

CHAPTER 19

TRANSPARENCY

Article 19.1: Definitions

For the purposes of this Chapter:

administrative rulings of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct, but does not include:

- (i) 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
- (ii) a ruling that adjudicates with respect to a particular act or practice.

Article 19.2: Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published, including on the internet 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 each Party shall:

- (a) publish, including on the internet where feasible, in advance any such laws, regulations, and where appropriate, procedures and administrative rulings of general application that it proposes to adopt; and
- (b) provide interested persons and the other Party with a reasonable opportunity to comment on any such proposed laws, regulations, procedures and administrative rulings of general application with a view to considering the comments received.

3. Without prejudice to paragraphs 1 and 2, when introducing or changing its laws and regulations that significantly affect the implementation and operation of this Agreement, each Party shall endeavour to take appropriate measures to enable interested persons to become acquainted with such introduction or change, which may include providing a reasonable period between the date when those laws and regulations, proposed or final in accordance with its legal system, are made publicly available and the date when they enter into force.

Article 19.3: Provision of Information

1. Each Party shall, to the extent practicable, provide notification to the other Party with respect to proposed or actual laws, regulations, procedures and administrative rulings of general application which it considers may materially affect the operation of this Agreement. For greater certainty, a Party may notify specific application of such measures where it considers appropriate.
2. Regardless of whether a measure has been notified under paragraph 1, a Party shall, on request of the other Party, respond promptly to specific questions from, and provide information to, the requesting Party, with respect to any actual or proposed laws, regulations, procedures and administrative rulings of general application which the requesting Party considers might materially affect the operation of this Agreement.
3. Any notification, request or information under this Article shall be provided to the other Party through the contact points established under Article 18.6 (Contact Points) of Chapter 18 (Institutional Provisions).
4. Any notification or information provided under this Article shall be without prejudice as to whether the measure in question is consistent with this Agreement.

Article 19.4: Administrative Proceedings

1. Each Party shall ensure that all laws, regulations, procedures and administrative rulings of general application to which this Agreement applies are administered in a consistent, impartial, objective and reasonable manner.
2. With a view to administering in a consistent, impartial, objective and reasonable manner its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement, each Party shall ensure, in its administrative proceedings applying such measures to a particular person, good or service of the other Party in specific cases that:
 - (a) wherever possible, a person of the other Party that is directly affected by a proceeding is provided 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 issue in question;
 - (b) a person of the other Party that is directly affected by a 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 19.5: Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the 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 its laws and regulations, the record compiled by the administrative authority.