

CHAPTER TWENTY

TRANSPARENCY

Section A – Publication, Notification and Administration of Laws

Article 20.01: Definitions

For purposes of this Section:

administrative ruling of general application means an administrative ruling or interpretation applying to persons and situations of fact falling within the general scope of that ruling or interpretation and establishing 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 the other Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice.

Article 20.02: Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting a matter covered by this Agreement are promptly published or made available in such a manner as to enable interested persons and the other Party to become acquainted with them.

2. To the extent possible, each Party shall:

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

Article 20.03: Notification and Provision of Information

1. To the maximum extent possible, a Party shall notify the other Party of an existing or proposed measure that the Party considers might materially affect the operation of this Agreement or substantially affect the other Party's interests under this Agreement.
2. On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to an existing or proposed measure, even if the Party was previously notified of that measure.
3. Any notification or information provided under this Article is without prejudice as to whether the measure is consistent with this Agreement.

Article 20.04: Administrative Proceedings

In order to ensure that measures of general application affecting matters covered by this Agreement are applied in a consistent, impartial and reasonable manner, a Party shall ensure that in administrative proceedings involving specific cases, where the measures referred to in Article 20.02 are applied to particular persons, goods or services of the other Party:

- (a) whenever possible, a person of the other Party who is directly affected by a proceeding is given reasonable notice, in accordance with domestic procedures, when it 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 the issues;
- (b) a person referred to in subparagraph (a) is afforded a reasonable opportunity to present facts and arguments in support of their position prior to a final administrative action, when permitted by time, the nature of the proceeding, and the public interest; and

- (c) the administrative procedures are in accordance with domestic law.

Article 20.05: Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the prompt review and, where warranted, correction of final administrative actions in matters covered by this Agreement. Each Party shall ensure that its respective tribunals are impartial and independent of the office or authority entrusted with administrative enforcement and do not have a substantial interest in the outcome of the matter.

2. Each Party shall ensure that the parties to the proceeding are given the following rights in regard to the tribunals or procedures referred to in paragraph 1:

- (a) a reasonable opportunity to support or defend their respective positions;
and
- (b) a decision based on the evidence and submissions of record or the record compiled by the administrative authority where this is required by domestic law.

3. Each Party shall ensure, subject to appeal or review as provided in its domestic law, that such decisions are implemented by, and govern the practice of, the offices or authorities with respect to the administrative action at issue.

Article 20.06: Cooperation to Promote Increased Transparency

The Parties agree to cooperate in bilateral, regional and multilateral fora to promote transparency regarding international trade and investment.

Section B – Anti-Corruption

Article 20.07: Definitions

For purposes of this Section:

foreign public official means a natural person holding a legislative, executive, administrative, or judicial office of a foreign country, whether appointed or elected, and a natural person exercising a public function for a foreign country, including for a public agency or public enterprise;

official of a public international organization means an international civil servant or a natural person who is authorized by such an organization to act on behalf of that organization;

public function means a temporary or permanent, paid or honorary activity, performed by a natural person in the name of a Party or in the service of a Party or its institutions, at any level of its hierarchy; and

public official means a natural person holding a legislative, executive, administrative or judicial office of a Party, whether appointed or elected and whether permanent or temporary.

Article 20.08: Statement of Principles

The Parties affirm their resolve to prevent and combat bribery and corruption in international trade and investment.

Article 20.09: Anti-corruption Measures

1. Each Party shall adopt or maintain legislative or other measures establishing the following as criminal offences in matters of international trade or investment when committed intentionally:
 - (a) a public official soliciting or accepting, directly or indirectly, undue advantage for the official or another person, in order that the official act or refrain from acting in the exercise of their official duties;
 - (b) promising, offering or giving, to a public official, directly or indirectly, undue advantage for the official or another person, in order that the official act or refrain from acting in the exercise of their official duties;
 - (c) promising, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, an undue advantage for the official or another person, in order that the official act or refrain from acting in the performance of official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business; and
 - (d) aiding, abetting or conspiring to commit an offence described in subparagraphs (a) through (c).
2. Each Party shall adopt such measures as may be necessary to establish its jurisdiction over criminal offences referred to in paragraph 1 that are committed in its territory.
3. The Parties shall ensure that their respective sanctions for offences covered by this Section take into account the gravity of the offence.
4. Each Party shall adopt such measures, as may be necessary, consistent with its legal principles, to establish the liability of enterprises for offences covered by this Section. In particular, each Party shall ensure that enterprises held liable under this Section are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

5. Each Party shall consider incorporating in its domestic legal system at the national level appropriate measures to provide protection against unjustified treatment for a person who reports in good faith and on reasonable grounds to the competent authorities facts concerning an offence established in accordance with this Section.

Article 20.10: Cooperation in International Fora

The Parties recognize the importance of regional and multilateral initiatives to prevent and combat bribery and corruption in international trade and investment. The Parties agree to work together to advance efforts in regional and multilateral fora to prevent and combat bribery and corruption in international trade and investment, and to encourage and support appropriate initiatives.