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**Working Party on the  
Accession of Ukraine**

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## ACCESSION OF UKRAINE

### Check-list of Illustrative Sanitary and Phytosanitary Issues

#### Revision

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

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**A. CHECKLIST OF ILLUSTRATIVE SPS ISSUES FOR CONSIDERATION IN ACCESSIONS**

**1. Standstill: the introduction of new standards, animal health regulations and food safety regulations shall conform to SPS Agreement principles. (Generally agreed principle in WTO accession negotiations.)**

Not addressed directly in current legislation.

Deviation from the "standstill rule" and application of standards and rules regulating human and animal life and health and the safety of plants that are more strict than the current ones, can only take place under extraordinary circumstances (Law "On the Sanitary and Epidemic Safety of the Population" No. 4004-XII, dated 24 February 1994, Articles 30, 42).

In the formulation, development and application of veterinary, sanitary and quarantine measures to protect the territory of Ukraine from harmful organisms, and dangerous pathogenic organisms, Main State Quarantine Inspection of Ukraine and the State Department of Veterinary Medicines use the international standards of phytosanitary measures, the international data bank (European and Mediterranean Plant Protection Organization [www.eppo.org](http://www.eppo.org)) and the requirements of the International Office of Epizootics (IOE).

**2. Establishment and operation of a single Contact Point for Information ("enquiry point"). (Article 7 and Annex B.3).**

A single enquiry point will be established in 2003, as provided in the Plan of Measures to resolve Matters of Sanitary and Phytosanitary Control in Ukraine, in particular at the State Border, as approved by an Instruction of the Cabinet of Ministers of Ukraine, dated 31 August 2001, to No. 129-sk/10.

As of 20 March 2003, there is an "Information Center on Sanitary Measures" created at the web-page of the Ministry of Health Protection ([www.moz.gov.ua](http://www.moz.gov.ua)).

**3. Transparency: notification and access to documentation (Articles 7 and Annex B, Also G/SPS/7).**

All ministry rules and regulations in the area of sanitary and phytosanitary measures are subject to state registration with the Ukrainian Ministry of Justice and are entered into the Uniform State Registry of Ministry Rules and Procedures and are available to the public. (See Resolution No. 376 of the Cabinet of Ministers of Ukraine, dated 23 April 2001). Sanitary norms are also published in the "Collection of Important Official Materials on Sanitary and Epidemiological Matters", issued by the Ministry of Health Protection. Till the end of 2003 they will be placed at the Ministry's web-page.

"The Action Plan for the Resolution of Issues of Sanitary and Phytosanitary Control in Ukraine, in Particular at the State Border" envisages the establishment in 2002 of databases for the information support of central government authorities and their information and analysis services, in order to verify that the control have indeed taken place:

- registration of pesticides and agrochemicals, and of the positive conclusions of the state sanitary and epidemiological expertise, etc.;
- registration of food products, food raw materials, related materials, and of the positive conclusions of the state sanitary and hygienic expertise; and

- Sections 2, 16, 17, 18 and 19 of the Procedures for Maintaining the Single State Register of Normative Acts and Use Thereof Approved by Resolution of the Cabinet of Ministers No. 376, dated 23 April 2001 "On the Approval of the Procedures for Maintaining the Single State Register of Normative Acts and Use Thereof".

As of 20 March 2003, there is an "Information Center on Sanitary Measures" created at the web-page of the Ministry of Health Protection ([www.moz.gov.ua](http://www.moz.gov.ua)).

**(a) identification of authority responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis (Annex B.5.(b) and Annex B.10)**

The authority responsible for making notifications to the WTO and ensuring that transparency obligations are met on an ongoing basis will be designated before Ukraine's accession to the WTO.

At present the Ministry of Agricultural Policy of Ukraine through its subordinate organizations (Main State Quarantine Inspection and the State Department of Veterinary Medicine) supplies the relevant international organizations with information on the changes in veterinary and phytosanitary measures.

**(b) establish guidance or law requiring publication of proposed measures at an early stage for comment (Annex B.5(a)).**

Point 10 of the Regulation on the Procedure of Preparation of Draft Regulatory Rules (approved by Resolution No. 1182 of the Cabinet of Ministers of Ukraine, dated 31 July 2000, "On the Approval of the Regulation on the Procedure of Preparation of Draft Regulatory Rules") provides for the conduct of public discussions of draft regulatory rules within a period not exceeding 20 days from their first publication, and for the consideration of proposals relating to such drafts.

**(c) provision in law or administrative procedure to provide copies of proposed measures to WTO Members (Annex B.5.(c)).**

Provisions, whereby WTO Members shall be obligatorily provided with copies of documents regarding proposed measures, will be made in the national law before Ukraine's accession to the WTO.

**(d) require in law or administrative procedure, a reasonable period of time for comment from Members and the public, and establishment of a process to take comments into account without discrimination (Annex B.5(d)).**

Requirements on the non-discrimination by the regulating authority in the consideration of comments are established in Resolution No. 1182, dated 31 July 2000 "On the Approval of the Regulation On the Procedure of Preparation of Draft Regulatory Acts".

**4. Necessity: measures are applied only to the extent necessary to protect human, animal or plant health (Article 2.2)**

Articles 1 and 9 of the Law of Ukraine "On Ensuring of Sanitary and Epidemic Safety of the Population" No. 4004-XII dated 24 February 1994, Article 3 of the Law of Ukraine "On Quality and Safety of Food Products and Food Raw Materials" No. 771/97-VR dated 23 December 1997 and the Preamble of the Law of Ukraine "On Protection of the Population against Infectious Diseases" No. 1645-III dated 6 April 2000 provide for the application of sanitary and phytosanitary measures only to the extent necessary to protect human, animal or plant health.

**5. Regulations Based on Science: regulations governing animal and plant health and food safety shall be based on scientific evidence (Articles 2.2, 3.3 and 5.2)**

Articles 9 and 36 of the Law of Ukraine "On Ensuring Sanitary and Epidemic Safety of the Population" No. 4004-XII dated 24 February 1994; Articles 1 of the Draft Law "On the Amendment of Certain Laws on Veterinary Medicine" No. 7352; Article 1 of the Law of Ukraine "On Quality and Safety of Food and Food Raw Materials" No. 771/97 dated 23 December 1997 provide for the conduct of hygiene regulation, i.e. scientific justification of regulations and norms on safe use of dangerous factors, (Article 9), and scientific justification of sanitary and anti-epidemic measures (Article 36)

**6. Harmonization: to the extent possible, members shall follow international standards, guidelines, and recommendations in establishing SPS measures (6. Articles 3.1, 3.3 and 3.4)**

In the formulation, development and application of veterinary and quarantine measures the relevant authorities use the international standards of phytosanitary measures and the international data bank (European and Mediterranean Plant Protection Organization [www.eppo.org](http://www.eppo.org)) and the requirements of the International Office of Epizootics (IOE).

See also Article 50, 51 of the Law "On the Sanitary and Epidemic Safety of the Population" No. 4004-XII, dated 24 February 1994; Article 23 of the Law of "On Quality and Safety of Food Products and Food Raw Materials"; Articles 1 and 32 of the Draft Law "On the Amendment of Certain Laws On Veterinary Medicine" No. 2775 dated 15 November 2001.

**7. Equivalence: members shall recognize different measures that achieve the same level of protection (Article 4)**

Article 23 of the Law of Ukraine "On Quality and Safety of Food Products and Food Raw Materials" No. 771/97-VR, dated 23 December 1997; Article 13, Paragraph 8, of the Draft Law "On the Amendment of Certain Laws On Veterinary Medicine" No. 7352.

**8. Risk Assessment: developing scientific evidence and conducting risk assessments to ensure that measures are based on science and applied only to the extent necessary to protect health (Article 5.1, 5.2 and 5.3)**

Articles 9, 10 and 36 of the Law of Ukraine "On Ensuring of Sanitary and Epidemic Safety of the Population" No. 4004-XII, dated 24 February 1994, deal with the identification of factors dangerous to human health on the basis of scientific evidence.

Article 1 of the Law of Ukraine "On Quality and Safety of Food and Food Raw Materials" is supplemented with the provision on scientific substantiation of the data on content in products (residues level) of components or substances harmful for human health and life. It meets the requirements of the Agreement "On the Application of Sanitary and Phytosanitary Measures". (The Law of Ukraine "On Amendment of the Law of Ukraine "On Quality and Safety of Food and Food Raw Materials" No. 191-IV dated 24 October 2002).

**9. Regional conditions: measures take into account the regional characteristics both of the areas from which products originate and the areas for which they are destined (Article 6 and Annexes A.6 and A.7)**

The regional characteristics both of the areas from which products originate and the areas for which they are destined for purposes of determining the adequate level of sanitary and phytosanitary protection will be taken into account before Ukraine's accession to the WTO.

**10. Non-discrimination: measures do not arbitrarily or unjustifiably discriminate between different members or between domestic and foreign suppliers (Article 2.3, and Annex C.1(a) and (d))**

Article 16 of the Law of Ukraine "On Ensuring of Sanitary and Epidemic Safety of the Population" No. 4004-XII, dated 24 February 1994", envisages that the same safety requirements to the health and life of people, procedures of verification, expertise, permit granting, procedures of establishing sanitary and epidemic regulations are applied to the goods, products and raw materials originating on the territory of Ukraine as well as goods, products and raw materials imported to Ukraine.

Law of Ukraine No. 1212-XIV provides that, for residents, the amounts of fees, which are collected at points of entry at the State border of Ukraine at the time of importation of agricultural products, are equivalent to any fees that are collected from non-Ukrainian residents. Fees for the conduct of customs, sanitary, veterinary, phytosanitary, radiology and environmental control pursuant to Ukrainian law may not exceed the costs related to the conduct of such control.

**11. Control, inspection and approval procedures: ensure that procedures, including systems for approval of the use of additives or for establishing tolerances for contaminants in foods, beverages or foodstuffs comply with the Agreement (Article 8 and Annex C)**

Provisional Procedures for the State Sanitary and Hygienic Expertise (approved by Order of the Ministry of Health No. 247, dated 19 October 2001).

Law of Ukraine "On Ensuring Sanitary and Epidemic Safety of the Population" No. 4004-XII dated 24 February 1994, Articles 10, 11, 16, 17, 43.

Law of Ukraine "On Quality and Safety of Food Products and Food Raw Materials" No. 771/97-VR, dated 23 December 1997, Article 4.

Regulation On the State Sanitary and Epidemic Supervision in Ukraine (approved by Resolution of the Cabinet of Ministers No. 1109, dated 22 June 1999), paragraph 2 of item 3.

Draft Law "On Amendment of the Law "On Quality and Safety of Food Products and Food Raw Materials" (is being approved by the relevant ministries and agencies).

The requirements of the SPS Agreement, Annex C, section 1 (h) will be reflected in Ukrainian national legislation at the time of Ukraine's accession to WTO.

At the moment of the Ukraine's accession to WTO the domestic legislation will provide for the application of the relevant international standard as the basis for the access until the final decision is made on the use of food additives and the permitted level of contaminants in food products, beverages or animal feed.

The requirements of the SPS Agreement, Annex C, section 2 will be complied with in the national legislation at the time of Ukraine's accession to WTO.

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