

## **Chapter 12 Transparency**

### **Article 12.1 Contact Points**

1. Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Agreement.
2. Upon 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 with the requesting Party.

### **Article 12.2 Publication**

1. Each Party shall ensure that its measures respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons of the other Party and the other Party to become acquainted with them.
2. To the extent possible, each Party shall provide a reasonable period for the other Party and interested persons of the other Party to comment to the appropriate authorities before the aforementioned measures are implemented.

### **Article 12.3 Notification and Provision of Information**

1. To the extent possible, each Party shall notify the other Party of any actual measure or proposed measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other Party's legitimate interests under this Agreement.
2. Upon request of the other Party, to the extent possible, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure that the other Party considers might materially affect the operation of this Agreement or otherwise substantially affect its legitimate interests under this Agreement, whether or not the other Party has been previously notified of that measure.
3. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.

4. The information referred to under this Article shall be considered to have been provided when it has been made available by appropriate notification to the WTO or when it has been made available on the official, public, and fee-free accessible website of the Party concerned.

#### **Article 12.4      Administrative Proceedings**

With a view to administering in a consistent, impartial, and reasonable manner all measures of general application affecting matters covered by this Agreement, each Party shall ensure that in its administrative proceedings applying measures referred to in Article 12.2 (Publication) to particular persons or goods of the other Party in specific cases that:

(a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, in accordance with 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) such persons are afforded 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) its procedures are in accordance with domestic law.

#### **Article 12.5      Review and Appeal**

1. Each Party shall establish or maintain tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions relating to the implementation of laws, regulations, procedures, and administrative rulings of general application respecting any 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.

#### **Article 12.6      Relation with other Chapters**

1. This Chapter will not apply to Chapter 16 (Economic Cooperation).
  
2. In the event of any inconsistency between this Chapter and another Chapter in this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

#### **Article 12.7      Definitions**

For purposes of this Chapter:

**administrative ruling 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:

- (a) a determination or ruling made in an administrative or quasi-judicial proceeding, where applicable, 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; and

**measures** mean laws, regulations, procedures, and administrative rulings of general application.