

TITLE XII

TRANSPARENCY AND ADMINISTRATIVE PROCEDURES

ARTICLE 338

Cooperation on Increased Transparency

The Parties agree to cooperate in relevant bilateral and multilateral *fora* to increase transparency, including through the elimination of bribery and corruption in matters covered by Part IV of this Agreement.

ARTICLE 339

Publication

1. Each Party shall ensure that its measures of general application, including laws, regulations, judicial decisions, procedures and administrative rulings relating to any trade-related matter covered by Part IV of this Agreement are promptly published or made readily available to interested persons in such a manner as to allow interested persons of a Party, as well as any other Party, to become acquainted with them. Upon request, each Party shall provide an explanation of the objective of and rationale for such measure and allow for adequate time between publication and entry into force of such measure, unless specific legal or practical circumstances dictate otherwise.

2. Each Party shall endeavour to provide opportunities for interested persons of the other Party to comment on any proposed law, regulation, procedure or administrative ruling of general application and to take into account relevant comments received.
3. The measures of general application referred to under paragraph 1 shall be considered to have been made readily available when the measure has been made available by appropriate notification to the WTO or when the measure has been made available on an official, publicly and fee-free accessible website of the Party concerned.
4. Nothing in Part IV of this Agreement shall be construed to require any Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, be it public or private.

ARTICLE 340

Contact Points and Exchange of Information

1. In order to facilitate communication and to ensure the effective implementation of this Agreement, the EU Party, the CA Party⁵² and each Republic of the CA Party shall designate a contact point by the entry into force of this Agreement⁵³. The designation of contact points is without prejudice to the specific designation of competent authorities under specific provisions of this Agreement.
2. Upon request of a Party, the contact point of the other Party shall indicate the office or official responsible for any matter pertaining to the implementation of Part IV of this Agreement and provide the required support to facilitate communication with the requesting Party.
3. Upon request of a Party, and to the extent legally possible, each relevant Party shall provide information and reply promptly to any question relating to an actual or proposed measure that might substantially affect Part IV of this Agreement.

⁵² The contact point designated by the CA Party shall be used for the exchange of information regarding its collective obligations in accordance with Article 352, paragraph 2 of Part V (Final Provisions) of this Agreement and shall work under direct instructions agreed by the Republics of the CA Party.

⁵³ For purposes of the obligation to designate a contact point by the CA Party, "date of entry into force" shall mean the date in which all the Republics of the CA Party have brought this Agreement into force, according to paragraph 4 of Article 353.

ARTICLE 341

Administrative Proceedings

Each Party shall administer all measures of general application referred to in Article 339 in a consistent, impartial and reasonable manner. More specifically, when applying those measures to specific persons, goods, services or establishments of a Party in specific cases, each Party shall:

- (a) endeavour to provide persons directly affected by a proceeding with 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) afford such interested persons 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) ensure that its procedures are based on law.

ARTICLE 342

Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of prompt review and, where warranted, correction of final administrative action affecting trade-related matters covered by Part IV of this Agreement. Such tribunals or procedures shall be independent of the office or authority entrusted with administrative enforcement and those responsible for them shall be impartial and 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 its law, the record compiled by the administrative authority.
3. Each Party shall ensure, subject to appeal or further review as provided for in its law, that any such decision shall be implemented by, and shall govern the practice of, the office or authority competent for the administrative action at issue.

ARTICLE 343

Specific Rules

The provisions of this Title are without prejudice to any specific rules established in other provisions of this Agreement.

ARTICLE 344

Transparency in Subsidies

1. For the purposes of this Agreement, a subsidy is a measure related to trade in goods, which fulfils the conditions set out in Article 1.1 of the SCM Agreement and is specific within the meaning of Article 2 of the latter. This provision covers subsidies as defined in the Agriculture Agreement.
2. Each Party shall ensure transparency in the area of subsidies related to trade in goods. Starting from the entry into force of this Agreement, each Party shall report every two years to the other Party on the legal basis, form, amount or budget and where possible, the recipient of the subsidy granted by its government or any public body. Such report is deemed to have been provided if the relevant information is made available by the Parties or on their behalf on a publicly accessible website. When exchanging information the Parties shall take into account the requirements of professional and business secrecy.

3. The Parties may exchange information upon request of a Party on matters related to the topic of subsidies in services.
4. The Association Committee shall periodically review the progress made by the Parties in implementing this Article.
5. The provisions of this Article are without any prejudice to the rights of the Parties to apply trade remedies or to take dispute settlement or other appropriate action against a subsidy granted by the other Party in accordance with the relevant WTO provisions.
6. The Parties shall not have recourse to dispute settlement procedures under Title X (Dispute Settlement) of Part IV of this Agreement for matters arising under this Article.