

Competition co-operation and enforcement

INVENTORY OF CO-OPERATION AGREEMENTS



PROVISIONS ON EXISTING LAW

This document contains the text of the provisions on existing law 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.

Most of the agreements reviewed have provisions on the relationship between the agreement and existing law. Most of those provisions confirm that the agreement does not require:

- Any action inconsistent with the laws and regulations in each jurisdiction; and
- Any change in the laws of the parties.

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 co-operation agreements

EU-Switzerland (2013)

Article 13 Existing Law

Nothing in this Agreement shall be construed to prejudice the formulation or enforcement of the competition laws of either Party.

EU-Korea (2009)

Article 10 Existing law

1. This Agreement shall be implemented within the respective laws and regulations of the Parties.

2. Nothing in this Agreement shall be construed to prejudice the policy or legal jurisdiction of either party regarding any issues related to jurisdiction.

3. Nothing in this Agreement shall be construed to affect the rights or obligations of either Party under other international agreements or under the laws of the Republic of Korea and the European Community.

Canada-Japan (2005)

Article X

1. This Agreement shall be implemented by the Parties in accordance with the laws and regulations in force in each country and within the available resources of their respective competition authorities.

2. Detailed arrangements relating to the implementation or operation of this Agreement may be made between the competition authorities of the Parties.

3. Nothing in this Agreement shall be construed to affect the rights and obligations of either Party under its laws or under other international agreements.

4. Nothing in this Agreement shall prevent the Parties from seeking or providing assistance to one another pursuant to other bilateral or multilateral agreements or arrangements between the Parties.

5. Nothing in this Agreement shall be construed to prejudice the policy or legal position of either Party regarding any issue related to jurisdiction.

EU-Japan (2003)

Article 10

1. This Agreement shall be implemented by the Parties in accordance with the laws and regulations in force in the European Community and Japan respectively and within the available resources of their respective competition authorities.

2. Detailed arrangements to implement this Agreement may be made between the competition authorities of the Parties.

3. Nothing in this Agreement shall prevent the Parties from seeking or providing assistance to one another pursuant to other bilateral or multilateral agreements or arrangements between the Parties.

4. Nothing in this Agreement shall be construed to prejudice the policy or legal position of either Party regarding any issue related to jurisdiction.

5. Nothing in this Agreement shall be construed to affect the rights and obligations of either Party under other international agreements or under the laws of the European Community or Japan.

Canada-Mexico (2001)

Article XI Existing laws

Nothing in this Agreement shall require a Party to take any action, or to refrain from acting, in a manner that is inconsistent with its existing laws, or require any change in the laws of the Parties or of their respective provinces or states.

Mexico-US (2000)

Article XI Existing Laws

Nothing in this Agreement shall require a Party to take any action, or to refrain from acting, in a manner that is inconsistent with its existing laws, or require any change in the laws of the Parties or of their respective States.

Japan-US (1999)

Article XI

1. This Agreement shall be implemented by the Parties in accordance with the laws and regulations in force in each country and within the available resources of their respective competition authorities.

2. Detailed arrangements to implement this Agreement may be made between the competition authorities of the Parties.

3. Nothing in this Agreement shall prevent the Parties from seeking or providing assistance to one another pursuant to other bilateral or multilateral agreements or arrangements between the Parties.

4. Nothing in this Agreement shall be construed to prejudice the policy or legal position of either Party regarding any issue related to jurisdiction.

5. Nothing in this Agreement shall be construed to affect the rights and obligations of either Party under other international agreements or under its laws.

Brazil-US (1999)

Article X Existing Laws

Nothing in this Agreement shall require a Party to take any action, or to refrain from acting, in a manner that is inconsistent with its existing laws, or require any change in the laws of the Parties or of their respective states.

Canada-EU (1999)

XI. Existing law

Nothing in this Agreement shall require a Party to take any action that is inconsistent with its existing laws, or require any change in the laws of the Parties or of their respective provinces or Member States.

Israel-US (1999)

Article X EXISTING LAWS

Nothing in this Agreement shall require a Party to take any action or to refrain from any action, if to do so would be inconsistent with its existing laws, or require any change in the laws of the Parties or, in the case of the United States, of its states.

Canada-US (1995)

ARTICLE XI Existing laws

Nothing in this Agreement shall require a Party to take any action, or to refrain from acting, in a manner that is inconsistent with its existing laws, or require any change in the laws of the Parties or of their respective provinces or states.

EU-US (1991)

Article IX EXISTING LAW

Nothing in this Agreement shall be interpreted in a manner inconsistent with the existing laws, or as requiring any change in the laws, of the United States of America or the European Communities or of their respective states or member states.