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Brasil Pereira Neto help companies settle over cartel fines

Brasil, Pereira Neto, Galdino e Macedo Advogados has helped three companies negotiate lower fines for their part in a cartel investigation, in the first settlement of its kind in Brazil.

The settlement was reached with CADE, the Brazilian Council for Economic Defense, on 8 February, and will see the companies' fines reduced by 13 to 15 per cent.

"It is an important and innovative development by the council. It is the first time a judicial settlement with fine reduction has been executed by the council concerning a cartel case," says Brasil, Pereira Neto associate Paulo Casagrande, whose firm has advised the companies since 2007.

In 2005 the council sentenced 16 companies operating in the crushed rock industry within the state of São Paulo to pay damages for forming a cartel. It was the first case in the history of antitrust in Brazil in which the chief investigative body in anticompetitive practices, SDE, carried out a dawn raid.

This is the first cartel settlement to happen when a case is under judicial review, with all previous settlements occurring while proceedings are at the administrative level.

"We believe that the council understood that a settlement was beneficial, as it saves time and resources that would be spent in the judicial proceedings in order to try to finally collect the fine," explains Casagrande.

"This demonstrates that the authority is willing to discuss with companies being judicially charged with cartel fines possible reductions in return for prompt payment," he adds. "There are many companies currently in this situation, and they might see in this new development an attractive alternative to close such proceedings."

Embu Engenharia e Comércio will pay 85 per cent of an original fine of 5.2million reais (US\$2.8million), Lúdice Mineração must now pay 87 per cent of a fine worth 1.4million reais and Pedreira Sargon now has to pay 87 per cent of its 1.2 million reais fee to the Brazilian Council for Economic Defense for their participation in the crushed rock cartel.

Counsel to Embu Engenharia e Comércio, Lúdice Mineração and Pedreira Sargon

Brasil, Pereira Neto, Galdino e Macedo Advogados

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