

## CHAPTER 23

### TRANSPARENCY

#### ARTICLE 23.1

##### Objectives

1. Recognising the impact that their respective regulatory environments may have on trade and investment between them, the Parties aim to provide a predictable regulatory environment and efficient procedures for economic operators, especially SMEs.
2. The Parties affirm their commitments in relation to transparency under the WTO Agreement, and build on those commitments in this Chapter.

## ARTICLE 23.2

### Definition

For the purposes of this Chapter, "administrative decision" means a decision or action with legal effect that applies to a specific person, good or service in an individual case and covers the failure to take an administrative decision when that is so required by the law of a Party.

## ARTICLE 23.3

### 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 via an officially designated medium and, where feasible, by electronic means, or otherwise made available in such a manner as to enable any person to become acquainted with them.
2. To the extent possible and appropriate, each Party shall provide an explanation of the objective of, and rationale for, the laws, regulations, procedures and administrative rulings of general application referred to in paragraph 1.

3. To the extent possible and appropriate, each Party shall provide a reasonable period of time between publication and entry into force of laws and regulations with respect to any matter covered by this Agreement.

#### ARTICLE 23.4

##### Enquiries

1. Each Party shall 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 23.5

##### Administrative proceedings

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

2. When administrative proceedings relating to particular persons, goods or services of the other Party are initiated in respect of the application of laws, regulations, procedures or administrative rulings of general application, as referred to in paragraph 1, each Party shall:

- (a) endeavour to provide persons that are directly affected by the administrative proceedings with reasonable notice, in accordance with its law, 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 question; and
- (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 23.6

##### Appeal and review

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review and, if warranted, correction of administrative decisions with respect to any matter covered by this Agreement. Each Party shall ensure that its judicial, arbitral or administrative tribunals carry out procedures for appeal or review in a non-discriminatory and impartial manner. Such tribunals shall be impartial and independent of the authority entrusted with administrative enforcement powers.

2. With respect to the tribunals or procedures as referred to in paragraph 1, each Party shall ensure that the parties before such tribunals or to such procedures are provided with:

- (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 administrative authority.

3. Each Party shall ensure that the decision referred to in point (b) of paragraph 2 is, subject to appeal or further review as provided for in its law, implemented by the authority entrusted with administrative enforcement powers.

#### ARTICLE 23.7

##### Relation to other Chapters

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

