

- (b) human life, health or security;
- (c) animal or plant life or health;
- (d) intellectual property; or
- (e) relating to goods or services of handicapped persons, of philanthropic institutions or of prison labour.

ARTICLE 71

Review and implementation

1. The Joint Committee shall review the implementation of this Chapter every two years, unless otherwise agreed by the Parties; it shall consider any issue arising from it, and take appropriate action in the exercise of its functions.
2. At the request of a Party, the Parties shall convene a bilateral Working Group to address issues related to the implementation of this Chapter. Such issues may include:
 - (a) bilateral cooperation relating to the development and use of electronic communications in government procurement systems;
 - (b) the exchange of statistics and other information needed for monitoring procurement conducted by the Parties and the results of the application of this Chapter; and
 - (c) exploration of potential interest in further negotiations aimed at further broadening of the scope of market access commitments under this Chapter.

CHAPTER VI

COMPETITION POLICY

ARTICLE 72

Objectives

1. The Parties recognise that anti-competitive business conduct may frustrate the benefits arising from this Agreement.
2. The Parties undertake to apply their competition laws in a manner consistent with this Chapter so as to avoid that the benefits of the liberalisation process in goods and services as provided by this Agreement may be diminished or cancelled out by anti-

competitive business conduct.¹⁰ To facilitate this, the Parties agree to co-operate and co-ordinate under the provisions of this Chapter. This co-operation includes notification, consultation, and exchange of information.

3. For the purposes of this Agreement, "anti-competitive business conduct" includes, but is not limited to, anti-competitive agreements, concerted practices or arrangements by competitors, the abuse of single or joint dominant positions in a market and mergers with substantial anti-competitive effects. These practices refer to goods and services and may be carried out by private and public enterprises.

4. The Parties recognise the importance of principles of competition that are accepted in relevant multilateral fora of which the Parties are members or observers, including non-discrimination, due process, and transparency.

ARTICLE 73

Notifications

1. Each Party, through its designated authority, shall notify the other Parties of an enforcement activity regarding anti-competitive business conduct relating to goods and services if it is liable to substantially affect another Party's important interests, or if the anti-competitive business conduct is liable to have a direct and substantial effect in the territory of that other Party or is taking place principally in the territory of that other Party.

2. Provided that this is not contrary to the Parties' competition laws and does not affect any investigation being carried out, notification shall take place at an early stage of the procedure.

3. The notifications provided for in paragraph 1 should be detailed enough to permit an evaluation in the light of the interests of the other Parties.

ARTICLE 74

Co-ordination of enforcement activities

A Party, through its designated authority, may notify another Party of its willingness to co-ordinate enforcement activities with respect to a specific case. This co-ordination shall not prevent the Parties from taking autonomous decisions.

¹⁰ For the purpose of this Chapter, "goods" shall mean goods classified in chapters 1 to 97 of the HS

ARTICLE 75

Consultations

1. Each Party shall, in accordance with its laws, take into consideration the important interests of the other Parties in the course of its enforcement activities on anti-competitive business conduct relating to goods and services. If a Party considers that an investigation or proceeding being conducted by another Party may adversely affect such Party's important interests it may transmit its views on the matter to that other Party through its designated authority. Without prejudice to the continuation of any action under its competition laws and to its full freedom of ultimate decision, the Party so addressed should give full and sympathetic consideration to the views expressed by the requesting Party.
2. If a Party considers that an anti-competitive business conduct carried out within the territory of another Party may have an adverse effect on its interests, the first Party may, through its designated authority, request that that other Party initiates appropriate enforcement activities. The request shall be as specific as possible about the nature of the anti-competitive business conduct and its effect on the interest of the requesting Party, and shall include an offer of such further information and other assistance as the requesting Party is able to provide. The requested Party shall carefully consider whether to initiate enforcement activities, or to expand ongoing enforcement activities, with respect to the anti-competitive business conduct identified in the request.
3. Regarding the issues addressed in paragraphs 1 and 2 each Party undertakes to exchange information regarding sanctions and remedies applied and to provide the grounds on which those actions were taken, when requested by another Party.
4. A Party may request consultations within the Joint Committee regarding the issues addressed in paragraphs 1 and 2 as well as any other matter covered by this Chapter. Such a request shall indicate the reasons for the request and whether any procedural time limit or other constraints require that consultations be expedited.

ARTICLE 76

Exchange of information and confidentiality

1. With a view to facilitating the effective application of their competition laws in order to eliminate the negative effects of anti-competitive business conduct relating to goods and services, the Parties are encouraged to exchange information.
2. All exchange of information shall be subject to the rules and standards of confidentiality applicable in the territory of each Party. No Party shall be required to provide information when this is contrary to its laws regarding disclosure of information. Each Party shall maintain the confidentiality of any information provided to it according to the limitations that the submitting Party requests for the use of such information. Where the laws of a Party so provide, confidential information may be provided to their respective courts of justice.

ARTICLE 77

Public enterprises and enterprises entrusted with special or exclusive rights, including designated monopolies

1. With regard to public enterprises and enterprises to which special or exclusive rights have been granted, the Parties shall ensure that no measure is adopted or maintained that distorts trade in goods or services between the Parties to an extent contrary to the Parties' interests and that such enterprises shall be subject to the rules of competition insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.
2. The Parties confirm their rights and obligations under Article XVII of the GATT 1994 and Article VIII of the GATS with regard to enterprises referred to in paragraph 1.

ARTICLE 78

Dispute settlement

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

ARTICLE 79

Designated authorities

For the purpose of applying Articles 73, 74 and 75, each Party shall designate its competition authority or any other public entity and communicate its decision to the other Parties at the first meeting of the Joint Committee but in no case later than 60 days after the entry into force of the Agreement.

ARTICLE 80

Definitions

For the purpose of this Chapter:

- (a) "competition laws" means:
 - (i) for Chile, Decreto Ley N° 211 of 1973 and Ley N° 19.610 of 1999 and their implementing regulations or amendments as well as other laws dealing with competition matters;

- (ii) for the Republic of Iceland, Competition Law No. 8/1993 as amended by Law No. 24/1994, 83/1997, 82/1998 and 107/2000 as well as other laws dealing with competition matters;
- (iii) for the Principality of Liechtenstein, any competition rules that Liechtenstein recognises or undertakes to apply within its territory, including those provided for in other international agreements, such as the Agreement on the European Economic Area;
- (iv) for the Kingdom of Norway, Act No. 65 of 11 June 1993 relating to Competition in Commercial Activity as well as other laws dealing with competition matters;
- (v) for the Swiss Confederation, the Federal Act on Cartels and Other Restraints of Competition of 6 October 1995 and the Order on the Control of Business Concentration of 17 June 1996, and any regulation provided for by these acts as well as other laws dealing with competition matters,

and any changes that the above mentioned legislation may undergo after the conclusion of this Agreement;

- (b) “enforcement activity” includes any application of competition laws by way of investigation or proceeding conducted by a Party, which may result in the imposition of penalties or remedies.

CHAPTER VII

SUBSIDIES

ARTICLE 81

Subsidies/State aid

1. The rights and obligations of the Parties in respect of subsidies related to goods shall be governed by Article XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures.
2. The rights and obligations of the Parties in respect of subsidies related to services shall be governed by the GATS.
3. Each Party may request information on individual cases of state aid believed to affect trade between the Parties. The requested Party will make its best efforts to provide such information.