Chapter 10
Competition

Article 103
Measures against Anticompetitive Activities

1. Recognising that anticompetitive activities may nullify or impair the benefits of liberalisation of trade and investment and impede the efficient functioning of its market, each Party shall take measures which it considers appropriate against anticompetitive activities, in accordance with its laws and regulations.

2. Any such measures shall be taken in conformity with the principles of transparency, non-discrimination and procedural fairness.

3. For the purposes of this Chapter, "anticompetitive activity" means any conduct or transaction that may be subject to penalties, sanctions or other relief under the competition laws and regulations of either Party. In particular, it includes:

(a) private monopolisation, unreasonable restraint of trade and unfair trade practices under the competition laws and regulations of Japan; and

(b) unlawful agreements between enterprises and unlawful practices of enterprises having a dominant position under the competition laws and regulations of Switzerland.

Article104
Cooperation on Addressing Anticompetitive Activities

1. The Parties shall, in accordance with their respective laws and regulations, cooperate on addressing anticompetitive activities, subject to their respective available resources, with the aim of contributing to the effective enforcement of the competition laws and regulations of each Party through the development of a cooperative relationship between the competition authorities of the Parties, thus avoiding or lessening the possibility of conflicts between the Parties in all matters pertaining to the application of the competition laws and regulations of each Party.

2. The details and procedures of cooperation under this Article shall be specified in Chapter 3 of the Implementing Agreement.

Article 105
Consultations

After all applicable procedures under Article 104 have been undergone, a Party which considers that there remain adverse trade effects caused by an anticompetitive activity may request the other Party to enter into consultations in the Joint Committee with a view to eliminating such adverse trade effects. The consultations in the Joint Committee shall:

(a) not examine the appropriateness of the enforcement of the competition laws and regulations by the competition authority of either Party; and

(b) not infringe upon the independence of the competition authority of either Party in exercising its authority.

Article 106
Non-Application of Paragraph 1 of Article 5 and Chapter 14

1. Paragraph 1 of Article 5 and Chapter 14 shall not apply to this Chapter.

2. Chapter 3 of the Implementing Agreement provides for the details and procedures for the exchange of information, including confidential information, under this Chapter.