

CHAPTER THIRTEEN
COMPETITION AND CONSUMER POLICY

ARTICLE 13.1: OBJECTIVES

Recognizing the importance of free competition in trade relations, the Parties understand that proscribing anti-competitive practices, implementing competition policies, and cooperating on matters covered by this Chapter will help prevent the benefits of trade liberalization from being undermined.

ARTICLE 13.2: IMPLEMENTATION

1. Each Party shall maintain competition laws that promote and protect the competitive process in its market by proscribing anti-competitive practices. Each Party shall take appropriate actions with respect to anti-competitive practices with the objective of promoting economic efficiency and consumer welfare.

2. Each Party shall maintain an authority or authorities responsible for the enforcement of its competition laws.

3. The enforcement policy of the Parties' competition authorities shall be consistent with the principles of transparency, timeliness, non-discrimination, and procedural fairness.

4. Each Party shall ensure that any exemption provided under its competition laws shall be transparent and undertaken on the grounds of public policy or public interest.

ARTICLE 13.3: COOPERATION

1. The Parties recognize the importance of cooperation and coordination between their respective competition authorities to promote the effective enforcement of their competition laws and to fulfill the objectives of this Agreement.

2. Accordingly, the Parties shall cooperate in relation to the enforcement of their respective competition laws and policies, including through notification, consultation, technical assistance, and exchange of information.

3. The competition authority of a Party may request coordination from the competition authority of the other Party with respect to a specific case, when important interests of the requesting Party are substantially affected. This coordination shall not prevent the competition authority concerned from taking independent decisions.

ARTICLE 13.4: NOTIFICATIONS

1. Each Party, through its competition authority, shall notify in English the competition authority of the other Party of an enforcement activity regarding an anti-

competitive practice 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 13.5: CONSULTATIONS

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 13.6: TECHNICAL ASSISTANCE

The Parties may provide each other with technical assistance in any area they consider appropriate, including exchange of experiences, capacity building for the implementation of their competition laws and policies, and promotion of competition culture.

ARTICLE 13.7: CONFIDENTIALITY

1. The competition authority of a Party shall, upon request of the competition authority of the other Party, endeavor to provide information to facilitate effective enforcement of the Parties' 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 a 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 authorized by the competition authority providing the information.

ARTICLE 13.8: COOPERATION ON CONSUMER PROTECTION

1. The Parties recognize the importance of cooperation and coordination on matters related to their consumer protection laws in order to enhance consumer welfare. Accordingly, the Parties shall cooperate, through their competent authorities, in appropriate cases where significant interests of either Party are affected, including through consultation, technical assistance, and exchange of information related to the enforcement of their consumer protection laws.

2. Nothing in this Article shall limit the discretion of the competent authority of a Party to decide whether to take action in response to a request by the competent authority of the other Party, nor shall it preclude any of these authorities from taking action with respect to any particular matter.

3. Each Party shall endeavor to identify, in areas of mutual concern and consistent with its own important interests, obstacles to effective cooperation with the other Party in the enforcement of its consumer protection laws.

ARTICLE 13.9: STATE ENTERPRISES AND DESIGNATED MONOPOLIES

1. Nothing in this Chapter shall be construed to prevent a Party from establishing or maintaining state enterprises and/or designated monopolies.

2. The Parties shall ensure that state enterprises and designated monopolies are subject to their respective competition laws and do not adopt or maintain any anti-competitive practice that affects trade between the Parties, insofar as the application of this provision does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

ARTICLE 13.10: DISPUTE SETTLEMENT

Neither Party shall have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.

ARTICLE 13.11: DEFINITIONS

For purposes of this Chapter:

competition law means:

- (a) for Colombia, *Law 155 of 1959, Law 1340 of 2009, and Decree 2153 of 1992* and their implementing regulations, and amendments thereto; and
- (b) for Korea, the *Monopoly Regulation and Fair Trade Act* and its implementing regulations, and amendments thereto;

consumer protection law means:

- (a) for Colombia, Articles 78 and 333 of the Colombian Constitution (*Constitución Política de Colombia*), *Decree 3466 of 1982 (Consumer Protection Statute)*, and their implementing regulations, and amendments thereto; and

- (b) for Korea, the *Framework Act on Consumer*, the *Fair Labelling and Advertising Act*, and their implementing regulations, and amendments thereto;

anti-competitive practice means business conduct or transactions that adversely affect competition in the territory of a Party, such as:

- (a) agreements between enterprises and decisions by associations of enterprises, which have the purpose or effect to impede, restrict, or distort competition;
- (b) any abuse of a dominant position by one or more enterprises; and
- (c) mergers or other structural combinations of enterprises which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position; and

competition authority means:

- (a) for Colombia, the *Superintendency of Industry and Commerce* (*Superintendencia de Industria y Comercio - SIC*), the *Superintendency of Finance* (*Superintendencia Financiera de Colombia*), and the *Civil Aviation Authority* (*Aeronáutica Civil*) for specific matters, or their successors; and
- (b) for Korea, the *Korea Fair Trade Commission*, or its successor.