

Chapter 25: Trade and Indigenous Peoples

– Text of the 2023 Canada – Ukraine Free Trade Agreement

Article 25.1: General Provisions

- 1. For the purposes of this Chapter, Indigenous Peoples means:*
 - (a) for Canada, Aboriginal peoples (including First Nations, Inuit, and Métis peoples) as defined in subsection 35(2) of the Constitution Act, 1982 of Canada;*
 - (b) for Ukraine, Karaite, Crimean Tatar, and Krymchak, including those based on the Crimean Peninsula.*
- 2. The Parties recognize that the history of Indigenous Peoples in Canada and the history of Indigenous Peoples in Ukraine, including those found on the Crimean Peninsula, set the unique context for the domestic policies of each Party.*
- 3. The Parties further recognize that since Indigenous Peoples have been engaged in trade since time immemorial, trade is fundamental to Indigenous histories, identities, cultural heritage, and economic prosperity.*

4. The Parties acknowledge that international trade and investment contribute to sustainable development, innovation and prosperity, and that improving Indigenous Peoples' access to international trade and investment opportunities will enhance their ability to participate in and benefit from economic activity, including trade and investment.

5. The Parties commit to implementing constructive, innovative, and inclusive practices to ensure that Indigenous Peoples have access to the benefits of this Agreement.

6. The Parties affirm that effective coordination and implementation of policies, programs, and projects, including the identification and removal of barriers to trade and increasing international trade and investment opportunities for, by, and between Indigenous Peoples, can further contribute to sustainable economic development and the ability of Indigenous Peoples to participate in and benefit from economic activity.

7. The Parties acknowledge that Indigenous Peoples have the right to maintain and develop their economic systems and institutions, and to engage freely in all their traditional and other economic activities in a manner consistent with the law of each Party.

8. The Parties affirm that Indigenous Peoples have the right to all human rights and fundamental freedoms, including those recognized under the Charter of the United Nations, the Universal Declaration of Human Rights, and in the United Nations Declaration on the Rights of Indigenous Peoples.

9. The Parties affirm that Indigenous Peoples have the right to be free from discrimination and the right to enjoy fully all rights recognized under applicable international or domestic law, including with respect to their participation in international trade.

10. Each Party recalls its commitment to implement the multilateral environmental agreements to which it is a Party.

11. The Parties acknowledge the importance of the United Nations 2030 Agenda for Sustainable Development and the importance of achieving the Sustainable Development Goals given their relevance to Indigenous Peoples, including how they relate to the protection of lands, waters, and natural resources, and how they support the conditions for sustainable and inclusive economic development.

Article 25.2: Non-Derogation

A Party shall not weaken or reduce protections for Indigenous Peoples in its laws and regulations, so as to encourage international trade and

investment between the Parties, or between the Parties and any other economy.

Article 25.3: Responsible Business Conduct

1. Each Party shall encourage businesses operating within its territory or subject to its jurisdiction to incorporate into their internal policies and practices the internationally recognized standards, guidelines, and principles of responsible business conduct that have been endorsed, supported, or are observed by the Party.

2. The Parties recognize that it is imperative that businesses operating within their territory or subject to their jurisdiction respect the rights of Indigenous Peoples that are recognized and affirmed within this Agreement and under international or domestic law.

Article 25.4: Cooperation Activities to Facilitate Indigenous Peoples' Participation in International Trade and Investment

1. The Parties acknowledge the importance of implementing measures to foster and enhance the participation of Indigenous Peoples in domestic and international economic activity.

2. The Parties shall facilitate the exchange of experiences and shall implement cooperation activities to promote and enhance Indigenous Peoples' participation in international trade and investment, including government procurement opportunities.

3. The Parties shall endeavor to engage in ongoing bilateral discussions to undertake cooperation activities guided by the following principles:

- (a) respect and partnership;
- (b) equity, diversity, and gender balance;
- (c) accountability and transparency; and
- (d) openness, flexibility, and pragmatism.

4. The Parties recognize the importance of undertaking cooperation activities that are designed to facilitate dialogue, and to enhance the ability of Indigenous-owned businesses to fully access and benefit from the opportunities created by this Agreement.

5. The Parties shall jointly facilitate cooperation activities while engaging with Indigenous Peoples, as appropriate, so that the opportunities created by this Agreement may more effectively support the objectives, priorities, and interests of Indigenous Peoples. These cooperation activities may include:

- (a) considering ways to facilitate the engagement of Indigenous Peoples in international trade and investment, including programs designed to encourage capacity building and skills enhancement, such as digital skills;
- (b) supporting Indigenous Peoples in identifying barriers to their participation in international trade and investment, and in designing strategies to remove those barriers;
- (c) considering ways to improve access to capital and financing, including export financing;
- (d) exchanging best practices on promoting successful, innovative, and environmentally sustainable Indigenous-owned businesses;
- (e) supporting Indigenous Peoples in their use of e-commerce to sell Indigenous products and services domestically and internationally;
- (f) promoting businesses owned by Indigenous women, including activities to support the internationalization of micro, small, and medium-sized enterprises, including cooperatives and social enterprises;
- (g) fostering Indigenous business leadership and networks;

- (h) exploring opportunities to facilitate each Party's work in developing and enhancing export counselling, assistance, and training programs for Indigenous owned-businesses;
- (i) exchanging information, expertise, and best practices on facilitating access to existing supply chains for Indigenous-owned businesses and the promotion and development of Indigenous supply chains;
- (j) considering ways to encourage businesses to seek products and services from Indigenous-owned businesses; and
- (k) any other issue as decided by the Parties.

6. The Parties may invite international institutions, businesses, non-governmental organizations, or other relevant institutions, as appropriate, to assist with the development and implementation of cooperation activities under this Article.

7. Within one year of the date of entry into force of this Agreement, each Party shall endeavor to establish a webpage with information to promote awareness of the opportunities created by this Agreement for Indigenous Peoples, including a list of activities planned or undertaken under this Article, and will regularly update and maintain the webpage, as appropriate.

8. The Parties may cooperate, as appropriate, in international and multilateral forums to advance the participation of Indigenous Peoples in international trade, including at the WTO.

Article 25.5: Committee on Trade and Indigenous Peoples

1. The Parties hereby establish a Committee on Trade and Indigenous Peoples (the "Trade and Indigenous Peoples Committee") composed of representatives from each Party, responsible for matters covered by this Chapter. As appropriate, each Party may wish to invite representatives of Indigenous institutions, including Indigenous rights holders and partners.

2. The purpose of the Trade and Indigenous Peoples Committee is to oversee the implementation of this Chapter, and its functions may include:

- (a) providing a forum to discuss and review any matters related to the operation and implementation of this Chapter;
- (b) providing coordination and oversight of the cooperation activities under Article 25.4;

- (c) working with other committees, working groups, and subsidiary bodies established under this Agreement to ensure that Indigenous Peoples can benefit fully from this Agreement;
- (d) preparing and making publicly available, on an annual basis, a report with respect to its activities under this Chapter;
- (e) providing recommendations, if necessary, to the Joint Commission; and
- (f) performing any other functions that the Parties may decide.

3. The Trade and Indigenous Peoples Committee shall meet in person or by any other technological means available within one year of the date of entry into force of this Agreement, and thereafter as decided by the Parties to consider any matters arising under this Chapter.

Article 25.6: Provisions in the Agreement that Benefit Indigenous Peoples

The Parties recognize that there are provisions in other Chapters of this Agreement that seek to enhance cooperation between the Parties on Indigenous economic issues or that otherwise may contribute to further enhance the participation of Indigenous Peoples in international trade and investment opportunities derived from this

Agreement. These include: Chapter 10 (Designated Monopolies and State-Owned Enterprises); Chapter 11 (Government Procurement); Chapter 13 (Environment); Chapter 17 (Investment); and Chapter 29 (Exceptions).

Article 25.7: Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.