

CHAPTER 17

TRANSPARENCY

ARTICLE 17.1

Definitions

For the purposes of this Chapter, "measure of general application" means any law, regulation, rule, administrative or judicial decision, or administrative or judicial procedure, of general application with respect to any matter covered by this Agreement.

ARTICLE 17.2

Transparent regulatory environment

Recognising the impact which its regulatory environment may have on trade and investment between the Parties, each Party shall provide for a transparent regulatory environment, which is effective and predictable for persons including economic operators, especially small and medium-sized enterprises.

ARTICLE 17.3

Publication

When introducing or changing measures of general application, each Party shall:

- (a) promptly publish those measures of general application, or otherwise make them publicly available, together with an explanation of their objective and rationale, and where feasible, by electronic means such as a website in English; and

- (b) endeavour to allow for a reasonable interval between the time when those measures of general application are published or made publicly available and the time when they enter into force, except in duly justified cases.

ARTICLE 17.4

Enquiries

1. Each Party shall, on request of the other Party, respond within a reasonable period of time to specific questions from, and provide information to, the other Party with respect to its measures of general application.
2. Each Party shall make easily available to the public the names and addresses of the competent authorities responsible for its measures of general application.
3. Each Party shall establish or maintain appropriate mechanisms for responding to enquiries from a person regarding its measures of general application.
4. The Parties recognise that the responses provided to the enquiries referred to in paragraph 3 may not be definitive or legally binding but for information purposes only, unless otherwise provided for in the laws and regulations of each Party.

ARTICLE 17.5

Administration of measures of general application

1. Each Party shall administer in a consistent, objective, impartial and reasonable manner all its measures of general application.

2. When applying measures of general application in administrative proceedings to particular persons, goods or services of the other Party in specific cases, each Party shall, in accordance with its laws and regulations, provide persons that are directly affected by those administrative proceedings with:

- (a) a reasonable notice of when the proceedings are initiated, including the legal basis and a description of the nature of the proceedings, of the facts and of the issues in question; and
- (b) a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative decision, except for reasons of urgency.

ARTICLE 17.6

Review and appeal

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review or appeal and, where warranted, correction of administrative actions or, as provided for in its laws and regulations, of failures to act with respect to any matter covered by this Agreement. Those tribunals or procedures shall be impartial and independent of the office or authority entrusted with administrative enforcement of such actions and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that the parties before the tribunals or involved in the procedures referred to in paragraph 1 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.

3. Each Party shall ensure, subject to further review or appeal as provided for in its laws and regulations, that the decision referred to in subparagraph 2(b) is implemented by the relevant offices or authorities with respect to the administrative action concerned.

ARTICLE 17.7

Cooperation on the promotion of increased transparency

The Parties shall cooperate, where appropriate, in bilateral, regional and multilateral fora on ways to promote transparency in respect of international trade and investment.

ARTICLE 17.8

Relation to other Chapters

This Chapter applies without prejudice to any specific provisions in other Chapters of this Agreement.

ARTICLE 17.9

Anti-Corruption

The Parties affirm their resolve to eliminate bribery and corruption in international trade and investment. Recognising the need to build integrity within both the public and private sectors and that each sector has complementary responsibilities in this regard, the Parties affirm their adherence to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, done at Paris on 17 December 1997, and the United Nations Convention against Corruption, adopted at New York on 31 October 2003.