

## CHAPTER VIII COMPETITION

### *Article 8.1 Definitions*

For the purposes of this Chapter:

**“anticompetitive business conduct”** means business conduct or actions that adversely affect competition in the territory of a Party, 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;
- (d) Acts of unfair competition;

**“competition laws”** means:

- (a) for the People’s Republic of China, *the Antimonopoly Law, Anti-unfair Competition Law* and its implementing regulations and amendments; and
- (b) for the Republic of Belarus, the Law of the Republic of Belarus dated 12 December 2013 No. 94-Z *“On Counteraction to Monopolistic Activities and Promotion of Competition”* and its bylaws and amendments to it.

### *Article 8.2 Objectives*

Each Party understands that proscribing anticompetitive business conduct, implementing competition policies and cooperating on competition issues contribute to preventing the benefits of trade and investment liberalization from being undermined and to promoting economic efficiency and consumer welfare.

### *Article 8.3 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 8.4 Principles in 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 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 national competition laws with the opportunity to seek review of the sanction or remedy under that party's laws.

### *Article 8.5 Transparency*

1. Each Party shall make public its competition laws and regulations, including procedural rules for the investigation.
2. Each Party shall ensure that a final administrative decision finding a violation of its national competition laws are in writing and sets out relevant findings of fact and legal basis on which the decision is based.
3. Each Party shall make public a final decision or order implementing the decision establishing a violation of its national competition law in accordance with its national competition laws and regulations. Each Party shall ensure that the version of the decision or order that is made available to the public does not include business confidential information that is protected from public disclosure by its national law.

### *Article 8.6 Cooperation in Law Enforcement*

1. The Parties recognize the importance of cooperation and coordination in competition field, to promote effective competition law enforcement in the free trade area. Accordingly, Each Party shall cooperate through notification, consultation, exchange of information, and technical cooperation.
2. The Parties agree to cooperate in a manner compatible with their respective laws, regulations and important interests, and within their reasonably available resource.

### *Article 8.7 Notification*

1. Each Party, through its competition authority or authorities, shall notify the other Party of an enforcement activity if it considers that such enforcement activity may substantially affect the other Party's important interests.
2. Provided that it is not contrary to the Parties' competition laws and does not affect any investigation being carried out, the Parties

shall endeavor to notify at an early stage and in a detailed manner which is enough to permit an evaluation in the light of the interests of the other Party.

#### *Article 8.8 Consultation*

In order to foster understanding between the Parties, or to address specific matters that arise under this Chapter, on request of the other Party, a Party shall enter into consultations with the requesting Party. In its request, the requesting Party shall indicate, if relevant, how the matter affects trade or investment between the Parties. The Party addressed shall accord full and sympathetic consideration to the concerns of the requesting Party.

#### *Article 8.9 Exchange of Information*

1. Each Party shall endeavor to, upon request of the other party, provide information to facilitate effective enforcement of their respective competition laws, provided that it does not affect any ongoing investigation and is compatible with the laws and regulations governing the competition authorities possessing the information.
2. Each Party shall maintain the confidentiality of any information provided as confidential by the competition authority of the other Party and shall not disclose such information to any entity that is not authorized by the Party providing information.

#### *Article 8.10 Technical Cooperation*

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

#### *Article 8.11 Independence of Competition Law Enforcement*

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

*Article 8.12 Dispute Settlement*

Neither Party shall have recourse to dispute settlement under this Agreement for any matters arising under this Chapter.