

## CHAPTER 28

### TRANSPARENCY

#### Article 28.1

##### Objective

1. Recognising the impact which their respective regulatory environment may have on trade and investment between them, the Parties aim at providing a predictable regulatory environment and efficient procedures for economic operators, especially small and medium-sized enterprises.
2. Reaffirming their respective commitments under the WTO Agreement, in this Chapter the Parties built on those commitments and lay down further arrangements for transparency.

#### Article 28.2

##### Definitions

For the 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 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 another Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice;

administrative decision means a decision or action with a legal effect that applies to a specific person, good or service in an individual case, and covers the failure to take an administrative decision as provided for in the Party's domestic law and legal system.

## Article 28.3

### Publication

Each Party shall ensure that a law, regulation, procedure, administrative ruling of general application and judicial decision with respect to any matter covered by this Agreement:

- (a) is promptly published via an officially designated medium and where feasible, electronic means, or otherwise made available in such a manner as to enable any person to become acquainted with them;
- (b) provides an explanation of the objective of, and rationale for, the measure; and
- (c) allows for sufficient time between publication and entry into force of laws and regulations, except where it is not possible on grounds of urgency. This provision does not apply in relation to [judicial decisions] and administrative rulings.

## Article 28.4

### Enquiries

1. Each Party shall establish or maintain appropriate mechanisms for responding to enquiries from any person regarding any laws or regulations, with respect to any matter covered by this Agreement.

2. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any law or regulation whether in force or planned, with respect to any matter covered by this Agreement, unless a specific mechanism is established under another Chapter of this Agreement.

## Article 28.5

### Administrative Proceedings

1. Each Party shall administer in an objective, impartial, and reasonable manner all laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by this Agreement.

2. Each Party, in applying such measures to particular [natural and legal]<sup>1</sup> persons, goods or services of the other Party in specific cases shall:

(a) endeavour to provide persons who are directly affected by administrative proceedings, with reasonable notice, in accordance with its laws and regulations, 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 controversy;

(b) afford such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative decision in so far as time, the nature of the proceedings [and the public interest] permit.

## Article 28.6

### Review and Appeal

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures, for the purpose of the prompt review and, where warranted, correction of administrative decision with respect to any matter covered by this Agreement.

2. Each Party shall ensure that its procedures for appeal or review are carried out in a non-discriminatory and impartial manner by its tribunals. Those tribunals shall be impartial and independent of the authority entrusted with administrative enforcement and shall not have any interest in the outcome of the matter.

3. Each Party shall ensure that with respect to the tribunals or procedures referred to in paragraph 1, the parties to those 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 law, the record compiled by the relevant authority.

4. The decision in paragraph 3 (b) shall, subject to appeal or further review as provided for in its law, be implemented by the authority entrusted with administrative enforcement.

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<sup>1</sup> Note – to drop if the agreement defines "person" as natural and legal person.

## Article 28.7

### Relation to other Chapters

The provisions set out in this Chapter supplement the specific rules set out in other Chapters of this Agreement.