

CHAPTER 10 COMPETITION

ARTICLE 10.1: OBJECTIVES

Each Party understands that proscribing anticompetitive business practices, implementing competition policies, and cooperating on competition issues contribute to enhancing trade liberalization and promoting economic efficiency and consumer welfare.

ARTICLE 10.2: DEFINITIONS

For purposes of this Chapter:

1. **anti-competitive business practices** means business activities or transactions that are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties, such as:

- (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 in the territory of either Party as a whole or in a substantial part thereof;
- (b) any abuse by one or more enterprises of a dominant position in the territory of either Party as a whole or in a substantial part thereof; or
- (c) concentrations between enterprises, which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position in the territory of either Party as a whole or in a substantial part thereof;

2. **competition laws** means:

- (a) for China, *Anti-monopoly Law* and its implementing regulations and amendments; and
- (b) for Georgia, *Georgian law on Competition*, its implementing regulations and amendments and legislation of regulated sectors of the economy.

ARTICLE 10.3: COMPETITION LAWS AND AUTHORITIES

1. Each Party shall maintain or adopt competition laws that promote and protect the competitive process in its market by proscribing anticompetitive business practices.
2. Each Party shall maintain an authority or authorities responsible for the enforcement of its national competition laws.

ARTICLE 10.4: PRINCIPLES OF LAW ENFORCEMENT

1. Each Party shall be consistent with the principles of transparency, non-discrimination and procedural fairness in the competition law enforcement.
2. Each Party shall treat persons who are not persons of the Party no less favorably than persons of the Party in like circumstances in the competition law enforcement.
3. Each Party shall ensure that during an investigation to determine whether conduct violates its competition laws, or before it imposes a sanction or remedy against a person for violating its national competition laws, it affords that person a reasonable opportunity to present opinion or evidence in its defense.
4. Each Party shall provide a person that is subject to the imposition of a sanction or remedy for violation of its competition laws with the opportunity to seek review of the sanction or remedy in accordance with the Party's laws and regulations.

ARTICLE 10.5: TRANSPARENCY

1. Each Party shall make public its competition laws, regulations, guidelines, and any rules issued in relation to the administration of such laws and regulations, excluding internal operating procedures.
2. Each Party shall ensure that all the final administrative decisions finding a violation of its competition laws are in written form and set out relevant findings of fact and legal basis on which the decision is based.
3. Each Party shall endeavor to make public the decisions and any orders implementing them in accordance with its own laws and regulations, excluding any business confidential information or other information that is protected by its law from public disclosure.

ARTICLE 10.6: COOPERATION

1. The Parties recognize the importance of cooperation and coordination in competition field to promote fair competition.

2. The Parties shall cooperate through notification, consultation, exchange of information upon request.

3. The Parties agree to cooperate in a manner compatible with its laws and regulations, within its reasonably available administrative resource.

ARTICLE 10.7: CONFIDENTIALITY OF INFORMATION

1. This Chapter shall not require the sharing of information by the competition authority of each Party, which is contrary to the Party's laws, regulations and important interests.

2. The Parties shall maintain confidentiality of any information provided as confidential by the other Party. The Party receiving such information shall:

- (a) use it only for the purpose disclosed at the time of request unless specific permission is granted by the Party providing the information;
- (b) not disclose it to any other authority, entity or person that is not authorized by the competition authority of the Party providing the information; and
- (c) comply with any other conditions required by the competition authority of the Party providing the information.

ARTICLE 10.8: TECHNICAL COOPERATION

The Parties may promote technical cooperation, including exchange of experiences, training programs, workshops, and research collaborations for the purpose of enhancing authorities' capacity related to competition policy and law enforcement.

ARTICLE 10.9: INDEPENDENCE OF COMPETITION AUTHORITIES

This Chapter shall not intervene with the independence of each Party in enforcing its respective competition laws.

ARTICLE 10.10: DISPUTE SETTLEMENT

Neither Party shall have recourse to dispute settlement under this Agreement for any matters arising under this Chapter. Any difference or dispute between the Parties concerning the interpretation or implementation of the provisions of this Chapter shall be settled amicably through consultations between the Parties.

ARTICLE 10.11: CONSULTATION

To foster understanding between the Parties, or to address specific matters that arise under this Chapter, each Party shall, on request of the other Party, enter into consultations regarding representations made by the other Party. In its request, the Party shall indicate, if relevant, how the matter affects trade or investment between the Parties.