

2. Prior to designating a monopoly, and where the designation may affect interests of persons of the other Party, a Party shall:

- a) i) notify the other Party, and
ii) at the request of the other Party, engage in consultations prior to the designation; and
- b) endeavour to introduce such conditions on the operation of the monopoly as will minimize or eliminate any nullification or impairment of benefits under this Agreement.

3. Where a Party designates a monopoly, that Party shall ensure, whether through regulatory supervision, administrative control, or the application of other measures, that the monopoly shall not:

- a) in the monopolized market, engage in discrimination in its sales against persons or goods of the other Party, contrary to the principles of this Agreement; or
- b) in any other market, either directly or through its dealings with an affiliated enterprise, use its monopoly position to engage in anticompetitive practices that adversely affect a person of the other Party, whether through the discriminatory provision of the monopoly good or covered service, through cross-subsidization, or through predatory conduct.

Article 2011: Nullification and Impairment

1. If a Party considers that the application of any measure, whether or not such measure conflicts with the provisions of this Agreement, causes nullification or impairment of any benefit reasonably expected to accrue to that Party, directly or indirectly under the provisions of this Agreement, that Party may, with a view to the satisfactory resolution of the matter, invoke the consultation provisions of Article 1804 and, if it considers it appropriate, proceed to dispute settlement pursuant to Articles 1805 and 1807 or, with the consent of the other Party, proceed to arbitration pursuant to Article 1806.

2. The provisions of paragraph 1 shall not apply to Chapter Nineteen and Article 2005.