

PART VI

ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

CHAPTER 17

TRANSPARENCY

Article 17.1: Definitions

For purposes of this Chapter:

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

- (a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of the other Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice.

Article 17.2: Contact Points

1. Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Agreement.
2. Upon request of a Party, the contact point of the other Party shall indicate the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

Article 17.3: Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application relating to any matter covered by this Agreement are promptly published or otherwise made publicly available.
2. To the extent possible, each Party shall:
 - (a) publish in advance any such measure that it proposes to adopt; and
 - (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures.

Article 17.4: Notification and Provision of Information

1. To the maximum extent possible, each Party shall notify the other Party of any proposed or actual measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement.
2. Upon request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure, whether or not the other Party has been previously notified of that measure.
3. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.
4. The information referred to under this Article shall be considered to have been provided when it has been made available by appropriate notification to the WTO or when it has been made available on the official, public and fee-free accessible website of the Party concerned.

Article 17.5: Exchange of Information on State Aid

Each Party may request information on individual cases of state aid that it believes to affect trade between the Parties. The requested Party shall make its best efforts to provide non-confidential information.

Article 17.6: Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner all measures of general application affecting matters covered by this Agreement, each Party shall ensure that in its administrative proceedings applying measures referred to in Article 17.3 to particular persons, goods or services of the other Party in specific cases:

- (a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided with a reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of any issues in controversy;
- (b) such persons are afforded with a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding and the public interest permit; and
- (c) its procedures are in accordance with its domestic law.

Article 17.7: Review and Appeal

1. Each Party shall establish or maintain judicial, or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:

- (a) a reasonable opportunity to support or defend their respective positions; and
- (b) a decision based on the evidence and submissions of record and, where required by domestic law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.

CHAPTER 18

ADMINISTRATION OF THE AGREEMENT

Article 18.1: The Free Trade Commission

1. The Parties hereby establish the Free Trade Commission, comprising officials referred to in Annex 18.1.1 or their designees.
2. The Parties, through the Commission, shall:
 - (a) supervise the implementation and appropriate application of the provisions of this Agreement;
 - (b) evaluate the results obtained in the course of the application of this Agreement;
 - (c) supervise the work of the committees and working groups established under this Agreement, referred to in Annex 18.1.2(c);
 - (d) ensure that, with regard to public enterprises and enterprises to which special or exclusive rights have been granted, in fulfillment of Article 14.8, following the date of entry into force of this Agreement, any measure distorting trade in goods or services between the Parties is neither enacted or maintained to an extent contrary to the Parties interests; and
 - (e) consider any other matter that may affect the operation of this Agreement, or that is entrusted to the Commission by the Parties.
3. In the fulfillment of its functions, the Commission may:
 - (a) establish and delegate responsibilities to *ad hoc* or standing committees, working groups or expert groups and assign them with tasks on specific matters;
 - (b) seek the advice of non-governmental persons or groups;
 - (c) modify, in accordance with Annex 18.1.3(c):
 - (i) the established rules of origin in Annex 4;
 - (ii) the Schedules established in Annex 3.4, in order to accelerate the tariff elimination process;
 - (iii) the Uniform Regulations; and
 - (iv) the Annexes 15.1 and 15.2 (Government procurement); and
 - (d) take such other action in the exercise of its functions, as the Parties may agree.
4. The Commission shall establish its rules and procedures. All decisions of the Commission shall be adopted by mutual agreement between the Parties.
5. The Commission shall convene at least once a year in regular session. Regular sessions of the Commission shall be chaired alternately by each Party.

Article 18.2: The Secretariat

1. Each Party hereby designates the competent national organ referred to in Annex 18.2 to serve as its Secretariat for purposes of this Agreement.

2. For purposes of this Agreement, all communication or notification to or by a Party shall be made through its Secretariat.

Annex 18.1.1
Officials of the Free Trade Commission

For purposes of Article 18.1, officials of the Commission are:

- (a) in the case of Chile, the Minister of Foreign Affairs, or her/his designees; and
- (b) in the case of Korea, the Minister for Trade, or her/his designees.

Annex 18.1.2(c)
Committees and Working Groups

1. Committees:

- (a) Committee on Trade in Goods;
- (b) Committee on Sanitary and Phytosanitary Measures;
 - (i) Sub-Committee on Animal Health;
 - (ii) Sub-Committee on Plant Protection; and
 - (iii) Sub-Committee on Food Safety;
- (c) Committee on Standards-Related Measures;
- (d) Investment and Cross-Border Trade in Services Committee; and
- (e) Committee on Telecommunications Standards.

2. Working Groups:

- (a) Temporary Entry Working Group; and
- (b) Government Procurement Working Group.

Annex 18.1.3(c)
Implementation of Decisions Adopted by the Commission

The Parties shall implement decisions of the Commission, referred to in Article 18.1.3(c), according to their respective domestic legislation and the following procedures:

- (a) in the case of Chile, by means of executive agreements, in conformity with Article 50 N°1, second paragraph of the Political Constitution of the Republic of Chile; and
- (b) in the case of Korea, in conformity with Article 60.1 of the Constitution of the Republic of Korea.

Annex 18.2
The Secretariat

For purposes of Article 18.2, the competent national organs of the Parties are:

- (a) for Chile, the General Directorate of International Economic Affairs of the Ministry of Foreign Affairs, or its successor; and
- (b) for Korea, the Multilateral Trade Bureau of the Ministry of Foreign Affairs and Trade, or its successor.