

CHAPTER 3 COMPETITION

ARTICLE 3.1: DEFINITIONS

For the purposes of this Chapter

competition laws means

- (a) for Turkey, *Act No 4054 on the Protection of Competition*, and its implementing regulations and amendments;
- (b) for Korea, *the Monopoly Regulation and Fair Trade Act* and its implementing regulations and amendments; and
- (c) any changes that instruments set out in this Article may undergo after this Framework Agreement enters into force.

anti-competitive practices means

- (a) agreements and concerted practices⁴ between undertakings, decisions and practices by associations of undertakings, which have as their object or effect the prevention, restriction or distortion of competition in the territory of either Party;
- (b) any abuse by one or more undertakings of a dominant position in the territory of either Party; or
- (c) concentrations between undertakings, which significantly lessen competition, in particular as a result of the creation or strengthening of a dominant position in the territory of either Party.

ARTICLE 3.2: PRINCIPLES

1. The Parties recognise the importance of free and undistorted competition in their trade relations. The Parties undertake to apply their respective competition laws so as to prevent the benefits of the trade liberalisation process from being removed or eliminated by anti-competitive practices.

2. The Parties shall maintain in their respective territories comprehensive competition laws which effectively address restrictive agreements, concerted practices and abuse of dominant position, and which provide effective control of concentrations between undertakings.

⁴ The application of this Chapter to concerted practices is determined by each Party's competition laws.

ARTICLE 3.3: IMPLEMENTATION

1. The Parties shall maintain an authority responsible and appropriately equipped for the implementation of the competition laws.
2. The Parties recognise the importance of applying their respective competition laws in a transparent, timely and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the parties concerned.

ARTICLE 3.4: COOPERATION

1. The Parties recognise the importance of cooperation and coordination between their respective competition authorities to further enhance effective competition law enforcement and to fulfil the objectives of the Turkey-Korea FTA.
2. The Parties shall cooperate in relation to their respective enforcement policies and in the enforcement of their respective competition laws, including through notification, consultation and exchange of non-confidential information.

ARTICLE 3.5: CONSULTATION

1. To foster mutual understanding between the Parties, or to address specific matters that arise under this Chapter and without prejudice to the autonomy of each Party to develop, maintain and enforce its competition laws and policies, each Party shall, upon request of the other Party, enter into consultations on issues raised by the other Party.
2. The Party to which a request for consultations has been addressed shall give full and sympathetic consideration to the concerns of the other Party.

ARTICLE 3.6: NOTIFICATION

1. Each Party shall, through its competition authority, notify the competition authority of the other Party of an enforcement activity regarding anti-competitive practices if it considers that such enforcement activity may substantially affect important interests of the other Party.
2. Provided that it is not contrary to the Parties' competition laws and does not affect any investigation being carried out, the notification shall take place at an early stage of the enforcement activity.

ARTICLE 3.7: CONFIDENTIALITY

1. The competition authority of a Party shall, upon request of the competition authority of the other Party, endeavour to provide information to facilitate effective enforcement of their respective competition laws, provided that it does not affect any

ongoing investigation and is compatible with the rules and standards of confidentiality of each Party.

2. The competition authority of each Party shall maintain the confidentiality of any information provided in confidence by the competition authority of the other Party and shall not disclose such information to any entity that is not authorised by the competition authority providing the information.

ARTICLE 3.8: STATE ENTERPRISES

1. Each Party shall ensure that state enterprises are subject to their respective competition laws and do not adopt or maintain any anti-competitive practices that affect trade between the Parties, insofar as the application of this provision does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.

2. Nothing in paragraph 1 shall be construed to prevent a Party from establishing or maintaining state enterprises.

ARTICLE 3.9: DISPUTE SETTLEMENT

Neither Party shall have recourse to Chapter 6 (Dispute Settlement) for any matter arising under this Chapter.