

## **CHAPTER 12**

### **COMPETITION AND RELATED MATTERS**

#### **Article 12.1**

##### **Principles**

1. The Parties recognise the importance of free and undistorted competition in their trade relations. They acknowledge that anti-competitive business conduct or anti-competitive transactions have the potential to distort the proper functioning of their markets and undermine the benefits of trade liberalisation.
2. To promote free and undistorted competition in all sectors of their economies, the Parties shall introduce or maintain<sup>1</sup> comprehensive legislation in their respective territories, which effectively address:
  - (a) horizontal agreements between undertakings, decisions by associations of undertakings and concerted practices, which have as their object or effect the prevention, restriction or distortion of competition in their own territory as a whole or in a substantial part thereof;
  - (b) abuses by one or more undertakings of a dominant position in their own territory as a whole or in a substantial part thereof; and
  - (c) concentrations between undertakings which result in a substantial lessening of competition or which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position in their own territory as a whole or in a substantial part thereof;

which affect trade between them.

#### **Article 12.2**

##### **Implementation**

1. The Parties shall maintain autonomy in developing and enforcing their respective laws. The Parties undertake, however, to maintain authorities responsible and appropriately equipped for the effective enforcement of the legislation referred to in paragraph 2 of Article 12.1 (Principles).
2. The Parties will apply their respective legislation referred to in paragraph 2 of Article 12.1 (Principles) in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the parties concerned, including the right of the parties concerned to be heard prior to deciding on a case.

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<sup>1</sup> Sri Lanka does not have legislation dealing comprehensively with competition policy. It is in the process of formulating legislation and every endeavour will be made to introduce such legislation within a reasonable time period.

**Article 12.3**  
**Co-operation and Co-ordination in Law Enforcement**

The Parties recognise the importance of co-operation and co-ordination to further enhance effective law enforcement. Their respective authorities shall endeavour to co-ordinate and co-operate in the enforcement of their respective laws to fulfil the objective of this Agreement of free and undistorted competition in their trade relations.

**Article 12.4**  
**Confidentiality**

1. Each Party shall endeavour to provide information, in accordance with its laws and regulations, to facilitate effective enforcement of their respective competition laws.
2. When a Party communicates information in confidence under this Chapter, the receiving Party shall, in accordance with its laws and regulations, maintain the confidentiality of the communicated information.

**Article 12.5**  
**Consultations**

1. To foster mutual understanding between the Parties, or to address specific matters that may arise under this Chapter, each Party shall, upon the request of the other Party, enter into consultations on issues raised by the other Party. The Party requesting consultations shall indicate, if relevant, how the matter affects trade between the Parties.
2. The Parties shall promptly discuss, upon the request of a Party, any questions arising from the interpretation or application of this Chapter.
3. To facilitate discussion of the matter that is the subject of the consultations, each Party shall endeavour to provide relevant non-confidential information to the other Party.

**Article 12.6**  
**Non-Application of Dispute Settlement**

Neither Party shall have recourse to any dispute settlement procedure in respect of the provisions under this Chapter. Chapter 16 (Dispute Settlement) shall not apply to this Chapter.