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**Working Party on the
Accession of Ukraine**

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ACCESSION OF UKRAINE

Check-list of Issues

Addendum

The Governmental Commission on Ukraine's Accession to the WTO has submitted the following revised Check-list of Issues with the request that it be circulated to members of the Working Party.

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- **Comments**

No. 1

We are seeking clarification and confirmation of the factual basis of Ukraine's trade regime in the areas covered by WTO provision. In addition, we want to ensure that our concerns are accurately reflected, and to be advised as precisely as possible of Ukraine's actions to:

- eliminate trade inhibiting and WTO-inconsistent measures identified in the course of these discussions to date;
- create WTO -mandated institutions in the trade regime, e.g., enquiry points, prior publication of trade-related rules, right of appeal, transparency in administrative rulings, methods of notification to the WTO, new procedures, and protections of traders rights; and
- enact legislation establishing WTO rules as the point of reference for Ukraine's trade policy.

Ukraine has already taken steps to address these points, in WT/ACC/UKR/110 and UKR/110/Add.1. With this additional review and clarification, and with the development of a consolidated text reflecting these elements, we can begin to focus on outstanding issues and move towards developing a draft Working Party report.

Non-tariff measures also have a major impact on the viability of market access commitments. It is therefore important in the context of developing Ukraine's market access schedules as well as protocol commitments that non-tariff measures inconsistent with the WTO be identified and removed.

We reserve the right to raise additional issues, as developments in Ukraine's trade regime, and consequently the text of the draft report, evolve.

No. 2

The response to items No. 1-3 refers to the authority of the State Customs Committee to waive non-tariff regulations or other restrictions for qualifying business entities. This would appear to invite discriminatory application of trade regulations. We would appreciate further explanation of why this authority has been granted, and examples of what non-tariff regulations would be waived.

No. 3

We support the accession of Ukraine to the WTO on the basis of appropriate commitments on market access and conformity with all WTO rules.

We welcome and support the decision of the Working Party in February 2003 that elements of a draft Working Party Report be prepared.

We welcome and support the program of intensified work for Ukraine's accession adopted in February 2003, including:

- the holding of plurilateral sessions on SPS and TBT in March and April 2003;

- the preparations that will be undertaken for subsequent plurilateral sessions on the basis of an agenda agreed by Members and materials required by Members;
- the holding of plurilateral sessions on agriculture, TRIPS and other issues in the margins of the next meeting of the Working Party;
- the preparation by Ukraine, well in advance of the next meeting of the Working Party, of an updated checklist of issues responding to Members comments, requests and questions, and of a comprehensive legislative action plan which will also describe all relevant legislation in place; and
- the Chair's intention to consult with Members on materials provided by Ukraine and on arrangements for the next meeting of the Working Party and for plurilateral sessions to take place the margins of that meeting.

No. 4

We also look forward to the preparation by Ukraine of the following materials:

- revised and updated SPS and TBT checklists in advance of the planned plurilateral sessions, incorporating recent legislative developments and plans in these areas;
- responses in writing to the comments, questions and requests of Members on SPS and TBT to be circulated to the membership in advance of the planned plurilateral sessions;
- a revised and updated import licensing questionnaire to be circulated to the membership well in advance of the next meeting of the Working Party;
- agriculture domestic support data in WT/ACC/4 format for the years 2000-2002 and information on support policies in advance of the next meeting of the Working Party, so that these new materials can be reviewed in detail in the plurilateral session on agriculture to be held in the margins of the Working Party meeting;
- electronic versions of English translations of enacted legislation.

Answer:

Per a request from Members of the Working Party, Ukraine has prepared agricultural domestic support data for the period of 2000-2002 for information of the Working Group but Ukraine continues to negotiate for determining Ukraine's commitments regarding the level of agricultural support based on the period of 1994-1996 as a base period during the following plurilateral meeting of the Working Party on Agriculture.

Appropriate state support is needed for purposes of stabilization and further development of Ukraine's agrarian sector. This need results from objective particularities in the functioning of Ukrainian agriculture, lagging of domestic agriculture in terms of technological levels of production, from a need to resolve problems specific for the Ukrainian agrarian sector that have accumulated over the years of crisis-ridden development. Last years' experience shows that the agrarian sector is not able to resolve these problems without an increase of State support.

In addition, results of market transformation in the entire country depend, to a large extent, on the efficiency of agrarian reform, as 32 per cent of the Ukrainian population is concentrated in

Ukraine's rural localities, 23 per cent of the entire labour force is engaged in agriculture, 66 per cent of all lands in Ukraine are lands of agricultural enterprises and citizens, and the percentage share of agriculture in Gross Domestic Product constitutes 14 per cent (2001 p.). In this respect, the level of support (AMS – 1994-1996) totals US\$275 as calculated per one person employed in Ukraine's agriculture, while it is about US\$1,000 in some countries that are WTO Members, the level of support per 1 ha of agricultural land in Ukraine totals only US\$33, which is 5-6 times lower than in these countries.

II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies

(a) Main directions of the ongoing economic policies

Item 1

These sections address basic economic policies, with special emphasis on state ownership and privatization, price controls, foreign exchange measures, and foreign investment regime, as these issues may have an impact on Ukraine's implementation of WTO provisions. The information provided should be concise and focus on issues that impact trade.

Answer:

Ukraine has made every effort to meet these criteria.

Item 2

Ukraine has provided new information in relation to types of products and services subject to price regulation, but not a complete description of the nature of such price regulations. We request Ukraine provide this information, setting out the following details in table form:

- **the tariff codes of the products subject to such regulation;**
- **a description of the products;**
- **information on the form of price regulation applied, e.g., price caps, minimum prices, mark-up regulations, etc., including whether such regulation is internal or applies to only imported products;**
- **the purpose of such price regulation; and**
- **and the Ukrainian legal instruments used to apply such regulations.**

Answer:

Pursuant to Article 23 of the Law of Ukraine "On Enterprises in Ukraine," No. 887-XII, dated 23 March 1991, business agents shall sell their products and property on the domestic market according to prices and tariffs which they determine independently or on a contractual basis, and, in cases provided by legislative acts of Ukraine, according to prices and tariffs subject to regulation.

The Law of Ukraine "On Prices and Pricing," No. 507-XII, dated 5 December 1990, Resolutions of the Cabinet of Ministers of Ukraine "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations,"

No. 1548, dated 25 December 1996, and "On Rules on State Price (Tariff) Regulations for the Products of Production and Technical Designation, Consumer's Goods, Works and Services of Monopolistic Formations," No. 135, dated 22 February 1995, are the basis for state price regulations.

Pursuant to Article 9 of the Law of Ukraine "On Prices and Pricing," state fixed and regulated prices and tariffs shall be established on the following:

- resources, which significantly influence the general level and dynamics of prices;
- goods and services, which have significant social importance; and
- products, goods and services, production of which is concentrated at enterprises that have monopolistic status on the market.

Price regulations are aimed at ensuring a balanced market for means of production, goods and services, creating necessary economic guarantees for producers, observing price parity between branches and types of business activity and counteracting monopolistic trends of producers of products, goods and services, as well as ensuring social guarantees, first of all, for low-paid and poor people.

Pursuant to the Constitution of Ukraine, authority for state price policy lies within the Cabinet of Ministers of Ukraine. According to the Law of Ukraine "On Prices and Pricing," the Cabinet of Ministers of Ukraine shall determine the list of products, goods and services for which state fixed and regulated prices are established. The Cabinet of Ministers of Ukraine shall also determine the powers of state authorities in the field of establishment and application of prices, as well as in relation to control over prices.

State regulation of prices and tariffs shall be effectuated in the following ways:

- establishment of state fixed prices (tariffs); and
- establishment of limit levels of price (tariff) caps or limit deviation caps from state fixed prices and tariffs.

The Cabinet of Ministers of Ukraine (pursuant to its Resolution No. 1819, dated 13 December 2000) entrusted the State Inspectorate on Prices Control with functions regarding state control over prices. The main tasks of Derzhzhinspektoria (State Inspectorate on Prices Control) are the following: organizing and conducting control and surveillance functions as regards observance of the requirements regarding formation, establishment and application of the regulated prices and tariffs by central and local authorities of the executive power, Council of Ministers of the Autonomous Republic of Crimea, enterprises, institutions and organizations, as well as monitoring prices and tariffs of goods and services in consumer markets, generalizing the results of such monitoring and preparing suggestions regarding application of measures for stabilization of price situation.

See Annex 1. The List of Goods, the Prices (Tariffs) of which are Subject to State Regulation

See Annex 2. The List of Services, Prices (Tariffs) of which are Subject to State Regulation

Item 3

So far as certain internal price regulations are concerned, it is our expectation that Ukraine will commit to abide by the provisions of Article III:9 and X of GATT 1994 from the date of accession.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 4

So far as any regulations applicable to the prices of imported or exported products are concerned, it is our expectation that all such regulations will be eliminated by the date of accession and that Ukraine will commit to abide by the provisions of Article XI:1 of GATT 1994 and Article 4 of the Agriculture Agreement from the date of accession and to not revert to such measures after accession.

Furthermore, there is no reference in the table to the minimum internal prices that are maintained by Ukraine in the sugar sector, in particular for refined sugar and sugar beets. It is our expectation that Ukraine will provide full transparency in relation to all internal price regulation of in the sugar sector, and amend the table accordingly. Such minimum prices and the measures used to maintain them are internal regulations that discriminate against imports of raw cane sugar and provide protection to domestic products, and are inconsistent with Article III:4 of GATT 1994.

Answer:

Ukraine expects to deal fully with the questions of its commitments related to regulations applicable to the prices of imported or exported products in the context of preparation of the draft Report of the Working Party.

Additionally, see Annex 1 and the Answer to Item 159.

Item 5

Accordingly, it is our expectation that all minimum prices maintained in the sugar sector and the measures used to maintain them will be eliminated by the date of accession, and that Ukraine will commit to abide by the provisions of Article III:4 of GATT 1994 and to not revert to such minimum price regulations after accession. We request Ukraine to give such a commitment.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

- **State Ownership and Privatization**

Item 6

The chart in item No. 6 indicates that output of enterprises with a share of state ownership in 2001 was 73.1 billion UAH, about half of which is accounted for by extractive and processing industries, production of electricity, gas, and water. The response to item No. 8 states that the industrial output of privatized firms in 2002 was 20.3 billion UAH, about 52 per cent of total production. It goes on to state that privatized firms account for about half of the output of the food industry, processing of agricultural products, textile and clothes production, chemical and electrical and electronic equipment industries.

For the factual summary, we would appreciate a clearer sense of what part of these sectors remain partially or wholly state-owned, and what portion of Ukraine's output and trade accounted for by such enterprises.

Answer:

According to the data of the State Statistics Committee of Ukraine the output of industrial enterprises that changed their ownership form was UAH66.6 million as of 1 October 2002, which is 53.9 per cent of the total output.

The number of joint-stock companies set up on the basis of state enterprises and the share of private capital in total capital may be seen in the following table.

Table 1

Number of enterprises (as of 1 April 2003)

Industry	Total	Percentage of private capital in total capital			
		up to 25%	25% to 50%	50% to 75%	75% to 100%
Power engineering	34	8	10	7	9
Fuel industry	13	4	1	2	6
Ferrous metallurgy	96	8	5	7	76
Chemical and petrochemical	108	14	7	9	78
Machine building and metal processing	1,254	91	61	114	988
Woodwork, and pulp and paper industry	171	9	2	5	155
Light industry	221	13	3	9	196
Food industry	842	65	6	46	725
Transport	909	57	5	128	719
Construction	78	7			71
Other industries	4,526	377	67	420	3,662
Total:	8,252	653	167	747	6,685

Item 7

Typically, information is provided for this section on progress of privatization by sectors since initiation of privatization program, indicating the portion of enterprises privatized, in the process of privatization, and still state-owned.

We also seek information on the scope and future of Ukraine's privatization efforts and more information on nature and size of those parts of the economy that will not be privatized.

Answer:

More than 85,000 enterprises have been privatized over the years of privatization. More than 61,000 entities have been transferred into the collective form of ownership, and almost 24,000 private enterprises have been formed.

By types of economic activity, the privatization process has covered principally wholesale and retail trading businesses, including businesses engaged in sales of motor vehicles and motor vehicle repair services; rendering of collective, public and personal services; industrial sectors.

Altogether, more than 68,000 entities were privatized during 1992-2002, in particular: integrated property complexes of state-owned and leasing enterprises and structural divisions of enterprises spun off into independent enterprises, as well as hotels, sanatorium and resort facilities and recreation homes etc.

Privatizations of 179 large state-owned enterprises with capital assets valued at more than UAH 170 million have begun over the past ten years. Not less than 40 per cent of the shares in 132 companies have been sold.

As of the beginning of 2003, more than 11.5 thousand medium- and large-size enterprises were privatized with depth of not less than 70 per cent, among which almost 47 per cent constitute industrial enterprises.

In the industrial sector, enterprises, which changed their form of ownership, produced UAH66.6 billion worth of output as 1 October 2002, which constitutes 53.9 per cent of the total volume of output.

Table 2

Plans for the Future - Privatization of Enterprises in 2003

Sectors of the economy	Number of enterprises whose controlling or blocking packages of shares are planned for sale on the stock market and at auctions	Balance sheet value of capital assets, million UAH	Number of employees, persons
Oil and gas complex	4	45.94	29,675
Energy sector	3	167.10	10,985
Agriculture	32	329.76	6,662
Metallurgy	9	3,373.11	70,255
Machine building and metal-working	49	154,139	96,601
Aircraft industry	1	20.84	854
Shipbuilding industry	2	6.22	6,167
Sector of communications devices	4	392.54	4,213
Chemical industry	6	1,947.94	11,510
Petrochemical industry	3	73.86	6,002
Transport	27	203.86	6,015

Item 8

For the protocol package, we seek a commitment to report on developments in its program of privatization as long as the privatization program would be in existence and provide reports on other issues related to its economic reforms as relevant to its obligations under the WTO while Ukraine is still in the process of reforming its economy.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

- Pricing Policies

Item 9

We appreciate the information provided in response to item No.7. It reports on the legal basis and scope of state price controls applied at the federal level:

Is the chart comprehensive? For example, are there any sort of price controls on alcoholic or tobacco products?

Answer:

See the answer to Item 2 and Annex 1.

The Law of Ukraine, dated 19 December 1995, under No. 481/95-VR, "On State Regulation of Production and Circulation of Ethyl, Cognac and Fruit Alcohol, Alcoholic and Tobacco Products" and Resolution No. 700, dated 21 June 2001, "On Introduction of Minimum Prices for Domestic and Imported Vodka and Alcoholic Products" approved amounts of minimum prices for domestic and imported vodka and alcoholic products that are sold in Ukraine by wholesale and retail enterprises, public catering establishments, producers, irrespective of their ownership forms, and by natural persons who are registered as entrepreneurs.

Procedures for setting of minimum prices for domestic and imported vodka and alcoholic products are governed by Order No. 371/168/239 of the Ministry of Finances, the Ministry of Economy and the Ministry of Agrarian Policy, dated 8 August 2001, "On Approval of Procedures for Setting and Application of Prices for Domestic and Imported Vodka and Alcoholic Products".

Item 10

Please clarify whether in setting "tariffs for international and domestic railway transportation" Ukraine sets different tariffs for domestic and foreign trade?

Answer:

Effective tariffs are equal for carriage of domestic and foreign trade cargoes. They apply to all lines of the general railway network in Ukraine for all cargo forwarders and recipients. Tariff rates depend on distance, type of carriage, cargo weight and a type of railway car.

Item 11

Are any price controls applied at the sub-central level?

Answer:

The list of products, goods and services, prices for which are subject to control at the sub-central level is approved by Resolution No. 1548 of the Cabinet of Ministers of Ukraine, dated 25 December 1996, "On the Determination of Price Regulation Powers of Agencies of Executive Power and Executive Bodies of City Councils" (See the response to Item 2).

Territorial offices of the State Price Control Inspectorate – State Price Control Inspectorates in the Autonomous Crimean Republic, oblasts, Kyiv and Sevastopol – control compliance with procedures for formation, setting and application of state fixed and regulated prices in regions.

Item 12

Concerning Ukraine's price controls on energy and energy distribution:

Do any of these controls provide for different prices applied to specific domestic consumers, e.g., specific industries or firms, or for sales abroad in comparison with domestic consumption?

Answer:

Energy distribution companies shall determine retail prices on electricity for consumers (except for the general population) in accordance with the Terms and Rules for Effectuation of Entrepreneurial Activity on Distribution of Electricity under the Regulated Tariff, approved by the Resolution of the National Commission for Regulation of Electricity of Ukraine, No. 15/1, dated 13 June 1996. These tariffs are unified for all consumers of the appropriate class of voltage within the territory of the relevant energy distribution company. It depends on the level of the wholesale price of energy sold to the Wholesale Market of Energy of Ukraine, as well as costs of energy distributors for transportation of energy to consumers.

Formation of wholesale tariffs for electric energy is realized in the wholesale market of electric energy of Ukraine on a contractual basis. Consumer prices for electric energy are set by suppliers of electric power according to conditions and rules of accomplishment of entrepreneur activity on supplies of electric power which are established by the NCPI.

Apart from this, the NCPI defines the market procedure for computing the retail tariff for electric power, the level of which is determined on the basis of the average predicted purchasing price of electric power for the settlement month, corrected by the coefficient of technological losses of electric power and tariffs for transmitting and supplying of electric power. In addition, the average predicted purchase price is determined by each operator of the electric power market (licensee) on the basis of actual and predicted prices for previous periods of time. This allows to operatively react to changes in market prices. The coefficient of technological losses of electric power takes into account normative technological expenses, and tariffs for supplies and transmitting of electric power are established according to actually incurred expenses by the operator of the electric power market of Ukraine (licensee).

Thus, the state, with the purpose of preventing monopolization and unwarranted overestimation of prices in the market of electric power, regulates operation of the electric power market using market mechanisms to attain it.

The method and an example of the retail tariff computation is given in Annex 3.

Concerning state regulation of the power industry, please see the Answer to Item 2.

Item 13

In earlier documentation, Ukraine indicated that reference prices had been "set on 3 March 2000 for the following products: tubes, armature, ferrosilicium, ammonia, cattle, wet salted leather, sunflower seeds, flax seeds, certain other products". These are not listed in the chart in item No. 7 of WT/ACC/UKR/110. Are these controls still in effect?

Answer:

For the time being, indicative prices for the export of the following products are being set on a monthly basis: reinforcement rods, square billets, hot roll, stitch-free pipes of non-ferrous metals, ferrosilicon manganese, carbamide, ammonia, live cattle, live rams and sheep, skins and hides of cattle wet-salted and otherwise conserved, sheep's skins wet-salted, linseeds, sunflower seeds, seeds of red flax, and electric power.

The indicative prices are set by the Ministry of Economics and for European Integration of Ukraine upon the submission of the State Information and Analytical Center for External Commodity Markets Monitoring (Derzhzovnishinform) based on the results of review of information received from customs, financial, statistical state authorities, banking, information and other institutions of Ukraine and from other sources (global commodity exchanges data). Indicative prices for the Month of May 2003 are presented in Annex 4.

Indicative prices serve as benchmarks for business entities entering in sale-purchase agreements wherefore they were not included in Item 7.

Item 14

We seek a commitment that in the application of its price controls Ukraine will apply such measures in a WTO-consistent fashion, and take account of the interests of exporting WTO Members as provided for in Article III.9 of the GATT 1994.

We also seek confirmation that Ukraine publishes notices of the goods and services subject to state price controls and will continue to do so after accession.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

(b) Monetary and fiscal policies

Item 15

This section should outline the guiding principles of Ukraine's monetary policy and Central Bank operations.

Answer:

The main efforts of the National Bank of Ukraine are centered on the fulfillment of the principal mission assigned to it under the Constitution of Ukraine (Article 99) and the Law of Ukraine On the National Bank of Ukraine No.XIV of 20 May 1999 requiring the Bank to ensure domestic currency stability. A stable monetary unit minimizes macroeconomic risk and promotes the growth of external lending and of investment activity. It thus provides a basis for sustainable economic growth and improvement in the quality of life which is fully commensurate with the key objectives of economic and social policy pursued by the Government of Ukraine.

As a manifestation of Ukraine's commitment to openness and transparency of its economy, the criteria for the assessment of national monetary and credit policy are provided by domestic price indices and currency exchange rates, whereas the criterion for operational objectives is the monetary base indicator.

The demand for cash is met by expanding the money supply by conducting operations in the currency market and increasing bank refinancing, and through creation of preconditions for money multiplication through monetary measures (decreasing reserve requirements and lowering of the discount rate).

New bank refinancing instruments have been introduced to include weekly short-term and medium-term tenders of various sorts, daily extension of overnight credits to banks via continuously operating refinancing line which has enabled banks to address the National Bank of Ukraine as the lender of last resort to sustain their liquidity. The banks currently are able to obtain credits without collateral in unlimited amount. Seeking to stimulate lending to the economy's productive sector, the National Bank has expanded the list of types of collateral accepted for the security of the National Bank's loans which allows bank to choose the most appropriate options for ensuring effective management of their assets.

Measures used by the National Bank to support economic growth are aimed at:

- Increasing the banks' resource base;
- Improving the structure of banks' assets and liabilities;
- Increasing lending amounts;
- Promoting banks' investment commitments;
- Lowering the cost of credit; and
- Promoting the development of the stock market.

Policy priorities in the foreign exchange segment of the market include the retention of the nominal exchange rate within the limits of its gradual devaluation and suppression of large fluctuations with adequate response to an expected global economy recession.

Effective as of February of 2000, a floating rate regime has been put in place in Ukraine. Against this background exchange rate stability is sustained due to interventions of the National Bank of Ukraine and purchases of the surplus supply of foreign currency which allows to concurrently enlarge the National Bank's international reserves..

In the past three years, the currency and exchange rate policy has had positive macroeconomic effects that have had a stabilizing impact on monetary and credit markets and promoted the nation's economic development due to the following factors:

- stability of the nominal exchange rate: the nominal devaluation of the hryvnia against the US dollar: equaled 2.2 per cent;
- positive dynamics of the real effective exchange rate, the decline of which was 4.1 per cent;
- increase in the amounts of international currency reserves of the National Bank of Ukraine which grew fourfold over the last three years reaching a level enabling goods and services import financing for a period of 2.5 months.

(c) Foreign exchange and payments system

Item 16

Ukraine should outline its restriction on foreign exchange acquisition and retention, and any measures, such as fees or required deposits, that are applied to obtain foreign exchange. Please include any information on whether these measures are approved by the International Monetary Fund.

Answer:

On 24 September 1996, Ukraine announced the assumption of commitments under Article VIII of the IMF Charter that implied introduction of hryvnia convertibility for current account operations and non-application of restrictions to payments and money transfers under current account operations.

Presently, currency regulation standards and provisions meet requirements of Article VIII of the IMF Charter which is confirmed by the Fund experts.

Residents of Ukraine have the right to purchase foreign exchange for hryvnias at the interbank currency market. For purchasing a Group 1 currency as per Classifier of the National Bank and its transfer abroad for the purposes of payment of imports, residents of Ukraine are required to file relevant foreign economic contracts with an authorized bank. Under Article 3 of the Law of Ukraine On Procedure of Payments in Foreign Currency No. 185/94 of 23 September 1994 (as amended), the purchased foreign currency must be remitted by a resident in pursuance of its obligations to a non-resident within five business days following the date of such amount entering into the currency account of the resident in question.

All permanent representative offices of non-resident legal entities partially engaged in business activities in Ukraine, have the right for the unimpeded purchase at the interbank currency market of Ukraine of foreign exchange from their own hryvnia current accounts for the purposes of said foreign exchange transfer to accounts of the legal entity whose interests such organizations represent in Ukraine.

Resident natural persons may purchase foreign exchange in cash and enter same onto their accounts without any restrictions.

Non-resident natural persons may purchase foreign exchange in cash to the extent that the amount of such purchased currency does not exceed the amount previously imported into the country and declared at the time of such importation. In addition to that, non-resident natural persons may purchase foreign exchange for hryvnias from their current accounts for the purposes of transfers abroad against the presentation of documents attesting to the origin of the hryvnias in question.

The purchase of foreign exchange for the performance by residents of capital account operations is allowed at the interbank currency market of Ukraine exclusively against specific commitments residents have to non-residents.

Foreign exchange may not be purchased for the purpose of repaying debts owed by non-residents. Repayment by a resident of a non-residents' debt may be effected through the resident's own foreign exchange balances. The payment by a resident of such obligations is allowed at the expense of own funds in foreign currency.

(d) Foreign and domestic investment policies

Item 17

There is no information in the checklist on investment, but Ukraine has previously provided description in other documentation. In the factual summary, Ukraine's investment regime, with legal citations, should be described, with reference to any trade-related provisions or broad limitations on foreign investment.

Answer:

The investment regime is described in detail in Annex 5.

Item 18

In its response to No. 13, Ukraine lists a number of charges related to customs clearance (expressed as a percentage of the value of goods) that are inconsistent with Article VIII of GATT 1994. In addition, the fee of US\$1,000 for customs clearance would appear to be excessive compared to the likely cost of providing such a service. We seek information on the steps Ukraine will take to make these fees fully WTO consistent prior to the date of accession.

Answer:

Pursuant to the new Customs Code adopted by the Supreme Rada of Ukraine on 11 July 2002, which will enter into force as of 1 January 2004, charging of customs fees is not anticipated, except for fees charged for customs clearance if such clearance is carried out outside of customs authorities' premises or after working hours set for customs authorities. Please see the answer to Item 41.

Item 19

Can Ukraine confirm that port fees apply to exported goods, and that the fees applied to imported goods are charged at levels that are no higher than those imposed on exports?

Answer:

The following special-purpose fees are charged at Ukrainian sea ports: ship fees, berthage fees, anchor fees, canal fees, lighthouse fees, cargo fees, administrative fees and sanitary fees.

Pursuant to Resolution No. 1544 of the Cabinet of Ministers of Ukraine dated 12 October 2000, "On Port Fees", ship fees have two rates: ordinary and privileged.

Ship fees under privileged rates are charged upon vessels that carry flags of those countries with which Ukraine has entered into international treaties and agreements for the grant of Most Favored and National Treatment to their vessels. The fees do not depend on whether the cargo being carried is imports or exports. Please see Annex 7.

Item 20

Ukraine also notes a fee for customs clearance of goods in case of their transit. We seek a more detailed explanation of the actual services rendered in the case of goods in transit in order to assess compliance with Article V:3 of GATT 1994. This paragraph states that traffic in transit shall be exempt from all transit duties or other charges except those relating to transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

It is our expectation that all customs fees and charges will be applied by Ukraine in full conformity with the provisions of Articles I, V, VIII, X and XI of GATT 1994 after accession and all relevant provisions in other WTO agreements relating to fees and charges.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

See the response to Item 21.

Item 21

We welcome Ukraine's statement that the term "unified fee" does not imply the same level of fee in every case. However, the table provided in Ukraine's answer to Item 14 (page 32) does not support this statement. In particular, it provides a list of Unified Rate Fees based on type of motor vehicle. It appears to indicate a fixed fee for "performance of control" based only on vehicle capacity, and does not differentiate the size of the fee according to the types of control measures required. We seek further information from Ukraine on how these fees differ according to types of control measures applied.

Answer:

The unified fee is charged on motor vehicles that cross the State border for performance at entry points of customs (in case of transit), sanitary, veterinary, phytosanitary, radiological and environmental control of cargo and motor vehicles, and for passage by motor vehicles of highways.

The amount of the fee is not differentiated on the basis of the number of types of control that are applied to a particular type of products. Fee amounts depend only on the type of motor vehicle that is subject to control rather than on the type of cargo such vehicle carries.

Fee rates for performance of control are rather insignificant and range from EURO 2 to 10.

Two-three types of control are applied to the most part of goods at the time such goods cross through Ukraine's customs border. In this respect, rates of the unified fee do not exceed average costs concerned with the performance of two types of control. Such an approach to determining the level of the unified fee simplifies the border crossing procedure.

Application of the unified fee has resulted in a decrease by one half of fee amounts that have been charged in the course of performance of control procedures at the border

Item 22

Ukraine also applies the so-called "unified fee" to goods in transit. In order to assess the appropriateness of this policy, we seek further information from Ukraine on what services or administrative expenses are entailed in handling transit goods. In particular, are the full range of controls (customs, sanitary, phytosanitary et al) applied to goods destined for Ukraine's market also applied equally to goods in transit through Ukraine?

Answer:

The same range of controls, regardless of whether goods are destined for the customs territory of Ukraine or are in transit, shall apply to identical goods. The fee amount shall correspond to the cost of services rendered. For details on the unified fee please see the Answer to Item 21 and WT/ACC/UKR/100.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(a) Registration requirements for engaging in importing

Item 23

We appreciate the information provided in response to item No. 9, but we think that the information in this section of the factual summary should focus on registration requirements for trade as well as activity licensing.

Answer:

Requirements for licensing of business activity types are set out in Addenda 1 and 2 of document WT/ACC/UKR/110/Add 1.

Requirements for licensing of certain types of business activity related to trade are set out in Annex 6.

See also the response to Items 26.

Item 24

WT/ACC/UKR/91 states that Ukraine's registration system may be simplified, e.g., by enacting a single state registration for economic activity. Has that been done? Are there special requirements to register to conduct international trade?

Answer:

On 15 May 2003, the Supreme Rada of Ukraine passed the Law of Ukraine On State Registration of Legal Entities and Natural Persons Engaged in Entrepreneurial Activity now pending the signature of the President of Ukraine. This Law, which is being submitted to the WTO Secretariat, provides for the state registration of business entities exclusively by the State Registrar – an official responsible for the registration of legal entities and natural persons engaged in entrepreneurship exclusively at the executive committee of the city council or with district authorities having jurisdiction over the location of the natural person-entrepreneur. Registration is accompanied by entering the due record of registration into the Single Registry of Legal Entities and Natural Persons Entrepreneurs.

In accordance with the law, legal entity registration must be effected within three working days (for a natural person-entrepreneur – two days) from the date of receipt of documents requesting the state registration of a legal entity. A certificate of state registration of a natural person-entrepreneur must be issued not later than on the working day following the state registration date.

The above mentioned law shall enter into effect as of 1 July 2004.

No special conditions for registration of a subject of foreign economic activity apply in Ukraine.

Item 25

Must firms or individuals invest in Ukraine to be the importer or exporter of record?

Answer:

There is no requirement in Ukraine that a firm or individual should have invested in order to be the importer or exporter of record.

Item 26

Information on activity licensing should focus on licenses required to import or to export, or that include provisions for those activities, e.g., optical media disks, trade in precious metals and stones and scrap thereof, trade in medicines and narcotics, trade in tobacco and alcoholic beverages, and trade in pesticides and fertilizers. For each such product, please describe the steps that must be taken to import and to export.

For any such activities identified, information should be provided on procedures for obtaining a license and any subsequent requirements.

Special attention should be given to how the fee structure for registration for an import license relates to GATT Articles VIII, XI and XIII.

One area of special interest is trade in pharmaceuticals. The response to item No. 10 states that the registration fee for imported and domestic pharmaceuticals is "determined with regard to the type of product and its origin."

How is the origin of the product relevant to its registration?

Answer:

For a detailed answer to the question please see Annex 6.

Item 27

Please explain precisely how Ukraine will change its current system of tariffs for operations in the pharmaceutical market to bring it into conformity with Article VIII.

Answer:

In accordance with Article 9 of the Law of Ukraine "On Medical Products", the procedure for state registration of medical products shall be established by the Cabinet of Ministers of Ukraine.

The Resolution of the Cabinet of Ministers of Ukraine dated 13 September 2000 No. 1422 "On Approval of the Procedure for State Registration (Re-Registration) of Medical Products and of the Rates of Fee for State Registration (Re-Registration) of a Medical Product" fixed uniform fees for state registration (re-registration) of medical domestic and foreign medical products. The amount of fee depends on the type of product and irrespective of the country of origin.

In accordance with the indicated Resolution of the Cabinet of Ministers of Ukraine, the Order of the Ministry of Health of Ukraine of 19 September 2000 No. 220 "On Approval of the Procedure for the Conduct of Expert Assessment of Materials Submitted for State Registration (Re-Registration) of Medical Products", as well as Materials Submitted for Introduction of Changes in Registration Documents during the Term of Validity of Registration Certificates registered with the Ministry of Justice of Ukraine on 5 October 2000 and attributed No. 685/4906, determines a uniform procedure for the conduct of expert assessment of registration materials for medical products and for registration thereof irrespective of the country of origin.

As regards ceiling tariffs for the conduct of specialized and expert assessment of materials submitted for state registration (re-registration) of medical products fixed in the Order of the Ministry of Health of Ukraine of 17 March 2000 No. 55, such tariffs are uniform, as well, for all entities in the market of pharmaceuticals. These tariffs have been adjusted in conformity with the requirements of Article VIII of GATT and approved by the Order of the Ministry of Health of 14 June 2001 No. 228 "On Amendments and Additions to Ceiling Tariffs for the Conduct of Specialized and Expert Assessment of Materials Submitted for State Registration (Re-Registration) of Medical Products" at the State Scientific Expertise Center of Medical Products of the Ministry of Health registered with the Ministry of Justice of Ukraine on 21 June 2001 and attributed No. 4-28-1671. The amount of such tariffs depends on the type of product subject to registration irrespective of the country of origin.

Item 28

Typically, a commitment is taken that laws and regulations relating to the right to trade in goods and all fees, charges or taxes levied on such rights would be in full conformity with its WTO obligations, including Articles VIII:1(a), XI:1 and III:2 and 4 of the GATT 1994 and that the relevant laws and regulations would be applied in full conformity with these obligations.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

(b) Characteristics of national tariff

Item 29

Item No. 11 describes Ukraine's system of state duties. We seek information on any of these that are applied to international trade operations.

For example, point 2 lists state duties applied for the filing of lawsuits with economic (commercial jurisdiction) courts. Does this include appeals from administrative decisions, e.g., as provided for in Article X of the GATT and various other Agreements on Goods? Some of the state duties appear to be applied on an *ad valorem* basis.

Answer:

State duties do not apply to foreign economic operations.

Pursuant to Item 2 in Article 2 of Decree No. 7-93 of the Cabinet of Ministers of Ukraine, dated 21 January 1993, "On State Duties", state duties applied for the filing with commercial courts of lawsuits and creditors' claims in bankruptcy are proceedings, the filing of appeals and pleas of cassation against, and for the filing of petitions for the review of decisions and orders under newly discovered circumstances.

Pursuant to Sub-item d), Item 2 in Article 3 of the above referenced Decree, state duties shall be charged for the filing of appeals and pleas of cassation against decisions and orders, and for the filing of petitions for the review of such decisions and orders under newly discovered circumstances in the amount of 50 per cent of a rate that is to be paid if a lawsuit is filed with a court of first instance (UAH 42.5), and with respect to disputes involving property – 50 per cent of the rate calculated proceeding from the amount in dispute (0.5 per cent of the price of a claim, but not less than UAH 25.5 and not more than UAH 850).

Item 30

Point 6 (w) describes state duties applied for the issuance of documents (patents and certificates) for intellectual property, where the duty applied varies between domestic and foreign individuals and firms. How is this consistent with the national treatment requirement in the TRIPS Agreement?

Answer:

Existing inconsistencies with the provisions of the TRIPS Agreement will be eliminated by way of appropriate amendments to the laws.

Item 31

Item No. 12 discusses import surcharges. Antidumping and CVD applications are authorized by the Law on Single Customs Tariff, and subject to specific laws. The special duties, however, are not explained. Are these seasonal duties, safeguards, or for balance of payments purposes?

The nature of these duties should be explained and assurances given as to their application in conformity with WTO provisions.

Answer:

Application of safeguard measures (in the Ukrainian language "special measures") is provided for in Article 12 of the Law of Ukraine "On Single Customs Tariff" No. 2097-XII of 5 February 1992 (with changes and amendments) and Article 29 of the Law of Ukraine "On Foreign Economic Activity" No. 959-XII of 16 April 1991. The safeguard measure shall be applied as a means of protection, particularly in the event products are imported into the customs territory of Ukraine in volumes and/or under the conditions that cause considerable damage or pose the threat of causing considerable damage to the national producer.

The procedure of application of the safeguard measure shall be determined by the Law of Ukraine "On Application of Special Measures to Imports in Ukraine" No. 332-XIV of 22 December 1998. This Law regulates fundamentals and the procedure of initiating and conducting special investigations of facts of growing imports into Ukraine from other states, customs unions or economic groups, which cause considerable damage or pose a threat of considerable damage to the national producer, by the results of which safeguard measures may be applied.

(d) Other duties and charges

Item 32

"Other duties and charges" not related to the cost of a specific customs or other service are governed by the provisions of Article II:1(b) of the GATT and the Understanding. We seek Ukraine's commitment that it will eliminate upon accession that any such charges, i.e., any that are not tariffs, domestic taxes applied to imports, or fees applied for services rendered, will be eliminated prior to accession and that they will be bound at "zero" in the tariff schedule.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 33

Point 13: We note that there is an *ad valorem* component for customs clearance fees for goods with a value of more than US\$1,000 and welcome Ukraine's explanation during the Working Party meeting that WTO compliance will be achieved once the new Customs Code has entered into force. Confirmation would be appreciated.

Answer:

Please see the Answer to Item 41.

Item 34

Point 16: The information provided so far is not sufficient to establish the WTO compliance of the single customs fee, and our concerns remain. We welcome Ukraine's intentions, as expressed during the Working Party meeting, to provide further explanation and justification.

Answer:

Please see the Answers to Items 21, 39 and 41.

- **Fees and charges for services rendered**

Item 35

Item No. 13 addresses customs fees, consular fees, port fees, etc., i.e., those applied to pay for a specific services. The extensive description of customs fees is confusing, as it appears that such fees are no longer applied to imports unless clearance takes place off-location or after regular hours.

Please confirm or clarify the conditions under which the customs fees covered by Cabinet of Ministers Resolution No. 65 of 27 January 1997 would be applied after 1 January 2003.

Answer:

Please see the Answer to Item 41.

Item 36

Concerning consular fees, are any of these fees charged for the authentication of import or export documents? Are any charged in the context of trade in goods?

Answer:

Pursuant to the Regulation "On Consular Fees in Ukraine", as approved by Order No. 217 of the Ministry of Foreign Affairs, dated 15 December 1999, a consular fee is a monetary fee that is charged of natural persons and legal entities by Ukrainian diplomatic representative offices and consulates abroad, the Consular Department of the Ministry of Foreign Affairs of Ukraine and representative officers of the Ministry of Foreign Affairs of Ukraine within Ukrainian territory for accomplishment of consular actions.

Pursuant to Article 54 of the Consular Charter of Ukraine, approved by Decree No. 127/94 of the President of Ukraine, dated 2 April 1994, the Consul shall legalize documents and instruments

drawn up with participation of or issued by consular circuit authorities. Consular legalization shall mean the determination and certification of genuineness of signatures on such documents and instruments and their compliance with the laws of the given foreign country.

Export and import documents are not subject to consular legalization. Hence, there are no consular fees that are charged for the authentication of import or export documents, nor are there any consular fees in the context of trade in goods.

Item 37

Item No. 14 extensively describes the application of customs fees that, to some extent appear to have been abolished and item No. 16 provides further clarification on the application of the "unified fee". Item No. 17 addresses fee for customs clearance on importation of oil products.

Answer:

Ukraine continues to charge the unified fee described in Item No. 14. An additional customs fee charged for customs clearance of oil products will be automatically abolished upon the entry into force of the new Customs Code on 1 January 2004. Please also see the Answer to Item 41.

Item 38

Please clarify the status of the fees described in item No. 14 in light of the provisions of the new customs code and the July 2001 amendments to the Law on the Unified Fee.

Answer:

Please see the Answer to Item 41.

Item 39

Please confirm or clarify that the Unified Fee can vary depending on the cargo being carried by the vehicles subject to the tax, i.e., if they contain goods subject to import licensing or mandatory certification, other fees will apply. Provide an example of two identical vehicles with different cargoes and the way the fee would be applied.

Answer:

The unified fee is charged on motor vehicles that cross the State border for performance at entry points of customs (in case of transit), sanitary, veterinary, phytosanitary, radiological and environmental control of cargo and motor vehicles, and for passage by motor vehicles of highways.

In this respect, the fee charged for licensing or mandatory certification is not included into the unified fee, and is not to be charged at entry points at the State border.

The amount of the unified fee is not differentiated on the basis of the number of types of control that are prescribed for a particular type of products. This is due to the fact that fee rates do not exceed average costs for performance of all types of control at the Border.

Amounts of unified fee rates depend only on the type of motor vehicle that is subject to control, rather than on the type of cargo such vehicle carries. Thus, the same amount of the unified fee is applied to two identical vehicles with different cargoes.

Item 40

Please confirm the current status of the .01 ECU per kilo duty on oil imports.

Answer:

Pursuant to Resolution No. 1460 of the Cabinet of Ministers of Ukraine, dated 18 September 1998, oil imports into Ukraine are subject to the .01 ECU per kilo customs duty that is transferred into the State Budget.

The Customs Code of Ukraine, which enters into force 1 January 2004, provides for cancellation of the said duty.

Item 41

Please provide a current comprehensive list of all/all duties, fees, and charges applied to imports, whether or not for services rendered (not including domestic taxes applied to imports) and their level of application.

Answer:

Currently, the following duties, fees, and charges are applied to imports pursuant to effective Ukrainian law:

- Import Duty

Import duties are imposed on all goods imported into Ukraine at the time such goods cross a customs border (in case of customs clearance at the border) or in the course of customs clearance by internal customs offices located at the address of an importer. Conditions under which import duties are calculated and charged are set out in the Law of Ukraine, dated 5 February 1992, under No. 2097-XII, "On the Single Customs Tariff". Import duties are calculated on the basis of customs value of goods or as a flat charge per unit. Import duties are paid by payers prior to/or on the date of customs clearance in Ukrainian hryvnias.

Import duties are differentiated:

- preferential import duty rates are applied to goods that come from countries that are part of customs unions together with Ukraine or have with Ukraine special customs zones, and in the event that any special preferential customs regime is established pursuant to international treaties and agreements to which Ukraine is a party;
- privileged import duty rates apply to goods that come from countries or economic unions that enjoy MFN treatment in Ukraine; and
- full (common) import duty rates apply to all other goods.

Pursuant to the Law "On the Single Customs Tariff", it is permitted to set preferences with respect to import duty rates in Ukraine in the form of exemption from import duties, reduction of import duty rates or establishment of quotas for preferential importation of goods and other items.

Import duty rates are set by the Law of Ukraine, dated 5 April 2001, No. 2371-III "On the Customs Tariff of Ukraine".

- Customs Fees

Pursuant to Articles 76 and 77 of the effective Customs Code of Ukraine, customs fees are charged for customs clearance and customs control of motor vehicles, goods and other items that cross the customs border of Ukraine.

In accordance with Article 77 of the effective Customs Code of Ukraine, customs authorities charge customs fees for customs clearance of goods and other items at customs control zones within territories and in premises of enterprises that store such goods and other items, or after regular working hours prescribed for customs offices, and for storage of goods and other items under responsibility of customs offices in cases when a transfer of such goods and other items into storage is not mandatory under Article 85 of the Code. Rates of customs fees are approved by Resolution No. 65 of the Cabinet of Ministers of Ukraine, dated 27 January 1997, "On Rates of Customs Fees". Customs fees indicated below will be charged until 1 January 2004. (See the Table below)

Table 3

No.	Name of the transaction	Amount of the fee
1.	Customs clearance of goods and other items if their customs value:	
	is under US\$100	not charged
	ranges from US\$100 to US\$1,000	US\$5
	is over US\$1,000	0.2% of customs value of goods, but not more than US\$1,000
2.	Customs clearance of temporally imported (exported) property, subject to an obligation to export (import) same back:	
	for each cargo customs declaration	US\$30
	for each additional sheet thereto	US\$15
3.	Customs clearance of goods if brought into a licensed customs warehouse:	
	for each cargo customs declaration	US\$30
	for each additional sheet thereto	US\$15
4.	Stay of goods and other items under customs control, for each day of stay:	
	for the first fifteen calendar days	is not charged
	for each next calendar day	0.05% of total customs value of goods
5.	Customs clearance of goods at customs control zones within territories and in premises of enterprises that store such goods and other items, or after regular working hours prescribed for customs offices (for 1 hour of work of one customs officer):	
	during working hours	US\$20
	during non-working hours, Saturdays, Sundays	US\$40
	holidays	US\$50

In addition, pursuant to Resolution No. 285 of the Cabinet of Ministers of Ukraine, dated 7 March 1998, in the event of customs clearance of scrap metal and ferrous and non-ferrous metal scrap exports, rates of customs fees for customs clearance of such products, stay thereof under customs control and a summons of a customs inspector are paid by business entities five times customs fee rates of such type, except for business entities that export such products pursuant to a State program for utilization metals in common types of ammunition not suitable for further use and storage.

Resolution No. 1460 of the Cabinet of Ministers of Ukraine, dated 18 September 1998, approved an additional customs fee for customs clearance of oil products that are imported into the customs territory of Ukraine and are subject to the .01 ECU per kilo excise duty that is transferred into the State Budget and specially directed into the Pension Fund. This Resolution does not apply to oil products that are produced and sold in Ukraine. Customs fees indicated above will be charged until 1 January 2004.

The new Customs Code of Ukraine adopted by the Supreme Rada of Ukraine on 11 July 2002, No. 92-IV (Article 71), upon entry into force (1 January 2004), will introduce such terms as "fees for customs clearance of goods, if such clearance takes place off-location or after regular working hours prescribed for customs authorities". Amounts of such fees as set by Resolution No. 93 of the Cabinet of Ministers of Ukraine, dated 18 January 2003, are as follows:

Table 4

	Name of the transaction	For 1 hour of work during customs clearance of one shipment of goods or one motor vehicle, in US\$
1.	Customs clearance of goods and motor vehicles off-location by customs authorities:	
	during working time	20
	during extra hours, night time and on weekend days	40
	on holidays and non-working days	50
2.	Customs clearance of goods and motor vehicles on location by customs authorities after regular working hours prescribed for customs authorities:	
	during extra hours, night time and on weekend days	40
	on holidays and non-working days	50

- Unified Fee (See also the response to Item 21)

In order to simplify procedures for customs clearance of motor vehicles that cross the customs border of Ukraine, the Supreme Rada of Ukraine adopted on 12 July 2001 a Law of Ukraine, under No. 2659-III, "On Amendments to the Law of Ukraine "On the Introduction of the Unified Fee charged at Points of Entry through the State Border of Ukraine".

Pursuant to this Law, the unified fee is prescribed that will be charged at points of entry through the state border of Ukraine upon national and foreign owners of motor vehicles. This fee consists of fees for customs control of cargoes and motor vehicles in transit and for sanitary, veterinary, phytosanitary, radiological and environmental control, and of fees for passage by motor vehicles, other self-propelled machines and mechanisms by highways in Ukraine.

Pursuant to Article 2 of the Law of Ukraine, dated 12 July 2001, under No. 2659-III, the unified fee shall be charged one time, depending on a regime of passage (importation, transit) under a single payment document.

Unified fee rates are approved by Article 5 of the said Law of Ukraine in EURO.

Unified fees are charged at points of entry through the State border of Ukraine in Ukrainian hryvnias pursuant to the official exchange rate of the National Bank of Ukraine effective on the date of payment of such fees.

Article 2 of Law No. 2659-III of Ukraine, dated 12 July 2001, sets the following unified fee rates:

Table 5

Type of motor vehicle	Capacity or total mass of the motor vehicle with cargo	Unified fee rate per unit of motor vehicle in EURO	
		For performance of control	For passage by highways for each kilometer of passage
1. Buses	From 10 to 30 seats inclusive	2	0.02
	Over 30 seats	5	0.02
2. Trucks with or without trailers and tractors with or without semi-trailers	Under 20 tons inclusive	5	0.02
	Over 20 to 40 tons inclusive	10	0.02
3. Heavy-weight motor vehicles	Over 40 to 44 tons inclusive	10	0.1
	Over 44 to 52 tons inclusive	10	0.2
	From 52 to 60 tons	10	0.27
	Over 60 tons (for each next 10 tons)	10	0.78
4. Large-size motor vehicles with axial load exceeding	Under 5% inclusive	-	0.05
	Over 5% to 10% inclusive	-	0.1
	Over 10% to 20% inclusive	-	0.27
	Over 20% for each next 5%	-	0.15
5. Large-size motor vehicles with exceeding of width, height, length parameters	For each parameter	-	0.03
6. Railway car, container		2	-

Concerning fees are charged at Ukrainian ports see also the response to Item 19.

Item 42

We seek a commitment from Ukraine that upon accession any fees or charges for services rendered related to importation or exportation would be applied only in conformity with Article VIII of the GATT 1994, and that information regarding the application and level of any such fees, revenues collected and their use would be provided to WTO Members upon request.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

(e) Quantitative import restrictions

Item 43

The chart in item No. 18 indicates that quantitative restrictions are applied as trade remedies on a number of products as authorized by the Law "On the Application of Special Measures to Imports into Ukraine of 22 December 1998.

To the extent that they are applied to WTO members, how does Ukraine intend to proceed at the time of its accession to ensure that their application is consistent with WTO provisions. (Note: We do not assume that Ukraine's current legislation is WTO consistent. End note)

Answer:

We understand that some provisions of the Law "On the Application of Special Measures to Imports into Ukraine", dated 22 December 1998, are not fully consistent with the provisions of Article 5.1 of the Safeguards Agreement in the part dealing with the determination of quota amounts if trade remedies are applied.

Currently, a draft law is under preparation that will introduce the necessary amendments to the Law "On the Application of Special Measures to Imports into Ukraine", in order to bring the same into conformity with the WTO rules.

Item 44

Please list any additional imports by HS number, subject to any type of quantitative import restrictions, the nature of the restriction (e.g., quota or ban) and the WTO justification for these measures, e.g., does Ukraine apply any sort of quantitative limitation on the importation of alcoholic beverages?

Answer:

The table provides information regarding all quantitative limitations, applied by Ukraine as to imports of products, and substantiation of such limitations by the WTO norms:

Table 6

HS Code	Name of product	Country of origin	Grounds and conformity to the WTO norms
8703 22 19 00	Motor cars	Russian Federation	Articles 2-5 of the WTO Agreement on Safeguard Measures
2836 30 00 00	Baking soda	Russian Federation	Articles 2-5 of the WTO Agreement on Safeguard Measures
2523 29 00 00	Concrete	Russian Federation	Articles 2-5 of the WTO Agreement on Safeguard Measures
3921 13	Slabs, sheets, film and plates of polyurethane	Belarus, Russian Federation, Lithuania, Poland, Czech Republic, Hungary	Articles 2-5 of the WTO Agreement on Safeguard Measures
9018 31 10 00	Syringes with and without needles of plastic materials with the volume of 2, 5, 10, 20 ml	Russian Federation, Slovakia, Belgium, Poland, Germany, Spain	Articles 2-5 of the WTO Agreement on Safeguard Measures

Ukraine does not apply quantitative limitations on the importation of alcoholic beverages.

(f) Import licensing procedures

Item 45

The response to Item No. 19 is not fully responsive. Is the information on import licensing procedures in WT/ACC/UKR/99 still current? What is the status of licensing arrangements for imports of ethyl alcohol, alcoholic beverages, and tobacco?

Answer:

According to Ukrainian legislation the right to perform operations with ethyl alcohol and alcoholic beverages (exportation, importation, production, internal wholesale trade) is granted on the basis of an activity license. No import license is required.

Information on the license necessary to engage in the activity of importing alcohol and alcoholic beverages was included in WT/ACC/UKR/99 in the interests of transparency. Imports of tobacco and tobacco products are undertaken by firms having a license to engage in such activity. For these firms no further license is required. WT/ACC/UKR/99 is being revised and updated.

Item 46

Item 8 lists "import operations subject to mandatory licensing.

In the case of plant protection chemicals, optical media materials, and special papers, are these requirements activity licensing, import licensing, or both?

Answer:

Chemicals (insecticides, rodenticides, fungicides, herbicides, other chemicals preventing germination of sprouts and regulators of plant growth, codes under the UCP FEA – 3808 10, 3808 20, 3808 30, 3808 90), certain types of special papers (postal, excise marks, stamp paper, codes under the UCP FEA – 4907 00 10, 4907 00 91, 4907 00 99) are considered categories subject to import licensing without quantitative limitations.

Importation of optical polycarbonate (code 3907 40 0000), discs for laser reading systems and master discs designed for the production of discs for laser reading systems is allowed only by firms having a license to engage in such import activities. For those firms no further license is required. Information on this licensing procedure was included in WT/ACC/UKR/99 in the interests of transparency.

Item 47

Does Ukraine observe the provisions of the Agreement on Import Licensing Procedures in the licensing requirements listed in the chart? If not, what steps are being taken to amend the procedures?

Answer:

Licensing requirements applicable to imports of goods into Ukraine comply with the provisions of the Agreement on Import Licensing Procedures

Item 48

Are there any other products, e.g., automobiles, armaments, narcotics, nuclear materials, etc., subject to import licensing other than those listed in item No. 18? Why was import licensing for alcohol and tobacco omitted from the chart?

Answer:

In addition to the chart (Item No. 18 in WT/ACC/UKR/110), quantitative restrictions on the importation of new automobiles from the Russian Federation (code 8703 22 19 00) effective as from 12 December 2002 up to 9 December 2006 were introduced by Decision No. SP-54/2002/52-49 of the Interdepartmental Commission on Foreign Trade, dated 6 December 2002, as protective measures, in accordance with Articles 2 - 5 of the WTO Agreement on Safeguards.

As regards the regime applicable to importation of armaments, such importation is governed by the Law of Ukraine "On State Control over International Transfers of Products of Military Designation and Dual Use", dated 20 February 2003 under No. 549-IV. Pursuant to the said Law (Article 9), lists of names and descriptions of goods, international transfers of which are subject to State expert-performed control, are prepared and approved by Resolution No. 1358 of the Cabinet of Ministers of Ukraine, dated 8 December 1997, "On Approval of the Regulation on Procedures for State Control over International Transfers of Products of Military Designation".

Procedures, under which State control is performed, are defined by the following Resolutions of the Cabinet of Ministers of Ukraine:

- Resolution No. 384, dated 22 April 1997, "On Approval of the Regulation on Procedures for Control over Exports, Imports and Transit of Products that may be used in the Manufacturing of Chemical, Bacteriological (Biological) and Toxic Weapons";
- Resolution No. 563, dated 27 July 1995, "On Approval of the Regulation on Procedures for Control over Exports, Imports and Transit of Missile Devices, as well as Equipment, Materials and Technologies used in the Manufacturing of Missile Weaponry";
- Resolution No. 302, dated 12 March 1996, "On Approval of the Regulation on Procedures for Control over Exports, Imports and Transit of Products that relate to Nuclear Activities and may be used in the Manufacturing of Nuclear Weapons";
- Resolution No. 1005, dated 22 August 1996, "On Procedures for Control over Exports, Imports and Transit of Certain Types of Devices, Equipment, Materials, Software and Technologies that may be used in the Manufacturing of Armaments, Military or Special Equipment".

At the same time, exportation and importation of products of military designation and products, which contain information constituting State secrets, are governed by Article 13 of the above referenced Law, whereby subjects engaged in foreign economic activities must obtain corresponding authorizations from the Cabinet of Ministers of Ukraine.

As regards the regime applicable to importation of narcotics, such importation is governed by the Law of Ukraine "On Circulation in Ukraine of Narcotics, Psychotropic Substances, their Analogues and Precursors", dated 15 February 1995, under No. 60/95-B. The Law provides that narcotics shall be imported (brought into) or exported by a body authorized by the Cabinet of Ministers of Ukraine pursuant to a certificate (separate permit) issued by the Narcotics Control Committee within the Ministry of Health Care of Ukraine. The certificate is issued subject to a confirmation from the Security Service of Ukraine.

As regards inclusion into the chart (Item No. 18 in WT/ACC/UKR/110) of the requirement for import licensing for alcohol and alcoholic beverages, it should be noted that no import license is required. See the answer to Item 45.

Item 49

It is stated that the Ministry of Economy and European Integration issues licenses. Are there other agencies that must be approached and all required documentation?

Answer:

Licenses are issued by the Ministry of Economy and European Integration of Ukraine. It assigned the right issuing licenses for importation, exportation of products by subjects of entrepreneurial activity, registered in relevant regions, and whose accounting value under agreements (contracts) does not exceed US\$300,000 to oblast, city state administrations and the Ministry of Economy of the Autonomous Republic of Crimea.

Licenses for importation of insecticides, rodenticides, fungicides, herbicides, other chemicals preventing germination of sprouts and regulators of plant growth (except neocidole (3808 10 40 00) and larinate (3808 90 10 00)) are issued upon approval from the State technical center for protection of fertility of soil at the Ministry of Agrarian Policy of Ukraine.

Licenses for importation of ozone destructive substances, exportation and importation of which is subject to licensing in 2003, are issued upon approval from the Ministry of Ecology and Natural Resources.

Licenses for importation of products that may contain ozone destructive substances, and exportation and importation of which is subject to licensing in 2003, are also issued upon approval from the Ministry of Ecology and Natural Resources.

Licenses are issued according to the procedure envisaged by Article 16 of the Law of Ukraine "On Foreign Economic Activity" and the Order of the Ministry of Economy and European Integration of Ukraine No. 36 of 18 February 2003.

The following documents are furnished to obtain the license:

- license application;
- letter of application as to issuing the license with the guarantee of fee payment for its issuing;
- copy of a contract, all supplements and specifications thereto, certified by the director of the subject of entrepreneurial activity;
- copy of the state registration certificate, certified by the director of the subject of entrepreneurial activity;
- approval of a relevant authorized institution (data on requirements as to the approval are specified above) according to the Resolution of the Cabinet of Ministers of Ukraine No. 1939 of 25 December 2002 "On the List of Products, Exportation and Importation of Which is Subject to Quoting and Licensing in 2003"; and
- expert examination act of the product, issued by the Chamber of Commerce and Industry of Ukraine or a regional chamber of commerce and industry, with specification of the product code.

Item 50

WT/ACC/UKR/91 stated that import licenses for certain products can only be issued to legal entities and not natural persons. Why and what are the products?

Answer:

Any natural person who has taken the steps necessary to engage in business in Ukraine has the right to obtain an import license.

Item 51

WT/ACC/UKR/99 states that "agents of entrepreneurial activity registered in Ukraine" may apply for a license. In previous documentation, Ukraine has indicated that, as a prerequisite to getting an import license, importers must have a contract registration card. To get this registration card importers are required to provide at least six documents.

Please clarify if a contract registration card remains necessary to acquire import licenses. What is its purpose? Are domestic and foreign entities required to submit to the same procedures?

Answer:

Contract registration cards no longer exist, and there is no requirement for an importer to have a contract registration card in order to obtain an import license. The documents required to obtain an import license are fully described in the Answer to Item 49.

Item 52

We ask that Ukraine confirm that its licence fee, which is applied uniformly across each commodity, relates directly to the cost of providing the service.

Answer:

According to the cost estimate for issuing the license for importation of products into Ukraine the license fee is UAH255 or 15 minimum non-taxable personal incomes (minimum non-taxable personal income is an established internal conditional unit). This is stipulated by the Resolution of the Cabinet of Ministers of Ukraine No. 893 of 2 August 1996 "On the Size of State Duty for Issuing Import Licenses".

Item 53

In the related document WT/ACC/UKR/99 on import licensing procedures, Ukraine notes that it employs non-automatic licensing procedures as a means to protect domestic industry (i.e., in violation of GATT Article III and the Agreement on Import Licensing). We seek clarification as to steps Ukraine will take to ensure WTO consistency of these practices.

Answer:

The information in WT/ACC/UKR/99 is no longer valid. Updated information has been sent to the Working Party in WT/ACC/UKR/99/Rev.1.

(h) Customs valuation

Item 54

In previous discussions in the Working Party, delegations have outlined in some detail where they believe Ukraine's current customs valuation regime does not meet WTO norms. These concerns should be summarized and included in the factual summary.

Please confirm that Ukraine's new Customs Code has been implemented. Has a true copy been provided to the Working Party in translation?

Answer:

The new Customs Code of Ukraine will enter into force on 1 January 2004. The English version has been submitted to the Working Party.

The customs valuation regime is governed by Articles 259-273 of the Customs Code of Ukraine.

Thus, pursuant to Article 259 of the Code, customs value of goods is the value of goods transferred through the customs border of Ukraine, which value is stated by a declarant or determined by a customs authority and which is calculated at the moment goods cross through the customs border of Ukraine.

Pursuant to Article 261 of the Code, customs value of goods is used for assessment of taxes and fees, maintenance of customs statistics and, as applicable, for calculations in case of application of penalties, other sanctions and fines provided by the laws of Ukraine.

Pursuant to Article 262 of the Code, customs value of goods is determined by a declarant in accordance with the provisions of the Code, and the customs authority, which carries out customs clearance of goods, controls the correctness of the customs value determination for the goods.

The applicable provisions of the Agreement on Implementation of Article VII of GATT 1994 underlie customs valuation methods contemplated by the Code (See the Table).

Table 7

Compliance of Articles of the Code with the Agreement on Implementation of
Article VII of GATT 1994

Articles of the Code	Articles of the Agreement on Implementation of Article VII of GATT 1994
263. Observance of Information Confidentiality	10
264. Rights and Obligations of the Declarant who declares the Customs Value of Goods	
§ 2	17
§ 4-5	13
265. Rights and Obligations of a Customs Authority in Controlling Customs Valuation of Goods	
§ 3	16
266. Methods of Determination of Customs Value of Goods that are Imported into Ukraine	General Comments, 4
267. Valuation Method based on the Transaction Value of Imported	

Articles of the Code	Articles of the Agreement on Implementation of Article VII of GATT 1994
Goods	
§ 2. Inclusion of costs	
1).a)-c)	8.2
2).a)-c)	8.1.(a)
3).a)-d)	8.1.(b)
4)	8.1.(c)
5)	8.1.(d)
§ 3. Conditions for Application of Valuation Methods	
1).a)-c)	1.1.(a)
2).a)-c)	1.1.(b)
4)	1.1.(c)
5).a)-g)	1.1.(d), 15.4
6)	15.5
7).a)-c)	1.1.(b), 1.2.(a)
§ 4.	1.1.(b)
268. Method of Valuation based on the Transaction Value of Identical Goods	2, 15.2.(a)
269. Method of Valuation based on the Transaction Value of Similar Goods	3, 15.2.(b)
270. Admonition in Application of Methods for Determination of the Customs Value of Goods according to the Transaction Value of Similar Goods	15.2.(c)-(e)
271. Methods of Valuation based on the Deductive Value	5
272. Method of Valuation based on Computed Value	6
273. Reserve Method	7

- Valuation Method specified in Article 1 of the WTO Agreement

The Code (Article 267) provides that the customs value of imported goods shall be the transaction value, which is a price actually paid or payable for the goods imported into Ukraine at the moment of their crossing the customs border of Ukraine.

- In addition, this Article of the Code defines:
- conditions for application of the evaluation method; and
- rules for adjustment of the transaction value for determination of the customs value of goods, if they have not included therein before.

The Code reflects all major provisions of the Agreement on Implementation of Article VII of GATT 1994 that relate to this method of evaluation (see the Table 7).

- Valuation Method specified in Article 2 of the WTO Agreement

The Code (Article 268) provides that in applying the method of valuation based on the transaction value of identical goods (the second method), the transaction value of identical goods will be used for purposes of determining the customs value of goods, provided that requirements specified in the above Article are met. Identical goods are considered to be goods which are the same in all respects with the goods being valued. In this respect, the term "identical goods", as defined in Article 268 of the Code, corresponds to the definition in Item 2.(a) in Article 15 of the Agreement on Implementation of Article VII of GATT 1994.

In addition, this Article of the Code defines:

- conditions for application of the evaluation method; and
- rules for adjustment of the transaction value for determination of the customs value of goods, if they have not included therein before.

The Code reflects all major provisions of the Agreement on Implementation of Article VII of GATT 1994 that relate to this method of evaluation (see the Table 7).

- Valuation Method specified in Article 3 of the WTO Agreement

The Code (Article 269) provides that in applying the method of valuation based on the transaction value of similar goods (the third method), customs value shall be the transaction value of similar goods imported in accordance with the provisions determined by this Article, for purposes of determining the customs value of imported goods. "Similar goods" mean goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions in comparison with goods being valued, and are commercially interchangeable. In this respect, the term "similar goods", as defined in Article 269 of the Code, complies with the definition in Item 2.(b)) in Article 15 of the Agreement on Implementation of Article VII of GATT 1994.

In addition, this Article of the Code defines:

- conditions for application of the evaluation method; and
- rules for adjustment of the transaction value for determination of the customs value of goods, if they have not included therein before.

The Code reflects all major provisions of the Agreement on Implementation of Article VII of GATT 1994 that relate to this method of evaluation (see the Table).

- Valuation Method specified in Article 5 of the WTO Agreement

The Code (Article 271) provides that the customs value of goods will be determined on the basis of the method of valuation based on the deductive value (the fourth method) in the event that goods being valued or identical or similar imported goods are sold in the customs territory of Ukraine in the condition as imported, the customs value of the goods. In applying this valuation method the customs value of goods will be based on the unit price at which the goods being valued or identical or similar goods are sold in the greatest aggregate quantity on the territory of Ukraine, at or about the same time of the importation of goods being valued, but not later than 90 days from the date of importation of the goods to the unrelated buyer .

In addition, this Article of the Code defines:

- conditions for application of the evaluation method; and
- rules for adjustment of the transaction value for determination of the customs value of goods, if they have not included therein before.

The Code reflects all major provisions of the Agreement on Implementation of Article VII of GATT 1994 that relate to this method of evaluation (see the Table).

- Valuation Method specified in Article 6 of the WTO Agreement

The Code (Article 272) provides that in determining the value of imported goods by applying the method of valuation based on the computed value (the fifth method), the price of goods that is computed by way of adding of costs of production, delivery, sale and profits that the exporter usually receives as a result of delivery of such goods, will be used as a basis for determination purposes. The Code reflects all major provisions of the Agreement on Implementation of Article VII of GATT 1994 that relate to this method of evaluation (see the Table).

- Valuation Method specified in Article 7 of the WTO Agreement

The Code (Article 273) provides that the reserve method (the sixth method) will be applied if the customs value may not be determined by the declarant by way of subsequent application of the first five methods, or if a customs authority has reasons to believe that these methods of determining the customs value can not be applied.

In such case, customs value of goods will be determined through the reserve method on the basis of Ukrainian legislation, and must be consistent with principles and provisions of Article VII of General Agreement Tariffs and Trade (GATT) and Agreement on Implementation of Article VII of GATT 1994.

The Code reflects all major provisions of the Agreement on Implementation of Article VII of GATT 1994 that relate to this method of evaluation (see the Table 7).

Among important provisions of the Agreement on Implementation of Article VII of GATT 1994, which have found their reflection in the Code, the following provisions should be noted:

- provisions of Article 10 of the Agreement as to observance of information confidentiality (See Article 263 of the Code);
- provisions of Article 13 of the Agreement, which state that in the event that a declarant does not agree with the determination of customs value by a customs authority, the declarant may request to withdraw goods being declared from customs into free circulation, if such a declarant provides bank guarantees, and in such case the customs authority is obligated to release such goods into free circulation (See paragraphs 4-5 of Article 264 of the Code);
- provisions of Article 16 of the Agreement regarding the right to an explanation in writing from the customs administration as to how the customs value of the importer's goods was determined (See paragraph 3 of Article 265 of the Code); and
- provisions of Article 17 of the Agreement regarding the rights of the customs administration to satisfy itself as to the truth or accuracy of any data and documents (See paragraph 2 of Article 264 of the Code).

The Code has translated the main objective of the Agreement on Implementation of Article VII, specifically protection of interests of *bona fide* traders by demanding from customs authorities to accept a price actually paid by an importer under a contract as a basis for assessment of customs fees and duties. It concerns contracts both with unrelated and related parties. The Agreement provides that prices of different importers for the same good may differ. The only fact that the price for goods of a separate importer is lower than prices, under which other importers import such goods, may not be used as a ground for refusing to use transaction value. Customs authorities are permitted not to use transaction value only in those cases when there are reasons to doubt as to whether the declared price for imported goods is true or correct. Even in such cases customs authorities must ensure for an importer an opportunity to justify its price and, if such

justification is not accepted, provide an explanation for their refusal from transaction value, and for application of other customs evaluation methods.

In addition to rights of importers to consultations at all stages of customs value determination, the provisions on customs evaluation of goods grant to the importers:

- a right to withdraw goods from customs if a delay in the determination of customs value is apparent, on condition that a sufficient guarantee in the form of a surety or a deposit, covering the ultimate payment of customs duties for which the goods may be liable is provided;
- a right to expect that any information which is by nature confidential that is provided on a confidential basis to customs authorities will be treated as confidential; and
- a right to appeal to a customs administration or judicial authorities regarding decisions of customs authorities.

Thus, the provisions of the new Customs Code of Ukraine regarding determination of customs value of goods comply with the Agreement on Implementation of Article VII of GATT 1994.

Item 55

Will additional regulations be necessary to implement the customs valuation provisions of the Code? What is the relevance of the new Tax Code to Customs Valuation, as implied in the response to item No. 21? What additional legislative provisions exist outside the text of the Code that address WTO requirements in the area of Customs Valuation, e.g., right of administrative and judicial appeal, transparency, etc?

Answer:

Such necessity will exist, as currently matters of customs evaluation are governed by Order No. 1598 of the Cabinet of Ministers of Ukraine, dated 5 October 1998, "On Approval of Procedures for Determination of Customs Values of Goods and Articles transferred through the Customs Border of Ukraine", as amended by Resolution No. 1537 of the Cabinet of Ministers of Ukraine, dated 12 October 2000, which Order contains a number of provisions that do not comply with provisions of the Ukraine's Customs Code and, consequently, should be brought into conformity with these norms prior to the entry into force of the Code (1 January 2004). Upon drafting and enactment of these regulatory acts, they will be additionally translated and provided.

In the response to item No. 21 in document WT/ACC/UKR/110, the draft Tax Code is mentioned in connection with a question as to the status of improvement of Decree No. 104 adopted by the President of Ukraine, whereby a list of priority draft laws is identified. The Tax Code does not contain any customs valuation procedures.

Pursuant to Article 265 of the Customs Code, decisions of customs authorities regarding determination of customs values of goods may be appealed under the procedure established by law.

Procedures for resolution of disputes arising between a customs authority and an entity engaged in foreign economic activities are governed by the Code of Commercial Procedure of Ukraine. Pursuant to Article 1 of the Code of Commercial Procedure of Ukraine, enterprises, organizations, other legal entities (including foreign legal entities), citizens, who are engaged in entrepreneurial activities without establishment of a legal entity and have acquired the status of agent of entrepreneurial activity (hereinafter referred to as, the "Enterprises and Organizations"), shall be entitled to bring action in commercial courts, in order to protect their violated or disputed rights and

legislatively protected interest. This Code describes procedural rules for challenging decisions adopted by customs authorities.

Pursuant to Article 116 of the Code of Commercial Procedure of Ukraine, a decision of a commercial court shall be enforced on the basis of a writ issued by such a court, which writ shall be an enforcement document. The writ shall be issued to a recovering party or shall be sent to such party upon entry into legal force of the court decision. The writ of the commercial court must specify:

- name of the commercial court, the case number, the date of decision adoption, the date of issuance of the writ, and the term of its effect;
- operative part of the decision; and
- name of the recovering party and the debtor, their addresses, names and bank account numbers.

The writ shall be signed by the judge and attested with a stamp of the commercial court.

Pursuant to Article 115 of the Code of Commercial Procedure of Ukraine, decisions, decrees, resolutions, writs of commercial courts, which have entered into legal force, shall be binding within all Ukrainian territory, and shall be enforced through court enforcement officers. Prosecutor's offices shall supervise such enforcement proceedings.

Item 56

In the factual summary, Ukraine should indicate how the following conformity issues have been addressed in the new Code:

- **Where are the Interpretative Notes to be found in Ukrainian law?**
- **Are importers now notified when transaction value will be disallowed?**
- **What judicial decisions regarding customs valuation are published? Under what conditions can the use of transaction value be disallowed?**

Answer:

Currently, there are no Interpretative Notes in Ukrainian law. Their provisions are planned to be incorporated into the Commentary to the Customs Code of Ukraine, which is currently being prepared by the Customs Service.

Notice is provided. Pursuant to Article 265 of the new Customs Code, which will enter into force on 1 January 2004, a customs authority, upon a written request of the declarant, is required, within a month, to provide the Declarant with written explanations regarding the reasons for the non-acceptance of the customs value of goods declared by the declarant to the customs authority for assessing the customs fees and duties.

Currently, judicial decisions regarding customs valuation are not published. The Customs Service places decisions of general application on its official site in the Internet.

Pursuant to Article 264 of the Code, if the customs value of goods declared by a declarant needs to be supported, the declarant may be required, upon the request of a customs authority, to provide necessary information to this authority.

If the necessary information does not comply with the prescribed requirements or is insufficient for acceptance of transaction value as a basis for determining customs value, the customs authority may adopt a decision regarding an impossibility to apply the valuation method based on the transaction value of imported goods.

In this case, the declarant may request to the customs authority to release goods to such a declarant into use, ensuring the full payment of taxes and fees by providing a bank guarantee or paying taxes and fees based on customs valuation. Also, the declarant has an opportunity to provide documents confirming the customs value for purposes of review of a decision adopted by a customs authority.

Item 57

In related party transactions, what tests are applied to allow the use of transaction value, i.e., where does the burden of proof lie? Does the new Code allow the use of sales of identical or similar merchandise at different commercial levels and quantities? Are the use of minimum and alternative values strictly prohibited, as required by Article 7.2 of the WTO Valuation Agreement?

Answer:

A customs authority considers a price to be acceptable in the event that relatedness of parties to a transaction has not influenced the value of imported goods, i.e., the price is close to transaction value under which the given goods are sold in Ukraine to other buyers who are not related with the seller – the party to the transaction. Respective explanations are prepared as commentary to the Customs Code (See the answer to Item 56).

Article 273 of the Customs Code contains seven prohibited customs evaluation methods, including minimum values and the higher of two alternative values.

Item 58

Outline the provisions of the guarantee/surety provisions of the Code that allow importers to withdraw goods from customs pending the final determination of the customs value.

We believe that focused review of the provisions of Ukraine's new Customs Code could be helpful in addressing Members' concerns and help move Working Party deliberations forward in this area. Such focused discussion should occur when experts would be available.

In addition, we would appreciate confirmation as to whether the Order of the Cabinet of Ministers of Ukraine No. 1537, dated 12 October 2000, dealing with Customs Valuation issues, is still in force and if so if the Working Party can be provided with a copy for review.

The protocol package should contain a strong commitment to bring Ukraine's customs valuation regime into line with WTO, including specific reference to the issues we have raised.

Answer:

Pursuant to Article 264 "Rights and duties of a Declarant who declares the Customs Value of Goods" of the Code, an importer has a right to request a customs authority to release to such an importer goods being declared for free circulation under a guarantee from an authorized bank, or a promissory note issued by the importer to the customs authority and availed by the bank, or a deposit at the bank.

If the declarant has provided a guarantee from the authorized bank, the customs authority must release the goods into free circulation.

Focused review of the provisions of the new Customs Code regarding customs evaluation issues is set out in the answer to Item 54 of this document. The Ukrainian party will carry out focused discussions highlighting issues of conformity of Ukraine's new Customs Code with the WTO Agreements.

Presently, Order No.1537 of the Cabinet of Ministers of Ukraine, dated 12 October 2000, remains in force and effect until 1 January 2004. Thereafter it will be amended in connection with the entry into force of the new Customs Code. Since this Order introduces clarifications to Order No. 1598 of the Cabinet of Ministers of Ukraine, dated 5 October 1998, "On Approval of Procedures for Determination of Customs Values of Goods and Articles transferred through the Customs Border of Ukraine" and separately does not contain the text setting forth the said procedures, we provide to the Working Party a translation of Order No.1598 of the Cabinet of Ministers of Ukraine, dated 5 October 1998 (with indication of amendments made by Order No.1537 of the Cabinet of Ministers of Ukraine, dated 12 October 2000).

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 59

Ukraine notes in its response to No. 23 that the decisions of customs authorities regarding determination of customs values of goods may be appealed under the procedure established by law. It is not clear, however, under which law the detailed procedures are established, and the exact nature of those procedures. We seek clarification from Ukraine as to the legislation or sub-legislative acts/norms that underpinning this procedure.

Answer:

Please see the Answer to Item 55.

(i) Other customs formalities

Item 60

We welcome the clarifications brought on customs clearance procedures. However, for the moment, these procedures continue to present real problems for business and further simplification is necessary. We understand that the new Customs Code and its implementing legislation will remove these problems and look forward to receiving copies of the implementing legislation, once available.

Answer:

Ukraine takes note of this request.

(j) Pre-shipment inspection

Item 61

If Ukraine does not require any inspection services prior to shipment, this should be made clear in the text of the factual summary.

We seek a commitment indicating that if such services should be employed in the future, they will observe WTO provisions in their operations, e.g., in the application of fees for services rendered, observance of other WTO requirements in customs processing, and in providing right of appeal to the Government.

Answer:

Ukraine does not require inspection services prior to shipment.

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

(I) Rules of origin

Item 62

Does the new Customs Code cover Rules of Origin, both preferential and non-preferential? Does it contain provisions concerning the right to request an origin determination from the Government prior to shipment, and a commitment covering these provisions, i.e., the requirements of Article 2(h) and Annex II, paragraph 3(d), i.e., that for non-preferential and preferential rules of origin, respectively, its customs authority will provide upon the request of an exporter, importer or any person with a justifiable cause an assessment of the origin of the import and outline the terms under which it will be provided?

Answer:

The Customs Code governs non-preferential Rules of Origin. Preferential Rules of Origin are governed by international treaties and agreements of Ukraine, for instance by the Rules for the Determination of a Country of Goods' Origin, which complies with the provisions of Article XXIV of GATT 1994.

The Code lays down the main criteria for determining a country of origin for goods, and provides that procedures on the basis of the Code shall be prescribed by the Cabinet of Ministers of Ukraine, which procedures will contain a rule, whereby an assessment of origin of a good shall be provided by a competent governmental authority upon the request from an exporter or importer within the shortest period of time, but in no even later than within 150 days.

Item 63

Do Ukraine's preferential rules of origin for CIS reflect the interim rules of the WTO Agreement in Annex II of the Agreement?

Answer:

Ukraine applies Rules of Origin for CIS countries that were adopted by a decision of the Council of Governments of the Commonwealth of Independent Countries on 30 November 2000. The said preferential Rules of Origin, which are applied by Ukraine to goods originating from the CIS countries, comply with the provisions of Paragraph 3 in Annex II of the Agreement on Rules of Origin. In particular:

- Pursuant to Item 4 of the Rules, a change of tariff classification at the level of at least one of the first 4 digits in the HS, which change has occurred as a result of processing of a good, is named as the main criterion. This is a general rule that is applied to all goods that

are described in the HS. The List of Goods (which is an inseparable part of these Rules) is an exception, and the production and technological transaction rule or the *ad valorem* rule is applied to such goods. In this respect, goods specified in this List are enumerated on the basis of clear tariff classification that is consistent with the HS. That is, provisions of Sub-item i)(a) of Paragraph 3 in Annex II of the Agreement on Rules of Origin are complied with.

- One of the criteria set forth in these Rules is an *ad valorem* criterion that complies with the provisions of Sub-item ii) (a) of Paragraph 3 in Annex II of the Agreement on Rules of Origin, as the methodology of its calculation further is clearly defined in Item 4, in particular:
 - for imported materials – on the basis of customs values of such materials at the time such materials are brought into the country, wherein the final products are manufactured, or, if the origin of imported materials is not known, on the basis of documentarily confirmed prices of their first sale within the territory of the country, wherein the final products are manufactured;
 - for final products – on the basis of prices EXW of the seller.
- The List of goods, to which the production and technological transaction rule and the *ad valorem* rule are applied as mentioned above, fully complies with provisions of Sub-item iii)(a) of Paragraph 3 in Annex II of the Agreement on Rules of Origin, as criteria for transactions, under which preferential origin is granted, are clearly defined therein.
- Sub-item (b) of Paragraph 3 in Annex II of the Agreement on Rules of Origin is also written down in Item 5 of the Rules, as the Item provides for a negative criterion (negative standard), i.e., the list of transactions that do not comply with the criterion of sufficient processing of goods is provided.
- Transparency in the publication of these Rules, which is specified in Sub-item (c) of Paragraph 3 in Annex II of the Agreement on Rules of Origin, has also been complied with, as these Rules were published in official gazettes and currently may be viewed in the Internet.
- Also, the provisions of Sub-item (d) of Paragraph 3 in Annex II of the Agreement on Rules of Origin regarding rules for assessment of preferential origin upon a request from entities engaged in foreign trade are complied with. Such assessment is carried out either prior to or upon sale of a good by as specially designated authority (the Chamber of Commerce and Industry of Ukraine), whereupon a certificate of origin is issued that will be effective for three years.
- Sub-items (e - g) of Paragraph 3 in Annex II of the Agreement on Rules of Origin are not expressly written down in the Rules; however, these provisions have been reflected in the effective Customs Code and the new Customs Code of Ukraine (as to confidentiality of information, the right of appeal against decisions of customs authorities in court, and absence of retroactive force for rules that make changes thereto (provisions are found in the Constitution of Ukraine)).

Item 64

Does the "Decision of the Council of the Governments of the Commonwealth of Independent States on the Rules for the Determination of a Country of Goods' Origin" of 24 September 1993 to meet the requirements of the WTO Agreement on Rules of Origin, including those in Annex II?

Answer:

The Decision of the Council of the Governments of the Commonwealth of Independent States on the Rules for the Determination of a Country of Goods' Origin" of 24 September 1993 lost its force as from 30 November 2000.

(k) Application of internal taxes on imports

Item 65

Ukraine's response highlights a number of inconsistencies in its excise taxation system with WTO requirements. In particular, domestic production is afforded protection through reduced rates of excise tax compared to those applied to imports. We seek clarification as to the steps Ukraine is taking to remove this inconsistency with Article III of GATT 1994.

Answer:

Discrimination of goods of foreign origin as regards the levying of excise tax is actually provided for in current legislation and is of a temporary character.

Application of preferential rates of excise tax in respect of wine products and brandies manufactured in Ukraine shall be valid until 1 January 2004.

The Ministry of Economy and European Integration of Ukraine in concurrence with other ministries, has been drafting laws and/or amendments to the Tax Code of Ukraine aimed at eliminating preferences for domestic automobile manufacturers that currently include the following: tax exemption from payment of excise tax on sales of automobiles.

Furthermore, the draft Tax Code of Ukraine as approved 11.09.2001 in second reading by the Supreme Rada of Ukraine, provides, inter alia, for the harmonization of provisions in Chapter IV Value Added Tax and in Chapter V Excise Tax with the requirements of WTO Agreements. The Ministry of Finance of Ukraine in concurrence with the State Tax Administration of Ukraine, conducts follow-up monitoring of the deliberations on the draft Tax Code for the third reading at the Supreme Rada of Ukraine. It is expected that the Tax Code will be finally adopted in 2003 and will go into force on 1 January 2004.

- Excise Taxes

Item 66

We appreciate Ukraine's listing of excise taxes and other information on their application to domestic and imported goods in UKR/110 and UKR/110/Add.1. Is this list comprehensive?

Answer:

In Annex 8 we provide the comprehensive list of excise taxes as amended by the Law of Ukraine of 24 October 2002 No.195-IV "On Introducing Amendments to Certain Laws of Ukraine on Taxation, Manufacture, and Circulation of Excisable Goods" and by the Law of Ukraine of 24 December 2002 No.347-IV "On Introducing Amendments to Certain Laws of Ukraine on Matters of Levying Tax on Excisable and Some Other Goods", and information on the application thereof to domestic and imported products.

Item 67

Are the rates listed applied to both domestic and imported goods? The response to item No. 26 indicates that there are privileged rates of excise taxes applied. What are they? Please amend Annex 6 to indicate explicitly the rates applied both to domestic and imported goods.

Answer:

Please see Answer to Item 66 and Annex 8.

Item 68

Item No. 27 indicates that Ukraine recently extended discriminatory excise taxes on automobiles to 1 January 2007. Is this correct?

Answer:

The Law of Ukraine of 24 May 1996 No. 216/96 "On Rates of Excise Tax and Import Duties on Certain Vehicles" provided for temporary (until 1 January 2007) exemption from payment of excise duty on revenues from sales of passenger and dual-purpose automobiles and motorcycles manufactured by Ukrainian enterprises of all forms of ownership. Such exemptions extend to revenues from sales of vehicles manufactured at Ukrainian enterprises from imported and domestically manufactured components, provided the annual output is no less than 1,000 automobiles or 1,000 motorcycles.

See also the answer to Item 69.

Item 69

What is the status of the repeal of the tax and tariff privileges for domestic auto makers?

Answer:

In order to harmonize Ukrainian legislation on support for the automobile industry with the provisions of Partnership and Cooperation Agreement between Ukraine and the EU (PCA) and with the requirements of the World Trade Organization (WTO) a Draft Law is being prepared to introduce amendments to the Law of Ukraine "On Stimulation of Automobile Production in Ukraine". The draft law provides for:

- determination of new criteria for providing privileges to the enterprises in the car industry;
- elimination of privileges for the domestic enterprises with investment in car production, production of components and spare parts, in particular privileges in the form of:
 - exemption from VAT on imports (mailing) of goods used in the construction and manufacturing activity of the enterprises with investment in car production, production of components and spare parts;
 - exemption from VAT and excise duty on sales of cars for enterprises with investment in car production, production of components and spare parts;
 - exemption from tax on land for enterprises with investment in car production, production of components and spare parts;

- granting the following privileges to the enterprises producing car, components and/or spare parts thereto, according to the criteria set forth in Draft Law, for a period of five years from the moment of approval of their investment programs by the Cabinet of Ministers of Ukraine, but not later than 31 December 2008:
 - Exemption from income tax and on that part of income, that is re-invested into production;
 - Exemption from import duty on goods used in the construction, re-construction, technical re-equipment and modernization of production.

Item 70

Concerning efforts to amend the Excise Tax law to institute a uniform excise tax on alcoholic beverages, we do not understand the additional complex efforts to establish a promissory note and penalties. Please explain. In addition, please indicate the timeframe for the implementation of the amendments.

Answer:

The Law of Ukraine, dated 24 December 2002, under No. 195-IV "On Amendments to Certain Laws of Ukraine on Taxation, Production and Circulation of Excisable Goods", which entered into force on 1 January 2003, sets a uniform privileged rate of excise tax in the amount of UAH 2 per 1 liter of 100 per cent alcohol for ethyl alcohol (domestic and imported), which is used by health care organizations and institutions for purposes of the treatment and diagnostic process and accomplishment of laboratory tests as well as by production business entities, and temporarily, until 1 January 2005 – for denaturated ethyl alcohol (technical alcohol), which is used by business entities.

In order to control that the alcohol mentioned in the above paragraph is used pursuant to designated purposes, the Law provides for bank-avaled promissory notes, which are issued, prior to receipt of ethyl alcohol, by business entities for a period of 90 days for an amount calculated on the basis of the volume of alcohol purchased and the difference between the full excise tax rate for ethyl alcohol and the privileged rate. The tax promissory note is considered repaid upon presentation of documentary confirmation that the ethyl alcohol has been used for the designated purpose.

In the event that ethyl alcohol or denaturated ethyl alcohol (technical alcohol) is not used pursuant to designated purposes, such business entities will be subject to a penalty in the amount that is calculated proceeding from amounts of ethyl alcohol or denaturated ethyl alcohol (technical alcohol) used for purposes other than those designated and the excise tax rate specified in Article 1 of this Law (UAH 17.4 per litre of 100 per cent alcohol) as increased by 1.5.

- VAT

Item 71

Item No. 30 indicates that sales of domestic automobiles are exempted from the VAT through 1 January 2008, and that numerous other sectors, from shipbuilding to aircraft to spacecraft, enjoy similar treatment.

Ukraine should prepare draft notifications for these subsidies for Working Party review.

Answer:

For more details on additional benefits in such industries as motor car building, shipbuilding, aircraft construction and space activity see answers 69, 96 and 105.

Ukraine is preparing a draft of notification on the existing subsidies according to the requirements of Article 25.1 of the Agreement on Subsidies and Compensation Measures, and expects it to be available very soon to the members of the Working Party.

See also the answer to Item 74.

Item 72

Item No. 31 lists additional VAT exemptions. Are these exemptions e.g., for medicines, provided for domestic and imported goods?

Answer:

According to item 5.1.7. of the Law of Ukraine "On Value-Added Tax" No. 168/97 of 3 April 1997 (with changes and amendments) medicines registered in Ukraine in a law-established procedure shall be tax exempted. According to Article 9 of the Law of Ukraine "On Medicines" No.123/96 of April 4, 1996 (with changes and amendments) medicines (irrespective of the country of origin) shall be admitted for use in Ukraine upon their registration.

Item 5.5 of the Law of Ukraine "On Value-Added Tax" determines that exemption from taxation shall also apply to importing into the customs territory of Ukraine of the said products.

Thus, these tax benefits shall be applicable to medicines of both home origin and imported.

Item 73

Item No. 32 describes numerous VAT exemptions for agricultural production. The description, however, is very difficult to understand. It is important that these subsidies be reviewed, and we request Ukraine's assistance in clarifying the nature of the tax exemption mechanisms.

Answer:

Please see below responses to Items 74, 75, and 114.

Item 74

Ukraine's responses highlight a number of instances where domestic goods are afforded protection through exemption from VAT not applied to like imported products. We seek clarification from Ukraine as to steps it will take to ensure application of VAT will be fully consistent with the provisions of Article III:2 of GATT 1994.

Answer:

The Draft Law "On Incorporating Amendments to the Law of Ukraine "On Value-Added Tax" (registration No.1277-1) is included in the agenda of the third session of the fourth Verkhovna Rada of Ukraine. The Draft has passed the first reading and is presently prepared for the second.

Prepared legislative proposals provide for canceling benefits, including those by industry attribute, in particular in shipbuilding, aircraft construction, as well as restricting exemption from taxation of sales of medicines and medical products through establishing the list of vital medicines and medical products, to which benefits shall be applied.

In addition, it is proposed to cancel preferential tax treatment in agriculture, and introduce restricted collection treatment in the area of agriculture and forestry or fishing. In the event of selling agricultural products (services) of own production by the subject of entrepreneurial activity to registered VAT payers the charge shall be established in the size of 6 per cent – for agriculture, and 4 per cent – for products (services) of forestry or fishing from the selling price, instead of the VAT zero rate.

The amendments contained in Draft Law No.1277-1 include:

- Medicines

The Draft Law proposes to restrict exemption from taxation of sales of medicines and medical products. The list of sales of vital medicines and medical products registered in Ukraine in duly established procedure that will be exempted from the value-added tax shall be approved of by the Cabinet of Ministers of Ukraine.

- Agriculture

The draft law proposes to cancel:

- the norm providing for the value-added tax with the zero rate for sales of live weight milk and meat to processing companies with regard to producers of all forms of ownership and economic activity;
- the norm providing for the value-added tax - subject to payment to the budget by agricultural enterprises of all forms of ownership for sold milk, cattle, poultry, wool, as well as dairy and meat products, produced at own processing facilities - being kept for disposal of such agricultural enterprises and allocated for support of own production of cattle-breeding and poultry products;
- the norm providing for the value-added tax - with regard to sales of products (works, services) of own production, including products (except for excisable) produced on the give-and-take basis from own agricultural raw materials, with the exception of sales of live weight milk and meat to processing enterprises, carried out by agricultural producers irrespective of their organizational and legal form and ownership form - being kept at the disposal of agricultural producers and used by them for purchasing material and technical resources of production destination.

- Automobile industry

The draft law proposes to cancel the value-added tax with the zero rate for sales of automobiles, buses and component parts thereto of residents' own production that carry out their activities according to the Law of Ukraine "On Stimulation of Automobile Production in Ukraine".

- Shipbuilding industry

The draft law proposes to cancel the VAT exemption for importation (forwarding) into the customs territory of Ukraine of materials, equipment and component assemblies (hereinafter referred to as products), used for building vessels (except for excisable products);

It also cancels the VAT with the zero rate for sales of products produced by the specified shipbuilding enterprises at the expense of the State Budget of Ukraine.

- Aircraft construction industry

The draft law proposes to cancel the VAT exemption for importation (forwarding) into the customs territory of Ukraine of materials, component products and equipment (hereinafter referred to as products), except for excisable products, used for the needs of development, production of aviation machinery and providing services.

It also cancels the VAT exemption with the zero rate for sales of products (services), produced by the specified enterprises of aircraft construction industry at the expense of the State Budget of Ukraine.

Item 75

We seek clarification as to whether VAT is applied in full to all agricultural imports. If this is so, the VAT exemption made available to Ukrainian producers of milk, livestock, poultry, wool, dairy and meat products, is also in violation of Article III:2 of GATT 1994. We would appreciate details of Ukraine's timetable for eliminating these exemptions.

Answer:

Two different special mechanisms of VAT taxation of agricultural enterprises exist in Ukraine. The first mechanism is a mechanism, under which processing enterprises calculate and pay subsidies to agricultural producers of all forms of ownership and business, including citizens' private household farms, for their sale to the processing enterprises of milk and meat in live weight, through use of assessed VAT that should be paid into the budget by the processing enterprises and is a source of financing for such subsidies. This support measure is consistent with the WTO rules. In this case, the State refuses from a transfer into the budget of such portion of VAT amounts for the benefit of support for agricultural producers of milk and meat. This mechanism for subsidizing agricultural meat and milk producers, wherein VAT is used as a source of financing, is applied for a period of lack of sufficient direct budget outlays. This mechanism is governed by Article 6 of the WTO Agreement on Agriculture and Annex III:2 of this Agreement, pursuant to which subsidies shall include both budgetary outlays and revenue foregone by the government or its agents for the benefit of agricultural producers. The similar type of agriculture support, which existed in 1994-1996, is included in WT/ACC/SPEC/UKR/Rev.7 and in the Table on AMS Levels for the period of 2000-2002.

The above referenced subsidizing mechanism works as follows: agricultural producers sell milk and meat in live weight to processing enterprises of all ownership forms pursuant to concluded agreements, assessing VAT at a zero rate. At the same time, tax credit, which consists of VAT amounts paid by agricultural producers in connection with purchases of goods (works, services) whose costs are treated as their own gross production (trading) costs and capital assets or intangible assets subject to depreciation, is included in a taxpayer's tax returns for the reporting period, pursuant to which payments are made into the budget, with a tax credit reimbursement from the budget under such tax returns. In order to determine the amounts of subsidies for agricultural producers for milk and meat in live weight to be sold by such producers, processing enterprises prepare on an annual basis a preliminary estimate of receipt and use of VAT amounts assessed upon volumes of milk, milk product, meat and meat product sales. Pursuant to this estimate, each processing enterprise determines a VAT amount that will be received by such an enterprise in the course of milk, milk product, meat and meat product sales, as well as a VAT amount that will be assessed for (transferred to) suppliers of goods (works, services), the cost of such goods (works, services) being treated as gross production costs therefor, and the amount of subsidies payable to agricultural producers for their

sold milk and meat in live weight per one hryvnia of such products' cost. Processing enterprises confirm such estimates with applicable Agricultural Departments of rayon (oblast) State Administrations, applicable instrumentalities in the Autonomous Crimean Republic; and enterprises that are part of the Ukrainian Cooperative Association system confirm such estimates with consumer societies (associations of consumer societies).

The second measure of support through a special mechanism of VAT taxation is to accumulate VAT for procurement of material and technical resources for production of agricultural products. Pursuant to Article 11.29 of the Law of Ukraine "On the Value Added Tax", dated 3 April 1997, under No. 168, agricultural enterprises are exempted till 1 January 2004 from VAT with respect to transactions involving sales of goods (works, services) of their own production, including products (except for excisable goods) manufactured under tolling arrangements with their own agricultural raw materials, except for transactions involving sales to processing enterprises of milk and meat in live weight carried out by agricultural producers covered by the first mechanism described above, irrespective of their organizational/legal forms and forms of ownership. These exemptions are introduced for agricultural enterprises in order to accumulate VAT amounts for subsidizing the agricultural producers in case of lack of sufficient budget outlays for paying out direct subsidies.

Pursuant to procedures approved by Resolution No. 271 of the Cabinet of Ministers of Ukraine, dated 26 February 1999 (as restated by Resolution No. 374 of the Cabinet of Ministers of Ukraine, dated 23 April 2001), remaining tax liabilities pursuant to tax returns on VAT assessed on sold products, goods (works, services) of agricultural producers' own production, including products (except for excisable goods) manufactured under tolling arrangements with agricultural producers' own agricultural raw materials, i.e., the difference between the VAT amount received by agricultural producers from buyers and the VAT amount paid by such producers to suppliers shall be transferred by the agricultural producers from current bank account into separate bank accounts within time limits, within which VAT amounts must be transferred into the budget. An agricultural producer must open the said separate account during one reporting period. The balance of tax credit pursuant to the above referenced tax returns, i.e., a negative difference between the VAT amount received by agricultural producers from buyers and the VAT amount paid by such producers to suppliers is to be credited for the agricultural producers against tax liabilities of next reporting periods.

Funds transferred by agricultural producers into separate bank accounts shall be used by such producers for the purchase of production-designated material-technical resources. If funds are used for non-designated purposes, they shall be collected and transferred into the State budget in an indisputable manner.

This type of support through a mechanism for accumulation of funds for subsidizing purchases of material-technical resources for agricultural production purposes, wherein VAT is used as a source of financing in case of lack of sufficient direct budget outlays, is governed by Article 6 of the WTO Agreement on Agriculture and Annex III:2 of this Agreement. Pursuant to the provisions of the WTO Agreement on Agriculture, subsidies shall include both budgetary outlays and revenue foregone by the government or its agents for the benefit of agricultural producers. This measure of support for agricultural producers is included in ACC/4 Tables for the period of 2000-2002.

Item 76

Furthermore, we are unable to see how VAT or other internal taxes (e.g., excise) could apply barter transactions, including barter transactions between Ukrainian parties, and how in the presence of barter internal taxation measure could conform with the provisions of Articles I:1 and III:2 of GATT 1994. We understand that barter is still applied on a significant scale in Ukraine and, while the overall prevalence of barter has been reduced, it might affect up to

20 per cent of transactions occurring between Ukrainian parties in the sugar sector, particularly between beet producers and processors/refiners. (This is not taking into account toll refining activities.) We would appreciate information on the steps Ukraine is taking to eliminate barter practices in internal and international trade, and when such steps are expected to be completely eliminated.

Answer:

Pursuant to official statistical data (a bulletin of the Ukrainian Statistical Committee entitled "Sales of Products by Agricultural Enterprises in 2002"), the share of barter transactions in the overall volume of sugar beet sales in 2002 totaled 5 per cent, and the share of barter transactions in the overall volume of sugar sales specifically by agricultural enterprises did not exceed 10 per cent in 2002. The Ukrainian Government has been taking persistent measures to reduce barter transactions in sales of agricultural products. The percentage of barter transactions in the sales of agricultural products has been significantly reduced over the past three years.

In accordance with Para. 7.1 of Article 7 of the Law of Ukraine "On Corporate Income Tax" the valuation of receipts and expenses associated with barter operations shall be determined based on the contractual price of such operations being however not lower than the regular price; while in accordance with Para. 4.2 of Article 4 of the Law of Ukraine "On Value Added Tax", in case of sale of goods (works, services) free of charge or on a basis of partial cash payment in the framework of a barter transaction, the taxation base shall be determined based on the factual transaction price being however not lower than regular prices.

With the view of reducing barter transactions in Ukraine's commercial turnover, a special procedure of determination of tax liabilities and tax credits being applied whereunder taxpayers' tax liabilities would arise as of the date of the first transaction whereas the right to a tax credit would arise as of the date of the balancing operation. The Law of Ukraine "On Amendments to the Law of Ukraine "On Value Added Tax"" of 16 January 2003 No.469-IV abolished this procedure and the dates of emergence of tax liabilities and tax credit are determined subject to general conditions.

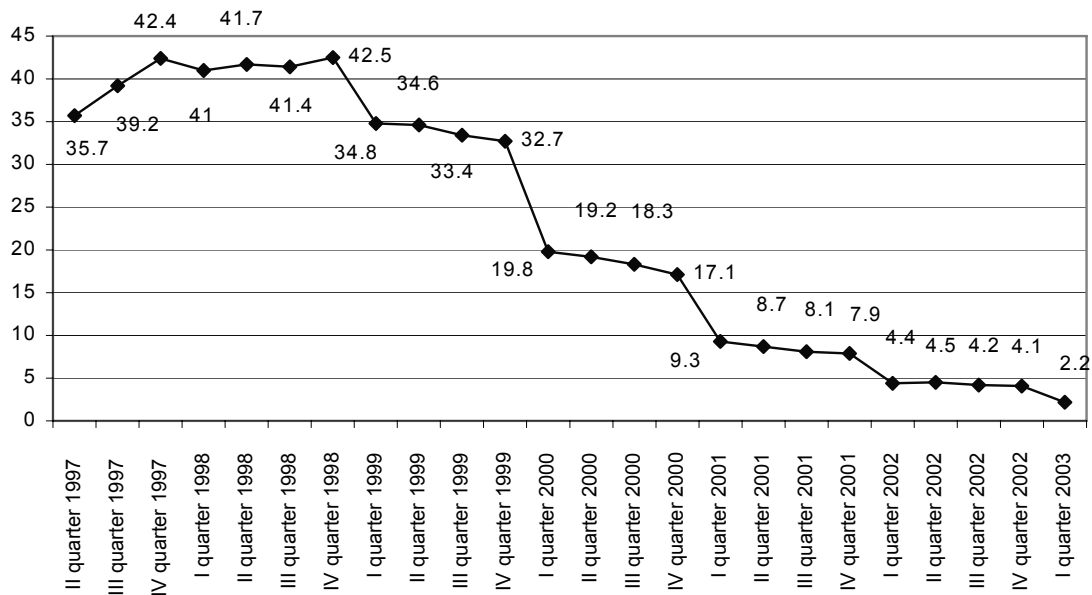
The procedure governing completion of foreign economic transactions in case of payment subject to a barter arrangement is governed by the Law of Ukraine No.351-XVI "On Regulation of Goods Exchange (Barter) Transactions in Foreign Economic Area" dated 23 December 1998.

The Law of Ukraine On the 2003 National Budget of Ukraine (Article 7) establishes that in case of goods (works, services) exported outside of the customs territory of Ukraine as part of barter transaction, the total of the value added tax paid (calculated) in connection with the purchase of goods (works, services) shall not give rise to an increase of tax credit and shall be included in the total of gross production (turnover) costs of the taxpayer.

As per official statistics (Compilation of the State Committee for Statistics Distribution of Produce by Agricultural Enterprises in 2002), the share of barter transactions in the overall volume of sugar beet distribution in 2002 was 5 per cent, distribution of sugar by agricultural enterprises on a barter basis accounted for 10 per cent in the total.

During the years 2000 – 2002 in economics there was observed the stable positive tendency to reduction of barter operation application in economic turnover of Ukraine. Thus, if in 2000 the average share of barter operation application in industry totaled 18 per cent, in 2002 the share dropped sharply almost by four and a half times to negligible sizes and amounted to 4.2 per cent. During the first quarter of 2003 the share of industrial products shipped on barter terms reduced almost to a half comparing to 2002 and reached the level of 2.2 per cent (Diagram 1).

Diagram1 - Dynamics of barter operations in Ukrainian industry during 1997 - 1 quarter of 2003:



From the point of view of individual branches of industry, in 2002 the biggest share of barter scheme application fell on mining industry, 7.5 per cent, however, in the first quarter of 2003 it dropped by 1.9 per cent points, to 5.6 per cent. In manufacturing industry the biggest share of barter operation application in 2002 was in production of other non-metallic mineral goods (building materials, glasswork) – 12.7 per cent, however, in the first quarter of 2003 there was observed it's decrease almost by one and a half times, to 8.5 per cent. The share of barter scheme application in machine building dropped almost by half, from 6.2 per cent in 2002 to 3.8 per cent in the first quarter of 2003.

Moreover, the main export-oriented sectors of Ukrainian industry, namely, metallurgical and chemical sectors are characterized by the low share of application of barter schemes in settlements. Thus, the share of barter scheme application in metallurgy and metal working decreased from 1.7 per cent in 2002 to 0.6 per cent in the first quarter of 2003 or by almost three times, the share of barter scheme application in chemical and petrochemical industries dropped from 4.9 per cent to 2.7 per cent correspondingly, or by about two times (Table 8).

Table 8

The share of application of barter schemes in settlements on basic industrial activities

Branch of industry	Share of application of barter schemes in settlements, %	
	2002	1 quarter of 2003
Mining	7.5	5.6
Manufacturing, including:	3.8	2.2
Food industry and farm product processing	3.2	1.6
Light industry	7.5	4.1
Forestry and woodwork	4.3	1.6
Pulp and paper industry, polygraphic industry, publishing	1.1	1.1

Branch of industry	Share of application of barter schemes in settlements, %	
	2002	1 quarter of 2003
Chemical and petrochemical industries	4.9	2.7
Metallurgy and metal working	1.7	0.6
Machine building	6.2	3.8
Production and distribution of electric energy, gas and water	3.3	1.1
Total for industry	4.1	2.2

- Application of barter and other compensation schemes of settlements in external economic activities

During 2002 there was reduction of share of barter and compensation scheme application when carrying out of export-import operations. At the same time, the share, which accounted for barter (compensation) operations of the all turnover for last years, constituted the tenth percent share.

Thus, in 2002 the barter share in total volume of export and import of goods reduced by three times comparing to 2001 and amounted to 0.1 per cent.

The biggest in 2002 was the share of barter scheme application in import of metals and articles of metal and wood, and of pulp and paper products, 0.6 per cent and 0.5 per cent correspondingly, however, at that, the unit weight of each mentioned branch of industry did not exceed 5 per cent of total import.

Moreover, in import of fuel and energy products, which reached 37.4 per cent of total import, barter operations were almost not applied. Export of metals and articles of metal in 2002, which constituted 39.7 per cent of total export, was also carried out without barter operation application, in export of machines and equipment (the unit weight in total export is 14.7 per cent) the share of barter operation application was 0.1 per cent (Table 9).

Table 9

Share of barter settlement application in export-import operations

Branch of industry with indication of product groups according to Ukrainian Classification of Goods of External-Economics Activity	Unit weight, %		Share of barter operations in 2002, %	
	In total import	In total export	In total import	In total export
27 Fuel and energy products	37.4	9.1	0.0	0.0
1-24 Foodstuffs and agricultural products	6.8	13.3	0.0	0.0
25-26 Mineral products	2.4	3.3	0.1	0.1
28-40 Products of chemical industry	12.9	9.3	0.4	0.4
41-43 Hides, fur and wares	0.4	0.9	0.0	0.0
44-49 Wood, pulp and paper products	4.7	3.2	0.5	0.5
50-67 Textiles, textile goods, footwear	4.4	4.1	0.1	0.1
68-70 Articles of stone, glass, ceramics	1.2	0.8	0.3	0.2
72-83 Metals and articles of them	4.9	39.7	0.6	0.0
84-90 Machines, equipment and transport	23.3	14.7	0.0	0.1
91-97 Other goods	1.5	1.6		0.0
Total	100	100	0.1	0.1

As for other compensation schemes of settlements, it should be mentioned that the share of export of goods made on commission in total export reduced in 2002 comparing to 2001 by nine times and totaled only 0.1 per cent.

Over the first two months of 2003 there was observed the increase of export share of goods made on commission in total export, however, this index stays at insignificant level of 0.3 per cent. At the same time, over a period of January-February of 2003 the unit weight of import of finished articles manufactured of goods made on commission in total volume of import reduced to 0.1 per cent comparing to 0.2 per cent for the same period of 2002. Volume of import of goods made on commission to Ukraine over two months of 2003 reduced comparing to a corresponding period of 2002 by 7 per cent points from 7.7 per cent to 7.0 per cent.

Item 77

It is our expectation that all VAT exemptions which have been granted to producers of milk, livestock, poultry, wool, dairy and meat products, all differences in the rates and manner of application of VAT, excise and any other internal taxes, and all barter trading practices, whether internal or cross-border, will be eliminated before the date of accession, that Ukraine will commit to not revert to such measures or allow such practices to re-emerge after accession, and that Ukraine will commit to apply all internal taxes in full conformity with provisions of Articles I:1 and III:2 of GATT 1994 from the date of accession.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 78

We note that Ukraine has started to address the problems created by the discriminatory measures affecting foreign investment. We understand that the new Tax Code will help eliminate the remaining problems and would underline the need for this legislation to be adopted and enacted as soon as possible.

Answer:

Ukraine takes note of this concern. Please also see the Answer to Item 80.

- MFN application of VAT and excise taxes

Item 79

Has Ukraine altered its laws to ensure that all imports from all countries, i.e., including the CIS, are subject to VAT and excise tax equally? If not, please specify which imports from which countries are exempted from VAT application upon importation and indicate when this will be changed to meet the requirements of Article I.

Answer:

The Cabinet of Ministers of Ukraine Resolution No. 745 of 27 June 2001 "On introducing amendments to Item 1 of the Cabinet of Ministers of Ukraine Resolution No. 13 of 5 January 1998 cancelled the preferential value added tax on goods from the Customs Territory of the Russian Federation (starting from 1 July 2001), except as regards unprocessed oil, natural gas condensate and

natural gas during importation into Ukraine. The Cabinet of Ministers of Ukraine Resolution No. 842 of 13 July 2001 – added the following items to the list of goods subject to the preferential regime: fuel elements (cartridges), non-irradiated (Euratom (code UCC FEA 8401300000) and rods with the capacitors and security and management rods (code UCC FEA 8401409000).

This means that goods imported from the Russian Federation from 1 July 2001 onward are subject to VAT in accordance with the generally applied procedure except the goods subject to continuation of preferential taxation regime.

Within the framework of the Agreement on general conditions for support and development mechanisms for industrial cooperation among enterprises and within industries by the CIS member States – signed in Ashgabad on 23 December 1993 (Ashgabad Agreement) – the parties shall not apply taxes and excise taxes with respect to the goods delivered in accordance with the cooperation arrangements involving temporary importation for processing. But the readymade goods produced in Ukraine through processing arrangements and sold within the territory of Ukraine shall be subject to taxation in accordance with the generally applied procedure.

Item 80

Ukraine has indicated that the draft Tax Code of Ukraine in the Rada will harmonize VAT and Excise provisions with WTO norms.

It is important for Ukraine to provide information on the specific provisions that are in the draft Law and to work with delegations to identify and address outstanding issues. What is the status of the draft Law?

Answer:

Reforming the tax system is an important component of Ukraine's economic reform. The strategic purpose of tax reform is the creation in Ukraine of such a tax system that would promote production growth in the country, the increase in consumption, the reduction in the scale of the shadow economy, adequate revenue flow to all levels of budget, and the integration of Ukraine in the global world economy.

Proceeding from this, one of the key tasks of the government and the parliamentary majority is the speedy adoption, within the first half of 2003, of the Tax Code of Ukraine that would provide for reforming the tax system, for transforming thereof from a purely fiscal instrument into an effective tool for social-economic strategies of the state.

The stipulations of the draft Tax Code of Ukraine shall provide for:

- Step-by-step reduction of preferences and exemptions from general taxation granted on the basis of sector and professional characteristics;
- Reduction of VAT rate to 15 per cent, and of income tax, to 25 per cent;
- Reforming the system of taxation of incomes of natural persons (reduction of tax levies, introduction, for the transition period, of a single uniform tax rate of 13 per cent etc.);
- Improvement of procedures for assessment and compensation of VAT, streamlining the procedure for tax payment administration, putting in due order the taxpayers registration procedures in order to prevent the creation of fictitious companies;
- Simplification of tax payment administration procedures, improvement of tax reporting;
- Streamlining the tax assessment mechanisms and reporting procedures for small-scale businesses; and

- Adherence to the principle of non-discrimination in taxation of commodities of domestic and foreign origin.

The Government will take a set of measures to provide for the enactment of the Tax Code on 1 January 2004, upon the approval of the Supreme Rada, and for the reformation of the state tax service.

Item 81

We seek a commitment that from the date of accession, Ukraine's domestic taxes, including VAT and excise taxes, and other taxes applied to goods, would be applied in compliance with Articles I and III of the GATT 1994, in a non-discriminatory manner to imports regardless of country of origin and to domestically-produced goods.

Answer:

Ukraine is cognizant of the obligations of membership. It expects to deal with questions of its commitments in the context of preparation of the draft report of the Working Party.

- (m) **Anti-dumping regime**
- (n) **Countervailing duty regime**
- (o) **Safeguard regime**

Item 82

Item No. 34 addresses Ukraine's use of safeguard measures, based on the Law on Application of Special Measures Regarding Imports into Ukraine.

The law does not appear to be WTO consistent, but is defended Ukraine. The Working Party should review the content and coverage of Ukraine's law as well as any implementing regulations.

As it is clear that Ukraine intends to use such measures to regulate trade, we and other delegations will place great importance on devising an appropriate record in the protocol package that (a) addresses the conformity of the Law and regulations with relevant WTO Agreements, (b) describes how Ukraine will apply these provisions in practice, and (c) provides a commitment that they will be applied in conformity with the WTO Agreements.

Answer:

Application of safeguard (special) measures is a generally accepted mechanism of protection of internal market from mass imports. These measures are used in International practice, and are a constituent part of the WTO Agreements, in particular – the Agreement on Safeguards.

The Law of Ukraine "On Application of the Measures of Safeguard against Imports to Ukraine" was drafted on the basis of the WTO Agreement on Safeguards. However, the Law of Ukraine does not fully comply with the above mentioned WTO Agreement.

The review of the Ukraine Safeguards law shows that:

Most of the provisions are not inconsistent and follow the WTO Safeguard Agreement. The general approach, time limits, notification, confidentiality, transparency, etc. conform.

But a few items are not consistent:

- Although the Ukraine Law, Article 10, paragraph 3 recognizes that factors other than increased imports may cause injury it does not require that injury from these other causes not be attributed to increased imports, as required in the Safeguards Agreement Article 4.2.b;
- Chapter IV that establishes a "Surveillance Measure" if the Ministry establishes a threat of serious injury during the course of the investigation, which by necessity is before a final determination. No such measure is contained in the Safeguards Agreement; and
- Article 16.3 requires the Commission to name the countries of origin to which the definitive measure is applied. This is not consistent with the Article 2.2 of the WTO Agreement, which requires application to a product irrespective of its source. (Article 9 of the SGA and Article 21 of Ukraine law do exempt developing WTO members from application).

Safeguard measures are applied by decision of the Interagency Commission on International Trade after the investigations conducted by the Ministry of Economy. Currently, Ukraine applies safeguard measures to imports of five commodity items. The acting safeguard measures were established in the form of quotas on imports of these goods into Ukraine. More than 92 per cent of these imports, before the safeguards measures were applied thereto, were imported into Ukraine from countries which are not WTO members.

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Please see also the Answer to Items 83 and 84.

Item 83

The reply to No. 34 states that Article 16 of the Law of Ukraine "On Application of Special Measures Regarding Imports into Ukraine" has certain differences from Article 5 of the WTO Agreement on Safeguards. Article 16 of the law states that the "boundary level of quotas shall not be higher than the average arithmetic value of imports under investigation, which have been carried out within the last three years."

Answer:

It is true, Article 16 of the Law of Ukraine "On Application of the Measures of Safeguard against Imports to Ukraine" provides that the "the top level of a quota shall not be higher than the average arithmetic value of imports to Ukraine under investigations, which have been carried out within the last three years".

That is, the level of quota can be defined as a normal volume of imports during the last three years, which is actually applied in practice.

Item 84

Can Ukraine confirm that this provision is WTO compliant, as Article 5.1 of the WTO Agreement on Safeguards requires that the period "shall be the average of imports in the last

three representative years for which statistics are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury"?

Answer:

The mentioned provisions of Article 16 of the Law of Ukraine "On Application of the Measures of Safeguard against Imports to Ukraine" do not fully comply with the provisions of Article 5.1. of the WTO Agreement on Safeguards. At the current moment a relevant law is being drafted in order to bring the provisions of the Law "On Application of the Measures of Safeguard against Imports to Ukraine" in line with the WTO requirements. However, in practice, the level of quota is defined as the average volume of imports during the last three years, as stipulated by the WTO Agreement on Safeguards.

Item 85

We note from the reply to No. 35 in WT/ACC/UKR/110 that "the level of allocated protective quotas" in one instance was "approximately 2.5 times below the average of imports in the last three representative years." How is that practice consistent with Article 5.1 of the WTO Agreement on Safeguards?

Answer:

Point 5.1 of the WTO Agreement on Safeguards provides, that in case of clear justification a different level of quota may be applied that the average of imports in the last three years. In the context of this provision the establishment by Ukraine of quota below the level of the average imports of the recent three years does not contradict the rules of WTO Agreement on Safeguards.

At the same time, it is worth mentioning that the level of quota is established on the basis of data provided by the State Customs Service of Ukraine, which in some instances may differ from data of the exporting countries.

Along with this, a review is underway with regard to safeguard measures applied to imports from WTO members (in particular, referring the import into Ukraine of goods made of polyurethane, decision of the Interagency Commission on International Trade No.SP-70/2003/52-49 of 31 March 2003) in order to bring them into compliance with the WTO Agreement on Safeguards.

2. Export Regulation

Item 86

Ukraine's very high export duties on live animals and hides and skins clearly have a trade-distorting impact on the market within Ukraine, and a detrimental impact on the importation of meat and other products. We request that these export duties be eliminated by the date of accession and that Ukraine commit not to apply such export duties after accession.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 87

In its response to No. 37, Ukraine did not address the part of the question on minimum export prices. Is it true, as it is claimed, that Ukraine imposes minimum export prices, as well as export duties, on exports of live animals, hides and skins? It is our expectation that any minimum export prices will be eliminated by the date of accession, and that Ukraine will commit to not apply or revert to minimum export prices after accession, and thereby ensure conformity with Article 4 of the Agriculture Agreement and Article XI:1 of GATT.

Answer:

The term "minimum export prices" is not used in Ukraine's effective legislation. The terms "minimum level of indicative prices" or "indicative prices" are used.

Currently, indicative prices are set for the following list of agricultural products: bovine animals live, sheep live, bovine leather wet-salted and otherwise preserved (Group 4101 pursuant to the UCG FEA), sheep skins wet-salted, flax seeds ground or non-ground, sunflower seeds ground or non-ground, red flax seeds.

Currently, indicative prices for agricultural products are set by the Ministry of Economy and on Issues of European Integration of Ukraine only for those products, for which export duties are prescribed. Indicative prices are introduced in order to ensure that rates of export duties are effective. The above listed products that are brought out of Ukraine's customs territory are to be sold at prices not lower than the indicative prices.

In setting the indicative prices, the Ministry takes into account product quality standards effective in Ukraine, delivery and payment terms as are recognized in international practices and specified by Ukrainian law, conditions of the foreign and domestic market structure, pricing information (average levels of prices that exist in a given geographic market, and forecasts as to possible price fluctuations), contract practices with respect to a given product, and other information on market structure and price matters.

Contract prices for all other products in the area of foreign economic activity are set by Ukrainian entities engaged in foreign economic activities on a contractual basis, taking into account demand and supply, as well as factors that exist on applicable markets at the time contracts are entered into.

Article XI:1 of GATT 1994 does not apply to bans or restrictions on exports that are temporarily applied in order to prevent a serious shortage of products that are of critical importance for an exporting country.

(c) Quantitative export restrictions

Item 88

We agree with the checklist points that Ukraine's export restrictions and duties on nonferrous scrap and sunflower seeds appear to engage WTO provisions.

Does Ukraine still maintain licensing restrictions on ferrous and nonferrous waste and scrap?

Answer:

According to Points (d), (g), (i) of GATT Article XX, Ukraine applies export restrictions with regard to non-ferrous metal (export duty), and prohibits the export of scrap ferrous metal. Licensing is not applied.

Ukraine believes that at this time it is premature to consider an issue of elimination of export duties on seeds of oily cultures. Export duties on sunflower seeds were introduced by Law of Ukraine No. 1033, dated 10 September 1999, as a temporary measure till 1 July 2002. Pursuant to Law of Ukraine No. 2555, dated 21 June 2001, the level of rates of export duties on sunflower seeds was reduced to 17 per cent ; however, the term of effect of such export duties is not currently restricted. The Government will prepare amendments to Law of Ukraine No. 1033, dated 10 September 1999, to specify a term of effect for export duties, in order to reinstate the temporary nature of such duties.

Item 89

We seek elimination of restrictive measures that cannot be justified under WTO, and the traditional commitment to apply such measures in the future in conformity with the GATT and WTO.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

(d) Export licensing procedures

Item 90

In relation to fees for issuing licences, Ukraine states a number of fees derived as a proportion of individual income in Ukraine or as a share of transaction value. Article VIII of GATT 1994 states that all fees or charges relating to importing (including in relation to licensing) shall be limited in amount to the approximate cost of services rendered. Can Ukraine explain how its license fee structure meets this criterion? What steps is Ukraine taking to ensure consistency of these fees with the provisions of Article VIII of GATT 1994 before accession?

Answer:

The amount of a fee for issuing a product import license totals UAH 255, which corresponds to costs associated with the issuance of the license (see the response to Item 52).

As regards the amount of a fee for issuing an export license, such amount is equal to 0.1 per cent of the value of the export contract.

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 91

In relation to fees associated with exportation, Ukraine also states a number of fees derived as a share of transaction value. Article VIII of GATT 1994 states that all fees or charges relating to exporting (including in relation to customs clearance) shall be limited in amount to the approximate cost of services rendered. Can Ukraine explain how its license fee structure meets

this criterion? What steps is Ukraine taking to ensure consistency of these fees with the provisions of Article VIII of GATT 1994 before accession?

Answer:

As regards the amount of a fee for issuing an export license, such amount is equal to 0.1 per cent of the value of the export contract.

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 92

Ukraine has not indicated the nature of the action it will take to address its WTO-inconsistent policies in relation to exports of live animals, hides and skins, non-ferrous metal scrap and sunflower seeds. We request that Ukraine remove these export restrictions by the date of accession and that it commit not to introduce or revert to any such export restrictions after accession in order to maintain conformity with Article XI:1 of GATT 1994 and, in view of the discriminatory effect such restrictions may have on imported products, with Article III:4 of GATT 1994 and Article of the Agriculture Agreement.

Answer:

Please see reply to Item 88

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

(e) Export financing, subsidy and promotion policies

Item 93

Ukraine has not provided any tables on export subsidies. Does this mean that Ukraine does not use export subsidies? Is Ukraine ready to undertake a commitment to not use export subsidies upon accession?

Answer:

See answer to Item 94.

Within the framework of the negotiation process for purposes of WTO accession Ukraine has announced that it is ready to undertake a commitment upon accession not to use export subsidies for agricultural exports.

Item 94

We seek a commitment from Ukraine that from the date of accession it will not maintain subsidies, including export subsidies which met the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures and that it will not introduce such prohibited subsidies in the future, and that export financing and other export promotion policies will be operated in conformity with WTO provisions.

Answer:

Ukraine has already been supplying very full information on its subsidies as part of its massive documentation that supports its accession application and that it will, after accession, notify its subsidies as all WTO Members are expected to.

3. Internal policies affecting foreign trade in goods

(a) Industrial policy, including subsidy policies

Item 95

We support the statements in item No. 42 concerning Ukraine's subsidies. We have clarifying questions, and a suggestion, that Ukraine prepared draft notifications of the identified programs as a way of informing the Working Party on this issue.

Answer:

Please see the answer to Item 94.

- Subsidies for shipbuilding, mining, and energy:

Item 96

Please describe the industrial subsidies Ukraine introduced in 1999 for the shipbuilding and mining industries. Do these subsidies apply to all sectors of the mining industry, including iron ore and coal?

Answer:

- Subsidies for the ship-building industry

Subsidies for the ship building industry are provided in compliance with the Law of Ukraine "On Measures of State Support for the Ship-Building Industry in Ukraine" as of 18 November 1999, No. 1242-XIV (including changes and amendments introduced in accordance with the Law of Ukraine as of 13 December 2001, No. 2892-III). The objective for providing subsidies to the ship building industry is an efficient use of the production, research and development (scientific and technical) potential of domestic ship building and the upgrading of competitiveness, as well as facilitating the attraction of investments including foreign investments, scaling down the cost of ship building and increasing the level of the turnover funds of the ship building enterprises. The time period of state support measures starts on 1 January 2000 and ends on 1 January 2005.

Subsidies are provided in the following forms:

- Deferred tax payments, in particular,
 - amounts of advance payments for the ship building industry obtained from the clients ordering ships may be allocated to separate accounts of such enterprises and shall not be subject to the withholding procedure without consent and shall be used only for purposes of targeted use in compliance with the Contract obligations of the above-specified enterprises. Such amounts shall be included as a part of gross revenues of such enterprises for purposes of profit calculation subject to taxation in accordance with the Law of Ukraine "On Corporate Income Tax" at the moment of transferring

the ship to the client and expenditures of the ship building enterprises. The enterprises own expenditure in accordance with the target allocation – shall be included in gross expenses for purposes of income calculation subject to taxation in the tax period when the gross revenues are increased by the amounts of the respective payments.

- Exemption from payment of customs duty during importation into the Customs Territory of Ukraine of the materials, equipment and assembling parts (hereinafter – goods), used for purposes of ship building in case such goods are not produced by the enterprises within the territory of Ukraine or in case such produced goods do not comply with the Certification requirements of the International classification partnerships or do not comply with the requirements of the Clients and with the identified Contract provisions. The Cabinet of Ministers of Ukraine shall approve on an annual basis lists of such goods (except for excisable goods).
- Exemption from payments of the land tax.
- VAT exemption for transactions of importation (shipment) into the Customs Territory of Ukraine of materials, equipment and assembling parts (hereinafter – goods), used for purposes of ship building (except for excisable goods), in case such goods are not produced by enterprises within the territory of Ukraine or in case such produced goods do not comply with the Certification requirements of the International classification partnerships or do not comply with the requirements of the Clients and with the identified Contract provisions. The Cabinet of Ministers of Ukraine shall approve on an annual basis lists of such goods (except for excisable goods).
- Zero rates of value added tax regarding the taxation of transactions on sales of products produced by the specified ship building enterprises, at the expense of funds of the State Budget of Ukraine.
- VAT exemption for the design and development works performed by the domestic designers (developers) in accordance with the Contracts of the specified ship building industrial enterprises for purposes of ship building.
- The Cabinet of Ministers of Ukraine, bearing in mind the results of the operations of the ship building enterprises, shall approve the list of ship building enterprises regarding application of the above-mentioned measures, except as regards enterprises registered in (free) economic zones. The following is the list of enterprises adopted in accordance with the Cabinet of Ministers of Ukraine Resolution of 16 June 2000, No. 978 (including changes and amendments introduced by the Cabinet of Ministers of Ukraine Orders as of 21 August 2001, No. 1106 and as of 27 May 2002, No. 696) (see the Table).

Please see Annex 9 for the list of the ship building enterprises receiving the benefit of the state support measures.

- Subsidies to the Coal Mining Enterprises

Beginning on 1 January 2002 State Support to Coal Mining Enterprises is provided in accordance with the new procedure approved by the Resolution of the Cabinet of Minister of Ukraine No. 1733 of 27 December 2001 "On approval of procedure for identification and provision of the State support to the Coal Mining Enterprises". (Resolution of the Cabinet of Ministers of Ukraine No. 26 of 6 January 1999, in accordance with which State Support was provided to the Coal Mining Enterprises for the period up to 1 January 2002 has been cancelled).

In accordance with the new procedure, State Support at the expense of the State Budget is provided to Coal Mining Enterprises (hereinafter – Enterprises) with substantial production reserves of quality coal but unable to support production with their own funding (in case reconstruction of such enterprises is economically viable).

This procedure shall not apply to enterprises making profits from operations or to enterprises being prepared for liquidation.

The scope of State Support of enterprises and the respective target use of such support is governed by the Law on State Budget of Ukraine for the corresponding year. In the year 2002 such expenditures were specified in the budget in the amount of UAH 850,000 and for the year 2003 – UAH 830,000.

State Support shall be provided directly to enterprises for purposes of reimbursing expenses related to the cost of production of coal products and related to capital investments.

The Ministry of Fuel and Energy shall identify the planned cost of production of the coal products and the scope of expenditures for the capital investment on the basis of materials provided by the State Holding Companies, Production Unions and enterprises regarding the elements and directions for application of industry norms (approved production capacities, norms of the work load with respect to the preparation of mines, work load norms, material and power resources and so on) and taking into account the need for measures to improve work productivity and reduce production expenditures.

The planned cost of production of coal products, and the extent that expenses are covered by income, shall be identified for each enterprise on the basis of targets for production of coal products introduced by the Ministry of Fuel and Energy and Meeting the target ensures the maximum economic efficiency.

The Ministry of Fuel and Energy approves on an annual basis the coal quality indicators for purposes of identification of production amounts.

The Industry Commission established by Ministry of Fuel and Energy performs assessment of the results of activity of enterprises.

The assessment is performed on the basis of:

- the economic indicators;
- the production potential;
- financial plans of enterprises; and
- results of business plan competitions with regard to capital investments.

As a result of such assessment the Industry Commission annually distributes enterprises into three groups:

- Group 1 – enterprises able to obtain profits sufficient to continue production activities.
- Group 2 – enterprises possessing substantial quality coal reserves but unable to continue production activities independently and the reconstruction of which is not economically viable.
- Group 3 – enterprises to be prepared for liquidation in connection with the depletion of their coal reserves and enterprises with reserves of quality coal the reconstruction of which is not economically viable.

State support for enterprises of the second group takes the form of compensation, the amount of which is calculated on the basis of planned sales.

State support is only granted on the basis of business plans as well as in accordance with state programs for the capital construction and approved projects.

Item 97

Concerning the mining and electricity industries, please explain whether these industries are fully or in part publicly held. Please explain the pricing structure of electricity and oil in Ukraine.

Answer:

The share of state-owned mining industries of Ukraine is presented in the Table below:

Table 10

Founders

Ministry for Industrial Policy of Ukraine and the State Property Fund of Ukraine
Structure of the State Joint Stock Company "Ukrudprom"

No.	Industry Sector	Open Joint Stock Companies	Share of State Ownership
1.	Iron-ore complex	OJSC "Kryvbaszalizoprom"	100 %
		OJSC "PVP Kryvbasvybuhprom"	100 %
		OJSC "Sukha Balka"	25.1 %
		OJSC "Pivdennyi GSK"	25.78 %
		OJSC "Pivnichnyi GSK"	50 % + 1 share
		OJSC "Tsentralnyi GSK"	50 % + 1 share
		OJSC "Inhuletsky I3K"	50 % + 1 share
		OJSC "Kryvbaszalizoprom"	100 %
2.	Flux and limestone processing complex	OJSC "Balaklava RU named after O. Horky"	100 %
		OJSC "Dokuchayivsky FDK"	100 %
		OJSC "Novotroyitsky RU"	100 %

Table 11

Number of joint stock companies founded in the energy sector on the premises of state-owned companies by extent of private ownership

(as of 1 April 2003)

Industry sector	Total	Share of private capital in total capital			
		under 25 %	from 25 % to 50 %	from 50 % to 75 %	from 75 % to 100 %
Energy	34	8	10	7	9

Table 12

Energy sector companies privatization plans for 2003

Industry Sector	Number of companies whose majority or blocking blocks of shares are intended for tender sale at the stock exchange	Balance sheet value of fixed assets , mn. Hryvnias	Number of employees
Energy	3	167.10	10,985

With regard to pricing in electric energy, please see the Answer to Item 12.

With regard to prices in oil refining we note that they are not regulated by the State, but are being formed on a market basis.

Item 98

Natural gas prices in Ukraine are about one-third the world market price. In addition, we understand that the Government of Ukraine is considering supplying nitrogen fertilizer producers at even lower prices to both reduce fertilizer production costs and to supply fertilizer to agriculture at lower prices. Please explain the nature of these subsidies in terms of Ukraine's overall natural gas pricing strategy.

Answer:

State purchase orders for chemical fertilizers based on envisaged energy price reductions (gas, electricity, transportation etc.) were abolished as of 2000 by the Resolution of the Cabinet of Ministers of Ukraine of 12 October 1998 No.1 953 On Provision of Material and Financial Resources to Agricultural Producers in 1999.

- Steel

Item 99

Please provide a full list of the types of subsidies the steel sector benefits from (both publicly and privately held companies).

Answer:

Subsidies were provided as part of an economic experiment at enterprises of the mining and smelting sector from 1 July 1999 till 1 January 2002. Due to the expiry of the experiment's term and the expiration of effect of the Law of Ukraine, dated 14 July 1999, No. 934-XIV, "On the Conduct of the Economic Experiment at Enterprises of the Mining and Smelting Sector in Ukraine", subsidies are not provided in 2003.

Item 100

Regarding publicly-held steel companies, please explain what plans, if any, Ukraine has to privatize those companies. What kind of plans or initiatives does Ukraine have with regards to privately held steel companies?

Answer:

Only one steel company, State Steel Company "Kryvorizhstal", is publicly-owned. Currently, the issue of privatization of this Company is not being considered.

Item 101

In general, are there any plans to reduce capacity in the steel industry?

Answer:

A National Program for Development and Reformation of the Mining and Smelting Sector in Ukraine by the year 2010 has been developed and is pending consideration in the Supreme Rada of Ukraine. Simultaneously with the modernization and renewal of capital assets, the Program provides for reducing excessive capacity.

Item 102

Concerning the steel industry, please provide a full list of the types of subsidies the steel sector benefits from (both publicly and privately help companies).

Answer:

See the response to Item 99.

- Indirect Subsidies

Item 103

How many credits from extra-budgetary funds has the Ukrainian government issued to enterprises? What were these credits for? What criteria do enterprises need to meet in order to receive these credits?

Answer:

There are at present no extra-budgetary funds granting credits to enterprises.

Item 104

To what extent has the Ukrainian government provided coal as reserves for thermal power plants? On what terms was coal supplied to this particular industry? Were they market terms?

Answer:

In 2002, energy-generating companies did not obtain coal as reserves from the Government of Ukraine. Coal stocks for the autumn-winter period of maximum loads was accumulated by thermal power plants through purchases of coal with their own funds and loans from banks.

Item 105

In recent years what industries have received preferential tax treatment? Why is preferential tax treatment given to these industries? What were the criteria for industries to receive such a special tax treatment?

Answer:

The preferred tax treatment was granted to enterprises of certain industries (motor car construction, shipbuilding, aircraft building, space industry), and to those operating in special economic zones.

As to the preferred tax treatment in shipbuilding, see the answer to Item 96.

The preferred tax treatment in motor car construction introduced by the Law of Ukraine "On Stimulation of Production of Motor Cars in Ukraine" No. 535/97-VR of 19 September 1997 (with changes and amendments) with the purpose of securing conditions for attraction of investments in the domestic motor car construction. For the period to 1 January 2008 the following benefits shall be granted to enterprises producing motor cars, buses and component parts on the basis of registered investments (including foreign) exclusively in a monetary form, in the amount of at least US\$150 million – in production of passenger cars; at least US\$30 mln. – in production of trucks and buses; at least US\$10 million – in production of component parts to motor cars and buses:

- exemption from import duty while importing into the customs territory of Ukraine according to the Law of Ukraine "On Stimulation of Production of Motor Cars in Ukraine" of products (including car assemblies) with identification of codes under the Ukrainian classification of products of foreign economic activity; the procedure and volumes of importing of such products shall be determined by the Cabinet of Ministers of Ukraine, unless such products are produced within the territory of Ukraine;
- exemption from the land tax. The land area exempted from taxation, shall be determined based on the amount of a monetary investment to the authorized fund of such enterprises. One hectare of land shall be exempted for each US\$400 thousand of investment exchange rate, established by the National Bank of Ukraine on the day of making such an investment (including foreign);
- exempted from the value-added tax shall be transactions on bringing in (forwarding) into the customs territory of Ukraine according to the Law of Ukraine "On Stimulation of Production of Motor Cars in Ukraine" of products (including car assemblies), used for construction and production activity of such enterprises. The list of products (including car assemblies) with identification of codes under the Ukrainian classification of products of foreign economic activity, as well as the procedure and volumes of importing of such products shall be established by the Cabinet of Ministers of Ukraine, unless such products are produced within the territory of Ukraine; and
- transactions on sales of motor cars, buses and component parts of residents' own production that operate under the Law of Ukraine "On Stimulation of Production of Motor Cars in Ukraine" shall be charged with the value-added tax at a zero rate. Such resident producers shall be under the obligation to have an investment program approved of by the Cabinet of Ministers of Ukraine.

The preferred tax treatment in aircraft construction introduced by the Law of Ukraine "On State Support of Aircraft Construction Industry in Ukraine" No. 2660-III of 12 July 2001 with the purpose of securing favorable conditions for effective use of production, science and research potential domestic aircraft construction, modernization of aircraft enterprises, promoting investment activity, including foreign investment activity, and increasing the competitiveness of home aircraft, engines and aviation equipment. The following tax benefits shall be granted to aircraft industry enterprises for the period from 1 January 2002 to 1 January 2007:

- delay in tax payment, particularly: amounts of advance and preliminary payments under the contracts of aircraft industry enterprises, received from product (service) customers shall be added to separate accounts of these enterprises, and be used only under the target destination according to the contractual obligations of the said enterprises. These monies shall be included in gross incomes of enterprises with the purpose of identifying the profit subject to taxation in accordance with the law of Ukraine "On Taxation of Enterprise Profit" at the moment of delivery of products (services) to the customer, and expenses of aircraft construction enterprises, made against advance and preliminary payments according to their target destination, shall be included in the total costs with the purpose of identification of the profit subject to taxation in the tax period, on which falls the date of an increase of the gross income by the amount of the said payments.

- exemption from the customs tariff while importing into the customs territory of Ukraine of materials, component products and equipment (hereinafter referred to as products) used for the needs of development, production of aviation machinery and providing services by enterprises, unless such products are also produced within the territory of Ukraine, or those produced do not meet international classification requirements or requirements of customers of products (services), stipulated by terms of contracts. The list and volumes of such products (except for excisable) shall be annually approved by the Cabinet of Ministers of Ukraine.
- exemption from the land tax; and
- exemption from the value-added tax for importing (forwarding) into the customs territory of Ukraine of materials, component products and equipment (hereinafter referred to as products), except for excisable products, used for the needs of development, production of aviation machinery and providing services, unless such products are also produced by enterprises within the territory of Ukraine, or those produced do not meet international classification requirements or requirements of customers of products (services), stipulated by terms of contracts. The list of volumes of such products shall be annually approved by the Cabinet of Ministers.

The preferred tax treatment of subjects of space activity shall be granted according to the Law of Ukraine "On State Support of Space Activity" No. 1559-III of 16 March 2000 with the purpose of preserving and effective use of the existing scientific and research, production potential of the space industry as a priority component of the high technology sector of the economy in order to secure national interests. The following treatment shall be applied to such enterprises during the period up to 1 January 2009:

- import duty shall not be charged while importing into the customs territory of Ukraine of products, used for production of space machinery (including units, systems and their components for space complexes, space carrier rockets, space vehicles and land segments of space systems), unless such products are also produced within Ukraine. The list of these products, except for excisable products, as well as the procedure and volumes of their importing shall be determined by the Cabinet of Ministers of Ukraine.
- exemption from the land tax;
- sales of space complexes, space carrier rockets, space vehicles, land segments of space systems and their units, systems and components, produced by subjects of space activity shall be exempted from the value-added tax; and
- imports by subjects of space activity into the customs territory of Ukraine of products, used for production of space machinery (including vehicles, systems and their components for space complexes, space carrier rockets, space vehicles and land segments of space systems), shall be exempted from the value-added tax, unless such products were produced within Ukraine.

The preferred treatment to enterprises in special economic zones is described in document WT/ACC/UKR/110/Add.1, Annex 9.

Item 106

Which industries are exempt from paying compulsory payments to the budget, such as the Pension Fund and Social Insurance Fund? Why were these industries allowed to be exempt? What criteria was involved in determining which industries were to be exempt from these payments?

Answer:

Please see the answer to Item 105. The laws that provide for state support to priority industries do not envisage exemption from payments to the Pension Fund and the Social Insurance Fund.

Item 107

Which private and state industries, in recent years, have undergone debt-restructuring or received write offs from the Ukrainian government?

Answer:

In accordance with the Law of Ukraine "On Procedures for the Repayment by Taxpayers of Arrears to Budgets and State Target Funds" dated 21 December 2000 No. 2181, tax arrears were written off for all insolvent debtor enterprises. The measures was a once-only action in 2001 undertaken in connection with the accumulation of bad debts that had adverse affect on the financial status of taxpayers and the enforcement of which could hardly be expected to be possible.

In accordance with the Law of Ukraine "On Writing off and Restructuring Outstanding Tax Debts of Taxpayers that Are Enterprises in Tractor and Combine Harvester Production Sector" No. 1698 – III of 20 April 2000, the following was done:

- Amounts of fines and other penalties and financial sanctions not paid to budgets and state target funds, assessed as of the date of enactment of this Law on tax arrears (VAT, enterprise profit tax, personal income tax, land tax, allocations for the Chernobyl Consequences Liquidation and Population Social Protection Fund, and charges and duties for the construction, maintenance and repair of general purpose automobile roads) were written off;
- Tax arrears were restructured for 60 months beginning from 1 January 2003, of the following enterprises:
 - OJSC Kharkiv Ordzhonikidze Tractor Works;
 - OJSC Kharkiv Tractor Engines Factory;
 - OJSC Serp I Molot (Kharkiv);
 - OJSC Kupyansk Foundry;
 - OJSC Lozivka Mechanical Forging Factory;
 - OJSC Chuhuyiv Fuel Devices;
 - OJSC Derhachiv Turbo-compressor Factory;
 - OJSC Kharkiv Factory of Self-Propelled Tractor Tool-Carriers;
 - OJSC Vinnytsia Tractor Assembly Factory;
 - OJSC Khmilnyksilmash (Khmilnyk);
 - OJSC Kovelsilmash;
 - OJSC Rozhyshechiesilmash;
 - KVP Dnipropetrovsk Combine Harvester Factory;
 - State Enterprise Southern Machine-Building Works;
 - OJSC Novohrad-Volynksilmash;
 - OJSC Olevisk Tractor Plant Standards Factory;
 - OJSC Vibroseparator (Zhitomyr);
 - OJSC Guliaypolesilmash (Guliaypole);
 - OJSC Orsilmash (Orikhiv);
 - OJSC First of May Factory of Agricultural Machinery (Berdiansk);
 - OJSC Design Bureau Berdiansksilmash;

- OJSC Melytopol Tractor Hydro-Assembly Factory;
- OJSC Melytopol factory Avtohidroagregat;
- OJSC Kolomiyasilmash;
- OJSC Agromash (Ivano-Frankivsk);
- CP Kiyivtraktorodetal;
- OJSC Bilotserkivsilmas;
- OJSC Boreks (Horodianka);
- OJSC Red Star (Kirovohrad);
- OJSC Vira-Servis (Oleksandriya);
- Concern Lan (Oleksandriya);
- CJSC Avtoshtamp (Oleksandriya);
- CJSC Luhansk Crankshaft Factory;
- OJSC Factory Lvivsilmas;
- OJSC Fregat (Mykolayiv);
- OJSC Kamyaniy Most Factory of Agricultural Machines;
- OJSC Odesa Factory of Agricultural Machines;
- OJSC Galeshynmashzavod (Town of Nova Galeshyna);
- OJSC Rivne Tractor Assemblies Factory;
- OJSC Rivnesilmas (Town of Vasyliv);
- OJSC Okhtyrsilmas;
- OJSC Sumy Agricultural Machine Building Factory;
- OJSC Ternopil Combine Harvester Works;
- OJSC Avtramat (Kharkiv);
- OJSC Kherson Combine Harvesters;
- OJSC ADVIS (Khmelnitskiy);
- OJSC Kamyanets-Podilsksilmas;
- OJSC Shepetivka Cultivator Factory;
- OJSC Umanfermmash;
- OJSC Tsybulivsilmas;
- OJSC Nizhyn Agricultural Machine Building Factory;
- OJSC Prylukyzyhmash; and
- OJSC Chernivtsi Agricultural Machine Building Factory.

In accordance with the Law of Ukraine "On Writing off and Restructuring Tax and Duty Arrears (Mandatory Payments) of Taxpayers in Connection with Reforming Agricultural Enterprises" No. 565-III of 16 March 2000 the following was done:

- Amounts of tax and duty arrears (mandatory payments) to budgets at all levels, including amounts of fines (with the exception of fine amounts levied for late settlement of foreign exchange balances associated with external commercial transactions), penalties and financial sanctions imposed according to law, as of 1 May 2000, were written off in respect of collective and other agricultural enterprises of all ownership and operation forms, including:
- Sugar beet seed-growing facilities and sugar-refineries; chicory-drying facilities; state pedigree breeding farms and stations; state stud farms; state seed farms; enterprises for processing flax, hemp, and hops; mixed fodder factories; service and maintenance enterprises (transport and agricultural machinery maintenance, agrochemical services, logistics facilities), inter-farm construction facilities, veterinary facilities, research institutions of the Ukrainian Academy of Agrarian Sciences and its experimental facilities, agricultural educational establishments and training-experimental facilities thereof, hybrid selection centers and variety testing stations, fish-breeding and fishing farms, as well as collective and other agricultural enterprises transformed into private

enterprises, private farms, associations of farmers, agricultural cooperatives, and other economic subjects (hereinafter "private formations"), and became assignees of such enterprises, or where a liquidation order has been issued in respect of such enterprises.

- Amounts of tax arrears to the State Budget of Ukraine, including fines imposed as of 1 May 2000, of produce purchasing, processing, and service enterprises, when those enterprises have granted loans to agricultural producers in accordance with the relevant Government decisions in the period between 1996 and 1999, with the purpose of financing the acquisition of material and technical resources, were written off.
- Debts to State Reserve of sugar beet sector enterprises for loans under the relevant Government decisions in 1994 through 1999 used to pay for material and technical resources, were rescheduled, to be repaid in equal installments during a period of 60 months beginning from 1 October 2004.

In accordance with the Law of Ukraine On Introducing Amendments to Article 2 of the Law of Ukraine On Writing off the Debts of the Open-type Joint Stock Company AvtoZAZ No. 2318-III of 22 March 2001, bills payable were written off as a bad debt of the Open-type Joint Stock company *AvtoZAZ* in respect of credit guaranteed by the Cabinet of Ministers of Ukraine and paid out by Ukreximbank from a German credit line, complete with interest on this credit and fines imposed for non-payment.

In accordance with the Resolution of the Cabinet of Ministers of Ukraine On Additional Measures Regarding the Restructuring of the Remaining Debt of the Kiev State Factory Burevisnik in Respect of Financial Assistance Given in Accordance with the Resolution of the Cabinet of Ministers of Ukraine of 10 August 1995 No. 626 of 26 September 2001 No. 1233, the remaining debt of the Kiev State Factory Burevisnik in the amount of UAH 820 thousand in respect of refundable financial assistance given in accordance with the Resolution of the Cabinet of Ministers of Ukraine of 10 August 1995 No. 626, was rescheduled until 2005. In addition, amounts charged as payment for moratorium interest were written off, and the rescheduled debt shall not be subject to indexation and interest assessment.

The Resolution of the Cabinet of Ministers of Ukraine On Measures to Redeem the Arrears of Reformed Agricultural Enterprises in Payments for Consumed Electricity of 28 July 2000 No. 1179 recommended the Ministry of Fuel and Energy, jointly with the Council of Ministers of the Autonomous republic of Crimea, oblast state Administrations, and energy-supplying enterprises, to take an inventory of outstanding debts of reformed agricultural enterprises for consumed electricity and to take the necessary organizational steps to effectuate the rescheduling of the debts in question for a period of five years, providing for the beginning of repayment, in cash form, on 1 January 2001, in equal semi-annual installments, conditional on timely payment of current electricity bills.

- General

Item 108

To what extent has the Ukrainian government financed measures aimed at price regulation?

Answer:

The list of goods and services, the prices of which are subject to regulations, is given in the answer to Item 2 and in Annexes 1 and 2. Ukraine is examining the question of whether governmental financial measures are associated with any of those price regulations, and will inform members of the Working Party of the results of this examination.

Item 109

To what extent and to what industries has the Ukrainian government given budgetary credit support to capital investments? And from those budgetary credits given, how many were given to enterprises facing temporary difficulties?

Answer:

According to the Ukrainian Laws on State Budget in 2000 – 2003, the following amounts were allocated for state investments:

Table 13

		UAH million			
Years	Target	2000	2001	2002	2003
State investments in the implementation of the Chernobyl construction program		41,253.0	58,600.0	54,780.0	24,780.0
State centralized investments		33,6576.0	360,920.1	490,000.0	175,000.0

The procedures for the funding of capital development at the expense of State Budget, as well as the list of objects to be financed out of State Budget, are established by the Resolutions of the Cabinet of Ministers of Ukraine of 27 December 2001 No. 1764 On Approval of the Procedure for State Funding of Capital Development and of 25 November 1999 No. 2145 On Procedure for the Competitive Assessment and Selection of Investment Projects Involving the Allocation of Funds from the State Budget. It is not allowed to allocate budget funds to commercial operators declared bankrupt, or in respect of which bankruptcy proceeds have been instituted, or which are in the process of liquidation, or have suspended their economic activities.

Item 110

Has the Ukrainian government given credit support for the purchase of agricultural products?

Answer:

State credits/loans for procurement of agricultural products are not extended. In order to encourage commercial credit for agricultural enterprises, beginning in 2000 the Government introduced, at the expense of State Budget funds, a scheme of partial compensation of interest rates for credits from commercial banks extended to agricultural enterprises. The state budget for 2003 foresees the expenditure of UAH 145 million for the reduction of interest rates on commercial bank loans to enterprises in the agro-industry complex.

Item 111

Please describe any separate budgetary funds set up by the Ukrainian government to finance certain sectors of the economy?

Answer:

Currently, the Government of Ukraine has not set up any budgetary funds to finance any sectors of the national economy.

Item 112

It is our understanding that Ukraine's government assistance programs, such as the Economic Experiment, aim to aid steel and mining companies. It is also our understanding that Ukraine's industrial sectors are supported by various government programs. For example, our information indicates that the steel and iron ore industries rely on low-interest rate loan programs and tax incentives.

Please explain whether Ukraine has any plans to phase-out these types of assistance programs for the steel and mining industries.

Answer:

See the response to Item 99 (regarding mining and smelting enterprises) and the response to Item 96 (regarding coal-mining enterprises).

As regards government assistance programs, Order No. 182-p of the Cabinet of Ministers of Ukraine, dated 31 March 2003, approved a Concept for restructuring the system of government subsidies granted to sectors of the national economy. The Concept provides for bringing the existing system of government subsidies, which are granted to sectors of the economy, into conformity with the norms and rules of the WTO Agreements, and for preparing a draft law of Ukraine on Government Assistance.

Item 113

Does the Ukraine government plan on opening up the steel and mining sectors to private investment? If yes, what procedures are being taken prior to accession?

Answer:

The steel industry is open to private investment. At this point, all metallurgical enterprises with the exception of the Kryviy Rih State Mining and Ore Processing Enterprise Kryvorizhstal are privately-owned.

Item 114

We understand that tax exemptions exist in the chemicals, pharmaceuticals, construction and agricultural sectors of Ukraine. Please describe the nature of these exemptions.

Answer:

The description of special mechanism of VAT taxation in agriculture is provided in the response to Item 75.

As to benefits in chemical industry, according to the Law of Ukraine "On Taxation of Enterprise Profit" chemical industry enterprises with fixed assets put into operation before 1 January 1993 and used for carrying out economic activity, were entitled up to 1 January 2003 to attribute to gross costs of the reporting (tax) period the costs of modification of such fixed assets in an amount not exceeding 9 per cent of the asset value of the category of such fixed assets before the beginning of the reporting (tax) year.

As to tax benefits in construction, according to the Law of Ukraine "On Amending Some Legislative Acts of Ukraine due to Adoption of the Law of Ukraine "On Performing an Experiment in

Housing Construction on the Basis of Kyivmiskbud Holding Company" (item 22.25 of Article 22 of the Law of Ukraine "On Taxation of Enterprise Profit") No. 1694-III of 20 April 2000, for the period up to 1 January 2006:

- costs, attributed by business entities to housing savings accounts of individuals as a result of contractual relations with such individuals, shall be included in the total costs of the taxpayer in an amount not exceeding 10 per cent of its total income for the reporting period; and
- deposits directed by authorized banks to the special reserve for long-term savings deposits shall be added to the total costs of such banks.

As to tax benefits related to pharmaceutical products, according to the Law of Ukraine No. 168/97 of 3 April 1997 (with changes and amendments) "On Value-Added Tax" (subitem 5.1.7 of item 5.1, and item 5.5) sales transactions, as well as importing into the customs territory of Ukraine of medicines and medical products registered in Ukraine under the due procedure shall be tax exempted.

Item 115

Does Ukraine maintain any subsidies for other industrial sectors?

Answer:

See Answers to Items 95, 96, 99, 105, and 107.

Item 116

We would like to see a description of Ukraine's subsidy system in the factual summary, and Ukraine's confirmation that any subsidy programs would be administered in line with the Agreement on Subsidies and Countervailing Measures and that all necessary information on programs to be notified, if such exist, would be provided to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon accession.

Ukraine should prepare notifications for these subsidies, and provide them to the Working Party for review.

Answer:

See response to Item 94.

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

(b) Technical regulations and standards

Item 117

The information provided in item Nos. 45-55 is encouraging, but we remain concerned that requirements and restrictions remain in the area of conformity assessment and the mandatory standards/technical regulations that Ukraine has inherited.

Specifically, how does conformity assessment work for goods imported from countries that do not have an MRA with Ukraine. Can their laboratories qualify for testing?

Answer:

Pursuant to the Law of Ukraine "On Conformity Assessment", dated 17 May 2001, under No. 2406-III, conformity shall be confirmed by accredited certification organizations of any form of ownership, which are authorized to engage in such activity in the legislatively regulated sphere. Ukrainian residents only may act as authorized certification organizations.

Subject to confirmation with the specially authorized agency of executive power in the area of conformity assessment, authorized certification organizations are entitled to enter into agreements for mutual recognition of conformity assessment work with authorized organizations from other countries.

As of 1 May 2003, in the area of standardization, metrology and certification there are in effect 34 bilateral agreements with 26 countries, out of which 15 have been concluded at an inter-government level. For instance, the Ukrainian Center for Testing and Certification of Electric Equipment (UkrTEST) has entered into agreements for mutual recognition of conformity assessment work in the area of electrical equipment in Germany, Poland and the Czech Republic.

Item 118

What steps is Ukraine taking to review mandatory standards and technical regulations in place or WTO consistency? What does the response to item No. 49 mean? How long will it take to fully review these existing mandatory requirements?

Answer:

Mandatory certification of products is prescribed by the Law of Ukraine "On Protection of Consumer Rights", the Law of Ukraine "On State Regulation of Imports of Agricultural Products", the Law of Ukraine "On Labor Protection", the Law of Ukraine "On Quality and Safety of Foodstuffs and Raw Food", the Law of Ukraine "On Communications", the Law of Ukraine "On Highway Traffic", the Law of Ukraine "On Transport", the Law of Ukraine "On Permissible Activity in the Area of Nuclear Energy Use", the Law of Ukraine "On Tourism" etc.

The List of Products subject to Mandatory Certification in Ukraine, approved by Order No. 498 of Derzhspozhivstandart, dated 30 August 2002, has been drawn up on the basis of these Laws.

Pursuant to the Law of Ukraine "On Standardization", upon introduction of mandatory technical regulations on conformity assessment, standards that fall under the effect of such regulations shall become voluntary.

Article 5 of the Law of Ukraine "On Standardization" names priorities in the implementation of international and regional standards in Ukraine as one of the principles of State policies in the area of standardization. Approximately 80 per cent of the national standards adopted during the years 2001-2002 are identical to international standards. In the event of adoption of EC standards as national standards, preference shall be granted to EC standards that are identical to international standards. As of 1 May 2003, Ukraine has in effect 1,090 national standards harmonized with international standards, out of which 293 had been adopted by 2000, 457 – during 2001 and 340 – in 2002. It is planned to harmonize 500 standards during 2003. In general, more than 8,000 standards need to be implemented.

In order to ensure compliance with the basic principles of conformity assessment that are used in international practices, in particular application of product conformity assessment modules

depending on potential risks for human and animal life and health, as well as for property and environmental protection, there have been prepared 11 draft technical regulations on standardization and conformity assessment for specific types of products, in particular:

- on conformity assessment modules that are used in technical regulations, and rules for granting, use of and marking with conformity marks;
- for the safety of toys;
- for electric household refrigerating devices;
- for the safety of low-voltage equipment;
- for electromagnetic compatibility;
- for non-automated weighing devices;
- for the safety of gas appliances;
- for the safety of boilers operating on liquid fuel;
- for the safety of simple vessels operating under pressure;
- for the safety of equipment operating under pressure; and
- for the safety of lifts.

Upon adoption of technical regulations and standards that fall under their effect, the List of Products subject to Mandatory Certification in Ukraine will be gradually reduced.

In order to further harmonize product certification procedures in Ukraine with international procedures, to bring Ukraine's regulatory acts into conformity with the requirements of the Agreement on Technical Barriers to Trade, Order No. 633 of Derzhstandart, dated 18 August 1998 No. 633, "On Approval of Procedures for Accomplishment of Works concerned with Certification of Foreign Serially Manufactured Products" has been repealed. From now on, certification organizations will carry out works concerned with certification of foreign products that are manufactured serially pursuant to rules for mandatory certification of particular types of products.

As regards the response to Item No. 49, we clarify that no inspection of imported goods is applied. A conformity certificate is required in the event of importation of goods that are subject to mandatory certification.

Item 119

We agree with the points in item No. 50, and we urge a specific response, point by point, from Ukraine.

Answer:

- **Ukraine implement the action plan to gradually make technical regulations, standards, certification procedures and labelling requirements compatible with WTO obligations by the time of accession;**

Concerning fulfillment of action plan aimed at gradual bringing of the procedures for technical regulation, standardization, certification and marking requirements into compliance with the WTO obligations prior to Ukraine's accession to the WTO, please see answers to paragraphs (b)-(j), as well as other answers on these subjects.

- **Producers should be given a choice between different conformity assessment procedures to meet legal requirements depending on the risk to consumers, workers and others. Options should include manufacturers' declaration for low to medium risk products. For higher risk products, where third party certification is**

demonstrably necessary, ISO 9000 quality certification should constitute an alternative to costly and time-consuming plant inspections;

Pursuant to Articles 9 through 11 of the Law of Ukraine "On Conformity Assessment", conformity assessment shall be legally possible according to two schemes, which take into account a degree of risk. These schemes are the following:

- declaration on conformity; or
- certificate of conformity.

Within transition period, prior to introduction of technical regulations, the *UkrSEPRO* certification system shall operate. This system shall establish six certification schemes, in particular:

- certification of a single article;
- certification of a group of (products) articles;
- certification of products manufactured serially (without examination/inspection of production;
- certification of products with examination/inspection of production;
- certification of products with attestation of production; and
- certification of products with assessment of a quality system or certification of a quality system.

An applicant shall have the right to choose the specific scheme of certification, depending on its possibilities. And the certification authority shall determine the final scheme. In such situation, peculiarities of production, testing, supply and use of specific products, potential expenses of the applicant, as well as the results of review and analysis of the applicant's submitted materials (with consideration of the applicant's requests concerning the certification scheme) shall be taken into account.

Certification of conformity under a module approach shall provide for, among others, the availability of certified system of quality, which meets ISO 9000 standards.

- **Ukraine's recently confirmed commitment to introduce the "modular approach" along is welcome. Members expected the new law "on confirmation of conformity" to reflect these commitments. The determination of the modules applicable to each product category should reflect risk levels;**

The Law of Ukraine "On Conformity Assessment" contains the main principles of state policy. A principle of harmonization of the national normative and legislative acts on conformity of conformation with the international ones is among the said principles. A "module approach" is reflected in Article 10 of the said Law as a possibility to declare conformity. A "module approach" is also reflected in other normative and legislative act, in particular: the draft technical regulations on modules of the procedure for assessment of conformity and principles of marking with the national sign of conformity which have to apply in technical regulations on conformity. The said draft has passed the internal examination. It shall be approved by the Government's decision in the nearest future.

Depending on the level of risk, it is provided for application of the relevant module of the procedures for conformity assessment. Thus, for products with low level of risk, it is provided for application of module A, i.e., declaration of conformity in accordance with the results of domestic control of production.

- **Members also urged Ukraine to amend the draft law on supplier's liability in order to ensure its full compatibility with WTO obligations;**

Taking into account that significant changes in applicable laws of Ukraine have taken place since the time of submission and approval as the basis of the draft Law of Ukraine "On Responsibilities of Suppliers for Low-Quality and Dangerous Products," the Supreme Rada of Ukraine on 16 January 2003 (Resolution No.461-IV) decided to cancel its previous decision on approval as the basis of the draft law of Ukraine on responsibility of suppliers for production and sale of low-quality and dangerous products. In this regard, the Cabinet of Ministers of Ukraine is preparing for submission to the Supreme Rada of Ukraine of draft Laws of Ukraine on responsibilities for defective products and general safety of products.

- **In addition, Ukraine should take steps with a view to developing effective market surveillance arrangements, which members viewed as the best way to ensure the protection of the health and safety of consumers;**

The draft Laws of Ukraine "On Responsibility for Defective Products" and "On General Safety of Products" are worked out in order to ensure transition to the mechanism of market observation and surveillance.

- **Members also welcomed the first moves to reduce the list of products subject to compulsory certification, but urged Ukraine to review the list with a view to removing remaining lower risk products. They requested that Ukraine indicate what, if any, requirements apply to products taken off the list. In order to increase transparency, and also requested Ukraine to provide detailed lists of the products that are no longer subject to mandatory certification and of those that remain subject to it;**

As of 23 May 2003, the List of Products which are subject to Mandatory Certification in Ukraine, approved by the Order of Derzhspozhyvstandard (State Committee for Consumer's Standards of Ukraine), No. 498, dated 30 August 2002, is in effect. At the same time, the Law of Ukraine "On State Regulation of Import of Agricultural Products" (Article 4) shall require a certificate of conformity for products of 1-24 groups of the Harmonized System.

Currently, activities in relation to revision of the List of Products which are subject to Mandatory Certification in Ukraine are actively undertaken in order to exclude those products that have low degree of risk. The said revision is planned to be carried out annually.

- **Ukraine should make sure that fees corresponded to the costs of services in accordance with GATT article VIII and ensure that all agencies (such as customs inspection at the border) were fully aware of technical regulations for imports and carry out verifications of certificates and documents expeditiously;**

Rules for determination of costs of works on conformity assessment (Resolution of the Cabinet of Ministers of Ukraine, No. 485, dated 11 April 2002) shall provide for calculation of such costs in through the index of labor required. The said Rules provide for the same expenses in relation to the same goods regardless of their country of origin, as well as correspondence of the payment for works on assessment of conformity to costs of services rendered. This meets Article VIII of GATT 1994 and Article 5 of the TBT Agreement.

All controlling authorities, including Derzhmytsluzhba (*State Customs Service of Ukraine*), shall have access to the Register of UkrSEPRO state certification system.

In order to ensure fulfillment of obligations on inspection of certificates and other documents without delays by customs authorities, the Procedure for Customs Clearing of Goods which are Subject to Mandatory Certification determined by the Resolution of the Cabinet of Ministers of Ukraine, No. 1211, dated 4 November 1997 (with subsequent changes and amendments), shall apply.

- **Members requested Ukraine to consult interested parties on draft legislation and to give industry sufficient advance notice to comply with new rules to avoid trade disruption. To this end, Ukraine should ensure that forthcoming technical regulations, standards etc. were published well in advance of entry into force, as well as fee schedules and standard processing times for conformity assessment procedures, as foreseen by the WTO TBT Agreement;**

Applicable laws shall require that the rules and procedures for development, approval, revision, change and termination of national standards established by the central authority of the executive power in the field of standardization must provide for the following:

- criteria for taking into account or refusal of suggestions in relation to development of the national standards;
- criteria for determination of developers of the national standards;
- priority to the application of international (regional) standards;
- mechanism for appeal;
- informing interested parties of the status of works in the field of national standardization. The period for consideration of the draft national standard and submission of opinions shall not be less than 60 days from the date of its publication; and
- giving access to drafts of national standards to all interested parties on equal terms and conditions.

The Information Center of GATT/WTO attached to Derzhspozhyvstandard of Ukraine shall ensure transparency in development and approval of standards and technical regulations that is mandatory requirement for fulfillment the TBT Agreement. The said Information Center shall reply to requests and notifications of trade partners pursuant to the rules of DSTU (State Standard of Ukraine) 1.13-2002 "The Rules for Provision of Trade Partners of Ukraine with Notifications."

Draft technical regulation can be found at Derzhstandard web-site www.dstu.gov.ua.

A technical program on standardization shall be published twice a year. It can be found at Derzhstandard web-site www.dstu.gov.ua. It is published in Bulletins of informative materials on standardization, metrology and certification issued by Derzhstandard of Ukraine.

Such an approach complies with the requirement of the Code of Good Practice on development, approval and application of standards (clauses J, L and M) and Article 10 of the TBT Agreement.

- **Members requested Ukraine to report on a regular basis on progress towards setting up a fully functioning "enquiry point"; as requested by the Agreement;**

Providing for transparency in the development and adoption of standards and technical regulations is the obligatory condition for implementation of the TBT Agreement, and is being carried out by the Information Center GATT/WTO under the Derzhspozhyvstandart of Ukraine, that provides answers to questions and notifications of trade partners with regard to the rules of DSTU 1.13-2002 "Rules for the Provision of Information to the Trade Partners of Ukraine".

There is the Derzhspozhyvstandart's web-page in Internet (www.dstu.gov.ua), where you can find the Laws of Ukraine "On Conformity Assessment", "On Standardization", "On Accreditation of the Conformity Assessment Bodies" (in Ukrainian, Russian and English languages), the List of Products (Services), which are Subject to Obligatory Certification in Ukraine, the adopted normative-legislative acts on implementation of the new laws, the draft technical regulations on conformity assessment as they are drafted, the technical program of works on standardization in Ukraine.

- **Ukraine should also take steps to avoid the creation of multiple testing requirements by different public authorities (e.g. by establishing a one-stop shop).**

18 March 2003 the Law of Ukraine "On Amendment of Some Legislative Acts of Ukraine" No. 540-IV of 20 February 2003 came into effect. It is aimed at the elimination of duplication of the controlling functions of the central bodies of the executive power and introduction of the procedure for conformity assessment (declaring the conformity and certification) of products according to the International practice. The Law amends the Law of Ukraine "On Veterinary Medicine", the Decree of the Cabinet of Ministers "On State Supervision over Adherence to Standards, Norms and Rules and Liability for the Violation Thereof" and to the Cabinet of Ministers Decree "On Standardization and Certification". The Law is drafted in order to implement the Presidential Decree No. 797 of 5 September 2001 "On Additional Measures on Acceleration of the Accession of Ukraine to the World Trade Organization".

Item 120

What is Ukraine's system for developing and applying standards and technical regulation, with a focus on describing its system for ensuring compliance with the provisions of the Agreement?

Answer:

The system for developing and applying standards and technical regulations is defined by the provisions of the Law of Ukraine "On Standardization" and the Law of Ukraine "On Conformity Assessment". A detailed analysis of the consistency of the said Laws of Ukraine with the requirements of the TBT Agreement will be provided to members of the Working Party.

Please see also the Answer to Item 119.

Item 121

We need more information on the harmonization of national standards with international standards.

Answer:

With regard to approval of national standards within years 2001 and 2002, about 80 per cent of them are identical to international standards. While approving European standards as national ones, priority is given to those European standards which are identical to international ones. For example, this is the case with regard to low-voltage equipment (IEC standards), toys, quality of air, soils, waters and environment protection (ISO standards).

Item 122

We note again, that while adoption of EC norms in the area of standardization may be an improvement, but it is no guarantee of WTO consistency. We will oppose adoption of manifestly WTO inconsistent measures.

Answer:

Article 5 of the Law of Ukraine "On Standardization" identifies priorities in the implementation of international and regional standards in Ukraine as one of the principles of State policies in the area of standardization. Approximately 80 per cent of the national standards adopted during the years 2001-2002 are identical to international standards. In the event of adoption of EC standards as national standards, preference shall be granted to EC standards that are identical to international standards.

Legislative requirements for the drafting and application of standards are set out in Section III of the Law of Ukraine "On Standardization", in particular in Articles 11 and 12, which is consistent with the provisions of Article 4 and Addendum 3 of the TBT Agreement. National standard DSTU 1.7 - 2001 "Rules and methods for adoption and application of international and regional standards" is used.

Drafting of regulatory acts (technical regulations) on conformity assessment is governed by Article 6 of the Law of Ukraine "On Conformity Assessment". In the course of development of draft technical regulations for conformity assessment, the Ukrainian party is guided by recommendations of the Working Party on Standardization under the UN EEC, which has adopted a model for drafting technical regulations on the basis of applicable international standards.

Item 123

We do not agree with the implication in the response to item No. 54 that it is justifiable to limit approval of certification bodies to Ukrainian residents. This should be changed to fully implement Article 6 of the TBT Agreement.

Answer:

Pursuant to applicable laws, authorities for assessment of conformation located in the WTO Members will be able to participate in the procedures for assessment of conformity on terms and conditions which are not less favorable than for the relevant Ukrainian authorities. The said access shall be provided on the basis of bilateral agreements. Thus, for example, the Ukrainian Center on Tests and Certification of Electrical Equipment (UkrTEST) has entered into agreements on mutual recognition of the results of works on assessment of conformity with the authorities on certification in the field of electrical equipment of Germany, Poland and the Czech Republic. Within the said agreements, the results of tests shall be recognized for issuance of the national certificate of conformity. In such situation, authorities on assessment of conformity of other countries may not be residents of Ukraine.

Therefore, observance of Article 6.4 of the TBT Agreement shall be ensured.

Item 124

We welcome the information provided on approval of rules for defining the cost of works on conformity assessment. We seek explanation of the meaning of "proportionality" provided for by the PCA and GATT. How do Ukraine's regulations specifically comply with provisions of Article VIII of GATT 1994 and Article 5 of the TBT Agreement?

Answer:

The rules for the determination of the cost of work to assess conformity (Resolution of the CBU of 11 April 2002 No. 485) requires the calculation of such cost to be performed on the basis of

the equivalence to the expenditures made via the rate of labour input. "Proportionality" means that such rules imply equal inputs in respect to similar commodities irrespective of the country of origin, as well as the correspondence of payments for the work to assess conformance with the cost of services rendered, in accordance with Article VIII of 1994 GATT and Article 5 of the TBT Agreement.

Item 125

We seek clarification of the statement that "the applicant is given the right to choose the certification scheme". What types of certification schemes are available to applicants?

Answer:

The UkrSEPRO system of certification provides for 6 certification schemes:

- certification of a single product;
- certification of a shipment of products (goods);
- certification of products that are serially manufactured without examination/inspection of the manufacturing process;
- certification of products with examination/inspection of the manufacturing process;
- certification of products with attestation of the manufacturing process; and
- certification of products with assessment of a quality system or certification of a quality system.

At the time of filing of an application for certification of products, an applicant has the right to choose a particular certification scheme (model), depending on its possibilities, and finally such scheme shall be determined by a certification authority. In this respect, specifics of the manufacturing process, testing, supply and use of particular products, possible expenses of the applicant, as well as findings resulting from the review and analysis of materials provided by the applicant (subject to the applicant's wishes as to the certification scheme) are taken into account.

Item 126

We would be grateful if Ukraine could provide a more detailed explanation of the precise steps it proposes to take to change its system of conformity assessment, and the proposed timetable for these.

Answer:

In the near future the Cabinet of Ministers of Ukraine plans to approve a draft technical regulation for modules of conformity assessment procedures and principles governing marking with national conformity marks, which must be used in technical regulations for conformity confirmation (developed on the basis of EU Council Resolution 93/465), and ten technical regulations for conformity assessment will be further improved on this basis and approved by the end of 2003.

The List of Products subject to Mandatory Certification in Ukraine will be further reduced to the extent that technical regulations are developed that provide for schemes of conformity assessment for particular types of products depending on risks such products may present.

Item 127

In its response to No. 54, Ukraine restates the provision of its Law on Conformity Assessment that is inconsistent with Article 6 of the TBT Agreement. We seek information on when and how Ukraine will bring this provision into line with WTO rules.

Answer:

The sanitary and phyto-sanitary control system is being reformed as part of a package of measures aimed at Ukraine's WTO accession and, in particular, in pursuance of Decree No. 797 of the President of Ukraine of 5 September 2001 "On Additional Measures Towards Acceleration of Ukraine's WTO Accession".

The measures accomplished to date include:

- the Law of Ukraine On Amendments to the Law of Ukraine On Ensuring Public Sanitary and Epidemiological Welfare has been approved providing for equal requirements posed to domestic and foreign goods with respect to their safety for human life and health, as well as in regard to procedures of control and expert examinations, issue of permits, adoption of sanitary and epidemiological standards and regulation;
- a list of products determined pursuant to UKT ZED subject to sanitary and phyto-sanitary control at the border has been prepared. The above mentioned list of goods is included as an attachment to Resolution No. 1569 of the Cabinet of Ministers of Ukraine On Procedure of Single Fee Collection at Points of Crossing State Border of Ukraine of 24 October 2002;
- in compliance with requirements of the International Veterinary Code of the International Epizootic Bureau, amendments have been entered into the Veterinary Requirements to Import into Ukraine of Cargos and Freights Subject to Control by the State Veterinary Service;
- the Cabinet of Ministers of Ukraine has approved Regulation On State Sanitary and Epidemiological Service of Ukraine (Resolution No. 1218 of the Cabinet of Ministers of Ukraine of 19 August 2002), Regulation on State Sanitary and Epidemiological Oversight in Ukraine (Resolution No. 1218 of the Cabinet of Ministers of Ukraine of 19 August 2002); and
- the information center on sanitary measures applied in Ukraine has been opened at the official website of the Ministry of Health of Ukraine.

Resolution No. 1419 of the Cabinet of Ministers of Ukraine On Certain Measures Towards Medical Preparations Quality Improvement identifies the State Department for Control of Quality, Safety and Production of medical preparations and Medical Purpose Products as a national authority charged with certification of medical preparations production conformity with due production practice requirements. In pursuance of this Resolution, the Ministry of Health of Ukraine has passed Decree No. 369 of 14 October 2002 approving the following:

- activities with respect to creation of the national medical preparations standardization system harmonized with international standardization system requirements;
- activities to the end of accession to the Pharmaceutical Inspections Cooperation System to ensure involvement in activities of European and international organizations related to pharmaceuticals quality management;
- lists of legal and regulatory acts governing certification of pharmaceuticals production and standardization system.

Seeking to ensure further harmonization of Ukrainian laws regulating pharmaceuticals distribution with international standards and requirements, the Draft Law of Ukraine On Amendments to the Law of Ukraine On Pharmaceuticals has been prepared and approved in the first reading by the Verkhovna Rada of Ukraine. The Draft Law provides for the introduction of globally recognized quality assurance system and determines requirements to due practices: manufacturing (GMP), laboratory (GLP), clinical (GCP), distribution (GDP).

Please see the Answer to Item 123.

Item 128

Ukraine's response provides an insufficient explanation of how provisions of its laws ensure technical regulations are the least-trade restrictive measures to achieve the various policy priorities mentioned under Article 13. Can Ukraine provide clarification?

Answer:

Article 1 of the Law of Ukraine "On Conformity Assessment" No. 2406-III of 17 May 2001 determines that technical regulations for the assessment of conformity are legal-normative acts approved by the Cabinet of Ministers of Ukraine setting forth descriptions of the varieties of products subject to mandatory verification of conformity; establishing requirements in respect to safety for life and wellbeing of humans, animals, and plants, as well as for property and for the environment; setting procedures for the assessment of conformity with such requirements; and setting rules for marking and for putting products into circulation.

Article 9 of the Law of Ukraine "On Conformity Assessment" stipulates that the procedure for the assessment of conformity in the legally regulated field for particular varieties of products that may be potentially dangerous for the life and wellbeing of humans, animals, and plants, as well as for property and for the environment, shall be established by technical regulations for the assessment of conformity.

Article 13 of the Law of Ukraine "On Standardization" No. 2408-III of 17 May 2001 determines that technical regulations and other legal-normative acts establish mandatory requirements regarding:

- Protection of life, wellbeing, and property of people,
- Protection of animals and plants,
- Protection of the environment,
- Safety of products, processes, and services,
- Prevention of deceit regarding the purpose and safety of products,
- Removal of any threat to national security.

Article 5 of the Law of Ukraine "On Verifying the Conformance" stipulates among the principles of state policies in the field, the following principles:

- Fairness, transparency, and accessibility of conformance assessment procedures;
- Application in line with current international practices, of conformance assessment methods depending on potential risks;
- Uniformity of conformance assessment procedures as applied to products of domestic and foreign origin; and
- Harmonization of national legal-normative acts regulating assessment of conformance, with the international norms.

Thus, current Ukrainian legislation determines that technical regulations shall be applied to performance of tasks similar to those stipulated in Article 2.2 of the TBT Agreement. At that, the potential risks shall be assessed, with due respect for current international practice. In accordance with Article 2.5 of the TBT Agreement, this means that such technical regulations do not create ungrounded obstacles to international trade.

Item 129

In addition to these three horizontal laws, we understand that Ukraine is also working on additional horizontal legislation, for example in the metrology field. Could Ukraine please confirm and provide further information? Concerning the law on Accreditation of Conformity Assessment Bodies, it would be useful if Ukraine could provide more information on the monitoring of performance and impartiality of accreditation bodies established in the Ukraine.

Answer:

In order to fulfill final provisions of the Laws of Ukraine "On Standardization," "On Accreditation of Authorities on Assessment of Conformity/" and "On Confirmation of Conformity," the draft Law of Ukraine "On Amendment of the Law of Ukraine 'On Metrology and Metrology Activity'" was worked out. The said draft was submitted to the Cabinet of Ministers of Ukraine for consideration.

The main changes provided by the said draft shall be the following;

- provisions related to accreditation for the right to carry out metrology works shall be excluded;
- provisions in relation to authorization in State metrology system to carry out metrology works shall be included (provisions which determine authorization authorities, procedure for conducting of authorization and responsibility of authorization authorities);
- sphere of the law's application shall be determine more precisely (the Law shall apply to physical persons);
- state register of methodologies of tests effectuation applied in the field of state metrology surveillance shall be introduced; and
- sphere of state metrology surveillance shall be determined more precisely (state metrology surveillance shall cover works related to control of quality of medicines and works on ensuring of technical protection of information).

In relation to monitoring of activities and objectivity of accreditation authorities established in Ukraine, please note that pursuant to Article 7 of the Law of Ukraine "On Accreditation of Authorities on Assessment Conformity", the Council on Accreditation was created. This Council is a consultative and supervisory body of the national authority on accreditation. Carrying out the said monitoring is among the main functions of the said Council.

Item 130

We do not agree with the concerns expressed here. It is perfectly legitimate to follow the European approach. European standards are based, wherever possible, on international standards. Also, it should be clear that the answer to the question refers to both technical regulations and standards.

Answer:

Ukraine takes note of this statement.

Item 131

Could further information be provided on the measures implemented so far?

Answer:

The development of regulatory acts, that ensure conformity with the rules and principles of the TBT Agreement, is governed in particular by Decree No. 797 of the President of Ukraine "On Additional Measures aimed to accelerate Ukraine's Accession to the World Trade Organization", dated 5 September 2001, and Decree No. 104 of the President of Ukraine "On the Program for Measures aimed to complete Ukraine's Accession to the World Trade", dated 5 February 2002.

Development of regulatory acts (technical regulations for conformity assessment) is governed by Article 6 of the Law of Ukraine "On Conformity Assessment".

In the course of development of draft technical regulations for conformity assessment, the Ukrainian party is guided by recommendations of the Working Group for Standardization within the UN EEC, which has adopted a model for developing technical regulations on the basis of respective international standards.

The selection of technical regulations to be developed on a priority basis is based on:

- international standards that are based on principles of safety of products, processes or services;
- studies of international experience of developed countries in the area of introduction of analogous documents; and
- taking into consideration of national differences for purposes of implementation of international standards, norms and rules in the area of technical regulation.

The analysis of the said factors shows a need for development of priority regulatory acts.

Currently, 11 draft technical regulations have been developed on the basis of the European Union's "New Approach" Directives.

The basic draft technical regulation for modules of conformity assessment procedures and principles governing marking with national conformity marks, which must be used in technical regulations for conformity assessment, is undergoing the final stage of consideration at the Cabinet of Ministers of Ukraine, and will soon be approved by the Government.

The draft technical regulations in Ukrainian (two of them have English language translations) are placed on the Web-page of Derzhspozhyvstandart of Ukraine (<http://www.dstu.gov.ua/>).

Item 132

The answer provided is not sufficiently clear. Is there no compulsory inspection at the moment of import?

Answer:

Ukraine does not have a list of goods for which a requirement of compulsory inspection of import in the field of technical regulation shall apply.

Item 133

Concerning the choice of conformity assessment procedures referred to here, could Ukraine please provide an update on the status of the technical regulation on modules?

Answer:

The draft technical regulations on modules of the procedures for assessment of conformity and marking with the national sign of conformity which have to apply in technical regulations on confirmation of conformity has passed and shall be approved by the Government in the nearest future.

Item 134

What are Ukraine's plans to eliminate mandatory certification to rationalise certification requirements? When will draft legislation be adopted?

Answer:

The new draft Law of Ukraine "On State Regulation of Import of Agricultural Products" was worked out which again provides for exclusions of products for processing from the List of Mandatory Certification.

At the same time, current activities in relation to revision of the List of Products which are subject to Mandatory Certification in Ukraine are actively undertaken in order to exclude those products that have a low degree of risk. The said revision is planned to be carried out annually.

Item 135

The problem referred to in the question persists. What are Ukraine's intentions to remedy the situation?

Answer:

Ukraine is examining in detail the issues raised by this question and will provide an answer in the immediate future.

(c) Sanitary and phytosanitary measures

Item 136

Ukraine makes reference to a TACIS report on sanitary measures. Can this report be made available to the Working Party? While Ukraine claims compliance with Article 7 and Appendix B of the SPS Agreement, it is our expectation that Ukraine will be in full conformity with all provisions of the SPS Agreement upon accession.

Answer:

Ukraine submitted the report on sanitary measures requested which has been circulated in document WT/ACC/UKR/110/Add.3. Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 137

Ukraine has not provided information on reasons for requiring veterinary or sanitary verification upon import or transit and the fee structure involved. We ask that such information be provided.

Answer:

A customs official determines the types of control at the customs border checking point of Ukraine. Officers of the relevant control services are included in the process of control.

The veterinary control is conducted in order to prevent imports into the territory of Ukraine of cargoes unsafe in epizootic terms.

When cargoes are imported or transited through the territory of Ukraine, only the review of accompanying documents is made at the state border on the subject of correspondence thereof to the requirements of International Veterinary Code of the International Epizootic Bureau (IEB). This procedure takes 15-20 minutes.

For more detail on payments charged at the customs border of Ukraine see also Answer to Item 41.

Item 138

We welcome the information provided in the Action Plan for Resolution of Problem Issues of SPS inspection in Ukraine (Annex 8). Many of the initiatives were to have been undertaken throughout 2002. We seek clarification as to which aspects of the plan have been completed, and those still under progress.

Answer:

The sanitary and phyto-sanitary control system is being reformed as part of a package of measures aimed at Ukraine's WTO accession and, in particular, in pursuance of Decree No. 797 of the President of Ukraine of 5 September 2001 "On Additional Measures Towards Acceleration of Ukraine's WTO Accession".

The measures accomplished to date include:

- the Law of Ukraine "On Amendments to the Law of Ukraine "On Ensuring Public Sanitary and Epidemiological Welfare"" has been approved providing for equal requirements posed to domestic and foreign goods with respect to their safety for human life and health, as well as in regard to procedures of control and expert examinations, issue of permits, adoption of sanitary and epidemiological standards and regulation;
- a list of products determined pursuant to UCC FEA subject to sanitary and phyto-sanitary control at the border has been prepared. The above mentioned list of goods is included as an attachment to Resolution No. 1569 of the Cabinet of Ministers of Ukraine "On the Procedure for Collecting the Unified Fee at Points of Crossing the State Border of Ukraine" of 24 October 2002;
- in compliance with requirements of the International Veterinary Code of the International Epizootic Bureau, amendments have been entered into the Veterinary Requirements to Import into Ukraine of Cargos and Freights Subject to Control by the State Veterinary Service;
- the Cabinet of Ministers of Ukraine has approved the Regulation "On State Sanitary and Epidemiological Service of Ukraine" (Resolution No. 1218 of the Cabinet of Ministers of Ukraine of 19 August 2002), Regulation "On State Sanitary and Epidemiological Supervision in Ukraine" (Resolution No. 1218 of the Cabinet of Ministers of Ukraine of 19 August 2002);
- the information center on sanitary measures applied in Ukraine has been opened at the official website of the Ministry of Health of Ukraine.

Resolution No. 1419 of the Cabinet of Ministers of Ukraine "On Certain Measures Towards Medical Preparations Quality Improvement" identifies the State Department for Control of Quality, Safety and Production of Medical Preparations and Medical Purpose Products as a national authority charged with certification of medical preparations production conformity with due production practice requirements. In pursuance of this Resolution, the Ministry of Health of Ukraine has passed Decree No. 369 of 14 October 2002 approving the following:

- activities with respect to creation of the national medical preparations standardization system harmonized with international standardization system requirements;
- activities to the end of accession to the Pharmaceutical Inspections Cooperation System to ensure involvement in activities of European and international organizations related to pharmaceuticals quality management; and
- lists of legal and regulatory acts governing certification of pharmaceuticals production and standardization system.

Seeking to ensure further harmonization of Ukrainian laws regulating pharmaceuticals distribution with international standards and requirements, the Draft Law of Ukraine "On Amendment of the Law of Ukraine "On Pharmaceuticals"" has been prepared and approved in the first reading by the Supreme Rada of Ukraine. The Draft Law provides for the introduction of globally recognized quality assurance system and determines the requirements to due practices: manufacturing (GMP), laboratory (GLP), clinical (GCP), distribution (GDP).

Item 139

Ukraine notes in its response that "in order to reduce the duplication of the functions of the state sanitary-hygiene offices by higher supervising bodies.... changes to the Law "On changes in the Law of Ukraine On sanitary and Epidemic Welfare of the Population" specifies that control and supervision over compliance with the requirements to safety of human life and health is a complete responsibility of the medical professionals". We seek clarification as to how this results in less duplication of functions.

Answer:

One of the main functions of the State Sanitary Epidemiologic Service of Ukraine is the supervision over adherence of the sanitary legislation requirements. Sanitary legislation establishes medical (sanitary-epidemiological) requirements to the safety of environmental factors affecting human life and health. Requirements of safety for health and life of the population are mandated by the State standards and other normative-technical documents for products, raw materials, technologies and other factors affecting the human environment.

When the relevant types of control are conducted by different organizations and bodies, in particular - Derzhspozhyvstandart, ecological inspection and veterinary service, the control is carried out on adherence to the requirements of state standards and other normative-legal documents, including the requirements of safety of products for human life and health, which lead to duplication of functions of the State Sanitary Epidemiological service by these bodies.

In order to eliminate duplication of functions of the State Sanitary Epidemiological Service by other controlling bodies, the Law of Ukraine "On Sanitary and Epidemic Safety of the Population" was supplemented with the following:

- Article 1 of the Law establishes that "control and supervision over adherence to medical requirements on safety for human health and life lie solely within the competence of the medical profession";

- Article 14 of the Law determines that "supervision over adherence to sanitary norms in the standards and other normative-technical documents, conformity of products with the requirements of safety for health and life of the population are undertaken by the bodies, institutions and establishments of the State sanitary epidemiologic service.

Item 140

It is not apparent from Ukraine's response that Article 16 of the Law of Ukraine "On Sanitary and Epidemiological Well-Being of the population" ensures that the use of sanitary measures for protectionist purposes is impossible. We seek clarification as to how this is ensured.

Answer:

Article 16 of Law "On Sanitary and Epidemic Safety of the Population" No. 4004-XII, of 24 February 1994, says that the same life and safety requirements apply to products, procedures of inspections, assessment, issue of permissions, establishment of sanitary and epidemic norms and regulations both to imported and domestic goods and raw materials.

Besides, Article 51 of the same law says that if an international agreement that Ukraine participates in establishes rules different from those envisaged in the sanitary legislation of Ukraine, the rules of the international agreement shall apply.

Item 141

Can Ukraine confirm that it will fully comply with the SPS Agreement upon accession? We would also appreciate more information on how other WTO members will be made aware of changes in Ukrainian SPS measures.

Answer:

Ukraine will reply to this question in the immediate future.

(e) State-trading practices

Item 142

The last documentation that we have seen on state trading was presented in WT/ACC/UKR/67 and Add.1.

The list in item No. 62 identifies entities as state trading enterprises in the context of GATT Article XVII and the Understanding on Article XVII, but without information, we cannot accept Ukraine's assertion that they operate in conformity with WTO provisions.

In particular, what happened to Khlib Ukrainy? What is its current role in grain marketing and trade.

Answer:

The State Joint Stock Company "Khlib Ukrainy" (SJSC "Khlib Ukrainy") was established in August 1996. The structure of the Company includes 81 production subsidiaries established as wholly-owned enterprises (their charter funds are not divided into shares/participation interests). The subsidiaries are located almost in all oblasts of Ukraine, have 17,000 employees, and control 18-20 per cent of the country's grain storage and flour, cereal and mixed fodder production capacities.

Also, see hereinafter the response to Item 143.

Item 143

Please provide copies of the legislation concerning Khlib Ukrainy referred to in WT/ACC/UKR/96.

Answer:

Document "UKR/96" refers to the Decree of the Ukrainian President "On Urgent Measures aimed to regulate Activities of State-Owned (National) Joint Stock and Holding Companies", dated 7 November 2001, under No. 104. Pursuant to this Decree, as regards SJSC "Khlib Ukrainy" an issue is considered as to this Company's reorganization along lines of change of the Company's organizational structure. Ukraine will provide a copy of this document.

In implementation of the Decree of the Ukrainian President, Resolution No. 604-p of the Cabinet of Ministers of Ukraine, dated 25 October 2002, was adopted, which Resolution approved directions of a SJSC "Khlib Ukrainy" restructuring plan. The SJSC "Khlib Ukrainy" restructuring plan includes 12 stages, and contemplates that a report on implementation of this plan shall be submitted by 1 October 2003. Efforts continue to be taken to realize these directions. Ukraine will also provide a copy of this document.

The State Enterprise "Agency for Restructuring of Debts of Enterprises in the Agro-Industrial Complex" was established in implementation of the Plan for Restructuring of the State Joint Stock Company "Khlib Ukrainy" (Resolution No. 690 of the Cabinet of Ministers of Ukraine, dated 15 May 2003).

Item 144

Ukraine has acknowledged that the state regulation of production and trade in alcohol and tobacco, which selects companies entitled to engage in export and import transactions, may constitute state trading.

Please provide an update on this regime, and indicate how Ukraine intends to address these issues in the context of WTO accession.

Answer:

Please see Annex 6.

Item 145

Ukraine should update the information provided as responses to the questionnaire on state trading.

In addition to listing state trading enterprises, the protocol package should contain clear confirmation that from date of accession that Ukraine's state-trading enterprises will be administered and operated in conformity with WTO provisions, including Article XVII and the Understanding.

We also seek confirmation that the laws and regulations governing the trading activities of State-owned enterprises as well as enterprises with special or exclusive privileges (including practices such as state orders, purchases for state needs, state-designated trading, state goods

distribution, government-to-government agreements for the supply/purchase of products, and state mandated counter-trade and barter) will be applied in conformity with WTO provisions, including GATT Article XVII, the Understanding on Article XVII and the Understanding on Article VIII of the GATS.

Answer:

Ukraine is undertaking such an update and will provide that update to Members as soon as possible.

Item 146

Ukraine states that the activities of state trading enterprises are in conformity with Article XVII of GATT 1994. We request detailed information on the operation and purpose of each body, why they qualify as STEs, and a demonstration of how their actions are in conformity with the requirements of Article XVII of GATT 1994. Have all enterprises which enjoy exclusive or special privileges in relation to purchases or sales involving exports or imports been listed? Do all such enterprises allow the enterprises of all WTO Members adequate opportunity to compete for participation in their purchases and sales?

Answer:

Ukraine has taken note of this request and is preparing the necessary information, which will be made available to Members of the Working Party as soon as possible

(f) Free zones

(g) Free economic zones

Item 147

Please explain whether privileges under the Free Economic Zones are limited to certain industrial sectors and, if so, which sectors.

Answer:

Benefits granted within FEZ are not legally limited to specific industry sectors. Typically such benefits are associated with implementation of investment projects approved by FEZ management bodies in compliance with applicable laws.

For more details on the investment projects approval procedure please see response to Item 148.

Item 148

In general, what are the eligibility criteria for entry into FEZs?

Answer:

The status of being a FEZ firm is granted to business entities that are legal persons, located within the FEZ territory and duly registered as FEZ subjects. A decision on an investment project approval shall constitute sufficient grounds for entering into an agreement (contract) with respect to

terms and condition of the investment project implementation and registration by an economic development and management body of a business entity as an FEZ subject.

In some FEZs, business activity is permitted without forming a legal entity through subsidiaries, branches or divested units (FEZ "Donetsk", "Azov", "Yavoriv").

Some FEZs impose a requirement of a minimum level of an investment (see Table 14 below).

Table 14

FEZ	Investment Project Cost
Reni	At least US\$200,000
Porto-franco at Odessa Commercial Sea Port	At least US\$1 million
Slavutych	At least US\$200,000
Port Crimea	At least US\$100,000
Mykolayiv	At least: US\$500,000 – in food processing and agricultural produce processing industries; US\$700,000 – in construction, energy and transportation; US\$1 million – in machine building and instrument building; US\$3 million - for shipbuilding industries.
Yavoriv	At least US\$500,000 (except projects involving technological park)

In addition to that, a contract must be drawn up in line with the Model Agreement (Contract) for Investment Project Implementation in a Priority Development Area in a Special (Free) Economic Zone, as approved by Resolution No. 1199 of the Cabinet of Ministers of Ukraine of 5 July 1999, and the due registration fee paid.

The review and approval of investment projects to be implemented within an FEZ shall be governed by laws of Ukraine regulating activities of respective FEZ (see WT/ACC/UKR/110/Add.1, Annex 9) and by applicable regulations issued by the Cabinet of Ministers of Ukraine. As a rule, while reviewing the feasibility of an investment project implementation, an FEZ management body is guided by the assessment of such project's compatibility with goals and purposes of the foundation of the FEZ in question, with socio-economic development programs or priorities of economic activity within such FEZ (see, in particular, data on Mykolayiv FEZ below), as well by the justification of lists and amounts of importation of equipment, hardware and parts into such zones (insofar as it is provided by the project and applicable laws). Furthermore, the investment project shall undergo an expert examination to assess capacities for prevention of negative effects of its implementation, in particular with respect to the fulfillment of state economic, scientific and technological and social development projects, amounts of budget revenues and identification of sources for potential losses recovery.

Below is the list of business activities in Mykolayiv FEZ in accordance with Resolution No. 1175 of the Cabinet of Ministers of Ukraine On Certain Matters Pertaining to Investment Activity in Priority Development Areas and Special Economic Zones of 26 July 2000:

- Wood and timber processing and wood products manufacturing
- Industrial gases production
- Plastics reprocessing
- Production of glass and glass products

- Production of mechanical equipment
- Production of other general purpose goods
- Production of agricultural machinery
- Production of processing machines
- Production of machines for mining and construction
- Production of machines for agricultural produce processing
- Production of other special purpose machines
- Production of electric and electronic equipment
- Production of equipment for automobiles
- Ship building
- Production of furniture
- Waste processing and treatment
- Production and distribution of gaseous fuels
- Heat generation and distribution
- Water collection, treatment and distribution
- Construction
- Communication
- Activities in the field of information technologies for shipbuilding
- Research and development in natural sciences and technologies
- Vocational education and training
- Sanitation, cleaning and waste treatment

The list of acts issued by the Cabinet of Ministers of Ukraine and governing the procedure of FEZ-related investment projects review and approval is presented below:

- Directive No. 212-r of 23 May 2001 On Approval of the Drafts Procedure of Review and Approval of Investment Projects Implemented in Priority Types of Business Activity in Priority Development Areas and in Special Economic Zones "Port of Crimea" in the Autonomous Republic of Crimea and the List of Priority Types of Business Activity in Priority Development Areas of the Autonomous Republic of Crimea for Which Special Investment Regime has been Established
- Resolution No. 1175 On Certain Matters Pertaining to Investment Activity in Priority Development Areas and Special Economic Zones of 26 July 2000
- Resolution No. 982 On Procedure of Approval and Registration of Investment Projects Implemented within Special Economic Zone "Yavoriv" of 7 June 1999
- Resolution No. 1860 On Procedure of Approval and Registration of Investment Projects Implemented within Special Economic Zone "Slavutych" of 7 October 1999
- Resolution No. 1065 On Procedure of Approval and Registration of Investment Projects Implemented within Special Economic Zones and Priority Development Areas of Donetsk Region of 18 June 1999
- Resolution No. 1507 On Procedure of Approval and Registration of Investment Projects Implemented within a Tourism and Recreation Special Economic Zone "Kurortopolis Truskavets" of 4 October 2000
- Resolution No. 1344 On Special Economic Zone Reni of 27 August 2000
- Resolution No. 1199 On Approval of a Model Agreement (Contract) for Investment Project Implementation in Priority Development Area, in a Special (Free) Economic Zone of 5 July 1999
- Resolution No. 796 On Special Economic Zone "Interport Kovel" of 15 May 2000.

Item 149

On what basis are goods manufactured in the Free Zones deemed to have transformed imported inputs sufficiently to eliminate the need to pay the duties and taxes exempted when the inputs

were imported? What other benefits, if any, in terms of tax exemptions, are available to firms that locate there?

Answer:

Goods are deemed finished or adequately processed or reprocessed in a special economic zone insofar as they meet criteria set forth in Article 18 of the Law of Ukraine On The Single Customs Tariff. More specifically, the following goods shall be considered finished in the given country:

- natural resources extracted within the special economic zone territory;
- plantation products grown on its soil;
- live animals bred in the zone;
- products produced of such animals within the zone;
- hunting, fishery and seafood products produced within the zone;
- seafood products extracted or produced in the World Ocean by vessels of the given country, as well as by vessels leased or freighted by its;
- secondary raw materials and wastes generated through production and other processes completed within this country; and
- goods manufactured in this country exclusively of the products referred to in paragraphs "a" through "g" of this Article.

Goods processing or reprocessing is deemed sufficient as long as:

- The declared goods are classified in a tariff position other than materials and products originating in third countries and having been used for their production;
- The value added to the cost of the declared goods is at least 50 per cent.

The following technological operations may not be deemed as a sufficient goods processing:

- Operations with respect to goods safety at the time of their transportation or storage;
- Goods preparation for sale and transportation (batches fragmentation, shipments formation and repackaging);
- Simple assembly operations; and
- Goods (components) mixing without attributing to the finished product of features substantially distinguishing it from its components.

The exhaustive list of benefits granted to FEZ subjects is presented in document WT/ACC/UKR/110/Add.1, Annex 9.

Item 150

Ukraine should revise its domestic laws and regulations to eliminate upon accession any measures in place in Ukraine's free zones or other special economic areas that are not in conformity with WTO provisions, in particular incentives tied to export requirements, other subsidies, and TRIMS, ensure enforcement of its WTO obligations in those zones.

We ask Ukraine to consider the customary commitment to apply, from the date of accession, normal customs formalities on goods from the zones sold elsewhere in Ukraine, including the application of tariffs and taxes.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 151

Ukraine has not addressed the substance of the request by Members to ensure free economic zones are consistent with WTO rules. We request that Ukraine review its response.

Answer:

The table below presents information concerning the application of regular taxation rates to goods import from FEZ to the territory of Ukraine:

Table 15

FEZ	Importation of goods and other items from FEZ into the customs territory of Ukraine	
	Previously imported from outside of the customs territory of Ukraine	Manufactured including finished or sufficiently processed
"Donetsk"	All taxes and duties payable as applied to goods being imported	VAT and excise duty are collected
"Azov"	All taxes and duties payable as applied to goods being imported	VAT and excise duty are collected
"Zakarpattia"	All taxes and duties payable as applied to goods being imported	VAT and excise duty are collected
"Yavoriv" (auto-port Krakovets)	All taxes and duties payable as applied to goods being imported	Taxable
"Interport Kovel"	All taxes and duties payable as applied to goods being imported	VAT and excise duty are collected
"Mykolayiv"	All taxes and duties payable as applied to goods being imported	Taxable
"Porto-franco"	All taxes and duties payable as applied to goods being imported	Taxable
"Port Crimea"	All taxes and duties payable as applied to goods being imported	Taxable
"Reni"	All taxes and duties payable as applied to goods being imported	Taxable
"Slavutych"	Special customs zone regime non-applicable	
"Kurortopolis Truskavets"	Special customs zone regime non-applicable	

Customs clearance of goods and other articles, as well as their storage under customs control within special economic zones shall be subject to collection of customs fees in accordance with applicable laws of Ukraine.

Import duty shall not be collected at importation into the customs territory of Ukraine from FEZ of goods and other articles produced there, including finished or sufficiently processed ones.

Therefore, non-collection of import duty appears to be the only problematic issue.

The law of Ukraine does not link the right to an FEZ establishment any condition of export performance or balance of trade indices.

As concerns the content of raw and other materials of national origin, in compliance with the Model Agreement (contract) for the Implementation of Investment Projects in Priority Development Area and a Special (Free) Economic Zone as approved by Resolution No. 1199 of the Cabinet of Ministers of Ukraine of 5 July 1999 (Paragraph 2.4), an investor may, in the course of an investment project implementation, attribute preference to products (works, services) of Ukrainian origin on equal conditions applying to price, terms of completion, quality, compliance with international standards.

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 152

Can Ukraine please confirm whether any existing or planned payments, tax breaks and incentives to entities in free zones outlined in Annex 9 of WT/ACC/UKR/110/Add.1 are contingent on local content or export performance?

Answer:

See response to Item 151.

Item 153

Can Ukraine confirm that all its free economic zones will fully comply with WTO rules upon accession?

Answer:

Ukraine will reply to this question in the immediate future.

(l) Government procurement practices

Item 154

We believe that Ukraine's membership in the Government Procurement Agreement would benefit its trade. We urge Ukraine to initiate negotiations to join the Agreement after accession.

Answer:

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

(m) Regulation of trade in transit

Item 155

There should be sufficient description of Ukrainian provisions on transit in the factual summary to confirm whether Ukraine's policies for trade in transit are in conformity with the provisions of the WTO Agreement, in particular Article V of the GATT 1994.

Answer:

Policies of the Ukrainian Government concerned with trade in transit are in conformity with the WTO Agreements, in particular with the provisions of Article V of GATT 1994. To confirm this, we provide a description of applicable Ukrainian law.

Law of Ukraine No. 1172-XIV dated 20 October 1999, "On Cargoes in Transit" provides that cargoes in transit mean shipments by transport vehicles of cargoes in transit subject to customs control through Ukrainian territory between two points of entry or within one point of entry through a State border of Ukraine.

It is in conformity with the provisions of Article V:1 of GATT 1994.

Ukrainian law does not provide for any restrictions on freedom of transit that would be based on flags of ships, places of origin, shipping, entry, departure or destination or any circumstances that relate to ownership of goods, a ship or other transport vehicles.

It is in conformity with the provisions of Article V:2 of GATT 1994.

Article 157 of the new Customs Code provides that trade in transit through Ukrainian territory shall be carried out along routes that are determined by carriers at their discretion, proceeding from considerations of economic expediency.

It is in conformity with the provisions of Article V:3 and 4 of GATT 1994.

At the same time, the Cabinet of Ministers of Ukraine may set restrictions on excisable goods in transit:

- excisable goods (alcoholic beverages and tobacco products) shall be carried along routes and areas of transit through Ukrainian territory and through designated points of entry at a customs border as are specified by Resolution No. 484 of the Cabinet of Ministers of Ukraine, dated 6 May 1996, and Resolution No. 938 of the Cabinet of Ministers of Ukraine, dated 12 August 1996; and
- deadlines for transit of excisable goods as are carried by motor and railway transport through Ukrainian territory are prescribed by Resolution No. 484 of the Cabinet of Ministers of Ukraine, dated 6 May 1996.

Transit carriage is not subject to duties, taxes and fees, except for the unified fee (see the response to Item 39), which corresponds to the cost of transit.

Goods from any country are carried through Ukrainian territory on equal terms. No restrictions regarding MFN treatment in transit shipments are provided for by Ukrainian law.

It is in conformity with the provisions of Article V:5 and 6 of GATT 1994.

Ukrainian law does not provide for any special requirements for aircraft in transit. Goods and cargo are subject to control and clearance under regular procedures (see Chapter 33 of the new Customs Code).

It is in conformity with the provisions of Article V:7 of GATT 1994.

4. Policies affecting foreign trade in agricultural products

(a) Imports

Item 156

What is the status of the draft law "On Changes to the Law of Ukraine on State Regulation of Agricultural Product Import"?

Answer:

The draft law "On Changes to the Law of Ukraine on State Regulation of Agricultural Product Import" was intended to repeal Article 3 entitled "Non-tariff Regulation of Import of Livestock Products" of the Law of Ukraine "On State Regulation of Agricultural Product Import". However, since Article 3 became ineffective as of 1 January 2003 pursuant to Article 7 "Final Provisions" of the said Law, the above referenced draft law lost its actuality and necessity for enactment.

Item 157

Has Ukraine provided a copy of the draft law to the Working Party for review? If not, please do so.

Answer:

Currently, the said draft law has lost its actuality, as Article 3 became ineffective as of 1 January 2003 pursuant to Article 7 "Final Provisions" of the Law of Ukraine "On State Regulation of Agricultural Product Import".

Presently, no quota on the importation of livestock products exists in Ukraine.

Item 158

We seek an update on the Ukraine's efforts to abolish quotas on the importation of livestock products. It is our expectation that Ukraine will commit that it will not maintain, introduce or revert to any such quotas or any other quantitative restrictions that have no valid WTO justification after accession and that it will conform with the provisions of Article XI:1 of GATT 1994 and Article 4 of the Agriculture Agreement.

Answer:

Article 3 of the Law of Ukraine "On State Regulation of Agricultural Product Import", whereby quotas on the importation of livestock products were introduced till 1 January 2003, has lost its effect.

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 159

This Member is not prepared to accept Ukraine's proposals on tariff rate quotas for sugar. Ukraine is well aware of our concerns, which have been discussed bilaterally for some time without resolution, and we request revised proposals that take these concerns into account.

In addition, we have four further questions on other aspects of Ukraine's sugar policies:

The concerns outlined in relation to the minimum internal prices for sugar and the measures used to maintain them stated in our comments under Question 7. We would add that this appears to be a very significant problem, which has been exacerbated by the introduction of new trade-distorting measures in violation of the standstill expectation. Our understanding is that not only the impact, but also the stated purpose of such a policy, is to discriminate against imports of raw cane sugar. We have seen recent media reports that Ukraine has set minimum prices for refined sugar of 44c (US) per kg for 2003-04 (almost double the average world price of sugar of 22.8c per kg in the 2002 calendar year) which, in conjunction with restrictions on the importation of raw cane sugar, are designed to provide protection for domestic producers. We ask Ukraine to address these concerns. We have also seen reports that there are minimum prices in the sugar sector other than for refined sugar, and we seek full details of these;

Pursuant to the Law of Ukraine "On State Regulation of Sugar Production and Sale", dated 17 June 1999, under No. 758-XIV, the minimum price for sugar is the lower level of the price at the time of conclusion of sale-purchase agreements on Ukraine's domestic market within the limit of the A Quota, whereas the quota of sugar supply onto the domestic market (the "A Quota") means a maximum quantity of sugar to be supplied onto the domestic market as from the 1st of September of the current year till the 1 September of next year, in order to satisfy domestic needs. Resolution No.1977 of the Cabinet of Ministers of Ukraine "On State Regulation of Sugar Production and Sale", dated 25 December 2002, was adopted in implementation of this Law.

The Resolution sets a quota for supplies of sugar from sugar beet onto the domestic market for a period from 1 September 2003 till 1 September 2004 in the amount of 1,800 thousand tons (the volume of sugar production from sugar beets within the limit of the said quota is allocated among sugar refineries), and approves a price for sugar beets that will be supplied beginning as from 1 September 2003 for sugar production within the limit of the quotas for sugar supplies onto the domestic market, and a minimum price sugar within limit of the quotas for sugar supplies onto the domestic market. The minimum price for sugar is set for the year 2003 (wholesale) in the amount of UAH 2,370 for a ton or US\$445 per ton (pursuant to the official exchange rate of the National Bank of Ukraine as at 9 May 2003 (US\$100-UAH 532.7)).

Minimum prices for sugar and sugar beets are set at a level that ensures the profitability of production of the given types of products. Ukraine's setting of minimum prices for sugar is in compliance with Article 6 and Annex 3:8 of the WTO Agreement on Agriculture. The minimum prices for sugar are set in order to support market prices both for sugar and sugar beets. The minimum prices for sugar have a positive impact on an increase of profitability of sugar beet production in Ukraine. Ukraine does not see in this measure any discriminatory conditions as to cane sugar; sugar cane for sugar production is not grown in Ukraine. Minimum prices, which are set to support the producers of refined sugar, exist in other WTO Members, for example in the EU, through a mechanism of intervention prices, and in the US\$- for cane sugar through a mechanism of loan rates.

The concerns outlined in relation to non-discrimination in VAT and excise taxation, as stated in our comments under Items 30-32. These concerns cover the discriminatory implications of sectoral exemptions that do not extend to imported products, including imported competing products, and of barter. We request Ukraine to remove this restriction;

We have seen media reports that Ukraine has maintained a requirement that sugar refined from imported raw cane sugar is required to be exported and cannot be sold in the domestic market. Is this true? We seek a full clarification of all measures, that are used to maintain such

a requirement, and details of their basis in Ukrainian law. Such a requirement and the measures to maintain it would appear to be inconsistent with the provisions of Article 4 of the Agriculture Agreement and Article XI:1 of GATT 1994

Answer:

Indeed, pursuant to Article 3.11 of the Law of Ukraine "On State Regulation of Sugar Production and Sale", dated 17 June 1999, under No. 758-XIV, production of sugar in Ukraine from imported raw materials is permitted exclusively on condition that finished products will be exported in full out of Ukraine within time periods specified by Ukrainian law. Article XI:1 of GATT 1994 "General Elimination of Quantitative Restrictions" and Article 4 of the Agreement on Agriculture "Market access" point out that: "No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party". Ukraine sees no direct inconsistency between the requirement of Ukrainian law and the WTO requirements.

Furthermore, media reports indicate that refining plants engaged in production of refined sugar are obliged to satisfy: (i) attestation requirements; and (ii) registration requirements; and (iii) undergo inspection every five years. We ask that Ukraine reflect details of these restrictions in its responses to the checklist and explain their full WTO justification. We ask Ukraine to explain why these measures should not be considered unjustifiable restrictions on importation of raw sugar (used to produce some refined sugar) and on the exportation of refined sugar.

Answer:

Pursuant to Resolution No.494-p of the Cabinet of Ministers of Ukraine, dated 29 August 2002, "On Measures aimed to ensure that the Domestic Market is supplied with Domestic Sugar and is protected against Unauthorized Imports", there are specified, among other measures, measures "to ensure that producers and allocated sugar quantities are registered, and to ensure permanent control over wholesale prices for sugar". Pursuant to Order No. 335 of the Ukrainian Ministry of Agrarian Policy, dated 17 October 2002, "On Amendments to Order No. 186 of the Ukrainian Ministry of Agrarian Policy of Ukraine" of 20 September 2000 ("On Measures aimed to ensure that the Domestic Market is supplied with Domestic Sugar and is protected against Unauthorized Imports"), State registration of sugar producers was introduced. Pursuant to this act, sugar refining plants, which have undergone State registration and obtained State Registration Certificates for Sugar Refining Plants within the A and B Quotas on the basis of comprehensive inspection findings and attestation, are eligible to participate in a tender involving allocations of sugar production within the A and B Quotas.

Contenders shall be subject to comprehensive inspections once every five years. Materials of a comprehensive inspection must contain:

- an analysis of the production process (growing, gathering, acceptance and storage of sugar beets, improvement of technological processes, an energy balance and thermal indicators of the processes, a water balance and use of water, a degree of production automation, organization of labour, environmental purity of production); and
- proposals of inspectors as to improvements and development of production (a system for growing of sugar beets, a sugar beet acceptance and storage scheme, a technological schema of production, a heat and water usage scheme, a comprehensive automation scheme, a labour organization system, technical solutions that ensure environmental purity of production).

Contenders are attested on an annual basis by the Commission for Attestation and State Registration of Sugar Refining Plants – Producers within the A and B Quotas (hereinafter referred to as, the "Attestation Commission"). Representatives from Chief Departments for Agriculture and Food, State Technical Supervision Inspectorates of Oblast State Administrations, oblast Sugar Industry Associations, the State Sanitary and Epidemiological Service and, if necessary, other specialists, advisors and experts (per their consent), depending on the territorial location of sugar refining plants, may sit on the Attestation Commission.

Ukraine believes that these measures are aimed, in first place, to improve sugar production technologies and sugar beet processing in Ukraine, and they cannot be regarded as restrictions on the importation of raw cane sugar (for production of specific quantities of refined sugar) and export of refined sugar.

Item 160

In its response Ukraine claims that 1997-99 cannot be considered a representative period upon which to base AMS commitments given macroeconomic conditions prevailing at the time. We are very concerned and very disappointed by Ukraine's attempt to revert to a distant and unrepresentative base period. We offer the following information to illustrate why this is an inappropriate step: In a recent presentation, the IMF's representative office in Ukraine categorised Ukraine's transition in the following manner:

- **1991-1994: the period of "hyperstagflation" (a period of economic decline in the aftermath of the inception of transition);**
- **1995-1999: the period of "Stagnation and Stabilisation" - a period of serious stabilisation and lacklustre structural reform, during which output stagnated (1995-1999); and**
- **2000-current: the recovery (a period of market-based economic growth).**

Answer:

Indeed, in its response to Item 67 of WT/ACC/UKR/110 Ukraine stated that the period of 1997-1999 may not be regarded as a representative period upon which to base AMS commitments, given macroeconomic conditions prevailing at the time. The main arguments cited by Ukraine both in its response to Item 67 and in the document entitled "Position Material regarding Volumes of State Support necessary to implement the Strategy for Agricultural Development in Ukraine" (Addendum 11 to WT/ACC/UKR/110/Add.1), were as follows:

- An essential change in the level of AMS for 1997-1999 in comparison with 1994-1996 is explained by the fact that the years of 1997-1999 were characterized by a decrease in funding for this sector due to a number of reasons of the macroeconomic nature: a deficit of the State Budget, existence of non-transparent schemes of funding, suspension of state procurements of grain, reduction of support aimed at specific types of agricultural products, etc.
- Appropriate state support is needed for purposes of stabilization and further development of Ukraine's agrarian sector. This need results from objective particularities in the functioning of Ukrainian agriculture, lagging of domestic agriculture in terms of technological levels of production, from a need to resolve problems specific for the Ukrainian agrarian sector that have amassed over the years of crisis-ridden development. Last years' experience shows that the agrarian sector is not able to resolve these problems without an increase of state support in the near future.

- It is important for Ukraine to obtain a right to provide "yellow box" support above the *de minimis* level, especially for certain products, which, in its turn, will ensure the achievement of strategic internal goals in the agrarian sector and the economy in general. Thus, the State's funding of loan-rate procurements of grain (pursuant to the Law of Ukraine "On Stimulation of Agricultural Development for the Years 2001-2004", dated 18 January 2001, under No. 2238-III, whereby support for and of producers' revenues through the introduction of loan rates for agricultural products was entrenched), will exceed 5 per cent of value of grain production (i.e., the *de minimis* level of support), and will be equal approximately to 10-12 per cent of the value of grain production for certain grain crops. By quantitative measurements of AMS for the sector, the period of 1997-1999 places Ukraine in the "*de minimis*" situation, whereas the base period of 1994-1996 grants more financial possibilities for resolving agricultural problems listed in detail in the document entitled "Position Material regarding Volumes of State Support necessary to implement the Strategy for Agricultural Development in Ukraine" (Annex 11 to WT/ACC/UKR/110/Add.1).

As regards "hyper-inflation", which took place in 1993 and 1994, Ukraine used an annual average exchange rate of Ukrainian currency against the US dollar in order to calculate the AMS level for the base period of 1994 -1996. This annual average exchange rate was correlative with the average exchange rate that existed during the period when payments for products procured by the State were due, and State payments under other support measures were equal during the year. Therefore, applying the annual average exchange rate of Ukrainian currency against the US dollar for measuring the AMS level during the base years is acceptable. The annual average exchange rate of the Ukrainian Karbovanets (1994-1995) and the Ukrainian hryvnia (1996) against the US dollar set by the National Bank of Ukraine (annual average) was used for the calculations. This methodical approach is compatible with procedures specified in the Agreement on Agriculture and WTO practices.

Item 161

From 2000-2002, Ukraine has experienced significant economic growth (around six per cent on average, and as much as nine per cent), and a moderation in inflation (to around ten per cent). In agriculture itself, growth of 6-10 per cent was recorded. This compares with falls in GDP of around – eight per cent on average in 1995-97, hyperinflation (i.e., over 100 per cent), and financial instability requiring annual IMF Stand-By programs.

The IMF's characterisation of the recent recovery period was substantially the same as that provided by Ukraine's Minister for the Economy and European Integration in his Statement to the Formal Meeting of the Working Party on the Accession of Ukraine held on 25 February 2003.

In view of the improvement in macroeconomic stability, and the legislative and policy environment supporting agriculture (e.g., including passage of land reform legislation), does Ukraine still consider that the period of "stagnation and stabilisation" best represents the future conditions for the functioning of agriculture in Ukraine?

Answer:

Growth in gross production of agricultural products in all categories of farms in 2001 and 2002 is, in first place, a result of favorable weather conditions, due to which the gross yield of grain essentially increased in 2001-2002. On the contrary, a significant decrease in the yield of grain crops is expected in 2003. Secondly, the privileged taxation regime for agricultural enterprises (introduction of the fixed agricultural tax) and write-off of tax debts for reformed enterprises in the sector in 2000-

2002 encouraged, to a certain extent, a flow of investments into agricultural production, which also promoted an increase of gross production of agricultural products. However, positive achievements in the increasing of production, in particular of grain and products of animal origin, did not, unfortunately, bring about expected financial results. Thus, production of grain, bovine meat, milk and eggs suffered a material fall in the level of profitability as a result of a drop of sale prices for agricultural products sold by agricultural enterprises. In 2002, 54.0 per cent of enterprises posted losses in their activities (in 2001 – 43.9 per cent). Net results of all agricultural enterprises' activities totaled UAH 294.6 million in losses for 2002 (in 2001 – UAH 834.1 million in profits), and the level of profitability in general totaled minus 1.9 per cent as compared with 5.0 per cent in 2001.

As regards land reform, a large number of efforts to reform land relations were accomplished in 2001, as a result whereof changes in these relations became of the irreversible nature. However, the final goal – economically efficient and environmentally safe use of lands in Ukraine, has not been achieved. Positive achievements in the accomplishment of land reform have not yet led to the radical and efficient renewal of agricultural production, reinvigoration of investment processes in other production industries as well as raising of public welfare. It results in a need for a comprehensive approach towards resolving a problem of land reform on a market basis, in close junction with economic reforms implemented in the country in general and changes in policies of agriculture support.

As regards the conduct of annual IMF Stand-By programs during the period of 1995-1997, which is linked in the question by the Working Party Members with the financial instability of this period, during the period of 2000-2002 Ukraine resolved a matter of foreign debt repayment with the use of other instruments, including through restructuring of foreign debt. A new stage in the negotiation process between the Ukrainian Government and the IMF regarding a matter relating to renewal of Stand-By programs commenced in 2003.

Item 162

We request that Ukraine provide agricultural domestic support data and details of programs from the more representative and recent period of 2000-2002. Use of such a period would be consistent with WTO requirements and WTO accession guidelines.

It is our expectation that Ukraine will commit to bind agricultural export subsidies at zero.

Answer:

Per an inquiry from Members of the Working Party, Ukraine has prepared agricultural domestic support data for the period of 2000-2002 (see the Annex 10), for information of the Working Party, but Ukraine continues to negotiate for determining Ukraine's commitments regarding the level of agricultural support based on the period of 1994-1996 as a base period during the following multilateral meeting of the Working Party on Agriculture.

The WTO Agreement on Agriculture does not contain express guidelines as to which period of time should be accepted as "base". However, the technical note of the WTO Secretariat (WT/ACC/4 of 12 March 1996) indicates that information on domestic support must be provided, as a rule, using an average figure for the past three years preceding the commencement of negotiations. Negotiations on agriculture within the Working Party dealing with Ukraine's Accession to the WTO commenced in 1997. Thus, in selecting the base period (1994-199) Ukraine was guided by WTO practices and recommendations of the WTO Secretariat.

See also responses to Items 160 and 161 and to Item 93.

(e) Internal policies

Item 163

We appreciate the information that Ukraine has provided to us concerning its domestic support programs for agriculture, and we again note the very positive commitment Ukraine has made to bind export subsidies at zero and to not seek recourse to the special agriculture safeguard.

With respect to domestic support programs, we note that Ukraine references legislation that sets out the types of agricultural policies Ukraine intends to use through 2004. Specifically, these include:

- **Law of Ukraine "On Stimulation of the Development of Agriculture for the Period 2001-2004," No. 2238-III, dated 18 January 2001;**
- **Presidential Decree of 17 February 2001 No. 100 "On the measures of stabilization of the situation at the consumers' market and the development of livestock husbandry in 2001-02"; and**
- **Resolution of Cabinet of Ministers of Ukraine of 11 July 2001 No. 799 (untitled).**

Has Ukraine submitted this legislation to the Working Party for review? If not, please do so.

Answer:

Ukraine will submit copies of this legislation to the Working Party.

Item 164

Are there other laws, decrees, or resolutions that have been introduced (or will be introduced) that are relevant to Ukraine's domestic agricultural policies?

Answer:

Effective laws in the area of agricultural support policies in Ukraine:

- "On the State Budget of Ukraine for the year 2003", dated 26 December 2002, No. 380-IV;
- "On the Value Added Tax", dated 3 April 1997, No. 168/97-VR;
- "On Stimulation of Agricultural Development for 2001-2004", No. 2238-III, dated 18 January 2001;
- "On Grain and the Grain Market in Ukraine ", dated 4 July 2002, No. 37-IV;
- "On State Regulation of Sugar Production and Sale", dated 17 June 1999, No. 758-XIV;
- "On Breeding in Livestock Husbandry", dated 15 December 1993, No. 3691-XII;
- "On Seeds and Planting Materials", dated 26 December 2002, No. 411-IV;
- "On the Fixed Agricultural Tax", dated 17 December 1998, No. 320;
- "On (Peasant) Farms", dated 20 December 1991, No. 2009; and
- "On Settlement of Debts outstanding on Budget Loans extended to State-Owned and other Agricultural Enterprises of all Ownership Forms and Forms of Business through Service, Procurement and Processing Enterprises, and Restructuring of Tax and Mandatory Payment Debts of Processing Enterprises in the Agro-industrial Sector", dated 18 January 2001, No. 2237.

Effective Resolutions of the Cabinet of Ministers of Ukraine in the area of agricultural support:

- "On the Main Areas of Technical Support for the Agro-Industrial Complex", dated 18 September 1997, No. 1030;
- "On Use of Funds of State Support for (Peasant) Farms", dated 13 April 2001, No. 357;
- "On Procedures for Calculation, Payment and Use of Funds designated for Payment of Subsidies to Agricultural Producers for Milk and Meat in Live Weight sold by them to Processing Enterprises", dated 12 May 1999, No. 805;
- "On Procedures for Accumulation and Use of Funds payable by Agricultural Producers – VAT Payers with Respect to Transactions involving Sales of Goods (Works, Services) of their own Production, including Products (except for Excisable Goods) manufactured under Tolling Arrangements with their own Agricultural Raw Materials", dated 26 February 1999, No. 271;
- "On State Regulation of Sugar Production and Sale", dated 25 December 2002, No. 1977;
- "On Provision of Assistance to Agricultural Producers that have suffered from Unfavourable Weather Conditions during the Wintering of Winter Grain Crops in 2003", dated 31 March 2003, No. 410;
- "On Measures for Development and State Support of Sheep Breeding in 2003-2010", dated 16 November 2002, No. 1760;
- "On the Conduct of Grain Pledge Transactions", dated 7 February 2003, No. 164; and
- "On Approval of the Comprehensive Program for Development of the Agrarian Market for 2003-2004", dated 1 March 2003, No. 271.

Orders of the Ministry of Agrarian Policy of Ukraine:

- "On Funding of the Hop-Growing Sector", dated 18 February 2003, No. 36;
- "On Implementation in 2003 of the Budget Program "Financial Support for Production of Animal Husbandry and Plant Cultivation Products", dated 31 January 2003, No. 26;
- "On Assurance of Implementation of the Program for Development of, and State Support for, Sheep Breeding for the years 2003 – 2010", dated 11 December 2002, No. 387;
- "On Amendments to Order No. 26/67 of the Ministry of Agrarian Policy and the Ministry of Finances of Ukraine, dated 31 January 2002 (On Approval of Procedures for Calculation and Payment of State Budgetary Funds appropriated for making Additional Payments to Agricultural Producers of all Organizational-Legal Forms of Business and Natural Persons for Young Cattle with Increased Weight Conditions sold by them for Slaughter to Processing Enterprises and Procurement (Purchase) Organizations)", dated 20 November 2002, No. 359/980; and
- "On Approval of Procedures for Use of Budget Funds for paying out State Subsidies to Agricultural Producers of all Ownership Forms for Ecologically Pure Milk sold by them to Milk Processing Enterprises for Purposes of Production of Special Baby Food Products in 2002", dated 11 March 2002, No. 78/168.

As regards a list of laws on agricultural support that must be enacted:

- "On Support of Production and Development of the Market for Agricultural Products";
- "On State Support of Gardening and Viticulture";
- "On Prices and Price Setting for Agricultural Products";
- "On Milk and Milk Products";
- "On Meat and Meat Products";
- "On Amendments to Article 9 of the Law of Ukraine "On the Fixed Agricultural Tax" (with respect to extending the term of effect of the fixed agricultural tax up to 1 January 2010";

- "On Amendments to Certain Legislative Acts of Ukraine dealing with Regulation of Activities in the Agrarian Sector of the Economy"; and
- "On Amendments to the Law of Ukraine "On the Value Added Tax" (with respect to extending the payment of subsidies for milk and meat through the use and accumulation of VAT amounts in order to acquire material-technical resources for production of agricultural products up to the end of 2009).

Item 165

The data presented in table attached to Annex 11 of WT/ACC/UKR/110/Add.1 is not clear to us. We need to better understand the types of measures that Ukraine is presenting in this table and would offer the following questions/comments:

- **Please provide all data in UAH;**
- **How were the annual average costs of program utilization calculated?; and**
- **Ukraine should also provide data on the value of production, for each commodity and total value of agricultural production.**

Answer:

In the Table attached to Annex 11 of WT/ACC/UKR/110/Add.1, annual average costs of program utilization are expressed in UAH (column 2 in Table 1 of Annex 11) and, thereafter, re-calculated in US dollars (column 3), which was done to compare the costs of domestic support programs planned for implementation in Ukraine to resolve current problems existing in the sector, with the *de minimis* level of support on the basis of the worst period by the level of production and the level of support for the sector – the period of 1997-1999. Information on the cost of each of the types of goods and the total cost of agricultural products for each of 1994-2002 is provided by Ukraine in the Working Tables under No.1 in the documents: /ACC/SPEC/UKR/Rev.7 (1994-1996), WT/ACC/SPEC/UKR/Rev.6 (1997-1999), and a document containing domestic support calculations for the period of 2000-2002.

The annual average costs of program utilization were calculated proceeding from the actual cost of funding for support measures that are already implemented pursuant to applicable law and a cost estimate for those that need to be implemented in order to resolve problems of Ukrainian agriculture.

Item 166

In terms of next steps, we would propose the following approach:

- **If Ukraine has not already submitted the legislation cited above, and any other legislation relevant to Ukraine's domestic agricultural policies, to the WTO Secretariat, it should do so well in advance of the next Working Party meeting;**
- **If Ukraine has prepared responses to Members' questions/comments on WT/ACC/SPEC/UKR/Rev.6 and Rev.7, these responses should be circulated well in advance of the next meeting;**
- **Ukraine should also endeavour to prepare responses to Members' questions/comments on Annex 11 of WT/ACC/UKR/110/Add.1, including questions concerning the table attached to the Annex;**

- **Once Members have had a chance to review and reflect on these materials, an agriculture plurilateral meeting should be scheduled, ideally on the margins of the next Working Party, to discuss these materials, with a view towards identifying an appropriate base period for Ukraine's supporting tables;**
- **We continue to believe that 1997-99 or some other recent base period is more appropriate than 1994-96, but we are willing to reflect further on this issue once we have a better understanding of Ukraine's current policy environment; and**
- **However, Ukraine must recognize that whatever base period is decided, the supporting tables must be technically correct and reflect actual policies and expenditures during that period.**

Answer:

Ukraine has prepared agricultural domestic support data for the period of 2000-2002 (see Annex 10), but Ukraine would wish to proceed with negotiations for determining Ukraine's commitments regarding the level of agricultural support based on the period of 1994-1996 as a base period during the following multilateral meeting of the Working Party on Agriculture.

Partially, Ukraine's responses to questions and comments from the Working Party Members are contained in WT/ACC/SPEC/UKR/Rev.7 as comments to the AMS Tables. In addition, with respect to the main questions about the calculation methodology raised by the Working Party Members at 9 and 10 meetings of the Working Party considering Ukraine's application Ukraine provided written responses in Annex 2 to WT/ACC/SPEC/UKR/Rev.6 (Annex 2. Agricultural Support/AMS Tables. Ukraine's answers to the questions from "Ukraine's consolidated list of questions" document ACC/SPEC/UKR/Rev.4), and in Annex 11 to WT/ACC/UKR/110/Add.1.

Additionally, Ukraine will provide answers to other questions and comments from Working Party Members as an annex to the amended WT/ACC/SPEC/UKR/Rev.7.

On the eve of a multilateral meeting on agriculture during the eighth session (June 2001), Ukraine held consultations with the Agricultural Division of the WTO Secretariat as to whether the ACC/4 Tables had been drawn up technically correctly. In the course of the above referenced consultations it was determined that the Tables had been drawn up technically correctly. Ukraine took into account only legislatively prescribed support measures in the course of drawing up the Tables.

5. Policies affecting foreign trade in other sectors

(b) Policies affecting foreign trade in other major sectors

- Trade in Civil Aircraft

Item 167

Ukraine has indicated in bilateral exchanges a willingness to join the Agreement on Trade in Civil Aircraft Agreement. We would like a commitment in the protocol package that this will occur upon WTO membership.

Answer:

Ukraine takes note.

- Automobiles

Item 168

We welcome the progress made to address the important problems in this area and hope that the draft legislation will be adopted and enacted as soon as possible.

Answer:

Ukraine takes note.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

Item 169

This is a very important aspect of Ukraine's WTO accession process.

The Ukrainian government has enacted legislation amending its IPR laws, and we are encouraged that Ukraine has realized the importance of bringing its regime into conformity with the Agreement on TRIPS. Additional legislation addressing remaining issues and improved enforcement, as well as correcting the deficiencies in the optical disc media licensing regime, would considerably help the Working Party proceedings in this regard.

Ukrainian authorities are invited to continue their efforts to fully implement the TRIPS Agreement, with respect to both substance and enforcement in the area of copyright and apply it upon accession.

The Working Party should be kept informed of initiatives taken to reduce current high levels of piracy, due to, in part, lack of proper Customs procedures and enforcement of IPR at the border which results in making Ukraine a major transshipment point for pirated material in the region.

We would appreciate information on the specific steps Ukraine is taking to improve its enforcement of intellectual property rights protection, e.g., new laws, new methods to enforce, and any recent specific actions taken.

Answer:

On 22 May, the Supreme Rada adopted at its second and final reading the Draft Law "On Introducing Amendments to Certain Legislative Acts of Ukraine on Intellectual Property (No.1238, 18 June 2002). Other recent developments in intellectual property protection are described in Annex 11.

Item 170

We seek that Ukraine will be in compliance with the TRIPS Agreement by the date of accession, including the enforcement provisions, and that a commitment to that effect will be included in the protocol package.

Answer:

Ukraine is fully cognizant of the obligations of WTO membership. It expects to deal fully with questions of its commitments in the context of preparation of the draft Report of the Working Party.

Item 171

We note that some important steps, in particular legislative, have been taken during the last year. We encourage Ukraine to continue on this path, as in some areas, legislation is not yet in line with the standards required by TRIPS. Please continue to keep the Working Party informed about new legislative developments.

We remain concerned, however, with the level of enforcement and would appreciate to be kept updated by Ukraine on measures taken in this area.

Answer:

See the answer to Item 169.

- Transparency
- Notification

Item 172

The protocol package should contain a commitment concerning Ukraine's initial notifications for all WTO Agreements, ideally at the time of accession, and that regulations subsequently enacted by Ukraine which gave effect to the laws enacted to implement any of the WTO Agreements would also conform to the requirements of that Agreement.

Answer:

Ukraine is fully cognizant of the obligations of WTO membership. It expects to deal fully with questions of its commitments in the context of preparation of the draft Report of the Working Party.

- Trade Agreements

Item 173

It is customary to provide in the protocol package a clear description of the scope, nature, and status of all preferential arrangements. This is to ensure that the value of MFN commitments negotiated in the schedules is known to all parties.

The information to date falls far short of this goal, and we look to Ukraine consider how to improve it.

The protocol package should contain a commitment from Ukraine that it will observe Article XXIV of the GATT and Article V of the GATS in its participation in trade agreements, and will ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning free trade areas and customs unions are met from the date of

accession, and that any subsequent legislation or regulations enacted or altered under these agreements would remain consistent with the provisions of the WTO.

Ukraine should, upon accession, notify its Free Trade Areas, Customs Union, and Economic Union Agreements for review by the Committee on Regional Trade Agreements (CRTA).

Answer:

Ukraine has entered into bilateral free trade agreements with the following countries: Azerbaijan, Armenia, Georgia, Lithuania, Latvia, Estonia, Russian Federation, Belarus, Moldova, Tajikistan, Turkmenistan, Uzbekistan, Kazakhstan, Kyrgyzstan and Macedonia. These agreements provide for non-application of customs duties, and fees to exports and imports between the parties to the agreements for substantially all the trade. The regime applied at the border for indirect taxes varies depending on the agreements.

For the information on the application of the free trade agreements please see Annex 12.

Ukraine is cognizant of the obligations of WTO membership. It expects to deal fully with the questions of its commitments in the context of preparation of the draft Report of the Working Party.

ANNEX 1

(with reference to Items 2 and Answer 4)

The List of Goods, the Prices (Tariffs) of which are Subject to State Regulation

Codes of Goods	Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
01.11.51.100	Sugar beets	Approval of minimum prices	The Cabinet of Ministers of Ukraine	The Law of Ukraine "On State Regulation of Sugar Production and Sale," No. 758-XIV, dated 17 June 1999, and Resolutions of the Cabinet of Ministers of Ukraine (hereinafter the "CMU") "On Certain Issues of State Regulation of Sugar Production and Sale," No. 868, dated 2 June 2000 "Certain Issues of State Regulation of Sugar Production and Sale," No. 142, dated 15 February 2002, and "On State Regulation of Sugar Production and Sale of," No. 1977, dated 25 December 2002.
15.83.12	Sugar	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
22.08 30 - 22.08 90190	Whiskey, rum and tafia, gin and yalivtseva nastoyka (liqueur), other	Approval of minimum prices	The Cabinet of Ministers of Ukraine	The Law of Ukraine "On State Regulation of Production and Turnover of Ethyl, Cognac and Fruit Spirits, Alcoholic Beverages and Tobacco Goods," No.481/95-VR, dated 19 December 1995, and the Resolution of the CMU "On Introduction of Minimum Prices on Domestic and Imported Vodka and Distillery Goods," No. 700, dated 21 June 2001.
22.08 10100	Bitter aromatic beverages with content of spirits in volume from 44,2 to 49,2%	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
22.08 20	Spirits (including cognac and brandy) obtained by distilling grape wine or grape mark	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
22.08 90310 - 22.08 90390	Vodka; plum, pear or cherry nastoyka (excluding liqueurs)	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
22.08 90510 - 22.08 90790	Other spirits beverages, liqueurs and other alcoholic beverages	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
70.10 ex 7010.1000 7010.2000	Deposit prices on glass tare	Establishment of the fixed and minimum prices or deposit price caps	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities

Codes of Goods	Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
7101-7118	Prices of precious metals in articles and scrap and precious stones purchased from population	Establishment (approval) of prices	The Ministry of Finance of Ukraine in agreement with the Ministry of Economy of Ukraine and National Bank of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, the Order of the Ministry of Finance of Ukraine "On Approval of Prices on Precious Metals Purchased from Population in Articles and Scrap," No. 999, dated 26 November 2002, and the Order of the Ministry of Finance of Ukraine "On Approval of Prices on Precious Metals and Precious Stones Purchased from Population," No. 228, dated 6 November 1998.
4901-4911	Norm of production profitability (in the amount of 15%) in case of issuance of printed material at the expense of the state budget and delivery of such material to consumers (norm of profitability in the amount of 5%)	Establishment of profitability norms	It is established by the Ministry of Education and Science of Ukraine, Derzhkomteleradio (State Committee for Television and Radio of Ukraine) and other central authorities of the executive power, which place state order on issuance of printed produce	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996.
2716	Tariffs on electricity supplied to the population for domestic (home) needs	Establishment of retail tariffs	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Resolution of the National Commission for Regulation of Electricity (hereinafter the "NCRE") "On Tariffs on Electricity Supplied to Population and Populated Areas," No. 309, dated 10 March 1999.

Codes of Goods	Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
2711	Wholesale price caps of enterprises for natural gas used for needs of population and budget organizations	Establishment of wholesale price caps	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Resolution of the NCRE "On the Approval of Wholesale Price Caps on the Natural Gas Used for Needs of Population, and Tariffs on Services on Transportation and Distribution of the Natural Gas to Consumers of Ukraine," No. 337, dated 18 March 1999.
2711	Retail prices of natural gas used for needs of population	Establishment of retail prices	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Resolution of the NCRE "On Retail Prices on the Natural Gas Used by Population for Communal-General Needs," No. 310, dated 10 March 1999.
9021	Prices on prosthetic and orthopedic appliances and technical means for preventive measures as to disablement and rehabilitation	Establishment of price	The Ministry of Labor of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No.1548, dated December 25, 1996.
	Prices on products of hunting, including wild fowl supplied for export	Establishment of price	Derzhkomlisp (State Committee for Forestry of Ukraine) in agreement with the Ministry of Economy of Ukraine for all users of hunting grounds	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996.
	Prices on hunting trophies obtained by foreign citizens	Establishment of price caps	Derzhkomlisp in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of State Committee for Forestry of Ukraine "On the Approval of Price Caps on Hunting Trophies Obtained by Foreign Citizens and Tariff Caps on Services Provided to such Citizens," No. 26, dated 28 February 2002.

Codes of Goods	Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
2701-2710	Prices on fuel-energy resources (coal, coal briquettes, common stove fuel, burning kerosene, fuel peat, firewood, peat briquettes and compressed gas) supplied to population for domestic (home) needs	Establishment of prices and profitability caps or declaration	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
0402.29 11	Profitability caps and trade mark-ups for preparations of infant nutrition	Establishment of profitability caps and trade mark-ups	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
	Trade mark-ups for medicines and produce of medical purposes mentioned in the list of domestic and imported medicines and produce for medical purpose, prices of which are subject to state regulation	Establishment of trade mark-ups	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities

ANNEX 2

(with reference to Item 2)

The List of Services, Prices (Tariffs) of which are Subject to State Regulation

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
Tariffs on transportation of cargo by railway transport within Ukraine and services related thereto	Establishment of tariffs	The Ministry of Transport of Ukraine in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Cargo by Railway Transport of Ukraine and Coefficients Applied to such Tariffs," No. 551, dated 15 November 1999.
Tariffs for work related to processing of foreign commercial and transit cargo in sea and river ports (berths), and charges and fees on services provided to foreign shipping in sea and river ports of Ukraine	Establishment of tariffs	The Ministry of Transport of Ukraine in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Works and Services Provided to Cargo Owners in Sea Ports of Ukraine," No. 392, dated 31 October 1995.
Tariffs on transportation of passengers, luggage and cargo by railway transport in international and domestic communication (excluding suburban services)	Establishment of tariffs	The Ministry of Transport of Ukraine in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Passengers, Luggage and Cargo by Railway Transport in International Communication East – West," No. 853, dated 2 December 2002, and the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Passengers, Luggage and Cargo by Railway Transport in Domestic Communication," No. 103, dated 19 February 2001.
Tariffs on transportation of passengers and luggage by buses on inter-city and inter-oblast routes	Establishment of tariff caps	The Ministry of Transport of Ukraine in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Passengers and Luggage by Buses of Inter-City and Inter-Oblast Routs," No. 380, dated 22 July 1999.
Air-navigation fees for air-navigation services to aircraft in the airspace of Ukraine	Approval of fee rates	The Ministry of Transport of Ukraine in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Transport of Ukraine "On the Approval of Fee Rates on Air-Navigation Services of Aircraft in the Airspace of Ukraine," No. 145, dated 22 April 1997.

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
Airport fees for servicing aircraft and passengers in airports of Ukraine (landing and take-off of an aircraft, servicing of passengers in an airport, stay of an aircraft over the designated time and ensuring aviation security)	Approval of fee rates	The Ministry of Transport of Ukraine in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and 18 orders of the Ministry of Transport of Ukraine (as to each airport separately).
Tariffs for basic services of telecommunications provided in the territory of Ukraine, and services of international communication	Establishment of tariff caps	Derzhkomzvyazok (State Committee for Communications of Ukraine) in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of State Committee for Communications of Ukraine "On the Approval of Tariff Caps on the Basic Services of Telecommunication and Tariffs on Payment of State Pensions and Pecuniary Aid," No. 120, dated 7 June 2002.
Tariffs for universal services of mail communication	Establishment of tariffs	Derzhkomzvyazok in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of State Committee for Communications of Ukraine "On the Approval of Tariffs on Universal Services of Mail Communication," No. 166, dated 18 October 2001.
Tariffs for acceptance and delivery of domestic periodicals under the subscription	Establishment of tariffs	Derzhkomzvyazok in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of State Committee for Communications of Ukraine "On the Approval of Tariffs on Subscription and Delivery of Periodicals," No. 142, dated 21 September 2001.
Tariffs for services related to payment and delivery of pensions and pecuniary aid to population, which are paid from the funds of the Pension Fund of Ukraine	Establishment of tariffs	Derzhkomzvyazok in agreement with the Ministry of Economy of Ukraine and the Pension Fund of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of State Committee for Communications of Ukraine "On the Approval of Tariffs Caps on the Basic Services of Telecommunication and Tariffs on Payment of State Pensions and Pecuniary Aid," No. 120, dated 7 June 2002.
Tariffs for water delivery provided by Production Association "Ukrpromvodchormet" an Enterprise "Kryvbaspromvodpostachannya"	Agreeing on the limit level of tariffs	The Ministry of Industrial Policy of Ukraine in agreement with the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Industrial Policy of Ukraine "On Improvement of Tariff Regulations on Services on Water Delivery," No. 225, dated 29 June 1999.

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
Payment cap for residence in student hostels	Establishment of payment cap	The Ministry of Education and Science of Ukraine, the Ministry of Health Protection of Ukraine and other ministries and central authorities of the executive power under competence of which there are teaching and educational institutions, in agreement with the Ministry of Finance of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Education and Science of Ukraine, the Ministry of Health Protection of Ukraine and the Ministry of Finance of Ukraine "On Establishment of Payment Cap for Residence in [Student] Hostels," No. 453/362/260, dated 21 December 1998.
Payment caps for residence in hostels of the system of the Ministry of Interior of Ukraine	Establishment of payment cap	The Ministry of Interior of Ukraine in agreement with the Ministry of Finance of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996.
Tariffs for transportation of natural gas, oil, oil products, ammonia and ethylene substances supplied to consumers of Ukraine by trunk pipelines	Establishment of tariffs	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and Resolutions of the NCRE "On Tariffs on Transportation of Oil by Trunk Pipelines through the Territory of Ukraine," No. 1092, dated 26 August 1999, "On the Approval of Tariffs on Transportation and Supply of the Natural Gas," No. 73, dated 29 January 2001, "On Tariff on Transportation of Ammonia of the Russian Origin through the Territory of Ukraine by a Trunk Pipeline," No. 1285, dated 28 December 2000, "On Tariff on Transit and Transportation of Liquid Ammonia by a Trunk Ammonia Pipeline," No. 252, dated 23 January 2001, and "On Tariffs on Transportation of Liquid Ammonia by Trunk Pipelines," No. 1067, dated 27 September 2002.
Tariffs for storage of natural gas	Establishment of tariffs	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Resolution of the NCRE "On Tariffs on Storing, Pumping-in and Extracting of the Natural Gas by Subsidiary Enterprise "Ukrtransgas," No. 447, dated 27 April 2000.
Tariffs for transportation of natural gas by distributive networks and supply of natural gas	Establishment of tariffs	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and Resolutions of the NCRE on the approval of tariffs on transportation of the natural gas by distributive pipelines for regional enterprises.

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
Tariffs for services provided to foreign citizens who are users of hunting grounds	Establishment of tariff caps	Derzhkomisgosp in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of State Committee for Forestry of Ukraine "On the Approval of Price Caps on Hunting Trophies Obtained by Foreign Citizens and Tariff Caps on Services Provided to such Citizens," No. 26, dated 28 February 2002.
Prices of licenses for hunting wild hoofed hunting animals and bear	Establishment of prices	Derzhkomisgosp in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Forestry of Ukraine "On the Approval of Price of Hunting Licenses for Hunting in Hunting Grounds of Ukraine for Citizens of Ukraine and Foreign Citizens," No. 85, dated 8 August 1996.
Amount of payment for services provided to drunk persons by medical departments of sobriety attached to interior authorities	Establishment of the amount of payment, price caps or profitability caps	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
Tariffs for services provided by the state-owned and communal medical and preventive institutions of health protection	Establishment of prices and profitability cap or declaration	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
Tariffs on inventory of real estate, legalization of ownership rights to real estate objects and registration of such rights	Establishment of tariffs, tariff caps and profitability cap or declaration	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
Tariffs for ritual services required for burial	Approval of tariffs and profitability cap or declaration	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Prices (Tariffs) Regulation," No. 1548, dated 25 December 1996, and normative documents of local authorities

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
Tariffs for transportation of passengers and price of tickets in city passenger vehicles, i.e. the underground, bus, tram and trolley bus (which works in an ordinary regime of traffic)	Approval of tariffs and tariff caps or profitability cap	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations, executive authorities of the L'viv and Kryviy Rig City Councils	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
Tariffs for transportation of passengers and luggage by passenger electric transport (trolley bus) in inter-city and suburban communication	Establishment of tariff caps	The Council of Ministers of the Autonomous Republic of Crimea	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of the Council of Ministers of the Autonomous Republic of Crimea
Tariffs for transportation of passengers and luggage by railway transport in suburban communication	Approval of tariff caps	Departments of railways in agreement with the Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996.
Tariffs for transportation of passengers and luggage by motor transport (which works in an ordinary regime of traffic) in inter-city, within oblast and suburban communication	Approval of tariff caps	The Ministry of Transport of Ukraine in agreement with the Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, the Order of the Ministry of Transport of Ukraine "On the Approval of the Standard Forms of Tickets for Trip of Passengers and Transportation of Luggage by Motor Transport and Tariffs Zones of Transportation of Passengers by Motor Transport in Suburban Routs," No. 278, dated 31 May 2000, and the Order of the Kyiv City Territorial-Production Association of Motor Transport "On the Approval of Tariff Caps on Transportation of Passengers and Luggage in Inter-city within Oblast Routs," No. 75, dated 11 July 2001.
Tariffs for transportation of cargo by railway spurs, on loading-unloading works and other services provided by enterprises of the industrial railway transport	Approval of tariffs	Ukrpromzaliztrans	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, the Order of the Ukrainian Association of the State-owned Inter-branch Enterprises of the Industrial Railway Transport "Ukrpromzaliztrans" of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Cargo by Railway Spurs, on Loading-Unloading Works and other Services Provided by Enterprises of the Industrial Railway Transport," No. 194, dated 5 November 2002.

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
Tariffs for services related to water supply and drainage systems provided by agents of entrepreneurial activity regardless of ownership types for all consumers, and complex of works related to supply of water to such agents and purification of the said water	Establishment of tariffs, tariff caps and profitability cap or declaration	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
Tariffs for production of heat energy, as well as services related to heat supply provided by agents of entrepreneurial activity regardless of ownership types for all consumers	Establishment of tariffs, tariff caps and profitability cap or declaration	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
Tariffs for services on cleaning, removing and destroying of hard domestic wastes and liquid sewage provided by agents of entrepreneurial activity regardless of ownership types for all consumers	Approval of tariffs or profitability cap	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
The limit amounts of payment for residence in hostels of individuals, foreigners and stateless persons who stay in Ukraine on legal grounds	Approval of amounts of payment and payment caps or profitability cap	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities
Tariffs for services of cable television	Establishment of tariffs and tariff caps or profitability cap	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative acts
Payment caps for services provided by market places housing sellers of food and nonfood goods.	Establishment of payment or payment caps	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities

ANNEX 3

(with reference to Item 12)

Methods to Calculate Retail Tariffs for Electric Energy Deliveries

1. Calculations of expected average purchasing price for the electric energy for the month in question for which the retail tariff is established are made in four stages, as below.

1.1 Actual average purchasing price for the electric energy determined within the month prior to the last month in question is calculated, subsidy corrections included:

$$\Pi_{p-2C3\phi\text{акт}} = \frac{\Pi_{p-2OP\phi\text{акт}} * E_{p-2OP\phi\text{акт}} + \Pi_{p-2H} * E_{p-2H\phi\text{акт}} + \sum D_{p2}}{E_{p-2OP\phi\text{акт}} + E_{p-2H\phi\text{акт}}} \quad (\text{UAH/Megawatt per year})$$

$\Pi_{p-2OP\phi\text{акт}}$ is a price paid by the licensee purchasing the electric energy for WHOLESALE ELECTRIC ENERGY MARKET in the month prior to the last month in question (according to the electric energy sales act), (UAH/Megawatt per year).

Π_{p-2H} is the price for which the licensee has purchased the electric energy according to an agreement directly from the producing company or the tariff for the electric energy supplied by an electric power station owned by the licensee in the month prior to the last month in question (UAH/Megawatt per year).

D_{p-2} is the total sum of subsidies granted for the licensee and adopted by the National Committee for Regulation of Electric Energy Industry licensee in the month prior to the last month in question, UAH.

$E_{p-2OP\phi\text{акт}}$ is the actual amount of the electric energy purchased by the licensee for WHOLESALE ELECTRIC ENERGY MARKET in the month prior to the last month in question (according to the electric energy sales act), (UAH/Megawatt per year).

$E_{p-2H\phi\text{акт}}$ is the actual amount of the electric energy purchased by the licensee directly from the producing company or the electric energy received by an electric power station owned by the licensee in the month prior to the last month in question (UAH/Megawatt per year).

1.2 Expected average purchasing price for the electric energy for the month prior to the last month in question is calculated, subsidy corrections not included:

$$\Pi_{p-2C3} = \frac{\Pi_{p-2OP} * E_{p-2OP} + \Pi_{p-2H} * E_{p-2H}}{E_{p-2OP} + E_{p-2H}} \quad (\text{UAH/Megawatt per year})$$

Π_{p-2OP} is an expected wholesale market price in the month prior to the last month in question (confirmed by National Committee for Regulation of Electric Energy Industry), (UAH/Megawatt per year).

Π_{p-2H} is the price for which the licensee has purchased the electric energy according to an agreement directly from the producing company or the tariff for the electric energy supplied by an electric power station owned by the licensee in the month prior to the last month in question (UAH/Megawatt per year).

Ep-2OP is the expected amount of the electric energy purchased by the licensee for WHOLESALE ELECTRIC ENERGY MARKET in the month prior to the last month in question, Megawatt per year (according to expected balance of the electric energy adopted by the Ministry of Fuel and Electric Energy and technical/business indices calculated as based upon this balance for the month concerned).

Ep-2H is the expected amount of the electric energy purchases by the licensee directly from the producing company or the expected amount of the electric energy received by an electric power station owned by the licensee in the month prior to the last month in question, UAH/Megawatt per year (according to expected balance of the electric energy adopted by the Ministry of Fuel and Electric Energy and technical/business indices calculated as based upon this balance for the month concerned).

1.3 Deviation of the payment amount for the electric energy purchased is determined, i.e.

$$Cp-2=(\Pi p-2C3\phi_{\text{факт}}-\Pi p2C3)*(Ep-2Op\phi_{\text{факт}}+Ep2H\phi_{\text{факт}})+Cp-2kop \text{ (UAH)},$$

$\Pi p-2C3\phi_{\text{факт}}$ is the actual average purchase price for the electric power determined in the month prior to the last month in question is calculated, subsidy corrections included (calculated by the licensee), UAH/Megawatt per year.

$\Pi p-2C3$ is the expected average purchasing price for the electric energy for the month prior to the last month in question, corrections for payment amount deviations not included (calculated by the licensee), UAH/Megawatt per year.

Ep-2OP $\phi_{\text{факт}}$ is the actual amount of the electric energy purchased by the licensee for Wholesale Electric Energy Market in the month prior to the last month in question, Megawatt per year (according to the electric energy sales agreement).

Ep-2H $\phi_{\text{факт}}$ is the actual amount of the electric energy purchases by the licensee directly from the producing company or the electric energy received by the licensee from the electric power station owned by him in the month prior to the last month in question, UAH/Megawatt per year (according to the electric energy sales agreement).

Cp-2kop – cost of the corrections made for the standard technology expenses of the electric energy determined in compliance with the "Temporary Enactment for Procedures of Submission, Determination and Adoption of Economic Rates Of Standard Technologic Expenses of Electric Energy for Licensees Transferring Electric Energy by Local Electric Power Networks" adopted by the decree of the National Committee for Regulation of Electric Energy Industry dated 30 November 2001, No 1179.

No DCp-2kop is calculated for the licensees, for which the tariffs for transfer of the electric energy and the retail tariffs are calculated according to the Decree issued by the National Committee for Regulation of Electric Energy Industry dated 10.042001 No 348 concerning definition of the expected purchasing price for the electric energy for a month in question coming next after that reported.

1.4 The expected average purchasing price for the electric energy for a month in question for which the retail tariffs are established shall be calculated, i.e.

$$\Pi pC3 = \frac{\Pi p-OP * Ep-OP + \Pi pH * EpH + Cp-2}{EpOP + EpH} \quad \text{(UAH/Megawatt per year)}$$

I_{pOP} is an expected wholesale market price in a month in question (confirmed by the National Committee for Regulation of Electric Energy Industry), (UAH/Megawatt per year).

I_{pH} is the price for which the licensee has purchased the electric energy according to an agreement directly from the producing company or the tariff for the electric energy supplied by an electric power station of the licensee in the month in question (UAH/Megawatt per year).

E_{pOP} is the expected amount of the electric energy purchases by the licensee at the wholesale electric energy market in the month in question, Megawatt per year (according to expected balance of the electric energy adopted by the Ministry of Fuel and Electric Energy and technical/business indices calculated as based upon this balance for the month concerned).

E_{pH} is the expected amount of the electric energy purchases by the licensee directly from the producing company or the expected amount of the electric energy received by an electric power station owned by the licensee in the month in question, UAH/Megawatt per year (according to expected balance of the electric energy adopted by the Ministry of Fuel and Electric Energy and technical/business indices calculated as based upon this balance for the month concerned).

DCP-2 are deviations of the amount paid off for the electric energy purchased, UAH (calculated by the licensee).

2. Calculation of the retail tariff for the electric energy consumed is to be made using the formulae:

$$T_{ij} = \frac{I_{pc3}}{\Pi (1-kl) (=)} + T_{jM} + Ti\Pi$$

i = a group of a user in compliance with standard procedures (methods) adopted by the National Committee for Regulation of Electric Energy Industry;

j = a class of a user in compliance with standard procedures (methods) adopted by the National Committee for Regulation of Electric Energy Industry;

l = classes of voltages in the networks that transferred the electric energy up to the end user;

I_{pc3} = expected average purchasing price for the electric energy for a month in question (p) for which the retail tariffs for the electric energy are established, UAH/Megawatt per year (to be calculated by the licensee as based upon the methods described in the paragraph 1).

kl = economic coefficient of the standard technologic spending of the electric energy at the 1st class of voltage. To be determined as a ratio of the standard technologic spending of the electric energy at corresponding classes of the voltage to the electric energy amounts transferred to the local power networks with the correspondent class of voltage for transfer for the users at the territory of licensed activities within a period concerned.

T_{jM} = the tariff for the electric energy transfer by the local power supply networks, UAH/Megawatt per year (confirmed by the the National Committee for Regulation of Electric Energy Industry);

$Ti\Pi$ = the tariff for the electric energy supply, UAH/Megawatt per year, to ensure coverage of the licensee expenses for delivery of the electric energy to the users.

Example of calculation of retail tariff for electric energy.

Data	Unit	July	August
Expected wholesale market price	UAH/Megawatt per year	99.5	100.0
Actual price of electric power purchases at wholesale power market	UAH/Megawatt per year	78.15	
Subsidy amount	UAH	3,514,647	4,271,296
Amounts of electric energy purchases at wholesale power market	Megawatt per year	216,180 (expected) 217,292 (actual)	246,990 (expected)
Tariff for electric energy supplied by electric power station directly to licensee delivering electric energy under regulated tariffs	UAH/Megawatt per year	24.7	24.7
Amounts of electric energy purchases from electric power station	Megawatt per year	690 (expected) 720 (actual)	594 (expected)
Economic coefficient of standard technology spending of electric power			
1 st class	%	7.41	7.19
2 nd class	%	13.02	12.85
Tariff for electric energy transfer by local power networks			
1 st class	UAH/Megawatt per year	5.55	5.55
2 nd class	UAH/Megawatt per year	29.06	29.06
Tariff for supply of electric power			
1 st group	UAH/Megawatt per year	2.15	2.15

The example of the calculation was given on the assumption that the licensee was not concerned with license fees of the users.

Calculation of actual average purchasing price for July corrected with regard to subsidies.

$$\Pi_{p-2C3\phi\text{акт}} = \frac{78.15 \times 217292 + 24.7 \times 720 + 3514647}{217292 + 720} = 94.09 \text{ UAH/Megawatt per year}$$

Calculation of expected average purchasing price for July not corrected with regard to amount of payment deviation.

$$\Pi_{p-2C3} = \frac{99.5 \times 216180 + 24.7 \times 690}{216180 + 690} = 99.26 \text{ UAH/Megawatt per year}$$

Calculation of payment deviation in July.

$$\Delta C_{p-2} = (94.09 - 99.26) \times (217292 + 720) = -\text{UAH } 1127122.04$$

Calculation of average purchase price for August.

$$\Pi p-C3 = \frac{100 \times 246990 + 24.7 \times 594 - 1127122.04}{246990 + 594} \quad 95.27 \text{ UAH/Megawatt per year}$$

Calculation of retail tariffs for August.

Tariff for users of the 1st class, 1st group.

$$T11 = 95.27 + 5.55 + 2.15 = 110.4 \text{ UAH/Megawatt per year } 1 - 0.0719$$

Tariff for users of the 2nd class, 1st group.

$$T12 = 95.27 + 29.06 + 2.15 = 149.0 \text{ UAH/Megawatt per year } (1 - 0.0719) \times (1 - 0.1285)$$

ANNEX 4

(with reference to Item 13)

Minimal Indicative Prices

The Ministry of Economy and European Integration of Ukraine Order No.112 Of 30 April 2003 "On Approval of the List of Minimal Indicative Price for Some Products, Exported from Ukraine in May 2003"

To implement Decrees of the President of Ukraine "On Measures to Improve Market and Pricing Policy in Foreign Economic Activity" No. 124/96 of 10 February 1996 and "On Changes in the Structure of Central Executive Authorities" No. 1573/99 of 15 December 1999, I hereby order to:

Approve of the list of minimal levels of indicative prices for some type of products, exported from Ukraine in May 2003 (attached).

Grounds: minutes of market meetings in the Ministry of Economy and European Integration of Ukraine No. 4 of 24 April 2003, No. 9 of 22 April 2003, No. 5 of 22 April 2003, No. 27 of 24 April 2003.

Minister

V. Khoroshkovsky

APPROVED by

the Order of the Ministry of Economy
and European Integration of Ukraine

No. 112 of 30 April 2003

The List of minimal levels of indicative prices for some types of products, exported from Ukraine in May 2003

(USD/t, FOB ports of Ukraine)¹

Products	Prices
1. Armature ² :	
if supplied to the Middle East:	
product position 7214 according to the UCP FEA:	
diameter up to 10 mm	225
diameter over 10 mm	215
product position 7213 according to the UCP FEA:	217
code 7228 20 19 00 according to the UCP FEA:	
diameter up to 10 mm	225
diameter over 10 mm	215
if supplied to the USA:	
product positions 7213, 7214, 7228 according to the UCP FEA:	225
2. Rolled wire ² if supplied to the USA:	

¹ Unless otherwise specified

² Ports of the Azov Sea, Zaporizhya, Dnipropetrovsk - US\$5/MT discount.

Products	Prices
diameter 5.5 mm	235
diameter over 5.5 mm	235
3. Billet ²	190
if supplied to Egypt:	200
4. Hot-rolled coil (1-3 кп, цп, пс, 08 кп, пс) ^{2 and 3}	215
if supplied to Mexico, Canada, Argentina, India and Egypt	225
if supplied to the USA	240
5. Hot-rolled sheet, thickness 8 - 50 mm (3 цп/пс, А36) ^{2 and 3}	210
if supplied to Latin America and India	220
if supplied to the USA:	
A36	280.49
A572	302.35
A516	304.69
API-2H	414.08
A283	278.34
ABC A/B	282.24
A515	302.38
6. Seamless pipes of ferrous metals (except foundry iron) if supplied to EU countries:	
for oil and gas pipelines, external diameter up to 168,3 mm (code 7304 10 10 00 according to the UCP FEA)	278
for oil and gas pipelines, external diameter over 168,3 mm, but not exceeding 406,4 mm (code 7304 10 30 00 according to the UCP FEA)	296
other circular pipes of iron and plain steel, external diameter up to 168,3 mm (code 7304 39 91 00 according to the UCP FEA)	296
other circular pipes of iron and plain steel, external diameter over 168,3 mm, but not exceeding 406,4 mm (code 7304 39 93 00 according to the UCP FEA)	282
7. Ferrosilicon-65	345
Ferrosilicon-75	430
8. Ferromanganese silicon	
P – 0.35 %	385
P – 0.50 %	375
P – 0.35 % BT ⁴	355
P – 0.50 % BT ⁴	335
P – 0.60 % BT ⁴	330
if supplied to EU countries, CIF ⁵	
C > 0.5 %	EURO492
C < 0.5 %	EURO630
C < 0.05 %	EURO750
9. Carbamide	108 - 114
10. Ammonia	140 - 150
if supplied to the USA:	145 - 155
11. Live cattle ⁶	
weight up to 350 kg/head	1,200 – 1,300
weight over 350 kg/head	1,000 – 1,100
12. Live rams and sheep ⁶	
weight up to 30 kg/head	1,050 – 1,200
weight over 30 kg/head	1,000 – 1,100
13. Cattle skins wet-salted and otherwise preserved (group 4101 according to the UCP FEA), non-circumscribed, automatic takeoff ^{6 and 7}	

³ In case of supplies of metal products with a chemical composition of higher quality the price may be higher.

⁴ BT – basic ton of ungraded alloy.

⁵ FOB price is EUR19.5 different to CIF price.

⁶ On FOB terms – Black Sea ports or DAF – Ukrainian border.

Products	Prices
1 st class	1,450 – 1,650
2 nd class	1,300 – 1,500
3 rd class	1,200 – 1,350
4 th class	1,100 – 1,250
Weight up to 10 kg, 1 st class	2,350 – 2,850
14. Sheep skins, wet-salted (US\$/piece.) ⁶	
1 st class	5.0 - 6.0
2 nd class	4.0 - 5.0
3 rd class	3.0 - 4.0
4 th class	1.7 - 3.0
15. Flax seed, grinded or non-grinded ⁶	270
16. Sunflower seed, grinded or non-grinded ⁶	258
17. Red flax seed ⁶	150
18. Electric power (USD/kWt/h) if supplied to Bulgaria, Moldova, Poland, Romania, Slovakia, Czech Republic and Hungary. ⁸	0.02 - 0.021

**Chair of Foreign Economic S. Kutsenko
Policy Administration**

⁷ For wet-salted skins, non-circumscribed, manual takeoff, prices according to the class are reduced to 10% respectively

⁸ On DAF terms – Ukrainian border

ANNEX 5

(with reference to the Item 17)

Ukraine's Investment Regime

Law of Ukraine No.1560-XII of 18 January 1991 "On Investment Activities" is the fundamental legislative act governing investment activities in the territory of Ukraine. The Law determines general legal, economic and social conditions for investment activities in the territory of Ukraine, and aims at ensuring the protection of rights, interests and property of investing entities irrespective of types of property ownership or the nationality. The Law sets the same rules for both national and foreign investors.

Specific features of the foreign investment regime

Specific features of the foreign investment regime are determined by Law of Ukraine No. 93/96-BP of 19 March 1996 "On the regime of foreign investment".

In accordance with the Law, foreign investors carrying out investment activities in the territory of Ukraine, are:

- corporate bodies set up under legislation other than Ukraine's legislation;
- natural persons - foreigners who do not have permanent residence in the territory of Ukraine and who have full legal capability;
- foreign states, inter-governmental organizations and non-governmental organizations; and
- other foreign investing entities which are defined as such in accordance with Ukraine's legislation.

The company (enterprise) with foreign investment is a company of any legal structure set up under Ukraine's legislation with foreign participation in its statutory fund of not less than 10 per cent. The company obtains the status of a company with foreign investment on the day that the foreign investment is recorded in its balance-sheet.

Foreign investment is investment by foreign investors in objects of investment activities under Ukraine's legislation with the objective to obtain a profit or achieve a social effect. Foreign investment may be made in any object, except those prohibited by Laws of Ukraine.

Foreign investment may be made in the form of:

- foreign currency which is determined as convertible by the National Bank of Ukraine;
- Ukrainian currency - when reinvesting into the initial object of investment or any other object of investment under Ukraine's legislation provided that the profit tax is paid;
- any movable or immovable (real) property and related property rights;
- shares, bonds, other securities, and also interest holder rights with regard to a corporate body set up under the legislation of Ukraine or under the legislation of other countries, in hard currency terms;
- monetary claims and rights to demand the payment of contractual obligations (obligee's rights) which (rights) are guaranteed by first-rate banks and valued in hard currency and confirmed in accordance with laws of the investor's country or with international trade practice;
- any intellectual property rights the hard currency value of which is confirmed in accordance with laws of the investor's country or international trade practice and also confirmed by an expert appraisal in Ukraine, including copyrights, rights to inventions,

- utility models, designs, service and trade marks, know-how and so on, legalized in the territory of Ukraine;
- rights to carry out business activities, including rights to use mineral and other natural resources granted in accordance with legislation or contracts, the hard currency value of which is confirmed in accordance with laws of the investor's country or international trade practice; and
- other valuables in accordance with Ukraine's legislation.

Foreign investment may be made in the following ways:

- holding an interest in companies which are set up jointly with Ukrainian corporate bodies and natural persons, or acquiring an interest in existing companies;
- formation of companies wholly owned by foreign investors, of branch offices and other separate divisions of foreign corporate bodies, or complete acquisition of existing companies;
- acquisition of personal or real property not prohibited in Ukraine, including houses, apartments, premises, equipment, transport vehicles and other property through immediate possession of property and property complexes or in the form of shares, bonds other securities;
- independently, or jointly with Ukrainian corporate bodies or natural persons, acquisition of rights to use land and natural resources in the territory of Ukraine;
- acquisition of other property rights;
- carrying out business activities according to production sharing agreements; and
- in other manners not prohibited by Laws of Ukraine, including on the basis of contracts with Ukraine's business entities without setting up a corporate body.

According to Article 19 of the Law, companies with foreign investment independently determine conditions for the sale of their products.

Law of Ukraine No. 1457-III of 17 February 2000 "On removal of taxation discrimination against business entities formed on the basis of property and funds of domestic origin" provides that in the territory of Ukraine, business entities or other corporate bodies, their branch offices, separate divisions, including non-residents' permanent establishments, formed with use of foreign investment, irrespective of the form of investment and of when the investment was made, shall be subject to the same national regime of currency regulation and of levying taxes, and other mandatory payments as set by Laws of Ukraine with regard to companies formed without foreign investment.

Ukraine's Presidential Decree No. 748/98 of 7 July 1998 "On certain issues of foreign investment" regulates issues of making foreign investment in the form of acquiring state debentures.

Law of Ukraine No. 977-XIV of 15 July 1999 "On amendment of certain Laws of Ukraine with objective to stimulate investment activities" has made amendments to Law of Ukraine "On value-added tax", under which amendments the value-added tax shall not be levied on transfers of fixed assets as contributions to a corporate body's statutory fund in order to form its integral property complex in exchange for interest holder's rights issued by it, including during the importation of fixed assets into the customs territory of Ukraine (except for goods subject to excises) or their exportation from the customs territory of Ukraine. If in the process of foreign investment, there appear disputes between foreign investors and the state, with regard to issues of the state regulation of foreign investment and operations of companies with foreign investment, such disputes shall be tried in courts of Ukraine, unless otherwise provided by Ukraine's international treaties. All the other disputes shall be tried in Ukraine's general and/or commercial jurisdiction courts, or, as agreed by the parties, in arbitration courts, including abroad.

In accordance with Article 3 of Law of Ukraine No. 697-XII of 7 February 1991 "On ownership of property", foreign investors shall be entitled to own houses, structures, facilities and other property of social and cultural, and production designation.

In order to protect competition and create a favourable investment climate, Law of Ukraine No. 1457-III of 17 February 2000 "On removal of taxation discrimination against business entities formed on the basis of property and funds of domestic origin" has implemented the single national regime of currency and tax regulation for companies with 100 per cent Ukrainian capital and those with foreign investment.

Ukraine has signed agreements on encouragement and mutual protection of investment with more than 50 countries.

Guaranties to foreign investors

Law of Ukraine No. 93/96 of 19 March 1996 "On the Regime of Foreign Investment" provides that foreign investment shall not be nationalized. The governmental bodies shall not have the right to comander foreign investment except when taking rescue measures during natural disasters, catastrophes, epidemics and epizootics. Under such circumstances, the foreign investor shall be guaranteed adequate and effective compensation. Foreign investors shall be entitled to damages, including for lost profits and moral damages, inflicted on them as a result of actions omissions or improper performance by Ukraine's governmental bodies or officials of their duties provided by legislation, with regard to foreign investors.

When activities are terminated, the foreign investor is guaranteed the duty-free return of his investment in kind or in the currency of investment in the amount of the actual contribution (allowing for the possible decrease in the size of the statutory fund), and also of income from the investment in monetary form or in the form of products at the actual market value on the moment of the termination of investment activities (Article 11 of the Law). Article 12 provides guaranties of remitting profits, incomes, and other funds generated by foreign investment, in particular, of unhindered and immediate remittance of profits, income and other funds in foreign currency lawfully generated by foreign investment.

In case the guaranties of foreign investment protection provided by Ukraine's legislation are changed, foreign investment protection guaranties provided by Law of Ukraine No. 93/96 of 19 March 1996 "On the Regime of Foreign Investment", shall apply at the foreign investor's demand, within ten years of the effective date of such legislation.

Laws impose on foreign investors in Ukraine the national regime of investment and of other economic activities, and conditions equal to those for domestic investors. The state registration of foreign investment is done by the Government of the Autonomous Republic of Crimea, Oblast state administrations, Kiev City and Sevastopol City state administrations within three working days after it is made in accordance with the procedure. Unregistered foreign investment shall not grant privileges or guaranties provided by this Law.

In order to protect foreign investment, Ukraine signed on 3 April 1998 the Convention on the procedure for resolution of disputes between states and foreign persons. The Verkhovna Rada of Ukraine ratified the Convention on 16 March 2000.

State registration of foreign investment

Ukraine's Cabinet of Ministers' Resolution No. 928 of 7 August 1996 has approved "the Regulation on the procedure for the state registration of foreign investment". In order to obtain state

registration, the foreign investor or the person duly authorized by him (hereinafter – the Applicant) shall submit to the state registration bodies documents as follows:

- notice, in triplicate, of the foreign investment, bearing the confirmation by the state tax inspectorate at the place of investment, that the investment was made in fact;
- documents confirming the form of foreign investment (company formation documents, agreements (contracts) on production cooperation, joint production, other types of joint investment activities, concession agreements and so on);
- documents confirming the value of the foreign investment;
- confirmation that the registration fee (UAH340) is paid.

The state registration of foreign investment is done through assigning a registration number to the notice that the foreign investment has been made.

State registration of foreign investment may be refused only when the investment would contradict Ukraine's legislation, or when the stated documents do not meet the Regulation's requirements. Refusal on the grounds of foreign investment's inexpediency (uselessness) not allowed. Refusal in the state registration shall be in writing, shall state the grounds, and may be appealed against in court.

Permission to move tangible foreign investment across the border

Articles 18 and 24 of Law of Ukraine No. 93/96 of 19 March 1996 "On the Regime of Foreign Investment" provide that the foreign investor's contribution into the statutory fund of companies with foreign investment and also under agreements on joint investment activities shall be exempted from the customs duty. Property being imported into the territory of Ukraine as foreign investment shall be allowed in on the basis of the promissory note issued by the company to the amount of the duty with payment deferred for not more than 30 calendar days from the day on which the import customs declaration is processed. In case the stated property is actually recorded on the company's balance-sheet within the period for which the payment is deferred (which is confirmed by the state tax inspectorate at the company's location) the promissory note shall be extinguished and the import duty shall not be levied.

If within three years of the moment that foreign investment is recorded on the balance-sheet of the company with foreign investment, the property imported into Ukraine as the foreign investor's contribution to the company's statutory fund, is sold, including in connection with termination of this company's activities (except for exportation of foreign investment abroad) the company with foreign investment shall pay the import duty calculated on the basis of the property's customs value converted into Ukraine's currency at the official exchange rate set by the National Bank of Ukraine on the day of the sale of the property.

Other forms of foreign investment

Law of Ukraine No. 997-XIV of 16 July 1999 "On Concessions" gives domestic and foreign investors significant opportunities to take and use state and municipal properties on a concession basis for a period of up to 50 years.

Law of Ukraine No. 1286-XIV of 14 December 1999 "On Concessions for Construction and Operation of Motorways" has created conditions for the attraction of investment in the field of constructing motorways and motorway infrastructure facilities. The issuance of concessions for the construction of motorways, first of all along international transport corridors, and of E Class motorways.

Ukraine's Cabinet of Ministers' Resolutions have approved:

- the procedure for determination of objects of concession and for conducting a concession tender (Ukraine's Cabinet of Ministers' Resolution No. 1521 of 4 October 2000);
- the procedure for the setting of the fee for use of roads constructed on a concession basis (Ukraine's Cabinet of Ministers' Resolution No. 1299 of 22 August 2000);
- the granting of privileges, subsidies and compensations to investors (Ukraine's Cabinet of Ministers' Resolution No. 1065 of 6 July 2000); and
- the standard concession contract for the construction and operation of a motorway (Ukraine's Cabinet of Ministers' Resolution No. 1519 of 4 October 2000).

Production sharing agreements to be signed in accordance with Law of Ukraine No. 1039-XIV of 14 September 1999 "On Production-Sharing Agreements", are another opportunity for foreign investment. The Law is designed to create favorable conditions for investment into the search, survey and extraction of mineral resources within the territory of Ukraine, its continental shelf and exclusive (sea) economic zone.

Article 25 of the Law sets the procedure for paying taxes, duties and insurance premiums during the performance of the production sharing agreement. In particular, within the effective period of the production sharing agreement and within limits of the activity related to the performance of this agreement, state and local taxes and duties (mandatory payments) provided by the legislation (except for the value-added tax; company profit tax; duty on the geological & survey works done at the state budget's cost; contributions to the mandatory state social insurance of Ukrainian employees and foreign citizens hired to work in Ukraine; contributions to the mandatory state pension insurance of Ukrainian employees and foreign citizens hired to work in Ukraine; payments for use of mineral resources) are not levied on the investor but are replaced with the division of products between the state and the investor in accordance with such an agreement.

The company profit tax is paid by the investor at rates set by the law but with the modifications as follows:

- tax on profits generated during the performance of the production sharing agreement may be paid in monetary form or, provided it is stipulated by the agreement, in kind;
- the basis for taxation of profits generated during the performance of the production sharing agreement is the investor's profit calculated on the basis of profit on products which are to be owned by the investor in accordance with the agreement; and
- tax on repatriation of the foreign investor's incomes generated during the performance of the production sharing agreement, shall not be withheld.

The sale, in the customs territory of Ukraine, of products acquired by the investor as his property as a result of their division, shall be subjected to the value-added tax under the general procedure set by the legislation effective on the day of the conclusion of the agreement. The value-added tax payable by the investor in case of the sale of the products in the customs territory of Ukraine, may be paid, if it is provided by the production sharing agreement, in kind, with products to be owned by the investor, in volumes equivalent to the sum of the tax.

Customs payments or the value-added tax shall not be levied on the goods (works, services) and other valuables being imported into the customs territory of Ukraine and designed for the performance of the production sharing agreement.

Customs payments, excise duty, or other taxes or mandatory payments shall not be levied, and the value-added tax shall be levied at zero rate, on products owned by the investor under such an agreement and being exported from the customs territory of Ukraine.

ANNEX 6

(with reference to Items 23 and 26)

Activity Licenses and Licenses to Engage in the Import and Export of Certain Products

Ukraine has both the system of activities licensing and the system of licensing import and export operations.

The system of activities licensing shall confirm the right of a business agent to carry out activities indicated in its license. For example, the following activities shall be subject to licensing:

- exploration of minerals;
- production of explosives and explosive materials (according to the List established by the Cabinet of Ministers of Ukraine);
- production of specifically dangerous chemical substances;
- extraction and production of precious metals and stones, precious stones of organic formation and semiprecious stones; production of articles thereof;
- production of medicines, and wholesale and retail trade in medicines;
- production of veterinary medicines and preparations, and wholesale and retail trade in veterinary medicines and preparations;
- production of pesticides and agro-chemicals, and wholesale and retail trade in such pesticides and agro-chemicals;
- designing and production of special technical devices for recording of information from communication channels, and other devices of a secret receipt of information, and trade in special technical devices for recording of information from communication channels and other devices of a secret receipt of information;
- designing, production, implementation, maintenance and research of effectiveness of the systems and devices for technical protection of information, and rendering of services in the field of technical protection of information;
- development, production, storage, transportation, purchase, conveyance, importation, exportation, sale and destruction of narcotics, psychotropic substances and precursors;
- production of securities forms and the registered documents forms;
- medical practice;
- veterinary practice;
- services on transportation of passengers and cargo by aircraft;
- services on transportation of passengers and cargo by river and sea transport;
- services on transportation of passengers and cargo by motor transport;
- services on transportation of passengers and cargo by railway transport;
- purchase, processing and metallurgical processing of non-ferrous and ferrous metals scrap; and
- operations on import and export of spirits, alcoholic beverages and tobacco goods, and others.

In order to obtain the said licenses, an agent of entrepreneurial activity shall apply to the licensing authority with an application of the established form with the request to issue a license. The said application must contain the following information:

- name;
- location;
- banking details and identification code – for a legal entity;

- surname, name, patronymic and passport details (series, number, issuing authority, date of issuance and residence), and identification number of a physical person who is the payer of taxes and other mandatory payments – for a physical person;
- type of business activity for which an applicant intends to obtain a license; and
- copy of the certificate of state registration of the agent of entrepreneurial activity or copy of the certificate on its inclusion into the Unified State Register of Enterprises and Organizations of Ukraine certified by a notary or by the authority which issued the original document.

Upon submission of the especially authorized body on licensing issues, the Cabinet of Ministers of Ukraine shall establish the validity term of a license to carry out the certain type of business activity. The said validity term shall not be less than three years.

The Ministry of Economy and European Integration of Ukraine or its authorized regional authority shall establish the regime of individual licenses for export and import operations. A license for effectuation of export and import operations is the basis for passing of goods subject to licensing regime through the customs border.

Concerning export and import of optical media equipment and discs, such operations are among activities subject to licensing. The Cabinet of Ministers of Ukraine (its Resolution "On the Approval of the List of Licensing Authorities," No. 1698, dated 14 November 2000) designated the Ministry of Economy and European Integration of Ukraine as the authority which effectuates licensing the activities of exporting and importing optical media equipment and discs.

The Order of the Ministry of Economy and on the Issues of European Integration of Ukraine, No. 244, dated 8 August 2002, registered with the Ministry of Justice of Ukraine, Order No. 704/6992, dated 23 August 2002, approved the procedure for issuance of a license for the above activities.

In order to obtain the said license, it is necessary to submit an application of the established form. The said application must contain the following information:

- name of the legal entity with all its subsidiaries and branches, and its location;
- surname, name, patronymic and passport details (series, number, issuing authority, date of issuance and residence) – for a physical person;
- contact telephone number;
- organizational and legal form;
- identification code for a legal entity (identification number for a physical person);
- banking details;
- type of activity (export or import, optical media equipment or discs);
- location of effectuation of the activity; and
- obligations concerning the fulfillment of licensing terms and conditions.

At the same time, the following documentation must be attached to the application form:

- copy of the certificate on state registration of the agent of entrepreneurial activity or copy of the certificate on its inclusion into the Unified State Register of Enterprises and Organizations of Ukraine certified by a notary or by the authority which issued the original document;
- list of the management of an agent of entrepreneurial activity (its head, deputy heads and chief accountant), including their surnames, names and patronymics, positions and office telephone numbers signed by the head and duly stamped, as well as the reference concerning owners, signed by the head of a company and duly stamped;
- duly certified copies of the founding documents (for a legal entity);

- duly certified copies of the documents which confirm ownership rights or lease of storage facilities;
- duly certified copies of the documents which confirm the information on the premises where wholesale and/or retail trade in optical media discs (for a license to import discs) shall take place;
- information on availability of optical media disc remainders as of 21 April 2002 (for export and import of optical media discs) – in case of such availability; and
- list of main components for specialized equipment for production of optical media systems, export or import of which are subject to licensing pursuant to laws (for licenses on export and import of equipment).

A license for activities of exporting and importing of optical media discs shall give the right to carry out export and import of discs only upon availability of the special identification codes (CID-codes) on such discs. An agent of entrepreneurial activity shall be obliged to export and import only those discs produced with the observance of intellectual property rights. At the same time, an agent of entrepreneurial activity, which obtained a license, shall be obliged to notify the Ministry of Economy and European Integration of Ukraine on each allotment of optical media discs and/or submit the list of equipment for production of optical media discs exported and/or imported. Such notification shall be effectuated by a letter which shall also contain the list of copyright and related rights objects (if applicable), number of cargo customs declaration and copy of cargo customs declaration for the given allotment, duly certified. The said letter must be submitted within 15 days from the date of effectuation of export/import operation.

The following shall be the grounds for refusal to issue a license:

- false information submitted by an applicant; and
- discrepancy between the submitted documents and Licensing Terms and Conditions established for the given business activity.

In case of refusal to issue a license on the basis of discovered false information in the submitted documents, the new application shall be accepted not earlier than three months from the date of making decision to refuse a license.

Licenses shall be issued for three years. A fee in the amount of 340 Hryvnias shall be charged. This corresponds to expenses for processing of the said license.

Concerning import of precious metals and precious stones into Ukraine, such operations are not subject to licensing.

The activity of exporting the following precious metals and precious stones from Ukraine shall be subject to licensing:

- colloidal precious metals; inorganic or organic compounds of precious metals, whether or not chemically defined; amalgams of precious metals (code 2843);
- diamonds, whether or not worked, but not mounted or set (code 7102);
- precious stones (other than diamonds) and semi-precious stones, whether or not worked or graded but not strung, mounted or set; ungraded precious stones (other than diamonds) and semi-precious stones, temporarily strung for convenience of transport (code 7103);
- silver (including silver plated with gold or platinum), unwrought or in semi manufactured forms, or in powder form (excluding banking metals (code 7106);
- gold (including gold plated with platinum), unwrought or in semi manufactured forms, or in powder form (excluding banking metals (code 7108);
- platinum, unwrought or in semi manufactured forms, or in powder form (excluding banking metals) (code 7110); and

- waste and scrap of precious metal or of metal clad with precious metal (code 7112).

The term of a license for carrying out the above business activity shall be three years. Fee in the amount of 340 Hryvnias shall be charged for the said license.

Please see the answer to Item 47 concerning the procedure for licensing.

Concerning the regime of import of narcotics, it is governed by the Law of Ukraine "On Turnover of Narcotics, Psychotropic Substances, Their Analogs and Precursors," No. 60/95-VR, dated 15 February 1995, taking into account international obligations of Ukraine. The said Law provides that import or export of narcotics shall be carried out by the authorized body of the Cabinet of Ministers of Ukraine according to a certificate (a separate permit) issued by the Committee on Control Over Narcotics attached to the Ministry of Health Protection of Ukraine. Issuance of the certificate shall be effectuated in agreement with the Security Service of Ukraine (please see the answer to Item 46). The Resolution of the Cabinet of Ministers of Ukraine "On the Approval of the Procedure for Issuance of Certificates to Import into Ukraine and to Export from Ukraine of Narcotics, Psychotropic Substances and Precursors," dated 3 February 1997, shall determine the procedure for issuance of the certificate and its sample.

In order to obtain the certificate to export/import narcotics, psychotropic substances and precursors, a company shall submit the following documents to the said Committee:

- application on a company's letterhead addressed to the Head of the Committee. The said application must contain the following information:
 - purpose of importation;
 - complete names, exact addresses and telephone (telexes) numbers of the importer (consignee) and exporter;
 - international nonproprietary name of the imported produce, if such name is available, and (or) the first name under which the said produce was issued, and (or) the name under which it is manufactured in importing or exporting countries;
 - amount of narcotics, psychotropic substances and precursors subject to importation;
 - medical form of a narcotic, psychotropic substance and precursor;
 - name and amount of narcotics, psychotropic substances and precursors which are imported under a contract and included to the List of narcotics, psychotropic substances, their analogs and precursors that are subject to the special control pursuant to applicable laws of Ukraine (hereinafter "those included to the list of controlled substances");
 - name of the producer;
 - number of the contract for supply;
 - price (sum) of the contract for supply;
 - name and number of tare items – for narcotics, psychotropic substances and precursors in the form of substance used for production of medicines;
 - type of transport for supply;
 - delivery term for supply; and
 - name of the crossing point at state border of Ukraine through which importation shall be made.
- invoice, cargo declaration, cargo, customs and transportation documents which contain the information on the amount of narcotics, psychotropic substances and precursors;
- a company's Charter certified by a notary;
- a copy of the contract, according to which importation of narcotics, psychotropic substances and precursors into Ukraine is effectuated, certified by a notary;

- certificate of Medicines Registration Bureau of the Ministry of Health Protection of Ukraine on registration of medicines that are imported into Ukraine;
- quality certificate of a narcotic or psychotropic substance with indication of its serviceable life (quality passport of the producer is attached as to precursors);
- obligations of the company on use of narcotics, psychotropic substances and precursors only for the declared purposes (import); and
- a license's copy for carrying out the given activity in the field of turnover of narcotics, psychotropic substances and precursors, certified by a notary.

The term of a license for carrying out the above business activity shall be three years. Fee in the amount of 340 Hryvnias shall be charged for the said license issuance.

Production of medicines, wholesale and retail trade in medicines is an activity that is subject to licensing according to the Law of Ukraine "On Licensing Certain Business Activities," No. 1775-III, dated 1 June 2000. The founding documents of an agent of business activity must indicate activities that are subject to licensing.

Production of medicines, wholesale and retail trade in medicines shall be effectuated on the basis of a license for the given activity.

Documents for receipt of licenses on carrying out the given activities shall be submitted to the State Department for Control over Quality, Safety and Production of Medicines and Articles of Medical Purpose.

In order to obtain a license, a business agent shall submit an application of the established form to the State Department for Control over Quality, Safety and Production of Medicines and Articles of Medical Purpose. The said application must contain the following information:

- name of the legal entity with all its subsidiaries and branches, and its location;
- surname, name, patronymic and passport details (series, number, issuing authority, date of issuance and residence) – for a physical person;
- identification code for a legal entity (identification number for a physical person);
- type of activity;
- location of effectuation of the activity; and
- obligations concerning the fulfillment of licensing terms and conditions.

At the same time, a copy of the certificate of state registration of the agent of entrepreneurial activity or copy of the certificate of its inclusion into the Unified State Register of Enterprises and Organizations of Ukraine certified by a notary or by the authority which issued the original must be attached to the application form.

The following shall be the grounds for refusal of a license:

- false information submitted by an applicant; and
- discrepancy between the submitted documents and Licensing Terms and Conditions established for the given business activity.

In case of refusal of a license on the basis of discovered false information in the submitted documents, a new application shall be accepted not earlier than three months from the date of making decision on refusal in a license issuance.

An agent of business activity, while carrying out activities on production of medicines, wholesale and retail trade in such medicines, must ensure observance of consumer rights and

effectuate its activities in accordance with the Law of Ukraine "On Enterprises in Ukraine" and "On Ensuring of Sanitary and Epidemiological Well-being of Population."

Business agents may carry out production of medicines, wholesale and retail trade in medicines on the basis of a license on the given activity, if they meet qualifying, organizational and other special requirements as established by licensing terms and conditions.

Medicines may be produced after their registration. Only medicines registered in Ukraine shall be allowed in wholesale and retail trade. These medicines must also have a quality certificate issued by the producer. Trade in medicines shall be carried out only through chemist's shops and pharmaceutical centers (warehouses) which must pass state accreditation within a year from the date of a license issuance.

Production of medicines shall be carried out following technical and technological regulations for production of medicines, and analytical normative documentation (pharmacopoeia article and technical terms and conditions) worked out in accordance with normative documents and standards applied in medical and microbiological industry.

Wholesale trade in medicines shall be effectuated only through pharmaceutical centers (warehouses). It is mandatory for a pharmaceutical center (warehouse) to have a valid State Pharmacopoeia, normative and technical and normative and legal documents, and special reference literature on the issues of dose, control over quality, storage, and procedure for distribution (shipment) of medicines.

Retail trade in medicines shall be effectuated only through chemist's shops and their structural units (pharmaceutical points and pharmaceutical stands). Chemist's shop fronts or their separate structural unit fronts should have the appropriate signboard, indicating the name of business agent and its owner or the owner's authorized body.

Individuals who are directly engaged in production, wholesale and retail trade must have the relevant education and meet the unified qualifying requirements. Such individuals must possess the following documents:

- diploma of state standard on pharmaceutical education; and
- certificate on awarding (acknowledgement) of pharmacist rank of general type (for specialists graduated from academies (universities) after 1992).

Specialists who passed special training in educational institutions of foreign countries shall be allowed to carry out professional activities after examination of their qualification. Specialists who do not work within three years on a specialty indicated in their diplomas and certificates shall be allowed to carry out activities on production of medicines, wholesale and retail trade in medicine only after passing through retraining.

The term of a license for carrying out the above business activity shall be three years.

The Law of Ukraine "On State Regulation of the Production and Trade in Ethyl, Cognac and Fruit Spirits, Alcoholic Beverages and Tobacco Goods (with changes and amendments)," No. 493, dated 19 December 1995, and the Resolution of the Cabinet of Ministers of Ukraine "On Provisional Procedure for Issuance of Licenses to Import and Export Ethyl, Cognac and Fruit Spirits, Alcoholic Beverages and Tobacco Goods," No. 493, dated 13 May 1996, shall govern licensing to import and export spirits, alcoholic beverages and tobacco goods.

Licenses to import and export ethyl and fruit spirits, distilled grape ethyl spirits and distilled fruit ethyl spirits shall be issued only to the state-owned enterprises and organizations specifically

authorized for such purposes by the Cabinet of Ministers of Ukraine. Licenses to import and export cognac spirits shall be issued only to the specialized cognac enterprises. The Cabinet of Ministers of Ukraine shall approve the list of the said specialized enterprises.

The Ministry of Economy and European Integration of Ukraine upon consent of State Department on the Issues of Excise Duty Administration and Control over Production and turnover Excise Goods of the State Tax Administration of Ukraine shall issue the said licenses separately for importing and exporting.

In case the Cabinet of Ministers of Ukraine shall entrust the enterprises which produce ethyl, cognac and fruit spirits, distilled grape ethyl spirits and distilled fruit ethyl spirits with powers to export such spirits or sell such spirits through wholesale trade to Ukrainian consumers, the said enterprises shall be exempted from a fee on the license to export such spirits within the amounts of their own production.

In order to obtain a license, the following documents must be submitted:

- an application form to obtain a license to import and export ethyl, cognac and fruit spirits, distilled grape ethyl spirits, distilled fruit ethyl spirits, alcoholic beverages and tobacco goods;
- copy of the certificate on state registration of the agent of entrepreneurial activity, certified by a notary or by the authority which issued the original document; and
- copy of the document which confirms the special authorities granted by the Cabinet of Ministers of Ukraine to the state-owned enterprise or organization to carry out import and export of ethyl, cognac and fruit spirits, distilled grape ethyl spirits and distilled fruit ethyl spirits, certified by the head's signature and stamped with a company's seal (in case of submission of the documents for receipt of a license to carry out the given operations).

Processing and issuance of a license shall be effectuated on the basis of a copy of the payment order (with the bank's mark) submitted by an applicant which confirms transfer of the annual fee for a license to the State budget of Ukraine, as well as on the basis of a reference of the relevant financial authority regarding actual receipt of the funds by the State budget of Ukraine. Issuance of a license shall be effectuated upon availability of the duly made power of attorney for receipt of such license and a document which identifies the person.

Decision to refuse a license will be made when:

- discrepancy between the submitted documents and applicable laws of Ukraine;
- applicant's violation of Ukrainian laws in the field of foreign economic activity; and
- non-receipt of consent on issuance of a license from State Department on the Issues of Excise Duty Administration and Control over Production and turnover Excise Goods of the State Tax Administration of Ukraine.

In case of refusal to issue a license, the period for review of the documents shall suspend until the applicant submits the reviewed and improved documents or the appropriate substantiation.

Licenses shall be issued for five years. A license fee shall be charged annually. The amount of a license fee shall be 170,000 Hryvnias. In case of late payment of the regular fee, a license shall be suspended.

Business activities related to production of pesticides and agro-chemicals, wholesale and retail trade in such products is activities subject to licensing. The Law of Ukraine "On Pesticides and Agro-Chemicals," No. 86-95/VR, dated 2 March 1995, and the joint Order of State Committee of Ukraine for the Issues of Regulator Policy and Entrepreneurship and Ministry of the Industrial Policy

of Ukraine "On the Approval of Licensing Terms and Conditions for Carrying out Business Activities on Production of Pesticides and Agro-Chemicals, Wholesale and Retail Trade in Pesticides and Agro-Chemicals," No. 40/70, dated 22 February 2001, shall govern licensing terms and conditions of the said activities.

Pesticides and agro-chemicals of domestic production, as well as foreign ones, imported for use into Ukraine must meet the following requirements:

- high biological effectiveness as to designated purposes;
- safety for human health and the environment of regulations for their use are observed; and
- conformity to state standards, sanitary norms and other normative documents.

It is prohibited to import into the customs territory of Ukraine, produce, sell, use and advertise pesticides and agro-chemicals prior to their state registration. State Interdepartmental Commission of Ukraine on the Issues of Testing and Registration of Plant Protection Means and Growth Regulators shall issue a permit to import and use unregistered pesticides and agro-chemicals, if such pesticides and agro-chemicals meet the following requirements:

- they are considered as customs cargo and are under customs control;
- they are used for scientific and research purposes;
- they are imported during rise of a threat of mass seats for reproduction of dangerous organisms;
- they are designated for combatting plant microorganisms within the closed areas or pipeline systems on enterprises and institutions of mining, nuclear and medical industries; and
- they are imported together with seeds which were treated with protective and stimulant substances that pursuant to their chemical content and action methods meet analogs registered in Ukraine.

In order to import and use pesticides and agro-chemicals, unregistered in Ukraine, for the above purposes, it is mandatory to present documentary confirmation of their use in the country where they are produced.

Entrepreneurial activity in the field of production, wholesale and retail trade in pesticides and agro-chemicals shall be carried out on the basis of a license. The Ministry of Industry of Ukraine shall issue a license for production, wholesale and retail trade in pesticides and agro-chemicals.

In order to obtain a license, a business agent shall submit an application of the established form. The said application must contain the following information:

- name of the legal entity with all its subsidiaries and branches, and its location;
- surname, name, patronymic and passport details (series, number, issuing authority, date of issuance and residence) – for a physical person;
- identification code for a legal entity (identification number for a physical person);
- type of activity;
- location of effectuation of the activity; and
- obligations concerning the fulfillment of licensing terms and conditions.

At the same time, a copy of the certificate of state registration of the agent of entrepreneurial activity or copy of the certificate of its inclusion into the Unified State Register of Enterprises and Organizations of Ukraine certified by a notary or by the authority which issued the original must be attached to the application form.

The following shall be the grounds for refusal to issue a license:

- false information submitted by an applicant; and
- discrepancy between the submitted documents and Licensing Terms and Conditions established for the given business activity.

In case of refusal of a license on the basis of discovered false information in the submitted documents, the new application shall be accepted not earlier than three months from the date of making the decision on refusal of the license.

In order to carry out business activities on production of pesticides and agro-chemicals, a business agent must ensure mandatory observance of the requirements of technological regulations and rules. In order to produce pesticides and agro-chemicals, business agent must possess the following documentation:

- normative documents of standardization (GOST [State Standards of the former Soviet Union, which still apply in Ukraine], TU [Technical Terms and Conditions], DSTU [State Standards of Ukraine]) for production of goods of the given quality;
- technological regulations;
- positive conclusions of sanitary and epidemiological service;
- permit to commence work;
- permit to produce testing groups of domestic pesticides and agro-chemicals; and
- rules, drafted and approved by business agent on the basis of the approved technological regulations.

In order to carry out business activities on wholesale and retail trade in pesticides and agro-chemicals, a business agent must possess the following:

- storing facilities for storage of pesticides and agro-chemicals. Such storing facilities must meet sanitary and hygienic requirements and safety engineering rules, as well as to have sanitary passports;
- quality certificates for pesticides and agro-chemicals;
- regulations to carry out trade operations;
- rules on labor protection, production sanitation and fire safety;
- duties regulation; and
- positive conclusions of sanitary and epidemiological service.

A business agent must sell pesticides and agro-chemicals to the population in a small-packed form with mandatory instructions printed in Ukrainian concerning the safe use of such pesticides and agro-chemicals.

Employees of business agents whose activities relate to wholesale and retail trade in pesticides and agro-chemicals must have special education and training, undergo retraining once per three years and medical examination, as well as have a permit to work with the said pesticides and agro-chemicals, certificate and medical book.

A term of a license for carrying out the above business activity shall be three years. A license fee shall be charged in the amount of 340 Hryvnias

Pursuant to Article 9 of the law of Ukraine "On Medicines," the Cabinet of Ministers of Ukraine shall determine the procedure for state registration of medicines. The Resolution of the Cabinet of Ministers of Ukraine "On the Approval of the Procedure for State Registration (Re-registration) of Medicines and Fees for State Registration (Re-registration) of a Medicine," No. 1422, dated September 2000, as changed and amended by the Resolution of the Cabinet of

Ministers of Ukraine, No. 678, dated 21 June 2001, established the following fees for state registration (re-registration) of a medicine.

The applicant shall pay a fee for state registration (re-registration) of a medicine to the State budget of Ukraine.

A fee for state registration (re-registration) of a medicine shall be paid in Hryvnias or in a foreign currency. Conversion into Hryvnias shall be effectuated pursuant to the official exchange rate of the National Bank of Ukraine as of the date of state registration (re-registration) of a medicine.

A fee for state registration (re-registration) of a medicine shall be charged in Hryvnias in the following amounts:

- for state registration:
 - of a medicine (except for radioactive medicines, diagnostic means and simple or complex (*halenic*) preparations of plant medical raw materials) – in the amount equal to 1,000 EURO for each medical form, 100 EURO for each next dose and 100 EURO for each next package of a medicine; and
 - of a radioactive medicine, diagnostic means and simple or complex (*halenic*) preparations of plant medical raw materials – in the amount equal to five hundred 500 EURO for each medical form, 50 EURO for each next dose and 50 EURO for each next package of a medicine.
- for re-registration:
 - of a medicine (except for radioactive medicines, diagnostic means and simple or complex (*halenic*) preparations of plant medical raw materials) – in the amount equal to 500 EURO for each medical form, 50 EURO for each next dose and 50 EURO for each next package of a medicine; and
 - of a radioactive medicine, diagnostic means and simple or complex (*halenic*) preparations of plant medical raw materials – in the amount equal to 250 EURO for each medical form, 25 EURO for each next dose and 25 EURO for each next package of a medicine.
- for state registration (re-registration):
 - of a medicine supplied in bulk, as well as of medicine packed up in Ukraine from in bulk supply – in the amount equal to 25 EURO for each medical form and 25 EURO for each next package of a medicine; and
 - of substances (active and auxiliary matters) – in the amount equal to 25 EURO for each item.

ANNEX 7

(with reference to Item 41)

Port Fees

The Cabinet Of Ministers Of Ukraine Resolution Dated 12 October 2000 No. 1544 Kyiv On Port Fees As amended by Resolutions of the Cabinet of Ministers of Ukraine dated 29 November 2001 No. 1584, dated 29 March 2002 No. 391, Order of the Ministry of Transportation of Ukraine dated 10 September 2002 No. 642

Pursuant to Article 84 of the Code of Merchant Shipping of Ukraine, the Cabinet of Ministers of Ukraine Resolved:

1. To approve the Regulation on Port Fees (attached);
2. To determine that amounts of port fees established by the Regulation, which is approved pursuant to Section 1 of this Resolution, are highest possible, and a procedure for applying discounts to them shall be determined by the Ministry of Transportation;
- 2.1. To determine that the procedure for taking stock of and using revenues from port fees, other than the administrative charge, shall be approved by the Ministry of Transportation subject to consent by the Ministry of Economy and on Issues of European Integration as well as the Ministry of Finance. (the Resolution was supplemented with clause 2.1 pursuant to Resolution of the Cabinet of Ministers of Ukraine dated 3 March 2002 No. 391);
3. To recognize the Resolutions of the Cabinet of Ministers of Ukraine specified in the attached list as such that have lost effect; and
4. This resolution shall take effect on 1 January 2001.

Prime-Minister of Ukraine

V. YUSHCHENKO

APPROVED BY

Resolution of the Cabinet of Ministers of Ukraine

dated 12 October 2000 No. 1544

Regulation On Port Fees

(Pursuant to Order of the Ministry of Transportation, dated 10 September 2002, No. 642, there has been introduced a 50 per cent discount for all types of port fees established by this Regulation up to the end of 2002 for vessels that call at the Pivdenniy oil terminal, which is located at the Yuzhniy sea commercial port, in order to load technological oil into the pipeline. This discount shall not apply to vessels that call at the Pivdenniy oil terminal in order to take a load of oil)

General Part

1. Port fees (ship, canal, lighthouse, berth, anchor, administrative and sanitary) shall be collected at sea port from vessels that belong to specified groups and floating vehicles that navigate under the State Flag of Ukraine and a foreign flag:

freight vessels that call at ports for loading operations and floating vehicles	A group
passenger vessels, including high-speed hydrofoils and ferries that call at ports to perform cargo-and-passenger operations, icebreakers that are neither registered in the port nor leased by it	B group
lighters, tugboats, pushing tugboat, pushers, barges (self-propelled and dumb), river self-propelled vessels, including mixed river-sea-going vessels owned by shipping companies, which are parties to the Bratislava Treaty, that call at ports on the Danube river, as well as river self-propelled vessels that call at other ports for further reloading of cargo on sea vessels and vice versa	C group
dumb vessels (except for barges)	D group
vessels that call at ports due to compelling reasons, for provisions, quarantine needs as well as vessels that are bound to Ukrainian shipyards for repairs	E group
official and military vessels	E group
training, training and practice vessels when performing voyages in accordance with the curricula of educational institutions with at least 50 cadets aboard, school vessels	E group
scientific, research and high-speed hydrofoils that perform regular scheduled coasting passenger voyages (except for pleasure and cruise voyages)	E group
other vessels (vessels of a shipyard, emergency and rescue vessels, underwater and technical, technical, hospital, hydrographic vessels, local harbor vessels, icebreakers that are owned and leased by the port, sports vessels, private yachts, sailing vessels, vessels that are undergoing sea trials, and fishing boats that call at ports without performing any loading operations)	F group

Notes:

1. The term "compelling reasons" shall be understood as a call at the port due to a threat to the safety of the voyage, if continued, life or health of crew members and passengers.
 2. Group C (tugboats and barges), E and F vessels that perform commercial cargo voyages shall belong to the A group.
 3. Group E and F vessels that perform commercial cargo and passenger voyages shall belong to the B group
 4. The procedure for calculation and collection of fees extends onto subjects of entrepreneurial activities of all types of ownership that perform works and provide services at sea ports at berths of shipyards in Ukraine irrespective of subordination of these ports (docks).
 5. Vessels that call at the Dnipro-Buzskiy sea port shall pay fees set out by this Regulation to the sea state port administration in accordance with the fee calculation conditions.
2. Port fees shall be paid prior to the departure of a vessel from the port and in case of transit through the Kerch-Yenikalskiy canal ("KYC") and the Prorva canal – by means of prepayment or directly at the entrance to the Kerch-Yenikalskiy canal and the Prorva canal, unless stipulated otherwise.

3. Port fees shall be charged on the conditional tonnage of a vessel, which is calculated in cubic meters and is equal to the aggregate of three dimensions (the length of a vessel, width of a vessel and height of a vessel's board) specified in a tonnage certificate (main dimensions) or a substitute document.

For sea vessels that carry freight on the upper deck or have two or more decks, except for twin-deck vessels, the height of a board used to calculate the tonnage of a vessel shall be at least half the width of a vessel.

For B group vessels that have two or more decks the height of a board used to calculate the tonnage of a vessel shall be half the width of a vessel.

The conditional tonnage of barge and towing warehouses, caravans and other floating structures for purposes of charging all types of fees, except for the sanitary fee, shall be equal to the total of tonnages of its separate elements.

To calculate all types of fees, the conditional tonnage of RO-RO, RO-FLOW, OBO, LO-RO vessels, container vessels, cattle-carriers, lighter-aboard ships, and car carriers is used with a 0.7 quotient provided that vessels are used for their designated purposes. The type of a vessel and its designated purpose shall be determined in accordance with its documents.

In case fees are charged on a twenty-four-hour basis, time is rounded to 0.5 of this period. Whereby time less than 0.5 of this period shall be rounded to 0.5 of this period, and 0.5 of this period and more – to a full twenty-four-hour period.

Item 3 is supplemented with paragraph six pursuant to Resolution of the Cabinet of Ministers of Ukraine, dated 29 March 2002, No. 391.

4. Lighter-aboard ships that perform cargo operations with lighters on the external or internal roadstead shall be charged port fees on the basis of tonnage of lighters that are delivered by a lighter-aboard ship when entering the port and taken back when leaving it.
5. Group A cargo vessels that operate on overseas routes, which are established in the manner prescribed, shall be granted a 20 per cent discount on the ship fee.
6. Main features of overseas routes shall be as follows:
- establishment of mandatory and optional foreign and Ukrainian ports of call;
 - assignment of types of vessels to operate on the route;
 - establishment of periodicity for assigned vessels to call at Ukrainian ports; and
 - registration of a route by the State Department of Sea and River Transportation upon the submission of the port (sea port) administration.
7. The port may give a 50 per cent discount off all types of port fees to vessels that call at the Yuzhnyi port for loading and unloading general and bulked cargo.

The following discounts shall apply at the Yalta port:

50%	off the ship fee for Group A vessels;
20%	off all types of port fees for cruise passenger vessels of overseas routes that belong to the B Group (except for those that are performing mixed cargo-passenger voyages).

In the port of Odessa a 10 per cent discount shall apply to all types of port fees for cruise passenger vessels of overseas routes that belong to the B Group (except for those that are performing mixed cargo-and-passenger voyages).

8. If a vessel is eligible for discounts on several port fees, there shall apply the discount on the highest basic rate only.
9. Nationality of, and respectively, the status granted to, a vessel for purposes of collection of port fees shall be determined on the basis of a flag flown by the vessel irrespective of its owner and user.
10. Port fees shall be paid in accordance with the Decree of the Cabinet of Ministers of Ukraine "On the System of Currency Regulation and Currency Control", dated 19 February 1993, No. 15.
11. Amounts of port fees collected in the Ukrainian currency shall be subject to a value-added tax as determined by law. Whereby, if a port provides services to coasting vessels, an amount of fees determined pursuant to this Regulation shall be increased by an amount of the value-added tax and in other cases an amount of the value-added tax due to the budget shall be calculated on the basis of an amount of fees charged and paid to the port without such an increase.

Ship Fee

12. Group A, B and D vessels shall be charged a ship fee on every call at, and departure from, a port per cubic meter of the vessel's tonnage at the following rates:

(in US\$)

Port	For foreign-going vessels		For coasting vessels
	regular rate	reduced rate	
Bilgorod-Dnistrovskiy	0.157	0.076	0.0008
Berdyansk	0.308	0.069	0.0008
Dnipro-Buzskiy	0.277	0.085	0.0042
Eupatoria	0.184	0.063	0.0046
Izmail	0.194	0.065	0.0024
Illichyivsk	0.297	0.095	0.0060
Buchta Kamyshova	0.182	0.077	0.0038
Kerch	0.277	0.089	0.0042
Mariupol	0.254	0.087	0.0024
Mizhvodne	0.184	0.063	0.0032
Mykolayv	0.277	0.071	0.0054
Odessa	0.313	0.094	0.0054
Oktyabrskiy	0.277	0.085	0.0042
Ochakiv	0.265	0.081	0.0051
Reni	0.194	0.062	0.0020
Sevastopol	0.182	0.077	0.0042
Skadovsk	0.277	0.085	0.0054
Ust-Dunaysk	0.100	0.086	0.0078
Feodosia	0.187	0.065	0.0042
Kherson	0.194	0.068	0.0028
Chornomorsk	0.184	0.063	0.0032
Yuzhniy	0.383	0.187	0.0144
Yalta	0.331	0.097	0.0090
Berth of CJSC "Mykolayvskiy Potassium Terminal"	0.277	0.071	0.0054

Port	For foreign-going vessels		For coasting vessels
	regular rate	reduced rate	
Other ports (berths)	0.182	0.062	0.0043

Note:

Vessels that call at ports to undergo procedures pertaining to the passage through the state border of Ukraine without loading operations shall be exempt from the ship fee.

Item 12 as amended pursuant to Resolution of the Cabinet of Ministers of Ukraine, dated 29 November 2001, No. 1584.

13. Group E and F vessels shall be exempt from the ship fee.
14. Vessels flying the State Flag of Ukraine and vessels flying flags of countries with which Ukraine entered into international agreements on granting the most favorable or national regime to vessels shall be charged the ship fee at a reduced rate.

Ship fee rates for coasting vessels shall apply only to vessels that perform coasting voyages under the State Flag of Ukraine.

If the maximum draft of large-capacity vessels specified in the tonnage certificate exceeds the permissible depth determined for a specific port that leads to an incomplete loading of a vessel, the port may, when calculating an amount of the ship fee, reduce the height of a board by the amount of the unused draft.

15. In the event that A Group vessels consequently call at several Ukrainian ports in a single voyage, a ship fee shall be charged:
 - if two ports are called – with a 50 per cent discount off the basic rate in every port;
 - if more than two ports are called – with a 50 per cent discount at the first port and 75 per cent of the basic rate in every subsequent port.
16. Group B vessels shall be charged a ship fee in every port when entering and leaving a port with a 50 per cent off the rate only during the first and second voyages that are performed by a vessel during a calendar year. During the next calls at a port in the same calendar year the ship fee shall not be charged on these vessels.
17. Group B vessels shall be charged the ship fee for every call at and departure from the port at the following rates:
 - In overseas voyage:
 - US\$40.5 - for a vessel, tugboat; and
 - US\$20.25 – for a unit (barge, lighter).
 - in coasting voyage:
 - US\$10 - for a vessel, tugboat; and
 - US\$5 – for a unit (barge, lighter).

Canal Fee

18. A canal fee shall be charged for every one-way passage through the canal and every passage by a vessel in a one-way transit per 1 cubic meter of the vessel's tonnage at the following rates:

(in US dollars)

Port	For foreign-going vessels	For coasting vessels
Bilgorod-Dnistrovskiy	0.063	0.0063
Berdyansk	0.106	0.0106
Buchta Kamyshova	0.032	0.0032
Dnipro-Buzskiy	$0.027 + 0.18^9$	$0.0026 + 0.0180^1$
Illichyivsk	0.020	0.0020
Kerch (including the KYC):		
sea commercial port	0.16	0.0170
sea fishing port and all other Kerch-based enterprises that perform loading-unloading operations and service vessels	$0.144^{10} + 0.016^{11}$	$0.0153^2 + 0.0017^3$
the KYC (transit)	0.053	0.0062
the KYC for vessels in transit that call at (departure from) the "Kavkaz" port		
buoy No. 1-41	0.044	-
buoy No. 41-51	0.013	-
Mariupol	0.106	0.0106
Mykolayv (maritime)	$0.027 + 0.227^1$	$0.0026 + 0.0226^1$
Berth of the "Okean" Plant	0.221^1	0.0221^1
Odessa	0.011	0.0010
Oktyabrskiy	$0.027 + 0.203^1$	$0.0026 + 0.0202^1$
Ochakiv	$0.027 + 0.027^1$	$0.0027 + 0.0027^1$
Sevastopol	0.032	0.0032
Skadovsk	0.032	0.0032
Ust-Dunaysk	0.068	0.0068
Kherson (maritime)	$0.10 + 0.136^1$	$0.010 + 0.0136^1$
Yuzhniy	0.074	0.0074
For passage through Prorva canal	0.140	0.0140
Berth of CJSC "Mykolayvskiy Potassium Terminal"	$0.027 + 0.208^1$	$0.0026 + 0.0207^1$

Notes:

1. The rate designated for the Berth of the "Okean" Plant shall apply only to vessels that pass through the Buzsko-Dniprovsko-estuary canal for performing loading operations at berths of this plant.
2. For passage through the Buzsko-Dniprovsko-estuary canal and the Kherson sea canal without calling at sea ports (berths) a canal fee shall be paid by vessels at the specified rates to the respective state enterprise "Delta-Lotsman" and sea commercial ports of Mykolayv and Kherson in amounts set for the ports of Mykolayv (maritime) and Kherson (maritime).
3. For vessels that, according to the tonnage certificate with a full load, has a draft of not more than 4.5 meters, a canal fee rate shall apply with a 0.38 coefficient, except for the port of Bilgorod-Dnistrovsk, the Prorva canal, and the access canal to the port of the "Azovstal" Factory.

⁹ To be paid directly to the State Enterprise "Delta-Lotsman".

¹⁰ To be paid to the sea commercial port "Kerch".

¹¹ To be paid to other Kerch-based enterprises that perform loading-unloading operations and service vessels.

4. For vessels that pass through the access canal to the port of the "Azovstal" Factory, the canal fee rate shall apply with a 0.5 quotient.

Item 18 as amended pursuant to Resolution of the Cabinet of Ministers of Ukraine, dated 29 November 2001, No. 1584.

19. Group B vessels shall be charged the canal fee in every port when entering and leaving the port with a 50 per cent off the rate only in the first and second voyages that are performed by a vessel in a calendar year. During the next calls in the same calendar year these vessels shall be exempt from the canal fee.
20. Group C, E, F vessels as well as Group D vessels (except for barges) that pass through the Prorva canal shall be exempt from the canal fee.

Lighthouse Fee

21. Group A and B vessels shall be charged a lighthouse fee for every call at the port (factory) or for every passage in transit, except for the passage through the Kerch-Yenikalskiy canal in transit at the following rates:
- US\$0.029 per cubic meter of a vessel's tonnage – on foreign-going vessels; and
 - US\$0.0029 per cubic meter of a vessel's tonnage – on coasting vessels.

The lighthouse fee shall be paid fully to the State Institution "Derzhhydrographia".

Item 21 supplemented with a paragraph pursuant to the resolution of the Cabinet of Ministers of Ukraine dated 29 March 2002, No. 391.

22. Group C, D, E, and F vessels shall be exempt from the lighthouse fee.

Berthage

23. A berthage shall be collected from vessels that are moored at berth.
24. To Group A, B, and C vessels (tugboats), Group D, E, and F vessels (sports vessels, private yachts, sailing vessels and fishing-boats that call at ports without loading operations) the following rates shall apply:

(in US dollars)

Purpose of anchorage	For foreign-going vessels	For coasting vessels
Loading operations that are performed with the use of the port's labour and means (cubic meter per call of a vessel)	0.022	0.0022
Other cases as well as for tugboats, sports vessels, private yachts, sailing vessels and fishing-boats that call at ports without loading operations (cubic meters per twenty-four-hour period)	0.0072	0.00072

Note:

Group F vessels (except for sports vessels, private yachts, sailing vessels and fishing-boats that call at ports without loading operations) shall be exempt from the berthage.

25. Group C vessels (except for tugboats) shall be charged for the berthage every loaded or unloaded ton of cargo at the following rates:

US\$0.12	on foreign-going vessels;
US\$0.012	on coasting vessels.

The berthage shall be paid for every operation. In the event that an operation is performed at an unequipped shore or "from vessel to vessel, a 50 per cent discount shall apply to the berthage rate.

26. Vessels that are located broadside with respect to another vessel, which is moored at the berth, or moored at berth foreside or aftside shall pay a 50 per cent of the berthage rate.

27. Group A and B vessels shall be charged the berthage for demurrage at the cargo (passenger) berth for reasons that depend on the vessel or its owner as of the completion of loading and fastening of cargo per cubic meter of the vessel's tonnage at the following rates:

US\$0.0104 per hour	on foreign-going vessels;
US\$0.00104 per hour	on coasting vessels.

28. For anchorage or completion of servicing of a vessel at the captain's (ship-owner's) request. The port must provide the vessel with an unoccupied berth or place for anchorage on the roadstead.

Anchor Fee

29. Group A and B vessels shall be charged an anchor fee for anchorage on the internal roadstead of the sea port for more than 12 hours at the twenty-four-hour rates per cubic meter of the vessel's tonnage for time when the vessel was actually anchored:

US\$0.0027	on foreign-going vessels;
US\$0.00027	on coasting vessels.

30. Group C, D, and F vessels (sports vessels, private yachts, sailing vessels and fishing-boats that call at ports without loading operations) shall be charged an anchor fee for 30 days of anchorage on the internal roadstead at the following rates:

US\$18	on foreign-going vessels;
US\$1.8	on coasting vessels;

For every next day of anchorage on the internal roadstead in addition to the specified term, the anchor fee shall be collected from every vessel at the following rates:

US\$2	on foreign-going vessels;
US\$1	on coasting vessels.

31. Group E and F vessels (except for sports vessels, private yachts, sailing vessels and fishing-boats that call at ports without loading operations) shall be exempt from the anchorage fee.

Administrative Fee

32. Group A, B, C, and D vessels shall be charged an administrative fee every time they call at a port at the following rates:

US\$0.014 per cubic meter of the vessel's tonnage	on foreign-going vessels;
US\$0.0014 per cubic meter of the vessel's tonnage	on coasting vessels.

Vessels that call at sea ports to undergo procedures pertaining to the passage though the state border of Ukraine without loading operations shall be exempt from the administrative fee.

Group A, B, C, and D vessels that consequently call at several Ukrainian ports in a single voyage to perform loading operations shall pay the administrative fee only at the first port of call.

Discounts on port fees established by ports and agreed to by ship-owners shall not extend onto the administrative fee.

33. Group E and F vessels shall be exempt from the administrative fee.
34. Funds received by ports as administrative fees shall be used as determined by law.

Sanitary Fee

35. The collection of a sanitary fee shall provide for:

- mandatory acceptance by the port of all kinds of pollutants (except for ballast waters) for the duration of anchorage at the port as well as performance with the use of labor and at their expense of operations related to the acceptance of wastes (delivery and cleaning of floating crafts, provision of containers and other receptacles for collection of garbage, reloading operations, hosing, unhosing, etc.);
- mandatory discharge by a vessel of all available pollutants to prevent their discharge into sea. The discharge of pollutants shall be confirmed by an official receipt issued by the port.

36. Group A vessels shall be charged the sanitary fee per cubic meter of the vessel's tonnage or a self-propelled part of the compound floating structure at the following rates:

(in US\$)

Port	On foreign-going vessels		On coasting vessels	
	anchorage of up to 10 twenty-four-hour periods	anchorage from 10 to 30 twenty-four-hour periods	anchorage of up to 10 twenty-four-hour periods	anchorage from 10 to 30 twenty-four-hour periods
Bilgorod-Dnistrovskiy	0.014	0.023	0.0014	0.0023
Berdyansk	0.022	0.040	0.0022	0.0040
Dnipro-Buzskiy	0.010	0.016	0.0010	0.0016
Illichyivsk	0.014	0.023	0.0014	0.0023
Mariupol	0.022	0.040	0.0022	0.0040
Mykolayv (maritime)	0.014	0.023	0.0014	0.0023
Odessa	0.014	0.023	0.0014	0.0023
Sevastopol (maritime commercial, fishing)	0.027	0.040	0.0027	0.0049
Feodosia	0.027	0.038	0.0027	0.0038
Kherson (maritime)	0.014	0.023	0.0014	0.0023
Yuzhniy	0.014	0.023	0.0014	0.0023

Port	On foreign-going vessels		On coasting vessels	
	anchorage of up to 10 twenty-four-hour periods	anchorage from 10 to 30 twenty-four-hour periods	anchorage of up to 10 twenty-four-hour periods	anchorage from 10 to 30 twenty-four-hour periods
Yalta	0.022	0.040	0.0022	0.0040

Notes:

1. Group B, C, D, E and F shall be exempt from the sanitary fee.
2. The sanitary fee shall not be charged at ports that do not have facilities to store all wastes.
37. Vessels that are equipped with environmentally protective equipment for complete utilization of all types of vessel's wastes and pollutants, and have an international certificate on prevention of sea pollution with oil, sewage, and certificate of prevention of pollution with (environmentally pure) garbage, shall be granted a 50 percent discount off the sanitary fee.
38. In the event that the sanitary fee is not collected, payments for contamination shall be governed by the Ministry of Transportation.

APPROVED BY

Resolution of the Cabinet of Ministers of Ukraine

Dated 12 October 2000, No. 1544

The List of Resolutions of the Cabinet of Ministers of Ukraine that became ineffective

1. Resolution of the Cabinet of Ministers of Ukraine, dated 18 April 1996, No. 442 "On Approval of the Regulation on Port Fees" (ZP of Ukraine 1996, No. 10, p. 302).
2. Resolution of the Cabinet of Ministers of Ukraine, dated 8 September 1997 No. 989 "On Introduction of Amendments to the Regulation on Port Fees approved by Resolution of the Cabinet of Ministers of Ukraine dated 18 April 1996, No. 442" (The Official Bulletin of Ukraine 1997, issue 37, p. 14).
3. Resolution of the Cabinet of Ministers of Ukraine, dated 8 December 1997 No. 1364 "On Amending the Regulation on Port Fees" (The Official Bulletin of Ukraine 1997 p., issue 50, p. 90).
4. Resolution of the Cabinet of Ministers of Ukraine, dated 10 June 1998, No. 847 "On Introduction of Amendments to Resolutions of the Cabinet of Ministers of Ukraine on Issues of Port Fees" (The Official Bulletin of Ukraine 1998 p., No. 23, p. 846).
5. Resolution of the Cabinet of Ministers of Ukraine, dated 24 March 1999, No. 445 "On Introduction of Amendments and Additions to the Regulation On Port Fees" (The Official Bulletin of Ukraine 1999 p., No. 12, p. 481).
6. Resolution of the Cabinet of Ministers of Ukraine, dated 19 October 1999, No. 1929 "On Amending the Regulation on Port Fees" (The Official Bulletin of Ukraine 1999, No. 42, p. 2104).
7. Resolution of the Cabinet of Ministers of Ukraine, dated 25 April 2000 No. 700 " On Introduction of Amendments and Additions to the Regulation On Port Fees" (The Official Bulletin of Ukraine 2000 p., No. 17, p. 716).

ANNEX 8

(with reference to Item 66)

Excise Taxes

Rates of Excise Tax and Import Duties on Certain Categories of Vehicles, Ethyl Alcohol, Alcoholic Beverages, Tobacco and Certain Commodities (Products)

1. In accordance with the Law of Ukraine of 24 May 1996 No. 216/96-BP On Rates of Excise Tax and Import Duties on Certain Categories of Vehicles, the following rates of excise tax have been fixed for vehicles:

HS Commodity Code	Description of Commodity according to HS	Rates of Excise Tax per Unit	
		Global	For Domestic Manufacturers
	Vehicles, with spark-ignition internal combustion reciprocating piston engine:		Domestic Manufacturer on condition of annual output of 1,000 automobiles or 1,000 motorcycles Until 1 January 2007
87.0321 100	Of a cylinders capacity not exceeding 1,000 cm ³ , new	Euro 0.2 per 1 cc	0
87.0321 90	Of a cylinders capacity not exceeding 1,000 cm ³ , used:		
87.0321 901	Up to 5 years inclusive	Euro 0.4 per 1 cc	0
87.0321 903	From 1 to 5 years	Euro 0.6 per 1 cc	0
87.0322 110	Of a cylinders capacity exceeding 1,000 cm ³ but not exceeding 1,500 cm ³ , new: motor caravans; other	Euro 0.2 per 1 cc	0
87.0322 190	Of a cylinders capacity exceeding 1,000 cm ³ but not exceeding 1,500 cm ³ , used;		
87.0322 90	Of a cylinders capacity exceeding 1,000 cm ³ but not exceeding 1,500 cm ³ , used;		
87.0322 901	Up to 5 years inclusive	Euro 0.4 per 1 cc	0
87.0322 903	Over 5 years	Euro 0.6 per 1 cc	0
87.0323 110	Of a cylinders capacity exceeding 1,500 cm ³ but not exceeding 2,200 cm ³ , new: motor caravans; other	Euro 0.3 per 1 cc	0
87.0323 190	Of a cylinders capacity exceeding 1,500 cm ³ but not exceeding 2,200 cm ³ , used;		
87.0323 110	Of a cylinders capacity exceeding 2,200 cm ³ but not exceeding 3,000 cm ³ , new: motor caravans; other	Euro 0.6 per 1 cc	0
87.0323 190	Of a cylinders capacity exceeding 2,200 cm ³ but not exceeding 3,000 cm ³ , used;		
87.0323 90	Of a cylinders capacity exceeding 1,500 cm ³ but not exceeding 2,200 cm ³ , used;		
87.0323 901	Up to 5 years inclusive	Euro 0.6 per 1 cc	0
87.0323 903	Over 5 years	Euro 0.9 per 1 cc	0
87.0323 90	Of a cylinders capacity exceeding 2,200 cm ³ but not exceeding 3,000 cm ³ , used:		
87.0323 901	Up to 5 years inclusive	Euro 1.2 per 1 cc	0
87.0323 903	Over 5 years	Euro 1.8 per 1 cc	0
87.0324 100	Of a cylinders capacity exceeding 3,300 cm ³ , new	Euro 1.0 per 1 cc	0

HS Commodity Code	Description of Commodity according to HS	Rates of Excise Tax per Unit	
		Global	For Domestic Manufacturers
87.0324 90	Of a cylinders capacity exceeding 3,000 cm ³ , used		
87.0324 901	Up to 5 years inclusive	Euro 2.0 per 1 cc	0
87.0324 903	Over 5 years	Euro 3.0 per 1 cc	0
	Other vehicles, with internal combustion engine (diesel or semi-diesel, that work on fuel with low-octane number)		0
87.0331 100	Of a cylinders capacity not exceeding 1,500 cm ³ , new	Euro 0.2 per 1 cc	0
87.0331 90	Of a cylinders capacity not exceeding 1,500 cm ³ , used:		
87.0331 901	Up to 5 years inclusive	Euro 0.4 per 1 cc	0
87.0331 903	Over 5 years	Euro 0.6 per 1 cc	0
87.0332 110	Of a cylinders capacity exceeding 1,500 cm ³ but not exceeding 2,500 cm ³ , new: motor caravans; other	Euro 0.3 per 1 cc	0
87.03 32 190			
87.03 32 90	Of a cylinders capacity exceeding 1,500 cm ³ but not exceeding 2,500 cm ³ , used		
87.0332 901	Up to 5 years inclusive	Euro 0.6 per 1 cc	0
87.03 32 903	Over 5 years	Euro 0.9 per 1 cc	0
87.0333 110	Of a cylinders capacity exceeding 2,500 cm ³ , new: motor caravans; other	Euro 0.8 per 1 cc	0
87.0333 190			
87.0333 90	Of a cylinders capacity exceeding 2,500 cm ³ , used		
87.0333 901	Up to 5 years inclusive	Euro 1.6 per 1 cc	0
87.0333 903	Over 5 years	Euro 2.4 per 1 cc	0
87.0390	Other (with electric motors, other)	Euro 100 per unit	0
87.0310	Vehicles specially designed for traveling on snow; golf cars and similar vehicles	Euro 0.6 per 1 cc	0
87.1140 000	Motor-cycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars, with a cylinder capacity exceeding 500 cm ³ but not exceeding 800 cm ³ ; exceeding 800cm ³ ; other	Euro 0.2 per 1 cc	0
87.1150 000			
87.1190 000			
87.1610 990	Trailers and semi-trailers, for housing, exceeding 3,500kg	100 per 1 cc	0

2. In accordance with the Law of Ukraine of 7 May 1996 No. 178/96-BP On Rates of Excise Tax and Import Duties on Ethyl Alcohol and Alcoholic Beverages as amended by the Law of Ukraine of 24 October 2002 No. 195-IV On Introducing Amendments to Certain Laws of Ukraine On Taxation, Manufacture and Circulation of Excisable Goods, the following excise tax rates have been established for Ethyl Alcohol and Alcoholic Beverages:

HS Commodity Code	Description of Commodity according to HS	Rates of Excise Tax per Unit	
		Global	For Domestic Manufacturers
2204 (except 2204 10, 2204 30, 2204 21 100, 2204 29 100)	Wine of fresh grapes, including fortified wines	UAH 0.8 per litre	UAH 0.25 per litre (codes 2204 21 210 – 2204 21290, 2204 29 210 – 2204 29 290) from 1 January 2003 until 1 January 2004 (applies to those manufactured from domestic raw materials)
2204 10	Sparkling wine, champagne:	UAH 1.6 per litre	UAH 1.6 per litre
	Sparkling wines containing in the name the word "Champagne"	UAH 1.6 per litre	UAH 1.6 per litre
2204 21 100 2204 29 100	Aerated wines (excluding sub-item 2204 10)	UAH 1.6 per litre	UAH 1.6 per litre
2204 30	Other wine must (including wine materials for cognac and champagne)	0	UAH 1.0 per litre of wine materials when sold to intermediaries and population, produced at primary production facilities until 01.01.2004
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances (with Article 2 of this Law been considered)	UAH 2.6 per litre	UAH 1.0 per litre from 1 January 2003 until 1 January 2004 (applies to those manufactured from domestic raw materials)
2206 2206 00 930, 2206 00 990	Other fermented beverages (for example, cider, perry, mead)	UAH 2.6 per litre	UAH 1.0 per litre from 1 January 2003 until 1 January 2004 (applies to fruit wines manufactured from domestic raw materials)

HS Commodity Code	Description of Commodity according to HS	Rates of Excise Tax per Unit	
		Global	For Domestic Manufacturers
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages	<p>UAH 17.4 per litre of 100 percent alcohol</p> <p>UAH 2.0 per litre of 100 percent alcohol:</p> <ul style="list-style-type: none"> - for use by health establishments and institutions in therapy processes and laboratory research; - for use in manufacture of explosives, perfumes, nitrocellulose, and half-finished products; - for manufacture of alcohol-containing juices, fruit drinks, extracts intended for industrial processing; - for use by manufacturers of pectin, alcohol vinegar, medicines (including blood components and preparations made on their basis), with the exception of medicinal drugs in the form of balsam; - for use by primary wine-making enterprises in manufacture of grape, fruit, and other wine materials and must - until 1 January .2005 for manufacture of products included in the list approved by the CMU 	<p>UAH 17.4 per litre of 100 percent alcohol</p> <p>UAH 2.0 per litre of 100 percent alcohol:</p> <ul style="list-style-type: none"> - for use by health establishments and institutions in therapy processes and laboratory research; - for use in manufacture of explosives, perfumes, nitrocellulose, and half-finished products; - for manufacture of alcohol-containing juices, fruit drinks, extracts intended for industrial processing; - for use by manufacturers of pectin, alcohol vinegar, medicines (including blood components and preparations made on their basis), with the exception of medicinal drugs in the form of balsam; - for use by primary wine-making enterprises in manufacture of grape, fruit, and other wine materials and must - until 1 January 2005 for manufacture of products included in the list approved by the CMU
2208 (except 2208 10 900 only cognac alcohol)	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages, alcoholic semi-products used in the manufacture of beverages (with Article 6 of this Law taken into consideration)	UAH 17.4 per litre of 100 percent alcohol	UAH 17.4 per litre of 100% alcohol
2208 10900	Only cognac alcohol (with Article 4 of this Law taken into consideration)	0	0

3. In accordance with the Law of Ukraine of 6 February 1996 No. 30/96-BP "On Rates of Excise Tax and Import Duties on Tobacco", the following excise tax rates have been established for tobacco products:

HS Commodity Code	Description of Commodity according to HS	Rates of Excise Tax per Unit	
		Global	For Domestic Manufacturers
2402 10 000	Cigars (cheroots), cigarillos (cigarettes), other	UAH 20 per 100	UAH 20 per 100
2402 20 001	Cigarettes without filters from tobacco	UAH 20 per 1,000	UAH 5 per 1,000
2402 20 002	Cigarettes with filter from tobacco	UAH 10 per 1,000	UAH 10 per 1,000
2403 10 000	Smoking tobacco (whether or not containing tobacco substitutes in any proportion)	UAH 10 per kg	UAH 10 per kg
2403 99 100	Chewing tobacco Snuff	UAH 10 per kg	UAH 10 per kg
2401	Unmanufactured tobacco Tobacco refuse	0	0
2403 (except 2403 99 100, 2403 10 000)	Other manufactured tobacco and manufactured tobacco substitutes	0	0

4. In accordance with the Law of Ukraine of 11 July 1996 No. 313/96-BP "On Rates of Excise Tax and Import Duties 'On Certain Commodities as amended by the Law of Ukraine of 24 October 2002 No. 195-IV On Introducing Amendments to Certain Laws of Ukraine On Taxation ,Manufacture and Circulation of Excisable Goods by the Law of Ukraine of 24 December 2002 No. 347-IV On Introducing Amendments to Certain Laws of Ukraine On Taxation of Excisable and Certain Other Commodities'", the following excise tax rates have been established for the commodities (products) listed below:

HS Commodity Code	Description of Commodity according to HS	Rates of Excise Tax per Unit	
		Global	For Domestic Manufacturers
2203 00	Malt beer	UAH 0.23 per litre	UAH .23 per litre
	Light oils and preparations:		
2710 00 110	For undergoing a specific process	Euro 12 per 1,000 kg	Euro 12 per 1,000 kg
2710 00 150	For undergoing chemical transformation by a process other than those specified in respect of subheading 2710 00 11	Euro 12 per 1,000 kg	Euro 12 per 1,000 kg
	Special spirits:		
2710 00 210	White spirit	Euro 12 per 1,000 kg	Euro 12 per 1,000 kg
2710 00 250	other	Euro 20 per 1,000 kg	Euro 20 per 1,000 kg
	Motor spirit:		

HS Commodity Code	Description of Commodity according to HS	Rates of Excise Tax per Unit	
		Global	For Domestic Manufacturers
2710 00 310	Aviation spirit	Euro 20 per 1,000 kg	Euro 20 per 1,000 kg
2710 00 370	Jet fuel	Euro 20 per 1,000 kg	Euro 20 per 1,000 kg
2710 00 390	Other light fractions	Euro 20 per 1,000 kg	Euro 20 per 1,000 kg
	Medium oils:		
2710 00 410	For undergoing a specific process	Euro 20 per 1,000 kg	Euro 20 per 1,000 kg
2710 00 450	For undergoing chemical transformation by a process other than those specified in respect of subheading 2710 00 410	Euro 12 per 1,000 kg	Euro 12 per 1,000 kg
	For other purposes:		
	Kerosene:		
2710 00 510	Jet fuel	Euro 12 per 1,000 kg	Euro 12 per 1,000 kg
2710 00 590	Other	Euro 20 per 1,000 kg	Euro 20 per 1,000 kg
2710 00 550			
2710 00 330	Only motor spirit containing not less than 5% of high-octane oxygen-containing agents A-76Ek, A-80Ek, A-92Ek, AI-93Ek, A-95Ek, A-98Ek	0	Euro 30 per 1,000 kg
2710 00 350			
2710 00 330	Motor spirit: A-72, A-76, A-80; A-90, A-91, A-92, AI-93, A-95, A-96, A-98 and other type motor spirit	Euro 60 per 1,000 kg	Euro 60 per 1,000 kg
2710 00 610	Heavy oils (diesel fuel)	Euro 30 per 1,000 kg	Euro 20 per 1,000 kg
2710 00 650			
2710 00 690			
7113	Jewelry	Excluded	Excluded
7114			

ANNEX 9

(with reference to Item 96)

List of The Ship Building Enterprises Receiving the Benefit of The State Support Measures for the Ship Building Industry

Name of the enterprise
Autonomous Republic of Crimea
Open Stock Holding Partnership (OSHP) "Shipbuilding Plant "Zaliv", Kerch City
Branch Enterprise OSHP "Shipbuilding Plant "Zaliv" – "Sudnoservice", Kerch City
OSHP "Feodosiya Shipbuilding Company "More"
State Enterprise "Skloplastyc", Feodosiya City
State Enterprise "Designers and Technological Bureau "Sudnocomposit", Feodosiya City
State Enterprise "Prymorets", Feodosiya City
OSHP "Fiolent Plant", Simferopol City
Mykolayiv Oblast
State Stock Holding Company "Chornomorsky Ship Building Plant", Mykolayiv City
OSHP "Shipbuilding Docks (shipyard) "Meridian", Mykolayiv City
OSHP "Chornomorsky Machine Building Plant", Mykolayiv City
OSHP "Painting and Isolation Enterprise "Raiduga", Mykolayiv City
State Enterprise "Ship Building Plant under the name of 61 Communars", Mykolayiv City
OSHP "Damen Shipyard Ocean", Mykolayiv City
OSHP "Mykolayiv Malotonnazshna Docks (shipyard)"
OSHP Ship Building Plant "Liman", Mykolayiv City
State Enterprise "Research and Production Complex Gas Turbo Construction "Zorya" – "Mashproekt", Mykolayiv City
OSHP "Mykolayiv Enterprise ERA", Mykolayiv City
OSHP "Equator" Plant", Mykolayiv City
State Research and Design Ship Building Center of Ukraine, Mykolayiv City
OSHP "Research and Development Institute of the Automated Systems and IT in the Ship Building", Mykolayiv City
Odessa Oblast
Kiliysky Ship Building & Ship Repairs Plant
Kherson Oblast
Kherson Ship Building Plant
Kherson State Plant "Palada"
Kherson State Plant for Ship Equipment
OSHP "Dniprovske Enterprise "ERA", Kherson City
Central Designers Bureau "Izumrud", Kherson City
Kyiv City
OSHP "Leninska Kuznya" Plant"
Branch Enterprise OSHP "Leninska Kuznya" Plant" – "Leninska Kuznya" Docks (Shipyard)"
Closed Stock Holding Partnership "Kyiv Ship Building & Ship Repair Plant"
Branch Enterprise of the OSHP "Dniprovske Enterprise "ERA" – "Kyivska "ERA"
Kyiv State Plant "Burevisnyk"
OSHP "Kyiv Petrovsky Plant of Automatic Tools"
Kyiv State Research & Production Complex "Slavutych"
Research & Development Institute "Kvant-Navigation"
OSHP "Central Designers Bureau "Shkhuna"
Sevastopol City
OSHP "Sevastopol Sea Plant"
Partnership "Sevmorsudnoremont"
Partnership "Ship Building & Ship Repair Plant "Lazarevske Admiralteistvo"
Partnership "Sevmorverf"

Name of the enterprise
Partnership "Sevmormash"
Partnership "Korabel"
OSH "Sevastopol Enterprise "ERA"
State Enterprise "Central Designers Bureau "Chornomorets"

ANNEX 10

(with reference to Items 162 and 166)

Supporting table DS:1

DOMESTIC SUPPORT: UKRAINE REPORTING PERIOD: Calendar years of 2000-2002

Measures exempt from the reduction commitment - "Green Box"

Measure type	Name and description of measure with reference to criteria in Annex 2 of the Agreement on Agriculture	Monetary value of measure in the relevant year								Data Sources
1	2	3								4
		2000 mln UAH	2000 US\$ mln eq.	2001 mln UAH	2001 US\$ mln eq.	2002 mln UAH	2002 US\$ mln eq.	00-02 Total US\$ mln eq.	00-02 average US\$ mln eq.	
	UAH/US\$ Exchange rate ¹²		5.4402		5.3721		5.3266			
a) general services	1. General research and development and product-specific research programs Annex 2, para. 2 (a) ¹³	74.1	13.6	73.1	13.6	112.5	21.1	48.3	16.1	Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy and in Ukrainian Academy of Agrarian Sciences
	2. Rural infrastructure development: water pipelines, sewerage systems & facilities, gas & power supply networks, roads, territorial planning Annex 2, para. 2(g),(e) ¹⁴	103.7	19.1	232.7	43.3	250.2	47.0	109.3	36.4	Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy, State Committee on Land, State Committee for Water Management; and Report on special revenues and their use Form No. 4-1 in State Committee on Land

¹² The calculations are based on the official exchange rate of the hryvnia to the US Dollar as set by the National Bank of Ukraine (annual average for 2000-2002). The data has been provided by the Currency Regulation Department of the National Bank of Ukraine. This data is also listed on the NBU's site (www.bank.gov.ua).

¹³ General research and development, and product-specific research programmes (Annex 2, paragraph 2 (a)) include budgetary allocations for the funding of research and practical development of exploratory and applied projects, of state, inter-sectorial and sectorial programmes scientific components of fundamental research by scientific institutions of both general nature and specific-product-related nature.

¹⁴ Rural infrastructure development (Annex 2, paragraph 2 (g)) includes the funding of major capital expenditures to construct water pipelines, sewerage systems and facilities, gas and power supply networks, personal service facilities, and territorial planning, State Budget's funding of infrastructure works related to environment protection programmes (creation and maintenance of inter-company state irrigation systems, creation of anti-erosion hydro-technical facilities and re-cultivation of damaged soils).

Measure type	Name and description of measure with reference to criteria in Annex 2 of the Agreement on Agriculture	Monetary value of measure in the relevant year								Data Sources
1	2	3								4
		2000 mln UAH	2000 US\$ mln eq.	2001 mln UAH	2001 US\$ mln eq.	2002 mln UAH	2002 US\$ mln eq.	00-02 Total US\$ mln eq.	00-02 average US\$ mln eq.	
	3. Agricultural plant pest & animal disease control Annex 2, para. 2(b) ¹⁵	41	7.5	39.5	7.4	37.2	7.0	21.9	7.3	Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy
	4. Experience dissemination & advisory services, including provision of means to facilitate transfer of information and research results to producers and consumers Annex 2, para. 2 (d) ¹⁶	8	1.5	10.2	1.9	17.4	3.3	6.6	2.2	Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy
	5. General inspection & specific product inspection services for purposes of health care, safety, grading or standardization Annex 2, para. 2(e) ¹⁷	65.3	12.0	85.6	15.9	175.6	33.0	60.9	20.3	Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy, in State Department for Veterinary Medicine
	6. Training, re-training and advanced training of experts and workers in production and social spheres of rural areas Annex 2, para. 2(e) ¹⁸	138.2	25.4	178.9	33.3	214.5	40.3	99.0	33.0	Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy and Ukrainian Academy of Agrarian Sciences
	7. Land reform: land market development, new legislation, land registry, cadastral survey, land titling, land quality mapping, extension ¹⁹	18.5	3.4	25.3	4.7	3.5	0.7	8.8	2.9	Report on performance of institution expenditure statement Form No. 2 for relevant year and Report on obtained subventions from other budgets Form No. 4-5 in State Committee on Land

¹⁵ Pest and disease control (Annex 2, paragraph 2 (b)) includes anti-epzootic measures and measures to control agricultural plant pests and diseases.

¹⁶ Experience dissemination and advisory services (Annex 2, paragraph 2 (d)) include maintenance of labour stations, plant protection stations providing advisory services to producers and disseminating information and also maintenance of advisory offices at local budget's cost.

¹⁷ General inspection and specific product inspection services for purposes of health care, safety, grading or standardisation (Annex 2, paragraph 2 (e)) include measures to maintain state veterinary medical institutions, State inspectorates for seeds, state variety-testing stations and state bread inspectorates.

¹⁸ Training, re-training and advanced training of experts and workers for production and social spheres of rural areas (Annex 2, paragraph 2 (c)) include maintenance of higher educational institutions of grade 1 and grade 2 accreditation, educational institutions of grade 3 and grade 4 accreditation, institutions of continuing (postgraduate) education of grade 3-4 accreditation (academies, institutes and centres for advanced training, re-training and professional development) and other educational institutions.

¹⁹ Land reform meets criteria of Annex 2, paragraph 2 "General Services", and includes the providing of services related to land reform implementation: development of new legislation related land issues, land registry, cadastral survey and land quality mapping.

Measure type	Name and description of measure with reference to criteria in Annex 2 of the Agreement on Agriculture	Monetary value of measure in the relevant year								Data Sources
1	2	3								4
		2000 mln UAH	2000 US\$ mln eq.	2001 mln UAH	2001 US\$ mln eq.	2002 mln UAH	2002 US\$ mln eq.	00-02 Total US\$ mln eq.	00-02 average US\$ mln eq.	
j) environmental programs ²⁰		54.1	9.9	52.9	9.8	16.5	3.1	22.9	7.6	Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy, Ministry of Forestry and State Committee for Water Management
k) regional assistance programs	not applied	2	0.4	1.1	0.2	0.5	0.1	0.7	0.2	
Total "Green Box"		504.90	92.81	699.30	130.17	827.90	155.43	378.41	125.91	

²⁰ This measure meets criteria listed in Annex 2, paragraph 12 of the WTO Agreement on Agriculture. The right to such payments is given under clearly determined governmental programmes for environment protection and depend on meeting specific conditions under the governmental programmes. The cost of the measure is estimated within expenses stated in the State Budget, in the section entitled "Environmental Protection". Expenses in "Environmental Protection" of the State Budget are calculated on the basis of measures provided for by environmental programmes approved under the existing procedure (in due course): "Protection and rational use of water resources", "Protection and rational use of soils", "Setting up of protective tree plantations and windbelts", "Preservation of nature reserves". Payments under Article "Protection and rational use of water resources" were used for protection against harmful effects by waters from agricultural lands and for anti-flooding measures. The setting up of protective tree plantations and windbelts is governed by Ukraine's Forestry Code No. 3852-XII dated 21 April 1994 and by Ukraine's law No. 1264-XII dated 25 May 1991 "On Protection of the Environment". Major regulatory documents governing the activities of the nature reserve-related institutions are Ukraine's law "On Nature Reserves of Ukraine" and the program for prospective development of nature reserve-related activities in Ukraine, approved by the Supreme Rada of Ukraine's (resolution) No. 177/94-BP dated 29 September 1994. Payments as to protection and rational use of soils include the funding for fundamental improvement of agricultural companies' soils. Soils fundamental improvement funds are used to lime acid soils and gypsum medium and supersalt soils and also individual salt parcels on salt-free soil fields. The state budget funds of this designation are directly allocated to agricultural companies on the basis of selection (competition) committees' decisions.

Supporting Table DS:4

DOMESTIC SUPPORT: UKRAINE
REPORTING PERIOD: calendar years of 2000-2002 (on average)

Calculation of the Total Aggregate Measurement of Support (AMS)

Description of Basic Products	Value of Production (Av. 2000-02) (m USD)	Maximum level de minimis support (1c = 1b x 0.05) (m USD)	Product-Specific AMS (from supporting tables DS:5 to DS:7) (m USD)	Product-Specific Measurements of Support (from supporting table DS:8) (m USD)	Non-Product- Specific AMS (from Supporting Table DS:9) (m USD)	Current Total AMS (aggregate) (5=2+3+4, if (2+3+4)>1c; otherwise 5=0.0) (m USD)	Comments (Col. 5 formulas apply to rows 1 to 15, row 19 only)
1a	1b	1c	2	3	4	5	
1. Wheat	1,214.2	60.71	2.0	0.0		0.0	
2. Barley	578.6	28.93	0.7	0.0		0.0	
3. Rye	88.0	4.40	0.1	0.0		0.0	
4. Maize	292.5	14.62	1.0	0.0		0.0	
5. Oats	57.0	2.85	0.03	0.0		0.0	
6. Buckwheat	41.0	2.05	0.04	0.0		0.0	
7. Pulses	73.7	3.69	0.05	0.0		0.0	
8. Sugar beets	347.6	17.38	204.1	0.0		204.1	
9. Cattle	725.0	36.25	38.8	0.0		38.8	
10. Pigs	879.8	43.99	10.0	0.0		0.0	
11. Poultry	318.0	15.90	6.2	0.0		0.0	
12. Sheep and goats	18.5	0.92	0.5	0.0		0.0	
13. Milk	1,427.1	71.35	60.5	0.0		0.0	
14. Hops	1.7	0.08	2.3	0.0		2.3	
15. Flax	2.6	0.13	0.7	0.0		0.7	
16. Total, 15 products	6,841.0					242.9	In col. 5, row 16 = sum (rows 1 to 15)
17. Other agricultural products	4,551.8						
18. All agricultural products	11,392.8	569.64			840.0	840.0	
19. Current Total AMS (aggregate)						1,082.9	In col.5, row 19 = row 16 + row 18

Supporting Table DS:5

DOMESTIC SUPPORT: UKRAINE
REPORTING PERIOD: calendar years of 2000-2002

Product-Specific Aggregate Measurements of Support: Market Price Support

Description of Basic Products	Calendar year	Measure type: minimum prices for sugar	Applied admin. price (national currency per ton)	Applied admin. price (USD/t)	External reference price (USD/t)	Eligible production (thousand t)	Assoc. levies (m USD)	Total market price support 8=((4a-5)*6)-7 (m USD)	Data Sources
1	2	3	4	4a	5	6	7	8	9
Sugar beets	2000		2,000	368	273	1552		146.9	Column 4: Minimum prices for sugar are set by: Ukrainian Cabinet of Ministers' Resolution No. 868 of 2 June 2000 "On some issues of state regulation of sugar production and sales"; Ukrainian Cabinet of Ministers' Resolution No. 201 of 1 March 2001 "Some issues of state regulation of production and sales of sugare made from 2001 harvest sugar beets"; Ukrainian Cabinet of Ministers' Resolution No.142 of 15 February 2002 "Some issues of state regulation of sugar production and sales"
	2001		2,370	441	301	1657		232.3	Column 5: External reference price is calculated based on the export price of 1 ton of white sugar according to data in White sugar, Paris Contract No.5, fob, European ports, London Monthly price for refined sugar (LIFFE), FAS/USDAReport: Sugar/World Markets and Trade
	2002		2,370	445	282	1430		233.0	Column 6: Production of sugar produced from sugarbeets, Ukrainian Statistical Yearbook's data for relevant years
	av. 2000-2002			417.9	285.3	1546.3		204.0	

Note:

External reference price is calculated based on the export price of 1 tonne of white sugar according to data in White sugar, Paris Contract No.5, fob, European ports, London Montly price for refined sugar (LIFFE), (FAS/USDAReport: Sugar/World Markets and Trade) adjusted to include transportation costs (freight) US\$28/tonne and handling costs US\$25/tonne. Annual price of sugar is the simple average of 12 monthly prices

DOMESTIC SUPPORT: UKRAINE
REPORTING PERIOD: calendar years 2000-2002

Product-Specific Aggregate Measurements of Support: Non-Exempt Direct Payments

Description of Basic Products	Calendar year	Measure type	Applied admin. price	External reference price	Eligible production	Total price-related direct payments		Other non-exempt direct payments (m US\$) ²¹	Associated duties or taxes (m US\$)	Total direct payments (10=7+8) m US\$	Data sources
1	2	3	4	5	6	7	8	8a	9	10	11
Cattle	2000	Subsidies for products sold to processing companies, using the VAT ²²				127.1		23.4		23.4	Report on purchases of livestock, poultry Form #11-ZAG of Ukraine's State Statistics Committee for relevant year, and Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy
	2001	Subsidies for large-weight grades + subsidies for products sold to processing companies, using the VAT ²³						40.4		40.4	
	2002	Subsidies for large-weight grades + subsidies for products sold to processing companies, using the VAT ¹¹						50.2		50.2	
	av. 00-02					203.9		38.0		38.0	
	2000	Total cattle								23.4	
	2001									40.4	
	2002									50.2	
	av. 00-02									38.0	
Poultry	2000	Subsidies for products sold to processing companies (using the VAT)				9.9		1.8		1.8	Report on purchases of livestock, poultry Form No. 11-ZAG of Ukraine's State Statistics Committee for relevant year
	2001					19		3.5		3.5	
	2002					57.0		10.7		10.7	
	av. 00-02					28.6		5.4		5.4	
	2000	Total poultry								1.8	
	2001									3.5	
	2002									10.7	
	av. 00-02									5.4	

²¹ The calculations are based on the official exchange rate of the Hryvnia to the US Dollar (2000-2002) as set by the National Bank of Ukraine (national average). The data has been provided by the Currency Regulation Department of the National Bank of Ukraine. This data is also listed on the NBU's site (www.bank.gov.ua).

²² According to Article 11.21 of Ukraine's Law No. 168 dated 3 April 1997 "On Value Added Tax", the whole sum of the VAT payable to the budget by processing companies of any legal structure for meat and meat products sold by them, shall be used exclusively to pay subsidies to agricultural producers for meat in live weight sold by them to processing companies.

²³ Extra payment for large-weight cattle grades is the extra payment due to agricultural producers of any legal structure, and to natural persons for cattle of larger weight grades sold by them to processing companies and procurement organizations for slaughter. These extra sums have been paid as follows: 45 kopeks for each kilogram of young cattle of dairy and combined breeds; 89 kopeks for each kilogram accepted live weight of young cattle of meat breeds and types. According to Article 11.21 of Ukraine's Law No. 168 dated 3 April 1997 "On Value Added Tax", the whole sum of the VAT payable to the budget by processing companies of any legal structure for meat and meat products sold by them, shall be used exclusively to pay subsidies to agricultural producers for meat in live weight sold by them to processing companies.

Description of Basic Products	Calendar year	Measure type	Applied admin. price	External reference price	Eligible production	Total price-related direct payments		Other non-exempt direct payments (m US\$) ²¹	Associated duties or taxes (m US\$)	Total direct payments (10=7+8) m US\$	Data sources
1	2	3	4	5	6	7	8	8a	9	10	11
Pigs	2000	Subsidies for products sold to processing companies (using the VAT) ¹¹					36	6.6		6.6	Report on purchases of livestock, poultry Form No. 11-ZAG of Ukraine's State Statistics Committee for relevant year
	2001						47.7	8.9		8.9	
	2002						57.0	10.7		10.7	
	av. 00-02						46.9	8.7		8.7	
	2000	Total pigs								6.6	
	2001									8.9	
	2002									10.7	
	av. 00-02									8.7	
Sheep & goats	2000	Subsidies for products sold to processing companies (using VAT) ¹¹					0.1	0.02		0.0	Report on purchases of livestock, poultry Form No. 11-ZAG of Ukraine's State Statistics Committee for relevant year
	2001						2.45	0.46		0.5	
	2002						0.2	0.04		0.0	
	av. 00-02						0.9	0.17		0.2	
Milk	2000	Subsidies for mil sold to processing companies (using VAT), and subsidies for environmentally safe milk ²⁴						41.7		41.7	Report on purchases of milk and dairy products Form No. 13-ZAG of Ukraine's State Statistics Committee, and Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy
	2001						381.25	71.0		71.0	
	2002						337.5	63.4		63.4	
	av. 00-02						315.1	58.7		58.7	
							UAH/\$	5.4402			
							UAH \$	5.3721			
							UAH/\$	5.3266			

²⁴ According to Article 11.21 of Ukraine's Law No. 168 dated 3 April 1997 "On Value Added Tax", the whole sum of the VAT payable to the budget by processing companies of any legal structure for meat and meat products sold by them, shall be used exclusively to pay subsidies to agricultural producers for meat in live weight sold by them to processing companies. Subsidies for environmentally safe milk. The sum of these subsidies payable to agricultural producers, shall be set based on the volume of products purchased by mile processing companies producing special products for baby nutrition (baby milk) and on the subsidy fixed at UAH240 per ton of environmentally safe milk.

DOMESTIC SUPPORT: UKRAINE
REPORTING PERIOD: calendar years of 2000-2002

Product-Specific Aggregate Measurements of Support: Other Product-Specific Support and Total Product-Specific AMS

Description	Calendar year	Measure type	Other product-specific budgetary outlays (m UAH)	Other product-specific budgetary outlays (m US\$) ²⁵	Other product-specific support (m US\$)	Associated fees/levies (m US\$)	Total other product-specific support (8=5+6-7) (m US\$)	Market price support (supporting table DS:5) (m US\$)	Non-exempt direct payments (supporting table DS:6) (m US\$)	Associated fees/levies (m US\$)	Total product-specific AMS (12=8+9+10) (m US\$)
1	2	3	4	5	6	7	8	9	10	11	12
Exchange rates			2000	5.4402	2001	5.3721	2002	5.3266			
1. Wheat	2000	State Program for Plant-Breeding (partial reimbursement for price of seeds) (Report on performance of institution expenditure statement Form No. 2 in Ukraine's Ministry of Agricultural Policy) for columns 4 and 5 ²⁶	9.80	1.80			1.80				1.80
	2001		19.00	3.54			3.54				3.54
	2002		3.10	0.58			0.58				0.58
	av. 00-02		10.63	1.97			1.97				1.97
2. Barley	2000	State Program for Plant-Breeding (for columns 4 and 5)	4.40	0.81			0.81				0.81
	2001		5.00	0.93			0.93				0.93
	2002		1.20	0.23			0.23				0.23
	av. 00-02		3.53	0.65			0.65				0.65
3. Rye	2000	State Program for Plant-Breeding (for columns 4 and 5)	0.70	0.13			0.13				0.13
	2001		0.70	0.13			0.13				0.13
	2002		0.10	0.02			0.02				0.02
	av. 00-02		0.50	0.09			0.09				0.09
4. Maize	2000	State Program for Plant-Breeding (for columns 4 and 5)	2.70	0.50			0.50				0.50
	2001		6.40	1.19			1.19				1.19
	2002		6.40	1.20			1.20				1.20
	av. 00-02		5.17	0.96			0.96				0.96
5. Oats	2000	State Program for Plant-Breeding (for columns 4 and 5)	0.20	0.04			0.04				0.04
	2001		0.20	0.04			0.04				0.04
	2002		0.10	0.02			0.02				0.02
	av. 00-02		0.17	0.03			0.03				0.03

²⁵ The calculations are based on the official exchange rate of the Hryvnia to the US dollar (2000-2002) as set by the National Bank of Ukraine (annual average). This data has been provided by the Currency Regulation Department of the National Bank of Ukraine. This data is also listed on the NBU's site (www.bank.gov.ua).

²⁶ Under the budget-funded State Program for Plant-Breeding, agricultural producers are partly reimbursed for variety surcharges in elite seeds bought by the producers. The funding is carried out in accordance with Ukraine's Law No. 3690 dated 15 December 1993 "On Seeds".

Description	Calendar year	Measure type	Other product-specific budgetary outlays (m UAH)	Other product-specific budgetary outlays (m US\$) ²⁵	Other product-specific support (m US\$)	Associated fees/levies (m US\$)	Total other product-specific support (8=5+6-7) (m US\$)	Market price support (supporting table DS:5) (m US\$)	Non-exempt direct payments (supporting table DS:6) (m US\$)	Associated fees/levies (m US\$)	Total product-specific AMS (12=8+9+10) (m US\$)
1	2	3	4	5	6	7	8	9	10	11	12
6. Buckwheat	2000	State Program for Plant-Breeding (for columns 4 and 5)	0.30	0.06			0.06				0.06
	2001		0.30	0.06			0.06				0.06
	2002		0.10	0.02			0.02				0.02
	av. 00-02		0.23	0.04			0.04				0.04
7. Pulses	2000	State Program for Plant-Breeding (for columns 4 and 5)	0.20	0.04			0.04				0.04
	2001		0.20	0.04			0.04				0.04
	2002		0.40	0.08			0.08				0.08
	av. 00-02		0.27	0.05			0.05				0.05
8. Sugar beets	2000	State Program for Plant-Breeding (for columns 4 and 5)	0.00	0.00			0.00	0.67			0.67
	2001		0.80	0.15			0.15	57.85			58.00
	2002		0.30	0.06			0.06	115.28			115.34
	av. 00-02		0.37	0.07			0.07	204.04			204.11
9. Cattle in live weight	2000	State Program for Livestock-Breeding (Report on performance of institution expenditure statement Form No. 2 in Ukraine's Ministry of Agricultural Policy) (for Column 4) ²⁷	2.60	0.48			0.48		23.36		23.84
	2001		5.10	0.95			0.95		40.42		41.37
	2002		4.70	0.88			0.88		50.22		51.11
	av. 00-02		4.13	0.77			0.77		38.00		38.77
10. Pigs in live weight	2000	State Program for Livestock-Breeding (for columns 4 and 5)	4.50	0.83			0.83		6.62		7.44
	2001		9.70	1.81			1.81		8.88		10.68
	2002		6.80	1.28			1.28		10.70		11.98
	av. 00-02		7.00	1.30			1.30		8.73		10.04
11. Poultry in live weight	2000	State Program for Livestock-Breeding (for columns 4 and 5)	3.30	0.61			0.61		1.82		2.43
	2001		6.70	1.25			1.25		3.54		4.78
	2002		3.90	0.73			0.73		10.70		11.43
	av. 00-02		4.63	0.86			0.86		5.35		6.21
12. Sheep and goats	2000	State Program for Livestock-Breeding (for columns 4 and 5)	1.20	0.22			0.22		0.02		0.24
	2001		2.20	0.41			0.41		0.46		0.87
	2002		1.80	0.34			0.34		0.04		0.38
	av. 00-02		1.73	0.32			0.32		0.17		0.49
13. Milk	2000	State Program for Livestock-Breeding (for columns 4 and 5)	7.30	1.34			1.34		41.65		42.99
	2001		11.90	2.22			2.22		70.97		73.18
	2002		10.70	2.01			2.01		63.36		65.37

²⁷ The funding is carried out under the Program No. 3691 dated 15 December 1993 "On Pedigree Livestock Breeding". Budgetary funds are used to partly reimburse expenses for the strengthening of the genetic potential of livestock and poultry, for the creation of one's own pedigree base, for biotechnological methods of herd and for purchases of sperm products.

Description	Calendar year	Measure type	Other product-specific budgetary outlays (m UAH)	Other product-specific budgetary outlays (m US\$) ²⁵	Other product-specific support (m US\$)	Associated fees/levies (m US\$)	Total other product-specific support (8=5+6-7) (m US\$)	Market price support (supporting table DS:5) (m US\$)	Non-exempt direct payments (supporting table DS:6) (m US\$)	Associated fees/levies (m US\$)	Total product-specific AMS (12=8+9+10) (m US\$)
1	2	3	4	5	6	7	8	9	10	11	12
	av. 00-02		9.97	1.86			1.86		58.66		60.52
14. Hops	2000	State support of hops products production. (Report on performance of institution expenditure statement Form No. 2 in Ukraine's Ministry of Agricultural Policy) ²⁸	7.59	1.40			1.40				1.40
	2001		11.35	2.11			2.11				2.11
	2002		17.73	3.33			3.33				3.33
	av. 00-02		12.22	2.28			2.28				2.28
15. Flax	2000	State Program for Support of flax products production (Report on performance of institution expenditure statement Form No. 2 in Ukraine's Ministry of Agricultural Policy) ²⁹	2.77	0.51			0.51				0.51
	2001		6.80	1.27			1.27				1.27
	2002		2.25	0.42			0.42				0.42
	av. 00-02		3.94	0.73			0.73				0.73

²⁸ The sum of funds used to support farms producing hop products is set based on calculated cost per 1ha of hop-gardens, but not more than UAH1,200 per 1ha of young and fruit-bearing hop plants, depending on hop plants' productivity. Assigned funds are used to buy suspension material and pest control means needed to produce hop products.

²⁹ Funds assigned under State Program for support of production of hop products are used to supply flax-growing farms with material and technical resources (seeds, plant production means, mineral fertilizers, equipment and other resources necessary for flax production, implementation of advanced production technologies in the flax sector).

Supporting Table DS:9

DOMESTIC SUPPORT: UKRAINE
REPORTING PERIOD: calendar years of 2000-2002

Non-Product-Specific AMS

Measure type	Calendar year	Non-product-specific budgetary outlays (in UAH)	Non-product-specific budgetary outlays (in US\$)	Other non-product-specific support (in UAH)	Other non-product-specific support (in US\$)	Associated fees/taxes (in US\$)	Total non-product-specific support (in US\$)	Data sources (6=3b+4b-5)
1	2	3a	3b	4a	4b	5	6	7
1. Partial reimbursement of price of complex domestic agricultural equipment ³⁰	2000	0.0	0.0		0.0			Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy and Report on revenues and use of other revenues from the special fund Form #4-3 for relevant year in Ukraine's Ministry of Agricultural Policy
	2001	0.0	0.0		0.0			
	2002	15.8	3.0		0.0			
	av. 00-02	5.3	1.0		0.0		1.0	
2. Partial reimbursement of loan interest rates from commercial banks with regard to privileged loans ³¹	2000	49.9	9.2		0.0			Report on performance of institution expenditure statement Form No. 2 for relevant year in Ukraine's Ministry of Agricultural Policy
	2001	157.1	29.2		0.0			
	2002	119.4	22.4		0.0			
	av. 00-02	108.8	20.3		0.0		20.3	

³⁰ Partial reimbursement of the price of the equipment is set at 30 per cent of the price for combine harvesters and tractors in accordance with the list and prices determined by Ukraine's Ministry of Agricultural Policy and agreed by the Inter-Departmental Expert Council on the determination of priorities in the manufacture of new equipment and hardware for agricultural producers, according to Ukraine's Cabinet of Ministers' Resolution No. 1030 dated 18 August 1997 "On Guidelines for Provision of the Agroindustrial Complex with Equipment".

³¹ Since 2000, budgetary funds have been used to financially support agroindustrial companies through the mechanism of cheaper loans from commercial banks by setting partial reimbursement of the rate on commercial banks' loans (reimbursement). For agricultural companies, funds are used to credit their own current production costs exclusively connected with purchases of seeds, feed, mineral fertilizers, plant protection means (pesticides), fuel and lubricants, spare parts for repairs of agricultural hardware and equipment, and also purchases of tractors, combine harvesters of all types and other agricultural hardware domestically produced (except for use of obtained loans to pay rents for the hardware received under financial leasing agreements). In 2000, the size of the reimbursement was 50 per cent of NBU discount rate on the day of signature of the loan agreement (but not less 17.5 per cent per annum). In 2001, the size of the reimbursement to agricultural producers was 70 per cent of NBU discount rate on the day of signature of the loan agreement, in accordance with Ukraine's Cabinet Ministers Resolution No. 59 dated 27 January 2001 "On Partial Reimbursement of the Rate on Commercial Banks' Loans Extended to Agricultural Producers". In 2002, the size of reimbursement to agricultural producers was up 70 per cent of the discount rate set by the National Bank of Ukraine, on the day of signature of the loan agreement (but not less than 10 per cent per annum), for loans in the Ukrainian national currency (the Hryvnia) and up to 5 per cent for foreign currency loans.

Measure type	Calendar year	Non-product-specific budgetary outlays (in UAH)	Non-product-specific budgetary outlays (in US\$)	Other non-product-specific support (in UAH)	Other non-product-specific support (in US\$)	Associated fees/taxes (in US\$)	Total non-product-specific support (in US\$)	Data sources (6=3b+4b-5)
1	2	3a	3b	4a	4b	5	6	7
3. Support to individual farmers ³²	2000	3.0	0.6		0.0			Report on performance of institution expenditure statement Form No. 2 for relevant year in Ministry of Agricultural Policy and Report on revenues and use of other revenues from the special fund Form #4-3 for relevant year in Ukraine's Ministry of Agricultural Policy
	2001	9.2	1.7		0.0			
	2002	4.2	0.8		0.0			
	av. 00-02	5.5	1.0		0.0		1.0	
4. Maintenance of young orchards ³³	2000	94.1	17.3		0.0			Report on revenues and use of the State budget's special fund Form No. 4-6 for 2000-2001 and Report on revenues and use of other revenues from the special fund Form No. 4-3 for relevant year in Ukraine's Ministry of Agricultural Policy
	2001	90.2	16.8		0.0			
	2002	117.9	22.1		0.0			
	av. 00-02	100.7	18.7		0.0		18.7	
5. Benefits of implementation of fixed agricultural tax (thanks to decreased tax burden) ³⁴	2000		0.0	1,494.0	274.6			Calculated on the basis of data from the State Tax Administration of Ukraine's preliminary reporting and annual accounting reports of Ukrainian agricultural companies
	2001		0.0	1,426.0	265.4			
	2002		0.0	1,365.0	256.3			
	av. 00-02		0.0	1,428.3	265.4		265.4	
6. Writing off budgetary loan advances during 1994-99 ³⁵	2000		0.0	0.0	0.0			Cabinet of Ministers of Ukraine's Order No. 186-p dated 3 April 2002
	2001		0.0	0.0	0.0			
	2002		0.0	129.0	24.2			
	av. 00-02		0.0	43.0	8.1		8.1	

³² Support to individual farms is provided in accordance with Ukraine's Law No. 2009 dated 20 December 1991 "On the Individual Farm" and Ukraine's Cabinet of Ministers Resolution No. 357 dated 13 April 2001 "On Use of Funds Assigned for the State Support of Individual Farms", and in order to ensure the implementation of the state policy of supporting individual farms and creation of stable financial conditions for their formation. The source of the financial support is the funds in the relevant years state budget assigned for the financial support of individual farms. Recipients of the budgetary funds are the Ukrainian State Fund for Support of Individual Farms and its divisions (branches) in the Autonomous Republic of Crimea and Oblasts (regions) which (divisions) distribute and transfer appropriate funds to individual farms.

³³ "Funding of starting and maintaining young orchards" budgetary program is funded by the special fund within the state budget (2000-2002).

³⁴ Under Ukraine's Law No. 320 dated 17 December 1998 "On Fixed Agricultural Tax", agricultural companies are entitled to the fixed agricultural tax which has replaced 12 taxes and duties (fees) effective prior to the implementation of the tax. When calculating (the size of) the benefit of the fixed agricultural tax for agricultural producers, sums of the fixed tax calculated in the relevant year (2000-2002) were compared to 1997 sum of calculated taxes and tax payments which were incorporated into the fixed tax. The year of 1997 is used as the basis for comparison when calculating the benefit of implementation of the fixed agricultural tax.

³⁵ According to Ukraine's Law No. 2237 dated 18 January 2001 "On Settlement of Debt for Budgetary Loans Extended to State-Owned and Other Agricultural Enterprises of all types of Ownership and of Economic Activity Through Servicing, Purchasing and Processing Agroindustrial Companies, and on Restructuring of Agroindustrial Processing Companies' Arrears in Taxes and Duties (Mandatory Payments)", sums owed by agricultural enterprises of all types of ownership and of economic activity as of 1 January 2000 for 1994-1999 budgetary loans, grain from the state resources and state reserves, used to purchase inputs for agricultural production, shall be decreased by UAH129 million.

Measure type	Calendar year	Non-product-specific budgetary outlays (in UAH)	Non-product-specific budgetary outlays (in US\$)	Other non-product-specific support (in UAH)	Other non-product-specific support (in US\$)	Associated fees/taxes (in US\$)	Total non-product-specific support (in US\$)	Data sources (6=3b+4b-5)
1	2	3a	3b	4a	4b	5	6	7
7. Writing off tax arrears ³⁶	2000		0.0	5,555.5	1,021.2			Certificate on written off tax arrears according to the State Tax Administration of Ukraine's preliminary data (records of tax payers' personal accounts) and according to the Pension Fund's day-to-day records
	2001		0.0	774.3	144.1			
	2002		0.0	104.6	19.6			
	av. 00-02		0.0	2,144.8	395.0		395.0	
8. Accumulation of VAT for purchases of inputs for agricultural production ³⁷	2000		0.0	117.1	21.5			The State Tax Administration of Ukraine's Report No. 1-n on actual sums of taxes, duties (mandatory payments) paid to the budgets and other special-purpose funds (as reference only)
	2001		0.0	582.4	108.4			
	2002		0.0	1,393.3	261.6			
	av. 00-02		0.0	697.6	130.5		130.5	
Total, all types of support	cep. 00-02						840.0	
					2000	UAH/\$	5.4402	
					2001	UAH/\$	5.3721	
					2002	UAH/\$	5.3266	

³⁶ In 2000, agricultural producers' tax arrears were written off in accordance with Article 1 of Ukraine's Law No. 1565 dated 16 March 2000 "On Writing Off Tax Payers' Arrears in Taxes and Duties (Mandatory Payments) in Connection with the Reforming of Agricultural Companies". Written off were arrears in taxes and duties (mandatory payments) to budgets of all levels, including arrears in penalties, fines and financial sanctions calculated and imposed under legislation existing as of 1 May 2000. In 2001, tax arrears were written off in accordance with Article 1 of Ukraine's Law No. 2239 dated 18 January 2001 "On Amendments to Ukraine's Law 'On Writing off Tax Payers' Arrears in Taxes and Duties (Mandatory Payments) in Connection with the Reforming of Agricultural Companies'". In 2002, tax arrears were written off in accordance with Article 18 of Ukraine's Law No. 2181 dated 21 December 2000 "On Procedure for Tax Payers' Discharge from Obligations to Budgets and State Special-Purpose Funds". In 200, agricultural producers' arrears in contributions to the Pension Fund were written off in accordance with Article 1 of Ukraine's Law No. 1565 dated 16 March 2000, in 2001 – according to Article 18 of Ukraine's Law No. 2181 dated 21 December 2000. In 2000, agricultural producers' arrears in contributions to the Fund of Social Insurance against temporary disability were written off according to Article 1 of Ukraine's Law No. 1565 dated 16 March 2000, in 2001-2002 – according to Articles 18-19 of Ukraine's Law No. 2181 dated 21 December 2000.

³⁷ The VAT is accumulated in accordance with Article 11.29 of Ukraine's Law No. 168 dated 3 April 1997 "On Value Added Tax". Under Article 11.29, agricultural companies are exempt until 1 January 2004, from the VAT on sales of products (work, services) of their own production, including products (except for products subject to excise duty) produced from their own agricultural raw materials under give-and-take arrangements, except for sales of milk and meat in live weight to processing companies of agricultural producers irrespective of legal structure and ownership type, in which the sum obtained from the sale of agricultural products of own productions and processed products for the previous reporting (fiscal) year, is not less than 50 per cent of the enterprises total gross income. Under the procedure approved by Ukraine's Cabinet of Ministers Resolution No. 271 dated 28 February 1999 (as worded in Ukraine's Cabinet of Ministers Resolution No. 374 dated 23 April 2001), the rest (balance) of tax obligations according to the return (declaration) on the VAT as to sold products (work, services) of own production, including products (except for products subject to excise duty) produced from their own agricultural raw materials under give-and-take arrangements, that is the difference between the VAT sum obtained by agricultural producers from buyers, and the VAT sum paid by them to suppliers, shall be transferred by agricultural producers from the current account into a separate account with the time-period set for the transfer of the VAT sum to the budget. The stated separate account must be opened by the agricultural producer within one reporting period. The rest (balance) of the tax credit according to the mentioned declaration, that is the negative difference between the VAT sum obtained by agricultural producers from buyers and the VAT sum paid by them to suppliers, shall be allocated to agricultural producers in order for the next reporting periods' tax obligations to be decreased. Funds transferred by agricultural producers into the separate account shall be used by them to purchase inputs for agricultural production. The funds shall be recovered by the state budget under the mandatory (un-contestable) procedure in case of their non-targeted use.

Working Table 1

VALUE OF UKRAINIAN AGRICULTURAL PRODUCTION IN 2000-2002

Product description	Year	Production thousand ton	Price UAH/ton	Price US\$/ton	Value in US\$ ³⁸ (3x5)/1000	Comments
1 ³⁹	2 ⁴⁰	3 ⁴¹	4 ⁴²	5	6	7
Exchange rates (UAH/US\$)	2000	5.4402	2001	5.3721	2002	5.3266
1. Wheat	2000	10,197	487	89.5	912.8	
	2001	21,348.4	386	71.9	1,533.9	
	2002	20,555.6	309.9	58.2	1,195.9	
	av. 00-02	17,367		73.2	1,214.2	
2. Barley	2000	6872	374.2	68.8	472.7	
	2001	10,185.7	354.1	65.9	671.4	
	2002	10,363.8	304.2	57.1	591.9	
	av. 00-02	9141		63.9	578.6	
3. Rye	2000	968.3	468.8	86.2	83.4	
	2001	1,822.5	342	63.7	116.0	
	2002	1,511.2	227.7	42.7	64.6	
	av. 00-02	1434		64.2	88.0	
4. Millets	2000	426.1	349.9	64.3	27.4	
	2001	266.5	305.9	56.9	15.2	
	2002	111.5	273.7	51.4	5.7	
	av. 00-02	268		57.5	16.1	
5. Maize	2000	3848	386.4	71.0	273.3	
	2001	3,640.7	454.4	84.6	307.9	
	2002	4,180	377.4	70.9	296.2	
	av. 00-02	3,890		75.5	292.5	
6. Oats	2000	881.4	345.6	63.5	56.0	
	2001	1,115.7	326.9	60.9	67.9	
	2002	943	266.8	50.1	47.2	
	av. 00-02	980		58.2	57.0	

³⁸ The calculations are based on the official exchange rate of the Ukrainian Hrynia to the US dollar (2000-2002) as set by the National Bank of Ukraine (annual average). This data has been provided by the Currency Regulation Department of the National Bank of Ukraine. This data is also listed on the NBU's site (www.bank.gov.ua).

³⁹ Ukraine's Statistical yearbook for 2000-2002, "Harvested areas, Yield, Gross quantities of crops harvested" "Livestock production" - statistical annual reports of the State Statistics Committee of Ukraine

⁴⁰ Prices for agricultural products sold by producers, according to the State Statistics Committee of Ukraine

⁴¹ Calculation

⁴² Calculation

Product description	Year	Production thousand ton	Price UAH/ton	Price US\$/ton	Value in US\$ ³⁸ (3x5)/1000	Comments
1 ³⁹	2 ⁴⁰	3 ⁴¹	4 ⁴²	5	6	7
7. Buckwheat	2000	480.6	748	137.5	66.1	
	2001	387.6	532.5	99.1	38.4	
	2002	209.4	470.2	88.3	18.5	
	av. 00-02	359		108.3	41.0	
8. Rice	2000	89.7	706.6	129.9	11.7	
	2001	68.9	653.7	121.7	8.4	
	2002	75.4	775.8	145.6	11.0	
	av. 00-02	78		132.4	10.3	
9. Pulses	2000	652	575	105.7	68.9	
	2001	827.3	529.6	98.6	81.6	
	2002	809.5	465.2	87.3	70.7	
	av. 00-02	763		97.2	73.7	
10. Sunflower seeds	2000	3457	522.6	96.1	332.1	
	2001	2,250.6	783.2	145.8	328.1	
	2002	3,270.5	843.7	158.4	518.0	
	av. 00-02	2,993		133.4	392.7	
11. Sugar beets	2000	13,199	121.5	22.3	294.8	
	2001	15,574.5	139.1	25.9	403.3	
	2002	14,452.5	127.1	23.9	344.9	
	av. 00-02	14,409		24.0	347.6	
12. Cattle in live weight	2000	1,316	2,949.3	542.1	713.4	
	2001	1,102.5	3,940.29	733.5	808.7	
	2002	1,191.3	2,918.8	548.0	652.8	
	av. 00-02	1,203.2		607.9	725.0	
13. Pigs in live weight	2000	947.8	4,580.85	842.0	798.1	
	2001	820.2	6,805.97	1,266.9	1,039.1	
	2002	834.8	5,119.3	961.1	802.3	
	av. 00-02	867.6		1,023.3	879.8	
14. Poultry in live weight	2000	262.7	5,739.84	1,055.1	277.2	
	2001	326.1	5,577.39	1,038.2	338.6	
	2002	401	4493.4	843.6	338.3	
	av. 00-02	329.9		979.0	318.0	
15. Sheep and goats	2000	38.8	1,769.7	325.3	12.6	
	2001	34.6	2,986.2	555.9	19.2	
	2002	37.3	3,372.8	633.2	23.6	
	av. 00-02	37		504.8	18.5	

Product description	Year	Production thousand ton	Price UAH/ton	Price US\$/ton	Value in US\$ ³⁸ (3x5)/1000	Comments
1 ³⁹	2 ⁴⁰	3 ⁴¹	4 ⁴²	5	6	7
16. Milk	2000	12,657.9	562.33	103.4	1,308.4	
	2001	13,444.2	613.94	114.3	1,536.4	
	2002	14,142	541	101.6	1,436.3	
	av. 00-02	13,415		106.4	1,427.1	
17. Eggs, pieces	2000	8,808.6	195.8	36.0	317.0	
	2001	9,668.2	215.56	40.1	387.9	
	2002	11,309	168.1	31.6	356.9	
	av. 00-02	9,929		35.9	354.0	
18. Wool (as pure fibres)	2000	3.4	3,711	682.1	2.3	
	2001	3,266	5,123	953.6	3.1	
	2002	3,392	3,053	573.2	1.9	
	av. 00-02	3		736.3	2.5	
19. Hops	2000	0.7	15,697.4	2,885.4	2.0	
	2001	0.7	14,469.2	2,693.4	1.9	
	2002	0.5	12,500	2,346.7	1.2	
	av. 00-02	1		2,641.9	1.7	
20. Flax	2000	8.3	1,205.5	221.6	1.8	
	2001	12.3	1,394.8	259.6	3.2	
	2002	11.0	1325	248.8	2.7	
	av. 00-02	11		243.3	2.6	
	2000				6,032.1	
	2001				7,710.3	
	2002				6,780.7	
Total, main products	av. 00-02				6,841.0	
Other agricultural products	2000				3,941.6	
	2001				4,407.9	
	2002				5,305.9	
	av. 00-02				4,551.8	
Total agricultural products	2000			54,259.0	9,973.7	
	2001			65,100.0	12,118.2	
	2002			64,380.0	12,086.5	
	av. 00-02			61,246.3	11,392.8	

ANNEX 11

(with reference to Item 169)

Memorandum on the Protection of Intellectual Property Rights in Ukraine

(as of 30 April 2003)

As of this date, Ukraine has put in place the essentials required to assure the safeguarding of rights to protection of intellectual property, and moral and material interests arising in connection with various types of intellectual activities: a modern-day normative and legal framework has been developed in the field of intellectual property; and a functional infrastructure has been created providing for the implementation of state policies in the field.

- Improvements to the Normative and Legal Framework

Legal relations in the field of intellectual property in Ukraine are regulated by certain provisions of the Ukrainian Constitution, the norms of the Civil Code of Ukraine, the Criminal Code of Ukraine, the Commercial Procedural Code of Ukraine, the Customs Code of Ukraine, the Code of Ukraine on Administrative Violations, the procedural codes, and norms of certain individual laws.

Altogether, ten special laws on intellectual property are currently in force in Ukraine. Our country is party to 18 current multilateral international accords in the field. Legal relations pertaining to the protection of intellectual property rights are also regulated by about a hundred normative by-laws.

The national normative and legal framework has been undergoing steady development and improvement. The introduction of changes to current legislation is required in connection with the need for Ukraine to discharge its obligations arising from the international agreements to which Ukraine is already a party or to which it intends to accede. These days, Ukraine does its best to make possible its accession to WTO and integration into the European Union. The process implies the need to fully harmonize the national legislation with TRIPS requirements, and to introduce effective enforcement measures for intellectual property rights protection.

The last two years were a period of particularly intensive improvement of the normative and legal framework. During 2001 – 2002, the Criminal Code of Ukraine was adopted, and amendments were introduced to the Code of Ukraine on Administrative Violations. Norms were added to the two Codes specifically intended to reinforce criminal and administrative liability for violations of intellectual property rights. During 2002 – 2003, the Supreme Rada of Ukraine approved the Civil Code of Ukraine containing a separate Book entitled "Intellectual Property Law", as well as the Commercial and Customs Codes of Ukraine. The norms of these codes related to legal protection of intellectual property are fully in compliance with international standards.

To deal with the issue of "piracy" in the field of copyright and related rights, the Law of Ukraine "On the Specifics of State Regulation of the Activities of Economic Subjects Related to the Production, Export and Import of Discs Intended for Laser-Readable Systems" was adopted in 2002; amendments were introduced to the Law of Ukraine "On Copyright and Related Rights"; fourteen resolutions were adopted by the Cabinet of Ministers of Ukraine introducing effective means for prevention of manufacture and distribution of counterfeit products.

On the whole, during the last two years Ukraine has made significant steps forward in improving its national legislation on intellectual property. During the period, six laws pertaining to intellectual property were approved, as well as five laws on accession to essential international

accords in the field and several dozens of by-laws. In April 2001, the President of Ukraine issued the decree "On Measures to Protect Intellectual Property in Ukraine". In June 2002, the Cabinet of Ministers of Ukraine approved the "Concept for the Development of the National System of Intellectual Property Protection".

As of today, five important draft laws on matters of intellectual property protection are under consideration at the Supreme Rada of Ukraine, namely:

- "On Introducing Amendments to Certain Legislative Acts of Ukraine on Legal Protection of Intellectual Property" (to attain compliance with the provisions of TRIPS) of 18 June 2002 No. 1238, approved in first reading on 28 November 2002 and recommended for approval in second reading and as a whole by the Supreme Rada of Ukraine's Committee for Science and Education;
- "On Introducing Amendments to the Law of Ukraine "On Distribution of Audiovisual Works and Phonogram Samples"" of 3 July 2002 No. 1297, approved in first reading on 6 February 2003;
- "On Introducing Amendments to Certain Legislative Acts of Ukraine on Intellectual Property" (pertaining to copyright and related rights) of 3 July 2002 No. 1296;
- "On Introducing Amendments to the Law of Ukraine "On Property" of 26 July 2002 No. 2030, approved in first reading on 6 March 2003;
- "On Introducing Amendments to Certain Legislative Acts of Ukraine" (pertaining to licensing and supervision over the export and import of discs intended for laser-readable systems) of 24 February 2003 No. 3155.

Upon the adoption by the Supreme Rada of Ukraine of the draft Law "On Introducing Amendments to Certain Legislative Acts of Ukraine on Legal Protection of Intellectual Property" the national legislation in the field of intellectual property will be brought in complete compliance with TRIPS norms.

- The Implementation of Organizational and Legal Mechanisms Intended for the Protection of Intellectual Property Rights

During the last two years, our country implemented effective measures aimed at assuring protection of intellectual property rights fully in line with the international requirements and standards. This is particularly true in respect to fighting violations in the field of copyright and related rights. Following the signing in May 2000 of the Ukrainian-American Joint Program of Action on Combatting Illegal Production of Optical Carriers of Information, combatting piracy assumed all characteristics of state policy. The speedy adoption of the relevant Ukrainian laws, the Cabinet of Ministers Resolutions, and other normative and legal acts permitted the creation of the necessary legal environment and the introduction of effective mechanisms for the implementation of legal norms imposing tougher penalties for violations of intellectual property rights and providing for the prevention of manufacture and distribution of counterfeit products.

One of the significant organizational mechanisms for the implementation of such legal norms is the assurance of supervision over the compliance with legal norms in the field of intellectual property covering the entire Ukrainian territory.

To achieve this, a joint "Agreement on Cooperation in the Field of Assigning SID Codes of Ukraine" has been signed by the State Department of Intellectual Property, the International Federation of Phonogram Industry (IFPI), and Philips company, in accordance to which the State Department received a package of SID codes for assignment to Ukrainian manufacturers of discs for laser-readable systems. In 2002, the state control of illicit production and sale of counterfeit products in Ukrainian territory was intensified as evidenced by active check-ups of the activities of economic

subjects in the field of intellectual property, the institution of criminal proceedings, and the withdrawal of illicit audio cassettes and discs for laser-readable systems.

In order to assure systematic state supervision over the compliance of economic subjects with the requirements of legislation on intellectual property, a special subdivision of state inspectors for matters of intellectual property has been formed within the State Department of Intellectual Property. State inspectors undertake measures to prevent the manufacture and distribution in the Ukrainian territory of counterfeit products, primarily of discs for laser-readable systems. They function in all Ukrainian regions undertaking both routine and surprise inspections. Based on the results of an inspection, a state inspector may draw up a report of administrative offence. The work of state inspectors for matters of intellectual property is closely concerted with the activities of law-enforcement and supervisory bodies: the Ministry of Internal Affairs, the State Tax Administration, and the State Customs Service.

In 2002, the State Department closely attended to the build-up of the enforcement infrastructure. A state enterprise, the "Intelzakhyst", was created charged with performing the activities related to the improvement of protection provided for the rights to audiovisual works and phonograms in accordance with the Laws of Ukraine "On Copyright and Related Rights" and "On Distribution of Audiovisual Works and Phonogram Samples". The main purpose of the state enterprise "Intelzakhyst" has been to back up the process of issuing control marks and to maintain the Integrated Register of control mark recipients. Albeit the function is not new for the system as a whole, the advancement of specialization in the field has already yielded tangible results: radically new control marks have been introduced, and mark recipients are being registered. As of this day, over eight million marks have been issued.

Assuring effective judicial protection of intellectual property rights is a major issue. In accordance with the President of Ukraine's decree, work has been going on to institute in Ukraine a specialized Patents Court. The Ukrainian Constitution and the Law of Ukraine "On the Judiciary of Ukraine" provide the legal framework for the existence of such a court.

The first important step along this path, in our opinion, was the establishment in 2002 of a special board of justices of the Supreme Commercial Court of Ukraine charged with considering cases on protection of intellectual property rights, and of similar boards within commercial courts of the Autonomous Republic of Crimea, of oblasts, and of the cities of Kiev and Sevastopol, as well as of commercial courts of appeal. Time is ripe for the next step: to create specialized chambers for matters of intellectual property at the Supreme Commercial Court of Ukraine and the Commercial Courts of Appeal.

In addition, the State Department is currently working actively on preparing the ground for the creation of a scientific-research institution to carry out forensic examination of intellectual property objects, to be attached to the Ministry of Justice of Ukraine.

Accounting for the political, economic, and social significance of assuring the compliance with current legislation in the field of copyright and related rights as applied to software, the Cabinet of Ministers of Ukraine approved by its order of May 2002 a Concept for Legitimizing Software and for Combating Illicit Use of Software.

The Concept provides for:

- Legalization of software;
- Combating illegal use of software; and
- Developing the national software industry.

Active measures are being taken at present to implement the provisions of the Concept.

In compliance with the norms of the Customs Code of Ukraine and in execution of the Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Regulations on the Procedure for the Registration and Transition across the Customs Border of Ukraine of Goods Containing Intellectual Property Objects", an efficient mechanism was introduced in 2002 for monitoring the transition across the customs border of Ukraine of such goods as are covered by intellectual property rights. Such check-ups are carried out in response to a right holder's submission, in conformance with TRIPS requirements.

In accordance with the provisions of the Law of Ukraine "On Protection Against Unfair Competition", the administrative protection of intellectual property rights is provided by the Antimonopoly Committee of Ukraine which possesses an extensive network of regional representative offices.

Today, any legal entity or physical person in Ukraine which is a holder of intellectual property rights, is able to receive effective protection of those rights, either through administrative or in judicial procedures, upon addressing an appeal to the appropriate administrative bodies or to court.

Such competent bodies are:

- The State Department of Intellectual Property;
 - The Antimonopoly Committee of Ukraine;
 - The Ministry of Internal Affairs of Ukraine;
 - The State Customs Service of Ukraine;
 - The State Tax Administration of Ukraine;
 - The State Committee of Ukraine for Matters of Technical Regulation and Consumer Policies; and
 - Courts of general jurisdiction.
- Statistical Information on Combating Offences in the Field of Intellectual Property

The most wide-spread offences in the field of copyright and related rights are:

- Manufacture and distribution of counterfeit products and copies of audiovisual works and phonograms;
- Duplication and distribution of unlicensed computer software; and
- Manufacture, export, and import of discs for laser-readable systems.

In the realm of industrial property, the most common offences are manufacture and distribution of counterfeit products involving illegal use of marks for goods and services and commercial (company) names of well-known national and foreign producers.

During 2000 – 2002, the Ministry of Internal Affairs of Ukraine uncovered the following number of violations in the field of intellectual property:

- In 2000: 4,600;
- In 2001: 4,500; and
- In 2002: 4,003.

Number of prosecutions:

- In 2000: 190;
- In 2001: 305; and
- In 2002: 421.

Counterfeit products impounded for a total amount of:

- In 2000: UHR 4.2 million;
- In 2001: UHR 10 million; and
- In 2002: UHR 7 million.

During 2002, the Ministry of Internal Affairs' units carried out inspections at over 12,000 commercial entities operating in the field of intellectual property. Operation was terminated of 111 "underground" production facilities engaged in manufacture of counterfeit products, of which 81 manufactured counterfeit products aggravated by illegal use of trade marks of known producers. One such "underground" entity duplicated counterfeit CDs with computer software for subsequent distribution via an extensive illegal distributor network. The law-enforcers impounded seven computers, 66 information-recording devices, 28 thousand blank CDs, and seven thousand counterfeit CDs worth over UHR 350,000. A criminal case was commenced citing violation of Article 176 of the Criminal Code of Ukraine.

Legal proceedings have been instituted and investigation is underway in connection with the organization of an "underground" facility bottling counterfeit mineral water "Truskavetska".

Customs bodies impounded the following numbers of discs for laser-readable systems:

- In 2000: 16,500 units
- In 2001: 36,000 units
- In 2002: about 50,000 units.

Special operations were conducted ("Compact-disc", "Kordon" (Border), "Kanal" (Channel), "Kiltse" (Ring), "Potyah" (Train), "Lazerniy Dysk" (Laser disc), and "Intelлект").

As of today, a normative-legal framework has been established in Ukraine compliant with international standards in the field of intellectual property, and implementation has been assured of mechanisms for the enforcement of legal norms on protection of intellectual property rights, on a par with the economically advanced countries.

A right holder is guaranteed full capability to exercise his/her right to administrative or judicial protection, by means of appealing to the appropriate state executive bodies or to court.

Ukraine is making every effort to achieve further improvement of relevant legislation and of mechanisms for implementation thereof, and to steadily introduce further measures aimed at intensifying the fight against violations of intellectual property rights.

ANNEX 12

(with reference to Item 173)

The Application of the Free Trade Agreements

No.	Country	Date of coming into effect of the agreement	Exception from the free trade regime (Commodity Coding of the Foreign Economic Activity)
1	Azerbaijan	26 December 1996	
2	Belarus	17 December 1992	Export duty applies to: Young live cattle (0102 90100) Heifers (0102 90310) Cows (0102 90330) Bulls (0102 90350) Oxen (0102 90370) Others (0102 90370) Live sheep (0104 10) Hides of cattle (4101) Hides of sheep (4102) Hides of pigs (4103 90000) Export and import duty applies to white sugar.
3	Armenia	18 December 1996	
4	Georgia	6 June 1996	
5	Kazakhstan	19 October 1998	Export duty applies to Live cattle (0102 90100) Heifers, cows, bulls, oxen and others (0102 90310 – 0102 90900) Live sheep (0104 10)
6	Kyrgyzstan	31 December 1997	
7	Moldova	27 May 1996	White sugar (1701 and 1702)
8	Russian Federation	29 March 1994	Export duty applies to: Live cattle, raw hides, sunflower seeds and scrap of non-ferrous metals. Goods subject to the import duty: 1701 99 1000, 1704 90 3000, 1704 90 7100, 1704 90 7500, 1704 90 8100, 1806 31 000, 1806 32 900, 1905 30 1900; Cigars, cigarillos and cigarettes made of tobacco and its substitutes (2402)
9	Tajikistan	11 July 2002	
10	Turkmenistan	18 December 1996	
11	Uzbekistan	1 January 1996	
12	Estonia	14 March 1996	
13	Latvia	15 January 1997	Goods of commodity groups 1-24 of the Ukrainian Commodity Coding of the Foreign Economic Activity.
14	Lithuania	21 November 1995	0201-02050; 02071011-02072390; 02073911-02073925; 02073931-02073947; 02073953-02073983; 02074110-02074171; 02074210-02074271; 02074311-02074381; 03053011-03053019; 03054930-03054990; 03055930; 0401-04022199; 04022915-0404; 0406; 0405; 0407-0408; 0409; 0410; 0701; 07020090; 07070019; 08081010; 08081091; 08094011; 08101010; 100190-1008 (крім 1005); 1101-1102; 1107; 1501-1503; 1601-1602; 1701; 1704; 180620-180690; 190510-19059020; 19059040-19059090; 2001-2104; 2106; 2201-2202; 2203; 22041011-22042110; 22042910; 2207-2208; 2402
15	Former Yugoslav Republic of Macedonia	18 January 2001	Goods of commodity groups 1-24. The gradual reduction of customs tariffs applies to the following tariffs: 57, 61, 62, 63, 85.28 20710, 85.28 20730, 85.28 20790, 85.28 20910, 85.28 20990