



**Asia-Pacific  
Economic Cooperation**

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## **Competition Chapters in Free Trade Agreements and Economic Partnership Agreements**

Submitted by: China



**Free Trade Area of the Asia-Pacific  
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Competition Chapter in Free Trade  
Agreements and Economic  
Partnership Agreements  
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# COMPETITION CHAPTERS IN FTAS/EPAS

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# CONTENT

- + **1.The development of FTA Competition Chapters in China.**
- + **2.The role of FTA Competition Chapters.**
- + **3.The key elements of FTA Competition Chapters.**
- + **4.The trends of FTA Competition Chapters.**

# + 1. The development of FTA Competition Chapters in China.

## + (1) Scattered in other chapters.

+ FTAs with New Zealand, Peru, Singapore

## + (2) Competition article.

+ FTA with Costa Rica

## + (3) Competition Chapter.

+ FTAs with Iceland, Switzerland

- + **2.The role of FTA Competition Chapters.**
- + (1) Competition advocacy.
- + (2) Ensure the effective enforcement of FTAs.
- + (3) Boost competition cooperation.

### **3.The key elements of FTA Competition Chapters.**

Objectives, Definitions, Principles in Competition Law Enforcement, Transparency, Cooperation, Information Confidentiality, Consultation, Dispute Settlement, Independence of Competition Law Enforcement and so on.

# (1) Objectives

## Ensure Trade Liberalization.

Preventing the benefits of trade liberalization from being undermined. (China-Korea)

Prevent and proscribe anticompetitive practices that affect trade and investment between the Parties. (China-Eurasian Economic Union)

## Promote Economic Development.

Promoting economic efficiency, proper functioning of markets and sustainable economic development of the Parties. (China-Eurasian Economic Union)

Promoting economic efficiency. (China-Korea)

## Promote Consumers Welfare.

Promoting consumer welfare. (China-Korea)

## + **(2)Definitions**

- + Including competition law, competition authority, anti-competitive practice, undertaking and so on.



- + **(3) Principles in Competition Law Enforcement.**
- + **Non-discriminatory, Procedure Justice, Transparency**
- + 1. Each Party shall be consistent with the principles of transparency, non-discrimination, and procedural fairness in the competition law enforcement.
- + 2. Each Party shall treat persons who are not persons of the Party no less favorably than persons of the Party in like circumstances in the competition law enforcement.
- + 3. Each Party shall ensure that:
  - + (a) a person subject to an investigation to determine whether conduct violates its competition laws or what administrative sanctions or remedies should be ordered for violation of such laws is afforded the opportunity to present opinion or evidence in its defense in the investigation process.
  - + (b) persons subject to the imposition of a sanction or remedy for violation of its competition laws should be given the opportunity to seek review of the sanction or remedy through administrative reconsideration and/or administrative lawsuit in accordance with each Party' s laws. (China - Korea)

## + (4) Transparency.

### + Legislation Transparency.

+ Disclose all the competition laws and regulations, including procedural rules.

### + Law Enforcement Transparency.

+ All final decisions finding violations of its competition laws and regulations are in writing, containing relevant findings of fact and legal basis on which the decisions are based. And shall be made public.

## + (5) Cooperation.

### + Cooperation in Law Enforcement.

+ Cooperate through notification, consultation, exchange of information.

### + Technical Cooperation.

+ Technical cooperation activities including training programs, workshops and research collaborations and other activities for the purpose of enhancing each Party' s capacity on competition policy and competition law enforcement.

## + **(6)Information Confidentiality.**

- + Not necessary but sometimes appears.
- + Each Party shall maintain the confidentiality of any information provided as confidential by the competition authority of the other Party and shall not disclose such information to any entity that is not authorized by the Party providing information.

## + (7) Consultation.

### + Reasons for the consultation:

+ Usually specific matters that arise under this Competition Chapter;

### + The procedure of the consultation:

+ A request for consultations shall be submitted to the other Party's contact.

### + The responsibilities of the parties:

+ The requested party shall accord full and sympathetic consideration to the concerns raised by the other Party.

## + **(8)Dispute Settlement.**

- + Usually there will be no separate Dispute Settlement mechanism for competition chapter. This article' s main purpose is to make it clear that any matters arising under competition chapter shall not recourse to Dispute Settlement Mechanism of the FTA.

## + **(9) Independence of Competition Law Enforcement.**

- + Competition Chapter should not intervene with the independence of each Party in enforcing its respective competition laws and regulations.

- + **4.The trends of FTA Competition Chapters.**
- + (1)The content of FTA Competition Chapters is getting richer.
- + (2)The manoeuvrability of FTA Competition Chapters will be further enhanced.
- + (3)The role of FTA Competition Chapters is increasingly more and more important.



# Thanks!

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