

CHAPTER 9

COMPETITION

Article 1 Objectives

The Parties recognise the strategic importance of promoting open and competitive markets through the effective application of competition policies for the purposes of enhancing trade and investment, economic efficiency and consumer welfare.

Article 2 Promotion of Competition

1. Desiring to promote policy coherence and an integrated approach to trade and competition and endorsing the *APEC Principles to Enhance Competition and Regulatory Reform*, the Parties agree to promote competition and endeavour to ensure that the design of trade and competition policies and the implementation of domestic law gives due recognition to the effects on competition by:

- (a) providing transparency in policies, laws and rules, and their implementation;
- (b) applying competition policies to economic activities, including public and private business activities, in a manner that does not discriminate between or among economic entities in like circumstances;
- (c) maintaining a high-level government commitment to promote competition and enhance economic efficiency, including through assessments of regulatory impacts or other appropriate means;
- (d) setting out clear responsibilities within their respective administrations for promoting and

identifying the competition and efficiency dimensions in the development of policies and rules, and their implementation;

- (e) promoting coherent and effective implementation of trade and competition policies within their respective Areas; and
- (f) fostering appropriate cooperation between trade and competition officials.

2. The Parties recognise that the implementation of Paragraph 1 may be subject to the different circumstances of the Parties and the different policy approaches that arise from these circumstances.

Article 3 Exemptions and Exceptions

The Parties recognise that exemptions and exceptions from their respective competition regimes may be necessary to achieve other legitimate policy objectives. The Parties shall endeavour to identify and review these exemptions and exceptions to ensure that each is no broader than necessary to achieve a legitimate policy objective, and implemented in a transparent way that minimises distortions to fair and free competition.

Article 4 Cooperation and Exchange of Information

1. The Parties agree to cooperate and coordinate in the area of competition policy by exchanging information on the development of competition policy.

2. Where the Parties have set up their respective regulatory authorities responsible for competition law, the Parties shall encourage their respective regulatory authorities to cooperate in the area of competition law, including through

technical assistance as appropriate, consultation and exchanges of information, as permitted by the domestic law and overall policy of each Party and within the scope of the responsibilities of each regulatory authority.

Article 5 Consultations

At the request of either Party, the Parties shall consult on particular anti-competitive practices adversely affecting trade or investment between the Parties, consistent with the objectives of this Chapter.

Article 6 Non-Application of Dispute Settlement

Neither Party shall have recourse to any dispute settlement procedures under this Agreement in respect of any issue arising from or relating to this Chapter.