

CHAPTER 14

TRANSPARENCY

ARTICLE 14.1

Objective and Scope

Recognising the impact that regulatory environment and procedures may have on trade and investment, each Party shall promote a predictable regulatory environment and efficient procedures for economic operators, especially small and medium-sized enterprises.

ARTICLE 14.2

Definitions

For the purposes of this Chapter:

- (a) "interested person" means any natural or legal person that may be affected by a measure of general application; and

- (b) "measure of general application" includes laws, regulations, judicial decisions, procedures and administrative rulings of general application that may have an impact on any matter covered by this Agreement.

ARTICLE 14.3

Publication

1. Each Party shall ensure that a measure of general application:
 - (a) is published promptly by means of an officially designated medium, including, where possible, electronic means, in such a manner as to enable governments and interested persons to become acquainted with it; and
 - (b) allows for a sufficient period of time between publication and entry into force of that measure, except where this is not possible for reasons of urgency.
2. Each Party shall:
 - (a) endeavour to publish at an early appropriate stage any proposal to adopt or amend any measure of general application, including, upon request, an explanation of the objective of, and rationale for, the proposal;

- (b) provide reasonable opportunities for interested persons to comment on any proposal to adopt or amend any measure of general application, allowing, in particular, for sufficient time for such opportunities, except where this is not possible for reasons of urgency; and
- (c) endeavour to take into consideration the comments received from interested persons with respect to any proposal to adopt or amend any measure of general application.

ARTICLE 14.4

Enquiries and Contact Points

1. Each Party shall, upon the entry into force of this Agreement, designate a contact point in order to ensure the effective implementation of this Agreement and to facilitate communication between the Parties on any matter covered by this Agreement.
2. Upon request of the other Party, the contact points shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

3. Each Party shall, within its available resources, establish or maintain appropriate mechanisms, including those provided for in other Chapters of this Agreement, for responding to enquiries from any interested person regarding any measure of general application which is proposed or in force, and how it would be applied. Enquiries may be addressed through contact points designated under paragraph 1 or any other mechanism as appropriate, unless a specific mechanism is established in this Agreement.

4. Each Party shall provide for mechanisms available to interested persons seeking a solution to problems that have arisen from the application of a measure of general application under this Agreement.

5. The Parties recognise that responses provided pursuant to this Article may not be definitive or legally binding but for information purposes only.

6. Each Party shall provide, upon request, an explanation of the objective of, and rationale for measures of general application.

7. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any measure or proposed measure of general application that the requesting Party considers might materially affect the operation of this Agreement, regardless of whether the requesting Party has been previously notified of that measure.

ARTICLE 14.5

Administration of Measures of General Application

Each Party shall administer in a uniform, objective, impartial and reasonable manner all measures of general application. Each Party, in applying such measures to particular persons, goods or services of the other Party, shall

- (a) endeavour to provide interested persons that are directly affected by proceedings, with reasonable notice, in accordance with its domestic procedures, when proceedings are initiated, including a description of the nature of the proceedings, a statement of the legal authority under which the proceedings are initiated and a general description of any issues in question;
- (b) afford such interested 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 proceedings and the public interest permit; and
- (c) ensure that its procedures are based on, and in accordance with, its domestic law.

ARTICLE 14.6

Review and Appeal

1. Each Party shall establish or maintain, in accordance with its domestic law, judicial, arbitral or administrative tribunals or procedures for the purposes of the prompt review and, where warranted, correction of administrative action relating to matters covered by this Agreement. Those tribunals and procedures 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 proceedings 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 domestic law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided for in its domestic law, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

ARTICLE 14.7

Good Regulatory Practice and Administrative Behaviour

1. The Parties agree to cooperate in promoting regulatory quality and performance, including through exchange of information and best practices on their respective regulatory reform processes and regulatory impact assessments.
2. The Parties subscribe to the principles of good administrative behaviour and agree to cooperate in promoting such principles, including through the exchange of information and best practices.

ARTICLE 14.8

Specific Rules

This Chapter applies without prejudice to any specific rules established in other Chapters of this Agreement.