

## Chapter 12

### Transparency

#### Article 12.1: Definition

For the purposes of this Chapter, **administrative ruling of general application** means an administrative ruling or interpretation that applies to all persons and factual 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 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 12.2: Contact Points

1. The contact point referred in Annex 12.2 shall facilitate communications between the Parties on any matter covered by this Agreement.
2. On 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 communications with the requesting Party.

#### Article 12.3: Publication

1. Each Party shall ensure, wherever possible in electronic form, that its laws, regulations, procedures and administrative rulings of general application in respect of any 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 laws, regulations, procedures and administrative rulings of general application referred to in paragraph 1 that it proposes to adopt; and
  - (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures.

#### Article 12.4: Notification and Provision of Information

1. To the maximum extent possible, each Party shall notify the other Party of any proposed or actual 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. On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure that the requesting Party considers might materially affect the operation of this Agreement or otherwise

substantially affect its interests under this Agreement, regardless of whether the requesting Party has been previously notified of that measure.

3. Any notification, request or information under this Article shall be provided to the other Party through the relevant contact points.

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

#### **Article 12.5: Administrative Proceedings**

With a view to administering, in a consistent, impartial and reasonable manner, its measures referred to in Article 12.3, each Party shall ensure that in its administrative proceedings in which these measures are applied to particular persons, goods or services of the other Party in specific cases that it:

- (a) provides wherever possible, persons of the other Party that are directly affected by a proceeding reasonable notice, in accordance with its 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 controversy;
- (b) affords such persons 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) follows its procedures in accordance with domestic law.

#### **Article 12.6: Review and Appeal**

1. Each Party shall establish or maintain judicial, or administrative tribunals or procedures for the purpose of prompt review and, where warranted, correction of final administrative actions regarding 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 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 decisions shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action that is the subject of the decision.