

Chapter 1: General Provisions and Definitions – Text of the 2023 Canada – Ukraine Free Trade Agreement

Section A – General Provisions

Article 1.1: Establishment of the Free Trade Area

The Parties to this Agreement, consistent with Article XXIV of the GATT 1994, hereby continue the free trade area established by the Free Trade Agreement Between Canada and Ukraine, done at Kyiv on 11 July 2016.

Article 1.2: Relation to Other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which the Parties are party.

2. In the event of any inconsistency between this Agreement and the agreements referred to in paragraph 1, this Agreement prevails, except as otherwise provided in this Agreement.

3. The WTO Agreement exclusively governs the rights and obligations of the Parties regarding subsidies and the application of anti-dumping and countervailing measures, including the settlement of any disputes about those matters.

Article 1.3: Extent of Obligations

Each Party is fully responsible for the observance of all provisions of this Agreement and shall take reasonable measures that may be available to it to ensure observance of the provisions of this Agreement, except as otherwise provided in this Agreement, by the sub-national governments and authorities within its territory and, in the case of Ukraine, local self-government bodies of oblasts.

Article 1.4: Reference to Other Agreements

When this Agreement refers to or incorporates by reference other agreements or legal instruments in whole or in part, those references include related footnotes, interpretative notes and explanatory notes. Unless the reference affirms existing rights, those references also include any successor agreements to which the Parties are party or amendments binding on the Parties.

Section B – General Definitions

Article 1.5: Definitions of General Application

1. For the purposes of this Agreement, unless otherwise specified:

2017 Agreement means the Free Trade Agreement Between Canada and Ukraine, done at Kyiv on 11 July 2016, and which entered into force on 1 August 2017;

Citizen means a natural person who is a citizen of a Party under its legislation;

Joint Commission means the Joint Commission referred to in Article 27.1 (Joint Commission);

Coordinators means the Agreement Coordinators referred to in Article 27.2 (Agreement Coordinators);

customs duty includes a customs or import duty and a charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge in connection with that importation, but does not include:

- (a) a charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

- (b) an anti-dumping or countervailing duty that is applied pursuant to a Party's law;
- (c) a fee or other charge imposed consistently with Article VIII of the GATT 1994; or
- (d) a premium offered or collected on an imported good arising out of a tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels;

Customs Valuation Agreement means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

Days means calendar days;

DSU means the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 to the WTO Agreement;

Enterprise means an entity constituted or organized under applicable law, whether or not for profit, and of any form of ownership, whether privately owned or governmentally owned, including a corporation, trust, partnership, sole proprietorship, joint venture or other association;

existing means in effect on the date of entry into force of this Agreement;

GATS means the General Agreement on Trade in Services, contained in Annex 1B to the WTO Agreement;

GATT 1994 means the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

goods of a Party means domestic products as these are understood in the GATT 1994 or such goods as the Parties may decide, and includes originating goods of that Party;

Harmonized System (HS) means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, Chapter Notes and subheading notes;

heading means a four-digit number, or the first four digits of a number, used in the nomenclature of the Harmonized System;

measure includes a law, regulation, procedure, requirement or practice;

national means a natural person who is a citizen or is a permanent resident of a Party;

originating means qualifying as originating under the rules of origin set out in Chapter 3 (Rules of origin and origin procedures);

permanent resident means a natural person who is a permanent resident of a Party under its applicable legislation;

person means a natural person or an enterprise;

person of a Party means a national, or an enterprise of a Party;

sanitary or phytosanitary measure means any measure referred to in Annex A, paragraph 1 of the SPS Agreement;

SPS Agreement means the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement;

state enterprise means an enterprise that is owned or controlled through ownership interests, by a Party;

subheading means a six-digit number, or the first six digits of a number, used in the nomenclature of the Harmonized System;

tariff classification means the classification of a good or material under a chapter, heading or subheading of the Harmonized System;

tariff elimination schedule means Annex 2-B (National Treatment and Market Access-Tariff Elimination);

territory means:

- (a) the land territory, air space, internal waters and territorial sea of the Party;

- (b) the exclusive economic zone of the Party; and
- (c) the continental shelf of the Party,

as determined by its domestic law and consistent with international law;

UNCLOS means the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982;

WTO means the World Trade Organization; and

WTO Agreement means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

2. For the purposes of this Agreement, a word in the singular includes that word in the plural, except where otherwise indicated.

Article 1.6: Country-specific Definitions

For the purposes of this Agreement, unless otherwise specified:

national government means:

- (a) with respect to Canada, the Government of Canada; and
- (b) with respect to Ukraine, the Government of Ukraine; and

sub-national government means:

- (a) with respect of Canada, provincial, territorial, or local governments; and
- (b) with respect to Ukraine, local executive power bodies of oblasts, the autonomous Republic of Crimea and cities with special status.