

CHAPTER 10

COMPETITION

ARTICLE 203

Principles

The Parties recognise the importance of free and undistorted competition in their trade relations. The Parties acknowledge that anti-competitive business practices and state interventions (including subsidies) have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.

ARTICLE 204

Antitrust and mergers legislation and its implementation

1. Each Party shall maintain in its respective territory comprehensive competition laws, which effectively address anti-competitive agreements, concerted practices and anti-competitive unilateral conduct of enterprises with dominant market power and which provide effective control of concentrations to avoid significant impediment to effective competition and abuse of dominant position.
2. Each Party shall maintain an authority responsible and appropriately equipped for the effective enforcement of the competition laws referred to in paragraph 1.
3. The Parties recognise the importance of applying their respective competition laws in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the enterprises concerned.

ARTICLE 205

State monopolies, state enterprises and enterprises entrusted with special or exclusive rights

1. Nothing in this Chapter prevents a Party from designating or maintaining state monopolies, state enterprises or to entrust enterprises with special or exclusive rights in accordance with its respective laws.
2. With regard to state monopolies of a commercial character, state enterprises and enterprises entrusted with special or exclusive rights, each Party shall ensure that such enterprises are subject to the competition laws referred to in Article 204(1), in so far as the application of those laws does not obstruct the performance, in law or in fact, of the particular tasks of public interest assigned to the enterprises in question.

ARTICLE 206

Subsidies

1. For the purpose of this Article, a "subsidy" is a measure which fulfils the conditions of Article 1 of the SCM Agreement irrespective whether it is granted in relation to the production of goods or the supply of services and which is specific within the meaning of Article 2 of that Agreement.
2. Each Party shall ensure transparency in the area of subsidies. To that end, each Party shall report every two years to the other Party on the legal basis, the form, the amount or the budget and, where possible, the recipient of the subsidy granted by its government or a public body in relation to the production of goods. Such report is deemed to have been provided if the relevant information is made available by each Party on a publicly accessible website.

3. On request of a Party, the other Party shall promptly provide information and respond to questions pertaining to particular subsidies relating to the supply of services.

ARTICLE 207

Dispute settlement

The provisions on the dispute settlement mechanism in Chapter 14 (Dispute Settlement) of Title IV (Trade and Trade-related Matters) of this Agreement shall not apply to Articles 203, 204 and 205 of this Agreement.

ARTICLE 208

Relationship with the WTO

The provisions of this Chapter are without prejudice to the rights and obligations of a Party under the WTO Agreement, in particular the SCM Agreement and the Dispute Settlement Understanding (DSU).

ARTICLE 209

Confidentiality

When exchanging information under this Chapter the Parties shall take into account the limitations imposed by the requirements of professional and business secrecy in their respective jurisdictions.