in the 2014 OECD Recommendation on International Co-operation

**Notifications of Competition Investigations or Proceedings**

V. RECOMMENDS that an Adherent should ordinarily notify another Adherent when its investigation or proceeding can be expected to affect the other Adherent’s important interests.

2. The notification should be made by the competition authority of the investigating Adherent through the channels requested by each Adherent as indicated in a list to be established and periodically updated by the Competition Committee; to the extent possible, Adherents should favour notifications directly to competition authorities. Notifications should be in writing, using any effective and appropriate means of communication, including e-mail. To the extent possible without prejudicing an investigation or proceeding, the notification should be made when it becomes evident that another Adherent’s important interests are likely to be affected, and with sufficient detail so as to permit an initial evaluation by the notified Adherent of the likelihood of effects on its important interests.

Relevant provisions in MoUs:

**Japan-China (2019)**

**III. COMMUNICATION**

3. The Sides will appoint the following liaisons for the purpose of facilitating cooperation based on this Memorandum, and will effectively operate sufficient interchanges and cooperation between the liaisons.

- JFTC: International Affairs Division, Secretariat, General Secretariat
- SAMR: Competition Policy and International Cooperation Division, Anti-Monopoly Bureau

4. Communication between the Sides may be carried out by telephone, electronic mail, videoconference, meeting or other means, as appropriate.

**Chile-US (2011)**

**Article IX Communications under this agreement**

Communications under this Agreement may be carried out by direct communication between the competition authorities of each country.

**EU-India (2013)**

**VII. Communications under the present memorandum of understanding**

17. Each Side will designate a contact point to which the information necessary for the effective execution of the present Memorandum of Understanding will be communicated.
Australia-New Zealand-Chinese Taipei (2002)

Paragraph VII Communications under this arrangement

Communications under this Arrangement may be carried out by direct oral, telephonic, facsimile or e-mail communication among the Participants.

Canada-India (2014)

Communications

6. The Participants will communicate directly with each other under this MOU through a designated contact point that each Participant will notify in writing to the other.

7. The Participants may carry out their communications by telephone, electronic mail, video conference, or in person, as appropriate. The Participants understand that the working language will be English.
MISCELLANEOUS PROVISIONS

The OECD has put together an inventory of provisions of international co-operation MoUs (Memoranda of Understanding) between competition agencies. This document includes a selection of miscellaneous provisions.

The full inventory, the OECD Recommendation and relevant OECD work can be found online at [www.oecd.org/competition/inventory-competition-agency-mous.htm](http://www.oecd.org/competition/inventory-competition-agency-mous.htm).

There are several miscellaneous provisions found in MoUs, such as provisions on the non-binding nature of MoUs, duration and termination of MoUs, provisions on survival of certain articles in MoUs, provisions on ‘entire agreement’ and ‘succession’.

(i) provisions on the non-binding nature of MoUs

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canada-Colombia</td>
<td>2017</td>
</tr>
</tbody>
</table>

**Legal status**

16. This MOU is not legally binding.

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia-Japan</td>
<td>2015</td>
</tr>
</tbody>
</table>

**Paragraph [*11] Miscellaneous**

11.2. Nothing in this Arrangement is intended to create legally binding rights or obligations on the competition authorities or their respective governments.
Canada-Korea (2006)

VIII. Final provisions

3. This Arrangement is not intended to be legally binding at international law.

Czech-Russia (2007)

6. The present Memorandum shall not be considered as an international treaty and does not establish any rights or obligations for the Parties, which are regulated by international law.

Indonesia-Korea (2013)

Article 10 Non-binding Effect

This Arrangement, signed for the purpose of reinforced cooperation of the Parties, will not incur any legally binding or obligations nor be interpreted to have any influence over each Party’s rights or obligations pursuant to international agreements and domestic law.

(ii) provisions on dispute resolution

Korea-China (SAMR) (2019)

Paragraph 7

Wherever possible, the Participants will settle amicably any discrepancies or disputes arising from the cooperation under this Memorandum to the maximum extent possible.

Australia-Korea (2002)

Paragraph 10 Settlement of dispute

Where there are any instances where the other’s interests may be impinged, urgent and immediate consultation should take place.

Australia-China (SAIC) (2012)

Article 7 Resolution of Disputes

The Participants will resolve any discrepancies or disputes arising out of the interpretation or application of this Memorandum through consultations.
### Indonesia-Korea (2013)

**Article 9 Resolution of Disputes**

Wherever possible, the Parties will amicably settle any discrepancies or disputes arising from the cooperation under this Arrangement to the maximum extent possible.

### (iii) provisions on commencement, duration, renewal, and termination of MoUs

<table>
<thead>
<tr>
<th>Country Pair</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Canada-Chile (2001)</strong></td>
<td>VII. Entry into force and termination</td>
</tr>
<tr>
<td></td>
<td>1. This Memorandum shall enter into force upon signature of the Parties.</td>
</tr>
<tr>
<td></td>
<td>2. This Memorandum will remain in force until 60 days after the date on which either Party notifies the other in writing that it wishes to terminate, or until the time of the entry into force of an agreement between Canada and Chile regarding the application of their competition laws.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Australia-Japan (2015)</strong></th>
<th>Paragraph [*12] Commencement, Review, Modification and Termination</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.1. The cooperation under this Arrangement will commence on the date of signature.</td>
<td></td>
</tr>
<tr>
<td>12.2. Either competition authority may terminate the cooperation under this Arrangement with 30 days’ written notice to the other competition authority.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Colombia-US (2014)</strong></th>
<th>Article X Entry into force and termination</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. This Agreement shall enter into force upon signature.</td>
<td></td>
</tr>
<tr>
<td>2. This Agreement shall remain in force for an indefinite period of time, unless one Party notifies the other Party in writing that it wishes to terminate the Agreement. In that case, the Agreement shall terminate 60 days after such written notice is given.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>France-Chinese Taipei (2014)</strong></th>
<th>Article 6- Final provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Memorandum shall enter into force upon the date of the signature for a period of one year and will be tacitly renewed for consecutive one-year periods thereafter.</td>
<td></td>
</tr>
<tr>
<td>The Memorandum is subject to termination by either Party upon one-month prior written notification.</td>
<td></td>
</tr>
</tbody>
</table>
China (NDRC)-Japan (2015)

VII. Others

1. The cooperation under this Memorandum will commence on the date of signature and will continue for an initial term of two years. If both Sides decide it is of continued benefit it can be extended for a period of time with mutual consent of the Sides.

2. Either Side may terminate the cooperation under this Memorandum upon thirty (30) days written notice to the other Side.

(iv) provisions on ‘survival’ and similar provisions in case of termination

Canada-New Zealand (2016)

Commencement, amendment and termination

18. All understandings created under the section entitled “Protection and use of information” will remain in effect despite any termination of this Arrangement.

Australia-New Zealand (2007)

11.0 Entry into force and termination

11.4 Confidential information will continue to be protected, as outlined in clauses 4.1-4.5, notwithstanding the termination of this Agreement.

France-Chinese Taipei (2014)

Article 6- Final provisions

Obligations of the Parties regarding the confidentiality of information received in the framework of the Memorandum shall continue to be binding after its termination.

Korea-Turkey (2005)

9. Such termination will not affect any cooperative programs and projects under this Memorandum of Understanding that are in progress and not yet completed at the time of termination.

Mongolia-Chinese Taipei (2007)

Article 6 Modification and Termination of the MOU

2. Either Party may terminate this Memorandum of Understanding by giving six months’ prior written notice to the other Party. However, the termination of this Memorandum of Understanding will not affect the development and conclusion of ongoing cooperative activities.
EU-India (2013)

VIII. Final provisions

20. Termination of the present Memorandum of Understanding is not intended to affect the implementation of projects that are already in process under the present Memorandum of Understanding.

(v) provisions on ‘entire agreement’ in cases where there is a previous bilateral arrangement between the parties

Australia-New Zealand (2007)

11.0 Entry into force and termination

11.1 This Agreement will come into effect on the date of signature and will replace the Co-operation and Co-ordination Agreement between the Australian Trade Practices Commission and the New Zealand Commerce Commission dated July 1994.

France-Chinese Taipei (2014)

Article 6 – Final Provisions

The Memorandum is to replace and supersede the “Cooperation Arrangement between the Taiwanese Fair Trade Commission and the French Competition Council Regarding the Application of their Competition Rules” (“the Arrangement”) signed on 5 January 2004. Accordingly, the Arrangement will be terminated on the date that the Memorandum comes into effect.

(vi) provisions on ‘succession’

Canada-Hong Kong, China (2016)

29. Unless otherwise terminated, this MOU will apply to any successor of either Participant.

(vii) provisions on amendment and review of MoUs

Australia-New Zealand (2007)

12.0 Review of agreement

12.1. Officials of the Parties shall review the terms and operation of the Agreement from time to time as agreed by the Parties.
12.2. This Agreement may be amended by a written arrangement of the Parties.

Australia-Japan (2015)

Paragraph [*12] Commencement, Review, Modification and Termination

12.3. This Arrangement may be modified by the mutual written consent of the competition authorities.
12.4. The competition authorities will review the operation of the cooperation under this Arrangement from time to time, as consented to by the competition authorities.
France-China (Taipei) (2014)

**Article 6 Final Provisions**

Any amendment to the Memorandum shall be made by mutual agreement of the Parties in the written form, executed as a protocol and signed by both Parties.

Japan-Korea (2014)

**Paragraph 13 Commencement, Termination and Modification**

13.3 This Memorandum may be modified with mutual written consent of the Sides.

China (NDRC and SAIC)-EU (2012)

**Final provisions**

The Sides will review the operation of this Memorandum of Understanding not more than three years from the date of signature.

**(viii) provisions on co-operation and agencies’ discretion**

Russia-US (2009)

The U.S. antitrust agencies and FAS Russia reserve their full discretion in implementing the Memorandum.

Brazil-EU (2009)

**VII. Final provisions**

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

**(ix) provisions on costs associated with MoUs**

Japan-China (SAMR) (2019)

**IX, Others**

5. For meetings and visits, the host Side will provide venues and bear the relevant expenses, including those of the interpreters. The visiting Side will be responsible for its expenses incurred for international travel, local transportation, accommodation, meal and subsistence costs. Costs for telephone/video conferences will be borne by the Side incurring such costs. All commitments made in this Memorandum are subject to the availability of funds and each Participant’s budget priorities. This Memorandum is not meant to oblige the expenditure of funds.
Australia-Canada-New Zealand-UK-US (2020)

Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities
Annexure A: Model Agreement

8. Costs

8.1. The Parties shall mutually decide on a case-by-case basis who will pay the costs associated with executing a request, including costs associated with staff time and any disbursements.

8.2. If during the execution of a request it becomes apparent that expenses of an amount substantially more than anticipated in Sub-section 8.1 above are required to fulfil the request, the Parties shall consult to determine the terms and conditions under which the request may be executed.

8.3. The Parties shall decide on practical measures on a case-by-case basis for the management and payment of costs in conformity with this Section.

Australia-China (SAIC) (2012)

Article 4 Resources

All commitments made in this Memorandum are subject to the availability of funds and each Participant’s budget priorities. This Memorandum is not meant to oblige the expenditure of funds.

Austria-Russia (2011)

Article 9. Financial conditions

All the expenses related to travel, accommodation and meals of the Parties’ representatives in the territory of the receiving Party’s state within the frameworks of their participation in different events and meetings shall be covered by the sending Party.

Hungary-Chinese Taipei (2007)

Article 10 Concluding provisions

1. Unless special funds are dedicated to it or otherwise are agreed by the Parties, the co-operation under this Agreement shall be financed by the requesting Party.

Brazil-Japan (2014)

Paragraph 11 Miscellaneous

11.4. This Memorandum does not require any kind of transfer of financial resources between the competition authorities.
Canada-China (MOFCOM) (2015)

Article 5 Cooperation resources

This MOU does not oblige the Participants to commit resources in terms of funds, time, staff or other administrative resources.

For meetings and visits, the host Participant will provide venues and bear the relevant expenses. The visiting Participants will be responsible for its expenses incurred for international travel, local transportation, accommodation and meal and subsistence costs. Costs for telephone/video conferences will be borne by the Participant incurring such costs.

Wherever possible, visit requests from Participants’ regional or local offices will be channeled through each Participant to ensure coordination.

(x) provisions on future possible multilateral co-operation

Canada-UK (2003)

VIII. Final provisions

2. On entry into operation, this Arrangement will be open to the participation of other competition or consumer protection authorities, in addition to the Participants. Such Participation shall be based on agreement between the Participants and the new participant.

Australia-New Zealand-Chinese Taipei (2002)

Paragraph X Entry into effect, termination and other participants

5. Other competition authorities may join this Arrangement on terms to be decided between it and the Participants to the Arrangement at the time of the application to join. The Participants may develop, as they consider appropriate, procedures to deal with such new Participants.

(xi) provisions on relationship with other MoUs and co-operation with other competition authorities

Australia-Japan (2015)

Paragraph [*11] Miscellaneous

11.4. Nothing in this Arrangement will prevent a competition authority from seeking assistance from or providing assistance to the other competition authority pursuant to other agreements, treaties, arrangements, or legislation.