

2. Subject to the provisions of Title XIII (Technical Assistance and Trade Capacity-Building), areas of cooperation include, but are not limited to, the following activities:

- (a) exchange of information on the legal framework concerning intellectual property rights and relevant rules of protection and enforcement, as well as exchange of experiences between the EU Party and each signatory Andean Country on legislative progress;
- (b) exchange of experiences between the EU Party and each signatory Andean Country on enforcement of intellectual property rights;
- (c) capacity-building and exchange and training of personnel;
- (d) promotion and dissemination of information on intellectual property rights in, inter alia, business circles and civil society as well as public awareness of consumers and right holders;
- (e) enhancement of institutional cooperation, for example between intellectual property offices; and
- (f) actively promoting awareness and education of the general public in intellectual property rights policies.

Article 257

Sub-committee on Intellectual Property

1. The Parties hereby establish a Sub-committee on Intellectual Property to follow up on the implementation of the provisions of this Title. The Sub-committee will meet at least once a year, except if the Parties agree otherwise. These meetings may be carried out through any agreed means.

2. The Sub-committee on Intellectual Property will adopt its decisions by consensus. This Sub-committee may adopt its rules of procedure. The Sub-committee on Intellectual Property will be responsible for assessing the information referred to in Article 209 and for proposing to the Trade Committee the modification of Appendix 1 of Annex XIII (Lists of Geographical Indications) as regards to geographical indications.

TITLE VIII

COMPETITION

Article 258

Definitions

1. For the purposes of this Title:

— ‘competition laws’ means:

- (a) for the EU Party, Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union, Council Regulation (EC) No 139/2004 of 20 January

2004 on the control of concentrations between undertakings (the EC Merger Regulation), and their implementing regulations and amendments;

(b) for Colombia and Peru, the following, as appropriate:

- (i) domestic laws related to competition adopted or maintained in compliance with Article 260, and their implementing regulations and amendments; and/or
- (ii) Andean Community legislation applying in Colombia or Peru and its implementing regulations and amendments;

— ‘competition authority’ and ‘competition authorities’ mean:

- (a) for the EU Party, the European Commission; and,
- (b) for Colombia and Peru, their respective national competition authorities.

2. Nothing in this Article shall affect competences assigned by the Parties to their respective regional and national authorities for the effective and coherent implementation of their respective competition laws.

Article 259

Objectives and Principles

1. Acknowledging the importance of free competition and that anti-competitive practices have the potential of distorting the proper operation of markets, affecting economic and social development, economic efficiency and consumer welfare, and undermining the benefits arising from the implementation of this Agreement, the Parties shall apply their respective competition policies and laws.

2. The Parties agree that the following practices are inconsistent with this Agreement to the extent that such practices may affect trade and investment between the Parties:

- (a) any agreement, decision, recommendation or concerted practice, which has the purpose or effect of impeding, restricting, or distorting competition in accordance with their respective competition laws;
- (b) the abuse of a dominant position in accordance with their respective competition laws; and
- (c) concentrations of companies which significantly impedes effective competition, particularly as a result of the creation or strengthening of a dominant position in accordance with their respective competition laws.

3. The Parties recognise the importance of cooperation and coordination of their respective competition authorities to further effective competition policy and law enforcement, including notifications under Article 262, consultations, exchange of information, technical assistance and promotion of competition.

4. The Parties shall support and promote measures to strengthen competition in their respective jurisdictions in accordance with the objectives of this Agreement.

Article 260

Competition Laws, Authorities and Policies

1. Each Party shall maintain competition laws that address the practices referred to in Article 259 paragraph 2, and adopt appropriate actions with respect to such practices.

2. Each Party shall establish or maintain competition authorities responsible and appropriately equipped for the effective enforcement of their respective competition laws.

3. The Parties recognise the importance of applying their respective competition laws in a transparent, timely and non-discriminatory manner, respecting the principle of due process and the rights of defence.

4. Each Party shall maintain its autonomy to establish, develop and implement their respective competition policies.

Article 261

Cooperation and Exchange of Information

1. The Parties shall make their best efforts to cooperate through their competition authorities in matters related to the implementation of competition laws.

2. The competition authority of a Party may request cooperation from the competition authority of another Party regarding enforcement activities. This cooperation shall not prevent the Parties concerned from taking independent decisions.

3. The competition authorities may exchange information in order to facilitate the effective application of their respective competition laws.

4. Whenever competition authorities exchange information pursuant to this Article, they shall take into account the restrictions imposed by their respective legislation.

5. If a Party considers that an anticompetitive practice as defined in Article 259 paragraph 2 carried out within the

territory of another Party has an adverse effect within the territory of both Parties or on trade relations between those Parties, that Party may request that such other Party initiate the enforcement activities established under its legislation.

6. The competition authorities may further strengthen cooperation by appropriate means or instruments in accordance with their interests and capacities.

Article 262

Notification

1. The competition authority of a Party shall notify the competition authority of another Party, administrative resources allowing, with respect to the enforcement activities of competition laws that the notifying competition authority considers may affect important interests ⁽⁷⁷⁾ of that other Party.

2. The notification pursuant to paragraph 1 shall be made as soon as possible, to the extent that this does not violate the competition law of the Party making the notification or affect any investigation underway.

Article 263

Designated Monopolies and State Enterprises

1. Nothing in this Agreement shall prevent a Party from establishing or maintaining public or private monopolies and state enterprises according to its legislation ⁽⁷⁸⁾.

2. Each Party shall ensure that state enterprises and designated monopolies are subject to its competition laws in so far as the application of such laws does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

3. With regard to state enterprises and designated monopolies, no Party shall adopt or maintain any measure contrary to the provisions of this Title which distorts trade and investment between the Parties.

Article 264

Technical Assistance

1. In order to achieve the objectives set out in this Title, the Parties acknowledge the importance of technical assistance and shall promote initiatives with a view to developing a competition culture.

⁽⁷⁷⁾ In particular, when the notification could contribute to achieve the objectives of the enforcement activities of the notified competition authority.

⁽⁷⁸⁾ For greater certainty, the Parties understand that 'monopolios rentísticos' established in accordance with Article 336 of the Political Constitution of Colombia are included in the category of designated monopolies and state enterprises.

2. Initiatives pursuant to paragraph 1 shall focus, among others, on strengthening the technical and institutional capacities as regards the implementation of competition policy and enforcement of competition laws, training of human resources and exchange of experiences.

Article 265

Consultations

1. For the purposes of fostering understanding between the Parties or addressing any specific issues arising under this Title, a Party, upon request of another Party, shall accept the initiation of consultations, without prejudice to pursuing any action in accordance with its competition laws and while maintaining its full autonomy as regards the final decision on the issues subject to consultations.

2. The Party requesting consultations pursuant to paragraph 1 shall indicate how the issue affects the proper operation of markets, as well as consumers and trade and investment between the Parties. The requested Party shall accord the fullest consideration to the concerns of the requesting Party.

Article 266

Dispute Settlement

No Party may have recourse to dispute settlement under Title XII (Dispute Settlement) with respect to any issue arising under this Title.

TITLE IX

TRADE AND SUSTAINABLE DEVELOPMENT

Article 267

Context and Objectives

1. Recalling the Rio Declaration on Environment and Development and the Agenda 21 adopted by the United Nations Conference on Environment and Development on 14 June 1992, the Millennium Development Goals adopted in September 2000, the Johannesburg Declaration on Sustainable Development and its Plan of Implementation adopted on 4 September 2002, and the Ministerial Declaration on Attainment of Full, Productive Employment and Decent Work adopted by the United Nations Economic and Social Council in September 2006, the Parties reaffirm their commitment to sustainable development, for the welfare of present and future generations. In this regard, the Parties agree to promote international trade in such a way as to contribute to the objective of sustainable development and to work to integrate and reflect this objective in their trade relationship. In particular, the Parties underline the benefit of considering trade-related labour⁽⁷⁹⁾ and environmental issues as part of a global approach to trade and sustainable development.

⁽⁷⁹⁾ When 'labour' is referred to in this Title, it includes the issues relevant to the strategic objectives of the International Labour Organisation.

2. In view of paragraph 1 the objectives of this Title are, among others, to:

- (a) promote dialogue and cooperation between the Parties with a view to facilitating the implementation of the provisions of this Title and strengthening the relationship between trade and labour and environmental policies and practices;
- (b) strengthen compliance with the labour and environmental legislation of each Party, as well as with the commitments deriving from the international conventions and agreements referred to in Articles 269 and 270, as an important element to enhance the contribution of trade to sustainable development;
- (c) strengthen the role of trade and trade policy in the promotion of the conservation and sustainable use of biological diversity and of natural resources, as well as in the reduction of pollution in accordance with the objective of sustainable development;
- (d) strengthen the commitment to labour principles and rights in accordance with the provisions of this Title, as an important element to enhance the contribution of trade to sustainable development;
- (e) promote public participation in the matters covered under this Title.

3. The Parties reaffirm their full resolve to fulfil their commitments under this Title taking into account their own capacities, in particular technical and financial capacities.

4. The Parties reiterate their commitment to address global environmental challenges, in accordance with the principle of common but differentiated responsibilities.

5. The provisions of this Title shall not be interpreted or used as a means of arbitrary or unjustifiable discrimination between the Parties or as a disguised restriction to trade or investment.

Article 268

Right to Regulate and Levels of Protection

Recognising the sovereign right of each Party to establish its domestic policies and priorities on sustainable development, and its own levels of environmental and labour protection, consistent with the internationally recognised standards and agreements referred to in Articles 269 and 270, and to adopt or modify accordingly its relevant laws, regulations and policies; each Party shall strive to ensure that its relevant laws and policies provide for and encourage high levels of environmental and labour protection.