

## **CHAPTER 14 TRANSPARENCY**

### **Article 14.1 : Publication**

1. Each Party shall ensure that its domestic laws, regulations, procedures and administrative rulings of general application relating to any matter covered by this Agreement are promptly published or otherwise made publicly available.
2. To the extent possible, each Party, in accordance with its domestic laws and regulations, shall:
  - (a) publish in advance measures referred to in paragraph 1 that it proposes to adopt; and
  - (b) provide interested persons and the other Party with a reasonable opportunity to comment on such proposed measures.
3. With respect to domestic laws and regulations of general application<sup>1</sup> relating to any matter covered by this Agreement, each Party shall publish such laws and regulations in a single official journal<sup>2</sup> of national circulation and shall encourage their distribution through additional outlets.
4. With respect to draft laws and regulations of general application<sup>3</sup> proposed by its central level of government respecting any matter covered by this Agreement that are published in accordance with subparagraph 2(a), each Party should in most cases publish such proposed laws and regulations not less than 40 days before the date public comments are due.

### **Article 14.2 : Provision of Information**

Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure referred to in Article 14.1 that the requesting Party considers might affect the operation of this Agreement.

### **Article 14.3 : Administrative Proceedings**

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<sup>1</sup> For the purposes of this paragraph, “regulations of general application” means, for Korea, Presidential Decrees, Ordinances of the Prime Minister, and Ministerial Ordinances, and for Viet Nam, Orders and Decisions of the State President, Decrees of the Government, Decisions of the Prime Minister, and Ministerial Circulars.

<sup>2</sup> For the purposes of this paragraph, “single official journal” means, for Viet Nam, its Official Gazette.

<sup>3</sup> For the purposes of this paragraph, “regulations of general application” means, for Korea, Presidential Decrees, Ordinances of the Prime Minister, and Ministerial Ordinances, and for Viet Nam, Decrees of the Government, Decisions of the Prime Minister, and Ministerial Circulars.

With a view to administering in a consistent, impartial and reasonable manner its domestic laws, regulations, procedures and administrative rulings of general application relating to any matter covered by this Agreement, each Party shall ensure, in its administrative proceedings, in which these measures are applied to particular persons, goods or services of the other Party in specific cases, that:

- (a) wherever possible, in accordance with its applicable domestic laws and regulations, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, 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) persons of the other Party that are directly affected by a proceeding 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 domestic laws and regulations.

#### **Article 14.4 : Review and Appeal**

1. In accordance with its domestic laws and regulations, each Party shall establish or maintain judicial or administrative tribunals or procedures for the purposes of the prompt review and, where warranted, correction of administrative actions relating to any matter 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 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 its domestic laws and regulations the record compiled by the administrative authority.

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

#### **Article 14.5 : Definitions**

For the purposes of this Chapter:

**administrative ruling of general application** means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

- (a) a determination or ruling made in an administrative 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.