

Positioning concerning a concentration in the lithium market

Mexico City, February 16, 2022

In response to the interest of the media related to various statements regarding the concentration authorized to two foreign companies dedicated to the exploration and exploitation of lithium, the Federal Economic Competition Commission indicates the following:

First. It corresponds to the Federal Executive, through the Ministry of Economy, to safeguard the compliance with the Mining Law and any other aspect linked to the exploration, exploitation and profit of minerals in the national territory. This includes resolving on the granting, nullity or cancelation of concessions. COFECE does not have any attribution to issue determinations of this nature.

Second. In terms of the Mining Law the concessions will be granted to societies constituted in accordance to the Mexican Laws, and the participation of foreign investors will be limited to the provisions of the law on the matter. For its part, the Foreign Investment Law allows foreign capital in mining, except in the case of radioactive minerals.

Third. In the file CNT-097-2021, COFECE only resolved on the concentration application between the foreign companies *Ganfeng International Trading (Ganfeng)* and *Bacanora Lithium (Bacanora)*. In accordance to the operation, *Ganfeng* indirectly acquired participation in the social capital of various Mexican subsidiaries, including some that have held mining concessions granted by the Federal Government for several years. The resolution of COFECE was not object to any legal recourse.

Fourth. It is worth mentioning that (i) the operation implied a change in the shares of the Mexican societies holders of the concessions, and (ii) other foreign investors who already participated in the Mexican concessionaire societies, a common situation in the Mexican mining sector.



Fifth. In accordance with the Federal Economic Competition Law, the indicated operation had to be notified, and COFECE had the obligation to rule on the matter, solely within the scope of its powers, that is to say, for the effects of verifying any adverse impact on competition, which was discarded in this particular case. As the resolution itself indicates, **it was issued without prejudice to any other authorization that may proceed in accordance with the law or the powers of other authorities.** In this sense, it corresponds to the Executive to oversee and take any action it deems pertinent in accordance with the legal framework in force and its attributions in the mining sector.

[Read the public version of resolution CNT-097-2021 \(in Spanish\)](#)

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The Mexican Federal Economic Competition Commission is responsible for ensuring competition and free market access. In this way, it contributes to the people’s welfare and the efficient functioning of the markets. Through its work, it seeks better conditions for consumers, that more services are offered with higher quality and that there is “level playing field” for companies.

