

# Chapter 26: Good Regulatory Practices – Text of the 2023 Canada - Ukraine Free Trade Agreement

---

The 2017 CUFTA will remain in force until entry into force of the 2023 modernized agreement. Until such time, please refer to the [2017 CUFTA text](#) for information on the existing trade agreement between Canada and Ukraine.

## Article 26.1: Definitions

For the purposes of this Chapter:

**covered regulatory measures** means the regulatory measures determined by each Party to be covered by this Chapter under Article 26.3; and

**regulatory authority** means a regulation making authority at the central level of government.

## Article 26.2: General Provisions

1. For the purposes of this Chapter, good regulatory practices refers to the use of best practices in the preparation, planning, designing, issuing, adoption, implementation, performance monitoring, and review of regulatory measures in order to facilitate the achievement of public policy objectives.

2. The Parties recognize that implementation of government-wide practices to promote regulatory quality through greater transparency, objective analysis, accountability, and predictability, which are based on principles of the public regulatory policy of the Party and can facilitate international trade, investment, and economic growth, while contributing to each Party's ability to achieve its public policy objectives (including health, safety, and environmental objectives) at the level of protection it considers appropriate.

3. Regulatory authorities of the Parties shall endeavour to enhance cooperation and to prevent, reduce, or eliminate unnecessary regulatory requirements to facilitate trade and promote economic growth, while maintaining or enhancing standards of public health and safety and environmental protection.

4. The Parties affirm the importance of:

- (a) maintaining and enhancing the benefits of cooperation promoted by the Parties under this Agreement through good regulatory practices that facilitate increased trade in goods and services, as well as investment between the Parties;
- (b) each Party's right to identify its regulatory priorities and to establish and implement regulatory measures to address these priorities, in areas and by the levels of government that the Party considers appropriate;
- (c) pursuing its public policy objectives (including health, safety, and environmental objectives) at the level it considers to be appropriate;
- (d) taking into account input from interested persons in the development of regulatory measures;
- (e) developing measures to foster cooperation and capacity building of the Parties; and
- (f) taking measures to minimize unintended inequities or disparities within and between groups of people likely to be impacted by a proposed regulatory measure particularly women and Indigenous Peoples, as well as impacts on the environment.

### **Article 26.3: Scope of Application**

Each Party shall, no later than two years after the date of entry into force of this Agreement, determine and make publically available the regulatory measures covered by this Chapter (covered regulatory measures) in accordance with its own legislation. Each Party should aim to provide significant

coverage of regulatory measures it determines to be covered under this paragraph.

## **Article 26.4: Internal Coordination of Regulatory Development**

1. The Parties recognize that good regulatory practices can be encouraged through mechanisms that facilitate coordination among regulatory authorities and are associated with processes for the development and review of covered regulatory measures. Accordingly, each Party shall endeavour to maintain the existence of such mechanisms or processes and should maintain the coordination of them through their central regulatory coordinating bodies in accordance with their mandates and consistent with the Party's law.

2. The Parties recognize that the mechanisms or processes referred to in paragraph 1 may vary depending on their differences in the levels of economic development, and the political and institutional structures, in each Party.

3. Each Party should make descriptions of the operation of these mechanisms or processes referred to in paragraph 1 publicly available.

4. Each Party should ensure that its mechanisms or processes referred to in paragraph 1 allow for:

- (a) reviewing the covered regulatory measures proposed by the Party in order to determine whether the Party has considered good regulatory practices in the preparation of the measures, and making recommendations based on the review of the regulatory measures;
- (b) strengthening consultation and coordination among regulatory authorities in order to identify potential overlap and duplication between proposed and existing regulations, and prevent inconsistent requirements between the proposed and existing regulations;
- (c) making recommendations for regulatory improvements;

- (d) reporting to the public on covered regulatory measures that have been reviewed under subparagraph (a) and on any proposals for government-wide regulatory improvement, as well as updates on changes to the processes and mechanisms referred to in paragraph 1; and
- (e) encouraging regulatory approaches that avoid unnecessary restrictions on competition in the marketplace.

## **Article 26.5: Early Planning**

Each party should, in a manner it considers appropriate and in accordance with its laws and regulations, notify the public, on an annual basis, of any regulatory measure that it reasonably expects its regulatory authorities to issue within a 12-month period.

## **Article 26.6: Regulatory Impact Assessment**

1. Each Party shall endeavour to encourage its regulatory authorities, in accordance with its laws and regulations, to conduct regulatory impact assessments when developing proposed regulatory measures that exceed a threshold of economic impact or meet other criteria established by the Party for an assessment, to assist it in designing regulatory measures that best achieve the objectives pursued by that Party.

2. Recognizing that differences in the Parties' institutional, social, cultural, legal, and developmental circumstances may result in specific regulatory approaches, each Party should ensure that the regulatory impact assessment, among other things:

- (a) assesses the need for a proposed regulatory measure, that includes a description of the nature and significance of the problem addressed by the measure;
- (b) examines feasible alternatives to the proposed regulatory measure, including, to the extent possible and in

accordance with its laws and regulations, the corresponding benefits and costs of the proposed regulatory measure and feasible alternatives, including the relevant impacts, such as economic, social, environmental, public health, and safety effects, and the risks and distributional effects over time of the proposed regulatory measure and feasible alternatives, recognizing that some costs and benefits are difficult to quantify or monetize;

- (c) explains the reasons for concluding that the alternative does not achieve the policy objectives in an efficient manner, including, if appropriate, reference to the costs and benefits and the potential for managing risks; and
- (d) relies on the best reasonably available information including relevant scientific, technical, economic, or other information, within the boundaries of the authority, mandate, capacity, and resources of the particular regulatory agency.

3. When conducting regulatory impact assessments, each Party should ensure that its regulatory authorities take into consideration the potential impacts of the proposed regulation on small and medium-sized enterprises (SMEs).

## **Article 26.7: Public Consultations and Transparency**

1. When preparing a regulatory measure, each Party should endeavour to:

- (a) publish the proposed regulatory measure on a government website that is freely and publicly available and that would allow any person to assess whether and how its interests might be significantly affected;
- (b) publish the regulatory impact assessment associated with the proposed regulatory measure on a government website that is freely and publicly available; and
- (c) offer reasonable opportunities for any person, on a non-discriminatory basis, to provide input on the proposed regulatory measure.

2. When a proposed regulatory measure is expected to have a significant impact on international trade, the Party should normally provide a comment period of at least 60 days from the date that the proposed regulatory measure is published and, if appropriate, provide a comment period of up to 90 days from the date when the proposed regulatory measure is published.
3. Each Party shall take into account input received during the comment period on the proposed regulatory measure, and make publicly available a summary of the results of public consultations, subject to the need to protect confidential information or to withhold personal data or inappropriate content.
4. Before finalizing its work on a regulation, a regulatory authority of a Party shall evaluate any information provided to it in writing during the comment period.

## **Article 26.8: Use of Plain Language**

Each Party should ensure that proposed and final regulatory measures are plainly written, concise, organized, and easy to understand, recognizing that some measures involve technical issues for which specialized knowledge might be required to understand and apply the measures.

## **Article 26.9: Consideration of Other Measures**

To the extent appropriate and consistent with its laws and regulations, each Party should encourage its relevant regulatory authorities to consider regulatory measures of the other Party, as well as relevant regulatory developments activities in international, regional, and other forums, when developing covered regulatory measures.

## **Article 26.10: Public Access**

Consistent with its laws and regulations, each Party shall endeavour to ensure that relevant regulatory authorities provide public access to covered regulatory measures and, to the extent possible, ensure that access is available online or through a special web portal designated in its law that is freely and publicly available.

## **Article 26.11: Retrospective Review**

1. Each Party should review its covered regulatory measures at intervals it deems appropriate, to determine whether they should be modified, streamlined, expanded, or repealed, so as to make the regulatory regime of the Party more effective in achieving policy objectives.

2. Each Party should endeavour to publish, to the extent possible, any official plans and results of its review under paragraph 1.

## **Article 26.12: Cooperation**

1. The Parties shall endeavour to cooperate in order to implement this Chapter and maximize the benefits arising from it. Each Party should take into consideration, in the cooperation activities of the Parties, the other Party's needs. Cooperation activities may include:

- (a) information exchange, dialogues, or meetings with officials of the other Party;
- (b) information exchanges, dialogues, or meetings with interested persons, including SMEs, of the other Party, and with international organizations;
- (c) training programs, seminars, and other assistance initiatives;
- (d) strengthening cooperation between the regulatory authorities of the Parties; and
- (e) other cooperation activities that Parties may decide.

## **Article 26.13: Report on Implementation and Review**

1. For the purposes of transparency, and to serve as a basis for cooperation, each Party shall prepare a report on the implementation of this Chapter within three years of the date of entry into force of this Agreement and submit subsequent reports at least once every three years thereafter. The report shall be provided to the other Party through the Contact Points designated under Article 26.14(1).

2. In the first report under paragraph 1, each Party shall describe the actions it has taken to comply with and implement this Chapter since the date of entry into force of this Agreement and the actions it plans to take in the future to implement this Chapter, including those that:

- (a) establish a body, and a mechanism or process to facilitate effective interagency coordination;
- (b) review proposed regulatory measures in accordance with Article 26.4;
- (c) encourage its regulatory authorities to conduct regulatory impact assessments in accordance with Article 26.6;
- (d) ensure that new and existing covered regulatory measures are accessible to the public, in accordance with Article 26.10;
- (e) review covered regulatory measures, in accordance with Article 26.11(1); and
- (f) make publicly available the annual notice of regulatory measures that it reasonably expects to issue or adopt during the next 12 months, in accordance with Article 26.5.

3. In subsequent reports under paragraph 1, each Party shall describe the actions it has taken since the submission of the previous report, and the actions it plans to take in the future to implement this Chapter.

4. At least once during the three-year period commencing after the date of entry into force of this Agreement, each Party shall



review developments in its good regulatory practices and their experiences in implementing this Chapter with a view towards considering whether to make recommendations to the Joint Commission for improving this Chapter in order to further enhance the benefits of this Agreement. During this review, the Parties may discuss, or raise questions on specific aspects of, the report of a Party. The Parties may also identify opportunities for future assistance of cooperation activities.

## **Article 26.14: Contact Points**

1. Each Party shall designate a contact point for matters arising under this Chapter. Each Party shall notify the other Party who is its contact point and promptly notify the other Party of any changes of its contact point.

2. Each contact point shall be responsible for:

- (a) providing information relating to its implementation of this Chapter requested by the other Party to the contact point of the other Party;
- (b) consulting and coordinating with the Party's respective regulatory authorities, as appropriate, on matters arising under this Chapter;
- (c) submitting the report prepared under Article 26.13 to the other Party; and
- (d) facilitating cooperation activities undertaken by the Parties under Article 26.12.

## **Article 26.15: Relationship to Other Chapters**

In the event of inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

## **Article 26.16: Non-Application of Dispute Settlement**

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