

CHAPTER 16 TRANSPARENCY

Article 16.1 Definitions

For the 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.

“interested person” means any natural or legal person that may be subject to any rights or obligations under measures of general application.

Article 16.2 Publication

Each Party shall ensure that its laws, regulations 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 the other Party and interested persons to become acquainted with them.

Article 16.3 Notification and Provision of Information

1. To the maximum extent possible, each Party shall notify the other Party of any measure that, the Party considers, may materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement.
2. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any measure whether or not the requesting 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. Any notification, request, or information under this Article shall be provided to the other Party through the relevant contact points.
5. When the information pursuant to paragraph 1 has been made available by notification to the WTO in accordance with its relevant rules and procedures or when the mentioned information has been made available on the official, publicly accessible and fee free web-sites of the Parties, the information exchange shall be considered to have taken place.

Article 16.4
Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner all measures referred to in Article 16.2 (Publication), each Party in applying such measures to particular persons, goods or services of the other Party in specific cases, shall:

- (a) endeavour to provide interested persons of the other Party, who are directly affected by a proceeding, with reasonable notice, in accordance with the procedures under its domestic laws and regulations, 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; and
- (b) afford such interested persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, insofar as time, the nature of the proceeding and the public interest permit in accordance with the procedures under its law.

Article 16.5
Review of Administrative Actions

1. Each Party shall, subject to its domestic law, establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purposes of the prompt review and, where warranted, correction of administrative actions¹² relating to 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 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 for in its domestic law, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

Article 16.6
Specific Rules

Specific rules in other Chapters of this Agreement regarding the subject matter of this Chapter shall prevail to the extent that they differ from the provisions of this Chapter.

¹² For greater certainty, the review of administrative actions can take the form of common law judicial review, and the correction of administrative actions may include a referral back to the body that took such action for corrective action.