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Directorate for Financial and Enterprise Affairs  
**COMPETITION COMMITTEE**

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**Annual Report on Competition Policy Developments in Brazil**

**--2020--**

This report is submitted by Brazil to the Competition Committee FOR INFORMATION.

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## *Brazil<sup>1</sup>*

### 1. Introduction

1. The year 2020 brought about enormous challenges. CADE worked to adapt itself to the situation caused by the pandemic and mitigate its effects, seeking to promote a healthy competitive environment and aid Brazil's economic recovery by providing prompt, reasonable and assertive responses to the market and society. CADE promptly established internal procedures to secure the health of its employees whilst maintaining the provision of services.
2. Despite the unexpected adversities caused by the pandemic, the number of mergers reported to and reviewed by CADE increased. The agency maintained the effectiveness of its merger review process, reviewing 454 mergers within an average term of 29.5 days. It is worth mentioning that CADE reviewed about 96% of all transactions within an average of 17.5 days through summary proceedings.
3. Additionally, CADE dealt with issues related to collaboration amongst competitors and remained vigilant about potential antitrust violations.
4. Concerning the suppression of antitrust violations, CADE reviewed and adjudicated several important cases, notably involving cartels in government procurements and agreements related to Operation Car Wash.
5. As to competition advocacy, CADE made remarkable progress by creating a new unit for market analysis and competition advocacy within its Department of Economic Studies. The new department intends to strengthen and institutionalise the competition advocacy efforts of the agency, promoting competitiveness amongst government bodies and society. Moreover, CADE played a significant role in the discussions on bills involving adopting measures that the authority understands as counterproductive to competition.
6. Despite the unprecedented calamity, in comparison to 2019, CADE achieved better outcomes in 2020.

### 2. Changes to competition law and policy

#### 2.1. Summary of new provisions on competition law and related legislation

##### *2.1.1. CADE Resolution 26/2020*

7. In April 2020, CADE enacted Resolution 26/2020<sup>2</sup>, which amended the Statutes of CADE to make provisions for virtual hearings. According to the resolution, virtual hearings are feasible in case of unforeseeable circumstances that impede in-person hearings.

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<sup>1</sup> Submitted in May 2022 by the Administrative Council for Economic Defense (CADE) and the Secretariat of Competition Advocacy and Competitiveness (SEAE) to the OECD Competition Committee.

<sup>2</sup> CADE, *Resolução nº 26, de 1º de abril de 2020*. Available at: <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/normas-e-legislacao/resolucoes/Resolu%C3%A7%C3%A3o%20n%C2%BA%2026-2020.pdf>

8. The measure resulted from the exceptionalities arising from the COVID-19 pandemic, considering the importance of adapting work routines to the recommendations made by public health authorities to keep the regular functioning of the agency.

9. The virtual hearings are public available and broadcasted in real time on CADE's website and YouTube channel. The electronic format of hearings provided by CADE follows internal data security requirements and ensures transparency, publicity and broad participation of interested parties.

## 2.2. Other relevant measures – including new guidelines

### 2.2.1. Informative note on the collaboration amongst competitors to face the COVID-19 crisis

10. In July 2020, CADE released a provisional informative note concerning the collaboration of companies to face the Covid-19 crisis<sup>3</sup>. The document provides guidance on recommended parameters to elaborate strategies to fight the pandemic and available procedures for economic agents to get a declaration from CADE.

11. The objective was to ensure greater transparency and legal certainty by providing information to the market players and implementing swift and efficient reviewing mechanisms to support the strategies of these economic agents in counteracting the impacts of the pandemic whilst preserving competition in the affected sectors.

12. The general guidelines for the collaboration of companies involve aspects of scope, duration, territorial extension, governance, transparency and good faith. To adopt such collaboration strategies, companies must observe all precautionary measures so that anticompetitive practices do not occur – such as price-fixing, market division, supply restriction and exchange of sensitive competitive information do not occur. Otherwise, companies are at risk of being investigated and punished for the crimes committed.

### 2.2.2. New platform for crime reporting

13. In March 2020, CADE released the new Clique Denúncia platform<sup>4</sup>, an invaluable tool for the agency's investigative duty. The new platform makes it easier for citizens to report violations and notify merger transactions.

14. The form for notification, integrated into the electronic information system (SEI), was simplified, ensuring only relevant information is requested from the user for the case review. The platform also protects the whistleblower's identity; therefore, companies or individuals reported cannot have access to the whistleblower's personal information, which prevents possible reprisals during investigations.

15. Moreover, the platform allows whistleblowers to track their submitted reports and creates a safer environment for information exchanges with CADE throughout the administrative proceedings, resulting in more effective investigations.

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<sup>3</sup> Provisional informative note on the collaboration amongst companies to face the COVID-19 crisis. Available at <https://cdn.cade.gov.br/portal-ingles/noticias/2022/provisional-informative-note-on-the-collaboration-among-companies-to-face-the-covid-19-crisis.pdf> .

<sup>4</sup> The Clique Denúncia platform is available at [https://www.gov.br/cade/pt-br/canais\\_atendimento/cliq-denuncia](https://www.gov.br/cade/pt-br/canais_atendimento/cliq-denuncia)

### ***2.2.3. Restructuration of the Department of Economic Studies (Resolution 28/2020)***

16. In August 2020, CADE enacted Resolution 28/2020<sup>5</sup> that, amongst other measures, established a new unit for market analysis and competition advocacy at the Department of Economic Studies, intended to strengthen and institutionalise CADE's performance related to competition advocacy matters. Besides monitoring and assessing competition in relevant markets, the unit is in charge of making publications and organising events to promote a culture of competition. Thus, the structure of CADE's Department of Economic Studies is as follows: (i) unit for merger analysis; (ii) unit for anticompetitive conduct analysis; and (iii) unit for market analysis and competition advocacy.

## **3. Enforcement of competition law and policy**

### **3.1. Actions against anti-competitive practices, including agreements and abuse of a dominant position**

#### ***3.1.1. Summary of actions taken by CADE***

17. In 2020, CADE launched 76 investigations related to anti-competitive practices: 35 cartel cases, 30 unilateral conduct cases, and 11 cases involving concerted practices. Companies convicted of anti-competitive practices are subject to fines and other penalties, such as prohibition from participating in government procurements. The Tribunal of CADE adjudicated 14 cartel cases and 3 unilateral conduct cases on relevant markets.

#### ***3.1.2. Description of significant cases, including those with international effects***

##### *Cartels*

The international cartel of underground and submarine cables

18. In April 2020, CADE found four companies and three individuals guilty of involvement in an international cartel in the market of underground and submarine cables, which brought about adverse effects in Brazil. The products transmit electricity between power and distribution stations and end-users. The fines imposed amount to BRL 20.9 million.

19. The investigation was launched after the companies Sumitomo Electric Industries Limited, Hitachi CableLtd, and J Power Systems signed a leniency agreement with CADE. The companies admitted their participation in anticompetitive practices and provided CADE with documentary evidence of the cartel's activities.

20. According to the investigation, the firms were working in collusion through regular communication between manufacturers of underground and submarine cables. These opportunities are used to exchange sensitive information, fix prices, divide markets and allocate customers. Manufacturers in Europe, Japan and South Korea were involved in the antitrust practice, which lasted from 1990 to 2004.

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<sup>5</sup> CADE, *Resolução nº 28, de 21 de Agosto de 2020*. Available at: <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/normas-e-legislacao/resolucoes/Resolu%C3%A7%C3%A3o%20n%C2%BA%2028-2020.pdf>

### Anticompetitive practices by medical agencies in the State of São Paulo

21. In June 2020, CADE ordered the Federal Medicine Council (CFM) and the Regional Medicine Council of the State of São Paulo (Cremesp) to pay a fine of BRL 900,000 for anticompetitive practices. The Tribunal found the agencies restrained health care professionals and establishments from accepting medical discount cards for consultations to the detriment of consumers. In addition to the fine, the Tribunal determined defendants refrain from making rules, investigations, disciplinary administrative proceedings, boycotts or using any other means to punish, threaten, coerce, or retaliate against doctors who intend to accept discount cards.

### The cartel in the market of PVC products

22. In September 2020, CADE found five companies and two individuals guilty of involvement in a cartel in the national market of ceilings, room dividers, folding doors and other products made of PVC. CADE imposed fines amounting to BRL 19.2 million.

23. According to the investigations, the companies and individuals exchanged competitively sensitive information and signed agreements to increase prices jointly. The cartel activities occurred between March and October 2010, and the company BR Plásticos Indústria notified CADE through a leniency agreement.

### The cartel in the market of medical and hospital services in the city of Fortaleza

24. In September 2020, CADE found guilty the association named *Associação dos Hospitais do Estado do Ceará* (Ahece), for the induction of concerted practices, and nine clinics and hospitals for involvement in a cartel in the market of medical and hospital services in the city of Fortaleza, state of Ceará. The fines imposed totalled BRL 27.5 million.

25. According to the investigation, the defendants established a single negotiation block to impose prices and readjustments, using threats of health insurance plan discrediting to impose their terms.

26. There was evidence that the association promoted concerted practices amongst competitors from 2006 through 2008 and concrete proof that it increased and was reasonably successful from 2009 through 2012. As to the clinics and hospitals, there was evidence that the cartel lasted from 2009 through 2012.

### Bid-rigging in the purchase of health equipment

27. In December 2020, CADE found the company Leal Máquinas, two companies of the Frontal Group and four companies of the Planam Group and two of its representatives guilty of bid-rigging in the purchase of mobile clinics and medical and dental equipment across Brazil. Their strategy was to simulate genuine competition in the procurement procedures through cover bidding. The Tribunal imposed fines amounting to over BRL 55.4 million.

### ***3.1.3. Abuse of a Dominant Position***

#### *Medical-pharmaceutical products industry*

28. In March 2020, CADE launched administrative proceedings to investigate whether companies in the health sector were raising prices and profits in an abusive manner considering the high demand for measures related to COVID-19.

29. CADE notified hospitals, health insurance companies, pharmacy chains, suppliers and manufacturers of surgical masks, hand sanitisers, and medicines to treat COVID-19 symptoms.

#### *Positron*

30. In August 2020, CADE found the company Positron (PST Eletrônica) guilty of anticompetitive conduct. The company, a leader in the Brazilian market of car alarms, signed agreements with exclusivity clauses with distributors, making it difficult for competitors to enter and develop in the segment.

31. The investigations revealed the average prices charged by Positron were higher than those offered by its competitors; regardless, the company obtained a higher amount of sales. In addition, Positron maintained agreements of exclusivity with distributors of national reach, which enabled wide dissemination and commercialization of its products, unlike its competitors.

32. CADE convicted Positron to pay a fine of around BRL 8 million for antitrust violation and determined the removal of exclusivity clauses from the contracts.

#### **3.1.4. Cease and Desist Agreements**

##### *The investigation into the cartel in port works*

33. In April 2020, CADE signed a Cease and Desist Agreement (TCC) with the construction company Andrade Gutierrez and two of its employees. The arrangement resulted from an investigation related to Operation Car Wash, which assesses an alleged cartel in the engineering market involving the construction, expansion and renovation of public ports and waterway terminals in Brazil.

34. This was the first Cease and Desist Agreement signed in this investigation. Through the agreement, Andrade Gutierrez and its employees acknowledged their participation in antitrust violations and committed to cease it and effectively cooperate with the investigation. Moreover, the signatories committed to pay a financial contribution amounting to BRL 8,211,645.78 to the Fund for De Facto Joint Rights (*Fundo de Direitos Difusos*).

35. With the signing of the agreement, the investigation into the signatories is suspended until they fulfil the agreed obligations. The benefits to the company and individuals that sign Cease and Desist Agreements are restricted to administrative proceedings carried out at CADE and do not affect criminal proceedings nor benefit the parties criminally in any other way.

##### *The cartel in the market of orthoses, prostheses and high-cost medical devices*

36. In April 2020, CADE signed two Cease and Desist Agreements with companies Siemens Healthcare Diagnósticos and Extera Importação e Exportação Ltda, and six individuals for partaking in an alleged cartel in the market of orthoses, prostheses and high-cost medical devices. The parties were fined in the total amount of BRL36.2 million as financial contributions.

##### *Bank Bradesco*

37. In October 2020, CADE signed a Cease and Desist Agreement (TCC) with the bank Bradesco regarding the investigation of alleged abuse of dominance against GuiaBolso.

Through the agreement, the bank committed to cease the investigated practices and pay an amount of BRL 23.8 million as a financial contribution.

38. According to the investigation, customers of GuiaBolso that were clients of other financial institutions authorised access to their bank information by entering their respective passwords on the application. The customers of bank Bradesco, on the other hand, were not able to enter their data directly into the platform because their bank required an additional random password to access their checking accounts. For the Office of the Superintendent General of CADE, the case evidenced antitrust violation since the behaviour of Bradesco would restrain fin-tech services that depended on bank account data of its clients, harming free initiative and free competition.

39. The agreement solved the identified problems since it favoured GuiaBolso on the data portability of Bradesco's customers upon the customers' express consent. In addition, the agreement established opportunities for better services and price reduction by increasing competitiveness in the market.

#### The cartel in government procurements in the State of Rio de Janeiro

40. In December 2020, CADE approved three Cease and Desist Agreements (TCC) with firms and individuals investigated in an administrative enquiry that analysed, within Operation Car Wash, an alleged cartel in government procurements held by the Secretariat of the Environment of the State of Rio de Janeiro (SEA/RJ). Together, the parties committed to pay around BRL 61 million as a financial contribution.

41. The procurements concerned public works for the environmental recovery and renewal of urban lagoons and river flood containment and control, including engineering, dredging, and dam and seawall construction services. The case has been under investigation at CADE since 2013.

42. The first agreement was signed with the firm Construtora Norberto Odebrecht and two individuals associated with it; the second was signed with the firm Carioca Christiani-Nielsen Engenharia and three of its employees; the third was signed with the firm Construtora OAS and two individuals.

43. By signing the agreements, the signatories acknowledged their participation in the investigated conduct and committed to cease their involvement and cooperate with the ongoing investigation. Furthermore, the signing of the agreements stayed the case against the parties until CADE declared they had fully complied with the obligations.

#### Agreements signed with Petrobras

44. Regarding the enforcement of its decisions, CADE monitored the performance of Petrobras' structural divestiture in the markets of natural gas, fuel and oil refining, as stipulated by agreements signed with the company. Over the year, CADE closely monitored the performance of the agreed obligations, maintaining regular communication with Petrobras, the Brazilian Petroleum Agency (ANP), and the Gas Committee of the Ministry of Mines and Energy. Some of the agreement's ultimate goals included carrying out a market opening in a competitive manner, benefiting consumers and supporting the country's economic recovery.

## 3.2. Mergers and acquisitions

### 3.2.1. Statistics on mergers and acquisitions

45. In 2020, CADE received 471 notifications of mergers and acquisitions – a record number since Law 12529/2011 came into force. The majority of these notifications involved the sectors of electricity generation, transmission and distribution; medicines; property developers; and healthcare. In the same year, CADE reviewed 454 transactions, maintaining a balance in the number of new notifications and ongoing cases concluded.

46. However, there was no significant impact on the time taken to review the cases. The average term was 29.5 days, and CADE reviewed about 96% of all transactions within 17.5 days through summary proceedings.

47. In 2020, CADE launched 17 investigations related to gun jumping, out of which three were dismissed, and two were concluded after CADE reached settlements with the involved parties. The parties acknowledged their involvement in antitrust violations and committed to contributing financially to the Fund for De Facto Joint Rights, managed by the Ministry of Justice and Public Security. The fund's resources return to society as they are used to finance projects linked to the environment, consumer law, competition law, and to historical, cultural, and artistic heritage.

### 3.2.2. Summary of significant merger cases

#### *Boeing and Embraer*

48. In January 2020, CADE unconditionally cleared the transaction involving the companies Boeing and Embraer. The agency concluded the companies did not compete in the same markets; thus, the acquisition would not raise competition concerns.

49. The transaction involved the acquisition of 80% of Embraer's assets in the commercial aircraft division by Boeing (including the manufacturing of regional airliners and large commercial aircraft) and the creation of a joint venture between Boeing and Embraer dedicated to the manufacturing of military aircraft.

#### *Disney and Fox*

50. In May 2020, CADE cleared the acquisition of Twenty-First Century Fox by The Walt Disney Company under the signing of a Merger Control Agreement.

51. CADE first cleared the transaction in February 2019 subject to, amongst other measures, the selling of the Fox Sports channel. Even though the parties endeavoured to comply with the commitments, the sale term set by the Tribunal was not fulfilled, and CADE decided to review the transaction in November 2019.

52. After another unsuccessful attempt to sell the Fox Sports channel, and considering the economic moment given the COVID-19 pandemic, the disposal could not occur. Thus, CADE negotiated behaviour measures with Disney to mitigate previously identified competition concerns and ensure the availability of a variety of sports programs to Brazilian customers.

#### *TIM and Telefônica*

53. In June 2020, CADE confirmed the approval of a network sharing between TIM and Telefônica Brasil after an appeal from an interested third party. The companies



executed agreements aimed at sharing their network to implement and provide 2G, 3G, and 4G services.

54. The Office of the Superintendent General cleared the merger unconditionally in April 2020. However, the company Claro, an interested third party, submitted an appeal in May 2020, prompting the case to be directed to the Tribunal for review. The Tribunal concluded the transaction did not raise competition concerns and decided to maintain the merger approval.

#### *São Bernardo Saúde and Athena Saúde*

55. In June 2020, CADE conditionally cleared the acquisition, by Athena Saúde, of the companies belonging to the São Bernardo group, which operates in the health sector in the Brazilian State of Espírito Santo. CADE approved the transaction subject to a Merger Control Agreement.

56. CADE identified competition concerns in the market of group health insurance plans, especially in those targeted at businesses. The transaction would lead to concentration in several affected groups of municipalities – where higher levels of concentration were found – and to entry barriers and a low degree of rivalry in the relevant markets; thus, the companies would likely exercise market power after the transaction. Pert the terms of the agreement, the parties committed to sell part of their portfolio of corporate health insurance plans, which raised concerns, to a competing health insurance company.

#### *Buscopan and Hypera*

57. In July 2020, CADE conditionally cleared the acquisition of the business of development, manufacture, commercialization, marketing, distribution and sale of the Buscopan range of products in Brazil by the pharmaceutical company Hypera. Before the transaction, Boehringer Ingelheim International owned the Buscopan brand. The clearance of the case was subject to the signing of a Merger Control Agreement.

58. The transaction raised concerns over market concentration in the industry of antispasmodic combined with analgesic since Boehringer Ingelheim held the medicines Buscopan Composto and Buscoduo in this market, and Hypera owned the medicine Neocopan Composto.

59. Through the agreement, Hypera sold the brand Neocopan Composto to the firm União Química which obtained a sanitary certificate and the necessary know-how for the product manufacturing process. Furthermore, Hypera committed to a series of behavioural obligations, including endeavour to complete the business divestiture and the transfer of records and any other assets deemed necessary for the production of Neocopan Composto.

#### *Silat and Gerdau*

60. In September 2020, CADE unconditionally cleared the acquisition of the management of Siderúrgica Latino Americana (Silat) by Gerdau Aços Longos. The Tribunal maintained the opinion of the Office of the Superintendent General for the unconditional clearance of the transaction. The acquisition concerned 96.35% of Silat's share capital by Gerdau in the steel segment.

#### *Hidracor and Arco-Íris*

61. In September 2020, CADE approved a Merger Control Agreement to the companies Hidracor and Arco-Íris Tintas for completing a transaction before the final clearance of the agency (gun jumping practice). The companies spontaneously notified

CADE about the deal in January 2020, confirming their untimely submission and requesting that CADE launch an Administrative Procedure for Merger Assessment (APAC in its acronym in Portuguese) to solve the issue. The Merger Control Agreement established the payment of BRL 193,289.97 as a financial contribution due to the companies' anticompetitive behaviour. In February 2020, the Office of the Superintendent General unconditionally cleared the deal.

#### *Light Energia and CG I FIP*

62. In October 2020, CADE ratified an agreement with the investment fund CG I Fundo de Investimento em Participações Multiestratégia (CG I FIP) and the company Light Energia for completing a mandatory reporting transaction before the final clearance of CADE. On 15 October 2019, The Light's Group website announced CG I FIP had completed the acquisition of all Light Energia's shares in Renova Energia; however, the parties only notified the authority on 29 October 2019. Thus, CADE approved a Merger Control Agreement ordering the firms to pay a financial contribution of BRL 1,222,080.62 for the practice of gun-jumping. In November 2019, the Office of the Superintendent General unconditionally cleared the transaction.

#### *Liquigás*

63. In November 2020, CADE cleared subject to remedies the sale of Liquigás, a subsidiary of Petrobras and market leader in the Brazilian distribution market of Liquefied Petroleum Gas (LPG). The deal concerned three different transactions involving the firms Copagaz, Itaúsa, Nacional Gás Butano (NGB) and Fogás. The remedies were defined at the signing of a Merger Control Agreement.

64. The firms reported to CADE that Copagaz would be the new holder of Liquigás along with Itaúsa, holding from 45% to 49.99% of the share capital and voting stock of Copagaz. According to the parties, the shareholdings of NGB and Fogás were calculated to mitigate potential competition concerns evidenced in some Brazilian states, per the criteria established by CADE during the adjudication on the sale of Liquigás to Ultragaz not cleared by the agency in 2018.

65. Thus, the transaction was reported to CADE as a fix-it-first remedy. The most significant transaction concerned the acquisition of Liquigás by Copagaz/Itaúsa along with the firm NGB. The other two transactions result from the first one, aiming to mitigate competition effects deriving from the merger between NGB and Liquigás (firms which were amongst the biggest distributors of LPG in Brazil), along with Copagaz, which had a smaller market share.

66. The Merger Control Agreement aimed to ensure that asset sharing and service rendering amongst competitors, both during the corporate restructuring and post-merger, would not favour coordination practices. Furthermore, it determines a trustee to supervise the asset transfer, and addresses concerns related to a potential exercise of market power identified in some states, both in the bottled and bulked LPG distribution markets.

#### *Nike do Brasil and Centauro*

67. In November 2020, CADE conditionally cleared the acquisition of Nike do Brasil by the group SBF, the financial controller of Centauro. The transaction raised competition concerns regarding the vertical integration of the companies since SBF/Centauro would be the exclusive distributor of Nike products in Brazil. Thus, CADE cleared the deal subject to a Merger Control Agreement to ensure isonomy principles in the distribution of Nike products.

*Seara and Bunge*

68. In November 2020, CADE unconditionally cleared a deal regarding the acquisition by Seara of the mayonnaise and margarine businesses of Bunge. Seara acquired the productive capacity (factories), some product brands, and other assets from Bunge via the transaction.

*Partnership agreement between Maersk and MSC*

69. In December 2020, CADE unconditionally cleared the extension of a partnership agreement between the shipping companies Maersk Line and MSC Mediterranean Shipping Company. The deal, named Vessel Sharing Agreement (VSA), aims at continuing the joint operation of a regular line for weekly international shipping of containers from South America's east coast to the Gulf of Mexico and the United States. The agreement also foresees the space share for allocating containers in the vessel of each partner.

*Fiat and Peugeot*

70. In December 2020, CADE unconditionally cleared the merger between Fiat Chrysler and Peugeot. The transaction would give rise to the Stellantis auto group. In its analysis, CADE concluded that the horizontal overlap and vertical integration resulting from the transaction would not cause competition concerns since many firms are operating in the country with intense competition.

### **3.3. Collaboration amongst competitors**

71. In May 2020, CADE decided to authorise the collaboration amongst a group of competing companies in an effort to soften the effects of the COVID-19 crisis. Ambev, BRF, Coca-Cola, Mondelez, Nestlé, and Pepsico undertook the project 'Movimento Nós' to recover the economic activity of small retailers in the distribution channels for consumer goods, such as beverages, food, and personal care products.

72. The companies alleged to CADE that, in the face of the protracted crisis, isolated actions would not have the capacity to produce effective results and on the scale necessary to assist commercial establishments in resuming their activities. Thus, the companies decided to collaborate via the project Movimento Nós to offer the support needed.

73. At the time, CADE concluded the agreement presented a reasonable economic justification, which was adopted on an emergency basis and as an exceptional measure to overcome the adversities resulting from the crisis.

## **4. Actions related to competition advocacy and institutional cooperation**

### **4.1. The role of competition authorities in formulating and implementing other policies – competition advocacy**

74. In Brazil, CADE and the Secretariat of Competition Advocacy and Competitiveness (SEAE in its acronym in Portuguese) share the roles of competition advocacy. CADE carries out advocacy initiatives mainly through its Department of Economic Studies, which is responsible for preparing publications, market studies, guidelines, and impact assessments; organising lectures; and promoting close cooperation with regulatory agencies of market sectors and other government bodies. The SEAE, in turn, undertakes advocacy initiatives such as the drafting of studies analysing public

policies related to competition, as well as regulations and normative acts of general interest to economic agents, consumers or service users, and the assessment of regulatory impacts of sectorial public policies.

#### *4.1.1. CADE actions related to competition advocacy*

75. With COVID-19, the topic of excessive prices was brought to the spotlight, and price controls (including price freezes, price caps, and mandatory discounts) became a popular solution to address the issue.

76. In 2020, CADE offered significant inputs to the analysis of several bills that could negatively affect society, which, in most cases, was crucial in reaching a decision. The authority issued 24 technical opinions to counter several bills that intended to directly intervene in prices in different sectors (such as pharmaceutical drugs, tuition fees, LPG, ride-hailing apps, and medical equipment and supplies).

77. CADE's arguments against direct intervention were mostly founded on the following: (i) as prices naturally adjust according to changes in the balance between supply and demand, interventions would negatively affect the quality and quantity of goods and services, as well as investment and innovation; (ii) prices would tend to converge; (iii) the most efficient companies, which operate with smaller profit margins, would be penalised by the bills, potentially lessening competition in the market; and (iv) monitoring prices and punishing those who violate the law would incur high social costs.

78. In 2020, CADE also published a series of working papers, guidelines, and reviews of its decisions that contributed to disseminating the culture of competition and improving its performance in matters related to competition advocacy (see topic 6.1).

79. As of 2020, CADE has been periodically publishing work documents that estimate the benefits expected from its performance, which involve rough calculations of the impact of its decisions in proceedings related to mergers and investigations into antitrust violations. These studies follow a methodology developed by the OECD and adopted by other antitrust authorities. The studies meet government requirements of transparency and accountability and raise awareness of the benefits of pro-competition policies.

80. In August 2020, CADE created the Unit of Market Studies and Competition Advocacy as a part of its Department of Economic Studies (DEE). The unit, established to strengthen and institutionalise CADE's competition advocacy efforts, monitors and assesses competition in relevant markets, prepares publications and organises events to promote a culture of competition.

81. In September 2020, CADE held a special edition of the Seminário Economia & Defesa da Concorrência, a seminar on economy and competition protection that celebrates the eleventh anniversary of the Department of Economic Studies. During the event, CADE released the working paper "Departamento de Estudos Econômicos do Cade: Passado, presente e futuro"<sup>6</sup>, which, in addition to offering an overview of the activities carried out by the Department of Economic Studies as of its creation, also explains the economic theory applied to Brazil's public policy for the promotion of fair competition.

82. Moreover, in 2020, CADE organised the 40th edition of its exchange programme, PINCADE. The programme provides undergraduate and postgraduate students from all over the country an opportunity to experience the day-to-day activities at CADE, carrying

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<sup>6</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/documentos-de-trabalho/2020/documento-de-trabalho-n06-2020-departamento-de-estudos-economicos-do-cade-passado-presente-e-futuro.pdf>

out technical and procedural work. The selected students take a course on competition enforcement aimed to prepare studies and merger reports and work on pending cases. In this past edition, 20 students engaged in activities at its headquarters from 20 January through 14 February 2020.

83. Another important action for disseminating the culture of competition is the development of online courses offered by the government-backed online school Escola Virtual do Governo, in a partnership with the National School of Public Administration (ENAP). In 2020, there were four new courses: Introduction to Antitrust Law, Merger Review, Antitrust Investigation, and Compliance with Competition Law. In total, the school will offer six courses on competition policy.

#### *4.1.2. SEAE actions related to competition advocacy*

84. Amongst the legal duties of the SEAE are preparing studies for the analysis of public policies from a competitive point of view, performing self-regulatory actions, and drafting regulations for market players and consumers. The Secretariat's most relevant activities are issuing opinions on legislative bills and drafting regulations for regulatory agencies, conducting assessments requested by government institutions and forums, and acting as an adviser in administrative and legal proceedings.

#### *International Trade*

85. Moreover, the SEAE worked throughout 2020 in monthly meetings of the Executive Management Committee (Gecex) of the Brazilian Foreign Trade Chamber (Camex). Gecex is a collegial body that decides on the foreign trade policy adopted by Brazil in matters of anti-dumping and import duties. The SEAE sheds light on the competitive aspects of these decisions, raising arguments and evidence to promote competition and market competitiveness.

86. In 2020, the SEAE also sponsored the discussion and prepared reports analysing competition and competitiveness in bilateral maritime transport agreements with Uruguay and Argentina. These agreements provided that maritime transport between these countries should be conducted exclusively by ships that flew these countries' flags. The discussion led to a decision not to renew the agreements, which increased the competition against these two countries in the maritime transport sector.

87. In addition, the SEAE began in 2020 to make a comprehensive survey of regulatory measures that may restrict foreign investment in Brazil. The Secretariat considered the OECD's FDI Regulatory Restrictiveness Index and, based on that, investigated the restrictions diagnosed by the index, the legal norms responsible for these restrictions, and what developments can attract global investment flows. The initiative is still underway, and the SEAE may soon publish a report on the survey and the possible effects of a higher FDI Index on foreign direct investment.

88. In the same year, the SEAE worked to sign a cooperation agreement between the Ministry of Economy and the OECD intending to hire a Review of Regulatory Reform, which started in early 2021. The review's objective is to assess the regulatory environment of the Brazilian economy, investigate the practices adopted in formulating regulations, and evaluate the quality of the Brazilian regulatory framework. The review is still in progress, with the SEAE being responsible for the dialogue with the OECD team and the internal coordination process.

89. In addition, the SEAE also began to work directly with Export Processing Zones as of August 2020, bringing a competitiveness perspective to this policy.

### *Lobbying Regulation*

90. In 2020, the SEAE worked with the Office of the Comptroller General (CGU) to develop a proposal to regulate the lobbying activity in the country. The regulation of this activity in Brazil is quite outdated – in 2018, Brazil got the worst score amongst all countries evaluated by the OECD PMR indicator of Interaction with Interest Groups. As a result of this effort, a bill was drawn up and soon will be presented to Congress.

### *Energy*

91. The SEAE has worked closely with federal and state authorities and regulatory agencies in the energy sector to improve the Brazilian legislation from a competitive perspective. We have listed beforehand some activities of the Secretariat during the year 2020.

92. In the fuel sector, the Secretariat contributed, for example, to the elaboration of Resolution 2 of the National Energy Policy Council (CNPE) of June 2020, which established guidelines for selling hydrous ethanol directly to retailers, enhancing logistics and increasing competition in fuel sales. For this same sector, the SEAE was also part of two subcommittees within the scope of a programme to develop the fuel sector and ensure its free competition (Abastece Brasil programme), which paved the way for CNPE Resolutions 09, of November 2020 and 14, of December 2020. The resolutions established guidelines for the sale of biodiesel, further opening the market and boosting competition from imported products.

93. In addition, the SEAE conducted advocacy activities related to state regulations in the natural gas market aimed at intensifying competition in the local supply of piped gas with tax transparency, reducing the asymmetry of information between regulators and consumers.

94. Regarding this market, the SEAE also participated in discussions on improving customs procedures set forth by the Special Secretariat of the Federal Revenue of Brazil (Ordinance 473 of September 2020 and Regulation 1989/2020) to ensure greater legal certainty in the business environment.

95. Regarding the natural gas market, the SEAE also pointed out the conflicting aspects between creating Brasduto, a fund for the commercialisation of natural gas and the expansion of the gas pipeline network, and the government initiatives to increase competition in this market. The reason for this is that the proposed network expansion does not encourage efficient allocative decisions, incurring the risk of an adverse selection of projects and of moral hazard in the operation of the infrastructure, which may represent an additional cost for consumers, potentially increasing fees.

96. In the upstream sector, it is worth mentioning Decree 10320 of April 2020, which instituted a programme to improve the exploration and production of oil and natural gas (BidSIM). The programme aims to increase the competitiveness and attractiveness of the sectors via bidding rounds to explore oil and natural gas and thus contribute to a greater diversity of players in this stage of the oil production chain.

### *Infrastructure*

97. In 2020, the SEAE analysed the possibility of improving the expropriation legislation to overcome the barriers that make horizontal infrastructure projects in Brazil lengthy. The SEAE provided the technical support and strategic suggestions to address the regulatory problem. The new regulatory framework will make the expropriation process faster and more effective.

*Mining*

98. In 2020, in partnership with associations and market players, the SEAE examined the competition policy applied to the mining sector and suggested the national mining agency should accept mining titles as a financial guarantee. Considering mining titles are a right, the Secretariat believes using the mining financing model would be more appropriate since the market has the expertise to set their value.

*Transport*

99. In 2020, the SEAE achieved favourable outcomes in the transport sector, continuing previous initiatives and starting new ones.

*Railway services*

100. The Pró-Logística programme, launched by the Secretariat in 2019, focused on fostering competition in the logistics sector and contributed to improving a new railroad bill (Bill 261/2018), which is currently pending in the Brazilian Parliament. It sets a more flexible and business-focused franchise format for railways (for passengers and freight), reducing regulatory interventions and placing the burden of investing and risks entailed on the private sector. The contributions of the SEAE to the rail bill focus on intensifying competition and reducing the regulatory burden to increase rail transport and improve Brazil's competitiveness in the international market.

101. As a result of a Technical Assistance Agreement signed with the World Bank on the assessment of regulatory issues related to infrastructure, the technical note "Regulação ferroviária e concorrência no Brasil: Como superar os limites definidos pelo atual modelo de concessões?" was published in March 2020. The technical note maps the structure of the Brazilian rail market and assesses its regulatory framework to set out competitive guidelines to improve the freight rail sector.

102. The SEAE is constantly following the Brazilian governmental efforts to improve the rail sector, with an active role regarding regulations, always focused on strengthening competition and reducing the regulatory burden.

*Coastal shipping*

103. The SEAE has participated actively in a coastal shipping bill brought before the Brazilian Parliament in 2020. The body joined efforts with the Ministry of Transport to draft guidelines for reducing chartering vessel barriers. These guidelines ultimately led to a bill that removes all barriers in the medium term. The bill also lays down conditions to stimulate the development of the maritime industry and investment in ports, focusing on coastal shipping.

104. The expectation is that the measures included in the proposal will reduce around 15% of coastal shipping costs and bring a 40% growth in the fleet, possibly generating a yearly 30% growth for this mode and a 40% increase in the container coastal shipping market.

105. The bill passed in the lower chamber of the Brazilian Parliament in December 2020; it is currently pending in the Senate.

*Air Transport*

106. Following an ongoing work conducted with Brazilian air transport authorities (the Ministry of Transport and the regulatory agency), the SEAE joined the competition team

of the World Bank to assess new rules for allocating airport slots at coordinated airports. The study, consisting of a two-step analysis, includes a review of the world's best practices, followed by an assessment of the required regulatory tools to improve competition in the Brazilian air transport system.

107. The first step ended in 2020, with the publication of a Technical Note that assessed the best practices in air slot allocation worldwide and included some guidelines for a detailed analysis of the Brazilian scenario. The second step, currently underway, involves an examination of the Brazilian context, followed by a technical note addressing regulatory actions to improve competition in the sector. It is important to highlight that the pandemic has reduced the pressure for immediate steps, given the sharp decline in air traffic and, hence, in slot demand. However, competitive-driven slot allocation rules will be necessary as soon as the sector recovers its usual activity.

### *Road Passenger Transport*

108. In 2014, the Brazilian Parliament approved Law 12996, which set new rules for authorisations concerning road passenger transport service, focused on promoting competition amongst service suppliers and on free-market prices, based on a successful model previously adopted in the air transport sector.

109. The law sets a five-year deadline to transition from the previously closed market to a free market. The SEAE actively participated in the governmental initiatives required for this transition.

110. In this context, the SEAE contributed with regulatory initiatives, including regulatory resolutions proposed by the Brazilian Land Transport Regulatory Agency (ANTT) and Decree 10157/2019, which lay down rules for the road passenger transport sector.

111. Moreover, the SEAE follows and advises the Brazilian government, assessing parliamentary actions that have the potential to stifle competition in this sector.

### *Telecommunications*

112. The SEAE provided technical support and suggestions for many bills that have made the sector more dynamic and boosted its competition:

Law 14109/2020: Modernization of a fund to make telecommunications services universal (FUST)

113. Due to its excessively restrictive legal requirements, the fund taxed the telecommunications sector for 20 years without applying its resources. The new law allows taxes to be levied directly on companies, increasing the speed and efficiency of investment and improving connectivity and the business environment.

Law 14173/2021 (Provisional Order 1018/20) - Tax relief on VSAT antennae for capturing internet signal via satellite

114. The SEAE commented on the law, suggesting it has significantly reduced taxes for VSat antennae, reducing the asymmetry between satellite internet services and equivalent services in Brazil. This sector pays high fees, making satellite internet unfeasible, mainly harming remote and underserved regions such as rural areas and the Amazon region.



## Law 14108/20 - IoT/M2M

115. In another initiative, the Secretariat supported a law that adjusts sectorial charges on the Internet of Things (IoT), eliminating tax asymmetries, improving the business environment, and promoting positive effects on the country's economy, productivity, and competitiveness. Advances such as this reduce regulatory barriers to entry into the Brazilian market and are essential to mitigate the disruptive effects the COVID-19 pandemic had on the Brazilian economy.

## 5G Auction

116. The SEAE provided technical support and suggestions for the new 5G auction, which took place in the second half of 2021. The Secretariat focused on the competitive conditions of the event and the institution of an explicit spectrum reservation for private networks. Moreover, the SEAE participated in cybersecurity debates involving 5G, pointing out the risks and potential positive and negative consequences of restricting bidder participation in the auction.

### *Regulatory improvement*

117. As the Brazilian regulatory oversight body, the SEAE was actively involved in many actions to improve the country's regulatory framework. One significant advance was the enactment of Decree 10411/2020, which imposes that all federal government bodies conduct the Analysis of Regulatory Impact as a requirement for the proposition and amendment of every regulation.

118. The SEAE also helped draft of Annex II of the 2020 Protocol on Transparency and Trade Rules signed with the United States, which established concrete commitments for the country, bringing Brazil closer to international standards. The protocol was signed and submitted to Congress as a Decree for ratification.

119. In this context, the SEAE also published several documents, such as the new "Regulatory Impact Analysis Guide", and created the Brazilian Regulatory Calculator (CalReg). It also hosted federal regulators' meetings of the Encontro de Reguladores Federais, an event that enabled the exchange of experiences and best practices amongst Brazilian regulators.

### *Real Estate Agents*

120. The SEAE has been working on a proposal to improve the regulation of the real estate career. According to the PMR (Product Market Regulation/OECD) indicators, Brazil has one of the most restrictive regulations in the world in this sector. The proposal aims to reduce competitive restrictions on the activities of real estate agents, which should contribute to increasing competitiveness and reducing housing costs.

### *Front for regulatory and competitive assessment*

121. FIARC, a front for regulatory and competitive assessment, was created by the SEAE in October 2020. Through it, the SEAE can propose changes in regulations considered disproportionate or arbitrary. FIARC aims to identify and analyse the adverse effects of restrictions related to regulations imposed by rules on the competitive dynamics and efficiency of regulated activities. The programme lets the private sector and society report rules that seem to them to rely on unfounded requirements.

*Public consultation on health techs*

122. In 2020, the SEAE launched a public consultation on the genesis, development, and growth of health techs and innovative technology-based companies in the health sector. Health techs promise to revolutionise healthcare provision with faster and more reasonable care, greater safety, and lower costs. The public consultation, which aimed to enhance the health tech system, received contributions with information about how regulation affects the sector.

*Public consultation on the criteria for pricing new drugs*

123. In July 2020, the SEAE launched a public consultation on the standards for pricing new drugs. Based on the contributions received, the SEAE is now working on a proposal to change CMED Resolution 02/2004 and thus achieve a methodology for setting prices for new drugs which follows international and local market prices.

**4.2. Relationship with other institutions and stakeholders**

124. Since antitrust violations often are committed with other infractions, CADE needs to cooperate closely with other government bodies and civil society to prevent, detect, and investigate wrongdoings, thus fulfilling its duties. In this sense, CADE actively pursued stronger ties with other institutions. These efforts contribute to better, more coordinated investigations, especially those involving the pair antitrust and anti-corruption matters.

**4.2.1. Prosecution Services**

125. In February 2020, CADE and the Federal Prosecution Services entered into a technical cooperation agreement to strengthen their partnership in coordinated actions for merger review, the investigation of antitrust violations, and competition advocacy.

126. The agreement consolidates these institutions' long-standing joint efforts. As an example, the Federal Prosecution Services supported CADE in antitrust leniency agreements, search and seizures conducted by the Office of the Superintendent General, and hearings of the Administrative Tribunal, in which it has a seat.

127. Through this agreement, CADE and the Federal Prosecution Services committed to improving their communication, thus promoting greater efficiency and promptness to deter and prevent cartels and other antitrust violations.

128. Moreover, in 2020, CADE entered into technical cooperation agreements with the State Prosecution Services of Acre, Pará, and Rondônia. Through these agreements, the agencies decided to exchange information, knowledge, data, and documents to act in a coordinated manner in fighting antitrust violations. CADE also entered into a technical cooperation agreement with the Prosecution Services at the Court of Accounts of the Federal District.

*Control bodies*

129. In 2020, CADE executed a technical cooperation agreement with the Court of Accounts of the State of Rio de Janeiro. The partnership aims to increase the communication between the institutions, which now share information, data, and procedural knowledge to prevent and deter antitrust violations (such as cartels in government procurement) more efficiently.

*Regulatory agencies*

130. In 2020, CADE entered into a technical cooperation agreement with the Brazilian Telecommunications Agency to promote competition in the telecommunications sector through joint actions. The agreement comprises organising workshops, training sessions, and studies, and sharing experience, information, and technology tools.

**4.3. International cooperation**

131. CADE has a close dialogue with several countries to work in the same direction and enhance the effectiveness of competition enforcement, thus reducing the time needed to reach decisions in anti-competitive cases and merger reviews. In 2020, CADE was involved in 76 cooperation initiatives for sharing information with other competition authorities and international organisations about benchmarking and case analysis.

132. CADE also plays an active role in international competition forums, such as the Organisation for Economic Co-operation and Development (OECD), the International Competition Network (ICN), the United Nations Conference on Trade and Development (UNCTAD), and the BRICS.

**4.3.1. OECD**

133. In 2020, CADE contributed substantially to the meetings of the Competition Committee, the Latin American and Caribbean Forum (LACCF), and the Global Forum on Competition, besides submitting written contributions on relevant subjects.

134. In 2019, CADE and the OECD started a project to make a competition review of Brazil's public procurement regime, based on the OECD recommendations and guidelines on fighting bid-rigging in public procurement. In 2020, CADE and the OECD concluded an essential step of the project: gathering relevant information from public and private stakeholders for assessing the competitive aspects of government procurement processes in Brazil.

135. Moreover, in November, CADE signed an agreement with the OECD concerning a competition assessment of the Brazilian ports and civil aviation sector. This project aims to review the policies in place to identify whether there are any unnecessary restrictions on competition and thus propose alternate policies that favour a competitive environment in these markets.

**4.3.2. International Competition Network (ICN)**

136. CADE has been a member of the ICN Steering Group since 2005 and a co-chair of its Merger Working Group for the 2020–2023 term.

137. The authority kept its engagement with some of the networks' most notable projects. In the Merger Working Group, CADE led the Merger Control in Times of Crisis project, which involved organising a series of regional webinars to exchange experiences, develop joint initiatives, and respond to merger review challenges posed by the COVID-19 crisis.

**4.3.3. BRICS**

138. CADE participates in three working groups with BRICS competition authorities on the automotive, pharmaceutical, and digital markets. The Working Group on digital markets is headed by the Brazilian and Russian competition authorities. It involves

benchmarking to international standards to promote competition laws appropriate for the digital era.

139. In 2020, the BRICS competition authorities announced the extension of the Memorandum of Understanding between the BRICS Competition Authorities on Cooperation in the Field of Competition Law and Policy by signing the Declaration of the Heads of BRICS Competition Authorities. The BRICS competition authorities also released the BRICS Statement on Consolidating the Efforts to Combat the Negative Economic Consequences of COVID-19, aiming to strengthen their collaboration to protect competition and combat the negative economic consequences of the COVID-19 pandemic.

#### **4.3.4. Bilateral cooperation**

##### *International cooperation agreements*

140. In February 2020, CADE and the Italian Competition Authority (AGCM) signed a memorandum of understanding to strengthen their bilateral cooperation. The document stipulates extensive cooperation in several fields, covering the organisation of discussions, exchange of experiences, and adoption of best practices in competition law and policy.

141. CADE had valid cooperation agreements with 17 jurisdictions in 2020: Argentina, Canada, Chile, China, Colombia, Costa Rica, the European Union, Italy, Japan, Mexico, Paraguay, Peru, Portugal, Russia, South Africa, South Korea, and the USA.

##### *Case analysis and benchmarking*

142. In 2020, CADE was involved in 76 initiatives for exchanging information with other competition authorities and international organisations for benchmarking and case analysis purposes.

##### *Technical training*

143. In 2020, CADE held training sessions for European competition authorities in the scope of an EU-Brazil cooperation programme called Sector Dialogues. Representatives from Belgium, Latvia, Malta, Portugal, and Romania underwent three days of training covering cartel investigations, CADE's Cérebro Project, merger control, and the implementation and monitoring of remedies.

144. CADE also gave training for officers of the Peruvian antitrust authority (Indecopi) about the review of the case AT&T-Time Warner, as part of a merger training series provided by the antitrust authorities of Brazil, Canada, and the United States.

#### **4.4. International events**

145. In 2020, CADE partook in several international events and meetings on competition, being represented by members of its technical staff, its Commissioners, President, and General Superintendent – who attended most events as speakers or moderators. Some relevant events were the OECD meetings (Competition Committee, Working Party No. 2 on Competition and Regulation, and Working Party No. 3 on Cooperation and Enforcement); the OECD Global Forum on Competition; the Latin American and Caribbean Competition Forum (LACCF); the Ibero-American Forum on Competition; the ICN Annual Conference; and the 8<sup>th</sup> United Nations Conference on Competition and Consumer Protection (UNCTAD).

#### 4.5. Revista Brasileira de Defesa da Concorrência

146. CADE issues regular editions of its journal on competition protection, the *Revista Brasileira de Defesa da Concorrência*. The journal is published twice a year and is a relevant platform for academic discussions on competition policies and enforcement in Brazil. The journal is a category B1 publication - the third tier of an eight-level national ranking – according to the Coordination for the Improvement of Higher Education Personnel (CAPES in its acronym in Portuguese). The publication is made available at [www.cade.gov.br/revista](http://www.cade.gov.br/revista).

147. In June 2020, CADE launched the 15th issue of *Revista de Defesa da Concorrência*. The commemorative edition celebrates fifteen published numbers and its consolidation in the antitrust literature.

148. In December 2020, the 16th issue showed a new visual identity, designed by a specialised consultancy firm that gave a modern design to the journal. Besides the design change, another innovation was the increased number of referees. After an intense call for referees, the number of professionals evaluating the articles during the second semester of 2020 tripled against the same period in 2019.

#### 4.6. Acknowledgements and awards

149. In 2020, CADE was recognised again as one of the top ten antitrust authorities in the world. The British Global Competition Review (GCR), an organisation dedicated to competition and regulation attested the efficiency of the Brazilian authority by awarding it four stars in its annual ranking for the eighth consecutive year.

150. It is worth mentioning that CADE was a finalist in three categories of the 2020 GCR Awards: namely Government Agency of the Year; Behavioural Matter of the Year – Americas, for its performance on the Google and Itaú case; and Enforcement Action of the Year, for the decision in the case of subway procurement cartel.

151. Moreover, CADE’s “Guide for Fighting Cartels in Procurements”, issued in 2019, was awarded first place in the category Best Soft Law – Concerted Practices on the Antitrust Writing Awards organised by the French magazine *Concurrences*. The category Best Soft Law selects of the most relevant enforcement documents issued by competition agencies worldwide, such as guidelines and market studies. The Guide also won in the category Soft Law – Readers’ Choice.

### 5. Resources of the competition authority

#### 5.1. Annual budget

152. In 2020, CADE had a total budget of BRL 58,198,539.00 (about USD 11,213,591.32) while the SEAE had a total budget of BRL 3,830,565.00 (about USD 738,066.47)<sup>7</sup>.

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<sup>7</sup> Exchange rate on 31 December 2020 (USD 1 / BRL 5.19).

## 5.2. Number of employees

153. In 2020, CADE had 484 people on its staff. Amongst them, 205 were non-administrative staff members working on competition enforcement.

154. The SEAE had 47 people on its staff in 2019. Amongst them, only two performed exclusively administrative work.

## 6. Papers published by CADE

### 6.1. Economic studies

- The working paper “Measuring the benefits expected from CADE’s actions in 2018”<sup>8</sup> estimates the impact of CADE’s activities involving mergers and anticompetitive behaviour in 2018 – activities that resulted in the collection of about BRL 20.5 billion.
- The working paper “CADE’s antitrust remedies: a case law review”<sup>9</sup> presents a review of case law on the development of antitrust remedies applied by CADE from 2014 to 2019, considering the instructions and recommendations of the CADE Guide for Antitrust Remedies, released in October 2018.
- The working paper “Applying willingness-to-pay models to research competition between private health insurance companies”<sup>10</sup> analyses how these models affect the competitive dynamics of the private health insurance sector and its providers in Brazil.
- The working paper “International benchmarking review on calculating antitrust fines”<sup>11</sup> benchmarks antitrust sanctions across international authorities to support the creation of a methodology for calculating antitrust fines in Brazil.
- The working paper “Competition in digital markets: a review of expert reports”<sup>12</sup> gathers the analyses of other antitrust authorities and research centres on the topic to update CADE’s knowledge of the latest technical and scientific developments.

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<sup>8</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/documentos-de-trabalho/2020/documento-de-trabalho-n01-2020-mensuracao-dos-beneficios-esperados-da-atuacao-do-cade-em-2018.pdf>

<sup>9</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/documentos-de-trabalho/2020/documento-de-trabalho-n02-2020-remedios-antitruste-no-cade-uma-analise-da-jurisprudencia.pdf>

<sup>10</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/documentos-de-trabalho/2020/documento-de-trabalho-n03-2020-aplicacao-de-modelos-de-disposicao-a-pagar-no-estudo-da-competicao-na-saude-suplementar.pdf>

<sup>11</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/documentos-de-trabalho/2020/documento-de-trabalho-n04-2020-benchmarking-internacional-sobre-dosimetria-de-penalidades-antitruste.pdf>

<sup>12</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/documentos-de-trabalho/2020/documento-de-trabalho-n05-2020-concorrenca-em-mercados-digitais-uma-revisao-dos-relatorios-especializados.pdf>

- The working paper “CADE’s Department of Economic Studies: past, present and future”<sup>13</sup> presents an overview of the activities carried out by the Department of Economic Studies as of its creation and the economic theory applied to Brazil’s public policy for the promotion of fair competition.
- The working paper “Measuring the benefits expected from CADE’s actions in 2019”<sup>14</sup> estimates the impact of CADE’s activities involving mergers and anticompetitive behaviour in 2019 – activities that resulted in the collection of about BRL 36 billion.
- The study “Agriculture input market”<sup>15</sup> presents the evolution of CADE’s merger reviews and investigations into the markets of seeds, pesticides, fertilisers, and agricultural machinery and implements.
- The study “Free-to-air and pay-TV markets”<sup>16</sup> presents CADE’s case law related to these markets in the past 25 years, including an overview of the sector, its importance to the country’s economy, and its most relevant economic aspects.

## 6.2. Papers on competition law and policy submitted to the OECD

- “Abuse of dominance in digital markets”<sup>17</sup>. Contribution by Brazil. Global Forum on Competition. December 2020.
- “Economic analysis in merger investigations”<sup>18</sup>. Contribution by Brazil. Global Forum on Competition. December 2020.
- “Using market studies to tackle emerging competition issues”<sup>19</sup>. Contribution by Brazil. Global Forum on Competition. December 2020.
- “The role of competition policy in promoting economic recovery”<sup>20</sup>. Note by Brazil. Competition Committee. December 2020.

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<sup>13</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/documentos-de-trabalho/2020/documento-de-trabalho-n06-2020-departamento-de-estudos-economicos-do-cade-passado-presente-e-futuro.pdf>

<sup>14</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/documentos-de-trabalho/2020/documento-de-trabalho-n07-mensuracao-dos-beneficios-esperados-da-atuacao-do-cade-em-2019.pdf>

<sup>15</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/cadernos-do-cade/mercado-de-insumos-agricolas-2020.pdf>

<sup>16</sup> CADE, available in Portuguese at <https://cdn.cade.gov.br/Portal/centrais-de-conteudo/publicacoes/estudos-economicos/cadernos-do-cade/Mercado-de-tv-aberta-e-paga-2020.pdf>

<sup>17</sup> [https://one.oecd.org/document/DAF/COMP/GF/WD\(2020\)7/en/pdf](https://one.oecd.org/document/DAF/COMP/GF/WD(2020)7/en/pdf)

<sup>18</sup> [https://one.oecd.org/document/DAF/COMP/GF/WD\(2020\)14/en/pdf](https://one.oecd.org/document/DAF/COMP/GF/WD(2020)14/en/pdf)

<sup>19</sup> [https://one.oecd.org/document/DAF/COMP/GF/WD\(2020\)30/en/pdf](https://one.oecd.org/document/DAF/COMP/GF/WD(2020)30/en/pdf)

<sup>20</sup> [https://one.oecd.org/document/DAF/COMP/WD\(2020\)68/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2020)68/en/pdf)

- “Digital evidence gathering in cartel investigations”<sup>21</sup>. Contribution by Brazil. Latin American and Caribbean Competition Forum. September 2020.
- “Conglomerate effects of mergers”<sup>22</sup>. Note by Brazil. Competition Committee. June 2020.
- “Consumer data rights and competition”<sup>23</sup>. Note by Brazil. Competition Committee. June 2020.

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<sup>21</sup> [https://one.oecd.org/document/DAF/COMP/LACF\(2020\)13/en/pdf](https://one.oecd.org/document/DAF/COMP/LACF(2020)13/en/pdf)

<sup>22</sup> [https://one.oecd.org/document/DAF/COMP/WD\(2020\)9/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2020)9/en/pdf)

<sup>23</sup> [https://one.oecd.org/document/DAF/COMP/WD\(2020\)41/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2020)41/en/pdf)