

**MEMORANDUM OF UNDERSTANDING ON ANTITRUST COOPERATION
BETWEEN THE UNITED STATES DEPARTMENT OF JUSTICE AND
THE UNITED STATES FEDERAL TRADE COMMISSION,
AND
THE MINISTRY OF CORPORATE AFFAIRS (GOVERNMENT OF INDIA) AND
THE COMPETITION COMMISSION OF INDIA**

The United States Federal Trade Commission and the United States Department of Justice, on the one hand, and the Ministry of Corporate Affairs (Government of India) and the Competition Commission of India, on the other hand (collectively referred to as the "U.S. and Indian competition authorities"),

Desiring to enhance the effective enforcement of their competition laws by creating a framework that provides for enforcement cooperation between the U.S. and Indian competition authorities,

Recognizing the benefit of technical cooperation between the U.S. and Indian competition authorities in order to enhance an environment in which the sound and effective enforcement of competition law and policy supports the efficient operation of markets and economic welfare of the citizens of their respective nations,

Recognizing that the development of a well-functioning system for effectively implementing competition law and policy involves the U.S. and Indian competition authorities, and also other government agencies, and the legal, business, and academic sectors, and

Recognizing that establishing good communications between the U.S. and Indian competition authorities on competition law and policy will contribute to improving and strengthening the relationship between the United States and India, have reached the following understanding:

I. COOPERATION

1. The U.S. and Indian competition authorities intend to share and to keep each other informed of significant competition policy and enforcement developments in their respective jurisdictions, with an opportunity to comment on these developments.
2. The U.S. and Indian competition authorities recognize that it is in their common interest to work together in technical cooperation activities related to competition law enforcement and policy. Subject to reasonably available resources, they may jointly engage in appropriate activities in furtherance of that interest, such as, *inter alia*: (a) participating in training courses on competition law and policy organized or sponsored by one another; and (b) providing assistance, where appropriate, in promoting understanding of sound competition policy among important supporting institutions, government agencies, the business community, bar associations, academic institutions, etc.
3. The U.S. and Indian competition authorities recognize that, when they are investigating related competition matters, it may be in their common interest to cooperate in appropriate cases, consistent with their respective enforcement interests, legal constraints, and available resources.
4. The U.S. and Indian competition authorities plan to evaluate the effectiveness of the cooperation under this Memorandum on a regular basis to ensure that their expectations and needs are being met.

II. WORKPLAN

1. The U.S. and Indian competition authorities intend to develop a work plan of cooperative activities, which may be revised by mutual consent.

III. COMMUNICATIONS

1. The U.S. and Indian competition authorities may request advice and communications from one another regarding matters of competition law enforcement and policy; provided, however, communications relating to case investigations shall be limited to the relevant U.S. and Indian competition authorities investigating the matter.
2. The U.S. and Indian competition authorities plan to appoint a liaison officer for the purpose of facilitating contact in furtherance of this Memorandum. Communications may be carried out by telephone, electronic mail, videoconference, or in person, as appropriate.
3. Officials of the U.S. and Indian competition authorities may meet, as appropriate, to exchange information on their current and contemplated policy and enforcement efforts and priorities.

IV. CONFIDENTIALITY

1. It is understood that the U.S. and Indian competition authorities do not intend to communicate information to the other if such communication is prohibited by the laws governing the agency possessing the information or would be incompatible with that agency's interest.
2. In so far as information is communicated, the recipient should, to the extent consistent with its laws, maintain the confidentiality of any such information communicated to it in confidence.

EFFECTIVE DATE

The present Memorandum of Understanding comes into effect from the date of its signature and cooperation under this Memorandum is intended to continue until either the U.S. or Indian competition authorities wish to discontinue such cooperation in which case the U.S. or Indian competition authorities should endeavor to provide three months notice of its intention to discontinue cooperation to the other participant. Discontinuation of the present Memorandum of Understanding is not intended to affect the implementation of the projects that are already in process under the present Memorandum.

This Memorandum is intended to set forth an advisory framework for cooperation. The U.S. and Indian competition authorities reserve their full discretion in implementing the Memorandum, and nothing in it is intended to change existing law, agreements, or treaties, or create legally binding or enforceable rights or obligations.

Dated at Washington, D.C., on September 27, 2012, in four originals, each in the English and Hindi languages, both texts being official.

United States Federal Trade Commission

United States Department of Justice

Ambassador of India
to the United States of America
for the Ministry of Corporate Affairs
Government of India

Competition Commission of India