

CHAPTER 9

COMPETITION POLICY, MONOPOLIES AND STATE ENTERPRISES

Article 9.1: Definitions

For the purposes of this Chapter:

designate means a decision by a Party to establish, authorize, or expand the scope of a monopoly to cover an additional good or service, after the date of entry into force of this Agreement;

government monopoly means a monopoly owned or controlled through ownership interests by the national government of a Party or by another such monopoly;

in accordance with commercial considerations means consistent with normal business practices of a privately held enterprise in the relevant business sector or industry;

market means the geographic and product market for a good or service;

monopoly means an entity, designated by a Party, including a consortium or government agency, that in any relevant market in the territory of a Party is the sole provider or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant;

non-discriminatory treatment means the better of national treatment or most-favoured-nation treatment as set out in the relevant provisions of this Agreement; and

state enterprise means an enterprise owned or controlled through ownership interests by a Party, except as set out in Annex 9-A.

Article 9.2: Competition Policy

1. For the purposes of this Article, “anti-competitive business conduct” means anti-competitive agreements, concerted practices or arrangements by competitors, anti-competitive practices by an enterprise that is dominant in a market, and mergers with substantial anti-competitive effects.

2. The Parties recognize that anti-competitive business conduct has the potential to distort the proper functioning of markets and therefore agree that anti-competitive business conduct is incompatible with the proper functioning of this Agreement in so far as it may affect trade between the Parties.