

CHAPTER 23

COMPETITION POLICY

Article 23.1 Principles

The Parties recognise the importance of free and undistorted competition in trade and investment. The Parties acknowledge that anti-competitive practices have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.

Article 23.2 Legislative Framework

1. Each Party shall (adopt or) maintain a competition law which applies to all sectors of the economy¹ and addresses all of the following practices in an effective manner:
 - (a) agreements between enterprises, decisions by associations of enterprises and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;
 - (b) abuses by one or more enterprises of a dominant position; and
 - (c) mergers between enterprises which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position.
2. All enterprises, private or public, shall be subject to the competition law referred to in this Article.
3. The application of the competition law should not obstruct the performance, in law or in fact, of particular tasks of public interest that may be assigned to the enterprises in question. Exemptions to the competition law of a Party should be limited to tasks of public interest, limited to what is strictly necessary to achieve the desired public policy objective and transparent.

Article 23.3 Implementation

1. Each Party shall maintain a functionally independent authority responsible for, and appropriately equipped with the powers and resources necessary for the full application and the effective enforcement of the competition law referred to in Article 23.2 (Legislative Framework).

¹ For greater certainty, competition rules in the EU apply to the agricultural sector in accordance with Regulation 1308/2013 of the European Parliament and Council establishing a common organisation of the markets in agricultural products and its subsequent amendments or replacements, if any (Official Journal L347/2013).

2. Each Party shall apply its respective competition law in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the enterprises concerned, irrespective of their nationality or ownership status.

Article 23.4 Cooperation

1. The Parties acknowledge that it is in their common interest to promote cooperation regarding competition policy and enforcement.
2. To facilitate such cooperation, the Parties' competition authorities may exchange information, subject to the confidentiality rules as foreseen in the Parties' respective laws and regulations.
3. The competition authorities of the Parties will endeavour to coordinate, where this is possible and appropriate, their enforcement activities relating to the same or related conduct or cases.

Article 23.5 Consultation

1. To foster mutual understanding between the Parties², or to address specific matters on the interpretation or application of this Chapter, each Party shall, upon the request of the other Party, enter into consultations on issues raised by the other Party. The Party requesting consultations shall indicate, if relevant, how the matter affects trade between the Parties.
2. The Parties shall promptly discuss, upon the request of either Party, any questions arising from the interpretation or application of this Chapter.
3. To facilitate discussion of the matter that is the subject of the consultations, each Party shall endeavour to provide relevant non-confidential information to the other Party.

Article 23.6 Non-application of dispute settlement

The provisions of this Chapter shall not be subject to dispute settlement in accordance with Chapter [x. Dispute settlement].

² For the EU, the interlocutor is DG Competition of the European Commission.