

Text of the Canada–Panama Free trade agreement – Chapter twenty: Transparency

Section A – Publication, Notification and Administration of Laws

Article 20.01: Definitions

For purposes of this Section:

administrative ruling of general application means an administrative ruling or interpretation applying to persons and situations of fact falling within the general scope of that ruling or interpretation and establishing a norm of conduct, but does not include:

1. 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
2. a ruling that adjudicates with respect to a particular act or practice.

Article 20.02: Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting a matter covered by this Agreement are promptly published or 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:
 - 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 these proposed measures.

Article 20.03: Notification and Provision of Information

1. To the maximum extent possible, a Party shall notify the other Party of an existing or proposed measure that the Party considers might materially affect the operation of this Agreement or substantially affect the other Party's interests under this Agreement.

加拿大-巴拿马自由贸易协定文本 – 第二十章：透明度

A部分：法律的公布、通知和管理

第20.01条：定义

就本部分而言：

普遍适用的行政裁决指适用于符合该裁决或解释一般范围的人员和事实情况、并确立行为规范的行政裁决或解释，但不包括：

1. 在行政或准司法诉讼程序中针对特定案件中另一缔约方的特定人员、货物或服务所作出的决定或裁决；或
2. 对特定行为或做法作出裁定的裁决。

第20.02条：公布

1. 每一缔约方应确保其与本协议所涉事项相关的普遍适用的法律、法规、程序及行政裁决迅速公布或以其他方式提供，以便利害关系人和另一方能够知悉。
2. 在可能范围内，每一缔约方应：
 - a. 提前公布其拟采取的任何此类措施；及 b. 为利害关系人和另一方提供对这些拟议措施发表意见的合理机会。

第20.03条：通知与信息提供

1. 缔约方应尽最大可能就现有或拟议措施通知另一缔约方，若该缔约方认为此类措施可能实质性影响本协议运作或显著损害另一缔约方在本协议项下的利益。

2. On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to an existing or proposed measure, even if the Party was previously notified of that measure.
3. Any notification or information provided under this Article is without prejudice as to whether the measure is consistent with this Agreement.

Article 20.04: Administrative Proceedings

In order to ensure that measures of general application affecting matters covered by this Agreement are applied in a consistent, impartial and reasonable manner, a Party shall ensure that in administrative proceedings involving specific cases, where the measures referred to in Article 20.02 are applied to particular persons, goods or services of the other Party:

1. whenever possible, a person of the other Party who is directly affected by a proceeding is given reasonable notice, in accordance with domestic procedures, when it 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 the issues;
2. a person referred to in subparagraph (a) is afforded a reasonable opportunity to present facts and arguments in support of their position prior to a final administrative action, when permitted by time, the nature of the proceeding, and the public interest; and
3. the administrative procedures are in accordance with domestic law.

Article 20.05: Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the prompt review and, where warranted, correction of final administrative actions in matters covered by this Agreement. Each Party shall ensure that its respective tribunals are impartial and independent of the office or authority entrusted with administrative enforcement and do not have a substantial interest in the outcome of the matter.
2. Each Party shall ensure that the parties to the proceeding are given the following rights in regard to the tribunals or procedures referred to in paragraph 1:
 - a reasonable opportunity to support or defend their respective positions; and
 - a decision based on the evidence and submissions of record or the record compiled by the administrative authority where this is required by domestic law.
3. Each Party shall ensure, subject to appeal or review as provided in its domestic law, that such decisions are implemented by, and govern the practice of, the offices or authorities with respect to the administrative action at issue.

2. 应另一缔约方请求，缔约方须及时提供信息并回应有关现有或拟议措施的询问，即使该缔约方先前已获知该措施。

3. 根据本条提供的任何通知或信息，均不影响该措施是否符合本协议的问题。

第20.04条：行政程序

为确保普遍适用的、涉及本协议所涵盖事项的措施以一致、公正和合理的方式实施，缔约方应确保在涉及具体案件的行政程序中，当第20.02条所述措施适用于另一缔约方的特定人员、货物或服务时：

1. 在可能的情况下，根据国内程序，直接受诉讼程序影响的另一缔约方人员应在程序启动时获得合理通知，包括对程序性质的说明、启动程序的法律授权声明以及争议问题的概述；
2. 在时间、程序性质和公共利益允许的情况下，（a）项所述人员应在最终行政行为作出前获得合理机会，以陈述事实和论据支持其立场；
3. 行政程序符合国内法。

第20.05条：审查和上诉

1. 每一方应设立或维持司法、准司法或行政法庭或程序，以便对本协议所涉事项的最终行政行为进行及时复审，并在适当时予以纠正。每一方应确保其各自的法庭公正且独立于负责行政执法的机关或部门，且对事项结果无实质性利益。
2. 每一方应确保诉讼程序各方在第1款所述的法庭或程序中享有以下权利：
 - 合理机会支持或辩护其各自立场；以及根据证据和记录呈件或行政当局编制的记录（国内法有此要求时）作出的裁决。
3. 每一方应确保在其国内法规定的上诉或复审程序下，此类决定由负责相关行政行为的办公室或当局执行，并规范其操作实践。

Article 20.06: Cooperation to Promote Increased Transparency

The Parties agree to cooperate in bilateral, regional and multilateral fora to promote transparency regarding international trade and investment.

Section B – Anti-Corruption

Article 20.07: Definitions

For purposes of this Section:

foreign public official means a natural person holding a legislative, executive, administrative, or judicial office of a foreign country, whether appointed or elected, and a natural person exercising a public function for a foreign country, including for a public agency or public enterprise;

official of a public international organization means an international civil servant or a natural person who is authorized by such an organization to act on behalf of that organization;

public function means a temporary or permanent, paid or honorary activity, performed by a natural person in the name of a Party or in the service of a Party or its institutions, at any level of its hierarchy; and

public official means a natural person holding a legislative, executive, administrative or judicial office of a Party, whether appointed or elected and whether permanent or temporary.

Article 20.08: Statement of Principles

The Parties affirm their resolve to prevent and combat bribery and corruption in international trade and investment.

Article 20.09: Anti-corruption Measures

1. Each Party shall adopt or maintain legislative or other measures establishing the following as criminal offences in matters of international trade or investment when committed intentionally:
- a public official soliciting or accepting, directly or indirectly, undue advantage for the official or another person, in order that the official act or refrain from acting in the exercise of their official duties;

第20.06条：促进提高透明度的合作

缔约方同意在双边、区域和多边论坛中合作，以提升国际贸易与投资领域的透明度。

第二节 – 反腐败

第20.07条：定义

就本节而言：

外国公职人员指在外国担任立法、行政、管理或司法职务的自然人，无论任命或选举产生，以及为外国行使公共职能的自然人，包括为公共机构或公共企业行使职能者；

公共国际组织官员指国际公务员或经该组织授权代表其行事的自然人；

公共职能指由自然人以缔约方名义或为缔约方及其机构服务，在其层级体系中任何级别履行的临时或长期、有偿或荣誉性活动；且

公职人员指担任缔约方立法、行政、管理或司法职务的自然人，无论其职务为任命或选举产生，亦无论其为长期或临时性质。

第20.08条：原则声明

缔约方申明其决心预防和打击国际贸易与投资中的贿赂与腐败行为。

第20.09条：反腐败措施

1. 每一方均应采取或维持立法及其他措施，将下列在国际贸易或投资中故意实施的行为确
立为刑事犯罪：
- 公职人员直接或间接为自己或他人索取、收受不正当利益，以使该公职人
员在执行公务时作为或不作为；

- promising, offering or giving, to a public official, directly or indirectly, undue advantage for the official or another person, in order that the official act or refrain from acting in the exercise of their official duties;
- promising, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, an undue advantage for the official or another person, in order that the official act or refrain from acting in the performance of official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business; and
- aiding, abetting or conspiring to commit an offence described in subparagraphs (a) through (c).

2. Each Party shall adopt such measures as may be necessary to establish its jurisdiction over criminal offences referred to in paragraph 1 that are committed in its territory.
3. The Parties shall ensure that their respective sanctions for offences covered by this Section take into account the gravity of the offence.
4. Each Party shall adopt such measures, as may be necessary, consistent with its legal principles, to establish the liability of enterprises for offences covered by this Section. In particular, each Party shall ensure that enterprises held liable under this Section are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.
5. Each Party shall consider incorporating in its domestic legal system at the national level appropriate measures to provide protection against unjustified treatment for a person who reports in good faith and on reasonable grounds to the competent authorities facts concerning an offence established in accordance with this Section.

Article 20.10: Cooperation in International Fora

The Parties recognize the importance of regional and multilateral initiatives to prevent and combat bribery and corruption in international trade and investment. The Parties agree to work together to advance efforts in regional and multilateral fora to prevent and combat bribery and corruption in international trade and investment, and to encourage and support appropriate initiatives.

Text of the Canada–Panama Free trade agreement – Chapter twenty-one: Administration of the agreement

Article 21.01: The Joint Commission

- 直接或间接向公职人员许诺、提议或给予该公职人员或他人不正当利益，以使该公职人员在执行公务时作为或不作为；直接或间接向外国公职人员或公共国际组织官员许诺、提议或给予该官员或他人不正当利益，以使该官员在执行公务时作为或不作为，从而获取或保留与国际商业行为相关的业务或其他不正当利益；以及协助、教唆或共谋实施(a)至(c)项所述罪行。

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2. 每一方应采取必要措施，确立对其领土内发生的第1款所述刑事犯罪的管辖权。
3. 缔约方应确保其针对本节所涵盖罪行实施的制裁考虑到犯罪的严重性。
4. 每一方应根据其法律原则采取必要措施，确立企业对本节所涵盖罪行的责任。特别是，每一方应确保根据本节被追究责任的企业受到有效、相称和威慑性的刑事或非刑事制裁，包括金钱制裁。
5. 每一方应考虑在其国内法律体系中纳入适当的国家层面措施，为基于善意和合理理由向主管当局举报符合本节规定罪行事实的人员提供保护，使其免受不公正待遇。

第20.10条：在国际论坛中的合作

缔约方认识到区域和多边倡议对于预防和打击国际贸易与投资中贿赂与腐败的重要性。缔约方同意共同努力，在区域和多边论坛中推进预防和打击国际贸易与投资中贿赂与腐败的工作，并鼓励和支持适当的倡议。

**加拿大-巴拿马自由贸易协定文本
协议 – 第二十一章：协议的管理**

第21.01条：联合委员会