

Observação

À luz do crescente interesse do público nas negociações recentemente concluídas entre o MERCOSUL e a União Europeia, os governos dos países do MERCOSUL decidiram publicar os textos do pilar comercial, a fim de garantir tanto o efetivo exercício do direito de acesso à informação pública quanto a transparência da gestão pública.

Esses textos são publicados, no entanto, apenas para fins informativos e podem sofrer modificações adicionais em decorrência do processo de revisão legal a que estarão sujeitos, sem prejuízo dos compromissos assumidos.

Os textos só serão definitivos quando o Acordo for assinado. O Acordo será vinculante para as Partes, conforme o direito internacional, somente após a conclusão dos procedimentos legais internos necessários para a entrada em vigor.

CHAPTER

TRANSPARENCY

Article 1

Definitions

For the purposes of this Chapter:

measure of general application means laws, regulations, judicial decisions, procedures and administrative rulings of general application that may have an impact on any matter covered by this Part of the Agreement; and

interested person means any natural or legal person that may be affected by a measure of general application.

administrative decision means a decision with a legal effect that affects the rights and obligations of a specific person in an individual case, and covers an administrative action or failure to take an administrative action or decision as provided for in the Party's domestic law and legal system.

Article 2

Objective

1. Recognising the impact which their respective regulatory environment may have on trade and investment between them, the Parties shall aim at promoting a transparent and predictable regulatory environment and efficient procedures for economic operators, especially small and medium-sized enterprises in accordance with the provisions of this Chapter.

Article 3

Publication

1. Each Party shall ensure that a measure of general application with respect to any matter covered by Part trade:
 - (a) is promptly published via an officially designated medium and where feasible, electronic means, or otherwise made available, in such a manner as to enable any person to become acquainted with them;
 - (b) provide an explanation of the objective of, and rationale for, the measure; and
 - (c) allow for sufficient time between publication and entry into force of such measures, except where it is not possible on grounds of urgency.
2. To the extent possible, when adopting or amending major laws or regulations of general application with respect to any matter covered by Part [TRADE], each Party shall, in accordance with its respective rules and procedures:
 - (a) Publish in advance the draft law or regulation or consultation documents providing details of the objective of, and rationale for the law or regulation;
 - (b) Provide interested persons and the other Party a reasonable opportunity to comment; and
 - (c) Endeavour to take into consideration the comments received.

Article 4

Enquiries

1. No later than 3 years of entry into force of this Agreement, each Party shall establish or maintain appropriate mechanisms for receiving and responding to enquiries from any person regarding any measure of general application which is proposed or in force with respect to any matter covered by Part Trade, and how they would be applied.
2. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any measure of general application or any proposal to adopt or amend any measure of general application with respect to any matter covered by Part trade. that the requesting Party considers might affect the operation of this Agreement.

Article 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 any matter covered by Part trade.

2. Each Party, in applying such measures to particular persons, goods or services of the other Party in specific cases, shall:

(a) endeavour to provide interested persons, that are directly affected by administrative proceedings, with reasonable notice, in accordance with its laws and regulations, when such 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;

(b) afford such interested 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 6

Review and appeal

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of an administrative decision with respect to any matter covered by Part trade. Each Party shall ensure that its procedures for appeal or review are carried out in a non-discriminatory and impartial manner by tribunals that shall be impartial and independent of the authority entrusted with administrative enforcement and those responsible for such tribunals shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that the parties to the proceedings in paragraph 1 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. The decision in paragraph 2 shall, subject to appeal or further review as provided for in its law, be implemented by, and shall govern the practice of, the office or authority entrusted with administrative enforcement.

Article 7

Regulatory quality and performance and good regulatory practices

1. The Parties recognise the principles of good regulatory practices and shall promote regulatory quality and performance. In particular, Parties shall endeavour to:

(a) Encourage the use of regulatory impact assessments when developing major

initiatives;

(b) establish or maintain procedures to promote periodic retrospective evaluation of measures of general interest.

2. The Parties shall endeavour to cooperate in regional and multilateral fora to promote good regulatory practices and transparency in respect of international trade and investment in areas covered by Part trade.

Article 8

Relation to other chapters

Specific rules in other Chapters of this Agreement regarding the subject matter of this Chapter shall prevail to the extent that they differ from the provisions of this Chapter.