

PTAcodingCompetition ▾



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Default Question Block

Q1

Coding PTAs for Their Competition/Antitrust Law & Policy Provisions
Starting Page

pta_number

PTA #:

Please enter numerical code of the PTA (only)

pta_name

PTA Name:

Afghanistan India

pta_coder

Coder Name:

chapter

C1. Does the PTA have a separate CHAPTER devoted to competition law/policy?

Please select "Yes" even if the chapter does not use the word "competition" but instead refers to "antitrust" or "merger" review/control/regulation.



Yes


☐

No

☐


ch_spcfd


C1a. If yes, please specify the chapter Please enter the number or alphanumeric identifier, only:


 **Display This Question:**
If C1. Does the PTA have a separate CHAPTER devoted to compe... **No** Is **Selected**

article

C2. Does the PTA have a separate ARTICLE or articles devoted to competition law/policy?
Please select "Yes" even if the article does not use the word "competition" but instead refers to "antitrust" or "merger" review/control/regulation.


 Yes ☐ No ☐

 If **No** Is **Selected**, Then Skip To **C3. Does the PTA contain any mention ...**

 **Display This Question:**
If C1. Does the PTA have a separate CHAPTER devoted to compe... **No** Is **Selected**


art_spcfd


C2a. If yes, please specify the article. Please enter the number or alphanumeric identifier, only:

 **Display This Question:**
If C1. Does the PTA have a separate CHAPTER devoted to compe... **No** Is **Selected**


art_title


C2b. Does the article include the word "competition" (or its translation in the language of the treaty or its direct negation: "anti-competitive") in the title of the article or, if the article does not have a title (only), does the text of the article include the word "competition"?


 Yes ☐ No ☐

 **Display This Question:**
If C1. Does the PTA have a separate CHAPTER devoted to compe... **No** Is **Selected**
And C2. Does the PTA have a separate ARTICLE or articles devo... **No** Is **Selected**

comp_any

 **C3. Does the PTA contain any mention of competition, any mention of antitrust, or any mention of the regulation of cartels, monopolies, or mergers/acquisitions?**
Be sure here also to consider all parts of the agreement, incl. the preamble. References to "monopolies" *unrelated to antitrust/competition law or policy*, such as in a general commitment to liberalize or privatize state monopolies, do *not* count.

 Yes ☐ No ☐

 If **No** Is **Selected**, Then Skip To **End of Block**

**Display This Question:**

If C1. Does the PTA have a separate CHAPTER devoted to compe... **No** Is **Selected**
And C2. Does the PTA have a separate ARTICLE or articles devo... **No** Is **Selected**

c_anyspcfd

C3a. If yes, in which parts of the treaty? Please specify article number(s)**Display This Question:**

If C1. Does the PTA have a separate CHAPTER devoted to compe... **No** Is **Selected**
And C2. Does the PTA have a separate ARTICLE or articles devo... **No** Is **Selected**

c_distinct

C3b. If yes, Is antitrust/competition recognized as a (trade-related but) distinct issue, i.e. not just as a characteristic of trade in the sense that trade inherently entails foreign goods competing with domestic ones? If the only mention of competition is something like a call for good "conditions of competition for trade," please select "No."



Yes

☐

No

☐

cov_spcfd

C4. Is there anything unusual about the coverage of antitrust/competition in this PTA that should be noted at the outset?
For example, if the PTA refers to an Annex that is supposed to deal with competition issues (solely or inter alia) but the annex is missing, please note here.

sep_compa

C5. Does the treaty refer to a separate agreement on antitrust/competition cooperation among the parties?

Yes

☐

No

☐

If **No** Is **Selected**, Then Skip To **C6. Does the PTA contain an obligatio...**

compa_prec

C5a. What is the relationship between the separate competition agreement and this trade agreement? Does the antitrust/competition agreement take precedence?

Yes

☐

No

☐

law_req



C6. Does the PTA contain an obligation for each party to have or adopt an antitrust or competition law?



Yes

☐

No

☐

lreq_spcfd

C6a. If yes, is there anything noteworthy about this obligation? For example, does the PTA clearly but only implicitly assume the existence of antitrust/competition laws (e.g. by creating obligations that could not be complied with if such laws were repealed) instead of explicitly calling for them to be adopted or maintained?

agency_req

C7. Does the PTA contain an obligation for each party to have or maintain an enforcement agency for antitrust and/or merger regulation?



Yes

☐

No

☐

areq_spcfd

C7a. If yes, is there anything noteworthy about this obligation? For example, is the obligation imposed only on one/some Parties or does the PTA clearly but only implicitly assume the existence of an antitrust/competition enforcement agency, e.g. by creating obligations regarding their enforcement practices that could not be complied with if a Party had no such agency?

transparency

C8. Does the PTA contain an obligation for "transparency" in Parties' antitrust enforcement policies and practices? We are looking for a specific mention of the term "transparency." Please select "Yes" also if the reference to transparency is linked to a general mention to "competition" law or policies.



Yes

☐

No

☐

goals

C9. Are any goals of antitrust/competition law and/or policy specified in the treaty?



Yes

☐

No

☐

If No Is Selected, Then Skip To C10. Does the PTA establish any of th...

goal

C9a. Which goals are specified? Please check all that apply

- ☐ consumer welfare
- ☐ "total" welfare
- ☐ efficiency
- ☐ protection of small and medium-sized enterprises
- ☐ promotion of exports
- ☐ industrial policy goals
- ☐ social policy goals (incl. equality or preferences for regions, gender, racial or religious groups)
- ☐ other (if any goals are mentioned as *not* permissible, note so here)

oblig

**C10. Does the PTA establish any of the following obligations for the governments of the member countries in their implementation of antitrust/competition law?** Please check all that apply

- ☐ to provide for procedural rights for the defendant in antitrust proceedings, such as opportunities to present evidence, to be heard, to cross-examine witnesses
- ☐ to devote resources (funds/staff) to enforcement
- ☐ to provide the legal reasoning behind any decisions
- ☐ to provide for judicial review (appeal) of an antitrust enforcement or merger review decision
- ☐ to make decisions public
- ☐ other (please specify; use only if above really do not capture the stated obligations):

Antitrust Block


antitrust_cartels

AT1. Does the PTA contain antitrust provisions concerning cartels or cartel-like agreements or practices? The PTA might refer to them as collusion; collusive or restrictive agreements or practices, anti-competitive horizontal agreements/cooperation among firms, companies, or "undertakings."

Yes

☐

No

☐ If No Is Selected, Then Skip To AT2. Does the PTA contain antitrust p...

hardcartels_only

AT1a. Does the PTA ban (or require the Parties to ban) only "hard-core cartels"? The text may refer to them as "naked cartels" or "price-fixing agreements"

Yes

☐

No

☐

antitrust_vertical

AT2. Does the PTA contain antitrust provisions concerning anti-competitive vertical agreements or vertical cooperation among firms? It might refer to them as anti-competitive distribution agreements, "non-horizontal agreements," or "supply agreements."



Yes

☐

No

☐

antitrust_dominance

AT3. Does the PTA contain any antitrust provisions concerning monopolies, dominance, or [abuse of] dominant position? Note that the mere mention of monopolies, unrelated to antitrust/competition law or policy, does not count.



Yes

☐

No

☐

Display This Question:

If AT1. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT2. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT3. Does the PTA contain any antitrust provisions concer... **Yes** Is **Selected**

AT4

AT4. Are any of the following *categorically* excluded from the application of the antitrust provisions in the PTA? Please check all that apply.



- ☐ export cartels
- ☐ state-owned enterprises
- ☐ state-operated or -designated trading companies (for exports)
- ☐ "designated monopolies" (= gov-appointed and regulated monopolies)
- ☐ other (please specify; exclusions of sectors, industries, or types of products should be noted in AT6, not here):

Display This Question:

If AT1. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT2. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**


Or AT3. Does the PTA contain any antitrust provisions concer... **Yes** Is **Selected**

AT5

AT5. Are any of the following *partially or conditionally* (i.e., explicitly but less than categorically) excluded from the application of the antitrust provisions in the PTA? Please check all that apply.




- ☐ export cartels
- ☐ state-owned enterprises
- ☐ state-operated or -designated trading companies (for exports)
- ☐ "designated monopolies" (= gov-appointed and regulated monopolies)
- ☐ other (please specify; exclusions of sectors, industries, or types of products should be noted in AT6, not here):


 **Display This Question:**
If AT1. Does the PTA contain antitrust provisions concerning... Yes Is **Selected**
Or AT2. Does the PTA contain antitrust provisions concerning... Yes Is **Selected**
Or AT3. Does the PTA contain any antitrust provisions concer... Yes Is **Selected**


at_exempt_ind

AT6. Are any industries or economic sectors or types of economic activities (other than export) excluded *specifically* from the application of the antitrust provisions in the PTA? This may be phrased in terms of "immunities" or "exemptions."

Yes ☐ No ☐




 If No Is **Selected**, Then Skip To AT6b. Are any industries or economic ...


 **Display This Question:**
If AT1. Does the PTA contain antitrust provisions concerning... Yes Is **Selected**
Or AT2. Does the PTA contain antitrust provisions concerning... Yes Is **Selected**
Or AT3. Does the PTA contain any antitrust provisions concer... Yes Is **Selected**

at_exempt_specfd


AT6a. Which industries or economic sectors are specified as exempted from the antitrust provisions?


 **Display This Question:**
If AT1. Does the PTA contain antitrust provisions concerning... Yes Is **Selected**
Or AT2. Does the PTA contain antitrust provisions concerning... Yes Is **Selected**
Or AT3. Does the PTA contain any antitrust provisions concer... Yes Is **Selected**

pta_exempt



AT6b. Are any industries or economic sectors or types of economic activities *categorically* excluded from the application of the PTA and thus in effect also from its antitrust provisions?

 Yes ☐ No ☐

 If No Is **Selected**, Then Skip To AT7. Does the PTA allow for an "effic...

**Display This Question:**

If AT1. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT2. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT3. Does the PTA contain any antitrust provisions concer... **Yes** Is **Selected**

pta_ex_spc

AT6c. Which industries or economic sectors are specified as exempted from the application of the PTA?

**Display This Question:**

If AT1. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT2. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT3. Does the PTA contain any antitrust provisions concer... **Yes** Is **Selected**

at_efficiencydefense

AT7. Does the PTA allow for an "efficiency defense" or an exemption of anti-competitive behavior from antitrust enforcement based on efficiency gains from such behavior?



Yes

☐

No

☐**Display This Question:**

If AT1. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT2. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT3. Does the PTA contain any antitrust provisions concer... **Yes** Is **Selected**

at_privatetion

AT8. Does the PTA allow for (or oblige member states to allow for) private rights of action on antitrust matters? This entails, for instance, allowing those who believe to have been hurt by others' anti-competitive behavior to seek/obtain remedies.



Yes

☐

No

☐**Display This Question:**

If AT1. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT2. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**

Or AT3. Does the PTA contain any antitrust provisions concer... **Yes** Is **Selected**

at_nattreatment

AT9. Does the PTA require national treatment (non-discrimination) in the enforcement of anti-trust laws against foreign firms? Also select "Yes" if the agreement contains a general "non-discrimination" clause with regard to antitrust law without explicit reference to "national treatment."



Yes

☐

No

☐

**Display This Question:**If AT1. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**Or AT2. Does the PTA contain antitrust provisions concerning... **Yes** Is **Selected**Or AT3. Does the PTA contain any antitrust provisions concer... **Yes** Is **Selected**

at_mfn

AT10. Does the PTA require "most favored nation" treatment of signatories' firms in the enforcement of anti-trust laws?

Yes

☐

No

☐**Merger Block**

mergers

M1. Does the PTA contain any provisions referring to mergers, acquisitions, and/or joint ventures? This may be put as "concentrations" or "agreements that increase concentration."

Yes

☐

No

☐If **No** Is **Selected**, Then Skip To **End of Block**

note_m

Please note: In the questions below, "mergers" refers to any and all of merger, acquisitions, and joint ventures.

merger_exempt

M2. Are any industries or economic sectors or types of economic activities excluded from merger regulation, according to the PTA?

Yes

☐

No

☐If **No** Is **Selected**, Then Skip To **M3. Does the PTA allow for an exempti...**

m_exempt_specfd

M2a. Which industries or economic sectors are specified as exempted?

merger_efficiencydefense

M3. Does the PTA allow for an exemption from normal merger regulation rules based on (expected) efficiency gains from the merger? The treaty text may refer to such an exemption as the "efficiency defense."



Yes

☐

No

☐

mergers_natltreatment

M4. Does the PTA prohibit discrimination against foreign firms in the review or regulation of mergers? This may be put in terms of "national treatment" [of foreign firms]



Yes

☐

No

☐

mergers_mfn

M5. Does the PTA require "most favored nation" treatment of signatories' firms in the review or regulation of mergers?



Yes

☐

No

☐

Subsides Block

govsubs

GS1. Does the PTA contain any provisions referring to state government subsidies or "state aid" to producers/firms? This may be put as "domestic support" e.g. for agricultural goods.



Yes

☐

No

☐

If No Is Selected, Then Skip To End of Block

govsubs_restr

GS2. Does the PTA restrict or prohibit such subsidies/aid? Note that such a restriction may take the form of deferring to the GATI/WTO rules on subsidies (and countervailing measures).



Yes

☐

No

☐

Intl Cooperation Block

advance_consult

IC1. Does the PTA establish an obligation to consult with the competition authority or the government of another party before launching enforcement actions (or deciding on merger proposals) involving a companies from that country?



Yes

☐

No

☐

ic

IC2. Does the PTA establish an obligation to cooperate on antitrust or competition matters in any of following ways?

Please check all that apply



- ☐ [The Parties commit] to pursue convergence/harmonization/uniformity or to avoid discrepancies in their antitrust/competition policies (without necessarily committing to any particular way of pursuing this goal);
- ☐ once an enforcement action (or merger review) has been launched involving one or more firms from another party, notify that firm's home governments/competition agency;
- ☐ to exchange information about enforcement actions or merger reviews;
- ☐ for one or more Parties to provide technical assistance or resource transfer to another Party to help it finance its enforcement activity or build its competition-regulatory capacity;
- ☐ an explicit "negative comity" obligation (i.e., each Party undertakes to take into consideration the acts and important interests of the others before taking action that might affect those other Parties);
- ☐ an explicit "positive comity" obligation (i.e., each Party can request that another take affirmative action to assist it in enforcing its laws).
- ☐ other (please specify):

**Display This Question:**

If IC2. Does the PTA establish an obligation to cooperate on... **once an enforcement action (or merger review) has been launched involving one or more firms from another party, notify that firm's home governments/competition agency;** Is **Selected**

Or IC2. Does the PTA establish an obligation to cooperate on... **to exchange information about enforcement actions or merger reviews;** Is **Selected**

Or IC2. Does the PTA establish an obligation to cooperate on... **for one or more Parties to provide technical assistance or resource transfer to another Party to help it finance its enforcement activity or build its competition-regulatory capacity;** Is **Selected**

Or IC2. Does the PTA establish an obligation to cooperate on... **an explicit "negative comity" obligation (i.e., each Party undertakes to take into consideration the acts and important interests of the others before taking action that might affect those other Parties);** Is **Selected**

Or IC2. Does the PTA establish an obligation to cooperate on... **an explicit "positive comity" obligation (i.e., each Party can request that another take affirmative action to assist it in enforcing its laws).** Is **Selected**

Or IC2. Does the PTA establish an obligation to cooperate on... **other (please specify):** Is **Selected**

confid_info_exception

IC2a. Does the obligation to cooperate entail an exception for (not) sharing confidential business/commercial information?

Yes

☐

No

☐

common_studygroup

IC3. Does the PTA establish a working group, study group, or committee of representatives of the Parties (or their domestic competition authorities) to discuss antitrust or competition issue?



- ☐ Yes, a specialized body devoted exclusively to competition policy matters
- ☐ Yes, a general body that may inter alia discuss competition policy
- ☐ No

common_comp_auth

IC4. Does the PTA establish (or refer to an existing) *common* authority to handle antitrust enforcement and/or merger review? Such an authority may be referred to as an "agency" or some other type of institution/organization; the key is that there is a joint body to make *decisions* on competition matters arising under the PTA.



Yes

☐

No

☐

If **No** Is Selected, Then Skip To End of Block

common_complaw_spctd

IC4a. Which body of competition law is the common authority supposed to apply?

Dispute Settlement Block

dsm_pta

DSM1. Does the PTA contain provisions for dispute settlement (for the PTA as a whole)? Select 'Yes' only if the agreement establishes or defers to a specific institution/body/committee or procedure/mechanism for resolving conflicts, which allows for an authoritative decision regarding the dispute. The crucial question is whether decision-making authority is granted, not what it is called: a DSM body or procedure might be called a "review mechanism" or "consultation process" rather than a "dispute settlement mechanism." By contrast, if the PTA contains only a declaratory commitment to consult, negotiate, or seek consensus, select 'No' for the DSM questions.



- ☐ Yes, dispute settlement between the Parties
- ☐ Yes, third-party dispute settlement
- ☐ No



If **No** Is Selected, Then Skip To DSM2. Does the PTA establish a separa...

dsm_pta_comp

DSM1a. Does it apply to the agreement's antitrust/competition provisions? Here, we interpret the lack of an explicit exclusion as an indication that it applies.



Yes

☐

No

☐

dsm_pta_excl_spctd

DSM1b. The following specific parts of the PTA's antitrust/competition provisions are excluded from the application of the DSM provisions (if all of antitrust/competition policy is excluded, then just select "No" above and leave this field blank):

dsm_comp

DSM2. Does the PTA establish a separate/distinct dispute settlement mechanism for antitrust/competition matters?



Yes

☐

No

☐

If No Is Selected, Then Skip To End of Block

dsm_comp_excl_spcld

DSM2a. Does the separate DSM apply only to specific antitrust/competition matters? If so, please specify; otherwise leave blank:

Miscellaneous Block

length_comp

C11. What is the total length of the antitrust or competition-related parts of the PTA? Please use the number of words as the measure of length, counting all words of each *sentence* that contains any competition- or antitrust-related provisions. If entire paragraphs, articles, or even entire chapters are substantively about competition issues, we count the entire paragraph or chapter, respective (including their titles), plus of course additional sentences on competition issues elsewhere, if any. Include any provisions for monopolies *if* they are discussed as an antitrust or competition policy matter. For purposes of this question, please do not count clauses concerning state aid/subsidies.

All treaty texts should allow highlighting words, sentences, or entire sections as warranted, as well as copying text into a word document, which should allow an easy word count. Please record the *number* of words, only; do not use commas to indicate a number above one thousand.

length_pta

C12. What is the total length of the PTA including preamble, appendices etc. (in # of words) Please include all substantive provisions, including preamble and appendices or annexes, except tariff schedules; record the number of words, only, without any commas.

comp_law_ref

LAW1. Is there an explicit reference to the antitrust or competition laws of one jurisdiction (whether or not that jurisdiction is a Party to the PTA)?



Yes

☐

No

☐

**Display This Question:**If LAW1. Is there an explicit reference to the antitrust or ... **Yes** Is **Selected**

comp_law_ref_spcld

LAW1a. Which jurisdiction? Please specify United States (of America) as "US," the European Union as EU; spell out all others.
**Display This Question:**If LAW1. Is there an explicit reference to the antitrust or ... **No** Is **Selected**

comp_law_eu

LAW2. Do the specific antitrust provisions resemble EU competition laws by containing any of the following phrases?

- "[agreements that have as their] object or effect the prevention, restriction or distortion of competition" or
- "abuse by one or more undertakings of a dominant position" or
- "concentration is incompatible" or
- "significantly impede effective competition" or
- "creation or strengthening of a dominant position"

Please look for exact or close approximation of the phrases. For instance, code "Yes" if "significantly impede effective competition" appears with "impedes" in a different tense or conjugated or as "significantly impede competition" or "impede effective competition."

Yes

☐

No

☐
**Display This Question:**If LAW1. Is there an explicit reference to the antitrust or ... **No** Is **Selected**

comp_law_us

LAW3. Do the specific antitrust provisions resemble U.S. competition laws by containing any of the following phrases?

- "substantially lessen competition" or
- "every contract, combination" or
- "every person who shall monopolize"

Yes

☐

No

☐

ip_rights

IP1. Does the PTA include provisions calling for the protection of intellectual property (IP) rights? IP rights may be discussed in terms of the protection of patent (rights) or prohibitions against mandatory licensing.

Yes

☐

No

☐

ip_exception

IP2. Does the PTA specify an antitrust exception to the IP rights provisions? That is, does the treaty specify that intellectual property rights may be violated (or IP protections voided) if they are used to restrict competition monopolistically or through other antitrust violations? The U.S.-Jordan PTA, for instance, specifies (in Art.4 Par.20(a)) that "neither Party shall permit the use of the subject matter of a patent without the authorization of the right holder except in the following circumstances: (a) to remedy a practice determined after judicial or administrative process to be anti-competitive"

- ☐ Yes, anti-competitive practices allow violating/voiding IP rights protections
- ☐ No, no such exception

NTBs Block

ntb_general

NTB1. Does the PTA explicitly refer to non-tariff barriers? We are literally looking whether "non-tariff barriers" (with or without hyphen or space, or "NTBs," or close synonyms or translations, such as "non-customs" or "behind the border" barriers) are explicitly recognized *as trade issues*, regardless of how they are dealt with.



Yes

☐

No

☐

ntb_specific

NTB2. Does the PTA refer to any of the following specific non-tariff barriers without using the term "non-tariff barriers" or the acronym "NTB"? Please check all that apply.

- technical barriers to trade, incl. product, process, or labeling standards or regulations;
- health and safety standards or regulations, including "sanitary" or "phytosanitary"
- customs procedures or administrative delays
- licensing requirements or import licenses
- standards or specified conditions for the environment, labor, or human rights
- voluntary export restraints
- any other specific NTBs not specified above.



Yes

☐

No

☐

ntbs_spcfd

NTB2a. If you answered yes to the question above based on "other" NTBs, please specify them here:



Display This Question:

If NTB1. Does the PTA explicitly refer to non-tariff barrier... **Yes** Is **Selected**

Or NTB2. Does the PTA refer to any of the following specific... **Yes** Is **Selected**

at_as_ntb

NTB3. Are anticompetitive practices (or government regulation thereof) recognized as non-tariff barriers (explicitly as an NTB or discussed in the context of specific ones?



Yes

☐

No

☐

antidumping

MISC1. Does the PTA include provisions on antidumping?



Yes

☐

No

☐

infantindustries

MISC2. Does the PTA include provisions concerning the protection of infant industries?



Yes

☐

No

☐

govprocurement

MISC3. Does the PTA include provisions concerning government procurement?



Yes

☐

No

☐

Final Block

coding_problems

F1. Did you encounter any difficulties in coding the antitrust/competition provisions (and related issues) in this PTA?

info_general

F2. Any additional noteworthy information about the PTA in general?