

## CHAPTER 9

### TRANSPARENCY

#### Article 9.1: Definitions

For the purposes of this Chapter:

**interested person** means person of a Party that may be subject to any right or obligation under a measure of general application; and

**administrative ruling of general application** means an administrative ruling or interpretation that applies to all persons and factual situations that fall generally within the ambit of that administrative 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 9.2: 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 published, including through official websites where feasible, 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 practicable and consistent with its domestic laws and regulations, each Party shall:

- (a) publish in advance any laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement that it proposes to adopt; and
- (b) provide, where appropriate, interested persons and the other Party with a reasonable opportunity to comment on any laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement.

3. To the extent possible, when introducing or changing the laws, regulations, or procedures referred to in paragraph 1, each Party shall endeavor to provide a reasonable period between the date when those laws, regulations, or procedures, proposed or final in accordance with its legal system, are made publicly available and the date when they enter into force.

4. Each Party shall, with respect to laws and regulations of general application adopted by its central level of government regarding any matter covered by this Agreement that are published in accordance with paragraph 1:

- (a) promptly publish the laws and regulations in an official journal of national circulation, or on a single official website that is freely accessible, searchable and updated regularly;
- (b) notify in writing that website, after the date of entry into force of this Agreement; and
- (c) if appropriate, include the publication with an explanation of the purpose of and rationale for the regulation.

### **Article 9.3: Provision of Information**

1. If a Party considers that any proposed or actual measure may materially affect the operation of this Agreement or otherwise substantially affect the interest of the other Party under this Agreement, it shall, to the extent possible and subject to its laws and regulations, inform the other Party of the proposed or actual measure.

2. On request of a Party, the other Party shall provide information and respond to questions pertaining to any proposed or actual measure that the requesting Party considers may materially affect the operation of this Agreement, whether or not the requesting Party has been previously informed of that measure.

3. A Party may convey any request or provide information under this Article to the other Party through its contact points designated under Article 10.5 (Institutional Provisions - Contact Points).

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

### **Article 9.4: Administrative Proceedings**

With a view to administering in a consistent, impartial, objective, and reasonable manner the measures referred to in Article 9.2.1 (Publication), each Party shall ensure in its administrative proceedings applying that measures to a particular person or good of another Party in specific cases that:

- (a) whenever possible, a person of the other Party that is directly affected by that proceeding is provided with reasonable notice, in accordance with its domestic procedures, of 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 issue in question;

- (b) a person of the other Party that is directly affected by that proceeding is afforded a reasonable opportunity to present facts and arguments in support of that person's position prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and
- (c) it follows its procedures in accordance with its laws and regulations.

### **Article 9.5: Review and Appeal**

1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purposes of prompt review and, if warranted, correction of final administrative actions with respect to any matter covered by this Agreement. Those 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, with respect to the tribunals or procedures referred to in paragraph 1, the Parties to a 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 its laws and regulations, the record compiled by the relevant office or authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its laws and regulations, that the decision referred to in paragraph 2(b) shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

### **Article 9.6: Confidentiality of Information**

1. Nothing in this Agreement shall require a Party to furnish or allow access to information that would be contrary to its law or impede law enforcement or otherwise be contrary to the public interest or that would prejudice the legitimate commercial interests of any particular enterprises, public or private.

2. Unless otherwise provided in this Agreement, if a Party provides information to the other Party in accordance with this Agreement and designates the information as confidential, the Party receiving the information shall maintain the confidentiality of the information. That information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information, except where the disclosure of information is for the purposes of complying with the legal requirements of a Party.

### **Article 9.7: Specific Provisions**

Specific provision in other Chapter of this Agreement regarding the subject matter of this Chapter shall prevail to the extent that it differs from this Chapter.