

4. A Party's important interests may be affected at any stage of enforcement activity by the other Party. The Parties recognize the desirability of minimizing any adverse effects of their enforcement activities on each other's important interests, particularly in the choice of remedies. Typically, the potential for adverse impact on one Party's important interests arising from enforcement activity by the other Party is less at the investigative stage and greater at the stage at which conduct is prohibited or penalized, or at which other forms of remedial orders are imposed.

5. Where it appears that one Party's enforcement activities may adversely affect the important interests of the other Party, each Party shall, in assessing what measures it will take, consider all appropriate factors, which may include but are not limited to:

- (i) the relative significance to the anticompetitive activities involved of conduct occurring within one Party's territory as compared to conduct occurring within that of the other;
- (ii) the relative significance and foreseeability of the effects of the anticompetitive activities on one Party's important interests as compared to the effects on the other Party's important interests;
- (iii) the presence or absence of a purpose on the part of those engaged in the anticompetitive activities to affect consumers, suppliers or competitors within the enforcing Party's territory;
- (iv) the degree of conflict or consistency between the first Party's enforcement activities (including remedies) and the other Party's laws or other important interests;
- (v) whether private persons, either natural or legal, will be placed under conflicting requirements by both Parties;
- (vi) the existence or absence of reasonable expectations that would be furthered or defeated by the enforcement activities;
- (vii) the location of relevant assets;
- (viii) the degree to which a remedy, in order to be effective, must be carried out within the other Party's territory; and
- (ix) the extent to which enforcement activities of the other Party with respect to the same persons, including judgments or undertakings resulting from such activities, would be affected.