

## CHAPTER 16 TRANSPARENCY

### ARTICLE 16.1: PUBLICATION

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and the other Party to become acquainted with them.
2. To the extent required by its legal system, each Party shall:
  - (a) publish in advance any such measures that it proposes to adopt; and
  - (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures.
3. With respect to proposed regulations<sup>1</sup> of general application of its central level of government respecting any matter covered by this Agreement that are published in accordance with paragraph 2(a), each Party:
  - (a) shall endeavor to publish the proposed regulations; and
  - (b) shall endeavor to include in the publication an explanation of the purpose of and rationale for the proposed regulations.
4. With respect to regulations of general application adopted by its central level of government respecting any matter covered by this Agreement, each Party:
  - (a) shall publish the regulations in a single official journal of national circulation and may encourage their distribution through additional outlets; and
  - (b) may include in the publication an explanation of the purpose of and rationale for the regulations.

### ARTICLE 16.2: NOTIFICATION AND PROVISION OF INFORMATION

1. To the maximum extent possible, each Party shall notify the other Party of any actual or proposed measure that the Party considers might materially affect the operation of this Agreement or otherwise 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 any actual or proposed measure that the requesting Party considers

---

<sup>1</sup> For purposes of paragraphs 3 and 4, **regulation** means, for Korea, Presidential Decrees, Ordinances of the Prime Minister, and Ministerial Ordinances.

might affect the operation of this Agreement, regardless of whether the requesting Party has been previously notified of that measure.

3. Any notification or information provided pursuant to this Article is without prejudice as to whether the measure is consistent with this Agreement.

4. The information referred to in this Article shall be considered to have been provided when it has been made available by appropriate notification to the WTO or when it has been made available on an official website that is free of charge and publicly accessible.

#### ARTICLE 16.3: ADMINISTRATIVE PROCEEDINGS

With a view to administering in a consistent, impartial and reasonable manner all measures of general application respecting any matter covered by this Agreement, each Party shall ensure, in its administrative proceedings applying measures referred to in Article 16.1 to particular persons, goods or services of the other Party in specific cases, that:

- (a) whenever possible, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, in accordance with the Party's 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) 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 and proceedings are in accordance with its law.

#### ARTICLE 16.4: REVIEW AND APPEAL

1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purposes of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. 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 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 submissions of record or, where required by the Party's law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its law, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue. If these decisions are subject to appeal or review as provided in the law of that Party, the Party may wait for the conclusion of the appeal or review before ensuring the aforementioned implementation and governance.

#### ARTICLE 16.5: DEFINITIONS

For the purposes of this Chapter:

**administrative ruling of general application** means an administrative ruling or interpretation that applies to a person and a situation 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.