

Annex I: Schedule of Canada – 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.

Introductory Notes

1. **Description** provides a general non-binding description of the measure for which the entry is made.
2. **Obligations Concerned** specifies the obligations referred to in Article 17.18 (Non-Conforming Measures) and Article 18.7 (Reservations) that do not apply to the listed measures.
3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant provisions of the Chapters against which the entry is taken. To the extent that:
 - (a) the **Measures** element is qualified by a liberalization commitment from the **Description** element, the **Measures** element as so qualified prevails over all other elements; and
 - (b) the **Measures** element is not so qualified, the **Measures** element prevails over other elements, unless a discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element prevails, in which case the other elements prevail to the extent of that discrepancy.

Reservation I-C-1

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Performance Requirements (Article 17.12)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Central

Measures:

Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611

Description:**Investment**

1. Except as set out in paragraphs 5 and 9, the Director of Investments will review a direct "acquisition of control", as defined in the *Investment Canada Act*, of a Canadian business by a WTO investor if the value of the Canadian business is not less than CAD 1.287 billion, adjusted in accordance with the applicable methodology in January of each subsequent year, starting in 2023, as set out in the *Investment Canada Act*.
2. Notwithstanding the definition of "investor of a Party" in Article 17.1 (Definitions), only WTO investors or entities controlled by WTO investors as provided for in the *Investment Canada Act* may benefit from the CAD 1.141 billion threshold.
3. Except as set out in paragraphs 5 and 9, the Director of Investments will review a direct "acquisition of control", as defined in the *Investment Canada Act*, of a Canadian business by a trade agreement investor if the value of the Canadian business is not less than CAD 1.931 billion, adjusted in accordance with the applicable methodology in January of each subsequent year, starting in 2023, as set out in the *Investment Canada Act*.
4. Notwithstanding the definition of "investor of a Party" in Article 17.1 (Definitions), only a trade agreement investor or an entity controlled by a trade agreement investor as provided for in the *Investment Canada Act* may benefit from the CAD 1.931 billion threshold.
5. The higher threshold in paragraphs 1 and 3 does not apply to a direct acquisition of control by a state-owned enterprise of a Canadian business. These acquisitions are subject to review by the Director of Investments if the value of the Canadian business is not less than CAD 512 million in 2023, adjusted in accordance with the applicable methodology in January of each subsequent year as set out in the *Investment Canada Act*.
6. An investment subject to review under the *Investment Canada Act* may not be implemented unless the Minister responsible for the *Investment Canada Act* advises the applicant that the investment is likely to be of net benefit to Canada. This determination is made in accordance with six factors described in the *Investment Canada Act*, summarized as follows:
 - (a) the effect of the investment on the level and nature of economic activity in Canada, including the effect: on employment; on the use of parts, components, and services produced in Canada; and on exports from Canada;
 - (b) the degree and significance of participation by Canadians in the investment;
 - (c) the effect of the investment on productivity, industrial efficiency, technological development, and product innovation in Canada;
 - (d) the effect of the investment on competition within an industry in Canada;
 - (e) the compatibility of the investment with national industrial, economic, and cultural policies, taking into consideration industrial, economic, and cultural policy objectives enunciated by the government or legislature of a province likely to be significantly affected by the investment; and
 - (f) the contribution of the investment to Canada's ability to compete in world markets.
7. In making a net benefit determination, the Minister, through the Director of Investments, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant may also submit an undertaking to the Minister in connection with a proposed acquisition that is the subject of review. In the event of noncompliance with an undertaking by an applicant, the Minister may seek a court order directing compliance or any other remedy authorized under the *Investment Canada Act*.

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8. A non-Canadian who establishes or acquires a Canadian business, other than those that are subject to review, must notify the Director of Investments.
9. The review thresholds set out in paragraphs 1, 3, and 5 do not apply to an acquisition of a cultural business, as defined in the *Investment Canada Act*.
10. In addition, the specific acquisition or establishment of a new business in designated types of business activities relating to Canada's cultural heritage or national identity, which are normally notifiable, may be subject to review if the Governor in Council authorises a review in the public interest.
11. An indirect "acquisition of control" of a Canadian business by an investor of Ukraine, other than a cultural business, is not reviewable.
12. Notwithstanding Article 17.12 (Performance Requirements), Canada may impose requirements or enforce a commitment or undertaking in connection with the establishment, acquisition, expansion, conduct, operation, or management of an investment of an investor of Ukraine or of a non-Party for the transfer of technology, production process, or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada in connection with the review of an acquisition of an investment under the *Investment Canada Act*.
13. Except for requirements, commitments, or undertakings relating to technology transfer as set out in paragraph 12 of this entry, Article 17.12 (Performance Requirements) applies to requirements, commitments, or undertakings imposed or enforced under the *Investment Canada Act*.
14. For the purposes of this entry:
- (a) a **non-Canadian** means an individual, government or agency thereof, or an entity that is not Canadian; and
 - (b) **Canadian** means a Canadian citizen or permanent resident, a government in Canada or agency thereof, or a Canadian-controlled entity as described in the *Investment Canada Act*.

Reservation I-C-2

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Central

Measures:

As set out in the **Description** element.

Description:

Investment

1. Canada, or a province or territory of Canada, when selling or disposing of its equity interests in, or the assets of, an existing government enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of these interests or assets and on the ability of owners of these interests or assets to control a resulting enterprise by investors of Ukraine or of a third country or their investments. With respect to a sale or other disposition, Canada, or a province or territory of Canada, may adopt or maintain a measure relating to the nationality of senior management or members of the board of directors.

2. For the purposes of this entry:

- (a) a **measure** maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes a limitation on the ownership of equity interests or assets or imposes a nationality requirement described in this entry is an existing measure; and
- (b) **government enterprise** means an enterprise owned or controlled through ownership interests by Canada, or a province or territory of Canada, and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

Reservation I-C-3

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Level of Government:

Central

Measures:

Canada Business Corporations Act, R.S.C. 1985, c. C-44

Canada Business Corporations Regulations, 2001, SOR/2001-512

Canada Cooperatives Act, S.C. 1998, c. 1

Canada Cooperatives Regulations, SOR/99-256

Description:

Investment

1. A corporation may place constraints on the issue, transfer, and ownership of shares in a federally incorporated corporation. The object of those constraints is to permit a corporation to meet Canadian ownership or control requirements, under certain laws set out in the *Canada Business Corporations Regulations, 2001*, in sectors where Canadian ownership or control is required as a condition to receive licences, permits, grants, payments, or other

benefits. In order to maintain certain Canadian ownership levels, a corporation is permitted to sell shareholders' shares without the consent of those shareholders, and to purchase its own shares on the open market.

2. The *Canada Cooperatives Act* provides that constraints may be placed on the issue or transfer of investment shares of a cooperative to persons not resident in Canada, to permit cooperatives to meet Canadian ownership requirements to obtain a licence to carry on a business, to become a publisher of a Canadian newspaper or periodical, or to acquire investment shares of a financial intermediary and in sectors where ownership or control is a required condition to receive licences, permits, grants, payments, and other benefits. Where the ownership or control of investment shares would adversely affect the ability of a cooperative to maintain a level of Canadian ownership or control, the *Canada Cooperatives Act* provides for the limitation of the number of investment shares that may be owned or for the prohibition of the ownership of investment shares.

3. For the purposes of this entry, **Canadian** means "Canadian" as defined in the *Canada Business Corporations Regulations, 2001* or in the *Canada Cooperatives Regulations*.

Reservation I-C-4

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Level of Government:

Central

Measures:

Agricultural and Recreational Land Ownership Act, R.S.A. 1980, c. A-9

Citizenship Act, R.S.C. 1985, c. C-29

Foreign Ownership of Land Regulations, SOR/79-416

Description:

Investment

1. The *Foreign Ownership of Land Regulations* are made pursuant to the *Citizenship Act* and the *Agricultural and Recreational Land Ownership Act*. In Alberta, an ineligible person or foreign owned or controlled corporation may only hold an interest in controlled land consisting of a maximum of two parcels containing, in the aggregate, a maximum of 20 acres.

2. For the purposes of this entry:

- (a) **ineligible person** means:
 - (i) a natural person who is not a Canadian citizen or permanent resident;
 - (ii) a foreign government or agency thereof; or

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- (iii) a corporation incorporated in a country other than Canada; and
 - (b) **controlled land** means land in Alberta but does not include:
 - (i) land of the Crown in right of Alberta;
 - (ii) land within a city, town, new town, village, or summer village; and
 - (iii) mines or minerals.

Reservation I-C-5

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Level of Government:

Central

Measures:

Canadian Arsenal Limited Divestiture Authorization Act, S.C. 1986, c. 20

Eldorado Nuclear Limited Reorganization and Divestiture Act, S.C. 1988, c. 41

Nordion and Theratronics Divestiture Authorization Act, S.C. 1990, c. 4

Description:

Investment

1. A "non-resident" or "non-residents" may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For some companies the restrictions apply to individual shareholders, while for others the restrictions may apply in the aggregate. If there are limits on the percentage that an individual Canadian investor can own, these limits also apply to non-residents. The restrictions are as follows:

- (a) Cameco Limited (formerly Eldorado Nuclear Limited): 15 percent per non-resident natural person, 25 percent in the aggregate;
- (b) Nordion International Inc.: 25 percent in the aggregate;
- (c) Theratronics International Limited: 49 percent in the aggregate; and
- (d) Canadian Arsenal Limited: 25 percent in the aggregate.

2. For the purposes of this entry, **non-resident** includes:

- (a) a natural person who is not a Canadian citizen and not ordinarily resident in Canada;
- (b) a corporation incorporated, formed, or otherwise organized outside Canada;

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- (c) the government of a foreign State or a political subdivision of a government of a foreign State, or a person empowered to perform a function or duty on behalf of that government;
 - (d) a corporation that is controlled directly or indirectly by a person or an entity referred to in subparagraphs (a) through (c);
 - (e) a trust:
 - (i) established by a person or an entity referred to in subparagraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of natural persons the majority of whom are resident in Canada; or
 - (ii) in which a person or an entity referred to in subparagraphs (a) through (d) has more than 50 percent of the beneficial interest; and
 - (f) a corporation that is controlled directly or indirectly by a trust referred to in subparagraph (e).

Reservation I-C-6

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Export and Import Permits Act, R.S.C. 1985, c. E-19

Description:

Cross-Border Trade in Services

Only a natural person ordinarily resident in Canada, an enterprise with its head office in Canada, or a branch office in Canada of a foreign enterprise may apply for and be issued an import or export permit or transit authorization certificate for a good or related service subject to controls under the *Export and Import Permits Act*.

Reservation I-C-7

Sector:

Communications services

Sub-Sector:

Telecommunications Transport Networks and Services

Radiocommunications

Obligations Concerned:

National Treatment (Article 17.6)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Central

Measures:

Telecommunications Act, S.C. 1993, c. 38

Canadian Telecommunications Common Carrier Ownership and Control Regulations, SOR/94-667

Radiocommunication Act, R.S.C. 1985, c. R-2

Radiocommunication Regulations, SOR/96-484

Description:**Investment**

1. Foreign investment in a facilities-based telecommunications service supplier is restricted to a maximum, cumulative total of 46.7 percent voting interest, based on 20 percent direct investment and 33.3 percent indirect investment.
2. A facilities-based telecommunications service supplier must be controlled in fact by Canadians.
3. At least 80 percent of the members of the board of directors of a facilities-based telecommunications service suppliers must be Canadians.
4. Notwithstanding the restrictions described above:
 - (a) foreign investment is allowed up to 100 percent for suppliers conducting operations under an international submarine cable licence;
 - (b) mobile satellite systems of a foreign service supplier may be used by a Canadian service supplier to supply services in Canada;
 - (c) fixed satellite systems of a foreign service supplier may be used to provide services between points in Canada and all points outside Canada;
 - (d) foreign investment is allowed up to 100 percent for a supplier conducting operations under a satellite authorization; and
 - (e) foreign investment is allowed up to 100 percent for a facilities-based telecommunications service supplier that has revenues, including those of its affiliates, from the supply of a telecommunications service in Canada representing less than 10 percent of the total telecommunications services' annual revenues in Canada. A facilities-based telecommunications service supplier that previously had annual revenues, including those of its affiliates, from the supply of a telecommunication service in Canada representing less than 10 percent of the total telecommunications services annual revenues in Canada may increase to 10 percent or beyond as long as the increase in revenues did not result from the acquisition of control of, or the acquisition of assets used to supply telecommunications services by, another facilities-based telecommunications service supplier that is subject to the legislative authority of the Parliament of Canada.

Reservation I-C-8

Sector:

Business Services Industries

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Central

Measures:

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)

Customs Brokers Licensing Regulations, SOR/86-1067

Description:

Investment and Cross-Border Trade in Services

To be a licensed customs broker in Canada, in addition to meeting all other licensing requirements:

- (a) a natural person must be a Canadian national;
- (b) a corporation must be incorporated in Canada with a majority of its directors being Canadian nationals; and
- (c) a partnership must be composed of persons who are Canadian nationals who meet all other licensing requirements, or corporations incorporated in Canada with a majority of their directors being Canadian nationals who meet all other licensing requirements.

Reservation I-C-9

Sector:

Business Services Industries

Sub-Sector:

Duty Free Shops

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Level of Government:

Central

Measures:

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)

Duty Free Shop Regulations, SOR/86-1072

Description:

Investment and Cross-Border Trade in Services

1. In addition to all other licensing requirements, to be a licensed duty free shop operator at a border crossing in Canada, a natural person must be a Canadian national.
2. In addition to all other licensing requirements, to be a licensed duty free shop operator at a border crossing in Canada, a corporation must be incorporated in Canada and have all of its shares beneficially owned by Canadian nationals who meet all other licensing requirements.

Reservation I-C-10

Sector:

Business Services Industries

Sub-Sector:

Examination Services relating to the Export and Import of Cultural Property

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Cultural Property Export and Import Act, R.S.C. 1985, c. C-51

Description:

Cross-Border Trade in Services

1. Only a resident of Canada or an institution in Canada may be designated as an expert examiner of cultural property for the purposes of the *Cultural Property Export and Import Act*.
2. For the purposes of this entry:
 - (a) **institution** means an entity that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes, and that conserves objects and exhibits them; and
 - (b) **resident of Canada** means a natural person who is ordinarily resident in Canada, or a corporation that has its head office in Canada or maintains an establishment in Canada to which employees employed in connection with the business of the corporation ordinarily report for work.

Reservation I-C-11

Sector:

Professional Services

Sub-Sector:

Patent Agents

Patent Agents supplying Legal Advisory and Representation Services

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Patent Act, R.S.C. 1985, c. P-4

Patent Rules, SOR/2019-251

College of Patent Agents and Trademark Agents Act, S.C.2018, c.27, s.247

College of Patent Agents and Trademark Agents Regulations, SOR/2021-129

By-laws of the College of Patent Agents and Trademark Agents (Board), SOR/2021-168

By-laws of the College of Patent Agents and Trademark Agents (College), SOR/2021-167

Description:**Cross-Border Trade in Services**

To represent a person in the prosecution of a patent application or in other business before the Patent Office, a patent agent must be resident in Canada and registered by the College of Patent Agents and Trademark Agents.

Reservation I-C-12**Sector:**

Professional Services

Sub-Sector:

Trademark Agents

Trademark Agents supplying Legal Advisory and Representation Services in Statutory Procedures

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Trademarks Act, R.S.C. 1985, c. T-13

Trademarks Regulations, SOR/2018-227

College of Patent Agents and Trademark Agents Act, S.C.2018, c.27, s.247

College of Patent Agents and Trademark Agents Regulations, SOR/2021-129

By-laws of the College of Patent Agents and Trademark Agents (Board), SOR/2021-168

By-laws of the College of Patent Agents and Trademark Agents (College), SOR/2021-167

Description:

Cross-Border Trade in Services

To represent a person in the prosecution of an application for a trademark or in other business before the Office of the Registrar of Trademarks, a trademark agent must be resident in Canada and registered by the College of Patent Agents and Trademark Agents.

Reservation I-C-13

Sector:

Energy

Sub-Sector:

Oil and Gas

Obligations Concerned:

National Treatment (Article 17.6)

Level of Government:

Central

Measures:

Canada Petroleum Resources Act, R.S.C. 1985, c. 36 (2nd Supp.)

Territorial Lands Act, R.S.C. 1985, c. T-7

Federal Real Property and Federal Immovables Act, S.C. 1991, c. 50

Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c. 3

Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Description:

Investment

1. This reservation applies to a production licence issued for "frontier lands" and "offshore areas" (areas not under provincial jurisdiction) as defined in the applicable measures.
2. A person who holds an oil and gas production licence or shares therein must be a corporation incorporated in Canada.

Reservation I-C-14

Sector:

Energy

Sub-Sector:

Oil and Gas

Obligations Concerned:

National Treatment (Article 18.3)

Performance Requirements (Article 17.12)

Level of Government:

Central

Measures:

Canada Oil and Gas Operations Act, R.S.C. 1985, c. O-7

Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Canada - Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c. 3

Measures implementing the Canada-Yukon Oil and Gas Accord, including the *Canada-Yukon Oil and Gas Accord Implementation Act*, S.C. 1998, c.5, s. 20, and the *Oil and Gas Act*, RSY 2002, c. 162

Measures implementing the Northwest Territories Oil and Gas Accord, including implementing measures that apply to or are adopted by Nunavut as the successor territories to the former Northwest Territories

Measures implementing the Accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence, or any other similar federal-provincial accords related to the joint management of petroleum resources.

Description:

Investment and Cross-Border Trade in Services

1. Under the *Canada Oil and Gas Operations Act*, a "benefits plan" must be approved by the Minister in order to be authorized to proceed with an oil and gas development project.
2. A **benefits plan** means a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors, and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in proposed work or activity referred to in the benefits plan.
3. The benefits plan contemplated by the *Canada Oil and Gas Operations Act* permits the Minister to impose on the applicant an additional requirement to ensure that disadvantaged individuals or groups have access to training and employment opportunities or can participate in the supply of goods and services used in proposed work referred to in the benefits plan.
4. Provisions continuing those set out in the *Canada Oil and Gas Operations Act* are included in laws that implement the Canada-Yukon Oil and Gas Accord.
5. Provisions continuing those set out in the *Canada Oil and Gas Operations Act* will be included in laws or regulations to implement accords with various provinces and territories, including implementing legislation by provinces and territories (for example, the Northwest Territories Oil and Gas Accord, the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord, and the New Brunswick Oil and Gas Accord). For the purposes of this reservation, these accords and implementing legislation shall be deemed, once concluded, to be existing measures.

6. The *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* have the same requirement for a benefits plan but also require that the benefits plan ensures that:

- (a) the corporation or other body submitting the plan establishes in the applicable province an office where appropriate levels of decision-making are to take place, prior to carrying out work or an activity in the offshore area;
- (b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and
- (c) first consideration be given to goods produced or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality, and delivery.

7. The boards administering the benefits plan under the Acts referred to in paragraph 6 may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned or cooperatives operated by them, participate in the supply of goods and services used in proposed work or activity referred to in the plan. Furthermore, such boards may also impose or enforce expenditure and other requirements relating to research and development and education and training to be carried out in the province.

8. In addition, Canada may impose a requirement or enforce a commitment or undertaking for the transfer of technology, a production process, or other proprietary knowledge to a person of Canada in connection with the approval of development projects under the applicable Acts.

Reservation I-C-15

Sector:

Energy

Sub-Sector:

Oil and Gas

Obligations Concerned:

Performance Requirements (Article 17.12)

Level of Government:

Central

Measures:

Hibernia Development Project Act, S.C. 1990, c. 41

Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c. 3

Description:

Investment

1. Under the *Hibernia Development Project Act*, Canada and the Hibernia Project Owners may enter into agreements. Those agreements may require the Project Owners to undertake to perform certain work in Canada and Newfoundland and Labrador and to use their best efforts to achieve specific Canadian and Newfoundland and Labrador target levels in relation to the provisions of a "benefits plan" required under the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act*. "Benefits plans" are further described in I-C-14.

2. In addition, Canada may impose in connection with the Hibernia Project a requirement or enforce a commitment or undertaking for the transfer of technology, a production process, or other proprietary knowledge to a national or enterprise in Canada.

Reservation I-C-16

Sector:

Energy

Sub-Sector:

Uranium

Obligations Concerned:

National Treatment (Article 17.6)

Most-Favoured-Nation Treatment (Article 17.7)

Level of Government:

Central

Measures:

Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611

Policy on Non-Resident Ownership in the Uranium Mining Sector, 1987

Description:

Investment

1. Ownership by "non-Canadians", as defined in the *Investment Canada Act*, of a uranium mining property is limited to 49 percent at the stage of first production. Exceptions to this limit may be permitted if it can be established that the property is in fact "Canadian-controlled", as defined in the *Investment Canada Act*.

2. Exemptions from the *Non-Resident Ownership Policy in the Uranium Mining Sector* are permitted, subject to approval of the Governor in Council, only in cases where Canadian participants in the ownership of the property are not available. Investments in properties by non-Canadians, made prior to 23 December 1987, and that are beyond the permitted ownership level, may remain in place. No increase in non-Canadian ownership is permitted.

Reservation I-C-17

Sector:

Transportation

Sub-Sector:

Air Transportation

Obligations Concerned:

National Treatment (Article 17.6)

Most-Favoured-Nation Treatment (Article 17.7)

Senior Management and Board of Directors (Article 17.13)

Level of Government:

Central

Measures:

Canada Transportation Act, S.C. 1996, c. 10

Aeronautics Act, R.S.C. 1985, c. A-2

Canadian Aviation Regulations, SOR/96-433 Part II, Subpart 2 – "Aircraft Marking and Registration"; Part IV "Personnel Licensing and Training"; and Part VII "Commercial Air Services"

Description:

Investment

1. Only Canadians may provide the following commercial transportation air services:

- (a) domestic services (air services between points, or from and to the same point, in the territory of Canada, or between a point in the territory of Canada and a point not in the territory of another country);
- (b) scheduled international services (scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under existing or future air services agreements;
- (c) non-scheduled international services (non-scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under the *Canada Transportation Act*; and
- (d) specialty air services including, but not limited to aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing, parachute jumping, aerial construction, heli-logging, aerial inspection, aerial surveillance, flight training, aerial sightseeing, and aerial crop spraying.

2. For the purposes of 1(a), (b), and (c), the *Canada Transportation Act*, in section 55, defines "Canadian" in the following manner:

- (a) a Canadian citizen or a permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c.27;
- (b) a government in Canada or an agent or mandatary of that government; or
- (c) a corporation or entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least 51 percent of the voting interests are owned and controlled by Canadians and where:
 - (i) no more than 25 percent of the voting interests are owned directly or indirectly by any single non-Canadian, either individually or in affiliation with another person; and
 - (ii) no more than 25 percent of the voting interests are owned directly or indirectly by one or more non-Canadians authorized to provide an air service in any jurisdiction, either individually or in affiliation with another person.

3. Regulations made under the *Aeronautics Act* include distinct definitions of "Canadian" referenced in paragraphs (2) and (4). These Regulations require that a Canadian operator of commercial air services operate Canadian-registered aircraft. These Regulations require an operator to be Canadian in order to obtain a Canadian Air Operator Certificate and to qualify to register aircraft as "Canadian".

4. For the purposes of paragraph 1(d), the *Canadian Aviation Regulations* define "Canadian" in the following manner:

- (a) a Canadian citizen or a permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*;
- (b) a government in Canada or an agent or mandatary of that government; or
- (c) a corporation or entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least 75 percent of the voting interests are owned and controlled by Canadians.

5. No foreign individual is qualified to be the registered owner of a Canadian- registered aircraft.

6. Further to the *Canadian Aviation Regulations*, a corporation incorporated in Canada, but that does not meet the Canadian ownership and control requirements, may only register an aircraft for private use where a significant majority of use of the aircraft (at least 60 percent) is in Canada.

7. The *Canadian Aviation Regulations* also have the effect of limiting foreign-registered private aircraft registered to non-Canadian corporations to be present in Canada for a maximum of 90 days per twelve-month period. The foreign-registered private aircraft shall be limited to private use, as would be the case for Canadian- registered aircraft requiring a private operating certificate.

Reservation I-C-18

Sector:

Air Transportation

Sub-Sector:

Specialty Air Services as defined in Article 18.1 (Definitions)

Obligations Concerned:

National Treatment (Article 18.3)

Most-Favoured-Nation Treatment (Article 18.4)

Level of Government:

Central

Measures:

Canada Transportation Act, S.C. 1996, c. 10

Air Transportation Regulations, SOR/88-58

Canadian Aviation Regulations, SOR/96-433

Description:**Cross-Border Trade in Services**

Authorization from Transport Canada is required to supply a specialty air service in the territory of Canada. In determining whether to grant a particular authorization, Transport Canada will consider, among other factors, whether the country in which the applicant, if an individual, is resident or, if an enterprise, is constituted or organized, provides Canadian specialty air service operators reciprocal access to supply specialty air services in that country's territory. Any foreign service supplier authorized to supply a specialty air service is required to comply with Canadian safety requirements while supplying these services in Canada.

Reservation I-C-19**Sector:**

Transportation

Sub-Sector:

Air Transportation

Obligations Concerned:

National Treatment (Article 18.3)

Most-Favoured-Nation Treatment (Article 18.4)

Level of Government:

Central

Measures:

Aeronautics Act, R.S.C. 1985, c. A-2

Canadian Aviation Regulations, SOR/96-433, Part IV "Personnel Licensing and Training"; Part V "Airworthiness"; Part VI "General Operating and Flight Rules"; and Part VII "Commercial Air Services"

Description:**Cross-Border Trade in Services**

Aircraft and other aeronautical product repair, overhaul, or maintenance activities required to maintain the airworthiness of Canadian-registered aircraft and other aeronautical products must be performed by a person meeting Canadian aviation regulatory requirements (that is, approved maintenance organizations and aircraft maintenance engineers). A certification is not provided for persons located outside Canada, except sub-organizations of approved maintenance organizations that themselves are located in Canada.

Reservation I-C-20**Sector:**

Transportation

Sub-Sector:

Land Transportation

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Motor Vehicle Transport Act, R.S.C. 1985, c. 29 (3rd Supp.), as amended by S.C. 2001, c. 13.

Canada Transportation Act, S.C. 1996, c. 10

Customs Tariff, S.C. 1997, c. 36

Description:**Cross-Border Trade in Services**

Only a person of Canada using Canadian-registered and either Canadian-built or duty-paid trucks or buses may provide truck or bus services between points in the territory of Canada.

Reservation I-C-21**Sector:**

Transportation

Sub-Sector:

Water Transportation

Obligations Concerned:

National Treatment (Articles 18.3 and 17.6)

Level of Government:

Central

Measures:

Canada Shipping Act, 2001, S.C. 2001, c. 26

Description:**Investment and Cross-Border Trade in Services**

1. To register a vessel in Canada, the owner of that vessel or the person who has exclusive possession of that vessel must be:

- (a) a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c.27;
- (b) a corporation incorporated under the laws of Canada or a province or territory; or
- (c) when the vessel is not already registered in another country, a corporation incorporated under the laws of a country other than Canada if one of the following is acting with respect to all matters relating to the vessel, namely:

-
- (i) a subsidiary of that corporation that is incorporated under the law of Canada or a province or territory;
 - (ii) an employee or director in Canada of any branch office of that corporation that is carrying on business in Canada; or
 - (iii) a ship management company incorporated under the law of Canada or a province or territory.

2. A vessel registered in a foreign country which has been bareboat chartered may be listed in Canada for the duration of the charter while the vessel's registration is suspended in its country of registry, if the charterer is:

- (a) a Canadian citizen or permanent resident, as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c.27; or
- (b) a corporation incorporated under the law of Canada or a province or territory.

Reservation I-C-22

Sector:

Transportation

Sub-Sector:

Water Transportation

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Canada Shipping Act, 2001, S.C. 2001, c. 26

Marine Personnel Regulations, SOR/2007-115

Description:

Cross-Border Trade in Services

Masters, mates, engineers, and certain other seafarers must hold certificates granted by the Minister of Transport as a requirement of service on Canadian registered vessels. These certificates may be granted only to Canadian citizens or permanent residents.

Reservation I-C-23

Sector:

Transportation

Sub-Sector:

Water Transportation

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Pilotage Act, R.S.C., 1985, c. P-14

General Pilotage Regulations, SOR/2000-132

Description:**Cross-Border Trade in Services**

Subject to Canada's Reservation II-C-8, a licence or a pilotage certificate issued by the Minister of Transport is required to provide pilotage services in the compulsory pilotage waters of the territory of Canada. Only a Canadian citizen or permanent resident may obtain a licence or pilotage certificate. A permanent resident of Canada who has been issued a pilot's licence or pilotage certificate must become a Canadian citizen within five years of receipt of that licence or pilotage certificate in order to retain it.

Reservation I-C-24**Sector:**

Transportation

Sub-Sector:

Water Transportation Services by Sea-going and Non-sea-going Vessels

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Shipping Conferences Exemption Act, 1987, R.S.C. 1985, c.17 (3rd Supp.)

Description:**Cross-Border Trade in Services**

Members of a shipping conference must maintain jointly an office or agency in the region of Canada where they operate. A shipping conference is an association of ocean carriers that has the purpose or effect of regulating rates and conditions for the transportation by those carriers of goods by water.

Reservation I-C-25**Sector:**

All

Sub-Sector:**Obligations Concerned:**

National Treatment (Articles 17.6 and 18.3)

Most-Favoured-Nation Treatment (Articles 17.7 and 18.4)

Performance Requirements (Article 17.12)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Regional

Measures:

An existing non-conforming measure of a province and territory.

Description:

Investment and Cross-Border Trade in Services