

Canada-Ukraine

FREE TRADE AGREEMENT



United in Building
a Prosperous and Secure Future



Government
of Canada

Gouvernement
du Canada

Canada

© Her Majesty the Queen in Right of Canada, as
represented by the Minister of Foreign Affairs, 2015

Cat. No.: FR5-93/2015

ISBN: 978-0-660-02867-5

Canada and Ukraine: Creating jobs and opportunities together



The Canada-Ukraine Free Trade Agreement (CUFTA) announced by Prime Minister Stephen Harper and Ukrainian Prime Minister Arseniy Yatsenyuk on July 14, 2015, represents an important milestone in the Canada-Ukraine bilateral relationship. In addition to generating significant commercial benefits for Canadian businesses, the CUFTA will also support the economic reform and development efforts of the Government of Ukraine, strengthen the Canada-Ukraine partnership for peace and prosperity, and help pave the way for long-term security, stability, and broad-based economic development in Ukraine.

Canada and Ukraine have enjoyed close bilateral relations since Canada became the first Western nation to recognize Ukraine's independence on December 2, 1991. The bilateral relationship is further reinforced by strong people-to-people ties between the two countries, with 1.2 million Canadians of Ukrainian heritage.

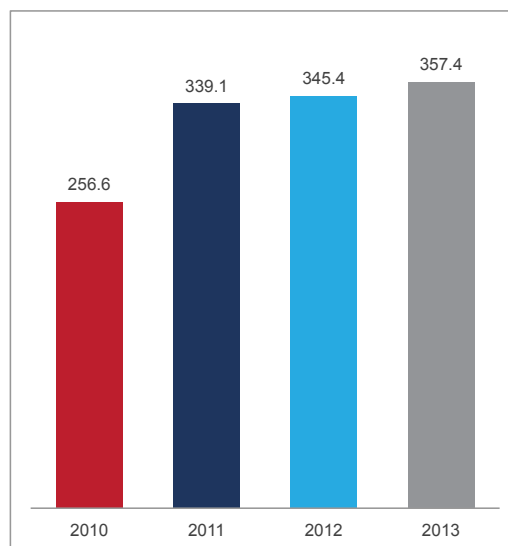
Although there was an upsurge in trade and investment in the early 1990s following Ukraine's independence, there remains significant potential for further growth in bilateral trade and investment between Canada and Ukraine. From 2011 to 2013, bilateral merchandise trade between Canada and Ukraine averaged \$347 million annually, with Canada's merchandise exports to Ukraine comprising \$214 million, and Canada's merchandise imports from Ukraine representing \$133 million. The CUFTA will create new opportunities for Canadian and Ukrainian companies, thereby strengthening the bilateral commercial relationship.

Since the election of Ukraine's new government under the presidency of Petro Poroshenko on May 25, 2014, the Government of Ukraine has begun the necessary reforms to stimulate economic growth, including taking steps to address corruption and introducing measures to create a more positive business environment. While this campaign is gaining momentum, it is only the beginning of a long and challenging process. In the meantime, Canada continues to reaffirm its strong support for Ukraine's new government as it implements the reforms needed to restore stability and prosperity.

Canada and Ukraine launched free trade agreement (FTA) negotiations in 2010. Six rounds of negotiations were held between 2010 and 2015. Negotiations concluded in Kyiv in July, 2015.

As highlighted by the designation of Ukraine as a priority country under the Global Markets Action Plan, Ukraine is a promising emerging market for Canadian exporters, with opportunities in agriculture and processed food (including fish and seafood products), and industrial goods, such as cosmetics, industrial machinery, iron and steel, and plastics. The CUFTA will enable Canadian companies to take greater advantage of these opportunities by ensuring new market access and more predictable conditions, creating jobs, economic growth and prosperity for Canadians in every region of the country.

Two-way merchandise trade between Canada and Ukraine (value in millions of Canadian dollars)



The CUFTA

The Government of Canada is committed to providing Canadian businesses with the tools and support they need to compete and succeed in international markets. In today's modern, knowledge-based economy, FTAs need to both eliminate tariffs on goods, and address "beyond the border" issues – such as product certification and technical standards – that can distort or restrict trade, or otherwise add costs or uncertainty for businesses looking to increase sales.

The CUFTA includes chapters in the areas of market access for goods; rules of origin and origin procedures; trade facilitation; emergency action and trade remedies; sanitary and phytosanitary measures; technical barriers to trade; government procurement; competition policy, monopolies and state enterprises; intellectual property; electronic commerce; labour; environment; trade-related cooperation; institutional provisions; and dispute settlement. The agreement will support Canadian businesses, deepen trade linkages, and further strengthen Canada's bilateral relationship with Ukraine. The CUFTA will also enhance cooperation, provide for increased transparency in regulatory matters, and will reduce transaction costs for businesses.

Key highlights:

- Upon entry into force of the Agreement, Ukraine will immediately eliminate tariffs on 86 percent of Canada's current exports, with the balance to be phased out or subject to tariff reductions over periods of up to seven years. This includes elimination by Ukraine of tariffs on all Canadian exports of industrial products, fish and seafood, and the elimination of a vast majority of Ukraine's agricultural tariffs. Key products benefiting from either immediate or eventual duty-free access include beef, canola oil, processed foods, animal feed, frozen fish, caviar, certain iron and steel products, articles of plastics, and cosmetics. Tariffs will also be eliminated on fresh and chilled pork, and frozen pork will benefit from a large duty-free tariff rate quota.
- Upon entry into force of the Agreement, Canada will immediately eliminate tariffs on 99.9 percent of current imports from Ukraine. This includes elimination by Canada of tariffs on all industrial products, fish and seafood, and 99.9 percent of agricultural imports from Ukraine. Key products from Ukraine that will benefit from this duty-free access include sunflower oil, sugar and chocolate confectionery, baked goods, vodka, apparel, ceramics, iron and steel, and minerals.
- Canada excluded all over-quota tariffs for supply-managed products (dairy, poultry and eggs) from tariff elimination, and no import quotas for these products were increased. Accordingly, the supply management system and its three key pillars (production control, import controls and price controls) will be unaffected by the Agreement.
- The Agreement contains a range of disciplines and commitments pertaining to non-tariff measures that will help ensure that market access gains are not constrained by unjustified trade barriers.
- The Agreement contains commitments related to trade facilitation designed to reduce red tape at the border.
- The CUFTA will provide companies with preferential access to procurement opportunities at the central government-level in both countries. Canadian suppliers will have the right to fair, non-discriminatory and predictable treatment when bidding on procurement opportunities tendered by Ukrainian central government entities, including government departments and agencies as well as several public enterprises such as airports, the postal system and public transportation (rail and subway systems).
- The Agreement includes commitments related to the protection and enforcement of intellectual property rights, which will allow Canadian IP right-holders to do business in the Ukrainian market with increased confidence.
- The CUFTA sets out commitments pertaining to high standards of environmental and labour protection, which also ensure that both governments retain the policy flexibility to protect the environment and enforce high labour standards.
- To facilitate trade in the digital economy, the CUFTA chapter on electronic commerce obliges both Canada and Ukraine to not levy customs duties or other charges on digital products that are transmitted electronically.
- Finally, the Agreement includes a trade-related cooperation chapter, in which Canada and Ukraine agree to promote cooperation that will help ensure that CUFTA-related benefits are realized.

“ This is the first FTA Canada has signed in Europe after the Canada-EU FTA. It represents another historical milestone in the strong relationship between our two countries and it will provide enhanced market access for Canadian businesses in a country that is ripe with significant trade and investment opportunities. ”

– Paul Grod, President, Ukrainian Canadian Congress

“ This agreement will create additional jobs for citizens in both countries and lay new foundations for trade, growth, and investment. It also sends a very powerful message to the rest of the world that Ukraine is open for business, and Canada again lends a supportive hand to Ukraine. ”

– Zenon Potoczny, President, Canada-Ukraine Chamber of Commerce

Creating New Market Access Opportunities for Industrial, Agricultural, and Fish and Seafood Products

Industrial Products

Canada is a country endowed with a wealth of natural resources and people with the creativity and skills to turn them into a wide range of industrial goods. Canada's industrial goods capacity comprises an array of sectors, including aerospace, automobiles, medical-testing equipment, industrial machinery, and chemicals and plastics. If something can be manufactured, chances are a Canadian is producing it or working on ways to improve it. In 2014, over 1.7 million Canadians were employed in this sector, which contributed 19.1 percent to Canada's GDP.

Examples of Canada's top exports to Ukraine from 2011 to 2013 included medications, coking coal, pharmaceutical cultures, boring or sinking machinery, trailers and semi-trailers, air compressors and other similar equipment, and certain tractors.

The CUFTA will improve market access for Canada's industrial products by eliminating all tariffs on such exports to Ukraine. Canada's industrial exports averaged \$148.3 million annually from 2011 to 2013. Upon entry into force of the Agreement, Ukraine will

immediately eliminate tariffs on 75.2 percent of tariff lines for industrial products, with a further 24.8 percent to become duty-free over seven years.

Key Canadian industrial products benefiting from this elimination of tariffs include certain articles of iron and steel, articles of plastics, cosmetics, reservoir tanks and similar containers, and air compressors.

Agricultural and Agri-food Products



Canadians have access to an abundance of consistently high-quality food products, including cranberries and cherries from British Columbia, processed foods from Ontario and Quebec, Prince Edward Island potatoes, Prairie grains and pulses, Annapolis Valley apples, and the best beef and pork in the world. Our agricultural and agri-food sector is one of the most dynamic in the world, renowned as a reliable supplier of high-quality products. In many countries, a label that reads “made in Canada” immediately signifies that a product is premium.

This sector employed over 533,000 people in 2014, and accounted for close to 3 percent of Canada's GDP. Canada is the world's fifth-largest exporter of agricultural and agri-food products. More than 40 percent of Canadians employed in the sector work in the processing segment of the industry, transforming raw ingredients into processed foods, ready-to eat meals, beverages, nutritional supplements, and a wide range of other products.

Canada's agricultural exports to Ukraine averaged \$27.1 million annually from 2011 to 2013. During this period, top exports included frozen pork, pet food, soybeans, pulses, animal feed, and maple syrup.

Under the CUFTA, Ukraine will eliminate the vast majority of its agricultural tariffs. Key agricultural products benefiting from this duty-free access include beef, fresh and chilled pork, pulses, grains, canola oil, processed foods, and animal feed. Frozen pork will benefit from a large duty-free tariff rate quota that exceeds, by a wide margin, Canada's current exports to Ukraine.

“*We are very pleased with the potential that this new agreement with Ukraine provides to further diversify our exports.*”

– Rick Bergmann, Chair, Canadian Pork Council.

“*A survey of Canada's meat processors has confirmed the existence of significant long-term interest in trade with Ukraine.*”

– Joe Reda, President, Canadian Meat Council

Fish and Seafood Products

Canada is also known for its world-class fish and seafood exports. Surrounded by the Arctic, Atlantic and Pacific oceans and home to the Great Lakes, Canada has one of the world's most valuable commercial fishing industries. It contributed more than \$2.3 billion to Canada's GDP in 2014, and provided some 36,500 jobs to Canadians in everything from fishing to aquaculture. The industry is the economic mainstay of approximately 1,500 communities in rural and coastal Canada. Canada is the world's seventh-largest exporter of fish and seafood products, exporting some 60 percent, by value, of its fish and seafood production.

Canada is among the top suppliers of fish and seafood to Ukraine, with exports from 2011 to 2013 averaging \$34.5 million annually. During this period, key exports included frozen hake, frozen shrimp and prawns, and Alaskan and other pollock.

Under the CUFTA, Ukraine will immediately eliminate all tariffs on fish and seafood products, including high tariffs on prepared or preserved fish and seafood products, such as caviar and caviar substitutes, as well as all fresh, chilled and frozen fish.

Trade snapshot by region

Western Canada's exports to Ukraine averaged \$78.1 million annually between 2011 and 2013. Top exports from Western Canada were frozen hake, bituminous coal, reservoir tanks and similar containers, parts of boring or sinking machinery, air compressors and other similar equipment, seeders and planters, and frozen pork.

Central Canada's exports to Ukraine averaged \$73.7 million annually between 2011 and 2013. Top exports from Central Canada during this period were medications, frozen pork, undenatured ethyl alcohol, oriented strand board (OSB), and articles of plastic.

Atlantic Canada's annual exports to Ukraine averaged \$13.4 million annually from 2011 to 2013. During this period, top exports from Atlantic Canada were frozen and prepared shrimp and prawns, frozen and prepared mackerel and other frozen fish, and certain structures of iron and steel.

Tariff Elimination

The tariff preferences obtained under the CUFTA will benefit Canadian producers, processors and exporters across Canada. The CUFTA will result in notable improvements in market access for Canada's high-quality agricultural, industrial, and fish and seafood products, and will address specific Canadian export interests in the Ukraine market. Under the CUFTA:

- Tariffs on most of Canada's current agricultural exports to Ukraine, currently up to 30 percent, will be phased out or subject to tariff reductions over periods of up to seven years;
- A limited number of agricultural tariffs will be subject to tariff reductions, which range from 20 to 50 percent;
- Canadian pork exporters will benefit from duty-free access on fresh and chilled pork, and from a large duty-free tariff rate quota for frozen pork and certain pork offals and fats, which will increase from 10,000 tonnes to 20,000 tonnes over seven years;

- Tariffs on Canada's industrial exports to Ukraine, currently up to 25 percent, will be phased out over seven years;
- Tariffs on Canada's fish and seafood exports to Ukraine, currently up to 20 percent, will be eliminated immediately upon entry into force of the Agreement; and
- Ukraine will eliminate tariffs on all forestry products, currently up to five percent, over five years. Notably, all of Canada's current forestry product exports to Ukraine will benefit from immediate duty-free access.

The CUFTA means that for many products where market access has so far been constrained by tariffs, Canadian exporters will have a competitive advantage over those countries that do not have an FTA with Ukraine, and will be able to compete on a level-playing field in the Ukrainian market vis-à-vis other competitors where an FTA is already in place.

Benefits from coast to coast to coast

For export interests specific to **Western Canada**, tariff preferences for the following products will result in enhanced market access opportunities:

- Canadian pork exporters will benefit from duty-free access on fresh and chilled pork, and from a large duty-free tariff rate quota for frozen pork and certain pork offals and fats, which will increase from 10,000 tonnes to 20,000 tonnes over seven years following entry into force of the Agreement;
- Reservoir tanks and similar containers (tariffs of up to seven percent will be eliminated immediately upon entry into force of the Agreement);
- Meteorological, geophysical and other surveying instruments (tariffs of five percent to be phased out over five years following entry into force of the Agreement);
- Wine and icewine (tariffs of 0,3 €/litre will be eliminated immediately upon entry into force of the Agreement);
- Pet food and animal feed (tariffs of up to 10 percent to be phased out over seven years following entry into force of the Agreement); and
- Pulses (tariffs of up to 10 percent will be eliminated upon entry into force of the Agreement).

“*The free trade agreement with Ukraine will help Canadians involved in our globally competitive agri-food sector that exports half of our beef production, 65 percent of our malt barley, two-thirds of our pork, almost 75 percent of our wheat, and 90 percent of our canola.*”

– Brian Innes, President, Canadian Agri-food Trade Alliance

For **Central Canada**, tariff preferences for the following products will result in enhanced market access opportunities:

- Canadian pork exporters will benefit from duty-free access on fresh and chilled pork, and from a large duty-free tariff rate quota for frozen pork and certain pork offals and fats, which will increase from 10,000 tonnes to 20,000 tonnes over seven years following entry into force of the Agreement;
- Pet food and animal feed (tariffs of up to 10 percent to be phased out over seven years following entry into force of the Agreement);
- Maple syrup and maple sugar (tariffs of five percent will be eliminated upon entry into force of the Agreement);
- Wine and icewine (tariffs of 0,3 €/litre will be eliminated immediately upon entry into force of the Agreement);
- Articles of plastic (tariffs of up to five percent will be eliminated immediately upon entry into force of the Agreement);
- Certain motorboats (tariffs of up to 10 percent to be phased out over five years following entry into force of the Agreement);
- Articles of asphalt (tariffs of up to 10 percent to be phased out over five years following entry into force of the Agreement); and
- Tires for passenger vehicles (tariffs of up to 10 percent to be phased out over five years following entry into force of the Agreement).

“*The opportunity here is limitless. This unique and historic trade agreement will create economic development in both countries. As a proud Canadian of Ukrainian heritage, I’m grateful to the leadership of both governments for their work concluding this agreement. God Bless Canada and Ukraine.*”

Eugene Melnyk, Owner, Governor and Chairman, the Ottawa Senators Hockey Club

For **Atlantic Canada**, tariff preferences for the following products will result in enhanced market access opportunities:

- Processed mackerel (tariffs of up to 20 percent will be eliminated immediately upon entry into force of the Agreement);
- Frozen mackerel (tariffs of two percent will be eliminated immediately upon entry into force of the Agreement);
- Other frozen fish (tariffs of up to five percent will be eliminated immediately upon entry into force of the Agreement);
- Percussion musical instruments (tariffs of up to five percent to be phased out over five years following entry into force of the Agreement);
- Telescopic sights; periscopes (tariffs of up to 10 percent to be phased out over five years following entry into force of the Agreement); and
- Frozen french fries (tariffs of up to 15 percent to be phased out over seven years following entry into force of the Agreement).

“*We applaud the Government of Canada’s initiative to strengthen economic ties with Ukraine and welcome the news that free trade negotiations have concluded. This initiative will have an important impact on the economic well-being of Ukraine and its citizens.*”

– Ihor Walter Bardyn, President, Ukrainian National Federation of Canada

“*This signals a positive step forward for both Canada and Ukraine, and will serve as a stabilizing factor in Ukraine’s economy.*”

– Orest Steciw, President, League of Ukrainian Canadians

For **Northern Canada**, tariff preferences for the following products will result in enhanced market access opportunities:

- Drilling tools (tariffs of up to two percent will be eliminated immediately upon entry into force of the Agreement); and
- Meteorological, geophysical and other surveying instruments (tariffs of five percent to be phased out over five years following entry into force of the Agreement).

Beyond Tariffs

The CUFTA includes provisions to address non-tariff barriers, including those related to labelling, and to ensure that sanitary and phytosanitary measures relating to food safety, and animal and plant health are not used as unjustified barriers to trade.

Building on the strength of the existing Canada-Ukraine commercial relationship, the CUFTA establishes mechanisms under which Canada and Ukraine can discuss, prevent and resolve unjustified non-tariff barriers that may arise in the context of exporting agricultural, and fish and seafood products. Such mechanisms include the creation of a Committee on Trade in Goods and Rules of Origin, as well as dedicated Subcommittees on Agriculture and on Origin Procedures.

The CUFTA will also ensure opportunities and tools for Canadian and Ukrainian regulators to exchange information in order to better understand each other’s regulatory requirements, which stands to benefit both importers and exporters.

Rules of Origin

Under the CUFTA, only goods that “originate” in Canada and Ukraine may benefit from preferential tariffs. The CUFTA, like all of Canada’s FTAs, includes “rules of origin” that specify how much production must occur in Canada and/or Ukraine for a product to be considered from (or “originating in”) either country and therefore eligible for preferential CUFTA tariff rates. Rules of origin under the CUFTA reflect Canadian production realities and methods, thereby enabling Canadian exporters from across the country to take advantage of CUFTA tariff preferences.



Origin Procedures and Trade Facilitation

Canada and Ukraine share a desire to keep border procedures simple, effective, clear, and predictable in order to facilitate trade. The CUFTA provides for transparent and effective origin procedures to administer and promote compliance with rules of origin, without creating unnecessary obstacles to trade. Other provisions in the CUFTA include access to advance rulings on the origin or tariff classification of products; the promotion of automated border procedures through the use of information technology in order to expedite procedures for the release of goods; and the establishment of an impartial and transparent system for addressing any complaints about customs rulings and decisions. Together, these provisions will make it easier, faster and potentially less costly for Canadians to do business in the Ukrainian market.

Emergency Action

In order to safeguard against serious injury to a domestic industry resulting from a surge in imports following a reduction in tariffs under the CUFTA, the Agreement contains an Emergency Action chapter that includes provisions allowing for temporary tariff increases in exceptional circumstances.

Sanitary and Phytosanitary Measures (SPS)

The CUFTA chapter on sanitary and phytosanitary (SPS) measures reaffirms Canada and Ukraine's commitments pursuant to the World Trade Organization (WTO) *Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement). The SPS Agreement recognizes the rights of members to take measures necessary for the protection of human, animal,

or plant health, while requiring that these measures be based on scientific findings, and do not create unjustified restrictions on trade.

Under the CUFTA, Canadian and Ukrainian officials will facilitate communication on SPS-trade related matters, and will work expeditiously to resolve any issues that may arise. Early and effective cooperation in addressing SPS issues will benefit Canadian exporters by helping to ensure that market access gains under the CUFTA are not undermined by unjustified SPS trade barriers.

Technical Barriers to Trade

As tariffs are eliminated, the prevention and removal of technical barriers to trade (TBT) and other types of non-tariff measures takes on greater importance. The TBT chapter will help ensure that technical regulations, conformity assessment procedures, and other standards-related measures cannot be used as barriers to trade. It will also help Canadian exporters by creating mechanisms to minimize and, where possible, eliminate the negative impacts of discriminatory or overly burdensome regulatory requirements.

This chapter also includes a provision requiring Canada and Ukraine to label wine as icewine only if the wine is made exclusively from grapes naturally frozen on the vine. This provision complements Canada's global effort to protect Canadian icewine from imitation products, including those made from industrially frozen grapes, and will help to ensure that icewine continues to be recognized world-wide as a high-quality product. These provisions will benefit Canada's wine producers in Central and Western Canada.

Competition Policy, Monopolies and State Enterprises

The Competition Policy, Monopolies and State Enterprises chapter aims to ensure that the benefits of trade liberalization are not offset by anti-competitive business conduct. While both Canada and Ukraine have existing domestic competition laws, the CUFTA sets out a framework for effective enforcement action against anti-competitive business conduct, thereby making the trading environment fairer and more predictable for Canadian business, and ultimately benefiting consumers. The chapter also obliges Canadian and Ukrainian designated monopolies and state enterprise to operate in a manner consistent with the Agreement

when exercising delegated governmental authority, and to accord non-discriminatory treatment to each other's entities in relation to monopoly goods or services.

Government Procurement

The CUFTA will provide companies with preferential access to procurement opportunities at the central government-level in both countries. Canadian suppliers will have the right to fair, non-discriminatory and predictable treatment when bidding on procurement opportunities tendered by the Ukrainian central government entities, including government departments and agencies as well as several public enterprises such as airports, the postal system and public transportation (rail and subway systems).

Intellectual Property (IP)

An effective IP regime is important for Canada's growing knowledge-based economy as it will help to foster competitiveness, innovation, and creativity; attract investment; and stimulate jobs and growth. The IP provisions in the CUFTA contribute to a sound framework for the protection and enforcement of IP rights. The IP chapter includes commitments which will facilitate cooperation between Canada and Ukraine around the sharing of best practices to enhance the protection of IP rights and to combat IP rights infringements. The chapter also establishes a consultation mechanism which would provide an avenue to aid in the bilateral resolution of IP-related matters between Canada and Ukraine.

In addition, the IP Chapter includes provisions to make eligible for protection as geographic indications in Ukraine 23 Canadian wine terms and 2 spirits terms, upon application to and approval by Ukrainian authorities. This will provide Canadian producers with greater certainty in the registration of their terms as protected geographical indications in Ukraine, ensuring that they remain exclusive to Canadian producers.

Electronic Commerce

Twenty years ago, electronic commerce was in its infancy. Today, electronic commerce is a part of daily life and Canadians can buy and sell almost everything online. Canadians shop and plan holidays online, and buy and download software and entertainment content, including movies, television and music.

The CUFTA includes a commitment between Canada and Ukraine to not apply customs duties and other charges to digital products transmitted electronically, which will provide greater certainty to Canadian businesses and consumers in all provinces and territories that are engaged in electronic commerce with Ukraine.

Labour

The CUFTA includes a comprehensive and enforceable labour chapter. For Ukraine, it is the most comprehensive labour chapter ever negotiated.

This chapter commits Canada and Ukraine to ensuring that their laws not only respect the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998), but also provide acceptable protections for occupational health and safety, hours of work, wages, and migrant workers. The labour chapter also includes a dispute settlement mechanism that can result in monetary penalties in cases of non-compliance, and institutional mechanisms designed to monitor compliance with labour commitments.

Environment

The CUFTA includes a substantive chapter on the environment. The CUFTA's environment obligations will ensure a level playing field for Canadian and Ukrainian companies as both countries commit to not lowering their levels of protection to attract trade or investment. The Agreement also reinforces Canada's and Ukraine's mutual commitment to maintain high levels of environment protection while we continue to develop our trade partnership. Canada and Ukraine agree to: effective enforcement of their environmental laws; promote greater accountability, public participation and transparency; and ensure that citizens have access to domestic remedies in the face of a violation of an environmental law. Moreover, Canada and Ukraine agree to cooperate in areas of mutual interest.

Trade-Related Cooperation

The CUFTA includes a trade-related cooperation (TRC) chapter, illustrating the important role of TRC in allowing both countries to maximize the benefits of the Agreement. The chapter notes Canada's and Ukraine's intention to promote TRC; provides for an ongoing dialogue on using TRC to enhance the benefits of the Agreement; and includes indicative areas for TRC.

