

13. The following shall be Chapter 13:

CHAPTER 13

TRANSPARENCY

Article 13.1

Definition

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 the ambit of that administrative ruling or interpretation and that establishes 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 or good of another Member State in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice.

Article 13.2

Relation to Other Chapters

In the event of any inconsistency between provisions in this Chapter and provisions in other Chapters of this Agreement, such provisions in other Chapters shall prevail to the extent of the inconsistency.

Article 13.3

Publication

1. Each Member State 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, including on the internet, where feasible, or otherwise made available in such a manner as to enable interested persons and other Member States to become acquainted with them.

2. Upon request, a Member State shall endeavour to provide the requesting Member State with an English translation of the published laws, regulations, procedures, or administrative rulings referred to in paragraph 1, if possible, within 90 days. If unable to do so, that Member State shall provide a summary stating the requirements of the notified laws, regulations, procedures, or administrative rulings, in the English language, as soon as practicable.

3. Each Member State shall, to the extent possible:

- (a) publish any proposed laws, regulations, procedures, and administrative rulings of general application or amendments to existing laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement on the internet preferably at least 60 days before the date on which comments are due;
- (b) provide, where appropriate, interested persons and other Member States a reasonable opportunity to comment on the proposed measure in subparagraph (a);
- (c) include in the publication referred to in subparagraph (a) an explanation of the purpose

of, and rationale for, the proposed measure; and

- (d) take into account comments received during the comment period.

4. In accordance with its laws and regulations, when introducing new laws, regulations, procedures, and administrative rulings of general application or making amendments to existing laws, regulations, procedures, and administrative rulings of general application, each Member State shall endeavour to provide a reasonable period between the date when those laws, regulations, procedures, and administrative rulings of general application are made publicly available and the date when they enter into force.

Article 13.4

Provision of Information

On request of any Member State, the requested Member State shall promptly provide information and respond to questions pertaining to any actual or proposed laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement that the requesting Member State considers may affect the operation of this Agreement, through their contact points provided under Article 15.5 (Contact Point).

Article 13.5

Online Portals

All Member States, with the support of the ASEAN Secretariat, shall ensure that relevant existing and future ASEAN trade-related portals, including the information contained therein, are promptly updated and made accessible to the public.

Member States may designate the ASEAN Secretariat to engage a third party to support the necessary updates.

Article 13.6

Administrative Proceedings

With a view to administering its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement in a consistent, impartial, objective, and reasonable manner, each Member State shall ensure in its administrative proceedings applying such measures to a particular person or good of another Member State in specific cases that:

- (a) wherever possible, a person of another Member State that is directly affected by such a proceeding is provided with reasonable notice, in accordance with its domestic procedures, of 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 issue in question;
- (b) a person of another Member State that is directly affected by such a proceeding is afforded a reasonable opportunity to present facts and arguments in support of that person's position prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and
- (c) it follows its procedures in accordance with its laws and regulations.

Article 13.7

Review and Appeal¹

1. Each Member State shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purposes of prompt review and, where warranted, correction of final administrative actions with respect 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 Member State shall ensure that, in any such tribunals or procedures, each Member State to a proceeding is provided with the right to:

- (a) a reasonable opportunity to support or defend that Member State's positions; and
- (b) a decision based on the evidence and submissions of record or, where required by its laws and regulations, the record compiled by the relevant office or authority.

3. Each Member State shall ensure, subject to appeal or further review as provided in its laws and regulations, that the 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.

¹ For greater certainty, the review need not include merits (*de novo*) review, and may take the form of common law judicial review. The correction of final administrative actions may include a referral back to the body that took action.

Article 13.8

Disclosure of Information

Nothing in this Agreement shall require any Member State to provide confidential information, the disclosure of which would be contrary to its laws and regulations or impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

Article 13.9

Confidentiality

Where a Member State provides information to another Member State in accordance with this Agreement and designates the information as confidential, the other Member State shall, subject to its laws and regulations, maintain the confidentiality of the information.