

Competition co-operation and enforcement

INVENTORY OF CO-OPERATION AGREEMENTS



OTHER REGIONAL CO OPERATION NETWORKS

This document contains the description of the mechanism for the exchange of information and investigative assistance among competition authorities of the Nordic countries (2017) and the the South-East European Cooperation Process (SEEC) (2010) as a part of other regional co-operation networks taken from the 2021 Inventory of Co-operation Agreements prepared by the OECD Competition Committee.

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

There are several other enforcement co-operation networks in the world. Competition authorities from Nordic countries have formed the Nordic Alliance and some of the participating countries concluded the Nordic Co-operation Agreement (2001), which allows for the exchange of confidential information between the competition authorities of the participating jurisdictions. The structure of the agreement is similar to other bilateral co-operation agreements concluded at the government level and its provisions were discussed in the previous sections. Inspired by the Recommendation of the OECD Council concerning International Co-operation on Competition Investigations and Proceedings of 16 September 2014, the Nordic Co-operation Agreement was renegotiated in order to enable wider forms of co-operation. A new co-operation agreement was signed in 2017 and, by July 2020, all five Nordic countries (Denmark, Finland, Iceland, Norway, and Sweden) had acceded to the agreement.

In addition to that, the competition authorities of the participating countries of the South-East European Cooperation Process (SEEC) concluded the memorandum on “the Mechanism of the Exchange of Information among Competition Authorities of SEEC” on 25 May 2010. It gives each party the right to send a request for information concerning competition law and policy and the requested information will be provided in three months after the request. However, the requested party may refuse the request on the grounds of confidentiality of the requested information.

Box 1. The 2017 Nordic Agreement

This agreement between the five Nordic countries, of which only three (Denmark, Finland and Sweden) are EU member countries, addresses perceived shortcomings of the previous 2001 agreement and extends co-operation beyond information exchanges to investigative assistance. Both information exchange and investigative assistance apply to antitrust and merger cases, and to purely national cases, setting the 2017 Agreement apart from the more restrictive rules governing the European Competition Network (ECN). Pursuant to Articles 3 and 5 of the 2017 agreement (see below), information exchange includes the exchange of confidential information, and investigative assistance allows for carrying out inspections on behalf of and with staff support by the requesting jurisdiction.

ARTICLE 3 Exchange of information

For the purpose of applying competition rules and merger control rules the competition authorities of the Parties shall have the power to provide one another with and use in evidence any matter of fact or of law, including confidential information.

Information exchanged shall only be used in evidence and in respect of the subject matter for which it was collected by the transmitting authority.

ARTICLE 5 Inspections

The competition authority of a Party may in its own territory carry out any inspection or other fact-finding measure under its national law on behalf of and for the account of the competition authority of another Party in order to establish whether there has been an infringement of competition rules governed by the requesting Party. Any exchange or use of the information collected shall be carried out in accordance with Article 3.

The officials of the competition authority who are responsible for conducting the inspection as well as those authorized or appointed by them shall exercise their powers in accordance with their national law.

If so requested by the competition authority in whose territory the inspection is to be conducted, officials and other accompanying persons authorized by the competition authority requesting the inspection may assist the officials of the authority concerned.

Box 2. The mechanism for the exchange of information among Competition Authorities of the SEECP (2010)

1. In the course of consideration of actions affecting competition, each Party shall have the right to send a request for information concerning competition law and policy to the other Parties.

2. The requesting Party shall state the purpose of its request and/or the basic circumstances of the case.

3. The requested information shall be provided not later than three months after receipt of the request.

4. Information received as a result of application of this document shall not be disclosed unless the Parties agree otherwise.

5. The Parties may refuse to provide the information within the framework of this document on the grounds of their state's interests concerning the safeguarding of commercial and other secrets according to national law, or on the grounds of confidentiality of the requested information.

6. The transfer of information shall be made in English language by mail/e-mail through designated general contact points or on the occasion of Parties' representative meetings.

7. This document shall not infringe or otherwise affect the rights and obligations of the Parties related to other international agreements which they are signatories to.

8. The Parties commit themselves to intensify and deepen the cooperation in the field of competition.