

**CHAPTER 10**  
**COMPETITION**

**Article 10.1**  
**Objectives**

1. The objectives of this Chapter are to promote fair competition and consumer welfare, in order to facilitate trade and investment flows between the Parties and the efficient functioning of each Party's market through:
  - (a) the maintenance and enforcement of law to address anti-competitive practices; and
  - (b) enhancing cooperation on competition law enforcement and competition policy.
2. The pursuit of these objectives will help the Parties to secure the benefits of this Agreement.

**Article 10.2**  
**Competition Law and Authorities**

1. Each Party shall apply its competition law to all commercial activities in its territory<sup>1</sup>, including to public enterprises, which:
  - (a) prohibits anti-competitive agreements between enterprises, including cartel agreements;
  - (b) prohibits the abuse of a dominant position by an enterprise; and
  - (c) effectively addresses combinations or mergers with substantial anti-competitive effects.
2. Each Party may provide for certain exemptions from the application of its national competition law provided that those exemptions are transparent, established in law and are based on public policy grounds or public interest grounds.
3. Each Party shall maintain a national competition authority responsible for the effective application and enforcement of its competition law. Each Party's national competition authority shall be operationally

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<sup>1</sup> For greater certainty, this paragraph does not preclude a Party from applying its competition law to commercial activities outside its territory in accordance with its laws and regulations.

independent and apply the Party's competition law in a manner which does not discriminate between persons on the basis of nationality.

### **Article 10.3 Procedural Fairness**

1. This Article shall be implemented by each Party in accordance with its laws and regulations.
2. Each Party shall apply its competition law in a transparent manner, respecting the principles of procedural fairness, including the rights of defence of the enterprises concerned, in particular the right to be heard and the right to judicial review.
3. Each Party shall ensure that where information which is protected as confidential by its law, is obtained by its national competition authority during investigations, that information is not disclosed, except where required by applicable legal exceptions.

### **Article 10.4 Cooperation**

1. The Parties and their national competition authorities may cooperate to foster effective competition law enforcement and competition policy. This cooperation may include:
  - (a) exchange of non-confidential information; and
  - (b) coordination of activities on matters of mutual interest.
2. Any cooperation shall be compatible with each Party's law and interests, and within the available resources of the Party and its national competition authority.

### **Article 10.5 Consultations**

Each Party may request consultations with the other Party with respect to any matter related to this Chapter. The request for consultations shall set out the reasons for the request. The Party to which the request is made shall accord full and sympathetic consideration to the concerns of the requesting Party.

**Article 10.6**  
**Non-Application of Dispute Settlement**

Neither Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this Chapter.