

CHAPTER 12

COMPETITION

ARTICLE 12.1

Rules of Competition

1. The following practices of enterprises are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties:

- (a) agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises which have as their object or effect the prevention, restriction or distortion of competition; and
- (b) abuse by one or more enterprises of a dominant position in the territory of a State Party as a whole or in a substantial part thereof.

2. Paragraph 1 also applies to the activities of public enterprises and enterprises to which the State Parties grant special or exclusive rights in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

3. Paragraphs 1 and 2 shall not be construed as creating any direct obligations for enterprises.

4. This Chapter shall be without prejudice to the autonomy of each State Party to develop, maintain and enforce its competition laws and regulations.

ARTICLE 12.2

Cooperation

1. The State Parties shall cooperate and consult in their dealings with anti-competitive practices as outlined in paragraph 1 of Article 12.1 (Rules of Competition), with the aim of putting an end to such practices or their adverse effects on trade.

2. Cooperation may include the exchange of pertinent information that is available to the State Parties. No State Party shall be required to disclose information that is confidential in accordance with its domestic laws and regulations.

ARTICLE 12.3

Consultations

1. If a State Party considers that a given practice continues to affect trade in the sense of paragraph 1 of Article 12.1 (Rules of Competition), after cooperation or consultations pursuant to Article 12.2 (Cooperation), it may request consultations in the Joint Committee. This request shall indicate the reasons for such consultations.

2. The State Parties concerned shall provide the Joint Committee with all the support and available information required, to the extent permitted by those State Parties' domestic laws and regulations, in order to examine the case in accordance with the objectives set forth in this Chapter.

3. The Joint Committee shall, within 60 days from the receipt of the request, examine the information provided in order to facilitate a mutually acceptable solution of the matter.

ARTICLE 12.4

Technical Cooperation

The State Parties may engage in technical cooperation activities, including through capacity building in the area of competition policy with the aim of strengthening and effectively enforcing competition laws and regulations, subject to the availability of funding for such activities under the State Parties' cooperation instruments and programmes.

ARTICLE 12.5

Dispute Settlement

The Parties shall not have recourse to Chapter 15 (Dispute Settlement) for any matter arising under this Chapter.