

MODULE 13

TRANSPARENCY

Article 13.1: Definitions

For the purposes of this Module:

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations and that is relevant to the implementation of this Agreement but does not include:

- (a) a determination or ruling made in administrative or quasi-judicial proceedings 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.

Article 13.2: Publication

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement are promptly published or otherwise made available¹⁶ in such a manner as to enable interested persons and Parties to become acquainted with them.

2. When possible, each Party shall:

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

Article 13.3: Administrative Proceedings

With a view to administering in a consistent, impartial, and reasonable manner all measures affecting matters covered by this Agreement, each Party shall ensure in its administrative proceedings applying measures referred to in Article 13.2.1 to particular persons, goods, or services of the other Parties in specific cases that:

- (a) wherever possible, persons of another Party that are directly affected by a proceeding are provided reasonable notice, in accordance with its domestic procedures, when a proceeding is initiated, including a description of the nature of

¹⁶ Including through the internet or in print form.

the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in question;

- (b) such persons 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 laws and regulations.

Article 13.4: Review and Appeal

1. Each Party shall, where warranted, establish or maintain judicial, quasi-judicial, or administrative tribunals, or procedures for the purpose of the prompt review and correction of final administrative actions regarding matters covered by this Agreement, other than those taken for prudential reasons. 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 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 laws and regulations, the record compiled by the relevant authority.

3. Each Party shall ensure, subject to appeal or further review as provided for in its laws and regulations, that the decisions referred to in paragraph 2(b) shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.

Article 13.5: Notification and Provision of Information

1. Where a Party considers that any proposed or actual measure might materially affect the operation of this Agreement or otherwise substantially affect another Party's interests under this Agreement, it shall notify that other Party, to the extent possible, of the proposed or actual measure.

2. On request of another Party, a Party shall provide information and respond to questions pertaining to any actual or proposed measure, whether or not that other Party has been previously notified of that measure.

3. Any notification, request, or information under this Article shall be conveyed to the other Parties through their contact points.

4. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.