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Trade Update

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UKRAINE UNLOCKS NEW TRADE OPPORTUNITIES WITH ISRAEL AND THE UK

Since 2008, Ukraine has been proactive on a global trade radar and consistent in securing seamless yet careful integration with international commerce.

The country has become a full-fledged member of the WTO. It has signed numerous free trade agreements (FTA), including with the EU, the EFTA States, the CIS States, Canada, and has been finalising an FTA with Turkey. Whilst gradually eliminating trade barriers, as well as providing legal remedies to foreigners and aligning domestic laws under FTAs, Ukraine has also enjoyed tariff preferences through generalised systems of preferences with some of the world's largest markets, including the US and Japan.

Pursuing further trade liberalisation, Ukraine starts the 2021 with free trade agreements with Israel and the UK and so strengthens its standing in overseas markets.

Below, we briefly share some salient features of the signed instruments that we deem relevant and may be helpful to all involved in international trade between the referred States.

Ukraine-Israel FTA

On 1 January 2021, a Free Trade Agreement between the Cabinet of Ministers of Ukraine and the Government of the State of Israel came into effect. The Agreement introduces a legal framework for commerce between Ukraine and Israel. It aims to incentivise bilateral trade in goods under a simplified procedure and procures future reciprocal liberalisation of trade in services.

Amongst others, the FTA envisages the following:

- gradual reduction and waiver of customs duties, mainly for foods, agricultural and industrial goods;
- the use of preferential rules of origin and cumulation under the Pan-Euro-Mediterranean (PEM) Convention, and
- the use of mutual recognition of conformity assessment procedures.

Duty-free treatment and tariff reduction

The FTA introduces minimisation of customs duties within the course of 7 years, subject to tariff elimination conditions, on imports of goods that originate in Ukraine and Israel and are classified under chapters 1-97 of the international Harmonized Commodity Description and Coding System (HS).

Generally, Ukraine and Israel exercise national treatment and undertake not to apply any restrictions to imports-exports of their goods. At the same time, Israel is entitled to change its measures in respect of controls and charges for export of metal waste and scrap, and for import of non-kosher meat. In turn, Ukraine undertakes not to impose customs duty on the following goods in limited quantities, namely:

- up to 900,000 tons of wheat and meslin (HS code 1001 99 00 00),
- up to 150,000 tons of bars and rods, hot-rolled, in irregularly wound coils, of iron/non-alloy steel (HS code 7213 91),
- up to 12,000 tons of other bars and rods of iron or non-alloy steel, not further worked than forged (HS code 7214 20),
- up to 125,000 tons of certain flat-rolled products of iron or non-alloy steel (HS code 7208).

The goods that enjoy tariff gradual reduction are subject to the Most-Favoured Nation (MFN) duty effective on 1 January 2015, whilst the goods entitled to tariff elimination are subject to the lesser tariff based on the compared elimination and MFN rates.

As regards the products eligible for preferential tariffs, Israel undertakes to reduce its customs duties on imports, among others, of Ukrainian wheat, processed foods, raw materials. Ukraine undertakes to reduce its tariffs on exports of chemicals, machinery, foods, and apply duty-free treatment, among others, to imports of Israeli high-end plastic products, and foods.

Special reliefs and safeguard measures

The Agreement allows a duty relief for certain categories of products regardless of their origin under the temporary admission. Those include professional equipment, software and tech for business, commercial and professional activities, goods for presentation, commercial samples, advertising films and recordings. The relief also applies to goods re-entered after repair or restoration, regardless of their origin, warranty, of if the goods could be fixed in either of the exporting countries.

At the same time, while it has been agreed on furthering liberalisation of bilateral trade, it also appears possible for both Ukraine and Israel to invoke temporarily bilateral safeguard measures where imported goods severely jeopardise either State's domestic industry.

The measures seek to prevent or remedy serious damage resulting from such imports and may be adopted after the first year of the FTA's effective date and during the transition period. The safeguard measures include temporary suspension of continued tariff reduction or increase of the customs duty rate not to exceed the lesser of the MFN or tariff elimination rates.

PEM Convention benefits

The FTA refers to the PEM Convention and encourages to use the movement certificate EUR.1.

The Convention requires application of identical protocols of origin of goods traded between its signatory states with effective FTAs. It also facilitates countries' involvement in international supply chains through diagonal cumulation. Namely, states parties to free trade agreements may use in production not necessarily their domestic raw materials and other components but also those originating in third party states signatories to the convention (40+ states), while retaining their qualification for preferential tariffs for exported goods.

It is expected that by virtue of the PEM rules of origin, Ukraine and Israel will be able to boost trade of their domestic goods made of raw materials and products from geographies covered by the PEM Convention, and increase exports of their raw materials and intermediate goods, too.

Conformity assessment

Trade facilitation also includes alignment of standardisation, technical regulations, conformity assessment and metrology procedures, subject to the WTO Technical Barriers to Trade (TBT) Agreement.

For purposes of the above, Ukraine and Israel, among others, undertake to accept conformity declarations of their suppliers, accept results of their conformity assessment procedures leading to decrease of related costs, and secure cooperation of their domestic standardisation bodies and other relevant authorities, including in respect of border control and market surveillance.

Ukraine-UK FTA

On 1 January 2021, the Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine took effect. The Agreement represents a comprehensive legal instrument governing multiple areas of relationship between Ukraine and the UK, including bilateral trade in goods and services. It is premised on and supersedes the Association Agreement between the European Union and its Member States and Ukraine, including a Deep and Comprehensive Free Trade Area (DCFTA) Agreement, as well as seeks to secure economic benefits for both markets and continuity of trade flows.

Preferential tariff rates

Generally, all customs duties on goods originating in Ukraine and the UK will be revoked, subject to gradual reductions based on tariff elimination schedules. In particular, customs duties on the Ukrainian goods in the tariff lines in staging category 7 will be removed by 2023, with the reductions in 2021 and 2022 being 2/8ths and 1/8th of the base rate, respectively.

Although the FTA authorises Ukraine and the UK not to raise applicable customs duties or impose new tariffs, both states may increase their customs duties to certain levels or do so upon rulings of the WTO Dispute Settlement Body.

In respect of exports, the customs duties currently imposed by Ukraine will be removed by 2026, while temporary safeguard measures for export duties may be applied conditionally. This is the case where during a 1-year period after the FTA's entry into force, the aggregate exports to the UK exceeds the threshold volume.

Customs reliefs

The Agreement lifts the requirements for obligatory use of customs brokers and pre-shipment inspections. It also allows application of EUR.1 and EUR-MED movement certificates under the PEM Convention whereby it is possible to use materials and processing from other signatory states, while continuing to qualify for preferential rates under the FTA.

Trading services

Unlike the FTA with Israel, the Ukraine-UK agreement comprehensively governs the bilateral trade in services and e-commerce. It determines the entities involved in trade and defines in detail the services that may be rendered by persons, natural and legal, of both countries.

While there remain limitations as to the cross-border service delivery, particular focus is made, among others, on computer services, financial services, and transport services.

For instance, in respect of shipping operations, the FTA applies to companies set up elsewhere than the UK and Ukraine and controlled by their nationals, provided that the vessels are registered pursuant to the countries' domestic laws and carrying their flags.

Future outlook

The Ukraine-Israel and Ukraine-UK FTAs are a significant step forward towards boosting the countries' bilateral trade.

Although both instruments provide for tariff rate quotas in respect of limited quantities of different products, they yet envisage successive reductions of customs duties for a large portion of goods and allow integration with the global supply chains. The Agreements' construction helps bridge commercial ties between the countries and best utilise their potential by facilitating trade and eliminating barriers.

Since Ukraine, Israel, and the UK have all identified their competitive goods and services enjoying high demand in international markets, the future for the referred countries, through free trade cooperation, appears promising. We expect an increase in cross-border commerce between the countries, signatories of the FTAs, securing access to foreign direct investments and capital, including through newly available export credit and insurance arrangements.

Key contact:

Should you be interested in pursuing opportunities in the bilateral trade and require more details, to this end, or in case of any related or other queries, please reach out to Serhiy or your alternative contact at BOULDERS.

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