(b) subsidies for restructuring an ailing or insolvent enterprise without the enterprise having prepared a credible restructuring plan. Such a restructuring plan shall be prepared within a reasonable time period after such enterprise having received temporary liquidity support.[1] The restructuring plan shall be based on realistic assumptions with a view to ensuring the return to long-term viability of the ailing or insolvent enterprise within a reasonable time period. The enterprise itself or its owners shall contribute significant funds or assets to the costs of restructuring.

ARTICLE 12.8

Use of subsidies

Each Party shall ensure that enterprises use subsidies only for the specific purpose for which the subsidies were granted.

ARTICLE 12.9

General exceptions

For the purposes of this Chapter, Article XX of GATT 1994 and Article XIV of GATS are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 12.10

Dispute settlement

Paragraph 5 of Article 12.6 shall not be subject to dispute settlement under Chapter 22.

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[1] For greater certainty, nothing in this Article prevents a Party from providing subsidies by way of temporary liquidity support in the form of loan guarantees or loans limited to the amount needed to keep the enterprise in business for the time necessary to prepare a restructuring or liquidation plan.

CHAPTER 13

STATE-OWNED ENTERPRISES, ENTERPRISES GRANTED SPECIAL RIGHTS OR PRIVILEGES AND DESIGNATED MONOPOLIES

ARTICLE 13.1

Definitions

For the purposes of this Chapter:

(a) "Arrangement" means the Arrangement on Officially Supported Export Credits, developed within the framework of the Organisation for Economic Co-operation and Development (hereinafter referred to as "OECD") or a successor undertaking, whether developed within or outside of the OECD framework, that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of 1 January 1979;

(b) "commercial activities" means activities which an enterprise undertakes with an orientation towards profit-making[1] and which result in the production of a good or the supply of a service, which will be sold to a consumer in the relevant market in quantities and at prices determined by the enterprise;

(c) "commercial considerations" means considerations of price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately owned enterprise operating according to market economy principles in the relevant business or industry;

(d) "designate a monopoly" means to establish or authorise a monopoly, or to expand the scope of a monopoly to cover an additional good or service;

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[1] For greater certainty, activities undertaken by an enterprise which operates on a non-profit basis or a cost-recovery basis are not activities undertaken with an orientation towards profit-making.

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