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CHAPTER 13

TRANSPARENCY

ARTICLE 13.1

Definitions

For the purposes of this Chapter:

- (a) "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 as provided for in the laws and regulations of a Party; and
- (b) "measure of general application" means laws, regulations, judicial decisions, procedures and administrative rulings of general application¹ pertaining to any matter covered by this Agreement.

¹ For greater certainty, "administrative ruling of general application" means an administrative ruling or interpretation that applies to all persons and factual situations that fall generally within the ambit of that administrative ruling or interpretation and that establishes a norm of conduct relevant to the implementation of this Agreement.

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ARTICLE 13.2

Objective

1. Recognising the impact which their respective regulatory environment may have on matters covered by this Agreement, the Parties aim to provide a transparent and predictable regulatory environment and efficient procedures for economic entities, especially for SMEs.
2. The Parties affirm their respective commitments in relation to transparency under the WTO Agreement and build upon those commitments in this Chapter.

ARTICLE 13.3

Publication

In respect of any matter covered by this Agreement, each Party shall ensure that a measure of general application:

- (a) is promptly published via an officially designated medium and if feasible, by electronic means, or is otherwise made available in such a manner as to enable any person to become acquainted with it;

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- (b) to the extent possible, provides an explanation of the objective of the measure, and the rationale for the measure; and
- (c) to the extent possible, allows for sufficient time between the publication of laws and regulations and their entry into force; this point does not apply to judicial decisions and administrative rulings.

ARTICLE 13.4

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. On request of a Party, the other Party shall, without undue delay, provide information and respond to questions pertaining to any laws or regulations in force with respect to any matter covered by this Agreement and that the requesting Party considers might affect the operation of this Agreement.

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3. On request of a Party, the other Party shall, to the extent possible, provide information and respond to questions pertaining to any planned laws or regulations with respect to a matter covered by this Agreement that the requesting Party considers might affect the operation of this Agreement.

ARTICLE 13.5

Administration of measures of general application

1. Each Party shall administer in an objective, impartial, and reasonable manner all measures of general application with respect to a matter covered by this Agreement.
2. In applying measures of general application to particular persons, goods or services of the other Party in specific cases, each Party shall:
 - (a) provide persons who are directly affected by administrative proceedings with reasonable notice, in accordance with its laws and regulations, when proceedings are initiated, 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 controversy; and

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- (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 13.6

Review and appeal

1. Each Party shall establish or maintain judicial, arbitral, quasi-judicial, or administrative tribunals or procedures, as applicable, for the purposes of the prompt review and, where warranted, correction of final administrative decision with respect to a matter covered by this Agreement.
2. Each Party shall ensure that its procedures for appeal or review are carried out in an objective and impartial manner by its tribunals. Such tribunals shall be impartial and independent of the authority entrusted with administrative enforcement and shall not have any material interest in the outcome of the matter.

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3. Each Party shall ensure that in respect of tribunals or procedures referred to in paragraph 1, 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.

4. The decision referred to in point (b) of paragraph 3 shall be implemented by the authority entrusted with administrative enforcement, subject to appeal or further review as provided for in the law of a Party.

ARTICLE 13.7

Relation to other chapters

This Chapter is without prejudice to specific transparency related provisions set out in other Chapters of this Agreement.

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ARTICLE 13.8

Non-application of dispute settlement

Neither Party shall have recourse to dispute settlement under Chapter 17 (Dispute settlement) for any matter arising under this Chapter.

CHAPTER 14

GOOD REGULATORY PRACTICES AND REGULATORY COOPERATION

ARTICLE 14.1

General principles

1. Each Party is free to determine its approach to good regulatory practices and regulatory cooperation under this Agreement in a manner consistent with its law, political and institutional structures and practices, fundamental principles including the precautionary principle, and public policy objectives underlying its regulatory system.