

CHAPTER 17 TRANSPARENCY

Article 17.1 Relation to other Chapters

Where there are specific provisions in other Chapters of this Agreement regarding the subject matter of this Chapter, they shall prevail to the extent that they are inconsistent with the provisions of this Chapter.

Article 17.2 Definitions

For the purposes of this Chapter 'administrative ruling of general application' means an administrative or quasi-judicial 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 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 17.3 Publication

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and the other Party to become acquainted with them.

2. To the extent possible, each Party shall make the measures referred to in paragraph 1 available on the internet.

3. To the extent possible, each Party shall:

- (a) publish in advance any measure referred to in paragraph 1 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 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. On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure that the requesting Party considers might materially affect the operation of this Agreement or otherwise substantially affect its interests under this Agreement, regardless of whether the requesting Party has been previously notified of that measure.

3. Any notification, request, or information under this Article shall be provided to the other Party through the relevant contact points.

4. Any notification or information provided under this Article shall be without prejudice as to whether the measure in question is consistent with this Agreement.

Article 17.5 Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner its measures referred to in paragraph 1 of Article 17.3 (Publication), each Party shall ensure that in its administrative proceedings in which these measures are applied to particular persons, goods or services of the other Party in specific cases it:

- (a) provides wherever possible, to persons of the other Party that are directly affected by a proceeding, reasonable notice, in accordance with its 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 question;
- (b) affords such persons 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) follows its procedures in accordance with its law.

Article 17.6 Review

1. Each Party shall maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purpose of the prompt review³⁸ 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.

³⁸ For greater certainty, “review” includes merits (*de novo*) review only where provided for under the Party’s law.

2. Each Party shall ensure that the above mentioned tribunals or procedures provide:

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

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