

CHAPTER 8

COMPETITION

ARTICLE 8.1

Anti-competitive Practices

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

- (a) agreements between undertakings, decisions by associations of undertakings 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 undertakings of a dominant position¹¹ in the territory of a Party as a whole or in a substantial part thereof.

2. Subject to their domestic laws, the provisions of paragraph 1 shall also apply to the activities of public undertakings, and undertakings 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. Rights and obligations under this Chapter shall only apply between the Parties.

4. In order to fulfil the obligations of this Chapter, if at the moment of entry into force of this Agreement a Party has not yet adopted competition legislation or designated a competent authority, it shall do so within a period of three years.

ARTICLE 8.2

Cooperation

1. Subject to their domestic laws, the Parties involved shall cooperate in their dealings with anticompetitive practices as outlined in Article 8.1, with the aim of putting an end to such practices.

2. Cooperation may include the exchange of pertinent information that is available to the Parties. No Party shall be required to disclose information that is confidential according to its laws.

¹¹ The term "dominant position" may be referred to as an undertaking able to operate independently from its competitors or customers, or alternatively as a substantial market power or as a notable market participation, as specified in the Central American States' respective competition laws.

ARTICLE 8.3

Consultations

To foster understanding between the Parties or to address any matter arising under this Chapter, a Party may request consultations within the Joint Committee. This request shall indicate the reasons for the consultations. Consultations shall be held promptly with a view to reaching a conclusion consistent with this Chapter. The Parties concerned shall give to the Joint Committee all the support and information needed. No Party shall be required to disclose information that is confidential according to its laws.

ARTICLE 8.4

Dispute Settlement

No Party may have recourse to dispute settlement under Chapter 12 for any matter arising under this Chapter.