

## CHAPTER 12

### TRANSPARENCY

#### ARTICLE 219

##### Definitions

For the purposes of this Chapter:

- (a) "measure of general application" includes laws, regulations, judicial decisions, procedures and administrative rulings that may have an impact on any matter covered by Title IV (Trade and Trade-related Matters) of this Agreement. It does not include measures that are addressed to a particular person or a group of persons;
- (b) "interested person" means any natural or legal person established in the territory of a Party that may be directly affected by a measure of general application.

#### ARTICLE 220

##### Objective

Recognising the impact which regulatory environment may have on trade and investment between the Parties, the Parties shall provide a predictable regulatory environment for economic operators and efficient procedures, including for small and medium-sized enterprises, taking due account of the requirements of legal certainty and proportionality.

## ARTICLE 221

### Publication

1. Each Party shall ensure that measures of general application:
  - (a) are promptly and readily available via an officially designated medium and where feasible, electronic means, in such a manner as to enable any person to become acquainted with them;
  - (b) provide an explanation of the objective of, and the rationale for, such measures; and
  - (c) allow for sufficient time between the publication and entry into force of such measures, except in duly justified cases including security or emergency issues.
  
2. Each Party shall:
  - (a) endeavour to make publicly available at an appropriate early stage any proposal to adopt or to amend any measure of general application, including an explanation of the objective of, and rationale for such proposal;
  - (b) provide reasonable opportunities for interested persons to comment on such proposal, allowing, in particular, for sufficient time for such opportunities; and
  - (c) endeavour to take into consideration the comments received from interested persons with respect to such proposal.

## ARTICLE 222

### Enquiries and contact points

1. In order to facilitate the communication between the Parties on any matter covered by Title IV (Trade and Trade-related Matters) of this Agreement, each Party shall designate a contact point acting as coordinator.
2. Each Party shall establish or maintain appropriate mechanisms for responding to enquiries from any person regarding any measure of general application which is proposed or in force, and its application. Enquiries may be addressed through the contact point established under paragraph 1 or through any other mechanism, as appropriate.
3. The Parties recognise that any response provided for in paragraph 2 may not be definitive or legally binding but for information purposes only, unless otherwise provided for in their respective laws and regulations.
4. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any measure of general application or any proposal to adopt or to amend any measure of general application that the requesting Party considers might affect the operation of Title IV (Trade and Trade-related Matters) of this Agreement, regardless of whether the requesting Party has been previously notified of that measure.

## ARTICLE 223

### Administration of measures of general application

1. Each Party shall administer in an objective, impartial and reasonable manner all measures of general application.
2. To that end, each Party, in applying such measures to particular persons, goods or services of the other Party in specific cases, shall:
  - (a) endeavour to provide interested persons, that are directly affected by an administrative proceeding, with a reasonable notice, in accordance with its 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) afford such interested persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, in so far as the time, the nature of the proceeding and the public interest permit; and
  - (c) ensure that its procedures are based on and carried out in accordance with its law.

## ARTICLE 224

### 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 action relating to matters covered by Title IV (Trade and Trade-related Matters) of this Agreement. Such tribunals or procedures shall be impartial and independent of the office or authority entrusted with administrative enforcement and those responsible for them 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 the submissions of record or, where required by its law, the record compiled by the administrative authority.
  
3. Each Party shall ensure that, subject to appeal or further review as provided for in its law, such decision shall be implemented by, and shall govern the practice of, the office or the authority with respect to the administrative action at issue.

## ARTICLE 225

### Regulatory quality and performance and good 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 policies and regulatory impact assessments.
2. The Parties recognise the importance of the principles of good administrative behaviour<sup>1</sup> and agree to cooperate in promoting such principles, including through exchange of information and best practices.

## ARTICLE 226

### Specific rules

The provisions of this Chapter shall apply without prejudice to any specific rules on transparency established in other Chapters of Title IV (Trade and Trade-related Matters) of this Agreement.

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<sup>1</sup> As expressed in the Council of Europe's Recommendation of the Committee of Ministers to Member States on good administration, CM/Rec(2007)7 of 20 June 2007.