

## CHAPTER TWENTY

### TRANSPARENCY

#### Section A – Publication, Notification and Administration of Domestic Law

##### Article 20.1: Definitions

For the purposes of this Section:

**administrative ruling of general application** means an administrative ruling or interpretation that applies to persons and fact situations that fall within the general scope of that ruling or interpretation 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.

##### Article 20.2: Contact Points

Each Party shall designate, within 60 days of the entry into force of this Agreement, a contact point to facilitate communications between the Parties on a matter covered by this Agreement. At the request of the other Party, the contact point shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication between the Parties.

### **Article 20.3: 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 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:
  - (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 20.4: Notification and Provision of Information**

1. To the extent possible, each Party shall notify the other Party of any actual or proposed 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. At the request of the other Party, a Party shall promptly provide information and respond to questions pertaining to an actual or proposed measure, even if the other 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 20.5: Administrative Proceedings**

In order to administer measures of general application affecting matters covered by this Agreement in a consistent, impartial, and reasonable manner, each Party shall ensure that in its administrative proceedings applying measures referred to in Article 20.3 to particular persons, goods, or services of the other Party in specific cases:

- (a) 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;
- (b) a person referred to in subparagraph (a) is afforded a reasonable opportunity to present facts and arguments in support of its position prior to any final administrative action, when permitted by time, the nature of the proceeding, and the public interest; and
- (c) apply procedures consistent with domestic law.

## **Article 20.6: Review and Appeal**

1. Each Party shall, regarding matters covered by this Agreement, establish or maintain procedures or judicial, quasi-judicial, or administrative tribunals for:

- (a) the purpose of the prompt review; and
- (b) when warranted, correction of final administrative actions.

2. Each Party shall ensure that the tribunals or those that administer the procedures referred to in paragraph 1 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.

3. Each Party shall ensure that the parties to the proceeding have the following rights in regard to the tribunals or procedures referred to in paragraph 1:

(a) a reasonable opportunity to support or defend their respective positions;  
and

(b) a decision based on:

(i) the evidence and submissions of record, or

(ii) where if required by domestic law, the record compiled by the administrative authority.

4. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that the decision referred to in paragraph 3(b) is implemented by, and governs the practice of the competent office or authority.

## **Section B – Anti-Corruption**

### **Article 20.7: Definitions**

For the purposes of this Section:

**act or refrain from acting in relation to the performance of official duties** includes use of the official's position within the official's authorized competence;

**foreign public official** means:

(a) a person holding a legislative, executive, administrative, or judicial office of a foreign country, at any level of government, whether that person is appointed or elected; and

- (b) a person exercising a public function for a foreign country at any level of government, including a public function in a public agency or public enterprise;

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

**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, such as procurement, at the central level of government; and

**public official** means an official or employee of a Party at the central level of government, whether appointed or elected.

#### **Article 20.8: Statement of Principles**

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

#### **Article 20.9: Anti-Corruption Measures**

1. Each Party shall adopt or maintain the necessary legislative or other measures to establish, in matters affecting international trade or investment, as criminal offences under its law when committed intentionally:

- (a) a public official of that Party or a person who performs public functions for that Party soliciting or accepting, directly or indirectly, an article of monetary value or other benefit, such as a favour, promise, or advantage, for himself or herself or for another person, in order that the official act or refrain from acting in the exercise of his or her public functions;

- (b) offering, promising, or giving, directly or indirectly, to a public official of that Party or a person who performs public functions for that Party an article of monetary value or other benefit, such as a favour, or advantage, for himself or herself or for another person, in order that the official act or refrain from acting in the exercise of his or her public functions;
- (c) offering, promising, or giving an undue pecuniary or other advantage, directly or indirectly, to a foreign public official or an official of a public international organization, for that official himself or herself or for another person, in order that the official act or refrain from acting in relation to the performance of his or her official duties, in order to obtain or retain business or other improper advantage in the conduct of international business; and
- (d) aiding, abetting, or conspiring to commit an offense described in subparagraphs (a) through (c).

2. Each Party shall take any measures necessary to establish its jurisdiction over the offences referred to in paragraph 1 that are committed in its territory.

3. Each Party shall adopt or maintain penalties and procedures to enforce the criminal measures that it adopts or maintains in conformity with paragraph 1.

4. If, under the legal system of a Party, enterprises cannot be held criminally liable, the Party shall ensure that enterprises are subject to effective, proportionate, and dissuasive non-criminal sanctions for the offenses described in paragraph 1.

5. Each Party shall endeavour to adopt or maintain measures to protect a person who, in good faith, reports an act described in paragraph 1.

**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.