

Chapter 19: Development and Administration of Measures – 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 19.1: Definitions

For the purposes of this Chapter:

authorization means the granting of permission by a competent authority to a person to supply a service or to pursue any other economic activity;

competent authority means a national or sub-national government of a Party, as defined in Article 1.6 (Country-specific Definitions), or non-governmental body in the exercise of powers delegated by a national or sub-national government of a Party, that grants an authorisation;

licensing procedures means administrative or procedural rules, including for the amendment or renewal of a licence, that must be adhered to in order to demonstrate compliance with licensing requirements;

licensing requirements means substantive requirements, other than qualification requirements, that must be complied with in order to obtain, amend, or renew an authorisation;

qualification procedures means administrative or procedural rules that must be adhered to in order to demonstrate compliance with qualification requirements; and

qualification requirements means substantive requirements relating to competency that must be complied with in order to obtain, amend, or renew an authorisation.

Article 19.2: Scope

1. This Chapter applies to measures adopted or maintained by a Party with respect to licensing requirements, licensing procedures, qualification requirements, or qualification procedures relating to:

- (a) the cross-border supply of services as defined in Article 18.1 (Cross-Border Trade in Services – Definitions); and
- (b) the pursuit of an economic activity, through commercial presence in the territory of the other Party, including the establishment of that commercial presence.

2. This Chapter does not apply to the aspects of a measure set out in an entry to a Party's Schedule to Annex I, or to a measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out by that Party in its Schedule to Annex II.

Article 19.3: Right to Regulate

The Parties recognize the right of each Party to regulate economic activity within its territory with regard to any matter under this Chapter in order to meet its legitimate policy objectives.

Article 19.4: Development of Licensing and Qualification Requirements and Procedures

1. If a Party adopts or maintains a measure within the scope of this Chapter, the Party shall, with respect to that measure:

- (a) ensure that requirements and procedures are based on criteria that:
 - (i) are objective and transparent; such criteria may include competence and ability to supply a service or

to pursue any other economic activity, including to do so in a manner consistent with the Party's regulatory requirements, such as those relating to health and the protection of the environment; and

- (ii) are established in advance and made publicly accessible;
- (b) ensure that procedures do not in themselves unduly prevent the fulfilment of a requirement; and
- (c) ensure that the measure does not discriminate^{Footnote1} between men and women.

2. The Parties recognise that the exercise of statutory discretion conferred on a minister with respect to a decision on the granting of an authorization in the public interest is not inconsistent with subparagraph 1(a)(ii), provided that it is exercised consistently with the object of the applicable statute and not in an arbitrary manner, and that this exercise is not otherwise inconsistent with this Agreement.

3. If a Party develops regulations relating to licensing requirements, licensing procedures, qualification requirements, or qualification procedures, the Party shall endeavour to undertake a regulatory impact assessment, as provided in Chapter 26 (Good Regulatory Practices). The regulatory impact assessment shall take into consideration:

- (a) the Party's obligations under international trade agreements; and
- (b) the impact of the proposed regulation on small- and medium-sized enterprises.

Article 19.5: Administration of Licensing and Qualification Requirements and Procedures

1. Each Party shall ensure that its measures of general application within the scope of this Chapter are administered in a reasonable, objective, and impartial manner.

2. Each Party shall ensure that licensing and qualification procedures used by the competent authority and decisions of the competent authority in the authorisation process are impartial with respect to all applicants. The competent authority should reach its decisions in an independent manner and, in particular, should not be accountable to any person supplying a service or pursuing any other economic activity for which the authorization is required.

3. To the extent practicable, each Party shall avoid requiring an applicant to approach more than one competent authority for each application for authorisation. For greater certainty, a Party may require multiple applications for authorisation if a service or any other economic activity is within the jurisdiction of multiple competent authorities.

4. If a Party requires an authorisation, the competent authority of the Party shall:

- (a) to the extent practicable, permit an applicant to submit an application at any time [Footnote2](#);
- (b) allow a reasonable period for the submission of an application when specific time periods for applications exist;
- (c) initiate the processing of an application without undue delay;
- (d) ensure that the processing of an application, including reaching a final decision, is completed within a reasonable timeframe from the submission of a complete application;
- (e) at the request of an applicant, provide, without undue delay, information concerning the status of their application;
- (f) if an examination is required, schedule the examination at reasonably frequent intervals, and provide a reasonable period of time to enable applicants to request to take an examination;
- (g) if possible, accept an application, including an examination, through electronic means under similar

conditions of authenticity as paper submissions at all stages of the authorization process; and

- (h) accept a copy of a document, that is authenticated in accordance with the legislation of each Party, in place of the original document, unless the original document is required to protect the integrity of the authorisation process.

5. Each Party shall ensure that an authorisation is granted as soon as the competent authority determines that the conditions for the authorisation have been met, and once granted, that the authorisation enters into effect without undue delay, in accordance with its terms and conditions. [Footnote3](#)

6. If an application for an authorisation is considered incomplete, a Party's competent authority shall, within a reasonable period of time, to the extent practicable:

- (i) inform the applicant that the application is incomplete;
- (ii) at the request of the applicant, identify the additional information required to complete the application, or otherwise provide guidance on why the application is considered incomplete; and
- (iii) provide the applicant an opportunity [Footnote4](#) to provide the additional information that is required to complete the application.

7. If a Party's competent authority rejects an application for an authorisation, it shall inform the applicant in writing, including by electronic means, and within a reasonable timeframe from the submission of an application. Upon request of the applicant, the Party's competent authority shall also inform the applicant of the reasons the application was rejected and of the timeframe for an appeal or review against the decision. An applicant should be permitted, within reasonable time limits, to resubmit an application.

Article 19.6: Fees

1. Each Party shall ensure that the authorisation fee charged by a competent authority is reasonable, transparent, and does not restrict the supply of the relevant service or the pursuit of any other economic activity. Having regard to the cost and administrative burden, each Party is encouraged to accept payment of authorisation fees by electronic means.

2. Authorisation fees do not include fees for the use of natural resources, royalties, payments for auction, tendering, or other non-discriminatory means of awarding concessions or mandated contributions to provide a universal service.

Article 19.7: Review of Administrative Decisions

Each Party shall maintain or institute judicial, arbitral, or administrative tribunals or procedures that provide, at the request of a service supplier of a Party, as defined in Article 18.1 (Cross-Border Trade in Services – Definitions) or an investor of a Party, as defined in Article 17.1 (Investment – Definitions), a prompt review of, and if justified, appropriate remedies for, administrative decisions relating to the scope of this Chapter. If the review procedures are not independent of the competent authority entrusted with the administrative decision concerned, each Party shall ensure that the review procedures are applied in a way that provides for an objective and impartial review.

Article 19.8: Transparency

1. If a Party requires an authorisation, the Party shall promptly publish [Footnote5](#), or otherwise make publicly available in writing, the information necessary to comply with the requirements and procedures for obtaining, maintaining, amending, and renewing that authorisation. This information includes, if it exists:

- (a) authorisation fees;
- (b) contact information of relevant competent authorities;

- (c) procedures for appeal or review of decisions concerning applications;
- (d) procedures for monitoring or enforcing compliance with the terms and conditions of licences or qualifications;
- (e) opportunities for public involvement, such as through hearings or comments;
- (f) indicative timeframes for processing of an application; and
- (g) the requirements and procedures.

Footnotes

Footnote 1

Differential treatment that is reasonable and objective, and aims to achieve a legitimate policy objective, and the adoption of temporary special measures aimed at accelerating equality between men and women, shall not be considered discrimination for the purposes of this provision.

[Return to footnote1referrer](#)

Footnote 2

In the case of professional services, each Party shall ensure that there are domestic procedures in place to assess the competency of those professionals.

[Return to footnote2referrer](#)

Footnote 3

Competent authorities are not responsible for delays due to reasons outside their competence.

[Return to footnote3referrer](#)

Footnote 4

This opportunity does not require a competent authority to provide extensions of deadlines.

[Return to footnote4referrer](#)

Footnote 5

For the purposes of this Article, "publish" means to include in an official publication, such as an official journal, or on an official website.