

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

INTRODUCTION

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 (hereinafter jointly referred to as the "Parties" and separately as a "Party");

CONSIDERING their close economic relations;

EXPRESSING the wish to develop and strengthen cooperation in the field of competition law and policy;

RECOGNIZING the need to promote long-term sustainable and rapid development of their respective economies;

BASED on the principles of mutual trust and respect;

NOTING that the firm and effective enforcement of their competition laws are of crucial importance for growth and efficiency in the economy and the protection of consumers;

FURTHER RECOGNIZING that cooperation between the Parties will contribute to improve and strengthen their effectiveness; and

ADDRESSING the assurance of the Parties to give careful consideration to important mutual interests in the application of their competition laws and policies

HAVE REACHED AN UNDERSTANDING as follows:

Purpose and Definition

1.1. The purpose of this Memorandum of Understanding is to set up an institutional partnership between the Parties through a general framework for multilateral cooperation. The activities contemplated under this Memorandum of Understanding aim at promoting and strengthening the cooperation in competition law and policy of the Parties through exchanges of information and best practices, as well as through capacity-building activities.

1.2. The term 'Competition Authorities' means:

1.2.1. For the Federative Republic of Brazil: the Administrative Council for Economic Defense of the Federative Republic of Brazil (CADE)

1.2.2. For the Russian Federation: the Federal Antimonopoly Service (Russian Federation) (FAS Russia)

1.2.3. For the Republic of India: the Competition Commission of India (CCI)

1.2.4. For the People's Republic of China: the National Development and Reform Commission of the People's Republic of China (NDRC), the Ministry of Commerce of the People's Republic of China (MOFCOM), the State Administration for Industry and Commerce of the People's Republic of China (SAIC)

1.2.5. For the Republic of South Africa: the Competition Commission of South Africa (CCSA)

2. Scope of Cooperation

2.1 Subject to available resources, the Parties will cooperate by:

2.1.1 exchanging policies, laws, rules, as well as the progress of legislation and enforcement in the competition field;

2.1.2 organizing joint studies for the purpose of providing common knowledge on competition issues;

2.1.3 promoting the participation in international conferences, seminars and other relevant events on competition issues organized by the Parties, in particular the BRICS International Competition Conference held once every two years;

2.1.4 cooperating and coordinating with each other if necessary and under reasonable circumstances, subject to their respective laws, in investigations or enforcement proceedings pertaining to violation of competition laws; and

2.1.5 any other means as may be agreed upon in writing by the Parties.

2.2 All communication pursuant to this Memorandum of Understanding will be in writing in the English language and shall be transmitted via e-mail.

2.3 All cooperation pursuant to this Memorandum of Understanding will be subject to the domestic law in force in the territories of the Parties.

2.4 The Parties will notify each other promptly of any changes or amendments to their respective legislation as set out in Annexure A hereto.

3. Liaison Committee

3.1 The Parties will establish a Liaison Committee in order to ensure adequate communications and consultations among the Parties.

3.2

The Liaison Committee will consist of one representative of each Party, with the understanding that one representative respectively from the competition authorities of The People's Republic of China will be involved.

3.3 The name and full contact details of each Party's representative to the Liaison Committee will be circulated to all the Parties.

4. Working Groups

4.1 The Parties may establish working groups to conduct joint studies on matters of common interest.

4.2 A Party may propose, through the Liaison Committee, the establishment of working groups. Each Party may make its own decision whether or not to participate in a working group regard being had to its needs, available resources and any other relevant consideration.

5. Costs

Each Party will carry its own costs that may result from the implementation of this Memorandum of Understanding.

6. Confidentiality

6.1 A Party will not be required to communicate information to any of the other Parties if the communication of such information is prohibited by the domestic law of the Party possessing the information or if such communication would be incompatible with the interests of that Party.

- 6.2 Insofar as confidential information is communicated to a Party, the recipient Party will maintain the confidentiality of any such information communicated to it in confidence.
- 6.3 Nothing contained in this Memorandum of Understanding will require any Party to take any action or to refrain from taking any action, in a manner inconsistent with its domestic laws, nor will it require any change in such laws.
- 6.4 The MoU does not restrict the rights of the parties to enter into bilateral and other multilateral MoU's on cooperation in the field of Competition Law and Policy.

7. Settlement of Disputes

Any dispute between the Parties arising out of the interpretation, application or implementation of this Memorandum of Understanding shall be settled amicably through consultation or negotiation between the Parties.

8. Entry into Effect, Amendment, Duration and Termination

- 8.1 This Memorandum of Understanding will come into effect on the date of its signing and shall remain in effect for a period of four (4) years, with the option to renew or extend it further, in such manner and for such periods as agreed by the parties in writing.
- 8.2 The parties may amend this MOU at any time by mutual written consent.
- 8.3 A Party may terminate its involvement in this Memorandum of Understanding by giving two (2) months written notice in advance to the other Parties, through its representative on the Liaison Committee, of its intention to terminate its involvement in this Memorandum of Understanding.

8.4 This Memorandum of Understanding 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.

IN WITNESS WHEREOF the Parties, have signed and sealed this Memorandum of Understanding in seven originals in English.

SIGNED at Saint-Petersburg (Russian Federation) on the 19th of May 2016.

FOR COMPETITON AUTHORITY OF THE FEDERATIVE REPUBLIC OF BRAZIL

FOR COMPETITON AUTHORITY OF THE RUSSIAN FEDERATION

FOR THE COMPETITON AUTHORITY OF THE REPUBLIC OF INDIA

**FOR THE COMPETITION AUTHORITIES OF THE PEOPLE'S REPUBLIC OF CHINA
(NDRC, MOFCOM and SAIC)**

FOR THE COMPETITON AUTHORITY OF THE REPUBLIC OF SOUTH AFRICA

ANNEXURE – Competition legislation of BRICS member states

Country	Legislation
Brazil	Competition Act – Law No. 12.529/2011
Russia	[PDF]Federal Law No. 135-FZ of 26 July 2006 “On Protection of Competition” (amended 2009).
India	The Competition Act of 2002, 12 of 2003
China	The Law of the People's Republic of China against Unfair Competition (Entering into force on December 1, 1993), the Anti-Monopoly Law of the People’s Republic of China (Entering into force on August 1, 2008)
South Africa	Competition Act No. 89 of 1998 as amended