



**Committee on Regional Trade Agreements
Eighty-ninth Session**

**FREE TRADE AGREEMENT BETWEEN CANADA AND UKRAINE
(GOODS)**

NOTE ON THE MEETING OF 19-20 JUNE 2018

Chairman: Ambassador Julian BRAITHWAITE (United Kingdom)

1.1. The 89th Session of the Committee on Regional Trade Agreements (hereinafter 'CRTA' or the 'Committee') was convened in Airgram WTO/AIR/RTA/14/Rev.1 dated 7 June 2018.

1.2. Under Agenda Item E.II of the Session, the CRTA considered the Free Trade Agreement between Canada and Ukraine, goods, (hereinafter "the Agreement").

1.3. The Chairman said that the Agreement had entered into force on 1 August 2017. It had been notified to the WTO by the Parties on 13 September 2017 under Article XXIV:7(a) of the GATT 1994 and the Understanding on the Interpretation of Article XXIV of GATT 1994 as an Agreement establishing a free trade area (document WT/REG388/N/1/Rev.1). The text of the Agreement was available, together with its Annexes, on the Parties' official websites. The Factual Presentation on the goods aspects (document WT/REG388/1 dated 21 March 2018) and questions and replies on this Agreement (document WT/REG388/2 dated 24 May 2018) had been distributed.

1.4. The representative of Canada thanked the WTO Secretariat for preparing a detailed factual presentation on the Canada-Ukraine FTA, and appreciated the Government of Ukraine's contribution to the process. He also thanked WTO Members for their insightful questions about the Agreement.

1.5. Canada was committed to the continued deepening of its relations with Ukraine, including through the opportunities generated through the Agreement. The entry into force of the Agreement on 1 August 2017 had represented a significant milestone in Canada's bilateral relationship with Ukraine. It was a high-quality agreement, with outcomes that satisfied Canada's commercial interests and facilitated trade between Canada and Ukraine. While it was still too early to assess the impact of the Agreement, it had entered into force during a period where trade between Canada and Ukraine was on the upswing. Following a significant decrease in 2014, Canada-Ukraine bilateral merchandise trade continued to rise and in 2017, reaching its highest levels in almost ten years.

1.6. The Agreement included, among others, chapters on market access for goods, sanitary and phytosanitary measures, technical barriers to trade, intellectual property, Government procurement, and institutional provisions, including those related to transparency and dispute settlement. It also contained chapters on labour and the environment.

1.7. With respect to market access for trade in goods, upon entry into force of the Agreement, Canada had immediately eliminated duties on 99.9% of recent imports from Ukraine. This included elimination by Canada of tariffs on all manufactured goods, fish and seafood, and 99.9% of agricultural imports from Ukraine. Similarly, Ukraine had immediately eliminated tariffs on approximately 86% of recent imports from Canada, with the balance of tariff liberalization, including phase-outs or reductions, to be implemented over periods of up to seven years. This included elimination by Ukraine of tariffs on all Canadian exports of manufactured goods, fish and seafood, and the elimination of the vast majority of Ukraine's agricultural tariffs, including a duty-

free tariff rate quota (TRQ) for pork. Essentially, the Agreement would eliminate all tariffs on goods currently traded between Canada and Ukraine.

1.8. The Technical Barriers to Trade (TBT) chapter built on the WTO Agreement on TBT, incorporating all its substantive provisions and making them subject to the CUFTA's dispute settlement provisions, and required each Party to designate a Contact Point to facilitate communication on TBT-related matters.

1.9. The sanitary and phytosanitary measures (SPS) chapter affirmed the Parties' rights and obligations under the WTO SPS Agreement, required each Party to designate a Contact Point to facilitate communication on SPS trade-related matters, and included provisions requiring the Parties to work expeditiously to resolve issues.

1.10. With respect to intellectual property (IP), the intellectual property chapter included provisions that contributed to the international legal framework on the protection and enforcement of intellectual property rights. The CUFTA's provisions on the enforcement of IP rights would assist Canadian and Ukrainian IP rights-holders to do business with confidence in each other's markets.

1.11. The Government procurement chapter committed the Parties to provide non-discriminatory market access to procurement of covered goods and services above specified thresholds by identified entities. For covered procurements, procuring entities from Canada and Ukraine would treat goods, services and suppliers of the other Party in the same manner as domestic goods, services and suppliers. Canada and Ukraine had agreed to incorporate into the Agreement the same procedural rules and market access commitments as those found in the revised WTO Agreement on Government Procurement, to which both Canada and Ukraine were party.

1.12. With respect to environment and labour, the Agreement set out commitments pertaining to high environmental standards and strong environmental governance, which reinforced Canada and Ukraine's mutual commitment to maintain high levels of environmental protection while expanding their trade and investment relationship. It also set out commitments pertaining to labour; specifically comprehensive obligations to respect a broad range of internationally recognized labour rights as well as an enforceable dispute settlement mechanism to ensure compliance with these obligations. At the time of entry into force, the environment and labour chapters were the most comprehensive Ukraine had ever negotiated. These obligations would ensure a level playing field for Canadian and Ukrainian companies as both countries committed to not lowering their levels of environmental and labour protection to attract trade or investment, and to enforce their respective laws. The Agreement also guaranteed the right of both Canada and Ukraine to set their own environment and labour priorities and protections.

1.13. The Agreement contained relevant chapters on a range of important matters, including: rules of origin and origin procedures; trade facilitation; trade remedies; monopolies and state enterprises; electronic commerce; trade-related cooperation; and dispute-settlement. He looked forward to working closely with Ukraine to fully implement and further promote the Agreement so that both countries could capitalize on its many benefits. He welcomed questions and comments from Members at the meeting.

1.14. The representative of Ukraine welcomed the consideration of the Agreement by the CRTA. He emphasized the substantial work done by the WTO Secretariat jointly with the governments of both Parties in the preparation of the factual presentation. It provided WTO members with detailed information under the WTO Transparency Mechanism for RTAs. He also expressed gratitude to WTO members for the questions and interest showed in the consideration of the Agreement.

1.15. Ukraine and Canada had close historical ties, as Canada had been the first western country to have recognized the independence of Ukraine in December 1991. Bilateral relations between the two countries had been further strengthened by the support of the Ukrainian-Canadian community.

1.16. He expressed Ukraine's satisfaction that its bilateral relations with Canada had been broadened by such a cornerstone document as the free trade Agreement, and would contribute to the harmonious development and expansion of world and regional trade and provide a predictable framework for business activity. As had been mentioned by the delegation of Canada, the

provisions of the Agreement were built on the respective rights and obligations of Ukraine and Canada under the WTO Agreement.

1.17. Ukraine believed that the Agreement was diversified and covered areas such as: market access for goods; food safety/sanitary and phytosanitary measures; technical regulations and conformity assessment; Government procurement; customs and trade facilitation; competition policy; intellectual property rights protection; environmental protection; and, something that was remarkably new for Ukraine, commitments in labour protection. Comprehensive commitments by both Parties in the labour chapter were aimed at ensuring that neither Ukraine nor Canada would put their interests in encouraging trade or investment over internationally recognized labour principles and rights. With reference to the commitments on market access for goods he noted that, notwithstanding the fact that tariffs for goods traded between the Parties were being eliminated, both Ukraine and Canada had the right to secure their sensitivities with respect to internal production and consumption policies. Moreover, the rules of origin and origin procedures under the Agreement, in particular exporter self-certification provided for greater transparency, facilitated trade and provided clear obligations for producers and exporters, as well as for the customs authorities.

1.18. He noted the increase in bilateral trade in 2017 comparing to 2016, although it was less than a year from 1 August 2017 when the Agreement had entered into force. Bilateral trade in goods had amounted to about US\$350 million in 2017, showing an increase by over 40% comparing to the previous year. The three commodities most imported by Canada from Ukraine had been: base metals, machinery and equipment as well as tanning extracts (representing respectively 33%, 11%, and 8% of total imports from Ukraine). Mineral products, representing approximately 61% of Ukraine's imports from Canada, had dominated, followed by pharmaceutical products (9%) and machinery and equipment (8% of total imports from Canada).

1.19. In the context of bilateral cooperation and assistance Ukraine was grateful to Canada for support in implementing necessary reforms that would stimulate economic development, including combating corruption and the introduction of measures aimed at the creation of a predictable business environment. His Government believed that the Agreement would fully contribute to this aim. Ukraine looked forward to a fruitful discussion and would endeavour to answer all Members' questions in addition to the written answers already provided.

1.20. The representative of Japan thanked Canada and Ukraine as well as the Secretariat for their comprehensive presentations. He noted that while the Agreement did not deal with trade in services and investment, it had specific chapters on environment, labour, and transparency. It was his assessment that the Parties had considered these areas to be important elements in their Free Trade Agreement.

1.21. The representative of the United States thanked the Parties under review and the Secretariat staff for their efforts to prepare the Factual Presentation and to bring this important regional trade agreement to the Committee for review. She appreciated the presentations made by the Parties that had introduced the Agreement to the Committee and provided useful context for how the Agreement supported the overall bilateral trade relationship. Looking at goods coverage, she noted that Canada's tariff liberalization was front-loaded with only 16 tariff lines subject to staging. Ukraine appeared to have eliminated a sizeable number of tariff lines at entry into force with a further elimination in 2022. However, she noted that a number of agricultural tariff lines had been excluded from the Agreement altogether. In the case of Canada there were a number of lines where tariffs exceeded 250%. She also noted that there were a number of transparency provisions in the Agreement and she congratulated the Parties on including these important disciplines that ensured that laws, administrative proceedings, and appeal procedures were published. Additionally, she noted the customs and trade facilitation provisions that reinforced important principles such as simplified release procedures, transparency of fees and charges, advance rulings on tariff classification, and review and appeal of administrative actions. She thanked the Parties for the opportunity to review and discuss this important Agreement.

1.22. The representative of the European Union also thanked the Parties for their interesting presentations of their Agreement as well as the Secretariat for the preparation of the Factual Presentation. The EU had a particular interest as both Parties were important partners of the EU. She commended the Parties for the ambitious tariff liberalization in the Agreement as well as the cross-cutting transparency obligations. The EU also attached great importance to provisions on

trade and sustainable development and noted the social environmental obligations in the Agreement. She made comments on two Chapters that the Parties had mentioned during their presentations. First, on Government procurement, she wanted to hear from the Parties why no commitments had been taken on sub-central entities and, with respect to market access she wanted to know whether the mutual market access commitments went beyond their commitments under the GPA. Second, with respect to intellectual property, she noted that the Chapter was fairly limited and also noted that GIs were limited to wines and spirits, leaving out agricultural products and wanted to hear the Parties assessments on these two aspects.

1.23. The representative of Mexico thanked the Secretariat for the work done to prepare the Factual Presentation and Canada and Ukraine for their replies. Mexico had put questions to Canada and Ukraine with respect to current payments, movements of capital and e-commerce. With regard to the first two topics, his delegation had noted from the replies by Canada and Ukraine that these topics were not included in the Agreement but that it would be possible to look into these two years from the entry into force of the Agreement. With regard to the topic of e-commerce, the Agreement had reproduced the moratorium on customs duties and fees and charges on products delivered electronically. Mexico did not have further questions.

1.24. In response the representative of Canada thanked the Members who had provided comments and questions which was very much appreciated. With respect to the EU's questions, on sub-central entities, he indicated that the market access commitments in the Agreement had been based on a balance of concessions. Both Canada and Ukraine had access to sub-central procurements as parties to the GPA. As for whether market access commitments went beyond their commitments under the GPA, Canada and Ukraine had made key commitments on transparency, which would also apply to certain non-covered procurements. These extended transparency commitments would apply when federal or central level procuring entities would use open tendering process for procurement values beyond 124,000 Canadian dollars and the applicable thresholds for goods services or construction services. As regards the intellectual property (IP) chapter, Canada and Ukraine believed that it affirmed the TRIPS Agreement and built upon this with several additional provisions including on geographical indications (GI), as had been mentioned, IP enforcement, and special measures against copyright infringement on the internet. Specifically in terms of GIs, he noted that the IP chapter listed the names of 23 Canadian wine terms and 2 spirit terms for Canadian whiskey and Canadian rye whiskey that were eligible for protection as GIs upon application to and approval by the Ukrainian authorities. The Chapter also listed names of 6 Ukrainian wine terms and 1 spirit term that were eligible for protection as GIs upon application to and approval by the Canadian authorities. He believed that these provisions provided greater certainty that the Canadian and the Ukrainian terms remained exclusive to Canadian and Ukrainian producers.

1.25. The representative of Ukraine also thanked the Members for their questions, as well as Canada for its comprehensive answers. He thought that there was room for improvement in the Free Trade Agreement and referred to the special mechanism for improvement of the Agreement. In relation to the question by the EU, he noted the existence of both the Deep and Comprehensive Free Trade Agreement concluded by Ukraine with the EU and the Agreement between Ukraine and Canada. He hoped that the three sides would be able to draw benefits from their triangular relations.

1.26. The Chairman concluded by saying that consideration of the Goods Aspects of the Free Trade Agreement between Canada and Ukraine had allowed the Committee to clarify a number of questions and it could now conclude oral discussion of the RTA in accordance with paragraph 11 of the Transparency Mechanism. If any delegations wished to ask follow-up questions they were invited to forward submissions in writing to the Secretariat by 26 June 2018 and Parties were asked to submit replies in writing by no later than 10 July 2018. In accordance with paragraph 13 of the Transparency Mechanism all written submissions, as well as minutes of the meeting would be circulated promptly, in all WTO official languages, and would be made available on the WTO website.

1.27. The Committee took note of the comments made.
