

CHAPTER 7

COMPETITION

ARTICLE 7.1

General Principles

The Parties recognise the importance of undistorted competition in their trade relations and acknowledge that anticompetitive practices have the potential to undermine the trade benefits arising from this Agreement.

ARTICLE 7.2

Rules of Competition

1. The following practices of enterprises are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties:

- (a) agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises, which have as their object or effect the prevention, restriction or distortion of competition;
- (b) abuse by one or more enterprises of a dominant position in the territory of a Party as a whole or in a substantial part thereof.

2. Nothing in this Chapter shall be construed so as to prevent a Party from establishing or maintaining state enterprises, enterprises with special and exclusive rights and designated monopolies. Paragraph 1 shall also apply to the activities of public enterprises, and enterprises to which the Parties grant special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

3. Paragraphs 1 and 2 shall not be construed so as to create any direct obligations for enterprises.

4. This Chapter shall be without prejudice to the autonomy of each Party to establish, develop and implement its own public and economic policies and competition laws and regulations.

ARTICLE 7.3

Cooperation

1. The Parties shall cooperate and consult in their dealings with anti-competitive practices as outlined in paragraph 1 of Article 7.2 (Rules of Competition), with the aim

of putting an end to such practices or their adverse effects on trade. Such cooperation and consultations shall not prevent the Parties concerned from taking independent decisions.

2. Cooperation may include the exchange of pertinent information that is available to the Parties. A Party shall not be required to disclose information that is confidential according to its domestic laws and regulations.

ARTICLE 7.4

Consultations

If a Party considers that a given practice continues to affect trade after cooperation or consultations in accordance with Article 7.3 (Cooperation), it may request consultations in the Joint Committee. The Party requesting consultations shall indicate how such practice undermines trade benefits arising from this Agreement. The Party to which a request for consultations has been made shall give sympathetic considerations to the concerns of the requesting Party. The Parties concerned shall give to the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. The Joint Committee shall, within 60 days from the receipt of the request, examine the information provided in order to facilitate a mutually acceptable solution on the matter.

ARTICLE 7.5

Dispute Settlement

The Parties shall not have recourse to Chapter 11 (Dispute Settlement) for any matter arising under this Chapter.