第明治三二十種五郵年三月物三十一認可日

(e) "designated monopoly" means an entity, including a consortium or a government agency, that in a relevant market in the territory of a Party is designated as the sole supplier or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant;

(f) "enterprise granted special rights or privileges" means an enterprise, public or private, including its subsidiaries, to which a Party has granted special rights or privileges; special rights or privileges are granted by a Party where it designates a limited number of enterprises authorised to supply a good or service, other than according to objective, proportional and non-discriminatory criteria, substantially affecting the ability of any other enterprise to supply the same good or service in the same geographical area under substantially equivalent conditions;

(g) "service supplied in the exercise of governmental authority" means a service supplied in the exercise of governmental authority as defined in GATS and, if applicable, in the Annex on Financial Services to GATS; and

(h) "state-owned enterprise" means an enterprise that is principally engaged in commercial activities in which a Party:

(i) directly owns more than 50 per cent of the share capital;

(ii) controls, through ownership interests, the exercise of more than 50 per cent of the voting rights;

(iii) holds the power to appoint a majority of members of the board of directors or any other equivalent management body; or

(iv) has the power to legally direct the actions of the enterprise or otherwise exercises an equivalent degree of control in accordance with its laws and regulations.

ARTICLE 13.2

Scope

1. This Chapter applies to state-owned enterprises, enterprises granted special rights or privileges and designated monopolies, engaged in commercial activities. Where they engage both in commercial and non-commercial activities, only the commercial activities are covered by this Chapter.

2. This Chapter applies to state-owned enterprises, enterprises granted special rights or privileges and designated monopolies at all levels of government.

3. This Chapter does not apply to situations where state-owned enterprises, enterprises granted special rights or privileges or designated monopolies act as procuring entities covered either under each Party's annexes to Appendix I to the GPA or under Part 2 of Annex 10 conducting procurement for governmental purposes and not with a view to commercial resale or with a view to use in the production of a good or in the supply of a service for commercial sale.

4. This Chapter does not apply to any service supplied in the exercise of governmental authority.

5. This Chapter does not apply to a state-owned enterprise, an enterprise granted special rights or privileges or a designated monopoly, if in any one of the three previous consecutive fiscal years the annual revenue derived from the commercial activities of the enterprise or monopoly concerned was less than 200 million SDR.

6. Article 13.5 does not apply with respect to the supply of financial services by a state-owned enterprise pursuant to a government mandate, if that supply of financial services:

(a) supports exports or imports, provided that those services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market;