

CHAPTER 5 COMPETITION

ARTICLE 5.1

Rules of Competition concerning Enterprises

1. The Parties recognise that anti-competitive business conduct may frustrate the benefits arising from this Agreement. Such conduct is therefore incompatible with the proper functioning of this Agreement in so far as it may affect trade between Korea and an EFTA State.
2. For the purposes of this Agreement, “anti-competitive business conduct”:
 - (a) means all agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises, as well as abuse by one or more enterprises of a dominant position in the territories of the Parties as a whole or in a substantial part thereof, which have, as their object or effect, the prevention, restriction or distortion of competition; and
 - (b) may occur with regard to trade in goods or services. Such conduct may be effected by private or public enterprises, or by enterprises to which special or exclusive rights have been granted unless the particular tasks assigned to them are obstructed.
3. The provisions of paragraphs 1 and 2 shall not be construed to create any direct obligations for enterprises.
4. The Parties undertake to apply their respective competition laws with a view to removing anti-competitive business conduct. To that end, they shall notify each other of relevant enforcement activities and exchange information. No Party shall be required to disclose information that is confidential according to its laws.
5. Upon request, competition authorities and/or other relevant authorities of the Parties shall enter into consultations in order to facilitate the removal of anti-competitive business conduct. The Party addressed shall accord full and sympathetic consideration to that request.
6. Upon request, consultations shall also be held in the Joint Committee if a Party considers that an anti-competitive business conduct in the territory of another Party continues to affect trade between them. Consultations shall be held within 30 days of receipt of the request. The Parties concerned shall give to the Joint Committee all the support and information in order for the Joint Committee to examine the case and to assist the Parties concerned in removing the conduct objected to and, where appropriate, in re-establishing the balance of rights and obligations under this Agreement.