

CHAPTER 9 TRANSPARENCY

Article 9.1: 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 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 domestic laws, regulations, procedures and administrative rulings of general application relating to any matter covered by this Agreement are promptly published or otherwise made publicly available.

2. To the extent possible, each Party, in accordance with its domestic laws and regulations, shall:

- (a) publish in advance any measures referred to in paragraph 1 that it proposes to adopt; and
- (b) provide interested persons and the other Party with a reasonable opportunity to comment on such proposed measures

Article 9.3: Provision of Information

Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure referred to in Article 9.2 that the requesting Party considers might affect the operation of this Agreement.

Article 9.4: Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner its domestic laws, regulations, procedures and administrative rulings of general application relating to any matter covered by this Agreement, each Party shall ensure, in its administrative proceedings, in which these measures are applied to particular persons, goods or services of the other Party in specific cases, that:

- (a) wherever possible, in accordance with its applicable domestic laws and regulations, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, 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) persons of the other Party that are directly affected by a proceeding 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 its domestic laws and regulations.

Article 9.5: Review and Appeal

1. In accordance with its domestic laws and regulations, each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purposes of the prompt review and, where warranted, correction of administrative actions relating to any matter 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 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 domestic laws and regulations the record compiled by the administrative authority.

3. The decision in subparagraph 2(b) shall, subject to appeal or further review as provided for in its domestic laws and regulations, be implemented by the authority entrusted with administrative enforcement.