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Additional Questions and Replies

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II. ECONOMIC POLICIES

- Foreign Exchange and Payments

Question 1

We thank Ukraine for its reply to Question 1 of document WT/ACC/UKR/126 and paragraph 19 of WT/ACC/SPEC/UKR/5/Rev.2. We would note that Ukraine has accepted the obligations of Article VIII of the Agreement of the IMF which requires it to maintain an exchange system free of restrictions on payments and transfers of current international transactions. In light of this commitment, we remain concerned with the five-business-day restriction imposed on the transfer of foreign currency and the limitations this places on trade. The goals of monetary and credit policies, macro-economic equilibrium and the prevention of money laundering can be furthered through means other than through onerous restrictions that impact largely on the financing of current international transactions.

We reiterate our request for the inclusion in the Draft Report of details of how this requirement will be eliminated by the date of accession.

Answer:

This provision does not run counter to GATT requirements as it does not in any way restrict rights of residents engaged in foreign economic activity and does not affect an ability to meet timeframes for payments for goods as set under foreign economic Agreements and contracts. The rules of foreign exchange purchase at the domestic currency market established by the National Bank of Ukraine make it possible for each and any business entity to purchase, without any impediments, foreign exchange within five days prior to the date of payment which underlies equal opportunities of access to purchasing foreign exchange.

Thus, the above provision is one of the mechanisms aimed solely at stimulation of financial discipline of business entities and at prevention from misuse of foreign exchange purchased at the interbank currency market of Ukraine and potential speculative operations with it that may lead to unreasonable pressure on hryvnia's exchange rates *vis-à-vis* foreign currencies.

Question 2

Document WT/ACC/UKR/5/Rev.2 states that Ukraine intends to retain the current foreign exchange surrender requirement of 50 per cent and other requirements on payments, e.g., an individual licence for import prepayments with delivery terms exceeding 90 days, and short time limits on payments to non-residents, that could have a negative impact on importers.

However, we are encouraged by press reports that the Cabinet of Ministers has asked the NBU to do away with the surrender requirement. Please provide additional clarity on Ukraine's plans for reducing and eventually eliminating these "temporary" restrictions, and a commitment for the progressive elimination of this restriction.

Answer:

NBU Resolution No. 101 dated 31 March 2005 eliminated the foreign exchange surrender requirement of 50 per cent.

Article 6 of the Law of Ukraine "On the Procedure for Conducting Payments in Foreign Currency" sets out a list of the types of contracts, which may objectively require for the fulfilment thereof the

implementation terms exceeding 90 calendar days. The possibility of weakening or eliminating the noted restriction by way of obtaining the individual licence of the National Bank of Ukraine to extend the legally established term of payments is also envisaged. Besides that, if the terms extension was caused by the force-major circumstances, the action of the above mentioned terms shall be terminated for a period of action of the force-major, and shall be renewed from the day following the date of termination of such circumstances.

Question 3

The NBU's Resolution No. 482 of October 2004 requires foreign investors to open two bank accounts in Ukraine, first depositing investment funds in a foreign currency account, then converting the funds into a Hryvnia and depositing them in a second account. Only then can the Hryvnia be transferred to the target of the investment. The same process must be followed in the reverse to repatriate investment earnings. This process seems to disadvantage foreign investors because it is burdensome and it incurs transaction fees.

Please describe Ukraine's plans and timing for the elimination of this cumbersome and discriminatory procedure.

Answer:

Pursuant to the Resolution of the Board of the National Bank No. 154 of 29 April 2005, the Resolution of the National Bank No. 482 lost effect. Thus, the above mentioned procedure was eliminated.

- **Investment Regime**

Question 4

Paragraph 21: Please outline the local content provisions of the March 2004 Law "On development of Ukraine's Automobile Industry." What firms are currently enjoying benefits under this law?

Answer:

The Law of Ukraine "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other legislative Acts" No. 2505-IV of 25 March 2005 eliminated the tax privileges for automobile producers and established the equal excise duty rates for the domestic and imported motor vehicles in line with the national treatment regime. Connected with the elimination of the above mentioned privileges, provisions of Article 4 of the Law of Ukraine "On Stimulation of Automobile Manufacture in Ukraine", which were the basis for granting the above mentioned privileges, regarding the determination of the country of origin of automobiles, do not actually apply currently. Along with this, in order to legislatively harmonize the provisions of this Law with WTO requirements, the Government has approved on 26 May 2005 the Draft Law "On Amendment of the Law of Ukraine 'On Stimulation of Automobile Manufacture in Ukraine'" as to the elimination of Article 4. The Draft was introduced into the Verkhovna Rada of Ukraine. Ukraine will additionally inform on the adoption of this Draft.

Question 5

Please indicate the legal authority to continue benefits under the 1997 Law, since suspended, for the closed joint stock companies "Lviv Automobile Plant" and "Zaporishshia Automobile Plant."

Answer:

The Law "On Introduction of Amendments to the Law of Ukraine on State Budget of Ukraine for 2005 and Some Other Legislative Acts of Ukraine" dated 25 March 2005 eliminated the tax privileges for car producers and fixed the equal rates of excise duty for domestic and imported vehicles in accordance with national treatment principle.

Question 6

Paragraph 23: Please clarify how Ukraine will bring its current provisions concerning the use of promissory notes to pay the VAT into conformity with GATT Article III.

Answer:

Provisions of Article 11.5 of the Law "On Value Added Tax" of 3 April 1997 No. 168-97 which prohibited the possibility for foreign companies to use promissory notes for the payment of VAT, were cancelled according to the Law of Ukraine "On the amendments to the Law of Ukraine "On the State budget of Ukraine on 2005 year" and some other laws and regulations" of 25 March 2005 No. 2505-IV. Thus, the discrimination of foreign companies on the use of promissory notes for the payment of VAT is eliminated.

Question 7

Paragraph 20: Could the Ukrainian authorities elaborate on the scope of the Law "On Ownership of Property"? In particular, does it also allow foreign investors to own land, and if yes, under what conditions, if any?

Answer:

According to Articles 81 and 82 of the Land Code No. 2768-III of 25 October 2001, foreign investors can acquire the right of ownership for land plots (of non-agricultural designation only) under a contract of purchase-and-sale, gift, exchange, or other civil-law Agreements, in case of registering the land plot by its owners into the statutory fund, inheritance, appearance of other bases provided for by the legislation. The non-agricultural land plots may be sold to foreign legal entities in case of purchase of immovable property and construction of sites for carrying out the business activity in Ukraine.

Question 8

Paragraph 21 suggests that local content requirements had been eliminated from the Law "On Stimulation of Automobile Manufacture in Ukraine" in 2001. At the same time, the end of paragraph 21 suggests that the "new law" contained local content requirements.

Why have the local content requirements been reintroduced with the entry into force of the Law "On Development of Ukraine's Automobile industry"?

Are there any plans to eliminate permanently these local content requirements?

Could the authorities also elaborate further on the extent of the present local content requirements?

Does it affect only the automotive sector?

Answer:

The Law of Ukraine No. 2505-IV of 25 March 2005 eliminated the tax privileges for automobile producers and established the equal excise duty rates for the domestic and imported motor vehicles in line with the national treatment regime. Connected with the elimination of the above mentioned privileges, provisions of Article 4 of the Law of Ukraine "On Stimulation of Automobile Manufacture in Ukraine", which were the basis for granting the above mentioned privileges, regarding the determination of the country of origin of automobiles, do not actually apply currently. Along with this, in order to legislatively harmonize the provisions of this Law with WTO requirements, the Government has approved on 26 May 2005 the Draft Law "On Amendment of the Law of Ukraine 'On Stimulation of Automobile Manufacture in Ukraine'" as to the elimination of Article 4. The Draft was introduced into the Verkhovna Rada of Ukraine. Ukraine will additionally inform on the adoption of this Draft.

Question 9

Paragraph 22: What is the precise legal relationship between the Law "On the Regime of Foreign Investment" and the provisions of BITs concluded by Ukraine relating to investment protection?

Answer:

Pursuant to Article 6 of the Law of Ukraine "On the Regime of Foreign Investment" No. 93/96 of 19 March 1996, relations appearing in connection with the foreign investment in Ukraine are regulated by this Law, other legislative acts and International treaties of Ukraine. If the International treaty of Ukraine establishes the rules other than those envisaged by the Ukrainian legislation on foreign investment, the rules of international treaty will apply.

Question 10

Paragraph 23: The second sentence suggests that the payment of import duty on equipment imported as foreign investment could be deferred up to 30 calendar days against a promissory note issued by the company and would not be collected if the property was recorded on the company's balance sheet within the deferred payment period. Paragraph 23 also suggests that the measure did not apply to goods imported by enterprises with foreign investment.

Could the authorities explain the apparent contradiction between those two statements and indicate why discrimination is presently made against companies with foreign investment?

Are the authorities ready to commit themselves on a precise timetable for the elimination of this discrimination?

Answer:

The above mentioned issue is regulated by the Law of Ukraine "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other Legislative Acts" No. 2505-IV of 25 March 2005, which establishes the equal rules for all business agents (national and foreign) regarding the importation of goods into the territory of Ukraine.

Question 11

More generally, could the authorities elaborate on the respective competence of the national and sub-national authorities with respect to the investment regime?

In particular, if the national authorities were to further liberalize the investment regime, would its implementation become compulsory for sub-national entities?

Would there be any exceptions?

Answer:

According to the Constitution of Ukraine, any decisions of the local self-government bodies normative and legal acts of the Verkhovna Rada of the Republic of the Crimea and Decisions of the Council of Ministers of the republic of the Crimea can not contradict the Constitution of Ukraine.

In case a decision is taken regarding the liberalization, it is obligatory for fulfilment by authorities at all levels of the government.

Question 12

Paragraph 25: To avoid legal uncertainty with regard to prohibited sectors for foreign investments we would also appreciate a negative list containing the forbidden investment activities.

Answer:

According to Article 4 of the Law of Ukraine "On Investment" No. 1560-XII of 18 September 1991, any property may be the objects of investment activity, including the following: key assets and circulating assets in all areas and sectors of the economy, securities, purpose savings, science and technology products, intellectual values, other objects of property, and also – property rights. However, investments are prohibited into objects, the creation and use of which does not correspond to the requirements of sanitary and hygienic, radiation, ecological, architectural and other norms, established by the legislation of Ukraine, and also - violates the legally protected rights and interests of citizens, legal entities and the State. There is no list containing such objects.

Question 13

Paragraph 26: we welcome the equal application of Article 4 of the Law "On Investment Activities" to both foreign and domestic investors (National Treatment). However, the provision (Article 4) contains an open wording (... interests and rights of citizens ...) that leaves much room of legal uncertainty. Please specify the meaning of interests and rights of citizens.

Answer:

"Interests and rights of citizens", mentioned in Article 4 of the Law "On Investment" mean those interests and rights of citizens, adherence to which is guaranteed by the legislation of Ukraine (for instance, the rights to intellectual property, private property, etc.).

- **State Ownership and Privatization**

Question 14

We appreciate the additional information provided in this section on the state-owned sector in Ukraine.

We still lack information on the trading activities of the major state-owned enterprises which have not yet privatized, and the extent to which any of these firms trade on behalf of the state.

Answer:

Major State-owned enterprises of Ukraine (as of May 2005)

Major State Enterprises	Import/Export of Goods	Trade on Behalf of the State (Yes/No)
State concern "Ukrspyrtr"	Export of ethyl spirits.	No
State Corporation "Energorynok"	Export/import of electric energy.	Yes
National joint-stock company "Naftogas of Ukraine"	Export/import of oil and gas products and transportation services.	Yes
State joint-stock company "Khib Ukrajyny"	Acts as an agent and as a seller at grain market including state reserve of grain.	Yes
National joint-stock company "Ukragroleasing"	Organization and control over leasing operations in agro-industrial complex that are performed pursuant to the Agreements, concluded by the directorate of the state leasing fund, including, with regard to funds reimbursement to this fund. Organization of authorized servicing of agricultural machinery, tractors, automobiles and equipment. Organization of trade for carrying out settlements for supplied agricultural machinery, tractors, automobiles, equipment and spare parts.	Yes
Public corporation "Ukrtransnafta"	Subsidiary of "Naftogas of Ukraine"	No
Public corporation "Ukrnafta"	Subsidiary of "Naftogas of Ukraine"	No
Subsidiary company "Ukrigasvydobuvannya" of joint-stock company "Naftogas of Ukraine"	Subsidiary of "Naftogas of Ukraine"	No
Subsidiary company "Ukrtransgas" of joint-stock company "Naftogas of Ukraine"	Subsidiary of "Naftogas of Ukraine"	No
Subsidiary company "Gas of Ukraine" of joint-stock company "Naftogas of Ukraine"	Main tasks of the state company (SC), Gas of Ukraine" are: selling natural and liquefied gas to population, communal-general utilities, budgetary organizations, as well as industrial consumers, power generating companies of the Ministry of Fuel and Energy, entrepreneurial entities of the country; providing for gas settlements; operation and development of gas distribution networks, facilities and equipment.	Yes
State company "National Energy Company "Ukrenergo"	Management of state power stations. No trading activities.	No
State company "National Atom Energy generating company "Energoatom"	Import and export of nuclear materials.	Yes
Ukrainian State Center of specialized carriages exploitation "Ukrspetzvagon"	The subsidiary of the State owned company "Ukrzaliznytsia". Rendering of transport-dispatch services in course of transportation of export, import, transit and other consignments.	No
Ukrzaliznytsia	Transport services. No trading activities.	No

Major State Enterprises	Import/Export of Goods	Trade on Behalf of the State (Yes/No)
State territorial Branch Company "South-Western Railways"	Subsidiary of Ukrzaliznytsia. No trading activities.	No
Lviv State Railway	Subsidiary of Ukrzaliznytsia. No trading activities.	No
Odessa Railway	Subsidiary of Ukrzaliznytsia. No trading activities.	No
South Railway	Subsidiary of Ukrzaliznytsia. No trading activities.	No
State Company "Pridniprovska Railway"	Subsidiary of Ukrzaliznytsia. No trading activities.	No
State Company "Donetskaya Railway"	Subsidiary of Ukrzaliznytsia. No trading activities.	No
Concern of radio, radio connection and television	Broadcasting on televisions and radio programs. No trading activities	No
Ukrainian State Company of Post "Ukrposhta"	Postal connection. No trading activities.	No
National joint-stock company " Coal of Ukraine"	Export/import of coal products.	Yes
State company "Ukrekokomresursy"	Collection and utilization of packing and garbage. No trading activities.	No
Ukrainian State Corporation "Ukrzakordonnaftogazbud"	Export/import of gas, oil and oil products.	Yes
Leasing company "Ukrtransleasing"	Leasing services No trading activities	No
State company "Ukrspetzexport"	Export and import of products and services, intended for military and special purposes.	Yes
State company "Ukrinterenergo"	Export/import of goods and services in energy sector: full sets of energy equipment; energy carriers and electricity.	Yes
National joint stock company "Nadra Ukraine"	Geological exploration. No trading activities.	No

According to official statistics, the export of goods from the following 30 major state companies accounted for 2 per cent of total export and 14 per cent of total import in 2004.

Question 15

Please provide more information on the Agricultural Fund. Is it a firm or an arm of the Ukrainian government? Does it have the exclusive right to purchase or to sell grain? What sorts of services are provided by the 465 state-owned agricultural entities not subject to privatization? The initial information on agricultural entities "not subject to privatization" provided in the response to Question 12 in WT/ACC/UKR/118 should be expanded to identify them and to indicate in substantive terms what sort of enterprises are included and their role in Ukraine's agricultural regime, e.g., "grain handling" per the response to Question 12.

Answer:

The Agricultural Fund is a specialized state institution. It has the exclusive right to purchase and sell for the purpose of state reserves the following:

Goods Subject to State Price Regulations

Ukrainian Foreign Economic Activity Commodity Classification (UFEACC) Code	Commodity
1001	Wheat and mixture of wheat and rye (meslin)
1002 00 00 00	Rye
1003 00	Barley
1004 00 00 00	Oats
1005	Corn
1101 00	Wheat flour or flour made of wheat-and-rye mixture (meslin)
1201 00	Soybeans, un-milled only
1204 00	Linseeds, un-milled only
1205 00	Rapeseeds, un-milled only
1206 00	Sunflower seeds, un-milled only
1210	Hop cones, fresh or dried, milled or un-milled
1701 12	Sugar made of sugar beets

- **Pricing Policies****Question 16**

Paragraph 37: Given the rather extensive use of price controls in Ukraine, are there any plans to reduce the scope of these price controls in near future, notably in the utilities sectors as well as in the areas of consumer goods and services where they are applicable?

Answer:

Currently, there exists 18 categories of goods, which are subject to price control, as was indicated in Table 3 of WT/ACC/SPEC/UKR/5/Rev.2. The price control in utilities services area (that is, where the natural monopolies exist) is subject to regulation by the State.

Question 17

Paragraph 41: If minimum import prices are not being applied to imports, and will not be in the future, please confirm that Ukraine intends to repeal such provisions in the new law on "On State Support of Agriculture in Ukraine," which appears to contain a provision for minimum prices that will be applied to imported goods.

We seek that the commitment in this section includes confirmation of the information provided in paragraph 41.

Answer:

Ukraine confirms the obligations designated in paragraph 41.

Question 18

We thank Ukraine for the replies provided to Questions 2-12 of WT/ACC/UKR/126 and for the information provided in paragraphs 36-44 and Table 3 of WT/ACC/SPEC/UKR/5/Rev.2. We appreciate the clarifications and additional information provided. Considerable progress has been made. However, we would appreciate some further clarifications.

Ukraine's support prices for sugar apply to internal sales of refined (or "white") sugar of HS subheading 1701.99. However, the support prices are notified incorrectly in Table 3 on page 142 as applying to raw beet sugar of subheading 1701.12.

This entry needs to be amended to be based on the correct HS code, of subheading 1701.99.

Answer:

By indicating code 1701.12 in Table 3 on page 142, Ukraine wanted to underline that minimum prices (or support prices) apply to sugar produced from sugar beets rather to the whole of white sugar. These prices were introduced with the goal of protection of domestic sugar beets producers. In case that the code is changed for 1701.99, the reality will be distorted.

Question 19

We refer to Ukraine's statement in its reply to tiret 5 of Question 3 of WT/ACC/UKR/126 that, since 2000, no administrative prices for refined sugar have been applied by means of official intervention.

We would appreciate clarification of the consistency of this statement with Ukraine's notification of a total of US\$ 465.3 million of support for sugar beets in 2001 and 2002 through the application of administrative prices for refined sugar (Supporting Table DS:5 on page 44 of WT/ACC/SPEC/UKR/1/Rev.9 refers). We would note that in the context of its domestic support notification for 2000-2002, Ukraine indicates that the applied administered prices for refined sugar were US\$ 441 per ton in 2001 and US\$ 445 per ton in 2002, and would ask how Ukraine would reconcile this information with its statement in its reply to tiret 5 of Question 3 of WT/ACC/UKR/126.

Answer:

Support Table DS:5 reflects market price support to sugar beets that is provided through the mechanism of setting administrative prices to sugar. Even without official interventions (procurements), the set level of administrative prices affects the market situation and supports the market price. As a result, the domestic market price was US\$ 140 higher than the external reference price in 2001 and US\$ 163 higher in 2002. The eligible production covers the total sugar output produced from sugar beets.

Minimum prices (or support prices) to sugar and sugar beets were introduced in 1999 by the Law of Ukraine On State Regulation of Sugar Production and Distribution, No. 758 of 17 June 1999.

Question 20

Have administrative prices for refined sugar been applied by means of official intervention since 2000?

Answer:

Following 2000, administrative prices were being set as the lower cap of prices at the market that apply to entering into sale-purchase agreements at the domestic market and are used to ensure the profitable production of sugar beets. No official interventions have been exercised.

Question 21

If administrative prices for refined sugar since 2000 have not been applied by means of official intervention, exactly how were they applied over this period?

Answer:

Administrative prices for refined sugar notified by Ukraine were applied by means of establishing minimum support prices since 2000. The minimum prices of refined sugar within quota A were US\$ 441 per tonne on 2001 and US\$ 445 per tonne in 2002. There was no official intervention since 2000.

The world experience and practice suggest that the mechanism of setting minimum process of support to a producer does not inevitably bring about official interventions.

Question 22

We thank Ukraine for its statement, in its reply to tiret 4 of Question 3 of WT/ACC/UKR/126, that minimum prices for domestic sugar produced from domestic beets determine the overall level of sugar prices in Ukraine. We would appreciate more information on how mandatory minimum prices for domestic sugar produced from domestic beets are applied, in particular are:

- **sugar producers prohibited from selling sugar at below the mandatory minimum price?**
- **other sugar owners prohibited from selling sugar at below the mandatory minimum price?**
- **intending purchasers of sugar prohibited from purchasing such sugar at below the mandatory minimum price?**
- **the applicable requirements legally enforceable? If so, we would appreciate information on how are they enforced and on the body or bodies that enforce them.**
- **the applicable requirements enforced in all Ukrainian territory? Or are they enforced only in some parts of Ukraine? If the latter, please provide details.**

Answer:

Selling sugar at below the minimum price is not prohibited. Nevertheless, pursuant to Law No. 758, producers selling (supplying) sugar to the domestic market at below the minimum price are subject to a fine.

No, they are not prohibited from selling sugar at below the minimum price.

No, intending purchasers of sugar are not prohibited from purchasing such sugar at below the minimum price.

The minimum price is not of restrictive or prohibitive nature – it has been set with the view of supporting (insuring profitable operation) of domestic agricultural producers of sugar beets through the mechanism of setting minimum prices to beet sugar and minimum support prices to sugar beets.

In accordance with the law, in case that sugar is sold at prices below the set minimum price, a business entity shall be subject to a fine in the amount of the double cost of sugar. The said fine shall be directed to a local budget within the jurisdiction in which the defaulting business entity in question is registered. A decision on collecting fines is made by courts on a motion of authorities charged by the Cabinet of Ministers of Ukraine with a responsibility of enforcing this Law.

These requirements are enforced in all Ukrainian territory.

Question 23

In paragraph 41 of WT/ACC/SPEC/UKR/5/Rev.2, Ukraine states that "The volumes of imported refined sugar and the domestically-refined imported raw sugar were insignificant relative to domestic production, and therefore could not influence the domestic market price level".

We request that Ukraine provide most recent three year statistics comparing volumes of imported refined sugar and the domestically-refined imported raw sugar with domestic production of sugar.

Answer:

Statistics of Sugar Production and Import During the Period of 2002 – 2004

Indicators	Thousand tons, Calendar years		
	2002	2003	2004
Beet sugar production	1,430	1,452	1,792
White sugar import	59	79	65
Sugar refined from imported cane for internal consumption, Volumes consumed in Ukraine, thousand tons	-	365	120

Question 24

We would appreciate more information on the categories of refined sugar subject to the prohibition on the internal sale (and/or purchase) of sugar at below the mandatory minimum price, in particular:

Does the prohibition on the internal sale (and/or purchase) of sugar at below the mandatory minimum price apply exclusively to sugar produced under the A Quota?

Answer:

The internal sale (purchase) of sugar produced under the A Quota at below the minimum price is not prohibited.

However, in the event of sugar supplies to the internal market in quantities exceeding the set quota or in case of its sale at prices below the minimum price, a business entity shall be subject to a fine in the amount of the double cost of sugar sold in violation of the established procedure.

Question 25

Or does the prohibition on the internal sale (and/or purchase) of sugar at below the mandatory minimum price apply to any sugar not produced under the A Quota? And what sugar does it apply to? Does it apply to the internal sale of sugar refined in Ukraine from imported raw sugar? Does it apply to the internal sale (and/or purchase of imported refined sugar)?

Answer:

No, the prohibition does not apply.

Question 26

We would appreciate a specific indication of whether or not sugar refined in Ukraine from imported raw sugar is required, under legislation, to be subject to the same internal mandatory minimum price requirements that apply to domestic sugar produced under the A Quota.

Answer:

Sugar refined from imported raw sugar is not subject to minimum prices.

Question 27

We request that details of price regulations relating to the products mentioned in Question 5 of WT/ACC/UKR/126 and in the reply provided that are not already notified to Table 3 of WT/ACC/SPEC/UKR/5/Rev.2 now be included in a revised and updated version of Table 3.

Answer:

Ukraine will insert certain amendments to Table 3 of WT/ACC/SPEC/UKR/5/Rev 2.

Question 28

We refer to price measures introduced "to stabilize the situation with meat and meat products' prices" through the Cabinet of Ministers Resolution No. 1359 of 15 October 2004, "On Introducing Changes in Annex to Cabinet of Ministers of Ukraine Resolution No. 1548 of 25 December 1996" (reply to Question 5 of WT/ACC/UKR/126). This Resolution broadened the scope of authority provided to the Council of Ministers of the Autonomous Republic of Crimea, Oblasts' State Administrations, Kyiv and Sevastopol Cities' State Administrations in respect to regulation of prices on beef, pork, and poultry meat.

We would be grateful for further details of the price regulations introduced, and the inclusion of specific entries in a revised and updated version of Table 3.

Answer:

The regulation of cap limits of wholesale and retail prices and cap limits of profitability of production of beef, pork and poultry is a temporary measure introduced by the government of Ukraine with the view of stabilizing the situation with meat and meat products. Updates and additional details will be introduced to Revised Table 3.

Question 29

We appreciate the effort that would need to be made to reply to Question 6 of WT/ACC/UKR/126. We look forward to tabulated information setting out details of export and import prices under international Agreements where trade is undertaken on preferential terms, and where exports and imports are traded at negotiated prices. We would note that our principal interest in relation to these matters is trade in sugar under such arrangements.

Answer:

Ukraine recently excluded sugar (1701) from free trade regime with the following CIS countries: the Russian Federation, Belarus, Georgia, and Moldova. There were no export international trade Agreements on sugar since 1996.

Question 30

In the reply to Question 7 of WT/ACC/UKR/126, Ukraine states that the National Commission for Natural Monopolies Regulation (NCNMR) is responsible for the regulation of "natural monopolies" and that it is currently at the formation stage.

We request that Ukraine provide details on the structure and function of this Commission, particularly the scope of its authority on the regulation of prices of "natural monopolies". When will the establishment of the NCNMR be completed and how does it relate to the National Commission of Electric Energy Sector Regulation?

Answer:

According to the Law of Ukraine "On Natural Monopolies" dated 15 May 2003 the activities of the subjects of Natural Monopolies is regulated by National Commissions for Natural Monopolies Regulation, executive power bodies and institutions of local governing.

There is no special "National Commission for Natural Monopolies Regulation" (NCNMR). In the reply to Question 7 of WT/ACC/UKR/126 did not inform about "National Commission for Natural Monopolies Regulation".

Currently has been established The National Electricity Regulatory Commission (NERC), The National Commission for Regulation of Communications and State Committee of Ukraine on the housing and communal services questions. In the nearest future the formation of the Commission for transport sphere will be finished. According to the Law, the main task of the Commissions on the regulation of prices is to form a price policy in the relevant area of natural monopolies.

According to the Law, the Commissions shall consist of the Head of Commission and not less than two Commission Members who are appointed and ousted by the President of Ukraine on proposals of the Prime Minister of Ukraine. The Heads and the Commission Members shall be appointed for six years, ensuring periodic rotary of the Commission's composition. The procedure of the rotary of the Heads and the Commission Members shall be established by the Regulations on Commission. The person shall not be a Commission member more than two terms successively.

Question 31

We appreciate the reply to Question 8 of WT/ACC/UKR/126, and seek confirmation that there are now no internal or external price regulations that apply to ferro-alloys, fire-clays, iron ores and coke.

Answer:

Ukraine confirms that there is no internal or external price regulations that apply to ferro-alloys, fire-clays, iron ores and coke.

Question 32

We appreciate the clarification provided by Ukraine in the reply to Question 9 of WT/ACC/UKR/126 that the minimum price measures applied to bitter aromatic beverages and spirits apply to imported like products. We request the inclusion of the following commitment language in this section in relation to these minimum prices:

[...] A member of the Working Party noted however that WTO jurisprudence had established that a regulation requiring that domestic and imported products adhere to a minimum-price requirement is not consistent with Article III of GATT 1994 on the grounds that the imported product would be prevented from being sold at a price below that of the domestic product. This member asked how the minimum price requirements for bitter aromatic beverages and spirits will be brought into conformity with Article III by the date of accession. The representative of Ukraine replied [...].

Answer:

Until the time of Ukraine's accession to WTO, the pricing policy applying to bitters will be fully consistent with GATT's Article III. Resolution No. 407 of the Cabinet of Ministers of Ukraine of 28 May 2005 "On Invalidation of Certain Resolutions of the Cabinet of Ministers of Ukraine" annuls minimum prices to domestically produced and imported spirits.

Question 33

Table 3 of WT/ACC/SPEC/UKR/5/Rev.2 will need to be revised and updated to reflect replies to Questions 10 and 12 of WT/ACC/UKR/126. However, we would like to see the elimination of those price regulations and the absence of any remaining price regulations in relation to these products noted in the report.

Answer:

As mentioned in the Questions 10 and 12, goods would be eliminated from the Table 3.

Question 34

We appreciate the reply to Question 11 of WT/ACC/UKR/126 on the various price measures on glass ware of Chapter 70. We would like to see the information provided that the minimum prices do not apply to imported products noted in the report.

Answer:

Pledge prices to glass packaging do not apply to imported goods.

Question 35

It would be useful if Ukraine could amend a number of descriptions provided in Table 3 of WT/ACC/SPEC/UKR/5/Rev.2 to more clearly indicate the nature of price regulation (entries in Column 3).

The price regulation applied to sugar beets of subheading 1212.91 is described as "Approval of minimum prices (support prices)". Our understanding is that the measure is a "Minimum purchase price applicable to sugar processors within the limits of the A and B Quotas". If our understanding is correct, then this is what should be stated in column 3.

Answer:

The minimum price is only set to the A Quota sugar.

Question 36

The price regulation applied to refined sugar of subheading 1701.99 (presumably mistakenly referred to as subheading 1701.12) is also described as "Approval of minimum prices (support prices)". While we remain unsure of the precise nature of this measure, the product coverage and the types of transactions it applies to, the column 3 entry should indicate: (a) whether the price regulation is a "minimum purchase price", a "minimum sale price" or a "minimum purchase/sale price", depending on whether the buyer or seller (or both) is legally required to observe the minimum price; (b) whether it covers "domestic refined sugar of beet origin produced within the limits of the A Quota", or a larger coverage of refined sugar sold in Ukraine; and (c) whether it applies to "all refined sugar sale transactions", or something less (e.g., "the first sale of domestic refined sugar of beet origin produced within the limits of the A Quota").

Answer:

Table 3 on page 142 contains the code which is used for raw sugar produced from beets (HS subheading 1701.12). This is sugar produced by domestic producers from sugar beets (within the A Quota).

Question 37

The price regulation applied to bitter aromatic beverages of tariff line 2103.9030 and spirits of subheading 2208.20 to tariff line 2208.907800 is described as "Approval of minimum prices". We would be grateful if the descriptions in column 3 could be amended to provide more information on how the measures apply (at the wholesale/retail stage).

Answer:

Resolution No. 407 of the Cabinet of Ministers of Ukraine of 28 May 2005 "On Invalidation of Certain Resolutions of the Cabinet of Ministers of Ukraine" annuls minimum prices to domestically produced and imported spirits.

Question 38

We have concerns with the statement at paragraph 137 of WT/ACC/SPEC/UKR/5/Rev.2 that minimum and maximum purchase price requirements could be applied to imports or exports in the event of a finding by the Antimonopoly Committee that the market was threatened and of the endorsement of such a finding by the Cabinet of Ministers.

We ask that Ukraine provide advice of all provisions of all laws and legal acts which provide framework for the application of such minimum and maximum purchase price requirements to imports or exports.

Answer:

In compliance with Article 8 of the Law of Ukraine On State Support to Agriculture in Ukraine, minimum and maximum purchase prices may be applied to import and export on a provisional basis for the period of effect of any temporary administrative price regulation measures. Temporary price regulation includes any measures aimed at prevention from or termination of speculative or collusive practice of setting prices by sellers and/or buyers of price regulation objects at an organized agricultural market which may not be rectified by means of standard state intervention procedures. It would be fair to argue that these are extraordinary, emergency circumstances while application of

administrative prices to import and export is a provisional measure necessitated by such extraordinary circumstances. Pursuant to the laws currently in effect in Ukraine, the customs value of imported goods, including agricultural produce is regulated in observance of section XI of the Customs Code of Ukraine.

Question 39

It is our expectation that Ukraine will repeal all of those provisions prior to the date of accession, notify the completion of the process of repeal prior to the adoption of its report by the Working Party, refrain from applying those provisions prior to repeal, commit to not re-enact those provisions through any law or legal act before or after accession, and commit to not seek recourse to measures of this kind after accession.

Answer:

Ukraine took note of this comment.

Question 40

We refer to the statement in paragraph 137 of WT/ACC/SPEC/UKR/5/Rev.2 that minimum purchase prices applied pursuant to the provisions of the Law "On State Support of Agriculture in Ukraine" could trigger market intervention aimed at supporting domestic agricultural producers.

The purpose of such a policy is unclear. Is its purpose to stabilize prices or to provide support to domestic agricultural producers?

Answer:

The minimum purchase price policy in the Law on State Support of Agriculture in Ukraine is designed to provide state support to domestic agricultural producers by ensuring minimum level of purchase which guarantees certain level of profitability for producers.

Question 41

We would also appreciate information on how such intervention would operate and the nature of the price measure.

Answer:

In accordance with the Law of Ukraine On State Support to Agriculture of Ukraine, a minimum purchase price is an indicator for making a decision on financial interventions, and is set to sustain revenues of domestic agricultural producers at a level that would prevent from average statistical losses associated with production of a metric unit of the price regulation subject.

Question 42

The nature of the price measure is unclear. Would it be correct to say that the minimum purchase prices would not be mandatory minimum purchase prices? Would it be correct to say, there would be no obligation on any buyer or seller to buy or sell at the minimum price, and that the sole means of influencing the price would be intervention purchases and sales? If not, we would be grateful for clarification.

Answer:

The understanding of Ukraine's response is correct.

Question 43

We have seen reports suggesting that "indicative import prices" meat may have been introduced for meat.

We seek clarification as to whether these reports are correct. If they have been introduced, we would appreciate details of the measures, including the affected products by tariff line, the type of measures and their duration.

Answer:

No indicative prices to meat have been introduced.

- **Competition Policy**

Question 44

Paragraphs 46-50: The present Ukrainian legislation on competition still appears to be somewhat patchy.

Do the authorities have any intention to introduce a full-fledged legislation that would also include notably merger controls, prohibition of cartels and monitoring of the compliance of administered prices with the competition legislation?

If yes, what would be the timeframe considered?

Answer:

The Law of Ukraine "On the Protection of Economic Competition" No. 2210-III of 11 January 2001 regulates the competition relations in Ukraine. The provisions of the Law sufficiently cover the issues of mergers of enterprises, prohibition of cartels and monitoring of administered prices.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

Question 45

Paragraph 55: We support the first commitment text.

Paragraph 61: We support the second commitment text.

Answer:

Ukraine agrees with first commitment under paragraph 55 and second commitment under paragraph 61.

IV. POLICIES AFFECTING TRADE IN GOODS

- Trading Rights

Question 46

We appreciate the additional information provided and the clear indication that for the vast majority of its trade, the right to import and export is unrestricted.

We remain interested in knowing the reason for the annual fee of US\$ 47,000 for the importation activity licence for alcohol, which is much higher than that for other goods. Are domestic producers and traders subject to similar fees?

Answer:

As was already mentioned in Paragraph 28 of the document WT/ACC/UKR/125, alcoholic beverages are the high profit type of products. The annual fee in the amount of US\$ 47,000 for import licence for the above mentioned products is equal for the national producers, traders and importers.

Question 47

For ethyl alcohol, cognac and fruit spirits, only state-owned, specialized domestic firms designated by the Council of Ministers are permitted in international trade. Please confirm whether an activity licence is required for the importation of pharmaceuticals or pesticides and other agro-chemicals.

Answer:

Ukraine confirms that no activity licence is required to import the pharmaceuticals or pesticides and other agrochemicals.

Question 48

Table 5(a) indicates that only bodies approved by the Council of Ministers may import narcotics. We understand that the list of approved importers is very small. Please explain why Ukraine does not consider these firms to be state trading enterprises.

Answer:

Activity connected with the importation into the territory of Ukraine and/or exportation from its territory of narcotic substances, psychotropic substances and precursors is carried out by the State enterprises or municipal property enterprises, provided they have a licence allowing to carry out the relevant types of activity and possess a certificate for each separate transaction. The certificates are issued by the Drugs Control Committee, and with the approval of the Security Service.

The above mentioned enterprises do not relate to the category of State trading enterprises, since they do not enjoy the exceptional or special privileges, as provided for by the GATT Article XVII, including the government measures, which influence the level or direction of imports or exports.

Question 49

Paragraph 66: We note the commitment language on trading rights.

Answer:

Paragraph 66 does not contain any commitment language on trading rights.

Question 50

Paragraph 64 mentions that Table 6(d) contains an indicative list of the documentation and information requirements to get an activity licence.

We kindly request that Ukraine provides an exhaustive list of the documentation and information requirements as it is essential that persons who want to engage in an activity subject to licence knows exactly which are the requirements and because incomplete applications are rejected.

Answer:

The list of requirements, documentation and information required for obtaining an activity licence, provided in Table 6(d), is exhaustive.

Question 51

Paragraphs 70 and 71: Some Members are still of the view that the relatively high registration fee for medical forms compared to medicine in bulk can act as a restriction.

If the registration fee does not include the cost of pharmacological or additional expertise and is a matter between the applicant and the specialized institution performing the service, how do you ensure that the registration fee corresponds to the approximate cost of the service rendered?

Answer:

The amount of fee for registration of medical forms in Ukraine is lower than that in some other countries of the world. Besides that, the statistics regarding the imports of medicines into Ukraine prove the dynamics of its growth. Ukraine, in conditions of the developing infrastructure, introduction of the newest laboratory equipment and the relevant technical support, shall consider reviewing these expenditures on the subject of reduction thereof.

Question 52

Who is the specialized institution?

Answer:

If it is required to check the correspondence of the pre-clinic study and/or the clinic expertise of a medical preparation to the established requirements, to get the experimental or clinical checking of the acquired results, approbation of methods of analysis of the medical preparation, the Centre submits the materials required for the State registration of a medical preparation for an additional expertise. The additional expertise of a medical preparation is carried out by the duly authorized by the Ministry of Health institutions after the payment for the expertise is executed, as established by the contract between the applicant and the authorized expert institution. Such institutions being the State Service for Medical Preparations and Products of Medical Designation and the Pharmacopoeia Centre, which are entitled with conducting the above mentioned checking and analyses.

A. IMPORT REGULATIONS

- Ordinary customs duties

Question 53

We refer to the advice provided in paragraph 75 of WT/ACC/SPEC/UKR/5/Rev.2 that the law amending the law "on the Customs Tariff of Ukraine" was being drafted. Could Ukraine give some indication when this law will be enacted so that a concordance table for the conversion of Ukraine's tariff commitments to HS 2002 could be made available to members?

Answer:

The Law of Ukraine On Amendments to the Law of Ukraine On Customs Tariff of Ukraine providing for harmonization of the current nomenclature of the Customs Code of Ukraine with the 2002 Harmonized System will enter into effect as at 1 January 2006 following which members will receive an agreed tabulated description of Ukraine's commitments harmonized with the HS 2002.

Question 54

We welcome the advice provided by Ukraine in the meeting of the Working Party held in March 2005 that tariffs in its Schedule of Concessions and Commitments on Goods would be bound at six-digit level where the product nomenclature for national tariff lines might have been based on geographical names or have been open to an interpretation that the concession in relation to the line would be accorded exclusively in relation to products originating the territory of a particular member. We would like to see this noted in the report.

Answer:

In order to avoid geographical indications to certain headings, Ukraine herewith confirms that tariff offers to cheeses 0406 (0406 10, 0406 20, 0406 30, 0406 40, 0406 90) and wines 2204 (2204 10, 2204 21, 2204 29, 2204 30) will be bound at a 6-digit level.

Question 55

According to the comprehensive tariff offer of 29 April 2002 containing Ukraine's commitments on goods, the reduction of the bound base rate of duties is staged. We would appreciate if Ukraine could confirm that the reductions agreed will be effective at the date indicated in the comprehensive tariff offer independently from the date of accession to the WTO as indicated by Ukraine.

Answer:

Yes, we confirm that Ukraine committed not to change the transition period. The calendar years are indicated in the consolidated offer.

- Other duties and charges

Question 56

Paragraphs 79-80: We note that Ukraine has ODCs in place on petroleum products, and the commitment language on ODCs.

Answer:

The issue mentioned in Paragraph 79 is regulated by the Resolution of the Cabinet of Ministers of Ukraine "On the Elimination of Extra Duty for the Customs Clearance of Oil Products" No. 355 of 18 May 2005. Ukraine confirms its commitments listed in Paragraph 80.

- **Fees and charges for services rendered**

Question 57

Please confirm which of the fees listed in Tables 3 and 4 and 10(a) and 10(b) are in place and not slated for elimination.

Answer:

On 1 April 2005 the Cabinet of Ministers of Ukraine adopted the Order No. 91-r "On Indexation of Tariffs for Transportation of Cargos by Railway Transport and Related Services", which provides for an equal level of tariffs for internal railway transportation, and exports/imports, except for the tariffs on the transportation of the iron ore raw materials, cast iron, rolled ferrous metal mineral fertilizers and oil products by the railway transport. The tariffs for these products will be unified by the end of the third quarter of the year 2005.

All fees in the first part of Table 10(a) will be valid until 1 January 2006; except item 3 is currently invalid. Overtime and off-location customs clearance fees tabulated in the second part of Table 10(a) are in effect. They are fees for services rendered and reflect the approximate cost of services rendered. All fees listed under 10(b) will come into effect as of 1 January 2006.

The *ad valorem* fee for export licence fee has been eliminated. Cabinet of Ministers' Resolution No. 362 of 18 May 2005 sets the fees for issuing import and export licenses which reflect the cost of services rendered.

Question 58

Paragraph 91 and Table 10(a): The fees mentioned in Table 10(a) are not yet totally consistent with Article VIII GATT as an *ad valorem* fee does not correspond to the approximate cost of services rendered. For instance, an *ad valorem* fee of 0.2 per cent of the customs value of the goods is levied for the customs clearance of goods which customs value is more than US\$ 1,000. From US\$ 1,001 to US\$ 50,000 the fee levied is increasing even if the same service is rendered. Above US\$ 50,000 the fee is limited to a maximum of US\$ 1,000 independently of the value of the imported goods.

In order for Ukraine to comply with Article VIII GATT we request that Ukraine transforms all its remaining *ad valorem* fees in flat fees independently of the value of the imported goods. Although Ukraine says in answer to Question 43 (document WT/ACC/UKR/125) that it will ensure that any fees and charges for services rendered would only be applied in conformity with the relevant obligations of the GATT 1994 and that from the date of accession these fees and charges would be in accordance with the relevant provisions of the WTO, we haven't seen any changes regarding the *ad valorem* fees. As this issue is not properly answered in the revised Working Party Report as well and as we have made this request for several years now, we urge Ukraine to provide a satisfactory answer as soon as possible, i.e. remove the *ad valorem* fees at the latest from the date of accession.

As the levels of the customs clearance fees mentioned in Table 10(a) were applicable only up to 1 January 2005, could Ukraine specify if the application of the fees listed in Table 10(a) have been extended and in any case to provide an up to date and exhaustive list of the fees applicable from 1 January 2005?

Answer:

All fees in the first part of Table 10(a) will be valid until 1 January 2006; except item 3 is currently invalid. Overtime and off-location customs clearance fees tabulated in the second part of Table 10(a) are in effect. They are fees for services rendered and reflect the approximate cost of services rendered. All fees listed under 10(b) will come into effect as of 1 January 2006.

Question 59

We note in paragraph 96 of document WT/ACC/SPEC/UKR/5/Rev.2, that differential railway tariffs were applied for the transportation of certain products, notably iron ore, coal, carbamide, ferrous and non-ferrous scrap metal, and since 2004, cast iron, coke, oil products, fertilisers, grain and foodstuffs. We encourage Ukraine to accept the commitment for railway tariffs to be applied in conformity with WTO obligations.

Answer:

On 1 April 2005 the Cabinet of Ministers of Ukraine adopted the Order No. 91-r "On Indexation of Tariffs for Transportation of Cargos by Railway Transport and Related Services", which provides for an equal level of tariffs for internal railway transportation, and exports/imports, except for the tariffs on the transportation of the iron ore raw materials, cast iron, rolled ferrous metal mineral fertilizers and oil products by the railway transport. The tariffs for these products will be unified by the end of the third quarter of the year 2005.

Question 60

Paragraph 97: We note the commitment language on fees and charges for services rendered. We are unsure, however, how the commitment relates to differential pricing for domestic and imported goods on its railroads. We seek a specific commitment to equalize these rates prior to accession.

Answer:

The Cabinet of Ministers adopted an Order "On the Approval of Directives of the Delegation of Ukraine at the Negotiations on Ukraine's Accession to the World Trade Organization", which confirms the commitments of Ukraine in the course of multilateral negotiations. Point 4 of the commitments envisages that from the day of accession to the WTO Ukraine will ensure that all fees and charges for services rendered or to be rendered in connection with importation or exportation shall correspond to the requirements of Articles I, V, VIII, X and XI of GATT 1994, and also – to all other WTO documents regulating the fees and charges. From the moment of accession to the WTO, Ukraine will provide the WTO members, at their request, with data on the application, amount of payments, level of income thereof and their use.

- **Application of internal taxes to imports**

Question 61

Paragraph 101: please provide information of the status of adoption of the draft law on excise duty. Will preferential tax rates applied to domestically produced goods be phased out before the accession?

Answer:

The Law of Ukraine "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other legislative Acts" No.2505-IV of 25 March 2005 eliminated the exemptions from excise duty on turnover of cars, freight and passenger vehicles and motorcycles produced by the Ukrainian enterprises, and also – the components for manufacturing these motor vehicles. The Law of Ukraine "On Excise Duty Rates for Ethyl Spirit and Alcoholic Beverages" establishes higher rates of excise duty on alcoholic beverages imported into Ukraine before Ukraine's accession to the WTO (Article 7).

Question 62

In recognition of the fact that Ukraine has been reviewing its policies relating to excise rates and exemptions and VAT rates, refunds and exemptions, we would appreciate an update on the policies that now apply in this area and on Ukraine's intentions in relation to these matters upon accession. To facilitate this, we would appreciate detailed information highlighting differences (if any) in the rates, refunds and exemptions that currently apply or will apply to domestic and foreign products or services, and all conditions and benefits attaching to particular rates, refunds or exemptions. As part of this, we would request a revision and update of Table 11 of WT/ACC/SPEC/UKR/5/Rev.2 on excise rates and the preparation of similar tables on VAT rates and VAT exemptions. We will reserve our detailed comments on issues in relation to this section of the report until we have had an opportunity to review the situation in detail.

Answer:

Revised Table 11 of WT/ACC/SPEC/UKR/5/Rev.2 will contain information on excise rates, VAT rates and VAT exemptions.

Question 63

We would however also seek clarification of the following points:

We would appreciate a report on steps taken to allow taxpayers to issue promissory notes for payment of VAT on imported excisable goods and agricultural products and on goods imported by enterprises with foreign investment (paragraph 106 of WT/ACC/SPEC/UKR/5/Rev.2).

Answer:

Provisions of Article 11.5 of the Law "On Value Added Tax" of 3 April 1997 No. 168-97 which prohibited the possibility for foreign companies to use promissory notes for the payment of VAT, were cancelled according to the Law of Ukraine "On the amendments to the Law of Ukraine "On the State budget of Ukraine on 2005 year" and some other laws and regulations" from 25 March 2005 No. 2505-IV.

Question 64

We would note that the VAT measures applying to milk and meat described in paragraph 109 of WT/ACC/SPEC/UKR/5/Rev.2 appear to benefit processors rather than producers of basic agricultural products, and therefore would not satisfy the criterion in paragraph 7 of Annex 3 of the Agriculture Agreement for inclusion in the AMS. The VAT measures would appear to apply solely in relation to the use of domestic goods by processors, and would thus confer benefits upon processors inconsistently with the provisions of Article 3.1(b) of the Agreement on Subsidies and Countervailing Measures. We ask Ukraine to indicate how it will eliminate these measures by the date of accession.

Answer:

We consider that the existing mechanism of supporting meat and dairy products producers through redirection of VAT amounts which would have otherwise been payable by processing enterprises to the state budget may not be deemed to be more advantageous to processing industries rather than to producers of basic agricultural produce (in this case – milk and meat) since this mechanism provides for the following:

- Producers of milk and meat sell their products in live weight to processing enterprises which is taxable at a zero rate; and
- At the time of sale of these products, their producers receive from processing enterprises, in addition to their cost, a subsidy which is calculated as the total of the processing enterprise's VAT liabilities payable to the state budget.

In other words, in order to pay a subsidy to milk and meat producers, the processing enterprises must in advance calculate the total of VAT liabilities (a difference between VAT received from buyers and VAT paid by a supplier) which will arise in the future after the sale of finished products manufactured from milk and meat purchased from producers and which would have been payable to the state budget. However, these VAT funds are not transferred by processing companies to the state budget but are instead paid to agricultural produce producers in the form of subsidies at the time of purchasing milk and meat in live weight.

Therefore, the existing procedure is beneficial exclusively to basic agricultural produce producers and the producer benefits from it at the time of the initial sale of a respective basic product (milk, meat).

As concerns processing companies, it should be noted that under the conditions of the above described mode of support to agricultural goods producers, they act solely as agents empowered by the state to transfer to agricultural goods producers the VAT monies which are payable by processing enterprises to the state budget.

Question 65

We seek the inclusion in the report of a commitment to eliminate VAT measures in relation to agricultural products other than milk and meat on 1 January 2006 described in paragraph 109 of WT/ACC/SPEC/UKR/5/Rev.2. The description indicates that VAT refunds on purchased inputs that would otherwise be payable directly to producers and processors of basic agricultural products and be freely at their disposal are instead channelled into a fund, which may be used only for specified purchases. The essence of this measure would thus appear to be to restrict producers' discretion over the uses to which the accumulated VAT refunds (which belong to them) may be put. We are unable to see how such restrictions on the use of VAT refunds by agricultural producers, which would otherwise be freely at their disposal, could be construed as providing the basis for support in their favour, or how the use of funds

accumulated on this basis could count towards the AMS. The return of revenue to which producers would be entitled through another channel could not, on the face of it, constitute revenue foregone, as the refund of such revenue is a generally available entitlement under Ukraine's VAT system, and the accumulated funds are already owned by the producers. However, the requirement that the accumulation of such refunds must be spent on "fuel, seeds, fertilizer, pesticides and agricultural machinery or equipment" would appear to be an internal quantitative regulation applicable to purchases undertaken by producers. Under this regulation, to the extent that purchases of the required nature would not be undertaken, right of access to accumulated refunds would be denied; thus investment in agriculture would be induced, in effect, by threat of confiscation of the financial asset that would fund it rather than by the prospect of a benefit. We will reserve our position on whether or not this would violate any WTO provision, but would note the distortion involved.

Answer:

Ukraine does not perceive VAT accumulation as a distortion as it is referred to. There is no discrimination in taxation of domestic versus imported products as VAT is calculated and payable at the same rate – 20 per cent which applies to both transactions involving sale of domestically manufactured agricultural produce and transactions involving importation of similar foreign-origin goods.

Accumulated VAT (at a 20 per cent rate) is not payable to the budget, an agricultural producer is exempted from payments to the budget. This is a measure whereby the state turns down revenues in favour of agricultural producers (revenue foregone) while that latter use the accumulated VAT for the purposes of acquisition of material and technical inputs which in essence is about an input subsidy. However, this subsidy is provided not by means of direct disbursements from the state budget but rather on the form of an accumulated value added tax which would have otherwise been payable to the state budget of Ukraine and then forwarded for specific types of support to agribusinesses.

Question 66

We would appreciate confirmation that the changes introduced on 1 January 2005 eliminated the requirement that the accumulation of such refunds must be spent on "fuel, seeds, fertilizer, pesticides and agricultural machinery or equipment" and did not involve the imposition of any other restriction, or the re-imposition of any existing restriction, on the use of these funds.

Answer:

No, Paragraph 109 of WT/ACC/SPEC/UKR/5/Rev.2 indicated that as per the Law of Ukraine "On Amendment of Certain Laws of Ukraine 'On Taxation of Agricultural Enterprises'" of 23 December 2004, No. 2287, the effect of the VAT accumulation mechanism was extended until 1 January 2006.

Question 67

We would appreciate advice of how Ukraine will equalize the VAT rates for domestic and imported agricultural products to achieve conformity with the provisions of Article III:2 of GATT 1994 by the date of accession.

Answer:

Data concerning Ukraine's plans in this regard has been provided (See Paragraphs 112 – 113 of WT/ACC/SPEC/UKR/5/Rev.2)

Question 68

Paragraph 104: Ukraine should eliminate discriminatory excise taxes and VAT rates applied to imports of automobiles by the date of accession.

Answer:

The Law on "Introduction of Amendments to the Law of Ukraine on State Budget of Ukraine for 2005 (the "2005 Budget Law") and Some Other Legislative Acts of Ukraine" dated 25 March 2005 established that excise tax and VAT for imported and domestic cars are paid on equal terms.

Question 69

Paragraph 105: please indicate which is currently the general rate of the VAT and if there are any plans to reduce it further in the future?

To which rate of VAT will milk and milk products be subject to after 1 January 2006?

Answer:

Currently, the general rate of VAT is 20 per cent. The issue of reducing the rate is being considered. The VAT rate for milk and dairy products is 20 per cent.

Question 70

Paragraph 108: This paragraph mentions that the exemption from VAT for medicines registered in Ukraine as well as imported medicines has been suspended during 2004 for both domestic and imported medicines.

Could Ukraine indicate if the exemption has been restored for 2005 or if the suspension of the exemption has been maintained and for which reasons?

Answer:

The suspension of exemption from VAT for medicines was applied only in 2004. The Law of Ukraine "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other legislative Acts" No. 2505-IV of 25 March 2005 exempts the imported medicines and medicines of domestic production from VAT.

Question 71

Ukraine states that VAT exemptions have been eliminated for imported inputs in shipbuilding and the construction of aircraft, "except for companies which had signed contracts prior to the entry into force of the Law "On the State Budget for the Year 2004" and provided the advance payments received exceeded 20 per cent of the contract price."

How many instances of "signed contracts" are there, and how long do these contracts run?

Answer:

According to the Law of Ukraine "On the amendments to the Law of Ukraine "On the State budget of Ukraine on 2005 year" and some other laws and regulations" from 25 March 2005 No. 2505-IV the VAT privileges for shipbuilding and aircraft enterprises have been eliminated.

Question 72

We understand that the practice of VAT exemptions for domestic agricultural goods sold by farmers has been eliminated, in favour of the establishment of a discriminatory tax level of 10 per cent on domestic goods and 20 per cent on imports, as provided for in the new law "On Amending Certain Laws of Ukraine on Taxation of Agricultural Enterprises and Support of Social Standards of Their Employees."

- **If Ukraine intends to implement this practice, we assume that this part of the report will be redrafted.**
- **We seek a commitment that this practice will be eliminated by the date of Ukraine's accession to the WTO.**
- **We seek commitment language that these higher taxes on imported alcoholic beverages will be eliminated.**

Answer:

The Law of Ukraine "On Amendment of Some Laws of Ukraine on Taxation of Agricultural Enterprises" has suspended the special regime of taxation of agricultural producers till 1 January 2006. Currently, the VAT rate of 20 per cent apply to the domestic producers and imported products. Moreover, Ukraine, by the end of 2005 plans to eliminate the provision on the discriminatory VAT rates (10 per cent for the domestic producers and 20 per cent - for the importers, which shall come into force on 1 January 2006 in line with the Article 8.1. of the Law of Ukraine "On Added Value").

- **Quantitative import restrictions, including prohibitions, quotas and licensing systems**

Question 73

Is this list of imports subject to licensing comprehensive?

Answer:

The list of goods, imports of which is subject to licensing, provided in Table 12(a) and (c) of document WT/ACC/SPEC/UKR/5/Rev.2, is comprehensive.

Question 74

Paragraph 102: We note the commitment language on quantitative restrictions and import licensing.

Answer:

Paragraph 102 does not contain any commitment language on quantitative restrictions and import licensing.

Question 75

Paragraph 128: Please provide information about the foreseen amendments to the law on foreign economic activities in particular which will be the main changes.

Answer:

The changes and amendments to the Law of Ukraine "On Foreign Economic Activity" envisage the following:

- exclusion of the terms not agreeable with the requirements of WTO standards;
- changing of some notions with a view to harmonizing them with the GATT/WTO system requirements;
- supplementing with new definitions;
- reflecting in the Law of the principles for application of the national treatment regime and most-favoured nation treatment in relation to the foreign economic agents.

Moreover, it is proposed to include the new Article on principles of application of technical norms, regulations and standards in foreign economic activity, supply of products for the state needs and purchase of goods, works and services at the expense of the State budget, International transit, which are also harmonized with the standards of the GATT/WTO system. A new Article is suggested on trade in services in foreign economic area, on preshipment inspection, and - a provision on the creation and activity of the national enquiry point.

Question 76

We note Ukraine's reply to Question 20 of WT/ACC/UKR/126. To accommodate our request for commitment language in relation to measures already eliminated or to be eliminated by the date of accession, we seek the addition to the first sentence of paragraph 130 of WT/ACC/SPEC/UKR/5/Rev.2 the following words, "including measures referred to in paragraphs [...]", and ask that the paragraphs concerned include the one referring to the elimination of quantitative restrictions on livestock. (Some reorganization of text may be needed to separate measures requiring adjustment or elimination from those that do not.) This way the commitment language would simultaneously apply generally and be linked by paragraph references to the specific concerns raised by Members and reforms for accession.

Answer:

Ukraine takes note of this proposal and will examine different options for amending the wording of Paragraph 130 to accommodate the language suggested by the Secretariat. At the same time, we consider that a reference to respective GATT Article in Paragraph 130 is adequately exhaustive for such commitments.

Question 77

We appreciate the timeframes and absence of charges in the table under the reply to Question 21 of WT/ACC/UKR/126 and Ukraine's acceptance that the issuance of licenses subject to approval makes them non-automatic. We note the transposition of this information to Table 12(a) of WT/ACC/SPEC/UKR/5/Rev.2.

We would consider the inclusion of references to the TBT Agreement alongside the references to GATT Article XX(b) in Table 6(a) and Table 12(a) of WT/ACC/SPEC/UKR/5/Rev.2 to be appropriate.

Regarding Ukraine's reply to Question 22 of WT/ACC/UKR/126 that "As a whole there are no bans on imports" to protect human, animal or plant life or health, we would appreciate clarification of any bans or other restrictions on imports applied to protect human, animal or plant life or health, and would ask that this information be included in the consolidated table of

non-tariff measures that we have requested. As Ukraine indicates that such measures may be used in exceptional cases, we would presume any which currently apply would be few in number and not be difficult to notify through an entry in such a table. The justification provided for any such measures would need to be in relation to the SPS Agreement, not only GATT Article XX(b).

Answer:

This question is under the review now. The Working Party members will be informed about the decision of this review

Question 78

We appreciate Ukraine's undertaking to notify its FTA with FYROM upon accession for review in the CRTA (reply to Question 23 of WT/ACC/UKR/126). However, import quotas are subject to the same WTO disciplines regardless of whether they are used in preferential trade arrangements or apply to MFN trade. Measures of this kind are prohibited under Article XI:1 of GATT 1994 and, in the case of agricultural products, under Article 4 of the Agriculture Agreement, unless all relevant WTO provisions for the limited and tightly-defined cases where they may be used are observed (e.g., in the case of safeguard measures). The act of entering into a preferential trade Agreement does not create a waiver from the WTO's rules.

We request the notification of all import quotas other than safeguard measures in the table on non-tariff measures that we have requested, and the inclusion of information on how they will be eliminated by the date of accession.

Answer:

Information about import quotas applied in Ukraine is presented in Table 4 of WT/ACC/UKR/120.

Question 79

We refer to Ukraine's reply to Question 24 of WT/ACC/UKR/126. We would consider that, regardless of the form of Ukraine's sugar regime, the provision of Article 3.11 of the Law on State Regulation of Production and Sale of Sugar No. 758-XIV of 17 June 1996 making the production of sugar from imported raw materials conditional on the exportation of the sugar produced from those raw materials would violate national treatment provisions under Article III of GATT 1994 and the TRIMs Agreement.

We seek clarification as to when this provision of the Law will be repealed. We would expect that it will be repealed by the date of accession.

Answer:

The Government of Ukraine has drawn up and forwarded to the Verkhovna Rada of Ukraine a draft law that will revoke mandatory exportation of raw cane sugar. Ukraine will enter appropriate corrections to the Law prior to its accession to WTO.

Question 80

We refer to Ukraine's reply to Question 26 of WT/ACC/UKR/126. We would appreciate details of licensing requirements relating to import or export of goods under barter transactions established through the provisions of interstate Agreements.

Answer:

Activities in question are regulated by the Law of Ukraine of 23 December 1998 No. 351-XIV "On Regulation of Goods Exchange (Barter) Operations in Foreign Economic Activity; by Resolutions of the Cabinet of Ministers of Ukraine of 13 August 1999, No. 1489 'On Procedure of Issue of One-time Individual Permits Authorizing Excess of Timeframes for Importation of Goods (Performance of Works, Provision of Services) Imported Under Barter Agreements; of 29 April 1999' No. 756 'On Specific Issues Pertaining to Regulation of Goods Exchange (Barter) Operations in Foreign Trade, by Decree No. 188 of the Ministry of Economy of Ukraine of 9 June 2000' 'On Commission for Issue of One-time Individual Permits Authorizing Excess of Timeframes for Importation of Goods (Performance of Works, Provision of Services) Imported Under Barter Agreements; by Decree No. 831 of the Ministry of Foreign economic Relations of Ukraine of 1 November 1999' 'On Approval of Form of One-time Individual Permits Authorizing Excess of Timeframes for Importation of Goods (Performance of Works, Provision of Services) Imported Under barter Agreements'".

Pursuant to the procedure, an applicant seeking issue of a one-time individual permit must file the following documents to the Ministry of Economy and for European Integration of Ukraine:

- An application requesting the issue of a one-time individual permit substantiating grounds and necessity to extend the allowed deadlines for entering into the customs territory of Ukraine of goods (performance of works, provision of services) imported under barter Agreements;
- An application requesting a one-time individual permit filled out in observance with the form as set by the Ministry;
- A conclusion of the Ministry or another central executive power authority whereby a barter contract under which goods are being imported (works are performed, services are provided) is referred to those providing for production cooperation, consignment, complex construction, supply of sophisticated technical items, special purpose goods, determining the period of possible excess of set timeframes for entering into the customs territory of Ukraine of goods (performance of works, provision of services) issued pursuant to the Procedure as determined by Resolution No. 756 of the Cabinet of Ministers of Ukraine of 29 April 1999 On Specific Issues Pertaining to Regulation of Goods Exchange (Barter) Operations in Foreign Trade;
- A duly certified copy of a barter contract;
- Duly certified copies of customs declarations accompanying import and export of goods (performance of works, provision of services) under respective barter contracts; and
- A duly certified copy of a certificate of state registration of a business entity involved in foreign economic activity.

The above package of documents must be filed no later than on the 15th calendar date following expiration of the term for entering into the customs territory of Ukraine of goods (performance of works, provision of services) as established by the Law of Ukraine of 23 December 1998 No. 351-XIV On Regulation of Goods Exchange (Barter) Operations in Foreign Economic Activity, i.e. 90 calendar days following the date of customs clearance (customs declaration issue date) of goods imported under barter contracts.

In the event that the said package of documents is filed in violation of deadlines set for its submission, an applicant may be denied the issue of the requested permit and this matter may re-considered only as long as a full set of documents is filed.

Question 81

Regarding the reply to Question 27 of WT/ACC/UKR/126 and relevant entries in Table 12(b) of WT/ACC/SPEC/UKR/5/Rev.2, we remain concerned by the import approval requirements in relation to precious metals and alloys and precious stones and the GATT Article XX(c) justifications provided for import approvals.

We seek the elimination of the import approval requirements for all of these products by the date of accession. Please replace the references to Article XX(c) in Table 12(b) with a date for the elimination of these measures.

Answer:

The approval requirements in relation to "precious metals and alloys and precious stones" do not apply.

Question 82

Regarding the reply to Question 28 of WT/ACC/UKR/126 and the relevant entry in Table 12(b) of WT/ACC/SPEC/UKR/5/Rev.2, we remain concerned by the GATT Article XX(g) justifications provided for import approvals for scrap metal. Scrap metal is not an exhaustible natural resource. The suggested alternative Article XX(b) justification is also without merit.

We seek the elimination of the import approval requirements for all of these products by the date of accession. Please replace the reference to Article XX(g) in Table 12(b) with a date for the elimination of this measure.

Answer:

This question is under the review now. The Working Party members will be informed about the decision of this review.

Question 83

Regarding the reply to Question 29 of WT/ACC/UKR/126, we would consider activity licensing requirements for importation of products listed in Table 6(a) of WT/ACC/SPEC/UKR/5/Rev.2 (other than narcotics, psychotropic substances and precursors) to not be an appropriate basis for measures for protecting consumers against deceptive practices and ensuring protection of intellectual property rights.

We seek the elimination of the activity licensing requirements for these products (except narcotics, psychotropic substances and precursors) by the date of accession. Please replace the references to Article XX(d) in Table 6(a) with dates for the elimination of these measures.

Answer:

This question is under the review now. The Working Party members will be informed about the decision of this review.

Question 84

We refer to the information provided on the right to import in order engage in importation or exportation of the products listed in Table 6(b) of WT/ACC/SPEC/UKR/5/Rev.2.

We seek the elimination of all of these requirements by the date of accession. Please replace the references to Article XX(b and d) in Table 6(b) with dates for the elimination of these measures.

Answer:

This question is under the review now. The Working Party members will be informed about the decision of this review.

Question 85

We appreciate the reply to Question 30 of WT/ACC/UKR/126 and note the inclusion of details of these measures to in Table 12(c) of WT/ACC/SPEC/UKR/5/Rev.2.

We would appreciate advice as to whether or not these import licensing requirements are automatic within the meaning of Articles 1 and 2 of the Agreement on Import Licensing Procedures – that is are:

- **all legal and natural persons seeking to import those products equally eligible to apply for and obtain such licenses?**
- **licence applications able to be submitted on any working day prior to the customs clearance of the goods?**
- **appropriately completed applications approved in all cases and in a period not exceeding ten working days?**
- **there no reasons for refusing a licence and no circumstances under which a licence is able to be refused?**

Answer:

All business entities in Ukraine, irrespective of their ownership form, enjoy equal rights in respect to filing an application requesting an issue of a licence to import a good in question (Article 2, paragraph 2a(i) of the Agreement On Import Licensing Procedure).

Pursuant to the Law of Ukraine On Foreign economic Activity of 16 April 1991, an application requesting the licence, as well as other documents may be filed on any working day preceding goods customs clearance (Article 2, paragraph 2a(ii) of the Agreement).

A licence shall be issued inasmuch as the application complete with other documents is executed in observance of requirements set by the law. The timeframe for the licence issuance may not exceed ten business days following receipt of the application complete with necessary accompanying documents (Article 2, paragraph 2a(iii) of the Agreement).

An application requesting the licence to goods import shall be accepted in all cases save for gross violations of the documents execution rules. The following circumstances may serve grounds for denying a licence:

- Incompliance of the filed documents with requirements of applicable laws of Ukraine;
- in case that an applying business entity has violated provisions of the Law of Ukraine On Foreign Economic Activity of 16 April 1991 No. 959-XII;
- in case that special sanctions were applied to the applying business entity or its foreign counterpart in the form of an individual licensing regime or foreign economic activity termination pursuant to Article 37 of the Law of Ukraine On Foreign Economic Activity; and
- in case that the applying business entity or its foreign counterpart have breached laws governing foreign economic activity.

An application may not be rejected on the ground of minor errors made in documents supporting the request for the licence issuance to the extent that these errors do not alter principal data contained in the application. The data covered by terms and conditions of the foreign economic contract shall be deemed principal (Article 1.7 of the Agreement).

Question 86

If all of the above criteria are met, we would ask Ukraine to indicate in column 5 of Table 12(c) the rationale for the automatic licensing requirement (e.g., to monitor trade flows) and the relevant WTO provision (Articles 1 and 2 of the Agreement on Import Licensing Procedures). Could Ukraine also comment separately on the circumstances leading to the imposition of the requirement?

Answer:

The described above licensing procedure is used to monitor commercial flows. It should be noted in this connection that goods in question are not subject to any other administrative procedures in Ukraine (Article 2.2.b of the Agreement).

Question 87

If there are reasons or circumstances under which a licence could be refused, we would ask Ukraine to transfer the relevant entries to Table 12(a) or 12(b), and provide appropriate details.

Answer:

The above mentioned grounds for denying a licence apply on a general basis irrespective of a type of goods involved.

Question 88

If there are no reasons for refusing a licence and no circumstances under which a licence is able to be refused but any of the criteria of Article 1 or 2 of the Agreement on Import Licensing Procedures are not met, we would ask that Ukraine provide details of the steps it will take to bring the licensing requirement concerned into conformity with the relevant provision of the Agreement by the date of accession.

Answer:

Ukraine will apply automatic licensing as long as the effect of factors necessitating its introduction will continue, and will remain in place until the time when administrative goals underlying this form of licensing may be achieved in a more appropriate way as envisaged by Article 2.2.b of the Agreement.

Question 89

We would appreciate undertakings that Ukraine will refrain from the introduction of import quotas for meat both prior to and after accession to the WTO, and that it will abide by the prohibition on seeking recourse to such measures under Article XI:1 of GATT 1994 and Article 4 of the Agriculture Agreement.

Answer:

This question is under the review now. The Working Party members will be informed about the decision of this review.

- **Customs valuation**

Question 90

The concerns and questions raised in our previous comments appear to be adequately reflected in the draft Working Party report. Ukraine has stated that it would be amending its legislation to comply with the WTO Valuation Agreement, and we look forward to the new legislation that will implement the missing provisions that have been identified.

Answer:

The first draft of Amendments to the Customs Code and the first Draft of Customs Order on Interpretative Notes have been prepared. They are expected to be finalized by the end of June 2005 and adopted during the second half of 2005.

Question 91

Paragraph 134: Has the draft law amending the Customs Code and incorporating the Interpretative Notes of the Customs Valuation Agreement been drafted yet? What is the status of adoption of this draft?

Answer:

The interpretative notes on the Agreement on Application of Article VII of the General Agreement on Tariffs and Trade of 1994 will be adopted in the Order of the State Customs Service of Ukraine. The first Draft of the Customs Order on Interpretative Notes has been prepared. It is expected to be finalized by the end of June 2005 and adopted during the second half of 2005.

Question 92

Paragraph 135: This paragraph indicates that "confidential business information could be disclosed by court order, in connection with criminal investigations conducted by law enforcement agencies and the tax administration, or if secrecy could endanger the life or health of the population." According to Article 10 of the Agreement on customs valuation, confidential information cannot be disclosed without the specific permission of the person concerned except in the context of judicial proceedings. There are no such cases as danger for the life or health of the population foreseen by this article.

Although we understand the need and right to protect life and health of the population, has Ukraine envisaged alternatives to protect at the same time the health and life of the population and the confidential business information?

Answer:

The provision referred to in Paragraph 135 is a general provision of the Law of Ukraine "On Information" No. 2657-XII of 2 October 1992. The Article 263 of the Customs Code of Ukraine stipulates that Information provided by a Declarant and identified as containing commercial secret or being confidential may be used by a customs authority exclusively for customs purposes and may

under no circumstances be disclosed, passed to third parties including other power bodies without a Declarant's special permission.

- **Rules of origin**

Question 93

Has Ukraine provided to the Working Party the supplementary legislation referred to in the paragraph to implement the requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement on Rules of Origin?

Paragraph 146 provides the basis for a commitment in this area.

Answer:

The requirements of Article 2(h) and Annex II, Paragraph 3(d) have been implemented in Amendment No. 1443 dated 28 October 2004 to Cabinet of Ministers Resolution No. 1864 dated 12 December 2002.

- **Other customs formalities**

Question 94

The use of non-governmental facilities to establish classification of imports is problematic, in that the normal protections of WTO provisions would not necessarily be observed, nor would the right of appeal to Ukrainian customs authorities and subsequently an "independent tribunal" be guaranteed.

Please provide additional information on how importers recourse to the Chamber of Commerce is required and handled, and the reasons why Ukraine's customs service is not responsible for these services. When will the customs service resume classification of imports?

Answer:

The Customs Service of Ukraine is the main body responsible for classification of imports. In case of any disputes regarding classification, importers have the right to immediately appeal to higher organ within the Customs Service or court.

There is no obligation on importers to approach the Chamber of Trade and Commerce. It is the decision of importers whether or not to approach the Chamber of Trade Commerce for consultation or expert opinion regarding classification.

According to Article 11(2) of the Law on Chambers of Trade and Commerce No. 671 of 2 December 1997, methodological and expert documents issued by the Chambers of Trade and Commerce within their competence have mandatory application on the whole territory of Ukraine. Competence of Chambers of Commerce, *inter alia*, include attestation and issuance of certificates of origin of goods, certificates of determining the products of own production of enterprises with foreign investment, and other documents related to carrying out foreign economic activities. As such, an expert opinion by the Chambers of Trade and Commerce on classification of imports should be taken into account by the Customs Service.

However, according to the 2002 Customs Code part 2 of Article 313 state that decisions of customs organs relating to classification of goods for customs purposes are mandatory for companies and

citizens. Give that the Customs Code is a specific law and is a more recent law, the provisions of the Customs Code prevail. As such, the Customs Service is the authority in charge of classification of goods.

- **Anti-dumping, countervailing duties, safeguard regimes**

Question 95

Paragraphs 148-150: Does Ukraine apply the principle of the lesser duty rule in its antidumping investigations in order to minimize the cost and burden of these investigations for foreign exporters? Could the authorities provide a full list of the antidumping measures imposed in the last five years?

Answer:

Ukraine applies the principle of the lesser duty in its antidumping investigations in accordance with Article 16 of the Law on Protection of the National Producer against Dumped Imports. Draft amendments to the said law further strengthen the application of this principle.

Table 1 – Anti-Dumping Measures Imposed during Period 2000-2005

Commodity that is subject to the Anti-dumping Investigation	Country of Origin of the Commodity	Results of Investigation and Measures Taken
ANTI-DUMPING INVESTIGATIONS		
Artificial fur and Articles thereof (HS code – 4304 00 00) Pile fabrics and terry fabrics (HS code - 6001)	Republic of Belarus	On 23 February 2001, by Decision No. AD-15/2001/52-54 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty for artificial fur – 179.70%; pile fabrics – 53.29% (of the customs value of the commodity, were introduced for a period of 5 years.
Electric filament lamps (HS code – 8539 22 90 00)	Russian Federation	On 7 December 2000, by Decision No. AD-11/2000/52-39A of the Interdepartmental Commission on International Trade, final anti-dumping measures in the form of a anti-dumping duty in the amount 97.50% of the customs value of the commodity, were introduced for a period of 5 years.
Fiberboard of wood (HS code- 4411 11 00 00)	Republic of Belarus	On 12 July 2002, Decision No. AD-45/2002/52-61 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty in the amount of 68.75% of the customs value of the commodity, were introduced for a period of 5 years.
Crossing pieces (HS code - 8608 00 10 00)	Russian Federation	On 5 July 2002, by Decision No. AD-43/2002/52-63 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty in the amount of 59.4% of the customs value of the commodity, were introduced for a period of 5 years.
Ruberoid (HS code- 6807 10 1000)	Republic of Belarus	On 12 July 2002, by Decision No. AD-47/2002/52-62 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty in the amount of 75% of the customs value of the commodity, were introduced for a period of 5 years.

Commodity that is subject to the Anti-dumping Investigation	Country of Origin of the Commodity	Results of Investigation and Measures Taken
Electric lamps (HS code – 8539 22 90 10)	Kyrgyz Republic	On 27 December 2002, by Decision No. AD-62/2002/52-65 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty in the amount of 38.31% of the customs value of the commodity, were introduced for a period of 5 years.
Matches (HS code – 3605 00 00 00)	Russian Federation Republic of Belarus	<p>On 12 September 2003, by Decision No. AD-81/2003/52-123 of the Interdepartmental Commission on International Trade anti-dumping measures were taken in the form of an anti-dumping duty in the amount:</p> <ol style="list-style-type: none"> 1. for commodities originating from the Russian Federation: <ul style="list-style-type: none"> - production of Private JSC "Plitsichprom" - (Balabanovo) – 0%; and - other producers – 8.8%. 2. for commodities originating from the Republic of Belarus: <ul style="list-style-type: none"> - production of Private JSC "Pinskdrv" (Pinsk)- 31.8%; - production of Public JSC "Borisovdrv" (Borisov) – 68.7%; and - other producers – 95.7%. <p>The term of anti-dumping measures expires in 5 years.</p>
Fiber sheets (HS code – 4411 19 00 00)	Poland	<p>On 25 March 2004, by Decision No. AD-90/2004/52-111 of the Interdepartmental Commission on International Trade, final anti-dumping measures were introduced in the form of an anti-dumping duty in the amount of 20.31% of the customs value of the commodity. Individual anti-dumping duty for Ekoplyta S.A. Czarnkow, Polska, Przemyslowa 2 in amount of 17.9%.</p> <p>The term of anti-dumping measures expires in 5 years.</p>
Wood shaving sheets (HS - 4410 19 50 00)	Poland, Slovak Republic	<p>On 15 February 2005, by Decision No. AD 109/2005/52-85 of the Interdepartmental Commission on International Trade, final anti-dumping measures were introduced in the form of an anti-dumping duty for Poland – 25.1%, Slovak Republic – 15.4% in the amount of the customs value of the commodity. Individual anti-dumping duty for production of "Kronospan Slovakia" – 11.7%. The term of anti-dumping measures expires in 5 years.</p>
Citric acid (HS code – 2918 14 00 00)	People's Republic of China	<p>On 25 March 2004, by Decision No. AD- 92/2004/52-113 of the Interdepartmental Commission on International Trade, final anti-dumping measures were introduced in the form of an anti-dumping duty in the amount of margin between minimal import price (US\$ 977 per ton) and the customs value of the commodity. The term of anti-dumping measures expires in 5 years.</p>

Commodity that is subject to the Anti-dumping Investigation	Country of Origin of the Commodity	Results of Investigation and Measures Taken
Screw Compressor Systems (HS 8414 80 71 00, 8414 40 10 00, 8414 40 90 00)	Belarus, Belgium, Italy, Finland	On 28 February 2005, by Decision No. AD-110/2005/52-116 of the Interdepartmental Commission on International Trade, preliminary anti-dumping measures were introduced in the form of an anti-dumping duty for Belarus – 17.8%, Belgium – 58.6%, Italy – 43.2%, Finland – 49.5% in the amount of the customs value of the commodity. The term of preliminary anti-dumping measures expires in one hundred and twenty days.

Question 96

Paragraph 154ff: We understand that Ukraine is developing amendments to its trade remedies legislation that will address identified deficiencies. The Working Party should review Ukraine's new legislation on these issues. Has the legislation been provided to the Secretariat for review by the Working Party?

Answer:

Draft Amendments to the Law on the Application of Safeguard Measures No. 332-XIV dated 22 December 1998 has been submitted to the Parliament and is registered as Draft 7127. Draft Amendments to the Law on Protection of Domestic Producer from Dumped Imports No. 330-XIV of 22 December 1998 has been also submitted to Parliament and is registered as Draft No. 7117.

English copies of both drafts will be submitted to the WTO Secretariat.

Question 97

Paragraph 156: Ukraine indicated that it would not apply any antidumping, countervailing or safeguard measure until it had notified and implemented appropriate laws in conformity with the relevant provisions of the WTO Agreements on the Implementation of Article VI of GATT, on Subsidies and Countervailing Measures, and on Safeguards. From what precise point in time would this commitment become effective?

Answer:

From the date of WTO Accession.

B. EXPORT REGULATIONS

- **Customs tariffs, fees and charges for services rendered, application of internal taxes to exports**

Question 98

We seek the elimination of the export tax of €30 per ton on ferrous scrap and would welcome a clarification on Ukraine's intentions to eliminate this tax.

Answer:

As Ukraine stated in document WT/ACC/UKR/125, from the date of accession it commits to reduce the export duty on scrap metals (7204 - Ferrous waste and scrap; re-melting scrap ingots of iron or

steel) during the first year from € 30 to € 25 per ton, and during the second year – from € 25 to € 18 per ton.

Question 99

In addition, Ukraine's minimum export prices raise serious questions of whether they act to create artificially low internal prices for exportable goods. We would appreciate information on Ukraine's plans for eliminating this measure.

Answer:

The minimum indicative export prices were not applied with the aim of creation of low internal prices on exports. These prices regulate the sale price of Ukrainian goods at the foreign markets and do not relate to trade on the domestic market.

The minimum indicative export prices in this case were applied with the goal to guarantee the sale of Ukrainian products at the estimated cost, which was set at the destination market. It provides for the opportunity to avoid the application of trade restrictive measures against Ukrainian exporters and to preserve the current outlets for the national producers. This measure is applied, since the sellers of Ukrainian sensitive products do not always establish prices corresponding to the average market prices, which, in its turn, results in the restrictive measures taken by the importer.

- Export restrictions

Question 100

We seek Ukraine's Agreement to eliminate its export bans applied for economic reasons, in particular the ban on nonferrous scrap, and to revise its export licensing fee to relate it to the cost of the licensing program, not the value of the export. This should be reflected in the Draft Report.

In this regard, we also support the second commitment text in paragraph 177.

Answer:

Ukraine prepared the draft Law "On Export Duty on Wastes and Scrap of Non-Ferrous Metals and Steel Alloys" regarding the replacement of prohibition on exports of scrap non-ferrous metals with introduction of the export duty for the said products, which will shortly be submitted for consideration to the Verkhovna Rada of Ukraine.

Besides that, in order to change the system of payments for export licenses, so that they reflected the actual expenditures for the rendered services, the Cabinet of Ministers of Ukraine adopted a Resolution "On the Amount of the State Fee for Issuing Export (Import) Licenses" No. 362 of 18 May 2005, which envisages a fixed amount of the State fee for issuance of an export licence instead of paying in *ad valorem* equivalent to the contract value.

Question 101

In Question 33 of document WT/ACC/UKR/126, we referred to advice in the reply to Question 53 of document WT/ACC/UKR/120 that exports of scrap metals and primary metallurgical products of copper are banned if they are intended for processing abroad and the processed products are intended to be imported. In reply, Ukraine stated that in accordance

with Article 9 of the Law "On Scrap Metals", exportations of scrap metals are prohibited regardless of their intended use.

Are there provisions of any law or legal act which ban exports of scrap metals if they are intended for processing abroad and the processed products are intended to be imported?

Answer:

Yes. According to Article 9 of the Law of Ukraine "On Scrap Metal", it is prohibited to export outside the customs territory of Ukraine the raw materials of scrap alloy ferrous metals, scrap non-ferrous metals, primary metallurgical products in the form of ingots, blocks, slices and other semi-processed products of crude cooper (including anodes).

Question 102

In Question 33 of WT/ACC/UKR/126, we sought the elimination of the ban on exports of scrap metals and copper ores. Ukraine replied that there was no ban on the export of copper ores, and that the government was planning to review the ban on exports of scrap metals.

We seek the elimination of all remaining bans on the exportation of these products by the date of accession, regardless of whether or not they are intended for processing abroad and the processed products are intended to be imported. Accordingly we request the replacement of the WTO justification (which we do not consider to be relevant to these products) in Table 17(a) of WT/ACC/SPEC/UKR/5/Rev.2 with a date for the elimination of the export prohibitions on waste and scrap of non-ferrous metals.

Answer:

The Cabinet of Ministers of Ukraine adopted a Draft Law "On Export Duty on Wastes and Scrap Non-Ferrous Metals and Alloy Steel" on 26 May 2005. The Draft provides for the elimination of the ban on export of scrap non-ferrous metals, and will be introduced into the Verkhovna Rada of Ukraine in the nearest future.

Question 103

We are unable to agree with Ukraine's statement, in the reply to Question 34 of WT/ACC/UKR/126, that the prohibitions on the export of scrap metals generated in military units, military institutions and military educational establishments of the Armed Forces of Ukraine and in other military formations, and on the export of parts and units of machines, ships, vessels, military equipment and machinery, railroad rolling stock in an assembled condition written off as scrap metal, are covered by the national security exceptions of Article XXI of GATT 1994. There is no national security issue involved.

We seek the elimination of the bans on the exportation of these products by the date of accession. Accordingly we request an appropriate entry in a revised Table 17 of WT/ACC/SPEC/UKR/5/Rev.2 that includes details of these measures and a date for their elimination.

Answer:

Please see the answer to the previous Question.

Question 104

We would interpret Ukraine's reply to Question 35 of WT/ACC/UKR/126 to mean that, because the A quota for sugar has never been filled in aggregate and because B quotas for sugar have never been required to be filled, the questions of restricting the amounts sold internally by individual sugar owners to the limits of the A quota and of ensuring the B quota is supplied by individual sugar owners have never arisen. Accordingly, Ukraine's sugar quota system to date, has neither led to prohibitions being specifically applied to the exports of individual sugar owners that would be inconsistent with Article XI of GATT 1994, nor to requirements for individual sugar owners to export to particular markets that would be inconsistent with Article I of GATT 1994.

If this interpretation is not correct, we would appreciate further clarification.

Answer:

The understanding of Ukraine's comments is correct.

Question 105

We would presume, however, that, in the event of the A quota not being filled in aggregate, there would still be a general prohibition on the export of sugar that would be inconsistent with Article XI of GATT 1994 and, in the event of the B quota being required to be filled, Ukraine's sugar system would still require the application of measures to divert the export of sugar to particular markets, inconsistently with Article I of GATT 1994.

We would accordingly expect entries for these export restrictions to be included in Table 17 of WT/ACC/SPEC/UKR/5/Rev.2, and would expect the elimination of these measures by the date of accession.

Accordingly, we would expect the Law of Ukraine "On the State Regulation of Sugar Production and Sale" No. 758 of 17 June 1999 to be repealed by the date of accession.

Answer:

The government of Ukraine has developed a draft law with respect to abolition of B and C quotas and requirements posed to mandatory exportation of raw cane sugar. Currently, this draft law is being reviewed by the respective special committee of the Parliament.

Question 106

In the light of the reply to Question 36 of WT/ACC/UKR/126, we would be grateful for an indication of whether the legal provision (mentioned in the reply to Question 53 of WT/ACC/UKR/120) authorizing the imposition of restrictions on the export of ferrous metal scrap by the Cabinet of Ministers, depending on the need for ferrous metal scrap, is still in force.

If this legal provision is still in force, we would expect it to be eliminated by the date of accession.

Answer:

There are no restrictions on export of scrap ferrous metals in Ukraine. The noted group of goods is subject to the application export duty. The export duty rates for scrap ferrous metals shall be liberalized gradually.

Question 107

We welcome Ukraine's reply to Question 37 of WT/ACC/UKR/126 concerning voluntary export restraints.

Accordingly, we would ask Ukraine to indicate in Tables 17(c), 17(d) and 17(e) of WT/ACC/SPEC/UKR/5/Rev.2 that the date of elimination of the measures in those tables will be the date of its accession to the WTO, and to indicate in Table 17(f) that the date of elimination of the measures in that table will be the date of the Russian Federation's accession to the WTO.

We appreciate Ukraine's undertaking to amend Paragraph 15 of Article 2 of the Law of Ukraine No. 2761-III of 4 October 2001 "On Amendments to the Law of Ukraine 'On Operations with Raw Materials Supplied on a Tolling Basis in Foreign Economic Relations'".

Answer:

Ukraine does not object to the proposed amendments.

Question 108

We would expect the elimination of all quantitative export restrictions in Table 17(b) of WT/ACC/SPEC/UKR/5/Rev.2 and of all export approval requirements relating to products falling to HS headings 2616, 2843, 7018, 7103, 7104 and 7105 in Table 18(c) no later than the date of accession. These measures are either not appropriate to the coverage of exceptions under GATT Article XX(c) or not relevant to the purpose of those exceptions (or both), and would not conform to the requirements of the chapeau of GATT Article XX. We remain unconvinced that the measures on gold and silver are significant measures of currency control in Ukraine. We would expect all references to GATT Article XX(c) to be replaced by dates of elimination.

Answer:

Ukraine took note of this comment.

Question 109

We would expect the elimination by the date of accession of export licensing and prior approval requirements for export applicable to all products in Table 18(a) of WT/ACC/SPEC/UKR/5/Rev.2 for which a justification was provided under Article XX(d) or (g) of GATT 1994. We would also expect all references to GATT Article XX(d) and (g) be replaced by dates of elimination. We note Ukraine's admission in the reply to Question 43 of WT/ACC/UKR/126 that measures applicable to a number of these products are not made effective in conjunction with restrictions on production and consumption – a requirement that must be met for an exception under GATT Article (g) to apply.

Answer:

Ukraine took note of this comment.

Question 110

We appreciate the information provided by Ukraine in response to Questions 47-72 of WT/ACC/UKR/126 concerning minimum indicative export prices, including their nature, product coverage and linkages to export contract registration requirements, "special regimes", "special import procedures" (no longer applied) and the application of *ad valorem* export duties.

Ukraine's responses indicate that: the minimum indicative export prices are in fact mandatory export approval requirements contingent on non-observance of a minimum export price and they are intended to maintain arbitrary customs values for the exports to which they are applied. We would request that the substance of our comment in Question 72 of WT/ACC/UKR/126 be reflected in the report, including our expectation and request. We also seek a response from Ukraine.

Answer:

Ukraine does not object to reflecting the relevant comment in the text of the Draft Report.

Question 111

We are pleased to note in Ukraine's reply to Question 47 of WT/ACC/UKR/126 that it is introducing a Presidential Decree to cancels the requirement to register export contracts.

When will the Presidential Decree likely to come into force?

Answer:

The Cabinet of Ministers of Ukraine approved on 26 May 2005 the Draft Order of the President "On Considering Invalid Some Orders of the President of Ukraine", which was drafted with the goal of liberalizing the export of goods from Ukraine. The implementation of the Draft Order will provide for the simplification of the procedure for export of goods from the customs territory of Ukraine, since the necessity to register the foreign economic (export) contracts shall be eliminated. The above Draft Order is to be signed by the President in the nearest future, which shall be notified by Ukraine.

Question 112

We seek direct responses from Ukraine to the concerns raised in Question 73 of WT/ACC/UKR/126, and the reflection of those concerns and Ukraine's responses in the report.

Answer:

Ukraine has nothing to add to its answer provided to Question 73 of document WT/ACC/UKR/126, especially with regard to the Law of Ukraine "On Export Duty for Livestock and Leather Raw Materials" No. 180/96 of 7 May 1996. The Law allows the agricultural producers, who are legal entities, to export the goods mentioned in the Law without paying an export duty. This provision does not apply, however, to the producers if they export young cattle weighting not more than 350kg and leather raw materials (the relevant UCC FEA codes: 4101, 4102, 4103 90 00 00) of their own production. Ukrainian legislation does not provide for other exemptions as regards the export duty payment.

Question 113

Further to Question 74 of WT/ACC/UKR/126, we continue to look forward to Ukraine's schedule for the elimination of all export duties.

Answer:

Ukraine does not plan to do the schedule for the elimination of all export duties. Along with that, the Laws of Ukraine were drafted on the reduction of export duties for scrap ferrous metals, livestock, certain oil seeds, in order to eliminate the prohibition of export of scrap non-ferrous metals. The Drafts shall be introduced into the Verkhovna Rada of Ukraine in the nearest future. Ukraine will additionally notify of the adoption thereof.

Question 114

Regarding the reply to Question 75 of WT/ACC/UKR/126, we would appreciate an update on the foreshadowed revision of export licence fees to reflect the actual cost of services rendered.

Answer:

In order to amend the system of payment for export licenses so that they reflected the actual expenses for the rendered services, the Government adopted the Resolution "On the Amount of the State Duty for Issuing Export (Import) Licenses" No. 362 of 18 May 2005 regarding the imposition of a fixed amount of the State fee to the State budget for issuing an export licence in the regime of automatic and non-automatic licensing, rather than fee in *ad valorem* equivalent to the value of contract.

Question 115

We seek clarification as to whether Ukraine is proposing the application of export quotas for grain. If this is the case, we seek details of the proposals Ukraine is considering and how these will be implemented.

Answer:

Ukraine does not envisage applying the export quotas for grain.

C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

- **Industrial policy, including subsidies**

Question 116

Paragraphs 179, 180 and 190-196: We reiterate that within document WT/ACC/SPEC/UKR/5/Rev.2, Ukraine has acknowledged non-compliance with Article 3 of the Agreement on Subsidies and Countervailing Measures for the Law "On Rates of Excise Duty on Motor Vehicles" and referring to transitional periods under Articles 28 and 29 of the SCM Agreement.

Ukraine must revise its commitment to bring its support of the automotive industry into compliance with the WTO provisions. Moreover, we would like to confirm that Ukraine will eliminate, upon accession, all incentives which meet the criteria set forth in Article 3.1(a) and 3.1(b) of the SCM Agreement.

Answer:

The Law of Ukraine No. 2505-IV of 25 March 2005 eliminated the tax privileges for automobile producers and established the equal excise duty and VAT rates for the domestic and imported motor vehicles in line with the national treatment regime. Connected with the elimination of the above mentioned privileges, provisions of Article 4 of the Law of Ukraine "On Stimulation of Automobile Production in Ukraine" on the determination of the country of origin of automobiles (rendered by the US party as the local content requirement), which were the basis for granting the above mentioned privileges, do not actually apply. Along with this, in order to legislatively harmonize the provisions of this Law with WTO requirements, the Government has approved on 26 May 2005 the Draft Law "On Amendment of the Law of Ukraine "On Stimulation of Automobile Production in Ukraine" as to the elimination of Article 4. The Draft was introduced into the Verkhovna Rada of Ukraine. Ukraine will additionally inform on the adoption of this Draft Law.

Question 117

Paragraph 183: We note that the Law "On State budget for 2004," suspends the VAT exemption for "certain domestic inputs (services rendered by Ukrainian design and development enterprises)," except for enterprises which signed contracts before the Law came into force. Could Ukraine please provide examples of exactly what types of "certain domestic inputs" receive the VAT exemption? Under what circumstances can the suspension be lifted?

While we appreciate Ukraine's suspension of the VAT exemption for "certain domestic inputs", it is our understanding that the exemption is contingent upon the use of domestic over imported goods. Article 3.1(b) of the SCM Agreement prohibits subsidies contingent upon the use of domestic over imported goods. We seek confirmation that Ukraine will permanently eliminate or revise the VAT exemption, ensuring that its policies will be operated in conformity with WTO provisions upon accession.

Answer:

Please see the answer to the previous question regarding paragraphs 179, 180 and 190-196.

Question 118

Paragraph 186: It is noted that the suspension of VAT privileges for the aircraft construction, automotive, shipbuilding and aircraft construction industries has not been extended under the Law "On State Budget for 2005." However, Ukraine states this Law would be revised to include the suspension.

Please provide a time line for when the revised Law will come into effect?

Will Ukraine commit to the law coming into effect upon accession?

Under what circumstances can the suspension be lifted?

Are the VAT exemptions under the Law "On State Budget for 2005" similar to the VAT exemptions under the Law "On State Budget for 2004"?

Are these VAT exemptions contingent upon the use of domestic over imported goods?

Answer:

All VAT privileges in automobile and aircraft construction and in ship building were eliminated pursuant to the Draft Law of Ukraine "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other Legislative Acts" No. 2505-IV of 25 March 2005.

Question 119

Paragraph 191: Please confirm that the local content requirement under the Law "On Stimulation of Automobile Production in Ukraine," has been eliminated. If it has not, please confirm that Ukraine, upon accession, will bring its law "On Stimulation of Automobile Production in Ukraine" into conformity with the WTO provisions, including Article 3.1(a) and 3.1(b) of the SCM Agreement.

We note that under the Law "On the State Budget for 2004" suspends the VAT privileges for "domestically-produced" vehicles during 2004. We would like to remind Ukraine, that under Article 3.1(b) of the SCM Agreement, subsidies contingent upon the use of domestic over imported goods, are deemed prohibited.

We ask that Ukraine commit to revising the Law "On State Budget for 2004/2005" upon accession, such that Ukraine's policies are in conformity with the WTO provisions, including Article 3.1(a) and 3.1(b) of the SCM Agreement. Future budget legislation should not contain measures establishing prohibited subsidies.

Answer:

Please see the answer to questions regarding Paragraphs 179, 180 and 190-196.

Question 120

In paragraph 196, Ukraine indicated that, from the date of accession it would not maintain subsidies, including export subsidies, which meet the definition of a prohibited subsidy within the meaning of Article 3 of the SCM Agreement.

Given the wide range of existing subsidies in a large number of sectors, do the authorities already have a clear timetable in mind for the elimination of these subsidies to ensure adequate implementation?

Answer:

The norms of the Law of Ukraine "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other legislative Acts" No. 2505-IV of 25 March 2005 regulate the problematic issues of taxation, improve the principles of administering the taxes, eliminate the sectoral privileges and privileges for the businesses registered in special economic zones, at the territories of priority development and technological parks, on paying the land tax, tax on corporate profit, import duty and VAT on imports. The privileges are also eliminated/reduced in the sector of automobile construction, aircraft building, ship building and space industry.

- **Technical barriers to trade, standards and certification**

Question 121

We appreciate the information provided and for the strong efforts Ukraine has made over the past few years to reform its standardization system. We would be interested in an update on the additional legislation contemplated, to ensure that all mandatory requirements applied to imports meet WTO requirements prior to accession.

Answer:

The finalized Draft Law on Standards, Technical Regulations and Conformity Assessment Procedures amending the Law on Conformity Assessment No. 2406-III of 17 May 2001 and the Law on Standardization No. 2408-III of 17 May 2001 has been submitted to Parliament for consideration.

Question 122

Paragraph 199: Ukraine has noted that approximately 80 per cent of its national standards are identical to international standards. We recognize that bringing other legislation into conformity with international standards and norms is underway, however, but we do not have clarification on where Ukraine is in this process and exactly which standards are under revision. We believe the action plan will aid our understanding of this process.

Answer:

First sentence needs clarification. Ukraine has stated that since 2001 it was ensured that in most sectors there were passed national standards identical to or harmonized with international standards in accordance with internationally accepted rules. The harmonization rate for the passed standards exceeded 80 per cent.

Please see the action plan for harmonization of national standards and technical regulations.

Question 123

Paragraph 201: We continue to have concerns about Ukraine's shelf-life standards. Please submit the national standards for Working Party members to review.

With regard to shelf-life standards imposed on imported fish products, Ukraine notes that manufacturer-determined shelf life is acceptable as confirmed by an official. This does not reflect the actual situation at the port of entry and we remain concerned that these measures contradict the internationally accepted norms.

We request clarity on Ukraine's efforts to bring these standards into conformity with international standards.

Answer:

An English copy of Interstate Standard (DSTU) No. 1168-86 will be submitted to the WTO Secretariat.

When consignment with imported fish arrives to the border of Ukraine, the Veterinarian Inspector verifies such consignment and shelf life (or expiration date). If shelf-life exceeds the requirements in Ukrainian standards, the Veterinarian Inspector stamps shelf-life stipulated in Ukrainian standards.

Ukraine is working on bringing its shelf-life standards on imported fish products in accordance with international standards.

Question 124

Paragraph 202: With regard to the Law "On Standardization", we understand that the Ministry of Agriculture can impose technical regulations, for example the technical regulations on shelf life for fish. However, we seek clarity on if Ukraine intends to impose technical regulations on additional products. If so, will this information be provided to the Working Party?

Answer:

There are currently no intentions to impose any new technical regulations. In case of imposition prior to accession, information will be provided to the Working Party. After accession, notifications will take place in accordance with the TBT Agreement.

Question 125

We would like to further note that technical regulations should not be maintained if the objective can be addressed in a less trade-restrictive manner and encourage Ukraine have its legislation in compliance with the provisions of the TBT Agreement.

Answer:

The requirement that technical regulations should be maintained if the objective can be addressed in a less trade-restrictive manner is stipulated in the Draft Law on Standards, Technical Regulations and Conformity Assessment Procedures amending the Law on Conformity Assessment No. 2406-III of 17 May 2001 and the Law on Standardization No. 2408-III of 17 May 2001. Ukraine will ensure compliance with this requirement.

Question 126

We seek a commitment from Ukraine that it will be in full conformity with the obligations of the WTO TBT Agreement from the date of accession.

Answer:

Ukraine commits to be in full conformity with the obligations of the WTO TBT Agreement from the date of accession provided adequate technical assistance from WTO Members. Action Plan to achieve full harmonization of standards and technical regulations during period 2005-2011 is submitted.

Question 127

We remain concerned that Ukraine appears to be seeking a transition period (of unspecified duration) in which to bring its TBT regime in to conformity with the TBT Agreement. Ukraine notes in paragraph 209 of document WT/ACC/SPEC/UKR/5/Rev.2 that it would ask for an implementation period and submit a work program spelling out the steps to be taken and the required timeframe. We would hope to see Ukraine accept the commitment language in paragraph 210 to bring its regime into conformity with the TBT Agreement from the date of accession.

Answer:

Ukraine will not apply any national provisions upon accession that run counter to the TBT Agreement mandatory requirements. State Committee for Technical Regulation and Consumer Policy prepared Action Plan to achieve full harmonization of standards and technical regulations during period 2005-2011. Please see the Action Plan.

Question 128

We would be interested in further information on how work is progressing in relation to the draft Law "On Standards, Technical Regulations and Conformity Assessment Procedures", and in relation to amendments to bring existing legislation into compliance with the TBT Agreement.

Answer:

The finalized Draft Law on Standards, Technical Regulations and Conformity Assessment Procedures has been submitted to Parliament for consideration.

- **Sanitary and phytosanitary measures**

Question 129

The section is much improved, and we look forward to reviewing the new laws, institutions, and procedures, and to understand how they will improve one of the most difficult areas in the accession. We are most grateful that Ukraine has made the decision to bring the regime into conformity with the WTO SPS Agreement

We would like additional information on the specific aspects of this reform that Ukraine feels will require extra time to implement.

We would prefer a commitment for WTO consistency in this area upon accession.

However, we still do not have a clear understanding of Ukraine's efforts to bring its SPS regime into compliance with the WTO SPS Agreement. For example, Ukraine has committed to provide a revised action plan and English versions of draft legislation affecting trade in agricultural products before this Working Party meeting. It is imperative that we review this information in order to bring clarity to where we are in the accession process.

Answer:

Ukraine is prepared to fully implement the SPS Agreement upon accession provided adequate technical assistance from WTO Members to modernize testing laboratories, border inspection, control methods, and sampling procedures and to train relevant personnel. Ukraine has already drafted amendments to bring relevant SPS Laws into full conformity with the SPS Agreement including substantive provisions, procedural and transparency aspects. Draft laws have been submitted to Parliament for consideration.

Document WT/ACC/8 conformity charts were submitted to the WTO Secretariat and circulated as document WT/ACC/UKR/124 on 16 December 2004. An SPS harmonization plan is available in document WT/ACC/UKR/128.

Question 130

Paragraph 213: While some of the section has been modified to reflect specific legislative changes that are underway, many aspects to bring Ukraine's SPS regime into conformity with the requirements of the SPS Agreement are not reflected. We would ask Ukraine to update.

Answer:

Please see the reply to the previous question.

Question 131

Paragraph 216: Has Ukraine submitted to the Supreme Rada the draft laws amending SPS-related provisions contained in the Laws "On Veterinary Medicine," "On Quality and Safety of Food Raw Material," and others?

We further note that these Laws need to be WTO-consistent and based upon sound science. For example, current legislation exists that prohibits the importation of meat and meat products from animals treated with hormones.

Recognizing the status of the WTO case against similar requirements in the European Union, we expect such legislation to be corrected and reflected in the aforementioned SPS provisions.

Please provide a full description of efforts underway to bring the SPS regime into conformity with WTO requirements, including which pieces of legislation are under review and the result expected for any pending changes (i.e., removal of the requirement that imported meat must be sourced from animals not treated with hormones).

Answer:

Draft laws have been submitted to Parliament and are to be adopted before end of 2005.

For efforts to bring SPS regime into conformity with WTO requirements, please see the SPS Harmonization Plan in document WT/ACC/UKR/128.

Question 132

Paragraph 220: This section should further include commitments related to the establishment of an SPS Enquiry Point.

Answer:

The Resolution establishing Enquiry and Notification Point (including SPS matters) has been approved by the Cabinet of Ministers on 31 May 2005 No. 408.

Question 133

Paragraph 221: We believe that all legislation including sub-legislation that outlines detailed requirements for agricultural and food products is very much a part of Ukraine's legal regime and is governed by both the SPS and TBT Agreements. Therefore, Ukraine's legal regime cannot be considered WTO compliant until the sub-legislation is compliant.

We seek a commitment from Ukraine that it will be in full conformity with the obligations of the WTO SPS Agreement from the date of accession.

Answer:

Ukraine will fully implement the SPS Agreement upon accession provided adequate technical assistance from WTO Members to modernize testing laboratories, border inspection, control methods, and sampling procedures and to train relevant personnel. SPS Harmonization Plan is available in document WT/ACC/UKR/128.

Question 134

We are concerned that Ukraine appears to be seeking a transition period (of unspecified duration) in which to bring its SPS regime into conformity with the SPS Agreement. In paragraph 221 of document WT/ACC/SPEC/UKR/5/Rev.2, Ukraine only commits to having its legislation in compliance with the substantive provisions of the SPS Agreement. We would hope to see Ukraine accept a commitment to bring its regime into conformity with the SPS Agreement from the date of accession.

Answer:

Ukraine is prepared to fully implement the SPS Agreement upon accession provided adequate technical assistance from WTO Members to modernize testing laboratories, border inspection, control methods, and sampling procedures and to train relevant personnel. Ukraine has already drafted amendments to bring relevant SPS Laws into full conformity with the SPS Agreement including substantive provisions, procedural and transparency aspects (see document WT/ACC/UKR/128).

Question 135

We note that in document WT/ACC/UKR/124 of 16 December 2004, Ukraine has provided an updated SPS check-list, but only on those commitments it will make by the time of accession. In paragraph 221 of the report, Ukraine notes that it will ask for an implementation period and will present a work program spelling out the steps to be taken to achieve full conformity and the time taken.

Answer:

Please see reply to previous question.

Question 136

Under item 9 of the check-list (WT/ACC/UKR/124), on regional conditions, we would note that the draft Ukrainian legislation cited does not seem to cover the purpose of Article 6 of the SPS Agreement, which is to recognise that there can be different pest and disease prevalence in different regions within national borders. We would prefer that the language of Article 6 be reflected in the Ukrainian legislation.

Answer:

Under item 9 of the checklist (WT/ACC/UKR/124) on regional conditions, it is stated that the veterinary-sanitary status of Ukraine relative to that of an exporting country will be taken into account when preparing, reviewing, revising, and adopting veterinary-sanitary measures applicable to imported commodities. The term "veterinary-sanitary status" is defined in the law as "the status of a

country or a territory (facility) with respect to animal disease, determined according to the criteria specified by the relevant international organizations". Note that the definition specifically refers to a territory and even to a facility. This means that the veterinary-sanitary status of a facility such as a farm or animal breeding centre will be considered when preparing, reviewing, revising and adopting veterinary-sanitary measures.

In addition to the above provisions, we now understand that it would have been appropriate to include in WT/ACC/UKR/124 relevant provisions of two additional articles. These articles establish principles for applying veterinary-sanitary measures to imported commodities. The first Article establishes requirements for consignments of commodities presented for import or transit. The relevant text is in item 4) of paragraph (1):

- (1) Import consignments of commodities shall:
 1. Be free of notifiable diseases in compliance with the requirements established by the World Animal Health Organisation;
 2. Be accompanied by an original international veterinary certificate signed by a state inspector of veterinary medicine of the country of origin when so required by current veterinary-sanitary measures;
 3. Be accompanied by an import permit when so required by current veterinary-sanitary measures; and
 4. In the case of live animal imports, have originated from countries or zones free from notifiable diseases or, when recommended by the World Animal Health Organisation, zones of low prevalence of notifiable diseases within the country of origin, and not have transited through an area that is under restriction, as confirmed by a relevant international organisation or by the Veterinary Administration of the country of origin or transit, for control of a notifiable disease to which the live animals are susceptible.

Item 4) clearly permits importation of commodities from disease-free zones or zones of low prevalence of animal diseases within the country of origin of the commodities. Also, in the Article entitled "Permit for Import of Commodities", the following provisions apply:

- (1) When specified in relevant veterinary-sanitary measures, the import of commodities shall be subject to a permit issued by the Department.
- (2) The procedure for submission of the application for obtaining the permit for import, as well as the format and content of the application shall be established by the Department. Under no circumstances shall the decision on whether or not to issue an import permit take more than 30 calendar days.
- (3) An import permit shall be issued if the following conditions are met:
 1. Import of the commodities is not prohibited due to the veterinary-sanitary status in the country of origin; and
 2. The risk associated with import or transit of the commodities is acceptable in relation to the appropriate level of animal and related human health.
- (4) Factors to be considered that determine the risk associated with importation of a commodity include:
 1. The intended use of the commodity;
 2. The geographic and other characteristics of Ukraine, the country of origin, and, when applicable, countries of transit that affect the ability of notifiable diseases to survive, establish, and spread;

3. The existence of state control programmes of animal diseases in Ukraine, the country of origin, and transit countries; and
4. The existence of zones free of notifiable disease or of low prevalence of notifiable disease in the country of origin, from which risks of transmission of such notifiable disease may be nil or minimal;

The relevant provisions here are item 2) of paragraph (3) and item 4) of paragraph (4). We believe that these provisions are sufficient to fully cover the purpose of Article 6 of the SPS Agreement.

- **Trade-related investment measures**

Question 137

We would prefer a commitment for WTO consistency in this area upon accession, e.g., the commitment text in paragraph 226.

Answer:

Ukraine agrees to the commitment text in paragraph 226.

- **State-trading entities**

Question 138

Please provide further information on the activities of Kleb Ukrainy and the other unprivatized state-owned enterprises operating in the agricultural sector, particularly in light of the new Agricultural support law. In addition, please provide information on the relative share of imports, exports, and economic activity accounted for by state-owned and state trading firms in the agricultural sector.

We reserve our position on other firms to be identified as state-trading enterprises.

We appreciate Ukraine's commitment on state-trading enterprises.

Answer:

Ukraine will provide a conclusive report on state trading enterprises in July 2005.

Ukraine accepts the commitment under paragraph 232.

- **Free zones, special economic areas**

Question 139

We request that the Ukraine commit to eliminating, upon accession, any requirement or recommendation to use domestic over imported goods under this program. In this regard, we note the programs identified in paragraphs 234, 237, and 239.

Please provide an estimated timeline of when the amendments to bring the language of Resolution No. 1199 into compliance will be submitted for review by the Members.

Answer:

Government of Ukraine has adopted the Resolution of 30 May 2005 "On Amendment of the paragraph 3 of Model Agreement (Contract) for the Implementation of the Investment Project at the Territory of Priority Development, in Special (Free) Economic Zone", which provides for the elimination of the WTO non-compliant provision stipulating the privileges for goods (works, services) of Ukrainian production used in the course of implementation of the investment project on equal terms with regard to the price, validity term, quality, etc.

Question 140

We support a commitment along the lines of those contained in paragraph 243, and the understanding that Ukraine will eliminate, from the date of accession, benefits and requirements applied in the zones that violate WTO provisions, and that duties and taxes foregone when goods or inputs are imported, will be applied to exports from the zones into the rest of Ukraine.

Answer:

The Law of Ukraine No. 2505 "On Amendment of the Law of Ukraine "On the State Budget of Ukraine for 2005 and Some Other Legal Acts" of 25 March 2005 cancels the privileges for business entities registered in special economic zones, territories of priority development and technological parks without changing the principles of the effective taxation mechanism, and without increasing a tax burden on goods manufacturers. In particular, the Law cancels the exemption from land tax, corporate income tax, import duty and value-added tax on imports.

- **Government-mandated counter-trade and barter**

Question 141

Are barter imports subject to normal import requirements, tariffs, and taxes? If so, this should be reflected in the text.

Answer:

Barter imports are subject to normal import requirements, tariffs, and taxes. Ukraine does not object to include such information in the text of the report.

- **Agricultural policies**

Question 142

Progress in the domestic support aspects of the section of the report on agricultural policies awaits finalization of the necessary technical work on agricultural domestic support and export subsidy tables in the context of the plurilateral process on agriculture. To enable this essential technical work to move forward, we look forward to the early adoption by Ukraine of a recent representative base period as a basis for appropriate commitments, as per the requirements of WT/ACC/4 – that is to say, a base period that would more accurately reflect:

- **current agricultural policies;**
- **how those agricultural policies are currently applied;**
- **the context in which those policies are currently applied;**
- **on average, the level and composition of support currently provided; and**

- **on average, the level and composition of current agricultural production.**

Answer:

Ukraine will prepare analytical materials with respect to a probability of base period alteration in the context of current state policy on agriculture. The definitive decision on amending the base period will be approved on the next Agriculture Plurilateral Meeting.

Question 143

We believe the base period Ukraine wishes to use is too distant to be representative and would hope Ukraine would commit to using the more recent period of 2000-2002, and we would encourage the provision of revised tables for this period or a more recent three year period if preferred.

Answer:

Ukraine has prepared and circulated among the Working Party members its monitoring tables covering the 2000-2003 marketing period. The final decision on amending the base period will be approved at the next plurilateral meeting on agriculture.

Question 144

We welcome Ukraine's commitments, reflected in paragraph 278 of the report, to bind agricultural export subsidies at zero and to not seek recourse to special safeguard provisions under the Agreement on Agriculture, which is reflected in paragraph 278 of the report.

In paragraph 267, Ukraine noted that it would amend the Law "On State Support to Agriculture in Ukraine" prior to WTO accession to address concerns that some provisions were not consistent with WTO requirements. We would be grateful if further information could be provided concerning proposed amendments to the Law.

Answer:

A respective draft law has been developed and at present this bill is undergoing approvals of competent central power authorities.

Question 145

Technical comments on tables for 2000-2002 in WT/ACC/SPEC/UKR/1/Rev.9 of 23 April 2004. We thank Ukraine for the technical changes in the tables provided in WT/ACC/SPEC/UKR/1/Rev.9 on 23 April 2004.

We note that the commitments continue to be presented in US dollars, and request that Ukraine undertakes the commitments in local currency.

Answer:

This appears impossible in relation to the 1994-1996 period and Ukraine's reasoning for that has been communicated by Ukraine to the Working Party members on numerous occasions.

Question 146

Ukraine has removed the entry under (a) General services, (2) rural infrastructure development, and has now footnoted the entry, saying they were not applied. The removal of this entry appears to be in response to comments made by WTO members about what needs to be scheduled and what is not required to be scheduled.

We are pleased to see that the negative values have been removed from the tables.

We note that the external reference prices in column 5 of Table DS:5 have been recalculated and seem to have taken into account comments from WTO members on how the external reference prices should be calculated.

We see that column 6 is now headed eligible purchased production (rather than eligible production). The figures remain unchanged on eligible production. We continue to request that Ukraine include figures on total production.

Answer:

Paragraph 8 of Annex 3 to the Agreement On Agriculture contains a definition of "the quantity of production eligible to receive the applied administered price" rather than the "total production". Therefore, the choice of the amount of production procured by the state in case of Ukraine over the period of 1994 – 1996 as eligible production appears to be correct. Explanations of specific features characterizing this mechanism pertinent to a transition economy were on numerous occasions provided by Ukraine.

- Sugar policies

Question 147

Ukraine has provided a considerable amount of useful factual information on its sugar policies in the replies to Questions 80 to 106 of WT/ACC/UKR/126. Before proceeding to discuss redrafting text for the report, we would like Ukraine to reconsider the continuation of its sugar quota system. As we have pointed out, this system gives rise to concerns over Ukraine's conformity with its future WTO obligations on export restrictions and export subsidies, and possibly others. The elimination of this system would not affect its right to provide price support to beet producers within the limits of its domestic support commitments.

Answer:

Please see the Answer to Question 105.

Question 148

One further issue we would like to clarify at this stage is whether or not internal purchases and sales of imported refined sugar are subject to the same mandatory minimum price requirements that apply to internal purchases and sales of domestic beet origin sugar and domestically refined cane origin sugar. Ukraine's reply to Question 94 of WT/ACC/UKR/126 appears to say that the price of imported refined sugar is affected by prices on domestic market, but does not clarify whether the imported refined sugar is subject to mandatory minimum price requirements applicable to domestic sugar.

We would appreciate clarification of this point.

Answer:

No, the imported refined sugar is not subject to mandatory minimum price requirements applicable to domestic sugar. Pursuant to applicable laws, "the minimum price to sugar is the lower limit of price applying to sale-purchase Agreements at Ukraine's domestic market within the A Quota. The A Quota is an internal quota for supplying domestically-produced sugar to the internal market. Refined imported sugar is not produced in Ukraine within this quota and is not subject to the effect of the cited minimum price definition.

Question 149

Regarding Ukraine's reply to Question 107 of WT/ACC/SPEC/UKR/5/Rev.2 to concerns on TRIMS in relation to sugar, we again seek details of plans, or steps already taken, to abolish this requirement and ask that this information be reflected in the report.

Answer:

The domestic regulation of the sugar market contains no provisions being inconsistent with TRIMs.

- Drawback of duty

Question 150

Concerning the reply to Question 77 of WT/ACC/UKR/126, we would still consider a duty drawback scheme in relation to sugar to be an option worth considering, even though Ukraine will no longer be seeking recourse to a tariff quota for raw cane sugar. We would be pleased to discuss this further.

Answer:

Ukraine looks forward to further discussions on this subject.

- **Trade in civil aircraft**

Question 151

Ukraine has stated its commitment to join the Agreement on Trade in Civil Aircraft. We request that, in the appropriate part of the Working Party Report, Ukraine include information on its commitment to join the Information Technology Agreement, as well.

Answer:

Ukraine does not object to this request.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

Question 152

This part of the draft report is much improved, and incorporates much of the information developed from the last Working Party meeting.

We are reviewing the new amending legislation just provided to the Secretariat, and we will be reviewing areas of Ukraine's basic laws, such as the Civil Code, that have relevance to TRIPS

obligations, e.g. the protection of test data. After we have completed this review, we will have additional comments.

The chief deficiency in the intellectual property regime is in the area of enforcement.

Passage of Bill No. 7032, amending the law on optical disks, should be a positive step.

We also look forward to more information from Ukraine concerning the protection of undisclosed information in patent applications.

Answer:

We inform you, that the Law of Ukraine "On Amendment of Some Laws of Ukraine (on the implementation of legislation in line with the requirements of the WTO TRIPS Agreement)", registration No. 7032 was rejected by the Verkhovna Rada of Ukraine at the plenary session of 31 May 2005. Taking into account that there is another Draft Law registered at the Verkhovna Rada of Ukraine for today – "On Amendment of Some Legislative Acts of Ukraine (on regulation of transactions related to the production, export and import of disks for laser-readable systems or the raw materials for the production thereof)" No. 7232 of 22 March 2005, which fully reflects the comments by the International Federation for Photographic Industry, there is a possibility that it will be considered in the nearest future.

- Requirements on undisclosed information, including trade secret and test data

Question 153

We propose the following text for the commitment paragraph relating to the protection of undisclosed information.

The representative of Ukraine confirms, that Ukraine will, in compliance with Article 39.3 of the TRIPS Agreement, enact specific legislative provisions, prior to accession, that require the registration authorities for pharmaceutical and agricultural products to provide a period of protection of at least six years for test data submitted from the time the first marketing authorization is granted for a specific product utilizing a new chemical entity in Ukraine against unfair commercial use. During this six-year period no person or entity other than the person or entity who submitted such data shall be entitled, without the explicit consent of the person or entity who submitted the data, to rely on such data in support of an application for product approval. During this period, any subsequent applicant for marketing approval shall not be granted a market authorization, unless he submits his own data to the same extent as required from the first applicant for obtaining the marketing authorization in Ukraine for the particular chemical entity. Furthermore, Ukraine shall guarantee, during this period, the protection of undisclosed information, including commercial secrets, except where necessary to protect the public or unless steps were taken to ensure that the data are protected against unfair commercial use. The Working Party takes note of these commitments.

Answer:

Ukraine suggests to put the above mentioned paragraph in the following wording:

"The Representative of Ukraine stated that the requirements regarding the protection of undisclosed information, stipulated by the Part 3 of Article 39 of the TRIPS Agreement, are fulfilled by Ukraine in full.

According to Part 1 of Article 507 of the Civil Code of Ukraine, the State authorities are obliged to protect from unfair commercial use the information, which is a commercial secret and the creation of which requires considerable efforts, and which is provided to them with a view of obtaining the legislatively stipulated permit for conducting the activity related to pharmaceutical, agricultural, chemical products containing the new chemical formulas. This information is also protected by the State authorities against disclosure in case the disclosure is necessary for ensuring the protection of the population, or no measures were taken to protect the information from unfair commercial use.

According to Article 506 of the Civil Code of Ukraine, the exclusive right to allow the use of commercial secret and the exclusive right to prevent the unlawful disclosure, gathering or use of commercial secret belongs to the person, who has legally defined the information as constituting a commercial secret, if other is not stipulated by the Agreement.

Article 431 of the Civil Code of Ukraine provides that violation of intellectual property rights, including the recognition or non-recognition of rights or encroachment of rights entails a liability established by this Code, other Law or Agreement.

Any legal entity or natural person in possession of intellectual property rights, shall have their rights protected in an administrative or judicial procedure, by way of addressing the relevant authorities of the executive branch or the court.

Such authorities of the executive branch of the government are: the State Department of Intellectual Property, the Anti-Monopoly 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 on Technical Regulation and the Consumption Policy".

VIII. TRADE AGREEMENTS

Question 154

We appreciate the additional information provided by Ukraine on its association with the Russian Federation, Kazakhstan, and Belarus in the Single Economic Space Agreement, and on its activities in this Agreement since signing it in September 2003.

We note the bracketed commitment language in paragraph 365, and urge adoption of the second text.

Answer:

Paragraph 365 does not contain any commitment language.
