

CHAPTER TWELVE **COMPETITION**

Article 12.1: Definitions

For purposes of this Chapter:

anti-competitive practices means business conduct or transactions that adversely affect competition, such as:

- (a) anti-competitive agreements between competitors;
- (b) abuse of market dominance; and
- (c) concentrations between enterprises, which significantly impede effective competition, in particular as a result of creation or strengthening of dominant position in the territory of either Party as a whole or in a substantial part thereof;

competition authority means:

- (a) for Korea, *the Korea Fair Trade Commission* or its successor; and
- (b) for Georgia, the *Georgian Competition and Consumer Agency* or its successor; and

competition laws means:

- (a) for Korea, the *Monopoly Regulation and Fair Trade Act* and its implementing regulations;
- (b) for Georgia, the *Law of Georgia on Competition* and its implementing regulations; and
- (c) any changes that above-mentioned instruments may undergo after the entry into force of this Agreement.

Article 12.2: Purpose

The purpose of this Chapter is to contribute to the fulfillment of the objectives of this Agreement through the promotion of fair competition and the curtailment of anti-competitive practices.

Article 12.3: Appropriate Measures against Anti-competitive Practices

1. Each Party shall maintain competition laws to proscribe anti-competitive practices, and shall enforce its competition laws accordingly.
2. Each Party shall maintain a competition authority to effectively enforce its competition laws.
3. Each Party shall enforce its competition laws in a manner that does not discriminate between persons, in like circumstances, on the basis of their nationality.
4. Each Party shall apply its competition laws to all commercial activities in its jurisdiction. Any exclusion or exemption from the application of each Party's competition laws shall be transparent and based on grounds of public policy or public interest.
5. Each Party shall make publicly available its competition laws and guidelines issued in relation to the administration of such laws, except for internal operating procedures.
6. Each Party shall implement administrative and judicial procedures in a fair manner to proscribe anti-competitive practices, in accordance with its relevant laws and regulations.

Article 12.4: Cooperation

The Parties recognize the importance of cooperation and coordination between their respective competition authorities to promote the effective enforcement of their respective competition laws and to fulfill the objectives of this Agreement. To this end, the Parties agree to cooperate, through the competition authorities of each Party, in a manner compatible with their respective laws, regulations, and important interest, and within their reasonably available resources. The form of such cooperation may include:

- (a) notification by a Party, through its competition authority to the competition authority of the other Party of its competition law enforcement activities that it considers may substantially affect the important interests of the other Party, as promptly as reasonably possible;
- (b) upon request, discussion between the Parties to address a matter relating to competition law enforcement that substantially affects the important interest of the requesting Party;
- (c) upon request, exchange of information between the Parties to foster understanding or to facilitate effective competition law enforcement; and
- (d) upon request, coordination in competition law enforcement activities between the Parties in relation to the same or related anti-competitive practices.¹

¹ 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. Such request is without prejudice to the full freedom of the final decision of the competition authority concerned.

Article 12.5: Confidentiality of Information

1. This Chapter shall not require the sharing of information by a Party, which is contrary to that Party's laws, regulations, and important interests.
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 12.6: Technical Assistance

The Parties may engage in technical assistance activities subject to their reasonably available resources in the field of competition, including:

- (a) exchange of experience regarding the development and enforcement of competition laws and policies;
- (b) exchange of publicly available information about competition laws and policies;
- (c) exchange of officials for training purposes;
- (d) participation of officials of competition authorities as lecturers, consultants, or participants at training courses on competition laws and policies; and
- (e) other activities as agreed by the Parties.

Article 12.7: Dispute Settlement

The provisions of Chapter Sixteen (Dispute Settlement) shall not apply to any matter arising under this Chapter.