

Chapter 4: Trade Facilitation – Text of the 2023 Canada – Ukraine Free Trade Agreement

Article 4.1: Objectives, Principles, and General Provisions

- 1. The Parties acknowledge the importance of customs and trade facilitation matters in the evolving global trading environment.*
- 2. The Parties shall, to the extent possible, cooperate and exchange information, including information on best practices, to promote the application of and compliance with the trade facilitation measures in this Agreement.*
- 3. Each Party shall ensure that its measures to facilitate trade do not hinder mechanisms to protect a person through effective enforcement of and compliance with its law.*
- 4. Each Party shall ensure that its import, export and transit requirements and procedures are no more administratively*

burdensome or trade restrictive than necessary to achieve a legitimate objective.

5. Each Party shall use existing international trade and customs instruments and standards as a basis for its import, export and transit requirements and procedures, unless they would be an inappropriate or ineffective means for the fulfilment of the legitimate objective pursued.

Article 4.2: Transparency

1. Each Party shall publish or otherwise make available, including electronically, its legislation, judicial decisions and administrative policies relating to import or export requirements.

2. Each Party shall endeavour to make public, including on the internet, proposed regulations and administrative policies relating to customs matters and to provide interested persons an opportunity to comment prior to their adoption.

3. Each Party shall designate or maintain one or more contact points to address inquiries by interested persons concerning customs matters and make available, including on the internet, information concerning the procedures for making these inquiries.

Article 4.3: Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties and reduce costs for importers and exporters. Each Party shall ensure that its procedures:

- (a) allow for the release of goods within a period of time no longer than that required to ensure compliance with its law;*
- (b) require the submission of more extensive information through post-entry accounting and verifications, as appropriate;*
- (c) allow goods, and to the extent possible controlled or regulated goods, to be released at the first point of arrival;*
- (d) allow, to the extent possible, for the expeditious release of goods in need of emergency clearance;*
- (e) allow an importer or its agent to remove goods from customs control prior to the final determination and payment of customs duties, taxes, and fees. Before releasing the goods, a Party may require that an importer provide sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument. The guarantee shall be limited to an*

amount calculated to ensure compliance with a Party's requirements for customs duties, taxes and fees, and shall not represent an indirect protection of domestic products or taxation of imports for fiscal purposes; and

- (f) provide for, in accordance with its law, simplified documentation requirements for the entry of low-value goods as determined by each Party.

2. Each Party shall adopt or maintain separate customs procedures for the expedited release of express shipments. These procedures shall:

- (a) when applicable, use the World Customs Organization (WCO), Guidelines for the Immediate Release of Consignments by Customs, as amended;
- (b) to the extent possible or if applicable, provide for advance electronic submission and processing of information before physical arrival of express shipments to enable their release upon arrival;
- (c) to the extent possible, provide for clearance of certain goods with a minimum of documentation;
- (d) not be limited by a maximum weight; and

- (e) provide for, in accordance with a Party's legislation, simplified documentation requirements for the entry of low-value goods as determined by that Party.

3. Each Party shall ensure, to the extent possible, that its authorities and agencies involved in border and other import and export controls cooperate and coordinate to facilitate trade by, among other things, converging import and export data and documentation requirements and establishing a single location for one-time documentation and physical verification of consignments.

4. Each Party shall ensure, to the extent possible, that its import and export requirements are coordinated to facilitate trade, regardless of whether these requirements are administered by an agency or on behalf of that agency by the customs authority.

Article 4.4: Customs Valuation

The Customs Valuation Agreement governs customs valuation applied to reciprocal trade between the Parties.

Article 4.5: Fees and Charges

Each Party shall publish or otherwise make available information on fees and charges imposed by its customs authority, including

electronically. This information shall include the applicable fees and charges, the specific reason for the fee or charge, the responsible authority, and when and how payment is to be made. A Party shall not impose new or amended fees and charges until it publishes or otherwise makes available this information.

Article 4.6: Risk Management

- 1. Each Party shall base its examination, release, and post-entry verification procedures on risk assessment principles, rather than requiring each shipment offered for entry to be examined in a comprehensive manner for compliance with import requirements.*
- 2. Each Party shall adopt and apply its import, export and transit requirements and procedures for goods on the basis of risk management principles that focus compliance measures on transactions that merit attention.*
- 3. Paragraphs 1 and 2 do not preclude a Party from conducting a quality control and compliance review that may require more extensive examinations.*

Article 4.7: Automation

1. Each Party shall use information technologies that expedite its domestic procedures for the release of goods in order to facilitate trade, including trade between the Parties.

2. Each Party shall:

- (a) endeavour to make available electronically customs forms that are required for the import or export of goods;
- (b) allow, subject to its law, those customs forms to be submitted in electronic format; and
- (c) if possible, provide for the electronic exchange of information with its trading community through its customs authority.

3. Each Party shall endeavour to:

- (a) develop or maintain fully interconnected single window systems to facilitate a single electronic submission of information required by customs and non-customs legislation for cross-border movements of goods; and
- (b) develop a set of data elements and processes in accordance with the WCO Data Model and related WCO recommendations and guidelines.

4. The Parties shall endeavour to cooperate on the development of interoperable electronic systems, taking account of the work at the WCO, in order to facilitate trade between the Parties.

Article 4.8: Advance Rulings for Tariff Classification

1. Subject to Chapter 3 (Rules of Origin and Origin Procedures), a Party shall issue a written ruling prior to an importation in response to a written request by an importer in its territory, exporter or producer in the territory of the other Party, or their respective representatives.

2. A Party shall issue these rulings for tariff classification or rate of customs duty, except with respect to any form of surtax or surcharge, applicable upon importation.

3. For the purposes of paragraph 1, the issuance of advance rulings shall be administered in the same manner as the procedures set out in Article 3.30 (Advance Rulings relating to Origin).

Article 4.9: Review and Appeal

1. Each Party shall ensure that an administrative action or official decision taken in respect of the import of goods is promptly reviewable by judicial, arbitral, or administrative tribunals or through administrative procedures.

2. The tribunal or official conducting the review referred to in paragraph 1 shall be independent of the official or office issuing the decision and shall have the competence to maintain, modify or reverse the determination, in accordance with the Party's law.

3. Before requiring a person to seek redress at a more formal or judicial level, each Party shall provide for an administrative level of appeal or review that is independent of the official or, if applicable, the office responsible for the original action or decision.

4. Each Party shall grant a person that has received an advance ruling pursuant to Article 4.8 (Advance Rulings for Tariff Classification) substantially the same right of review and appeal of determinations of advance rulings by its customs authority that the Party provides to importers in its territory.

Article 4.10: Penalties

Each Party shall ensure that its customs legislation provides that any penalty imposed for a breach of customs legislation or procedures is proportionate and non-discriminatory and, in its application, does not result in unwarranted delays.

Article 4.11: Confidentiality

1. Each Party shall, in accordance with its law:

- (a) treat as strictly confidential information obtained under this Chapter that is by its nature confidential or that is provided on a confidential basis; and
- (b) protect that information from disclosure that could prejudice the competitive position of the person providing the information.

2. If the Party receiving or obtaining the information referred to in paragraph 1 is required by its law to disclose this information, that Party shall notify the Party or person who provided the information.

3. Each Party shall ensure that information collected under this Chapter shall only be used for purposes related to the administration and enforcement of customs matters, except with the permission of the Party or person that provided the information.

4. A Party may allow information collected under this Chapter to be used in administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs-related legislation implementing this Chapter. A Party shall notify the Party or person that provided the information in advance of such use.

Article 4.12: Cooperation

1. The Parties shall continue to cooperate in international fora, such as the WCO, to achieve mutually-recognised goals, including those set out in the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade.

2. The Parties shall develop a technical cooperation program in customs matters under jointly decided terms as to the scope, timing and cost of cooperative measures.

3. The Parties shall cooperate:

- (a) in the enforcement of their respective customs-related legislation implementing this Agreement;
- (b) to the extent practicable and for purposes of facilitating the flow of trade between them, in customs matters such as the collection and exchange of statistics regarding the importation and exportation of goods, the harmonization of documentation used in trade and the standardization of data elements;
- (c) to the extent practicable, to harmonize customs laboratories' methods and the exchange of information and personnel between the customs laboratories;
- (d) in the development of effective mechanisms for communicating with the trade and business communities; and

- (e) in such other matters as the Parties may decide.

4. If a Party has reasonable grounds to suspect that an offence related to a fraudulent claim for preferential tariff treatment pursuant to this Agreement has occurred, it may request the other Party to provide information pertaining to the offence, including:

- (a) the name and address of persons and companies relevant to the investigation of the offence;
- (b) shipping information relevant to the offence;
- (c) customs clearance and accounting records or equivalent records for goods or materials imported into the territory of the other Party;
- (d) information related to the sourcing of materials, including indirect materials used in the production of goods exported from the territory of the other Party; and
- (e) information related to production capacity of an exporter or producer who has exported goods to the territory of the other Party.

5. If a Party makes a request pursuant to paragraph 4, it shall:

- (a) make its request in writing;

- (b) specify the grounds for suspicion of a fraudulent claim for preferential tariff treatment pursuant to this Agreement and the purposes for which the information is sought; and
- (c) identify the requested information with sufficient specificity for the other Party to locate and provide the information.

6. Following the receipt of a request for information pursuant to paragraphs 4 and 5, a Party shall provide relevant information subject to its law.

7. Officials of a Party may, with the consent of the other Party, contact or visit an exporter, supplier or producer in the territory of the other Party in order to obtain information to further an investigation related to a suspected fraudulent claim for preferential tariff treatment made pursuant to this Agreement.

8. Each Party shall, when possible on its own initiative, provide the other Party with information relating to fraudulent claims for preferential tariff treatment made pursuant to this Agreement.

9. Nothing in this Chapter shall be construed to require a Party to furnish or to allow access to information the disclosure of which would impede law enforcement or would be contrary to the Party's law protecting personal privacy.

10. If a Party declines or postpones sharing the information requested by the other Party pursuant to this Article, the Party shall provide reasons to the other Party.

Article 4.13: Future Work Program

1. With the objective of developing further steps to facilitate trade under this Agreement, the Parties shall, as appropriate, identify and submit for consideration by the Joint Commission new measures aimed at facilitating trade between the Parties.

2. The Parties shall regularly review relevant international initiatives on trade facilitation, including the Compendium of Trade Facilitation Recommendations, developed by the United Nations Conference on Trade and Development and the United Nations Economic Commission for Europe, to identify areas in which further joint action would facilitate trade between the Parties and promote shared multilateral objectives.

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