The Brazilian Competition Authority (CADE) investigates the Soy Moratorium, testing the boundaries between sustainability agreements and antitrust concerns

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Sustainability agreements are increasingly at the centre of global competition law debates, and Brazil is no exception. In Brazil, sustainability agreements may be examined by the Brazilian Competition Authority, the Administrative Council for Economic Defence (Conselho Administrativo de Defesa Econômica or

CADE), as part of the analysis of competitive behaviour. More broadly, CADE has yet to thoroughly explore the debate on how sustainability relates to competition. Nonetheless, it recently had the opportunity to address the topic in the context of a review of alleged anti-competitive behaviour.

The Soy Moratorium case: an opportunity for CADE to offer insights on sustainability agreements?

In August 2025, CADE launched an administrative proceeding to investigate the Moratória da Soja (the 'Soy Moratorium') agreement (Administrative Proceeding No 08700.005853/2024-38). According to CADE's information, the Soy Moratorium was originally established in 2006 and consists of an agreement among major soybean traders, industry associations and environmental non-governmental organisations (NGOs), with the support of governmental bodies (eg, the Ministry of Environment and the Brazilian Institute of Environment and Renewable Natural Resources, Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis or IBAMA) to cease purchasing soy cultivated in areas of the Amazon biome that were deforested after 22 July 2008. According to its governance body, the Soy Working Group (Grupo de Trabalho da Soja or GTS), the central objective of the Soy Moratorium is to dissociate soy production from deforestation in the Amazon biome, and to promote the environmental sustainability of the soy supply chain across national and global markets.[1]

From its inception, the Soy Moratorium was designed to address mounting international pressure from NGOs, consumer groups and European retailers alarmed by soy-driven deforestation.[2] GTS, alongside the industry associations, the Brazilian Association of Vegetable Oil Industries (Associação Brasileira das Indústrias de Óleos Vegetais or ABIOVE) and the National Association of Cereal Exporters (Associação Nacional dos Exportadores de Cereais or ANEC), coordinated its governance alongside civil society and independent monitoring organisations. The initiative combined satellite surveillance, compliance audits and public 'blacklists' of non-conforming producers. Initially conceived as a temporary, two-year measure, it became a permanent feature of Brazil's soybean supply chain, with 30 trading companies signing on by 2025.

Despite its environmental rationale and international recognition, however, the Soy Moratorium has drawn antitrust scrutiny in Brazil. Complainants, including the Committee on Agriculture, Livestock, Supply, and Rural Development of

1 See https://moratoriadasoja.com.br/media/public/monitoring/pt-e3112f6d-7cf8-47c5-9c9e-ce5c43bea558.pdf accessed 17 November 2025.

2 See www.greenpeace.org/brasil/blog/moratoria-da-soja-completa-dez-anos/ accessed 17 November 2025.

the Chamber of Deputies (Comissão de Agricultura, Pecuária, Abastecimento e Desenvolvimento Rural or CAPADR), the Association of Soybean and Corn Producers of the State of Mato Grosso (Associação dos Produtores de Soja e Milho de Mato Grosso or APROSOJA/MT) and the Brazilian Confederation of Agriculture and Livestock (Confederação da Agricultura e Pecuária do Brasil or CNA), argue that the agreement would facilitate buyer collusion. In their view, what the traders presented as an environmental commitment would have functioned in practice as a coordinated boycott against non-compliant producers.

With participating companies controlling nearly 90 per cent of the soybean market in the Amazon biome, CADE's General Superintendence ('CADE's GS') argued that the Soy Moratorium may have artificially restricted supply and entrenched market power, distorting competition and harming producers excluded from the system. CADE's GS stated that, by collectively imposing compliance on upstream actors in the supply chain (ie, soybean producers), the agreement could potentially be characterised as a buyer cartel.

Moreover, CADE's GS observed that the Soy Moratorium included mechanisms involving the alleged exchange of competitively sensitive information among rival companies, under the justification of monitoring and enforcement, which raises additional antitrust concerns as this information sharing may facilitate coordination among competitors and hinder market competition.

CADE's GS, in its technical note launching the investigation, framed the Soy Moratorium strictly as a competition matter, making virtually no reference to its sustainability objectives. The note portrayed the agreement as a pact among private associations, trading companies and some civil society actors, such as Greenpeace and World Wide Fund for Nature (WWF), but overlooked the broader institutional framework that supported the initiative. For example, the technical note disclosed by CADE's GS did not state that the Soy Moratorium received support from key governmental and quasi-public entities, including IBAMA and the Ministry of the Environment, as mentioned above. Banco do Brasil, the largest state-controlled bank in Brazil, had also committed to the Soy Moratorium, pledging to withhold financing for soybean production in rural properties blacklisted by the GTS.

Despite this broad coalition of institutional actors, the CADE's GS technical note reduced the Soy Moratorium to a private horizontal restriction on supply, and framed it as a mechanism that excluded producers and distorted competition. On that basis, it imposed sweeping preventive measures on companies involved: banning the dissemination of compliance lists, suspending audits, prohibiting the sharing of sensitive information and ordering the removal of monitoring materials from signatories' websites. The sweeping nature of the order, and its immediate

effect on governance practices built up over two decades, drew strong reactions from both industry and environmental advocates.[3]

Shortly thereafter, however, based on a judicial claim filed by ABIOVE, a federal judge granted an injunction suspending CADE's preventive measures.[4] The federal judge concluded that CADE's GS did not examine opinions from public authorities, such as the Public Prosecutor's Office or the Ministry of Environment; imposed measures with high regulatory and economic impact that could result in a risk of irreparable harm, given that there is no estimated date for the final judgment of the case by CADE's Tribunal; and the measures imposed could also be seen as disproportionate and premature, as the Soy Moratorium has been in force since 2006, involves several entities and is an instrument for promoting sustainable development (Proceeding No 1098857-10.2025.4.01.3400).

CADE's Tribunal slightly softened the measures, voting 4–2 to postpone the suspension until 31 December 2025. The majority followed a partially dissenting opinion by Commissioner José Levi, who voted to keep the suspension lifted until the end of 2025. Commissioner Levi, who authored the majority opinion, argued that the additional time would allow private parties and public officials to engage in dialogue. The dissenting commissioners, however, maintained that the Soy Moratorium unduly restricts free negotiation between producers and buyers.[5] The Reporting Commissioner acknowledged that the interaction between competition and sustainability is one of the key topics under discussion worldwide. The merits of the case were not examined by the Tribunal, only the preventive measure.[6]

The dispute has exposed a deeper institutional dilemma. In public remarks during an event hosted by the Brazilian Institute of Studies on Competition, Consumer Affairs, and International Trade (Instituto Brasileiro de Estudos de Concorrência or IBRAC), CADE's interim president, Gustavo Augusto, stressed

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3 Steve Grattan, 'What Brazil's Soy Moratorium Fight Means – and What Happens Next' (AP News, 29 August 2025) https://apnews.com/article/brazil-deforestation-soy-moratorium-1bf704a344838f875f6278bf25cc1195 accessed 17 November 2025.

4 Reuters, 'Brazil Judge Grants Injunction Against Soy Moratorium Suspension' (Reuters, 25 August 2025) www.reuters.com/sustainability/boards-policy-regulation/brazil-judge-grants-injunction-against-soy-moratorium-suspension-2025-08-26/ accessed 17 November 2025.

5 CADE, 'CADE Upholds Interim Measure on Soy Moratorium' (CADE, 8 October 2025) www.gov.br/cade/en/matters/news/cade-upholds-interim-measure-on-soy-moratorium/ accessed 17 November 2025.

6 CADE, Voluntary Appeal No 08700.008421/2025-60, Reporting Commissioner Diogo Thomson de Andrade, 6 October 2025 https://sei.cade.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?HJ7F4wnIPj2Y8B7Bj80h1lskjh7ohC8yMfhLoDBLddZDSfLAZPjrw96JmBgV5D9doQmLP9wY6pXyHwWIBvPdCgWfp5dbSYtGTkVW4YBIo4YFJA9Qv3_70OMZ_0HEM0Kc accessed 17 November 2025.

that Brazilian competition law provides no room for 'sustainability exemptions'.[7] Nevertheless, the Soy Moratorium illustrates that, even if CADE attempts to frame the case purely in antitrust terms, the sustainability dimension is unavoidable.

This tension is not new; the Soy Moratorium is not the first time CADE has been called on to analyse agreements with collective or public interest objectives that cut across traditional antitrust categories. One example comes from Administrative Proceeding No 08700.005683/2019-24, involving alleged anti-competitive conduct by trade unions in the health sector. According to CADE's investigation, coordinated collective action from the unions appeared to restrict competition by imposing conditions on service provision. In his opinion, Commissioner Levi stressed that not all restraints on competition are illegitimate per se. He argued that restrictions may be justified when they pursue a 'just and clear objective of collective protection', explicitly citing both environmental protection in the context of sustainability agreements and the protection of workers in the context of union activity. Although the Commissioner ultimately concluded that the trade unions in this case engaged in anti-competitive conduct, he reasoned that such restrictions could be tolerated if they were adequate, necessary and proportionate to achieving the collective benefit goal.[8]

A second precedent emerged in the merger review of the sustainability joint venture (Merger Case No 08700.009905/2022-83) involving Cargill, Louis Dreyfus Company and Archer Daniels Midland (ADM). The transaction aimed to develop a digital platform to standardise sustainability measurement across agribusiness supply chains. While the deal raised classic concerns about the potential coordination and information-sharing among competitors, it also promised significant efficiencies linked to traceability and environmental accountability. In his vote, Commissioner Victor Oliveira Fernandes emphasised that 'sustainability' is not a monolithic concept, but a multidimensional one encompassing: (1) environmental protection; (2) social responsibility; and (3) economic sustainability. He suggested that these dimensions could generate 'out-of-market efficiencies', that is, benefits that extend beyond immediate price or output effects to deliver broader welfare gains. While he did not establish a formal framework, the Commissioner's reasoning aligned with debates in the European Union and other jurisdictions over whether

7 IBRAC, ENCONTRO IBRAC com o Presidente do CADE Gustavo Augusto Freitas de Lima, 21 August 2025 www.youtube.com/watch?v=GdpRwyLMLnw accessed 17 November 2025.

8 CADE, Administrative Proceeding No 08700.005683/2019-24, Reporting Commissioner José Levi Mello do Amaral Júnior Vote, 12 February 2025 https://sei.cade.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?HJ7F4wnIPj2Y8B7Bj80h1lskjh7ohC8yMfhLoDBLddbbB093AQHMLOX6vbq1BSq1nlGhbqjBCK10ZTOmMMKTrQYBGQ4IiuthyBAPHanDqxGfuvz2ezKdosCaEa3ag1sV accessed 17 November 2025.

competition law should account for collective benefits not directly enjoyed by consumers in the affected market.[9]

Taken together, these two precedents show that CADE's Tribunal has already accepted that sustainability and other collective objectives may have the potential to justify restrictions on competition. However, these acknowledgments have been isolated and case-specific, lacking the consistency or institutionalisation of a formal framework. This fragmented approach leaves businesses uncertain about how CADE will treat sustainability agreements, increasing the risk of consequences on voluntary initiatives, like the Soy Moratorium.

Regulatory framework related to sustainability agreements in Brazil and worldwide

The uncertainty has not gone unnoticed. In March 2024, the International Chamber of Commerce (ICC) in Brazil released a working paper proposing draft guidelines for CADE's assessment of environmental sustainability agreements,[10] also considering that CADE has no official statements regarding this topic (eg, guidelines or regulations). The ICC working paper outlined core criteria for permissibility, including demonstrable benefits to production, distribution or technical and economic progress; fair sharing of those benefits with consumers; indispensability of the restrictions; and the preservation of effective competition. It also offered concrete recommendations on managing the exchange of competitively sensitive information, aiming to prevent the types of coordination risks that often undermine sustainability collaborations. While non-binding, the proposals reflect growing momentum within Brazil's legal and business communities to reconcile antitrust enforcement with sustainability objectives and to provide greater legal certainty for firms engaging in collective initiatives.

Notably, ICC Brazil's recommendations were significantly influenced by international experience. For example, in June 2023, the European Commission

9 CADE, Administrative Proceeding No 08700.009905/2022-83, Commissioner Victor Oliveira Fernandes Vote, 21 June 2023 https://sei.cade.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?HJ7F4wnIPj2Y8B7Bj80h1lskjh7ohC8yMfhLoDBLddb57oZIOgPbZoROVyDyiC-c7pTLGM0CGOPIkagZ2XsMAcQyUhDBM7bG08YjJg4KDRYSrH4fl7UKIDd7lGJSFFIw accessed 17 November 2025.

10 ICC Brasil, *Working Paper – Concorrência e Sustentabilidade: Proposta de Diretrizes para a Análise de Acordos de Sustentabilidade Ambiental pelo CADE*, March 2024 www.iccbrasil.org/wp-content/uploads/2024/04/Working-Paper-Concorrencia-e-Sustentabilidade_V5.pdf accessed 17 November 2025.

adopted its revised Guidelines on Horizontal Cooperation Agreements,[11] which introduced a new chapter on sustainability agreements and provided explicit guidance on how competition law should apply to these types of initiatives. The Guidelines define sustainability agreements broadly, encompassing any form of horizontal cooperation agreement that pursues a sustainability objective. These objectives may include, but are not limited to, mitigating climate change, reducing pollution, conserving natural resources, upholding human rights and minimising food waste. Importantly, the Guidelines make a key distinction: not all sustainability agreements necessarily fall within the scope of Article 101(1) of the Treaty on the Functioning of the EU (TFEU), which prohibits agreements that restrict competition. Where such agreements do not affect key competitive parameters, such as price, output, product quality or innovation, they may lie outside the reach of Article 101(1) of the TFEU altogether and, therefore, not trigger any antitrust scrutiny.

Where the Guidelines truly innovate, however, is in their approach to sustainability agreements that *do* raise competition concerns. In such cases, the Guidelines set out a clear pathway to exemption under Article 101(3) of the TFEU, which permits anti-competitive agreements provided they meet four cumulative conditions: (1) efficiency gains, broadly interpreted to include reductions in production and distribution costs, improvements in product quality and variety, more efficient processes and increased innovation; (2) pass-on to consumer, requiring that a fair share of the resulting benefits be passed on to consumers, defined to include both direct and indirect customers, with the net effect of the agreement being at least neutral, if not positive, for them; (3) indispensability, which demands evidence that the restrictions are reasonably necessary to achieve the claimed sustainability objectives, and that no less restrictive means are available; and (4) no elimination of competition, ensuring that competition is not eliminated in respect of a substantial part of the relevant products or services, and that a sufficient level of residual rivalry remains in the market. In this way, the EU has established a structured framework for balancing competitive harm against environmental and social gains.

This framework has now begun to be tested in practice. In 2025, for the first time since the adoption of the revised Guidelines, the European Commission issued informal guidance applying the new approach to a real-world case involving a

11 European Commission, Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal cooperation agreements, *Official Journal of the European Union*, 21 July 2023 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC0721(01) accessed 17 November 2025.

sustainability agreement in the port logistics sector.[12] This guidance was provided in response to a request submitted by APM Terminals regarding a proposed agreement with other European port terminal operators, which aimed to accelerate the transition from diesel-powered to battery-electric straddle and shuttle carriers. The initiative sought to address two main barriers to electrification: the significantly higher cost of battery-electric equipment and the lack of interoperability between charging systems from different manufacturers. To overcome these challenges, the agreement contemplated joint purchasing and the establishment of minimum common technical specifications, thereby reducing procurement costs through demand pooling, providing greater investment predictability to suppliers and enhancing interoperability across charging infrastructures.

The European Commission concluded that, subject to certain safeguards, the proposed agreement did not raise concerns under Article 101 of the TFEU. Specifically, the agreement was deemed compatible with EU competition rules provided that: (1) each participating terminal operator retained the ability to purchase equipment independently; (2) the volume of demand pooled through the agreement was capped to avoid anti-competitive foreclosure effects; and (3) the exchange of commercially sensitive information was strictly limited to what was necessary to implement the agreement.

Beyond the EU, other jurisdictions have also begun to align their competition enforcement with sustainability objectives. A particularly forward-looking example is the Netherlands Authority for Consumers and Markets (Autoriteit Consument & Markt or ACM), which, in 2023, issued its policy rule regarding ACM's oversight of sustainability agreements, confirming that ACM follows the European and Dutch legal frameworks on this topic.[13] The ACM also updated its Guidelines regarding sustainability claims[14] to set out five key principles to help businesses communicate sustainability efforts in a clear, credible and verifiable manner: (1) use claims that are correct, clear, specific and complete; (2) substantiate claims with facts and keep the information up to date; (3) make fair comparisons with other products or competitors; (4) describe future sustainability ambitions in concrete and verifiable terms; and (5) ensure visual claims and labels are clear and useful to consumers, not confusing or misleading.

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12 European Commission, Commission provides guidance on sustainability agreement to reduce CO2 emissions in European ports, Press Release, 8 July 2025 https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1769 accessed 17 November 2025.

13 ACM, ACM's oversight of sustainability agreements, Policy rule, 4 October 2023 www.acm.nl/system/files/documents/Beleidsregel%20Toezicht%20ACM%20op%20duurzaamheidsafspraken%20ENG.pdf accessed 17 November 2025.

14 ACM, Guidelines regarding Sustainability Claims, 2023 www.acm.nl/system/files/documents/guidelines-sustainability-claims_1.pdf accessed 17 November 2025.

In parallel with its guidance on marketing, the ACM has also supported collaborative sustainability initiatives, including through informal assessments of proposed agreements. A notable example involves the Royal Dutch Association for Coffee and Tea Companies (Koninklijke Nederlandse Vereniging voor Koffie en Thee or KNVKT), which coordinated a proposal among nine coffee capsule producers to jointly invest in sorting machines. These investments aimed to improve the extraction of capsules from residual waste, thereby enhancing the recycling rates of plastic and aluminium coffee capsules. Following its review, the ACM concluded that the collaboration did not pose antitrust risks, noting the absence of concerns related to pricing or market foreclosure.[15] It further welcomed the environmental benefits of the initiative and highlighted the importance of continued innovation in the sector to improve the sustainability of capsule materials and design.

The United Kingdom has pursued a similar approach under the Competition and Markets Authority's (CMA's) policy on sustainability agreements. On 28 March 2025, the CMA issued informal guidance to the Builders Merchants Federation (BMF) concerning its proposal to recommend that the industry adopt a single provider of supply chain assurance services under a 'single preferred platform' model.[16] The CMA concluded that the initiative could generate significant benefits that outweighed potential harm to competition. Specifically, the proposal promised both cost reductions and environmental benefits, including quantifiable reductions in greenhouse gas emissions. The CMA found that final consumers were likely to benefit from the wider availability of assured goods and services at lower assurance costs, satisfying the 'fair share' requirement. It also concluded that the single platform was reasonably necessary to achieve the proposed benefits and that the safeguards introduced by the parties mitigated the risk of eliminating competition. By explicitly recognising climate change benefits as relevant efficiencies that could be taken into account for all UK consumers, the CMA confirmed that collective environmental gains can justify otherwise restrictive cooperation.

Other jurisdictions are following a similar path. In Austria, for example, the national competition authority introduced guidelines in 2022 to clarify when sustainability agreements, particularly those aimed at fostering an ecologically sustainable or climate-neutral economy, may be compatible with Austrian

15 ACM, Informal guidance regarding the 'recycling of coffee capsules' initiative, 4 July 2024 www.acm.nl/system/files/documents/acm-informal-guidance-recycling-of-coffee-capsules-initiative.pdf accessed 17 November 2025.

16 CMA, CMA Informal Guidance: Green Agreements Guidance Builders Merchants Federation's supply chain initiative, 28 March 2025 https://assets.publishing.service.gov.uk/media/67ea4b0ab79d8c9841eade35/BMF_informal_guidance_final.pdf accessed 17 November 2025.

competition law.[17] Meanwhile, the Japan Fair Trade Commission (JFTC) has taken notable steps to incorporate sustainability considerations into its enforcement practice. In March 2023, the JFTC published its own sustainability guidelines[18] and has since begun applying them in real-world cases. In February 2024, it publicised its first consultation case involving a sustainability collaboration,[19] authorising five petrochemical companies to jointly pursue a carbon-neutral initiative.

Although these frameworks vary in scope and legal detail, they reflect a common trend: an increasing willingness by competition authorities around the world to accommodate sustainability considerations, provided that safeguards against hardcore cartel conduct remain in place.

In light of Brazil's Administrative Proceeding involving the Soy Moratorium, CADE's current approach to sustainability agreements has more closely resembled that of the United States than that of the EU and other jurisdictions. US antitrust enforcement has recently taken a sceptical stance towards sustainability-related coordination, framing sustainability agreements as potential vehicles for collusion rather than as potential candidates for exemption.

The most prominent example is the multistate lawsuit filed in January 2025 against the three asset management giants BlackRock, State Street and Vanguard.[20] Led by the Texas Attorney General, the case argues that the defendants engaged in an anti-competitive conspiracy to curb coal production as part of an industry-wide net zero initiative. According to the complaint, the firms allegedly leveraged their positions as major shareholders in competing coal companies to coordinate reductions in industry output. This conduct, combined with the exchange of competitively sensitive information, was said to have driven up coal prices and increased costs for American consumers.

In May 2025, the Federal Trade Commission (FTC) and the Department of Justice Antitrust Division jointly filed a statement of interest in the US District Court for the Eastern District of Texas, emphasising that environmental or social

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17 Austrian Federal Competition Authority, Guidelines on the Application of Sec 2 para 1 Cartel Act to Sustainability Cooperations (Sustainability Guidelines), September 2022 www.bwb.gv.at/fileadmin/user_upload/AFCA_Sustainability_Guidelines_English_final.pdf accessed 17 November 2025.

18 Japan Fair Trade Commission, Guidelines Concerning the Activities of Enterprises, etc, Toward the Realization of a Green Society Under the Antimonopoly Act, 31 March 2023 www.jftc.go.jp/file/230331EN_GreenGuidelines.pdf accessed 17 November 2025.

19 Japan Fair Trade Commission, Consultation case related to joint activities aiming to achieve carbon neutrality by constituent enterprises of a petrochemical complex, 14 February 2023 www.jftc.go.jp/en/pressreleases/yearly-2024/February/2402152.html accessed 17 November 2025.

20 Amended complaint, *State of Texas et al v BlackRock, Inc et al*, No 6:24-cv-00437-JDK (ED Tex Filed 16 January 2025).

goals do not exempt conduct from antitrust scrutiny.[21] The statement underscored that collusion to restrict production, regardless of sustainability objectives, remains subject to enforcement under the Sherman and Clayton Acts. The filing specifically noted that asset managers may be held liable under Section 7 of the Clayton Act when common ownership across competitors is used to advance anti-competitive aims. Furthermore, industry-wide agreements, even when framed as advancing social or environmental concerns, may still violate US antitrust law.

Notably, the agencies' statement did not reference sustainability as a mitigating factor. Instead, it focused on the alleged harm to consumers through higher energy prices and on the potential threat such coordination poses to US energy dominance.

In public remarks accompanying the filing, FTC Chairman Andrew Ferguson framed the agencies' position as addressing not only anti-competitive conduct but also broader concerns about ideologically motivated market coordination and its potential impact on energy policy and national resilience.[22] While the legal arguments rested squarely on antitrust principles, Ferguson's comments reflected a wider perspective, suggesting that enforcement actions in this area may be informed by both competitive effects and strategic economic considerations.

Final remarks

CADE's handling of the Soy Moratorium so far places Brazil closer to the US model than to the European and Japanese one. By launching the investigation without reference to sustainability and imposing sweeping preventive measures that paralysed the agreement, CADE's GS signalled a formalistic approach with regard to sustainability commitments. Yet the Tribunal's own precedents, including the opinions of Commissioners Levi and Fernandes mentioned above, suggest that a more nuanced framework is both possible and consistent with Brazilian competition law. These votes recognise that restrictions on competition may be legitimate when they pursue collective protections, provided they are adequate, necessary and proportionate, and that sustainability efficiencies can extend beyond the narrow confines of immediate consumer markets.

The challenge for CADE, therefore, is to move beyond isolated case law and articulate clear standards. Doing so would provide companies with the

21 Statement of Interest of the Federal Trade Commission and the United States of America, *State of Texas et al v BlackRock, Inc et al*, No 6:24-cv-00437-JDK (ED Tex 22 May 2025), ECF No 99.

22 FTC, FTC and DOJ File Statement of Interest in Energy Collusion Case Against BlackRock, State Street and Vanguard, Press Release, 22 May 2025 www.ftc.gov/news-events/news/press-releases/2025/05/ftc-doj-file-statement-interest-energy-collusion-case-against-blackrock-state-street-vanguard accessed 17 November 2025.

legal certainty they need to engage in sustainability initiatives without fear of automatic antitrust liability. As the ICC Brazil proposals have suggested, criteria such as the fair sharing of benefits, indispensability and the preservation of effective competition could serve as the basis for guidelines that align CADE with international best practices.

Ultimately, the Soy Moratorium is more than a case about soy or deforestation. It is a test of whether Brazil's competition authority will reconcile the imperatives of market integrity with the collective need for sustainability. If CADE seizes this opportunity to issue structured guidance and establish a transparent consultation process, it could avoid chilling voluntary cooperation, safeguard Brazil's role in sustainable global value chains and position itself as a regional leader in the evolving global debate.

For companies, the lesson from the Soy Moratorium and the evolving international landscape is clear: collective sustainability initiatives must be carefully designed and documented to withstand antitrust scrutiny. This means ensuring that the rationale for cooperation is transparently recorded and, where possible, engaging proactively with competition authorities to seek informal guidance. Companies should also build safeguards, such as limiting information exchanges to what is strictly necessary and preserving avenues for independent commercial decision-making, to demonstrate indispensability and proportionality. In doing so, businesses may both advance their sustainability goals and mitigate the legal risks of enforcement in an uncertain regulatory environment.

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