

# **B**est practices in defence of competition in Argentina and Brazil: useful aspects for Central America

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## Abstract

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Developing countries with a relatively long expertise in competition policy, such as Argentina and Brazil, may provide a very valuable point of reference for developing countries that have acquired more recently a competition legal and institutional framework. Among the recommendations that can be derived from Argentina and Brazil for other more recent comers to the competition institutional arena are: i) the importance of having a single and independent body in charge of applying the competition law; ii) the need for competition policy and the judiciary system to coordinate their actions; iii) the complementarity of competition and regulatory institutions for the exchange of information and the definition of common objectives; iv) the promotion of an effective competition culture within the community is also an important task of the competition agency; v) the regional agreements for mutual support in competition problems has been very important for Argentina and Brazil and seem even more relevant for smaller economies.



## Introduction

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This paper studies recent legislation on defence of competition and its enforcement in Argentina and Brazil, based on an assessment of such experiences and, in the light of these, makes certain recommendations for the Central American countries whose legal frameworks are in the process of being drawn up or under review, while others are just beginning to operate.

Significant headway was made in the defence of competition in Argentina and Brazil during the nineties. It should be pointed out, however, that some of these measures have had to adapt to the political and economic context typical of developing countries. It is therefore interesting to examine these experiences with a view to identifying their strengths and weaknesses as background material for competition policy in other countries.

The aims of this chapter are as follows:

- 1) Analyse the salient traits of legislation on defence of competition in the countries under study and give an account of their evolution over time: this will give an idea of the favourable political and economic context for applying particular measures.
- 2) Identify the institutional structures in charge of applying competition policies, underscoring the differences between them.
- 3) Assess the effectiveness of the agencies as authorities for the application of competition policies with the aim of preventing or remedying possible anticompetitive conduct.

4) Determine the relationship between the competition agency and regulatory bodies, in view of the importance of policy coordination.

5) Assess the degree of regional collaboration with regard to defence of competition, particularly among Mercosur countries.

Thus, Section I explains the legislation in Argentina and Brazil and how enforcement<sup>1</sup> by the competition agencies has evolved, and Section II explains the relationship between these countries' competition agencies and the regulatory bodies, as well as international cooperation efforts. The conclusions set forth an analysis of the strengths and weaknesses of laws for the defence of competition and their application in Argentina and Brazil with the aim of contributing to the progress of legislation and policies for the defence of competition in the countries of Central America.<sup>2</sup>

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