

Competition co-operation and enforcement

INVENTORY OF CO-OPERATION AGREEMENTS



PROVISIONS ON TRANSPARENCY

This document contains the text of the provisions on transparency taken from the 2021 Inventory of Co-operation Agreements prepared by the OECD Competition Committee. This document includes:

- A short description of the provision which clarifies similarities and differences between agreements, as well as any innovative or unique features in a particular agreement.
- Relevant language from the 2014 OECD Recommendation concerning International Co-operation on Competition Investigations and Proceedings.
- A list of the relevant provisions in co-operation agreements. The agreements are listed in reverse chronological order, so that readers can see if wording has changed between agreements.

The full inventory, the OECD Recommendation and accompanying documents can be found online at www.oecd.org/competition/inventory-competition-agreements.htm.

Differences in legal standards and in 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 their 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 of the agreements covered in the inventory include transparency provisions which require the parties to inform each other of changes in their national enforcement system. The scope of the changes that may require notice depends on the agreements.

Relevant provisions in the 2014 OECD Recommendation on international co-operation

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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; and

Relevant provisions in co-operation agreements

Nordic Co-operation Agreement (2017)

Article 6 Formal requirements

The Parties shall inform each other in writing about changes in their competition acts or other legislation adopted after the conclusion of this agreement, which may affect the agreement.

EU-Switzerland (2013)

Article 11 Consultations

2. The Parties shall as soon as possible inform each other of any amendment to their competition laws, as well as of any amendment to other laws and regulations and of any change in the enforcement practice of their competition authorities that may affect the operation of this Agreement. Upon request of either Party, the Parties shall hold consultations in order to assess the specific implications of such amendment or change for this Agreement, and in particular to determine whether this Agreement should be amended pursuant to paragraph 2 of Article 14.

Canada-Japan (2005)

Article I

3. The competition authority of each Party shall give prompt notice to the competition authority of the other Party of any amendment to the competition law of its country excluding amendments to the implementing regulations which do not pertain to or affect the implementation or operation of this Agreement.

Nordic Co-operation Agreement (2001)

Article V Formal requirements and the like

The parties shall inform one another in writing concerning the amendments that are made after the conclusion of this Agreement to their competition legislation or other legislation that may be relevant to the Agreement.

Canada-Mexico (2001)

Article I Purpose and definitions

3. Any reference in this Agreement to a specific provision in either Party's competition law shall be interpreted as referring to that provision as amended from time to time and to any successor provision thereof. Each Party shall promptly notify the other of any amendments to its competition laws.

Mexico-US (2000)

Article I Purpose and Definitions

3. Any reference in this Agreement to a specific provision in either Party's competition law shall be interpreted as referring to that provision as amended from time to time and to any successor provision thereof. Each Party shall promptly notify the other of any amendments to its competition laws.

Japan-US (1999)

Article II

10.

(a) The competition authority of each Party shall promptly notify the competition authority of the other Party of any amendment to the competition laws of its country.

(b) The competition authority of each Party shall provide the competition authority of the other Party with copies of its publicly-released guidelines, regulations or policy statements that it issues in relation to the competition laws of its country.

(c) The competition authority of each Party shall provide the competition authority of the other Party with copies of its proposed guidelines, regulations or policy statements in relation to the competition laws of its country that are made generally available to the public, and, when it provides the general public with opportunities to submit comments on such guidelines, regulations or policy statements, receive and pay due consideration to the comments submitted by the other Party prior to finalizing such guidelines, regulations or policy statements.

Brazil-US (1999)

Article I Purpose and Definitions

3. Each Party shall promptly notify the other of any amendments to its competition laws and of such other new laws or regulations that the Party considers to be part of its competition legislation.

Israel-US (1999)

Article I Purpose and Definitions

3. Any reference in this Agreement to a specific provision in either Party's competition law shall be interpreted as referring to that provision as amended from time to time and to any successor provision thereof. Each Party shall promptly notify the other of any amendments to its competition laws.

Canada-US (1995)

Article I Purpose and definitions

3. Any reference in this Agreement to a specific provision in either Party's competition law shall be interpreted as referring to that provision as amended from time to time and to any successor provision thereof. Each Party shall promptly notify the other of any amendments to its competition laws.