



MEMORANDUM OF UNDERSTANDING BETWEEN THE FAIR TRADE COMMISSION OF THE REPUBLIC OF CHINA (TAIWAN) AND THE SWAZILAND COMPETITION COMMISSION OF THE KINGDOM OF ESWATINI REGARDING THE APPLICATION OF COMPETITION LAWS

The Fair Trade Commission of the Republic of China (Taiwan) and the Swaziland Competition Commission of the Kingdom of Eswatini (hereinafter collectively referred to as the “Parties” and individually referred to as a “Party”),

DESIRING to promote cooperation in the field of competition law enforcement and policy;

NOTING that the Parties share the view that the enforcement of competition laws is an issue of great importance to the efficient operation of the markets falling under the respective jurisdictions of the Parties;

CONSIDERING that cooperation between the Parties would lead to the fairer and more efficient enforcement of competition laws which they have the duty to enforce and to encourage the process of international cooperation in these areas;

AIMING to create favourable conditions for the development of bilateral relations;

DESIRING to ensure conditions for the effective functioning of markets for goods and services in both parties’ states;

STRESSING the role of competition law and policy in the effective development of the economy; and

BASED on the principles of equality and mutual benefit;

HEREBY AGREE AS FOLLOWS:

ARTICLE 1 OBJECTIVES

The purpose of this Memorandum of Understanding (hereinafter referred to as “this MOU”) is to strengthen cooperation between the Parties in the field of competition law and policy both on the level of general policy matters and individual cases, equally covering enforcement, advocacy and competition culture issues.

ARTICLE 2 DEFINITIONS

In this MOU, these terms will have the following definitions:

- (a) “competition law(s)” means:
 - (i) for the Republic of China (Taiwan), the Fair Trade Act and its implementing regulations as well as any amendments thereto; and
 - (ii) for the Kingdom of Eswatini, the Competition Act of Swaziland, 2007 (Act No. 8 of 2007) and its implementing regulations, and the Fair Trading Act 2001 as well as any amendments thereto;
- (b) “enforcement activity(ies)” means any application of competition laws by way of investigation or proceeding conducted by a Party; and
- (c) “territory” means the territory in which a Party has jurisdiction.

ARTICLE 3 COMPETENT AUTHORITIES

The competent authorities responsible for the implementation of this MOU

shall be:

- (a) for the Republic of China (Taiwan), the Fair Trade Commission; and
- (b) for the Kingdom of Eswatini, the Swaziland Competition Commission.

ARTICLE 4

AREAS OF COOPERATION IN THE FIELD OF COMPETITION LAW AND POLICY

- 1) Considering that the Parties share similar institutional design by housing the two functions (competition and the fight against deceptive or unfair trade practices) in a single agency, it is a common goal to identify the common overarching goals of the two fields.
- 2) In order to secure legal and organisational mechanism for interaction focused on prevention and termination of actions that may negatively affect competition in the Republic of China (Taiwan) and in the Kingdom of Eswatini, the Parties indicate areas for cooperation as follows:
 - (a) investigations of behaviours which violate competition laws in the respective legislation of the Parties;
 - (b) enforcement of competition legislation and related experience sharing which cover both antitrust and unfair competition issues; and
 - (c) determination of strategic and tactical aspects of the competition policy if requested.
- 3) The Parties will share their experience concerning projects in the field of raising awareness of competition law and policy (competition advocacy).
- 4) Cooperation in terms of this MOU must be consistent with each Party's domestic laws and regulations and, in particular, those protecting confidential information.

ARTICLE 5

TECHNICAL COOPERATION

- 1) The Parties recognize that it is in their common interest to work together in technical cooperation activities related to strengthening of competition

policy and implementation of the competition law of each Party. These activities shall be coordinated in advance and agreed upon by both Parties.

- 2) Technical cooperation activities under this MOU shall be subject to and dependent upon the availability of appropriate funds, personnel and resources. Neither Party is obliged to provide funds pursuant to this MOU. Any financial arrangements shall be negotiated on a case by case basis, as permitted by relevant laws and regulations.

ARTICLE 6 NOTIFICATION

- 1) If one of the Parties establishes that actions of undertakings in its own territory, which can have a negative impact on competition in the territory of the other Party, the former shall notify the latter about that.
- 2) If one of the Parties establishes that competition in its own territory, which can be negatively affected by the actions of undertakings taken place in the territory of the other Party, the former shall notify the latter about that.
- 3) Notification shall be sent in written form and shall contain a brief account of the essence of the case, references to the relevant legal norms, and other related information in which the sending Party considers to be necessary for submission.
- 4) The Party, who receives notification, shall consider the possibility of taking the appropriate measures pursuant to requirements of laws enforced by the Parties and shall inform the other Party of the results.

ARTICLE 7 REQUEST FOR INFORMATION

- 1) In the course of consideration of actions affecting competition, each Party shall have the right to send a request for information on activities of undertakings to the other Party. The other (requested) Party shall have the right to refuse to provide the requested information if the submission of

such information is inconsistent with the legislation of the requested Party.

- 2) The requesting Party shall state the purpose of its request and the basic circumstances of the case.
- 3) After receiving a request from the requesting Party the requested Party shall provide the requested information when appropriate and practicable.

ARTICLE 8 PROTECTION OF INFORMATION

- 1) Information received as a result of application of this MOU shall not be disclosed unless the Parties agree otherwise.
- 2) The Parties may refuse cooperation within the framework of this MOU on the grounds of the interests of their states or on the grounds concerning the safeguard of commercial and other secrets according to the laws enforced by the Parties, or if it would be incompatible with the interests of the Parties in the application of laws.

ARTICLE 9 CONSULTATIONS

Consultation may be held in essential issues requested by one Party and accepted by the other Party (like more general questions of competition policy or experience of sector inquiries, etc.).

ARTICLE 10 FINAL PROVISION

- 1) This MOU shall enter into force upon signature.
- 2) This MOU may be amended upon the mutual written consent of the Parties.

- 3) This MOU shall be valid for a period of two years from the date of signature and shall be automatically extended for an additional two years every two years unless otherwise terminated.
- 4) Either Party may terminate this MOU at any time by means of written communication addressed to the other Party and giving sixty (60) days' notice in advance of the date that the former wishes to terminate this MOU.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this MOU. Done at Taipei, this 11 day of December 2018, in duplicate in the English language.

For the Fair Trade Commission
of the Republic of China (Taiwan)

For the Swaziland Competition
Commission of the Kingdom of Eswatini

Mei-Ying HUANG
Chairperson

Thabisile Langa
Chief Executive Officer