

- (b) acts solely in accordance with commercial considerations in its purchase or sale of the monopoly good or service in the relevant market, including with regard to price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale, except to comply with the terms of its designation that are consistent with subparagraph (c) or (d);
 - (c) provides non-discriminatory treatment in its purchase or sale of the monopoly good or service in the relevant market; and
 - (d) does not use its monopoly position to directly or indirectly engage in anti-competitive practices in a non-monopolized market in its territory that adversely affects the other Party, including through the monopoly's dealings with its parent, its subsidiary or an enterprise with common ownership.
4. Paragraph 3 does not apply to procurement by a governmental agency of a good or service for governmental purposes and not with a view to commercial resale or with a view to use in the production of a good or the provision of a service for commercial sale.
5. For greater certainty, "purchase or sale of the monopoly good or service in the relevant market" in paragraph 3 refers to the sale of the designated monopoly good or service in the case of a designated monopoly supplier and to the purchase of the designated monopoly good or service in the case of a designated monopoly buyer.

Article 9.4: State Enterprises

1. This Agreement does not prevent a Party from maintaining or establishing a state enterprise.
2. Each Party shall ensure that a state enterprise that it maintains or establishes acts in a manner that is consistent with the Party's obligations whenever the enterprise exercises a regulatory, administrative or other governmental authority that the Party has delegated to it, such as the power to expropriate, grant a licence, approve a commercial transaction or impose a quota, fee or other charge.
3. Each Party shall ensure that a state enterprise that it maintains or establishes accords non-discriminatory treatment in the sale of the state enterprise's good or service to an enterprise in the Party's territory that is owned or controlled, directly or indirectly, by the other Party, or a national or enterprise of the other Party.