Organisation for Economic Co-operation and Development

DAF/COMP/WD(2026)128

Unclassified

English - Or. English

9 November 2026

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Minority Shareholding and coordinated effects – Note by Paraguay

9 December 2026

This document reproduces a written contribution from Paraguay submitted for Item 8 of the 150th OECD Competition Committee meeting on 8-9 December 2026.

More documents related to this discussion can be found at oe.cd/msace

Antonio CAPOBIANCO
Antonio.Capobianco@oecd.org, +(33-1) 45 24 98 08

JT03597699

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

Paraguay

1. Introduction

1. This article aims to present a contribution regarding minority shareholdings and coordinated effects.

2. Law and authority

2. Paraguay's 1992 Constitution sets out the guarantee for competition in the market[1].

3. Paraguay's competition law was enacted in 2013 under No. 4956 and the name of *Ley de Defensa de la Competencia* (LDC for its acronym in Spanish)[2]. In addition to setting the first legal framework in the country on matters of mergers and anticompetitive practices (abuse of dominance and anticompetitive agreements including cartels), it established a national competition authority for the first time: CONACOM. There was no prior institution or office that filled the role of a competition authority in the country.

4. CONACOM operates through two main bodies. The Board of Directors, comprised by three members, leads the institution on administrative matters, performs the role of competition advocacy and makes the decision on all enforcement cases[3].

5. The enforcement cases, which could pertain to merger control, abuse of dominance or anticompetitive agreements, are all brought to the attention of the Board of Directors by the Directorate for Investigation, which has functional autonomy[4].

6. On merger control, the Directorate for Investigation studies merger operations and issues technical opinions. Merger review is focused on whether the operation would significantly restrict competition due to the creation or reinforcement of dominance in the market.

7. When it comes to anticompetitive practices, the Directorate is in charge of investigating and filing charges against the alleged infringers of the LDC before the Board of Directors.

8. The Board also has sole responsibility as to issuing opinions regarding regulatory issues[5].

3. Analysis

9. CONACOM's approach to structural links and minority shareholdings is deeply rooted in its landmark enforcement experience in the IMEDIC-Eurotec case.[6] In that

[1] Constitution of the Republic of Paraguay, article 107.
[2] The LDC is available in Spanish at https://www.bacn.gov.py/leyes-paraguayas/4775/ley-n-4956-defensa-de-la-competencia (Accessed 21 Oct 2025).
[3] LDC, art. 17.
[4] LDC, art. 30.
[5] LDC, art. 17.
[6] See Annex for further information about this case.

proceeding, the Directorate for Investigation accused pharmaceutical firms Insumos Médicos S.A. (IMEDIC) and Eurotec S.A. of collusive bidding after they coordinated offers and divided lots in public tenders. While CONACOM's Board acknowledged that a concerted practice had taken place to coordinate bidding postures, it absolved the parties of antitrust violations because, under public procurement laws, companies tied by common associates are barred from bidding on the same contract lines regardless of actual control, effectively forcing legally distinct entities with overlapping investors to coordinate their market participation just to comply with public contracting rules. This enforcement precedent directly exposed how rigid statutory prohibitions on shared-ownership entities can inadvertently generate anticompetitive coordination, prompting CONACOM's subsequent advocacy efforts to urge lawmakers to align public procurement rules with genuine economic control tests.[7]

10. CONACOM has actively addressed how structural links and minority equity holdings impact competitive dynamics, notably through its advocacy opinions regarding public procurement legislation. While traditional minority shareholdings are frequently examined under merger control or structural frameworks, CONACOM's experience highlights that minority interests also manifest acutely within public tender frameworks. Specifically, public procurement rules often attempt to prevent simulated competition by restricting bidders with shared ownership, prompting competition authorities to evaluate whether legal restrictions properly distinguish between actual economic control and passive minority investments.

11. Under Paraguay's public procurement legal framework—specifically Article 21 of Law N° 7021/2022—strict prohibitions are placed on bidders that present offers on the same tender line while being linked by a "common partner or associate". In its review, CONACOM observed that these statutory provisions trigger disqualifications based on the mere existence of a common minority shareholder, regardless of whether that investor holds any operational influence or power to direct commercial strategy. Consequently, legal frameworks that rely on formalistic minority ties rather than a rigorous economic assessment of "control" fail to accurately identify true economic groups.

12. A critical competition concern identified by CONACOM is that overly broad minority prohibitions inadvertently produce the exact anti-competitive outcome they seek to prevent. By disqualifying companies that share a nominal, non-controlling minority investor (such as a 3% or 5% passive equity stake held by the same individual across two otherwise distinct firms), the law forces these independent commercial rivals into a corner. Because they face automatic exclusion and administrative penalties if they independently coincide in a tender, these structurally independent firms are practically compelled to communicate and coordinate their bidding behavior. Thus, the legal restriction itself becomes a catalyst for artificial coordination.

13. CONACOM's analytical approach emphasizes that competition law must distinguish between ordinary investor protection and actual strategic influence. Drawing from economic principles and comparative law—such as standards applied in Peru or the European Union—CONACOM has stressed that the definition of a corporate link or economic group must hinge on notions of "control" (such as majority voting rights, the power to appoint administrative boards, or consolidated management) rather than minor shareholdings. When a minority shareholder maintains no active participation in

[7] CONACOM, Resolution D/AL No. 82/2021, Insumos Médicos S.A. (IMEDIC), Eurotec S.A., Patricia Beatriz Ferreira Pascottini and Marcelo Rubén Ferreira Pascottini s/ Alleged Infringement of Article 8 of Law No. 4,956/2013, Acta de Directorio OR No. 45/2021, 9 Nov. 2021.

management or decision-making, treating the investee firms as a single economic unit disregards market realities and penalizes efficient, independent market entry.

14. In assessing whether structural links raise co-ordinated or unilateral concerns, competition authorities must look beyond capitalization tables to examine actual governance documents, administrative control, and commercial independence. CONACOM's enforcement and advocacy practice demonstrates that formalistic shareholding criteria lead to administrative inefficiencies and false positives, where independent firms are barred from competing. An effective assessment requires verifying whether a minority stakeholder possesses practical mechanisms—such as access to non-public, competitively sensitive information or board representation—to align commercial strategies or monitor deviations from a co-ordinated outcome.

15. To reconcile public procurement integrity with the preservation of effective competition, CONACOM has issued formal recommendations to legislative authorities advocating for statutory reform. Policy responses should ensure that procurement prohibitions target true economic groups and entities under common control, thereby preventing the simulation of competition while preserving the autonomy of genuinely independent firms. Aligning public contracting rules with competition law principles ensures that minority investments can fulfill their legitimate economic functions—such as providing capital and diversifying risk—without being crippled by rigid legislative presumptions that inadvertently force market coordination.

Annex A. The IMEDIC–Eurotec case

A critical analytical dimension emerging from the IMEDIC–Eurotec case (CONACOM Resolution D/AL N° 82/2021) concerns the substantive distinction between formal ownership links and minority shareholdings in the traditional antitrust sense.

The structural relationship between IMEDIC S.A. and Eurotec S.A. did not stem from a conventional minority shareholding conferring unilateral influence, nor from an interlocking directorate per se. Rather, the procedural link arose from the presence of common partners and cross-shareholders. Under the public procurement legal framework in force at the time (specifically Article 40(g) of Law N° 2051/03), this condition triggered an automatic statutory prohibition preventing connected entities from submitting bids for the same procurement item, irrespective of whether those shared equity holders exercised actual control or decisive influence over commercial strategy.

This institutional interaction underscores a central competition policy issue examined by CONACOM: the tension between formalistic ownership thresholds and economic reality. The statutory restriction operated on a purely formal equity criterion, omitting any contextual assessment of whether the common shareholders possessed the capacity to exercise economic control, steer strategic market decisions, access competitively sensitive information, or fundamentally undermine the independent decision-making of the respective firms.

1. Ownership and Shareholding Structure of IMEDIC S.A. and EUROTEC S.A.

To provide full clarity on the ownership structure established during the administrative proceedings (CONACOM Resolution D/AL N° 82/2021, pp. 99–100), the direct and indirect shareholdings of both companies as of April 2019 were as follows:

Table 1. hareholding Structure of IMEDIC S.A. (Resolution D/AL N° 82/2021, p. 99)

Shareholder / Ultimate Beneficial Owner	Direct Stake	Direct & Indirect Stake
Patricia B. Ferreira	15.00%	15.00%
Metaway S.A.	43.00%	—
• *Patricia Ferreira (36% of Metaway)*	—	15.50%
• *Marcelo Ferreira (36% of Metaway)*	—	15.50%
• *Petrona Pascottini de Ferreira (28% of Metaway)*	—	12.00%
Woking S.A.	15.00%	—
• *Carlos Borrel (80% of Woking)*	—	12.00%
• *Vanessa Borrel (10% of Woking)*	—	1.50%
• *Marcela Borrel (10% of Woking)*	—	1.50%
Glasgow S.A.	10.00%	—
• *Patricia Ferreira (33% of Glasgow)*	—	3.30%
• *Justo Ferreira (34% of Glasgow)*	—	3.40%
• *Carlos Borrel (33% of Glasgow)*	—	3.30%
Nelly Sosa	17.00%	17.00%
Total Share Capital (IMEDIC S.A.)	**100.00%**	**100.00%**

Table 2. Shareholding Structure of EUROTEC S.A. (Resolution D/AL N° 82/2021, pp. 99–100)

Shareholder / Ultimate Beneficial Owner	Direct Stake	Direct & Indirect Stake
Marcelo R. Ferreira	18.00%	18.00%
Metaway S.A.	19.00%	—
• *Patricia Ferreira (36% of Metaway)*	—	6.80%
• *Marcelo Ferreira (36% of Metaway)*	—	6.80%
• *Petrona Pascottini de Ferreira (28% of Metaway)*	—	5.30%
Woking S.A.	18.00%	—
• *Carlos Borrel (80% of Woking)*	—	14.40%
• *Vanessa Borrel (10% of Woking)*	—	1.80%
• *Marcela Borrel (10% of Woking)*	—	1.80%
Glasgow S.A.	10.00%	—
• *Patricia Ferreira (33% of Glasgow)*	—	3.30%
• *Justo Ferreira (34% of Glasgow)*	—	3.40%
• *Carlos Borrel (33% of Glasgow)*	—	3.30%
Nelly Sosa	10.00%	10.00%
Mario Arce	25.00%	25.00%
Total Share Capital (EUROTEC S.A.)	**100.00%**	**100.00%**

2. Legal Assessment and Relevance to the Roundtable Discussion

As reflected above, while individual shareholdings (such as Patricia or Marcelo Ferreira's direct stakes) might resemble minority positions, the two firms shared four common shareholders (Metaway S.A., Woking S.A., Glasgow S.A., and Nelly Sosa) that collectively represented **85% of IMEDIC S.A. and 57% of Eurotec S.A.** In aggregate, the ultimate owners of 100% of IMEDIC's equity held **74.90% of Eurotec S.A.** This extensive ownership overlap, combined with shared physical facilities, legal counsel, and leadership by siblings, led CONACOM to determine that the companies formed part of a single economic unit, thereby excluding the characterization of bid-rigging between independent rivals.

In practice, however, statutory procurement provisions—such as Article 40(g) of Law N° 2051/03—could also capture situations involving very limited ownership interests, where a common shareholder held only a small, passive minority stake and lacked any meaningful ability to influence management or commercial conduct. From CONACOM's perspective, this illustrates the importance of distinguishing between mere ownership links and genuine control or influence when assessing the competitive implications of structural relationships between firms.

For this reason, while the case does not involve a minority shareholding conferring influence in the traditional antitrust sense, we believe it remains relevant to the roundtable's theme. It illustrates the potential competition risks associated with regulatory frameworks that treat any ownership connection as equivalent to economic control, without distinguishing between passive investment interests and genuine mechanisms of influence or control. Indeed, one of the key lessons from the case is that legal presumptions based solely on formal ownership links may inadvertently encourage coordination among firms that are otherwise commercially independent.