

CHAPTER 13

TRANSPARENCY

Article 167 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 and that is relevant to the implementation of this Agreement but does not include:

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

Article 168 Publication

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement are promptly, but in no case later than 90 days after implementation or enforcement, published or otherwise made available in such a manner as to enable interested persons of the other Party and the other Party to become acquainted with them.

2. 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, where appropriate, interested persons of the other Party and the other Party with a reasonable opportunity to comment on such proposed measures.

Article 169 Administrative Proceedings

With a view to administering in a consistent, impartial, and reasonable manner all measures affecting matters covered by this Agreement, each Party shall ensure, in its administrative proceedings applying measures referred to in Article 168.1 to particular persons, goods, or services of the other Party in specific cases that:

- (a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided 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 question;
- (b) such persons are afforded 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 domestic law.

Article 170 Review and Appeal

1. Each Party shall, where warranted, establish or maintain judicial, quasi-judicial or administrative tribunals, or procedures for the purpose of the prompt review and correction of final administrative actions regarding matters covered by this Agreement, other than those taken for prudential reasons. 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 proceedings 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 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 decision shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.

Article 171 Contact Points

1. Each Party shall designate a contact point or points, and provide details of such contact points to the other Party, to facilitate communications between the Parties on any matter covered by this Agreement.

2. The Parties shall notify each other promptly of any amendments to the

details of their contact points.

3. Each Party shall ensure its contact points are able to coordinate and facilitate a response on any matter covered by this Agreement, including any enquiries referred to in Article 172.

4. On the request of the other Party, the contact points shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communications with the requesting Party.

Article 172 Notification and Provision of Information

1. Where a Party considers that any proposed or actual measure might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement, that Party shall notify the other Party, to the extent possible, of the proposed or actual measure.

2. On request of the other Party, a Party shall within 30 days of receipt of the request provide information and respond to questions pertaining to any actual or proposed measure, whether or not that other Party has been previously notified of that measure.

3. Any notification, request, or information under this Article shall be conveyed to the other Party through their contact point.

4. Notwithstanding paragraph 3, the notification referred to in paragraph 1 shall be regarded to have been conveyed when it has been made available by appropriate notification to the WTO.

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