

CHAPTER THIRTEEN

COMPETITION

Article 13.1: Definitions

For purposes of this Chapter:

competition authority means:

- (a) for Korea, the *Korea Fair Trade Commission*;
- (b) for the United Arab Emirates, the *Directorate of Competition and Consumer Protection, Ministry of Economy*;
- (c) for the Kingdom of Bahrain, *Authority for Promotion and Protection of Competition*;
- (d) for the Kingdom of Saudi Arabia, the national government agency responsible for protecting and promoting fair competition and combating monopolistic practices;
- (e) for the Sultanate of Oman, *Competition Protection and Monopoly Prevention Centre, Ministry of Commerce, Industry and Investment Promotion*;
- (f) for the State of Qatar, the *Competition Protection Department, Ministry of Commerce and Industry*; and
- (g) for the State of Kuwait, *Competition Protection Agency, or their successors*.

competition laws mean:

- (a) for Korea, the *Monopoly Regulation and Fair Trade Act* and its implementing regulations and amendments;
- (b) for GCC, the national law of each of the GCC Member States on competition and its implementing regulations and amendments.

consumer protection laws mean:

- (a) for Korea, the *Framework Act on Consumers*, the *Act on Fair Labeling and Advertising*, the *Act on Consumer Protection in Electronic Commerce*, and their implementing regulations and amendments; and

- (b) for GCC, the national law of each of the GCC Member States for protecting consumer rights and its implementing regulations and amendments.

Article 13.2: Objectives and General Principles

1. The Parties agree that anticompetitive business conduct may restrict trade between the Parties. Accordingly, each Party shall adopt or maintain measures to proscribe such conduct and take appropriate action with respect thereto.
2. The Parties undertake to adopt or maintain competition laws that give particular attention to anticompetitive agreements, abuse of a dominant position, and mergers and acquisitions.

Article 13.3: Appropriate Measures Against Anticompetitive Activities

1. Each Party shall, according to its domestic legislative system, adopt or maintain competition laws and regulations to proscribe anticompetitive activities, and shall enforce those laws and regulations accordingly.
2. Each Party shall establish or maintain an authority or authorities to effectively implement its competition laws and regulations.
3. Each Party shall ensure independence in decision making by its authority or authorities in relation to the enforcement of its competition laws and regulations.
4. Each Party shall apply and enforce its competition laws and regulations in a manner that does not discriminate on the basis of nationality.
5. Each Party shall apply its competition laws and regulations to all entities engaged in commercial activities, unless stated otherwise in its laws and regulations. Any exclusion or exemption from the application of each Party's competition laws and regulations shall be transparent.
6. Each Party shall make publicly available its competition laws and regulations, and any guidelines issued in relation to the administration of such laws and regulations, except for internal operating procedures.
7. Each Party shall make public the grounds for any final decision or order to impose a sanction or remedy under its competition laws and regulations, and any appeal therefrom, subject to:

- (a)
 - (i) its laws and regulations;
 - (ii) its need to safeguard confidential information; or
 - (iii) its need to safeguard information on grounds of public policy or public interest; and
 - (b) redactions from the final decision or order on any of the grounds referred to in subparagraphs (a)(i) through (iii).
- 8. Each Party shall ensure that before a sanction or remedy is imposed on any person or entity for breaching its competition laws or regulations, such person or entity is given the reasons, which should be in writing where possible, for the allegations that the Party's competition laws or regulations have been breached, and a fair opportunity to be heard and to present evidence.
- 9. Each Party shall, subject to any redactions necessary to safeguard confidential information, make the grounds for any final decision or order to impose a sanction or remedy under its competition laws and regulations, and any appeal therefrom, available to the person or entity subject to that sanction or remedy.
- 10. Each Party shall ensure that any person or entity subject to the imposition of a sanction or remedy under its competition laws and regulations has access to an independent review of or appeal against that sanction or remedy.
- 11. Each Party recognizes the importance of timeliness in the handling of competition cases.

Article 13.4: Cooperation

The Parties recognise the importance of cooperation between or among their respective competition authorities to promote effective competition law enforcement. To this end, the Parties may cooperate on issues relating to competition law enforcement, through their respective competition authorities, in a manner compatible with their respective laws, regulations, and important interests, and within their respective available resources. The form of such cooperation may include:

- (a) upon request, discussion between or among Parties to address any matter relating to competition law enforcement that substantially affects the important interest of the requesting Party;
- (b)——upon request, exchange of information between or among Parties to foster understanding or to facilitate effective competition law enforcement;

- (c) upon request, coordination in enforcement actions between or among Parties in relation to the same or related anticompetitive activities; and
- (d) upon request, notification with respect to enforcement activities that either Party considers may affect important interests of the other Party.

Article 13.5: 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. Where a Party requests confidential information under this Chapter, the requesting Party shall notify the requested Party of:
 - (a) the purpose of the request;
 - (b) the intended use of the requested information; and
 - (c) any laws or regulations of the requesting Party that may affect the confidentiality of information or require the use of the information for purposes not agreed upon by the requested Party.
3. The sharing of confidential information between any of the Parties and the use of such information shall be based on terms and conditions agreed by the Parties concerned.
4. If information shared under this Chapter is shared on a confidential basis, except to comply with its laws and regulations, the Party receiving the information shall:
 - (a) maintain the confidentiality of the information received;
 - (b) use the information received only for the purpose disclosed at the time of the request, unless otherwise authorised by the Party providing the information;
 - (c) not use the information received as evidence in criminal proceedings carried out by a court or a judge unless, on request of the Party receiving the information, such information was provided for such use in criminal proceedings through diplomatic channels or other channels established in accordance with the laws and regulations of the Parties concerned;
 - (d) not disclose the information received to any other authority, entity, or person not authorised by the Party providing the information; and

- (e) comply with any other conditions required by the Party providing the information.

Article 13.6: Technical Cooperation and Capacity Building

The Parties agree that it is in their common interest to work together, multilaterally or bilaterally, on technical cooperation activities to build necessary capacities to strengthen competition policy development and competition law enforcement, taking into account the availability of resources of the Parties. Technical cooperation activities may include:

- (a) sharing of relevant experiences and non-confidential information on the development and implementation of competition law and policy;
- (b) the exchange of consultants and experts on competition law and policy;
- (c) the exchange of officials of competition authorities for training purposes;
- (d) participation of officials of competition authorities in advocacy programmes; and
- (e) other activities as agreed by the Parties.

Article 13.7: Consumer Protection

1. The Parties recognise the importance of consumer protection law and the enforcement of such law as well as cooperation among the Parties on matters related to consumer protection in order to achieve the objectives of this Chapter.
2. Each Party shall adopt or maintain laws or regulations to proscribe the use in trade of misleading practices, or false or misleading descriptions.
3. Each Party also recognises the importance of improving awareness of, and access to, consumer redress mechanisms.
4. The Parties may cooperate on matters of mutual interest related to consumer protection. Such cooperation shall be carried out in a manner compatible with the Parties' respective laws and regulations and within their available resources.

Article 13.8: Consultations

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

Article 13.9: Non-Application of Dispute Settlement

1. Dispute settlement mechanisms under Chapter 15 (Dispute Settlement) of this Agreement shall not apply to any matter arising under this Chapter.
2. If a Party considers that a given practice continues to affect trade in the sense of this Chapter, it may request consultation to the other Party in the Joint Committee with a view to facilitating a resolution of the matter.