

12 COMPETITION POLICY

ARTICLE 1

Purpose and Definitions

1. The purpose of this Chapter is to contribute to the fulfilment of the objectives of this Agreement through the promotion of fair competition and the curtailment of anti-competitive practices.
2. For the purposes of this Chapter, “anti-competitive practices” means business conduct or transactions that adversely affect competition, such as:
 - (a) anti-competitive horizontal arrangements between competitors;
 - (b) misuse of market power, including predatory pricing by businesses;
 - (c) anti-competitive vertical arrangements between businesses; and
 - (d) anti-competitive mergers and acquisitions.

ARTICLE 2

Promotion of Competition

1. Each Party shall promote competition by addressing anti-competitive practices in its territory, adopting and enforcing such means or measures as it deems appropriate and effective to counter such practices.
2. Such means and measures may include the implementation of competition and regulatory arrangements.

ARTICLE 3

Application of Competition Laws

1. The Parties shall ensure that all businesses registered or incorporated under their respective domestic laws are subject to such generic or relevant sectoral competition laws as may be in force in their respective territories.
2. Any measures taken by a Party to proscribe anti-competitive practices, and the enforcement actions taken pursuant to those measures, shall be consistent with the principles of transparency, timeliness, non-discrimination and procedural fairness.

ARTICLE 4

Competitive Neutrality

1. The Parties shall take reasonable measures to ensure that governments at all levels do not provide any competitive advantage to any government-owned businesses in their business activities simply because they are government owned.
2. This Article applies to the business activities of government-owned businesses and not to their non-business, non-commercial activities.

ARTICLE 5

Exemptions

Either Party may exempt specific measures or sectors from this Chapter, provided that such exemptions are transparent and are undertaken on the grounds of public policy or public interest.

ARTICLE 6

Consultation and Review

1. At the request of a Party, the Parties shall consult with a view to eliminating particular anti-competitive practices that affect trade or investment between the Parties.
2. Within six months of a generic competition law coming into effect in Singapore, the Parties shall consult in order to review the scope and operation of this Chapter with a view to negotiating amendments to this Chapter that may be necessary to ensure the comprehensive protection in their respective territories of the legitimate commercial interests of businesses of the other Party.
3. In undertaking any consultations in accordance with Article 6.2, the Parties shall also discuss the desirability of concluding arrangements for cooperation and mutual assistance in competition policy and enforcement, either as amendments to this Chapter or as separate arrangements between their respective competition authorities.
4. Any information or documents exchanged between the Parties in relation to any mutual consultations and review conducted pursuant to the provisions of this Chapter shall be kept confidential. Neither Party shall, except to comply with its domestic legal requirements, release or disclose such information or documents to any person without the written consent of the Party which provided such information or documents. Where the disclosure of such information or documents is necessary to comply with the domestic legal requirements of a Party, that Party shall notify the other Party before such disclosure is made.

ARTICLE 7

Transparency

The Parties shall publish or otherwise make publicly available their laws addressing fair competition.

ARTICLE 8

General

1. Nothing in this Chapter permits a Party to reopen, re-examine or to challenge under any dispute settlement procedure under this Agreement, any finding, determination or decision made by a competition authority of the other Party in enforcing the applicable competition laws and regulations.
2. Neither Party shall have recourse to any dispute settlement procedures under this Agreement for any issue arising from or relating to this Chapter.
3. In the event of any inconsistency or conflict between any provision in this Chapter and any provision contained in any other Chapter of this Agreement, the latter shall prevail to the extent of such inconsistency or conflict.