

CHAPTER 8

COMPETITION POLICY

ARTICLE 8.1

Definitions

For the purposes of this Chapter:

- (a) “anticompetitive business conduct” means:
 - (i) agreements between enterprises, concerted practices or decisions by associations of enterprises, which have as their object or effect the prevention, restriction or distortion of competition;
 - (ii) abuses by one or more enterprises that are dominant in a market; and
 - (iii) mergers between enterprises with substantial anti-competitive effects.
- (b) “enterprise” means an entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture or other association; and
- (c) “competent authority” means an authority responsible for the enforcement of competition law.

ARTICLE 8.2

Competition Law

1. The Parties recognise the importance of free and undistorted competition in their trade relations. The Parties acknowledge that anticompetitive business conduct has the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.
2. The Parties shall take appropriate measures to proscribe anticompetitive business conduct, recognising that such measures will enhance the fulfilment of the objectives of this Agreement.
3. The measures referred to in paragraph 2 shall be consistent with the principles of transparency, non-discrimination and procedural fairness.

4. Each Party may provide for certain exemptions from the application of its competition law provided that those exemptions are transparent and are based on public policy grounds or public interest grounds. A Party shall make available to another Party public information concerning such exemptions provided under its competition law.

ARTICLE 8.3

Application of Competition Law to Public Enterprises

Each Party shall ensure that the measures referred to in paragraph 2 of Article 8.2 (Competition Law) apply to its publicly owned or controlled enterprises to the extent required by its law.

ARTICLE 8.4

Cooperation

1. The Parties recognise the importance of cooperation and coordination to further enhance effective competition law enforcement.
2. The Parties' respective competent authorities shall endeavour to coordinate and cooperate in the enforcement of their respective competition law to fulfil the objectives of this Agreement. The Parties shall take such steps as they consider appropriate to minimize direct or indirect obstacles or restrictions to effective enforcement cooperation between the competent authorities of the Parties.
3. The interested Parties may enter into a separate agreement on cooperation and coordination between their competent authorities, which may include conditions for the exchange and use of confidential information.
4. Nothing in this Article shall require a Party, or its competent authorities, to take any action which would be contrary to that Party's public policy or important interests.

ARTICLE 8.5

Dispute Settlement

This Chapter shall not be subject to dispute settlement under Chapter 16 (Dispute Settlement).