

CHAPTER TWELVE

COMPETITION

Article 12.1 Objectives

The Parties recognise the strategic importance of promoting and maintaining competition that enhances economic efficiency and consumer welfare.

Article 12.2 Competition Law

1. To the extent that a Party has adopted and applied measures (including competition law or sector-specific regulations) to address anti-competitive practices and arrangements, those measures shall be consistent with competition principles.
2. Where generic or relevant sectoral competition laws are in force in the Parties' respective territories, the Parties shall ensure that all commercial activities are subject to such laws.
3. Notwithstanding paragraph 2, where generic or relevant sectoral competition laws are in force, either Party may exempt specific measures or sectors from the application of its general competition laws, provided that such exemptions are transparent and undertaken on the grounds of national policy or public interest.
4. Nothing in this Chapter requires a Party to adopt specific measures to address anti-competitive practices or prevents it from withdrawing such measures, nor does this Chapter prevent a Party from adopting policies in other fields, for example to promote economic development.

Article 12.3 Cooperation

1. The Parties shall endeavour to exchange information and explore the scope for further cooperation between them on competition matters with a particular emphasis on issues or matters that adversely affect their economies.
2. The Parties agree that it is in their common interest to work together on technical cooperation activities in controlling anti-competitive activities. Such technical cooperation activities may include:

- (a) exchange of experience regarding the best approach in formulating and enforcing competition law and policy;
- (b) exchange of publicly available information about competition law and policy;
- (c) exchange of officials for training purposes;
- (d) assistance from consultants and experts from New Zealand to the Malaysian Ministry of Domestic Trade, Co-operatives and Consumerism in information sharing on competition policy and law; and
- (e) participation of officials as lecturers, consultants or participants at training courses on competition laws and policy.

Article 12.4

Discussions Between the Parties

1. A Party may at any time request discussions with the other Party on the development of any new measures related to controlling anti-competitive practices that may affect their economic development, whether these are specific or of general application.
2. A Party may request discussions with the other Party on anti-competitive practices adversely affecting economic development of either Party within the scope of this Chapter.
3. The other Party shall respond promptly to any request for discussions.

Article 12.5

Non-Application of Dispute Settlement

1. No Party shall have recourse to the dispute settlement procedures under Chapter 16 (Dispute Settlement) in respect of this Chapter.
2. Nothing in this Chapter permits a Party to challenge any decision made by a competition authority of the other Party in enforcing applicable competition laws.