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Additional Questions and Replies

Addendum

The Governmental Commission on Ukraine's Accession to the WTO has provided the replies reproduced hereunder to the questions submitted by delegations concerning document WT/ACC/UKR/23.

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Technical Barriers to Trade

General issues

Question 1

Please provide an in-depth description of the laws mentioned in doc. UKR/23 and the rational behind the laws.

Answer:

The legislative base of mandatory certification system is:

- Law of Ukraine "On Foreign Economic Activity" of 16 April 1996 No. 959-XII.
- Law of Ukraine "On Protection of Consumers' Rights" of 15 December 1993 No. 3682-XII (Articles 16,18);
- Law of Ukraine "On Providing of Sanitary and Epidemical Well-being of Population" of 24 February 1994 No. 4004-XII (Articles 14,17);
- Law of Ukraine "On Labor Protection" of 14 October 1992 No. 2695-II (Articles 24,33,34);
- Law of Ukraine "On Energy-saving" of 01 July 1994 No. 74/94-SR (Section III, Articles 18,19);
- Law of Ukraine "On Traffic" of 28 January 1993 (Section V, Articles 29,30,31);
- Law of Ukraine "On Pesticides and Agrochemicals" of 02 March 1995 No. 86/95-SR (Section II, Articles 4-8);
- Law of Ukraine "On Fire Safety" of 17 December 1993 No. 3745-sU (Articles 10,11);
- Law of Ukraine "On Protection of Information in Automatized Systems" of 05 July 1994 No. 80/94-SR (Section III, Articles 10,12);
- Law of Ukraine "On Pipe-lining Transport" (Article 13);
- Law of Ukraine "On Use of Nuclear Energy and Radiation Safety" (Article 28);
- Decree of the Cabinet of Ministers of Ukraine "On Standardization and Certification" of 10 May 1993 No. 46-93 (Section IV).

Requirements related to obligatory certification of products with the aim of preventing from use and sale of products dangerous for life, health and citizens' property and environment are included into the above-mentioned articles.

Question 2

Please provide a list of all laws regulating products in Ukraine? What is the rational behind the (growing number of) laws regulating products in Ukraine?

Answer:

There is no law in Ukraine which would regulate turnover of goods in Ukraine. That is why this index is not planned neither by the Government nor by the self governing bodies. It neither goes to the economic agents, involved in trade activity, nor do they form it independently.

Question 3

Please explain how a coherent and uniform interpretation and implementation of these laws and regulations is guaranteed, since the laws seem to have a very general content and much legislative work is being left to different authorities.

Answer:

See Response to Question No. 2.

Question 4

Please provide more information on the Interdepartmental Council on Standardization, Metrology and Certification, particularly details on how it "coordinates work on the State, regional and local levels.....to ensure conformity and uniformity of each region's action", and on its other responsibilities. Can the Interdepartmental Council review old standards or is it confined to work on new standards?

Answer:

The Interdepartmental Council does not function. Based on international experience, the National Council on Quality and the National Council on Accreditation are being formed for this purpose.

Question 5

According to our information, an organization called the Ukrainian Consumers Association, has the right to inspect goods at the point of sale, including the right to seize "non-conform" goods. What is the role of this organization?

Answer:

According to article 25 of the Law of Ukraine “On Protection of Consumers’ Rights”, citizens, with a view to protect their legitimate rights and freedoms, shall have the right to unite on a voluntary basis in the public organisations of consumers (consumers’ unions). Ukrainian Consumers Association is one of such organisations.

Question 6

Under what laws/regulations is it operating?

Answer:

Public organisations shall operate in accordance with the Law of Ukraine “On Citizens’ Unions”. In addition, Ukrainian Consumers Association operates under the Law of Ukraine “On Protection of Consumers’ Rights”.

Question 7

What rights and obligations does it have, specifically what are its rights as regards the seizure of "non-conform" goods and other trade related measures?

Answer:

Article 26 of the Law of Ukraine “On Protection of Consumers’ Rights” stipulates the rights of public organisations of consumers. It shall include: conducting an expertise and testing of goods (works and service); submission to the state authorities and economic agents of the proposal on the temporal interruption of production and sale of goods (works, services) that do not meet the requirements determined for quality, on the interruption of production, withdrawal of goods (works, services) from the distribution and sale that are not safe for life, health, and property of the citizens etc.

At the same time we notify that an issue of providing control over quality and safety of goods (works and service), withdrawal of substandard and non-safe goods from the sale shall be, in accordance with the Law of Ukraine “On Protection of Consumers’ Rights” (article 5), within the terms of reference of Statespozshivzakhyst (State Organization on Consumers Protection) and its bodies.

Question 8

To which body can complaints be addressed?

Answer:

Complaints against the decisions of the state executive bodies that provide protection of the rights of consumers and their officers as well as the acts of such persons, shall be reviewed in the order established by the legislation.

Article 40 of chapter 11 of the Constitution of Ukraine, adopted on the 5th session of the Supreme Rada of Ukraine on 28 June 1996, stipulates: "Anyone has a right to submit individual or collective written applications, or address personally bodies of state power or local self-governing bodies, and their officers and officials, that are authorized to consider applications and provide substantiated answers within the term established by law".

Question 9

Who can complain?

Answer:

See Reply to Question No. 8.

Question 10

What is the highest instance of appeal?

Answer:

See Reply to Question No. 8.

Standards

Question 11

Please provide more information on "*the general procedure for developing standards, negotiating them, approving, publishing and the implementation of standards*" mentioned in document WT/ACC/UKR/23, page 2.

Answer:

National standards of the State System for standardization of Ukraine which establish requirements related to the organization of works on standardization, requirements on the procedure for development, coordination, approval, publication and implementation of standards and technical terms have been harmonized with requirements of ISO and IEC. In particular, procedures for developing state (national) standards are set in the State Standard of Ukraine DSTU 1.2 "State System for Standardization of Ukraine. Procedure for developing state standards", which on the whole iterates Directives of ISO/IEC. Part 1. Procedures on Technical Work. Main provisions.

Technical Committees (hereinafter referred to as TCs) on standardization and other organizations which have required scientific and technical potential in appropriate field are conducted developing and systematic revision of state (national) standards of Ukraine.

During the preliminary stage, i.e. stage of organization for developing standard, TCs consider grounded orders and proposals on developing standards.

On the basis of consideration TCs make decision at its meeting on a new working topic. After acceptance of the proposal a topic is included into the TC or the sub-Committee works program as a new project and submitted to state plan of standardization of Ukraine. This plan is formed by the State Committee of Ukraine on Standardization, Metrology and Certification (Derzhstandard of Ukraine).

The plan of state standardization provides control periods of each work's stage under the project:

- developing the first edition (wording) of the project;
- distribution of the first edition for questioning;
- distribution of the final edition of the standard's project;
- presentation of the standard for approval.

After inclusion of a proposal on developing standards into the plan of state standardization the TC appoints a Head of the project who prepares technical task for developing standards and is responsible for the project development in the future. The Head of the TC approves the technical task. As a rule, the working group is created for direct work under the TC standard's project. The working group acts under guidance of the Head of the project.

The working group prepares the working project (the first edition) of the standard. Distribution of the first edition of the standard for approval by the TC's members, other interested parties (including a consumer of product and bodies of state inspection) is an indication of the end in preparatory stage for developing standard (developing the first edition of the standard).

The next stage in developing standards due to the Ukrainian system of standardization is the stage of final editing of the standard's project. This stage includes a stage of the Committee and a stage of questioning due to Directives of ISO/IEC, Part 1. In the course of this stage fulfilment, organizations receive the project of a standard, prepare a response to it, and send their response to the TC not later than one month from the date of receiving the standard's project. The TC develops received responses and makes the summary of them. On the basis of remarks and proposals included in the summary, the working group completes the project of the standard. The TC distributes to all interested organizations and the TC's members completed edition of the standard's project together with the summary of the responses.

Members of the TC and organizations received the completed project of the standard submit their conclusion during the period of time that do not exceed one month from the date of receiving the standard's project. If there are remarks to the project the TC organizes their consideration and correction.

The TC considers the project of a standard and makes a decision on its submission for ratification after correction of all remarks and approval of the standard's project. A decision is registered through the protocol with reference to voting results for each member of the TC. The stage is finished when the standard is submitted to Derzhstandard for approval.

Derzhstandard organizes a state examination of a standards' project. Famous scientists, specialists, TCs, scientific and research organizations are invited to this process. Derzhstandard makes a decision on approval or return of the standard's project for completion on the basis of examination.

Derzhstandard approves the standard through the Decree. The date when the standard enters into force is determined in the time of the standard's approval while taking into account the time period required for fulfilment of preparatory measures on its implementation (analogically to requirements of paragraph 2.12, Article 2 of the Agreement on Technical Barriers to Trade of GATT/WTO). This time period is 60 days according to Annex 3 of the Agreement on Technical Barriers to Trade of GATT/WTO.

As a rule, standards are approved without limitation of validity period. An approved standard is subject of state registration in Derzhstandard. Information on the work program is published every six months. Approved and registered standards are published in official publications of Derzhstandard monthly.

The publishing house of Derzhstandard's standards conducts printing of the standard in Ukrainian and appropriate offices of Derzhstandard (specialized shops of standards) distribute them.

Control of standards is conducted at least once per five years. The TC or sub-Committee responsible for developing standards control the standard. Stages of the standard's revision are the same as stages of developing a new standard.

Published national standards can be changed through publication of changes, in particular to the standard developed on the basis of international standards or standards of another country. Changes are certainly developed in a case of change of appropriate international or national standard.

Question 12

Please give an overview of how work on harmonization of national (basically Russian GOST) standard with international standards is progressing? How many of the totally applied standards in Ukraine are in conformity with international standards? What sectors have priority in this work? What timetable is foreseen?

Answer:

The Russian standards (GOST R) are not valid in Ukraine. The total number of standards harmonized with international standards is about 5000 and they are in force for Ukraine.

1608 of state (national) standards DSTU (60% are harmonized with international standards) and about 20000 of the former Soviet Union standards (GOST) (4000 of them are harmonized with international standards) are in force for Ukraine as for 01 January 1996.

Development and improvement of the Ukrainian normative base in the direction of harmonization with international standards requirements are conducted through the following steps:

- i. direct implementation of international standards through the Ukrainian national standards;
- ii. development of new Ukrainian national standards harmonized with international standards to replace GOST of the former Soviet Union is conducted in accordance with plans of the Ukrainian state standardization. Derzhstandard forms and prepares these plans due to proposals of TC, industry's ministries and departments taking into account tasks which Ukraine faces in connection with entering the WTO;
- iii. implementation of new interstate standards of the CIS Members (to change old GOSTs of the USSR) harmonized with international standards is conducted by the Euro-Asiatic Council on Standardization (EASC). ISO has recognized this Council as a regional organization on standardization for 12 countries of the CIS. 11 of them have submitted application forms on entering WTO. This implementation is conducted due to plans of interstate standardization on developing standards. They will function on the territory of the CIS (EASC adopted 429 interstate standards in 1996. 122 of them were developed by Ukraine). The majority of them were harmonized with international standards.

In the course of works planing on development of the Ukrainian national normative base priority is given to developing and implementing standards which include requirements to operational characteristics of products instead of construction and to standards on quality systems.

Question 13

Please explain the rational behind using standards instead of regulations as the main regulatory instrument? How will Ukraine work to change from mandatory standards to voluntary standards, in order to comply with international practices? Have relevant authorities begun the legislative change-over from mandatory standards to regulations? What timetable is foreseen?

Answer:

There are no obligatory standards in Ukraine according to the Article 4 of the Agreement on Technical Barriers to Trade of WTO. Standards which are in force in Ukraine include obligatory and recommended requirements as provided by legislation. For the time being Ukraine has taken a decision to harmonize the legislation (during 1996 and 1997) in a part that regulates protection of life, health, citizens' property and safety of environment in accordance with directives and decision of the European Union (according to the Article 51 of the Agreement on Partnership and Cooperation between Ukraine and EU).

Question 14

Please provide information on how work on the setting up of the WTO required facilities (i.e. inquiry points) is progressing. What timetable is foreseen?

Answer:

Currently technical possibilities of the National Informative Center on Standardization and Certification of International Informative Net (NIC ISONET) allow input and use of information on the following:

- bibliographical database of national normative documents of Ukraine in the field of standardization, metrology and certification, classified due to DK 004-95 "Classifier of Normative Documents" and harmonized with International Classification of Standards (ICS);
- electronic (in Ukrainian) bibliographical catalogue of international and national standards of other countries;
- automatized database on certification (in Ukrainian).

Question 15

When will Ukraine be able to fulfil all the conditions in the Code of Good practice for the preparation, adoption and application of standards? What preparatory work is being done in Ukraine in order to be able to fulfil these requirements?

Answer:

Ukraine meets all requirement set in the Code of Good Practice. In particular, it takes an active part in developing international standards within international organizations on standardization ISO and IEC, and takes part in International Informative Net ISONET through the first type of participation, etc.

Question 16

In document WT/ACC/UKR/23 Ukraine states that "Registered standards are listed in the State register" What authority is responsible for this register? How does it operate? Who has access to the information contained therein? Has an economic operator the right to access? Are there any fees connected with requests for extracts from the register?

Answer:

The Decree of the Cabinet of Ministers of Ukraine "On Standardization and Certification" has put the function of state registration for Ukrainian national standards, industry's standards, engineering, scientific and technical associations under responsibility of Derzhstandard.

Information on normative documents registered by Derzhstandard is published every month in official publication of Derzhstandard "Standards. Informative Index" (ISSN 0205.5600) and every year (as for January the first of current year) in official Catalogue of normative documents of the Ukrainian Derzhstandard (ISSN 0208.1539).

Information on technical conditions is given in the directory "Products turned out due to technical conditions of Ukraine". This directory is published 4 times a year.

The above-mentioned publications are distributed through pre-payment, are freely sold through shops of standards and are available for any enterprise, organization and common entrepreneur.

Specific charges are not provided for receiving of information on normative documents passed through state registration.

Question 17

Ukraine states in document WT/ACC/UKR/23 that "specific standards documents may be purchased" from Derzhstandart. What is the administrative procedure connected with this purchase and what fees are applied?

Answer:

National standards of Ukraine, official publications of Derzhstandard and other publications in the field of standardization, metrology and certification are distributed by organizations of Derzhstandard. They are as follows:

- shop of standards:
Ukraine, Kyiv, 252073, Kyiv-73, Frunze Street 152
Tel.(044) 435-42-70
- shop of standards:
Ukraine, Kharkiv, 310164, Kharkiv-164, Lenin Avenue 66
Tel.(0572) 33-35-00
- Ukrainian scientific and research institute of standardization, certification and information:
Ukraine, Kyiv, 252006, Gorkogo Street 174
Tel.(fax) (044) 268-70-60

Normative documentation is distributed through order forms which periodically (once per month) are published by Derzhstandard of Ukraine and is available for sale.

Cost of the Ukrainian national standards publications and other publications of Derzhstandard is calculated while taking into account the size of publications (number of pages) and is the same for Ukrainian and foreign customers (excluding real cost of delivery). At the same time additional charges are not levied. This practice meets paragraph P of Annex 3 of the Agreement on Trade Barriers to Trade of GATT/WTO.

Testing and Certification

Question 18

Please provide a table over applied certification procedures, the products these procedures apply to and the reasons for applying them.

Answer:

Products certification procedures are executed by a third party on the basis of rules and regulations fixed by international and European standards with due regard to the requirements of Article 5 of the WTO Agreement on Technical Barriers in Trade. The list of produce subject to compulsory certification in Ukraine comprises 32 groups. The basic reason for application of certification procedures are the requirements of the effective law aimed at the prevention of sales of produce which is dangerous for individuals' life, health and property, and the natural environment. In compliance with the Preamble and Article 2 of the GATT/WTO Agreement on Technical Barriers in Trade, this right is vested in each country membering GATT/WTO.

Question 19

Please comment on how the following elements of the practical implementation, as received by Western economic operators, of its certification procedure comply with the requirements of i.a. MFN and national treatment in the TBT Agreement:

- lack of clarity as in which are the authorized certification centers
- lack of clarity on the validity of certificates
- lack of clarity of the costs of certification
- lack of clarity as to the time needed for certification
- lack of clarity of the grounds for testing (i.a. unclear "ecological testing")
- differentiated treatment of domestic producers and foreign producers, with more stringent demands for mandatory certification and compliance with mandatory standards put on foreign producers.

Answer:

The national regime, in compliance with the requirements of Article 5 of the WTO Agreement on Technical Barriers, is provided through:

- authorization of certification bodies through accreditation within the UkrSEPRO system for a certain nomenclature of produce;
- fixing of the period of validity of certificates on the basis the results of certification procedures depending upon the method chosen;
- fixing of cost and labor-intensiveness of certification procedures in compliance with the Rules for Determination of Cost of Certification Services;
- fixing of the requirement that produce must comply with the provisions of effective normative documents of Ukraine as regards safety for Ukrainian individuals' life and health;
- the single approach to national and foreign producers, unity of requirements and rules of certification of produce for national and foreign producers.

Question 20

Please provide information on any work being done to create a national accreditation system harmonized with international systems. What system is foreseen and what timetable will apply?

Answer:

In compliance with the Order of the President of Ukraine No. 375/96 of 24 May 1996, where the Regulations on the State Committee for Standardization are approved, the National Council for Accreditation shall be created, and it will determine policies in this sphere. The Council will comprise representative of all concerned ministries, bodies and public organizations. Accreditation requirements are harmonized with the international ones.

Question 21

Under the current law, accreditation, certification and market surveillance all are under Derzhstandart's responsibility. According to international rules a separation of these functions is required. What measures are being taken to comply with this requirement?

Answer:

Supervision over the market in Ukraine is exercised by bodies of the State Committee for Protection of Consumers' Rights. The creation of the National Council for Accreditation will provide for distribution of accreditation and certification functions. The State Committee for Standardization does not exercise certification itself, it is done by accredited certification bodies.

Question 22

What work is being done with the aim of reducing the excessive scope of mandatory certification and enforcing the *use* of voluntary certification?

Answer:

The formation of the list of produce subject to compulsory certification is carried on in compliance with Articles 2 of the GATT/WTO Agreement on Technical Barriers, and in conformity with the effective law. The national certification system, UkrSEPRO, provides for voluntary certification, which is made at request of an applicant by accredited certification bodies.

Question 23

What work is being done with the aim of introducing a quality assurance system? Is a solution sought to the problem of the *de facto* requirement of certification of *each separate consignment*, which is a result of the lack of a quality assurance system?

Answer:

DSTUs for quality control systems on the basis of international standards ISO, series 9000 and 10000, were developed and introduced. Procedures for certification of serial quality control equipment, including examination and attestation of manufacturing facilities, certification of quality systems and technical supervision, are foreseen. Four bodies for certification of quality control systems have been accredited and are operating. Certification procedure is determined with due regard to an applicant's wish.

Question 24

Is Ukraine planning to remove the re-certification requirement for any modification of a product, even if the modification does not affect compliance with standards? If not, please provide an explanation of the reasons for the maintenance of this requirement?

Answer:

If it is proved that a modification will not influence the quality, the repeated certification is not required. In addition, in compliance with Article 6 of the GATT/WTO Agreement on Technical Barriers in Trade, Ukraine has proposed to more than 40 countries of the world, including the EU countries, to enter into bilateral agreements on mutual recognition of the results of compliance assessment procedures, which will considerably simplify certification procedures and eliminate the necessity of repeated certification.

Question 25

Could Ukraine explain the reason for the rapid introduction of mandatory certification without adequate time to complete the certification process (in 1996 mandatory certification was introduced for fertilizer with immediate effect even though the normal procedure takes five years), which in practice leads to a temporary exclusion from the market for that product? Is the introduction of mandatory certification foreseen in any other sectors/for other products?

Answer:

No mandatory certification for fertilizers has been introduced in Ukraine. We do not know what document says that the process of implementation of mandatory certification should take five years. In compliance with Clause 5.6 of the GATT/WTO Agreement on Technical Barriers, information about introduction of compulsory notification in Ukraine is published as soon as it is available, and through the Ministry of Foreign Economic Relations and Trade it is communicated to other countries. The State Committee for Standardization gives information on changes and amendments to the List to national accreditation bodies of those countries, with which, in compliance with Article 6 of the GATT/WTO Agreement, agreements on mutual recognition of certification results have been signed.

Further expansion of the list of produce will be made in compliance with the requirements of the effective law. During 1996-1997 it is planned to introduce changes and amendments to the effective law, which will cover protection of life, health and property of individuals, as well as environmental protection, for the purpose of harmonizing the effective law with instructions and resolutions of the European Union.

Import Licensing

Question 26

We welcome the statement made by Ukraine that it will conform with the WTO Agreement on Import Licensing. Please assess whether, and if so what, changes to Existing legislation will be required to meet this commitment. How much time will be required to make any necessary changes?

Answer:

See Replies to Questions No. 29, 30, 31

Question 27

A license can be refused on the grounds that a good is imported 'at higher prices than world prices' (Article 2.1 of the Resolution 134-a "On Approval of the Regulation on the Procedure for Import Licensing in 1996 of 26 February 1996). Please justify this basis for refusal of a license in the light of Ukraine's statement in WT/ACC/UKR/23 that licensing exists for the sole purposes 'of ensuring that technical, pharmacological, sanitary, phytosanitary, veterinary and ecological regulations ... are adhered to'. When does Ukraine intend to eliminate this provision?

Answer:

Yes, licensing is implemented with the purpose of ensuring that technical, pharmacological, sanitary, phytosanitary, veterinary and ecological regulations are adhered to. According to the procedures of issuing a license, prices shall be examined as well. According to the methodology of establishing and usage of indicative prices, approved by the Resolution of the MFERT of Ukraine No.506 of 8 August 1996, deviations of contract prices compared to the indicative prices are possible and can be caused by specific features of contract, payment terms and conditions, different quality standards, other factors having material influence on the terms of fulfilment the contract.

Order of the President of Ukraine of 10 February 1996 No. 124/96 "On Measures on Improving Pricing Policy in Foreign Trade" implies, that MFERT of Ukraine can establish indicative prices for the following categories of goods:

- exports of which are subject to anti-dumping measures or anti-dumping investigations or procedures in Ukraine or abroad;
- goods subject to special import procedures according to the Article 19 of the Law of Ukraine "On Foreign Economic Activity";
- exports of which are subject to licenses or quotas;
- which are exported according to the procedures provided for in the Article 20 of the Law of Ukraine "On Foreign Economic Activity";
- in other cases, subject to international obligations of Ukraine.

Question 28

Resolution 134-a stipulates that license applications are checked by the following departments in the Ministry of Foreign Economic Relations and Trade of Ukraine:

- **"Prices Department"** (to check the correspondence of prices to the general current price level);
- **"Contracts Department"** (to check if import contracts are properly made);
- **"Export-Import Control Department"** (to check whether no sanctions are in place against the foreign exporter);
- **"Exchange and Credit Department"** (to check the payment terms).

Please explain why all these controls are necessary in the light of Ukraine's statement that licensing exists for the sole purposes "of ensuring that technical, pharmacological, sanitary, phytosanitary, veterinary and ecological regulations ... are adhered to".

Answer:

Procedures for consideration of applications in the MFERT of Ukraine, provided for in the Regulations on imports licensing procedures in 1996 and approved by the Resolution of MFERT of Ukraine of 26 February 1996 No. 134-a is an internal ministerial procedure for issuing imports licenses and does not contradict to the Item 5(e) Article 3 of the Agreement on Import Licensing Procedures of the Uruguay Round.

Question 29

It is noted that the government charges for granting the import license is 0.1 percent of the contract price (response to question 9). This does not seem to reflect the principle of cost recovery, and therefore seems to run counter to Article VIII of the GATT 1994. Please indicate the timetable for remedying this situation.

Answer:

In order to adjust the legislation of Ukraine on import licensing to the GATT/WTO requirements, the Resolution of the Cabinet of Ministers of Ukraine of 2 August 1996 No.893 "On the Amount of

State Fee for Issuing Import Licenses” provides for the state fee for issuing import licenses at the amount of 15 untaxable minimal personal income.

Question 30

What are the procedures in Ukraine to apply for and obtain an import license? (Question 1, page 6).

Answer:

Import licensing in Ukraine is defined as an administrative procedure, which is used to implement the system of import licensing, provides for filing of applications and other necessary documents to the appropriate state authority as a precondition for imports of goods to the customs territory of importer, which does not contradict to the Article 1 of the Agreement on Import Licensing Procedures of the Uruguay Round.

According to the Law of Ukraine “On Foreign Economic Activity”, the Resolution of MFERT of Ukraine of 26 February 1996 No.134-a “On the Approval of Regulations on the Procedures for Export Licensing in 1996 and Regulations on the Procedures for Import Licensing in 1996” licenses are issued on the basis of applications of business entities, completed according to the form, approved and published by the MFERT of Ukraine.

The following documents are attached to the application:

- an application letter for issuing a license with guarantees regarding payment of the state registration fee;
- a duplicate of the contract with specifications, duly certified by officials of the business entity;
- a duplicate of the certificate of state registration, duly certified by officials of the enterprise;
- an approval of the appropriate state authorities according to the Annex 2 of the Resolution of the Cabinet of Ministers of Ukraine of 10 January 1996 No.41 “The List of Goods, Exports and Imports of which are Subject to Quotas and Licenses in 1996”;
- a goods expertise act, issued by the Chamber of Trade and Commerce or its regional affiliate, with goods CN FEA code.

The application day is the day of registration of application in the MFERT of Ukraine or in the institutions, authorized by it, which is approved by an appropriate record in a registration book.

Documents, concerning issuing a license, are considered by the MFERT of Ukraine or by the other authorized body within 15 days from the date of application registration.

Question 31

(Question 6(IX) - page 9). The response, which refers to Reply 1, which provides a brief description of each licensing system, does not indicate if licenses are issued automatically. Could Ukraine state whether licenses are issued automatically?

Import licensing in Ukraine does not have quantitative restrictions, thus it is not subject to quotas, is not automatic, which does not contradict to the Article 3 of the Agreement on Import Licensing Procedure of the Uruguay Round, because it does not apply any quantitative restrictions to any country of the world. Thus, licenses are issued automatically.

Answer:

Import licensing in Ukraine is conducted according to the list approved by the Resolution of the Cabinet of Ministers of Ukraine of 26 February 1996 No.41, which confirms state control of the

standards of the Agreement on Application of Sanitary and Phytosanitary Measures of the Uruguay Round, and also of the Article 11 of the General Agreement on Tariffs and Trade - Balance-of-Payments Restrictions- (Article 1- in “order to support its foreign economic status and to stabilize its balance of payments has the opportunity to limit the volume or value of the goods, allowed for imports”..., and which corresponds to the legislation of Ukraine (the Law of Ukraine “On Foreign Economic Activity”) and taking into consideration the fact that Ukraine currently receives financial assistance from international organizations.

Customs Valuation

Question 32

(Questions 2 to 4). The answers refer to the first reply, which indicates that the Law shall be developed in 1996. Have the various provisions as requested in questions 2 to 4 been implemented? If not, when will they be implemented?

Answer:

As to the question on Customs Valuation we notify the following: regulation of the Agreement on Customs Valuation is put into the basis of the Chapter “Customs Value of the Goods”. Methods of definition of the Customs Value of the Goods of the Customs Code of Ukraine.

Question 33

(Questions 11 and 12). It appears that Article 13 and 16 of the Customs Valuation Agreement will not be met under current Ukraine law. Could Ukraine provide more information on its intentions.

Answer:

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Rules of Origin

Question 34

The second paragraph of the paper "Rules of Origin of Ukraine" (WT/ACC/UKR/23) which indicates when processing in the country of export is considered to be sufficient to confer origin to the exported good is somewhat confusing. Specifically, the second item states: "the percentage of added value in the cost of the good shall not exceed 50 per cent". Is this an error in translation? Normally, one would assume that the processing of imported materials should exceed 50 per cent in order for the good to originate in the country where the processing took place (i.e., should "not" be deleted from the text?).

Answer:

Indeed, it is a mistake of translation. The correct variant is “added value amounts not less than 50% of the goods’ value”

Question 35

Assuming that the value added to be incurred in the country of export is 50 per cent, how is this cost calculated? Is it based on the difference of the customs value of the imported material and the customs value of the finished exported good? Or, is it based on manufacturing costs?

Answer:

Calculation of the added value is based on the production costs.

Question 36

The paper also notes that, for imports under the privileged tariffs (MFN), no certificate of origin is required and the country of origin is based on shipping documents and marking. Does this mean that Ukraine requires all imports to be marked with their country of origin? What are the specific details of Ukraine's marking regime?

Answer:

For the purposes of the preferential tariff import country of origin is determined by the transportation documents, markings if rules of purchase and direct shipment are observed. If the certificate is not available and the country of origin can not be determined (markings, transportation documents are not available) the full duty rate is applied.

As for the marking in Ukraine, according to the Resolution of the Cabinet of Ministers of Ukraine of 29 May 1996 starting from 1 January 1997 goods produced or sold in Ukraine are to be marked by the economic agents with FAN stroke codes according to the Provisions on Stroke Coding of Goods.