

WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/UKR/59/Add.2
18 August 1999

(99-3467)

**Working Party on the
Accession of Ukraine**

Original: English

ACCESSION OF UKRAINE

Addendum

Additional Questions and Replies

The Governmental Commission on Ukraine's Accession to the WTO has provided the replies reproduced hereunder to the questions submitted by delegations following the last meeting of the Working Party.

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies:

(a) main directions-pricing policy

According to information supplied by the Government of Ukraine (WT/ACC/UKR/7, etc.), price controls on most goods and services were abolished in October 1994. Ukraine continues to regulate prices for goods and services where there is a natural monopoly (electricity, gas, centralized heating, water supply and sewerage, public transport, rental of premises), and for a small number of artificial monopolies. Prices for communal services (i.e., apartment rents and utility patents) are gradually being raised to market levels. For agricultural products, the government continues to set prices for grain (HSI 0.01-10.08), flour (11.01-11.02), certain kinds of bread (HS 19.05) through the use of mark-up/profit-limits on processors.

Question 1.

What agricultural products (i.e., other than grain, flour, bread, milk, and meat) are subject to price monitoring or price controls?

Reply:

Currently agricultural products are not subject to state price controls.

However, in compliance with Article 8 of the Law of Ukraine "On Prices" in case of excessive increase in the prices that have been previously drawn out of the control (under the Cabinet of Ministers' of Ukraine decision) of executive committees of oblast, city (towns of republican [national] subordination) Radas it is permitted [to apply] a temporary restitution of price regulations.

Question 2.

Are the mark-up/profit limits for grain, flour, and bread still in effect? If not, what legislation/regulation ended their use?

Reply:

We don't have a clear understanding what you mean by mark-up/ profit limits for grain, flour, and bread processing.

State administration bodies, administrative and business management and control bodies, local self-government bodies in charge of economy's demonopolization, promoting competition and anti-monopoly governing have the right to set forth the procedures on defining prices and tariffs, limiting norms of commercial viability for anti-monopoly regulation objects, under correlation with the Anti-Monopoly Committee of Ukraine. However, as of now the maximum profit level from grain, flour, and bread processing in Ukraine is not being regulated.

Question 3.

Please provide clarification on how domestic sales prices for imported grain and grain products are regulated.

Reply:

Currently in Ukraine sales prices for imported grain and grain products are not being regulated.

Question 4.

Are there any other non-agricultural products and services (i.e., other than (electricity, gas, centralized heating, water supply and sewerage, public transport, rental of premises) subject to control? Could Ukraine provide a list of all such controls currently in force?

Reply:

The [provisions of] Cabinet of Ministers of Ukraine Resolution No. 1548 of 25 December 1996, provided central executive bodies, Council of Ministers of the Autonomous Republic of Crimea, Kyiv and Sevastopol municipalities, executive bodies of municipalities with the authority to regulate prices and tariffs on certain types of products, goods and services, in particular:

- Certain transportation tariffs;
- Certain communications services;
- Prices for precious metals in [jewellery] articles and metal scrap, and precious stones purchased from the population;
- Tariffs on water supply services;
- Electric energy [electricity] supplied to the population, and gas supplies;
- Tariffs on lodging on student campuses;
- Tariffs on some services provided to the users of Ukraine's shoot [hunting grounds];
- Tariffs on heating services;
- Tariffs on paid services provided by state and municipal medical care, prophylactic and sanatorium establishments;
- Tariffs on collecting, transporting and destroying solid-form household and liquid waste.

Question 5.

Do price controls exist at the regional (oblast) or municipal level? If so, for what products, and how are prices controlled?

Reply:

In compliance with Article 28 of the Law of Ukraine "On Local Self-Government" the scope of authority of village, town and city Radas includes "...introduction under the legally set procedures and within legally set frameworks tariffs on paying for municipal, transport and other services provided by municipally owned enterprises and organizations of the respective territorial community; collaboration of these issues under the set procedures with enterprises, establishments and organizations which are not municipally owned."

Question 6.

Please keep us informed on any developments concerning the establishment of an agricultural intervention agency.

Reply:

We do not understand what state body is meant. The Ministry of Agro-industrial Complex of Ukraine is the central state body on the issues of agriculture.

IV. POLICIES AFFECTING TRADE IN GOODS

Question 7.

Please report on the status and prospects of current quotas applied to Ukraine steel exports by the EU. When does Ukraine expect these quotas to be terminated?

Reply:

A separate agreement between Ukraine and the EU governs trade in certain types of steel products pursuant to Article 22 of the Agreement on Partnership and Cooperation between Ukraine and the EU (PCA).

Under the Agreement effective within 1995-1996, volume of quotas covered by the Agreement amounted 140,830 tons in 1995 and 161,958 tons in 1996. Moreover, Ukraine could supply 50,000 tons of steel articles to the former Eastern Germany annually. However, only 50% of the said quota have been used.

On 15 July 1997, the new Agreement between Ukraine and the European Coal and Steel Community (ECSC) on trade in certain steel articles was signed for 1997-2001.

The new Agreement provides for a gradual opening of the EU steel articles market, taking into account creation of normal competitive conditions in Ukraine, carrying out the state support policies of enterprises and environment protection that will approach the EU standards gradually.

On 15 July 1997, the Agreement (in a form of letters exchange) on establishment of the dual check-up system without quantitative restrictions was signed between Ukrainian Government and the EU as to export of certain steel articles from Ukraine to the European Communities covered by agreements on establishment of the EU and European Coal and Steel Community. Signing of this Agreement is aimed at prevention of antidumping and other protective measures from the EU.

1. Import Regulation

(b) Characteristics of national tariff

Question 8.

In reply to question 2 of document WT/ACC/UKR/41 Ukraine has indicated that excise tax unification may involve changes to applied rates of customs duty.

What changes to applied rates of customs duty are contemplated after excise reunification? Will Ukraine seek to revise its proposed tariff bindings to take account of such changes?

Reply:

Document WT/ACC/UKR/41 notes that Ukraine will keep the right to increase temporarily rates of duties up to 70% of ad valorem for goods subject to excise within negotiations process on access to the Ukrainian goods market.

Unification itself does not deal with change of rates of import duties.

Government does its utmost efforts to achieve maximum transparency and prevision of tariff regulation. Resolution of the Cabinet of Ministers of Ukraine of 3 August 1998, No. 1213 "On the Procedure for Making Changes to Rates of Import Duties" introduces the new procedure for making changes to rates of import duties. In 1999, changes can be made no more than once per half a year. In year 2000, changes can be made no more than once a year. Number of the combined tariff rates was decreased significantly. Resolution of the Cabinet of Ministers of Ukraine of 9 December 1998, No. 1935 "On Making Changes to Rates of Import Duties for Certain Types of Goods and to Certain Resolutions of the Cabinet of Ministers of Ukraine" decreased the number of the combined tariff rates from 217 to 25.

Currently, the average weighted tariff amounts 7% and simple average tariff amounts 12,74%.

(d) Other duties and charges

Question 9.

The response to question 19 in WT/ACC/UKR/50 states that the Resolution of the Cabinet of Ministers of Ukraine No. 65, of 27 January 1997 covers the application of customs fees to imports, that these fees are not tariffs, but are charged "for carrying out customs services, which include customs legalization of goods, holding the goods under customs control, etc."

Please confirm that the fee is applied to all imports and exports, without exception. Please list any exceptions. If exceptions exist, is the cost of their customs processing drawn from the revenues collected from other trade, or is it accessed separately?

Reply:

The fee for customs processing is applied to all imports and exports.

Question 10.

Are the revenues collected from these fees kept in a separate account, or are they mixed with other revenues? Does the cost of processing trade exceed the revenues collected from these fees? If so, by about how much, i.e., what is the difference in the overall cost of processing imports and exports and amount of the revenues collected from this fee?

Reply:

Amounts of customs fees for customs processing of goods are kept in a separate account of the State Customs Service of Ukraine together with amounts of other types of customs fees. Amounts of customs fees are accounted according to codes of their types.

Question 11.

Please indicate to what extent the provisions of this Resolution of 27 January 1997, No. 65 supersede the provisions of the Decree of the Cabinet of Ministers of Ukraine of 2 March 1994, No. 133 "On the Introduction of Modifications to the Customs Duty". Does the customs fee of .15 per cent of customs value still exist?

Reply:

The Resolution of the Cabinet of Ministers of Ukraine of 27 January 1997, No. 65 approved the new rates of all types of customs fees, in particular, the customs fee for customs processing. Upon entering into force of the Resolution of the Cabinet of Ministers of Ukraine of 27 January 1997, No. 65, the customs fee in the amount of .15 per cent of customs value does not exist.

Question 12.

This Resolution of 27 January 1997, No. 65 appears to provide for a zero fee for goods valued at less than \$100, a minimum fee of US\$ 5 for goods valued at \$100-\$ 1,000 and a fee of .2 per cent of the customs value of the import for goods valued in excess of \$1,000 with a maximum fee of 1,000 dollars. Is that correct?

Reply:

Pursuant to the Resolution of the Cabinet of Ministers of Ukraine of 27 January 1997, No. 65, the amount of the customs fee for customs processing is the following:

- not imposed, if the customs value of goods and other articles is less than \$100;
- \$5, if the customs value of goods and other articles is from \$100 to \$1,000; and,
- .2 per cent of the customs value of goods and other articles, if their value is more than \$1,000. This fee, however, may not exceed \$1,000.

There is an exception for customs processing of export of scrapes and wastes of ferrous and non-ferrous metals. Pursuant to the Resolution of the Cabinet of Ministers of Ukraine of 7 March 1998, No. 285 "On Making Additions to the Resolution of the Cabinet of Ministers of Ukraine of 27 January 1997, No. 65", the customs fee is the following:

- not imposed, if the customs value of the above goods and other articles is less than \$100;
- \$25, if the customs value of the above goods and other articles is from \$100 to \$1,000; and,
- 1 per cent of the customs value of the above goods and other articles, if their value is more than \$1,000. This fee, however, may not exceed \$5,000.

Question 13.

All other customs fees listed in the Resolution of 27 January, 1997, No. 65, except for the "declarant's fee", are flat fees that range up to \$50 and the fees for slow clearance of customs ware houses also appear to be ad valorem, i.e., .1 to .5 per cent of the customs value per day, depending on the length of time. Is this accurate?

Reply:

The fixed and such that do not depend on a declared value of goods and other articles are amounts of rates of all other types of customs fees, except the customs fee for staying of goods and other articles under the customs control and the customs fee for storage of goods and other goods subject to compulsory transfer to customs offices for storage and mentioned in Article 86 of the Customs Code of Ukraine.

Pursuant to the Resolution of 27 January 1997, No. 65, rates of customs fees for staying of goods and other goods under the customs control for each day of staying are the following:

- not imposed for first fifteen (15) calendar days; and,

- .05 per cent of the total customs value of goods and other articles for each following calendar day.

Pursuant to the Resolution of 27 January 1997, No. 65, rates of customs fees for staying of goods and other goods subject to compulsory transfer to customs offices for storage and mentioned in Article 86 of the Customs Code of Ukraine for each day of staying are the following:

- .1 per cent of the total customs value of goods and other articles for first ten (10) calendar days; and,
- .5 per cent of the total customs value of goods and other articles for each following calendar day.

Question 14.

Why does Ukraine charge \$1,500 for issuing a certificate recognizing the enterprise as a declarant (for a period up to one year), and an additional fee of \$1,000 per annum to continue or re-register the certificate recognizing the enterprise as a declarant? What is a "declarant" in this context, i.e., is it merely an importer who declares the value of imports, or is it something else? What service is supplied other than charging the fee?

Reply:

Amounts of customs fees established for issuing a certificate recognizing the enterprise as a declarant and continuing the certificate's validity term meet general expenses required for customs offices in order to undertake measures allowing an enterprise to declare goods.

Pursuant to Article 15 of the Customs Code of Ukraine, a "declarant" is a legal entity or a physical person who declares goods and other articles.

Pursuant to Article 45 of the Customs Code of Ukraine, declaring of goods and other articles is undertaking via filing the application of the established form (a cargo customs declaration) with the accurate information regarding the purpose of goods transfer through the Ukrainian customs border and regarding goods and other articles themselves, as well as any other information required to undertake the customs control and customs processing.

Pursuant to Article 46 of the Customs Code of Ukraine, the owner himself or other enterprises (having permit of the customs office) on the basis of the agreement declare goods and other articles.

Question 15.

Please list, in the response to this question, all customs fees applied to imports whether listed in Ministerial Decree 65 of 27 January 1997 or not, and cite the legal authority for their application.

Reply:

The Resolution of the Cabinet of Ministers of Ukraine of 27 January 1997, No. 65 lists all types of customs fees.

The customs fee is charged in the following cases:

- customs processing of export of scrapes and wastes of ferrous and non-ferrous metals;
- customs processing of oil products imported into Ukraine and subject to excise;

- customs processing of goods and other articles temporarily imported (exported) with obligation of return export (import) thereof;
- customs processing of transit goods;
- customs processing of goods if they are supplied to the customs ware house;
- staying of goods and other goods under the customs control, for each day of staying;
- customs processing of goods and other articles within zones of the customs control on the territories and in premises of enterprises storing such goods and other articles;
- customs processing of a personal vehicle, if such vehicle is used for transportation of goods and other articles in volumes subject to duties;
- issuance of certificates to register (re-register) vehicles imported (including temporarily imported) into Ukraine by individuals, as well as numbered units subject to registration in bodies of the State Automobile Inspectorate;
- storage of goods and other articles in customs ware houses (except goods and other articles mentioned in Article 86 of the Customs Code of Ukraine);
- storage of goods and other articles subject to compulsory transfer to the customs office and mentioned in Article 86 of the Customs Code of Ukraine; and,
- issuance of a certificate to the enterprise on its recognition as a declarant and extension of the certificate's validity term.

There are no other fees.

Question 16.

According to reply 19, the Ministerial Resolution covers "customs legalization of goods." What does this term mean?

Reply:

In any case, customs fees applied to imports include only the customs fee for customs legalization of goods and other articles. This customs fee is charged on the basis of Article 76 of the Customs Code of Ukraine. The said Article provides for that "customs fees are charged for customs legalization of vehicles, heritage, goods and other articles transferred through the customs border of Ukraine".

Question 17.

What is involved in the "customs legalization of goods", i.e., does this involve any special legalization or authentication of import documents at the time of importation? If so; is there a separate fee charged?

Reply:

The term "customs legalization of goods" means a scope of activities related to pass of goods into Ukraine or outside, which are transferred through the customs border of Ukraine, in particular, carrying out control over observance of the procedure for goods transfer, their inspection, check-up of documents required to undertake the customs control, imposing the customs provision, check-up of the correctness of a customs declaration filling in and processing thereof, calculation of amounts to be paid and other actions undertaken by customs bodies with the purpose of fulfilling customs legislation of Ukraine.

Only the customs fee for customs legalization is charged in the course of goods legalization.

Question 18.

Does Ukraine require foreign exporters customs documents to be "legalized" or "authenticated" prior to export? If so, please describe this process and the fees charged.

Reply:

Prior to export, "authentication" of customs documents for foreign exporters is not required. A separate fee is not charged.

(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems

Question 19.

We understand that as of 1 April, Ukraine has handed the importation of used cars five years old or over, and established a minimum customs import value of \$5,000 on all imported used cars.

Has Ukraine:

- a) **banned the sale of domestically manufacture used cars five years old or over,**
- b) **established a minimum value for domestic used cars purposes of sale or taxation, or**
- c) **prohibited the sale of used imported cars five years old or over if already in the country?**

We would appreciate an explanation as to how these new measures are consistent with Articles III, VII or XI of the GATT 1994 or with the WTO Agreement on Customs Valuation.

Reply:

- a) no, Ukraine has not banned;
- b) pursuant to effective legislation, a minimum customs value is established for certain types of goods imported into the customs territory of Ukraine, with the purpose to prevent lowering of such goods customs value;
- c) no, Ukraine has not prohibited.

Introduction of the age limit for cars imported into Ukraine is based upon the necessity to protect environment.

The Government of Ukraine was forced to undertake such step taking into account oversaturation of the Ukrainian market with used cars, resulting in significant injury to environment.

Data of official statistics prove such situation, in particular, 81% of all imported cars within 1992-1997 were of five years old or older; 88% of all imported cars within first six months of 1998 were used cars. Significant recession of car production is taking place. At the same time, number of cars per 1000 persons in Ukraine increases. It proves that cars in Ukraine are used longer, rather than to be substituted for the new models.

Please also note that the Ministry of Foreign Economic Relations and Trade of Ukraine together with the State Customs Service of Ukraine prepared the draft schedule for elimination of a minimum customs value. Pursuant to the said schedule, elimination of a minimum customs value for cars is expected before June 2000.

(h) Customs valuation

Ukraine has made progress toward producing a draft Customs Code that implements the WTO Valuation Agreement, but the two drafts we have seen to date fall short of containing the complete language/requirements of the WTO Valuation Agreement.

Question 20.

Ukraine's response to Question 31 (page 19) in WT/ACC/UKR/50 refers to the "new draft Customs Code of Ukraine" which contains a Customs Valuation Procedure.

Is this draft different from the draft provided to the Third Working Party meeting in April 1997? What is the date of the most recent draft? May we have a copy of the most recent draft? What is Ukraine's timetable for legislative implementation of the new Customs Code?

Reply:

The draft provided to the Third Working Party meeting in April 1997 is the most recent one as of today.

The draft Customs Code is in the Supreme Rada of Ukraine under consideration.

Question 21.

In addition, we would appreciate a copy of the Resolution of the Cabinet of Ministers No. 1433, dated 7 December 1996, which is referred to in Question 31. It doesn't appear to be among the documents provided to the WTO Secretariat.

Reply:

A copy of the Resolution of the Cabinet of Ministers of Ukraine No. 1433, dated 7 December 1996, will be submitted to the Secretariat.

Question 22.

What progress has Ukraine made since the review of its draft Customs Code in 1997 to address the deficiencies identified in the following areas:

The Ukrainian drafts provided to date do not incorporate the Interpretative Notes to the Agreement into law or regulation.

- 1. The 1997 Draft Ukrainian Customs Code (Article 321) does not list all of the prohibited bases of valuation in Article 7 of the WTO Valuation Agreement. In particular, it is missing the prohibition on the use of minimum values.**
- 2. Ukraine's laws and regulations on customs valuation appear to lack a system which allows the importer to withdraw its goods from customs, pending the final determination of the customs value, after providing sufficient guarantee in the form of surety or other deposit covering the ultimate payment of customs duties. Such a system is called for in Article 13 of the Customs Valuation Agreement.**
- 3. The 1997 Draft Ukrainian Customs Code does not appear to contain provisions for valuation of "related party transactions" in a WTO consistent manner. Specifically,**

draft Article 358 does not include the related party "tests" contained in Article 1.2 of the WTO Agreement on Customs Valuation and its respective Interpretative Notes.

Reply:

1. The Resolution of the Supreme Rada of Ukraine of 16 December 1998, No. 318-XIV approved the draft Customs Code of Ukraine in the first reading. While working on the new draft, deficiencies of previous drafts were taken into account. In particular, it was provided to bring the rule of customs valuation into compliance with the WTO Agreement on Customs Valuation.

Article 321 of the draft Customs Code lists all of the prohibited bases of valuation as provided by Article 7 of the WTO Agreement on Customs Valuation.

Concerning the system of establishing minimum customs values, please note that while preparing the draft Customs Code for its consideration in the second reading, the Customs Service of Ukraine provided its suggestions as to exclusion of the provision on applying a minimum customs value from the draft. Therefore, as already mentioned in previous answers, establishing a minimum customs value is a temporary measure undertaken for the purpose of improvement and completeness of taxation with value added tax which is an internal tax. Establishing a minimum value is a temporary practice that will be eliminated in the future.

As of to date, if there is an issue related to the final establishing the customs value, goods legalized by the customs office will be released for free use on the basis of valuation made by the customs office. If within a year from the moment of the customs legalization undoubted prove of the customs value is provided, duty imposed in excess will be returned (Article 25 of the Law of Ukraine "On a Single Customs Tariff").

2. Yes, as of to date, Ukrainian legislation on the issues of the customs value does not provide for the right of an importer to withdraw its goods from customs prior to the final determination of the customs value.

3. Article 358 of the draft Customs Code of Ukraine contains the list of conditions on the basis of which parties are considered as related. These conditions comply with those set forth in Article 15 of the Agreement on Customs Valuation. Regarding valuation of transactions between such parties, the Customs Service of Ukraine provided suggestions on including the Provision for valuation of "related parties transactions" into Article 358 of the draft Customs Code.

(k) Application of internal taxes on imports

Question 23.

Please clarify Ukraine's justification for differential or discriminatory application of VAT and/or excise taxes depending on supplier or destination country. (Note: Article XXIV of the GATT does not cover domestic taxes).

Reply:

As to the issue concerning differential application of Ukrainian laws on value added tax and excise tax depending on the country of origin of goods, such issue does not reflect Ukrainian legislation correctly.

Effective Law of Ukraine "On Value Added Tax" gives the clear determination both the basis of taxation of transactions on sale of goods, including for those imported (transited) into the customs

territory of Ukraine, and application of tax rates. The said Law also determines exemption from taxation for goods of critical import. Currently, goods of critical import are exempted from taxation with value added tax regardless the country of origin of such goods.

Therefore, from our point of view, the privileged taxation of goods subject to critical import does not influence on trade relations with other countries negatively. Contrary to that, it decreases prices for produce supplied into Ukraine and creates more favorable conditions for its sale in comparison with sale conditions for domestically made produce.

Concerning availability in Ukrainian legislation of certain tax privileges for domestic goods producers mentioned in questions of the WTO Members, such privileges are of forced and temporary nature. They are explained by the necessity to create domestic automobile production and stimulation of domestic color TV sets production.

Application of a minimum customs value for taxation purposes of such goods in the course of their importation into Ukraine was introduced with the aim of preventing numerous cases of avoiding from taxation as a result of special lowering of taxation basis.

Question 24.

Are there any other taxes applied to imported goods other than the VAT and excise taxes? Are there any other taxes other than VAT, excise taxes, and state duties applied to services?

Reply:

Value added tax, excise tax and import duties are applied to goods (works and services) imported into Ukraine. There are no any other taxes applied to goods imported into Ukraine.

Question 25.

Does Ukraine apply VAT to exports to any CIS country? If so, which ones?

Reply:

The Law of Ukraine "On Value Added Tax" provides for that export of goods outside the customs territory of Ukraine (regardless of the country of designation) is taxed at zero rate.

The Resolution of the Cabinet of Ministers of Ukraine of 5 January 1998, No. 13 "On Implementation of the Free Trade Agreement between the Government of Ukraine and the Government of the Russian Federation" established, beginning 1 February 1998, exemption from VAT for goods originating from the customs territory of the Russian Federation and designated for the customs territory of Ukraine.

The Resolution of the Cabinet of Ministers of Ukraine of 18 February 1998, No. 203 "On Implementation of the Free Trade Agreement between the Government of Ukraine and the Government of the Republic of Belarus" established, beginning 16 February 1998, exemption from VAT for goods originating from the customs territory of the Republic of Belarus and designated for the customs territory of Ukraine.

Question 26.

Does Ukraine exempt exports of domestic goods to non-CIS countries from the VAT? Does Ukraine exempt all imports from all CIS countries from application of the VAT? If not, please explain, excluding the situations listed above, what other goods are zero rated for the VAT?

Reply:

The Law of Ukraine "On Value Added Tax" provides for that export of goods outside the customs territory of Ukraine (regardless of the country of designation) is taxed at zero rate, i.e., value added tax for exported goods is not calculated. At the same time, a payer (except cases of carrying out export under barter (goods exchange) operations) has the right to obtain VAT amounts paid by suppliers for raw materials used for production of the exported goods (or paid for the exported goods under intermediary operations). Moreover, pursuant to paragraph 6.3, Article 6 of the above Law, it is not permitted to apply zero rate of tax to operations on exportation (export) of goods (works, services), if such operations are exempted from taxation on the customs territory of Ukraine according to paragraphs 5.1-5.2 of the said Law.

The Law of Ukraine "On Value Added Tax" provides for taxation of import goods at 20% rate. Certain operations listed in the above Law, as well as goods of critical import importation of which is made without VAT payment prior to 1 January 1999 are exempted from taxation, while crossing the customs border of Ukraine.

Question 27.

Are there any other VAT rates of application other than the general rate of 20 per cent and zero?

Reply:

Along with zero and 20 per cent rate, exemption is applied (please see two previous answers).

Question 28.

Are the excise taxes listed in the response to question 7 of WT/ACC/UKR/50 the only ones applied? Is the information up to date? Is it accurate to state that Ukraine applies excise taxes to:

- a) **all domestic goods not exported; and,**
- b) **all imports from all countries with the exception of goods covered by the Ashkabad Agreement? If this statement is not accurate; please explain how.**

Reply:

Ukraine undertakes unification of excise rates of goods subject to excise. Among 33 goods subject to excise, 22 goods entries were unified. At the same time, taking into account specifically crisis situation of certain industries, there is a temporary exemption from excise tax for 16 goods of domestic producers subject to excise.

List of Goods Subject to Excise with non-unified Rates (16 entries)

Code of the Goods Nomenclature of Foreign Economic Activity	Description	Excise on Imported Goods	Excise on Domestic Goods	Validity Term	Legislative Act
0901	coffee, whether or not roasted	0.2 ECU/kg	0	1996-2000	Law No. 313/96-VR of 11 July 1996
1604 30 100	caviar (sturgeon roe)	5 ECU/kg	0	1996-2000	Law No. 313/96-VR of 11 July 1996
1604 30 900	caviar substitutes	3 ECU/kg	0	1996-2000	Law No. 313/96-VR of 11 July 1996
1605 10 000	crab	2 ECU/kg	0	1996-2000	Law No. 313/96-VR of 11 July 1996
1605 20 000	shrimps and prawns	0.5 ECU/kg	0	1996-2000	Law No. 313/96-VR of 11 July 1996
1605 30 000	lobster	2.5 ECU/kg	0	1996-2000	Law No. 313/96-VR of 11 July 1996
1605 40 000	other crustaceans	1 ECU/kg	0	1996-2000	Law No. 313/96-VR of 11 July 1996
1806 20 1806 31 1806 32	food preparations containing cocoa, in blocks, slabs or bars	0.1 ECU/kg	0	1997-2000	Law No. 767/97-VR of 23 December 1997
1806 90 110- 1806 90390	chocolate goods, other	0.3 ECU/kg	0	1996-2000	Law No. 767/97-VR of 23 December 1997
4011 10 000	pneumatic tyres	5 ECU/kg	0	1997-2000	Law No. 340/97-VR of 12 June 1997
2101 10110	instant coffee	0.8 ECU/kg	0	1996-2000	Law No. 313/96-VR of 11 July 1996
4303 10900	fur clothing	30%	0	1996-2000	Law No. 313/96-VR of 11 July 1996
8520	tape records	5%	0	1996-2000	Law No. 313/96-VR of 11 July 1996

Code of the Goods Nomenclature of Foreign Economic Activity	Description	Excise on Imported Goods	Excise on Domestic Goods	Validity Term	Legislative Act
8528 10	television receivers	0.8 ECU/cm screen diagonal	0	1996-2000	Law No. 313/96-VR of 11 July 1996
9401	seats	5%	0	1996-2000	Law No. 313/96-VR of 11 July 1996
9403 10	metal furniture of a kind used in offices	5%	0	1996-2000	Law No. 313/96-VR of 11 July 1996

As well as the following:

1. Turnover on sale of cars and cargo/passenger trucks manufactured by Ukrainian enterprises of all types of ownership from foreign and Ukrainian components, if manufactured no less than 1,000 items per year, shall not be charged with excise tax.
2. The following rates of excise tax for goods produced in Ukraine from domestic raw materials were temporarily introduced for 1996-2000:
 - wine of fresh grape, dry - 0.02 ECU/l (codes 2204.21100-2204.21190; 2204.29100-2204.29290);
 - wine of fresh grape, fortified - 0.1 ECU/l (codes 2204.21310-2204.21390; 2204.29310-2204.29390);
 - wines of fruits and berries- 0.2 ECU/l (2206.00930, 2206.00990);
 - cognac and brandy no less than three years old - 0.25 ECU/l/vol % (2208.20);
 - wine materials sold to intermediary organizations and individuals - 0.15 ECU/l (2204.30);
 - vermouth and other wine of fresh grapes flavored with plants and aromatic substitutes- 0.15 ECU/l (2205); and,
 - color TV sets (8528 10) manufactured by Ukrainian enterprises with output of no less than 100,000 per year, producing no less than 1,000 per month, if no less than 20 per cent of domestically produced components were used in the production of such TV sets.
3. Rate of excise tax in the amount of 0.2 ECU/l/vol % was established for ethyl alcohol used by domestic goods producers to produce juices with alcohol, fruit drinks, liqueurs and perfumes.
4. Stamps of excise tax on imported alcoholic beverages with content of ethyl alcohol from 1.2 to 8.5% of volume units were introduced (The Resolution of the Cabinet of Ministers of Ukraine of 10 December 1998, No. 1956 "On Introduction of Stamps of Excise Tax on Imported Alcoholic Beverages with Content of Ethyl Alcohol from 1.2 to 8.5% of Volume Units, and Making Changes and Additions to Certain Resolutions of the Cabinet of Ministers of Ukraine Regarding Sale of Alcoholic Beverages and Tobacco Goods").

List of Goods Subject to Excise with Unified Rates (22 entries)

- 0207 Edible meat and bones of the poultry; fresh, chilled or frozen
- 1806 Chocolate and other food preparations containing cocoa
- 2203 Beer made from malt
- 2206 Other alcoholic drinks (for example, cider, perry, mead), mixtures of alcoholic beverages, nor elsewhere specified or included
- 2208 Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages
- 2401 Not processed tobacco; tobacco refuse
- 2402 Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
- 2403 Other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences
- 2710 Petroleum oils or oils obtained from bituminous minerals, other than non-refined, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals
- 4011 New tires of rubber
- 4203 Articles and apparel and clothing accessories, of leather or of composition leather
- 7113-7114 Articles of jewelry and parts thereof, of precious metal or of metal clad with precious metal
- 8215 Spoons, forks, skimmers, cake-servers, cake tongs, etc.
- 8516 Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; etc.; other electric appliances of a kind used for domestic purposes
- 8521 Video recording or reproducing apparatus, whether or not incorporating a video tuner
- 8523 Prepared unrecorded media for sound recording or similar recording, without records
- 8524 Prepared unrecorded media for sound recording or similar recording, with records
- 8711 Motorcycles and cycles fitted with an auxiliary motor, with or without sidecars
- 8716 Trailers and semi-trailers; other vehicles, not mechanically propelled
- 9303 Firearms and similar devices which operate by the firing of an explosive charge
- 9304 Other arms (air or gas guns and pistols)

For information:

1. The Program of Economic Policy of the Government for the period from 1 July 1998 to 30 June 2001 provides for reduction of the list of goods subject to excise taxes (will be tobacco goods, alcoholic beverages, petroleum, cars and jewelry (paragraph 25 of the Memorandum).
2. Elimination of privilege as to imposing excise tax on color TV sets of Ukrainian production (the Law of Ukraine of 20 November 1998, No. 276-XIV "On Making Changes to the Law of Ukraine "On Rates of Excise Tax and Import Duty for Certain Goods (Produce)") is the condition to obtain the first tranche of the EU loan.
3. In Ukraine, rates established by the Resolution of the Supreme Rada of Ukraine of 4 February 1994, No. 3951-XII "On the List of Goods (Produce) for which Excise Tax is Established, and Rates of Such Excise Tax" with changes made by the Cabinet of Ministers of Ukraine of 5 August 1994, No. 526 "On Making Changes to the List of Goods (Produce) for which Excise Tax is Established, and Rates of Such Excise Tax" were in force prior to the adoption of (beginning February 1996) the Laws of Ukraine that approved the list of goods subject to excise and established rates of excise tax. The said resolutions approved differential rates of excise tax on domestic and imported goods with the purpose of increase of buying capacity of domestic enterprises' produce.

Adoption of the following Ukrainian Laws:

- “On Rates of Excise Tax and Import Duty for Tobacco Goods” of 6 February 1996, No. 30/96-VR;
- “On Rates of Excise Tax and Import Duty for Ethyl Alcohol and Alcoholic Beverages” of 7 May 1996, No. 178/96-VR;
- “On Rates of Excise Tax and Import Duty for Certain Vehicles and Tires Thereto” of 24 May 1996, No. 216/96-VR; and,
- “On Rates of Excise Tax and Import Duty for Certain Types of Goods (Produce)” of 11 July 1996, No. 313/96-VR,

as well as a range of other legislative acts, making changes to the above laws, established the unified rates of excise tax for domestic and imported goods except certain goods produced in Ukraine. Reduction in the level of rates of excise tax for certain domestic goods is aimed at development and support of their production. Pursuant to the above Laws, the privileged level of excise will be in force within the limited period of time.

Question 30.

Are "state duties" in any way related to the licensing of business activity? Are they related to the right to import or to export? If so in either case, please describe the scope and nature of the tax.

Reply:

State duties do not relate to licensing of business activity and to the right to import or to export.

Question 31.

In what specific instances are "state duties" applied on an ad valorem basis? Why is there a tax on documents substantiating industrial property rights? Please describe the scope and nature of title "state duty" in this instance.

Reply:

State duty is charged pursuant to the Decree of the Cabinet of Ministers of Ukraine “On State Duty” of 21 January 1993. State duty is a money fee imposed in judicial and arbitration bodies, bodies of public notary offices, the Ministry of Interior of Ukraine, the Ministry of Foreign Affairs of Ukraine, municipal, village and city Councils of Peoples’ Deputies and in bodies, provided by Ukrainian legislation, for effectuating certain actions and issuance of documents by them.

State duty is a simple and proportional one. The simple state duty is charged in the fixed amount. The proportional duty is charged in per centage to the corresponding amount. State duty is paid prior to the filing an application or effectuating actions for which state duty is charged or upon issuance of documents in the corresponding cases.

Decree of the Cabinet of Ministers of Ukraine “On State Duty” of 21 January 1993 establishes rates of state duty.

Minimum Import Values

Question 32

Please confirm that Decree 502 of 26 May 1997 mandates the use of minimum import values for the purposes of applying excises taxes.

Reply:

Pursuant to Decree No. 502 of the Cabinet of Ministers of Ukraine, dated 26 May 1997, minimum import values are established for certain goods imported into the customs territory of Ukraine and subject to excise tax with the purpose of ensuring completeness of payment of value added tax.

Please also note that changes were made to Resolution No. 502 of the Cabinet of Ministers of Ukraine, dated 26 May 1997, (Resolution No. 628 of the Cabinet of Ministers of Ukraine, dated 7 May 1998) with the purpose of preventing establishment of a minimum import value for goods with mentioning a company name.

Question 33.

We understand that there is a draft Presidential Decree in development that would mandate minimum import valuation of certain goods for purposes of applying the VAT. What is the title and status of that decree?

Reply:

We do not understand what Decree you mean.

But, as it was mentioned earlier, minimum import valuation is established for certain goods imported into Ukraine and subject to excise duty with the purpose of preventing the lowering of their import value and, as a result, ensuring completeness of payment of value added tax (pursuant to Decree No. 502 of the Cabinet of Ministers of Ukraine, dated 26 May 1997).

Question 34.

Are there any other situations in which Ukrainian law or practice provides for the use of fixed, arbitrary, or artificial values for the purpose of valuing imports for taxation? If so, please list the products, services, and taxes involved, and give the legal citation.

Question 35.

Concerning the Ashkabad Agreement:

Ukraine has stated that it considers the tax exemptions granted trade under the Ashkabad Agreement "a minor temporary' measure of support for Ukrainian enterprises until the process of reform in the national economy is completed in the coming years."

When does Ukraine believe it can eliminate these exemptions?

Reply:

Question 36.

Regarding the response to question 25 of document WT/ACC/UKR/50, when is Ukraine going to commit itself to meeting the transparency and due process requirements of Article X (not Article XI which covers quantitative restrictions) of the GATT 1994? Are there any requirements of this Article that Ukraine is not at present capable of fulfilling?

Reply:

What concerns the response to question 25 of document WT/ACC/UKR/50 it emphasized that Ukraine would commit itself to making seasonal duties public 45 days prior to their entry into force. Ukraine abides by provisions of Article X of the GATT 1994.

(o) Safeguard regime

Question 37.

In WT/ACC/UKR/25 (May 1996), in response to question 42 Ukraine stated that a number of draft laws were being developed "in order to curtail prejudicial imports of certain goods which are causing or may potentially cause damage to industry or the agriculture of Ukraine or restrain the introduction or expansion of production of certain goods, and in order to support national or foreign investment in industry or agriculture...." These included:

- "On Protection from Imports which are Dumped by other Countries, Customs or Economic Unions";
- "On Protection from Imports which are Subsidized by other Countries, Customs and Economic Unions";
- "On the General Import Regime";
- "On the Ukrainian International Trade Tribunal";
- "On Changes and Amendments to Some Legislative Acts of Ukraine due to the adoption of the law of Ukraine "On Protection from Imports which are Dumped by other Countries, Customs and Economic Unions".

Subsequently, Decree of the President of Ukraine, Kyiv, 27 June 1996, No 478/96 was enacted, "On the Application of Safeguard Measures Pursuant to the Principles and Disciplines of GATT/WTO" was proclaimed, covering industrial goods, but not agriculture, textiles, or measures taken to protect the balance of payments. In 1997, the Law of Ukraine No, 468/97-VR "On the State Regulation of import of Agricultural Produce" was passed, providing, inter alia, for safeguards in the area of agriculture.

What is the relationship between "Regulation on the procedure for applying import restrictions in conformity with the rules and disciplines of the GATT/WTO" and the Presidential Decree of the same name? Is the "Regulation" currently in effect?

Reply:

Considering the fact that agriculture is one of the most important branches of Ukraine's economy, the President of Ukraine adopted the Decree "On Peculiarities of Applying Tariff Restrictions to Import of Agricultural Produce pursuant to Rules and Principles of GATT/WTO system" No. 412/97 of 13 May 1997. In fact, the Decree's mechanisms reinforced the President's

Decree “On Approval of the Regulation on the Procedure of Applying Restrictions on Import of Goods pursuant to Rules and Principles of the GATT/WTO System” and laid the methodological foundation for economic analysis of the agricultural produce market in Ukraine, determination of economic expediency and necessity of taking additional tariff-related as well as non-tariff-related measures.

However, pursuant to Item 3 of the Resolution No. 338/97-VR of 12 June 1997 of the Supreme Rada of Ukraine the draft Law of Ukraine “On Peculiarities of Applying Tariff Restrictions on Agricultural Produce Import pursuant to Rules and Principles of the GATT/WTO system” submitted by the President of Ukraine was rejected.

Presidential Decree "On the Application of Safeguard Measures pursuant to the Rules and Principles of GATT/WTO" of No. 478/96 of 27 June 1996 and the Regulation approved by this Decree were prepared on the basis of analysis of the procedures for protection of the domestic market and national manufacturers against unfair import practices which are used in developed countries and considering respective documents (agreements) of the GATT/WTO system.

However, pursuant to its Preamble, President’s Decree “On the Procedure of Applying Import Restrictions on Import of Goods pursuant to Rules and Principles of the GATT/WTO system” in conformity with Item two of Article 25 of the Constitutional Agreement between the President of Ukraine and the Supreme Rada of Ukraine “On the Basic Principles of Organization and Functioning of Public Administration and Self-Government in Ukraine ” was effective for the period of time prior to the adoption of a new Constitution of Ukraine – 28 June 1997.

Question 38.

The Law No. 468/97-VR deals with, among others, measures to be taken for purposed of protecting domestic agricultural producers against import.

Are there any additional regulations, resolutions or presidential decrees covering similar issues? If so, may we have them?

Reply:

The changes and amendments have been made to the Law of Ukraine No. 468/97 “On the State Regulation of Import of Agricultural Produce” by means of the Laws of Ukraine:

- No. 644/97-VR of 19 November 1997;
- No. 794-VR of 30 December 1997;
- No. 32-VR of 16 January 1998;
- No. 198/98-VR of 5 March 1998;
- No. 439-XIV of 18 February 1999;
- No. 518- XIV of 18 March 1999;
- No. 597- XIV of 9 April 1999.

The system for regulating foreign trade in agricultural produce is described in “The Review of Trade Policies: Agriculture” which has been passed on to the WTO Secretariat.

Question 39-48

President's Decree No. 478/96

Article 2.1 of the Safeguard Agreement provides for conditions under which safeguard measures may be taken, and Article 5 of the Safeguards Agreement specifies existing restrictions on the application of such measures. Article 5 also specifies that safeguard measures may be applied "only to the extent necessary to prevent or remedy serious damage inflicted or threatening to be inflicted and to facilitate the process of adjustment of Ukraine's national economy to the consequences of such damage.

How do two alternative tests mentioned in item 4 of the Regulation approved by the President's Decree No. 476/96; i. e. tests concerning increase in import as well as other similar measures (presumably, those that are not relating to import increase) that inflict or may inflict serious damage relate with Article 5 of the Safeguards Agreement in the part concerning conditions of applying safeguards measures?

We also note that Item 4 does not contain the phrase "and to facilitate the process of adjustment of Ukraine's national economy to the consequences of such damage."

Does the Presidential Decree provide for measures to facilitate adjustment of the national economy to consequences of such damage solely for purposes of coping with foreign competition or it deals solely with protection?

Item 7 of the "Regulation" approved by the Presidential Decree No. 478/96 stipulates that "circumstances under which the dynamics of imports supply of any product, irrespective of its origin, lead to increased" volumes of import, or "lead to serious damage to domestic industry," relevant ministry or branch of industry notifies the Interdepartmental Commission on Imports Regulation thereof. Article 3 of the Safeguards Agreement requires that an investigation be conducted for the purpose of determining whether a safeguard measure should be taken.

What guarantees are provided for against application of provisions of Item 7 in case there is a threat of increase in import that would restrict its application only if tangible evidence is available?

Item 13 of the "Regulation" is aimed at enforcement of provisions of Article 4.2(a) of the Safeguards Agreement. At the same time we point out that there are some linguistic differences which hopefully will be clarified:

In Ukrainian this provision is so worded that it arises questions whether the language of item 13 reflects the standard provided for in the Safeguard Agreement, i.e. imports that "have caused or are threatening to cause serious damage to the national economy"?

Is the concept of "available capacities utilization" reflected in the Ukrainian version as one of the factors to be evaluated during an investigation?

Please clarify the meaning of Item 17 of the aforementioned "Regulation." What exactly is meant by "information" referred to in the text?

Article 3 of the Safeguards Agreement establishes that all interested parties shall be given an opportunity to present their opinions and arguments in the course of an investigation to determine whether a safeguard measure should be taken.

Why does Item 18 of the Regulation " require that parties prove they are "actually sensitive" to the findings of an investigation? What does '-actually sensitive'" mean and how is it consistent with the provisions of Article 3?

Item 22 of the "Regulation" specifies that provisional safeguard measures may be used under special circumstances when "delay may cause serious damage." However, on the other side, we point out that Article 6 of the Safeguards Agreement specifies that provisional measures can be taken only in case such a delay would cause serious damage.

Is this also the case in the Ukrainian text?

Article 3.2 of the Safeguards Agreement provides for confidentiality of information, public summaries, and that confidential information may be used only if it is verified through an independent source. Item 29 of the "Regulation" provides that confidential information may be kept undisclosed if significant negative consequences would arise from its disclosure, but it does not determine specific circumstances under which the Commission may use undisclosed confidential information.

Is there any provision in any Ukrainian law or regulation restricting the use of undisclosed confidential information by the Commission (as required by Article 3.2 of the aforementioned Agreement)? If yes, please identify and give a short account of it.

Item 35 of the "Regulation" envisages that the period of time during which a safeguard measure is applied may be extended for a number of reasons among which are "evidence of a deterioration of the economic situation." On the other side, Article 7.2 of the Safeguards Agreement requires that there be "evidence that the industry is adjusting" and makes no reference to deterioration of the economic situation.

In our opinion, Item 35 of the "Regulation" establishes somewhat different grounds for extension of the aforementioned period of time and does not consider "national economy adjustment" as one of them. Please explain how provisions of Item 35 correlate with Article 7.2.

Article 7.4 of the Safeguards Agreement provides that the provisional measures expected to be in place for a period of time exceeding one year shall be gradually liberalized "at regular intervals over the period of their application." In Item 37 of the Regulation the last phrase is missing.

Why is the last phrase missing in Item 37?

Reply:

President of Ukraine's Decree "On the Procedure of Applying Import Restrictions to Import of Goods Pursuant to Rules and Principles of the GATT/WTO system" in conformity with Item two of Article 25 of the Constitutional Agreement between the President of Ukraine and the Supreme Rada of Ukraine "On Basic Principles of Organization and Functioning of Public Administration and Self-Government in Ukraine " was effective for the period of time prior to the adoption of a new Constitution of Ukraine – 28 June 1997.

Issues concerning safeguard measures shall be governed by laws incorporated into the Antimonopoly Code of Ukraine (see The Review "Ukraine": its way to the WTO).

3. Internal policies affecting foreign trade in goods

(a) Industrial policy, including subsidy policies

Question 49.

Concerning "The State Program on the Aviation Industry Development"; please outline Ukraine's plans to support national aircraft and aircraft engine development.

Reply:

Ukraine's plans on promoting development of national aviation are contained in the President's Order No. 15/94 "On Additional Measures for Developing the National Aviation Industry in Ukraine" approved in Kyiv on March 2, 1994 and in the Cabinet of Ministers of Ukraine's Resolution No. 249 "On Measures Aimed at Implementation of National Aircraft-Development Programs" of 29 February 1996.

Specifically, the Order provided for the establishment of international leasing transport aircraft company and an international consortium for serial production of the AN-70 aircraft. Pursuant to the Resolution some aircraft-manufacturing enterprises were authorized to keep all foreign currency funds earned for production and commercial operations for purposes of financing the Aircraft Construction Development Program.

The Resolution of the Cabinet of Ministers of Ukraine "On Measures for Implementation of National Aircraft Construction Programs" provided for elaboration of a long- and medium-term crediting of aircraft construction enterprises.

The Resolution also provides for establishment of the Interdepartmental Board for Coordinating Activities relating to implementation of national aircraft construction programs and the mechanism of financing national aircraft construction programs.

Question 50.

In September 1997 Ukraine adopted a new law "On Incentives to Encourage Auto Manufacturing" which contains provisions selectively exempting imports and domestic production of car-manufacturing companies with a sufficiently large share of foreign investment which use local inputs, from taxes and tariffs, imposed on other similar imports.

We request a detailed listing of the provisions of this law that cover taxes, tariffs and restrictions on competing imports, or any other measures intended to stimulate domestic automobile production and Ukraine's evaluation of how they conform to the provisions of GATT Articles and the WTO Agreements on Subsidies and Countervailing Measures and on Trade Related Investment Measures.

Reply:

Pursuant to the Law of Ukraine "On Incentives to Develop Auto-Manufacturing Industry in Ukraine" (No. 535/97-VR) adopted on 19 September 1997 by the Supreme Rada of Ukraine which came into force on 23 October 1997 the following privileges shall be granted:

1. Import duty shall not be levied on parts and components used by enterprises for auto-making.
2. The VAT shall not be levied on parts and components used by enterprises for auto-making.

3. The land tax, profit tax and the amount of money to be paid to the State Innovation Fund shall not be levied.

However, aforementioned privileges shall be granted to all enterprises that operate pursuant to the conditions mentioned below and as long as they satisfy these conditions (up to 1 January 2008): i. e. they manufacture autos and spare parts, have domestic or foreign investment to the amount no less than US\$ 150 million in monetary form plus copyright to a car make and technology of their manufacturing, reinvest profits, do not lay off workers and raise the level of localization of production in conformity with the plan approved by the Cabinet of Ministers of Ukraine.

(b) Technical regulations and standards

Question 51.

Please identify specific measures and practical changes which have been implemented over the last year in the Ukrainian system of standards and technical regulations that brought the system in line with future WTO TBT obligations.

Reply:

On 1 July 1998 State Standards EN 14 000 entered into force on a voluntarily basis, and on 11 March 1999 the Procedure for Introducing Module Approach to Conformity Evaluation entered into force taking into account requirements set forth in European Union's directives on a voluntarily basis as well.

We also would like to add that from 1998 the State Committee on Standards issues the quarterly "Standardization, Certification, Quality" in which all draft laws and standards being prepared for consideration are published for public discussion.

Question 52.

Please, outline basic principles of scheduled actions (action plan) and a separate schedule for bringing the Ukrainian system in line with WTO TBT obligations.

Reply:

Circulated in WT/ACC/UKR/59/Add.1/Rev.1

Question 53.

When will appropriate Ukraine authorities publish a fee schedule for certification? When will it provide information on the average processing time for products and services requiring conformity assessment?

Reply:

The "Regulations on Defining Costs of Works on Certification of Goods and Services," which describe the labour norms followed by certification bodies while certifying specific goods are reproduced in document WT/ACC/59/Add.3.

Question 54.

WT/ACC/UKR/50 indicates the National Council on Quality Issues has a broad mandate to analyze and prepare proposals for improvements in technical and regulatory infrastructure,

Please explain in further detail the role of the National Council on Quality and outline its accomplishments since its establishment more than a year ago, as well as its future work plan. Please provide further information on its relation to Derzhstandart.

Please provide a more detailed response to question 39 concerning the activities of the National Council on Quality Issues and the National Council on Accreditation. What progress have these councils made on harmonizing Ukraine's laws with international standards?

Reply:

In accordance with the National Council on Quality. This body formulates the foundations of state technical regulation policy, including the area of accreditation. Presidential Decree No. 375, enacted 24 May 1996, charges the State Standards Committee of Ukraine (Derzhstandart) with oversight duties relating to accreditation policy. This entity is responsible for the accreditation of certification bodies as well as testing laboratories in the state certification system UkrSEPRO.

The Cabinet of Ministers of Ukraine in 1998 adopted recommendations for drawing up a state program for quality and services improvement, which had been drafted by the National Council on Quality at its first plenary session.

The Council has sponsored, for the past two years, the European Week of Quality, which involves a series of seminars, competitions and exhibitions accenting on high quality standards.

Question 55.

WT/ACC/UKR/50, Question 42:

Could we see a draft version of the Law "On the Responsibility of Producers and Distributors for the Production and/or Distribution of Substandard and Hazardous Products"? What is the current status of the Law? And when do you expect it to be enacted?

Reply:

The text of the Draft Law of Ukraine "On Responsibilities of Suppliers for Manufacturing and Selling Poor Quality and Hazardous Produce," which is presently being examined by the Supreme Rada of Ukraine is reproduced in document WT/ACC/UKR/59/Add.3. It is impossible to say exactly when this draft will become a law, insofar as the Supreme Rada and the Presidential Administration must examine all draft laws.

Question 56.

Ukraine requirements for pre-market certification of electronic and electrical appliances are more stringent than that required by other countries to ensure product safely,

Please describe what steps Ukraine is taking to evaluate its current certification requirements with a view to removing unnecessary barriers to trade.

Please provide an explanation as to how Ukraine can justify its requirements for product model and individual consignment approval for imports, combined with additional quality system

certification, for products that typically are not subject to pre-market certification in other countries,

Please provide information on specific actions Ukraine will take to move away from prescribing mandatory third-party certification to allow for purchasers to rely upon compliance with standards and certification on a voluntary basis, with Government retaining the right to "spot check" compliance with relevant standards through post-market surveillance.

Reply:

The certification of imported goods that are potentially dangerous to the consumer, in particular, low-voltage electric appliances and electronic goods, takes place according to the requirements of current Ukrainian standards. The existing discrepancies in technical requirements and certification of goods do not contradict the provisions of Article 2.4. of the Agreement on Technical Barriers to Trade and result from the state of Ukraine's power supply system and the necessity of maintaining certain radio interference norms.

In accordance with UkrSEPRO certification guidelines, mass-produced goods are certified for a period from one to three years. Where the certifying body receives a quality system and tests samples of the goods in question, the resulting certificate is valid for three years.

Question 57.

Current Ukraine policy for accepting the results of conformity assessment procedures conducted by bodies in other countries appears to overemphasize the need for a bilateral cooperation agreement, rather than the need to have confidence that the product conforms to the necessary standard or technical regulation. Article 5 of the TBT Agreement emphasizes the right of suppliers to have access to conformity assessment procedures on a non-discriminatory basis, and Article 6.1 obliges Members to accept the results of conformity assessment procedures conducted by bodies in other Members provided they result in an equivalent assurance of conformity to the relevant standard or technical regulation. Article 6.1 does not require the conclusion of an agreement for this purpose. Article 6.4 encourages governments to accredit or otherwise evaluate and recognize conformity assessment bodies located in the territories of other Members on a non-discriminatory basis.

Does Ukraine recognize testing laboratories or product certifiers accredited by accreditation bodies in other CIS countries?

Does Ukraine recognize product certificates issued by other CIS countries, under existing regional or bilateral agreements? If yes, does this recognition apply only to products manufactured in those countries or is this recognition also extended to imported products that have been certified?

Will Ukraine authorities accept applications for accreditation from bodies located in other countries? If not, are there plans to do so? If not, why not? Please describe the actions Ukraine is taking to ensure proper consideration of the range of alternatives in establishing and revising its conformity' assessment procedures

Please provide updated information on the proposed legislation to move away from pre-market certification requirements and which will allow supplier's to declare the conformity of their product to relevant standards and technical regulations ("On the Responsibility of Producers and Distributors for the Production and/or Distribution of Substandard and Hazardous Products"). For which sectors and/or for which products will mandatory' third-party

certification continue to be required? On what basis will this determination be made? When is the legislation anticipated?

Reply:

a/b) Ukraine recognises the results of testing laboratories and/or certifying bodies that are accredited by national certification institutions, on the basis of bilateral intergovernmental agreements providing for reciprocity in quality control, concluded with various CIS countries. These agreements do not apply to goods produced by "third countries."

c) As far as non-CIS countries are concerned, Ukraine conducts mutual accreditation of testing laboratories in accordance with bilateral intergovernmental agreements.

d) The decision as to which methods of conformity assessment of goods will be applied, including the supplier's declaration that certain goods comply with legal requirements, will be made on the basis of the Law of Ukraine " On Responsibilities of Suppliers for Manufacturing and Selling Poor Quality and Hazardous Produce," the Law of Ukraine "On Standardization and Certification," on legislative acts drafted in accordance with Cabinet of Ministers Resolution No. 244, dated 19 March 1997, " On Measures for Gradual Introduction in Ukraine of European Union Directives, Sanitary, Ecological, Veterinary and Phytosanitary Rules, and International and European Standards" and on the Procedure for the Introduction of Module Approach in the Conformity Assessment in Accordance with Directives of the European Union.

(c) Sanitary and phytosanitary measures, including measures taken with respect to import

Question 58.

Could Ukraine identify the offices or agencies that will operate as its notification point or inquiry point for information, as required in Annex B of the SPS Agreement?

Reply:

In 1998, the Notification Service and the National Inquiry Point under the framework of Eco-hygiene and Toxicology Institute named after L.I.Medved under the Ministry of Health Protection of Ukraine were established to provide information to WTO member countries regarding approved sanitary measures, national procedures on monitoring and control, risk assessment procedures, other information in compliance with the SPS Agreement.

Question 59.

Please indicate actions Ukraine is taking to established procedures and the legislative authority to publish notices of proposed SPS measures in advance and in a manner that allows WTO members to become acquainted with such proposals, as required in Annex B, paragraph 5 (a) of the SPS Agreement.

Reply:

During the last year the Ministry of Health Protection of Ukraine became more active in publishing Sanitary Norms and Rules, as well as other documents pertaining to the sanitary legislation, in order to improve the principle of transparency regarding sanitary and phytosanitary actions in Ukraine. As of now the most important documents pertaining to the sanitary legislation have been changed the way that now they take into account the needed provisions on harmonization

with the European [EU] legislation, and are being published by the Ministry of Health Protection of Ukraine in the form of selections of normative documents which can be provided to anyone.

Question 60.

Please provide a detailed description of Ukraine's domestic conformity assessment procedures and a comparison of these procedures with those applied to imports to demonstrate how they are as rigorous as the requirements affecting imported products.

Reply:

After conducting the mandatory state sanitary and hygiene expertise for a new type of products, imported to Ukraine for the first time, the conclusion of the state sanitary and hygiene expertise is provided under the set form. The procedure takes 5 to 7 working days. The hygiene conclusion on the product imported to Ukraine for the first time is granted for 1 year to 5 years with the ability to further extend it. "The new" products are considered to be the products which are imported to Ukraine for the first time (for which the conclusion of the state sanitary and hygiene expertise has not been provided before), the products from the new manufacturer, new supplier, the products with changed composition, or manufactured under the new technological process.

Ukraine applies the same sanitary measures and requirements in regard to both domestically manufactured goods and imported ones. Ukraine is ready to activate and promote bilateral works in the arena of cooperation with expert bodies and organizations recognized throughout the world.

Question 61.

Please identify concisely what legislation, regulations and administrative procedures are currently in force or being drafted that implement SPS measures in Ukraine.

As appropriate, please discuss how they meet the requirements of the SPS Agreement, or how their requirements are based on sound science and appropriate risk assessment.

Reply:

Sanitary measures are being implemented and applied in Ukraine in compliance with the Law of Ukraine "On Insuring Sanitary and Epidemic Safety of the Population" at all stages of design, implementation, production, import/ export, transportation, sales, use (application, consumption) of produce, its processing, recycling, or destroying (if need be).

See Reply 65.

Question 62.

Since 1997, Ukraine has banned the import of animal offal, mechanically de-boned meat, hot dogs, franks, and sausages from a number of countries. None of the animal diseases cited as reasons for this ban occur in the member countries. If Ukraine cannot produce scientific evidence as to why the importation of these products must be banned, then Ukraine should be prepared to rescind the ban in order to be in compliance with the Agreement on the Application of Sanitary and Phytosanitary Measures.

We ask that the ban on member products be lifted. We would appreciate Ukraine's explanation for the ban vis-a-vis member products.

Reply:

In accordance with the "Veterinary Requirements for the Import of Meat and Meat Products," meat may be imported into Ukraine in the form of carcasses, semicarcasses and quarters with clearly visible stamps of the state veterinary inspection and the name and number of the enterprise that killed the animal.

Question 63.

Ukraine's response to Question 55 in WT/ACC/UKR/50 States "the revision of the rules dealing with the procedures to recognize trading partners' conformity assessment procedures, sanitary or phytosanitary certifications, or declarations of conformance is not completed."

How far along is the review process and when will it be completed?

Reply:

The activities on reconciling a great number of documents and sanitary legislation in general with the WTO requirements on sanitary norms require a respective transition period; its duration can be defined by the year 2001.

Question 64.

In response to Question 62 in WT/ACC/UKR/50 concerning treatment of "new food products," Ukraine states that "the sanitary standards for imported goods are practically the same as those applied to domestic products,"

What is meant by "practically the same"? We continue to seek confirmation from Ukraine that imported products will be subject to the same certification requirements as domestic products.

Reply:

We confirm that imported products are subject to the same sanitary requirements that domestically produced items are subject to.

Question 65.

We request an update on the implementation of Cabinet of Ministers Resolution of 19 March 1997, No. 244 "On Measures for Gradual Introduction in Ukraine of European Union Directives: Sanitary, Ecological, Veterinary and Phytosanitary Rules, and International and European Standards" and on the development of the Program of Developing a Complex of Sanitary, Sanitary-Chemical, Toxicological-Hygienic, Phytosanitary and Veterinary Rules, as detailed in Ukraine's response to Question 69 in WT/ACC/UKR/50.

Reply:

To implement Cabinet of Ministers Resolution No. 224 and in order to harmonize sanitary and phytosanitary norms of Ukraine with the European legislation within the first 6 months of 1999, the following measures have been taken: Cabinet of Ministers Resolution of 24 April 1999, No. 696 "Procedures for Sanitary Protection of Ukraine's Territory" was approved; "State Sanitary Rules and Norms of Application of Lacquer and Paint Materials on Vehicles", "State Sanitary Rules and Norms for Barber-Shops", "State Sanitary Rules and Norms of Health Safety Regarding Games and Toys" were drafted and approved

"State Sanitary Rules and Norms of Health Safety for Cloths and Footwear", "State Sanitary Rules and Norms for Fish and Seafood Products' Manufacturing Enterprises and Sea Vessels" were prepared for approval.

The laws of Ukraine "On Protection of Population from Infectious Diseases", as well as on "State Sanitary Rules and Norms for Cemeteries", "Main Sanitary Rules of Work with Ion Emanation Sources in Ukraine" are being drafted.

Question 66.

We need further clarifications as to what the following statement in Reply to Question 70 in WT/ACC/UKR/50 means: "the buyer of meat preserves the right to involve his veterinary experts into selective pre-slaughtering examination of the animals and veterinary and sanitary expertise of the carcasses and intestines at the exporters's enterprises."

Does this imply that a Ukrainian vet has to be present in the slaughter plant?

How does this conform to the requirement of the SPS Agreement that importing countries be prepared to accept exporting countries' inspection systems based on equivalency?

Reply:

The buyer reserves the right to conduct selective pre-killing inspections, as well as veterinary-sanitary inspections of the meat carcasses and internal organs utilising his own specialists, on location at the exporter's plant. This does not mean, however, that every processing plant will undergo inspection.

Ukraine does not object to recognising exporter countries' inspection systems on the basis of equivalency, as the agreement on sanitary and phytosanitary measures permits.

Question 67.

Concerning the response to Question 71 in WT/ACC/UKR/50: Ukraine's prohibition on the import of poultry meat that has received natural hormonal medicine and antibiotics during

growing, feeding, or before slaughtering would not seem to be in conformity with the SPS Agreement or recent WTO Panel decisions,

Does this regulation apply to any other kinds of meat?

We also request clarification as to what the requirements for tetracycline and grisein are. The unit is listed as "unit per gram" and it is unclear what this means.

Reply:

In accordance with the Law of Ukraine "On Veterinary Medicine," the use of biological stimulators, antibiotics and hormones to speed the growth process or increase the productivity of animals and poultry is strictly forbidden.

As far as tetracycline and grisein are concerned, the maximum permissible concentration that may be present in fresh, chilled or frozen poultry is indicated in units per gram of product or raw material.

(e) State-trading practices

Question 68.

Ukraine has not to our knowledge, filled out the questionnaire on state trading included in. WT/ACC/1.

1. We would appreciate receiving comprehensive information on Ukraine's state trading enterprises and on state owned enterprises that have a significant or special role in Ukraine's international trade.

2. Please supply this information on an updated list of state trading enterprises (updated from WT/ACC/UKR/1), including the additional information already supplied on the agricultural enterprises.

Reply:

1. Since 1996, the proportion of state enterprises to the total number of manufacturer enterprises, as well as their portion of total manufacturing has shown a clear diminishing tendency. If in 1996 the portion of enterprises with a state form of ownership amounted to 28.8 per cent of all manufacturing enterprises, in 1997 - 24.3 per cent, in 1998 - 19.9 per cent, then for the first quarter of 1999 this figure stood at 16.6 per cent. In actuality the state-owned portion of all manufacturer enterprises was 40.6 per cent in 1996, 34.7 per cent in 1997, and in 1998 and the first quarter of 1999 it stood at approximately one third.

Export enterprises with a state form of ownership comprised 1,500 (or seven per cent of all exporters), in 1997 - 1,200 (7.4 per cent), in 1998 - 1,100 (7.3 per cent) and in the first quarter of this year - 600 (8.1 per cent). The relative increase in the proportion of state-owned exporters and their share of total exports is a result of the drastic reduction in the total number of enterprises exporting goods. State-owned exporters' dole of the total volume of exports comprised 17 per cent in 1996/1997, 18.6 per cent in 1998, and 19 per cent in the first quarter of 1999. The increase in this is not connected with an absolute increase in trade volume by state-owned enterprises, but rather with a general decline in export volumes.

Import enterprises with a state form of ownership comprised some eight per cent over the past three years, and in the first quarter of 1999 - 6.6 per cent of all import enterprises. The relative value of goods imported by state-owned enterprises to the total value of all goods imported has decreased from 20 per cent in 1996 to almost 10 per cent in 1997, 1998 and the first quarter of 1999.

Over the past three years and the first quarter of 1999 more than 99 per cent of all enterprises participating in external trade in goods, conducted operations whose value was no greater than three per cent of the total volume of export-import of goods. Since 1996, the Mariupol Metallurgical Conglomerate named after Illyich, the Open JSC Azovstal Metallurgical Conglomerate, the Open JSC Zaporizhia Metallurgical Conglomerate "Zaporizhstal", the Closed JSC "United Energy Systems of Ukraine", the JSC Ukrgazprom (all with collective form of ownership), and the Kryvyi Rig State Metallurgical Conglomerate "Kryvorizhstal" (state-owned), conducted external trade operations in goods with a value of 3-10 per cent of general (all-Ukraine) indicators. National JSC Naftogaz Ukrayiny joined these companies in the first quarter of 1999.

2. As of 1 April 1999, the Unified State Register of Enterprises and Organizations of Ukraine contains 10,907 state-owned [public] enterprises, and 13,609 state municipal enterprises.

In compliance with the Ukraine's legislation enterprises of any type of property ownership can be involved in foreign economic and trade business activities.

The list of the largest state-owned enterprises will be submitted later.

Question 69.

We would also appreciate information on the following, either in response to the questionnaire or separately:

The current status of all state agricultural trading enterprises (including those listed in Reply 255 of WT/ACC/UKR/I how these enterprises have been/will be privatized) the government share in these enterprises, and the legislation that specifically ended the rights and privileges that these organizations traditionally received. Without this legislation, we have no way of verifying that these agencies no longer maintain exclusive or preferential rights as a state trader.

A report on the process by which purchases for State needs are made, including quantities, value, average prices, recipients, government agencies/firms responsible for making (or allocating) purchases, and how they are chosen.

A clear picture of how barter deals with CIS and other countries are implemented, the volume/value of the transactions, and the government agencies/firms involved in implementing these deals.

Reply:

1. It is worth mentioning here that the current legislation of Ukraine does not provide for exclusive or specific rights or preferential treatment for enterprises, which are in the state ownership.

Information about state agricultural enterprises will be submitted later.

2. The process of procurement for state needs of agricultural products is governed by the Cabinet of Ministers Resolution of December 19, 1997, No. 1417 "On Approving the Procedures for

Defining Volumes of Agricultural Goods and Food Products for State Needs and Their Sales from State Resources through the Stock Commodity Market.”

In Ukraine there are no separate lists of enterprises to which norms and rules in the sphere of state procurement are applied.

3. The procedures on conducting barter deals in the sphere of foreign trade are introduced by the Law of Ukraine “On Governing Commodity Swap (Barter) Operations in the Sphere of Foreign Trade Activity” of 23 December 1998, No. 351-XIV.

In compliance with the Law all Ukraine’s subjects [operators] of foreign economic activities can participate in conducting barter deals.

The regime set forth by the law on conducting barter operations between Ukraine’s subjects of foreign economic activity and foreign business operators registered as such in a Commonwealth of Independent States country member does not differ from the regime on conducting such deals with business operators registered in other countries.

In compliance with Article 4 of the Law in order to increase in-flow of hard currency into Ukraine, stabilize national money unit and rehabilitation of country’s financial and banking system in general it may be prohibited to conduct commodity swap (barter) deals in the sphere of foreign economic activities with goods (works, services) included into the list compiled by the Cabinet of Ministers of Ukraine.

Such list was approved by the Cabinet of Ministers Resolution of 12 June 1998, No. 854 “On List of Goods (Produce, Works, Services) Whose Export is Prohibited Under Barter (Commodity Swap) Operation.” In order to minimize hard currency expenditures related to the current instability of national money units of CIS member countries, and to increase balance level of trade turnover volumes with those countries the validity of this Resolution was temporarily discontinued until the adoption of a separate decision regarding the conducting of barter (commodity swap) deals with business operators from CIS member countries.

(l) Government procurement

Question 70.

Ukraine has stated its intent to join the Government Procurement Agreement. We commend Ukraine for that decision, and seek the following information on recent legislation designed to bring its procurement laws into compliance with WTO disciplines:

We would like to clarify whether Resolution No. 694 as amended by Resolution No. 1058 represents the current procedures that must be used by Ukrainian government entities when conducting procurements. Is this the case?

Reply:

The said resolutions lay down the rules and procedures for conducting state purchases. In reality no state institution can effect a purchase, valued at 10,000 UAH or more without a document that confirms that a tender has been conducted (the Cabinet of Ministers Resolution No 1048, dated 24 September 1997).

Payment is made by the state treasury and authorized banks only in accordance with a protocol or confirmation of tender. Point No. 4 of the above resolution regulates state purchases.

Question 71.

Are any other procurement laws or regulations also in effect? For example, in WT/ACC/UK.R/25 (answer to Question 225) Ukraine makes reference to the "Provision on procedure for organizing and holding international tender-bids in Ukraine" and in answer to Question No. 227 makes reference to a "copy of the latest version of the law on government procurement."

Reply:

The Cabinet of Ministers Resolution No. 694, dated 28 June 1997, as amended by the Cabinet of Ministers Resolution No. 1058, must be treated as a single document regulating the purchase of goods and services with budgetary funds, regardless of the origin of the goods/services in questions. In effect a single standard applies to purchase of domestic and imported goods/services in this area. Simultaneously we notify you of the Cabinet of Ministers Resolution No. 2087 (dated 28 December 1998) "On Amendments to Certain CMU Resolutions Governing State Purchases of Goods and Services, and on the Specificity of Construction Tenders." This resolution does not contradict the above-mentioned resolutions.

The ministerial normative act on purchase of medicines and medical equipment, developed by the Ministry of Health, has been brought into accord with the resolutions.

Question 72.

Is a draft procurement law being developed? If so, is Resolution No. 694 indicative of the procedures that will be set forth in such a law?

Reply:

The newest draft Law of Ukraine "On Procurement of Goods, Works and Services for State Needs" was adopted by the Supreme Rada of Ukraine on 30 June 1999, in first reading.

Just as Resolution No. 694, the above law is based on the Model Law on Purchases (of Works), Services (UNCITRAL) itself composed primarily of six methods of purchase.

The World Bank and TACIS experts have positively appraised the draft law. The experts' comments concern several norms not in complete agreement with the Agreement on State Purchases of GATT/WTO and normative acts of the European Union.

Question 73.

What is the relationship between Resolution No. 694 and Resolution No. 266 of 29 February 1996, which also sets forth some guidelines for use by state entities when conducting procurements? Is Resolution No. 266 still in effect?

Reply:

The Cabinet of Ministers Resolution No. 266, dated 29 February 1996, is the normative act implementing the requirement of the Law of Ukraine "On the Delivery of Goods for State Needs," adopted by the Supreme Rada of Ukraine. Resolution No. 266 sets the ground rules for state purchasers and the Ministry of the Economy, Ministry of Finance, and the State statistics Committee, in forming and placing state orders, and ensuring their proper fulfilment.

Such orders account for 2-5 per cent of expenditures from the State Budget.

The Cabinet of Ministers Resolution No. 694, dated 28 June 1997, sets out the procedure for conducting tenders as part of state purchases. Included here are purchases of goods, works and services within the bounds of state orders.

Thus the said procedure applies to all purchases that are paid for with budgetary funds, this being equal to 8-10 per cent of GDP.

We would also like to inform you of the possibility that Resolution No. 266 may be cancelled or modified after the adoption by the Supreme Rada of the draft Law of Ukraine "On Procurement of Goods, Works and Services for State Needs."

Additional questions regarding Resolution No. 694 and the answers provided by Ukraine in WT/ACC/UKR/50:

Question 74.

In response to Question 80 in WT/ACC/UKR/50, Ukraine states that it is aware that Resolution No. 694 fails to stress the use of performance over design criteria as called for in the Government Procurement Agreement, However. Ukraine gives no indication it plans to rectify this shortcoming.

How does Ukraine plan to address the technical specification issue? Will it modify- Resolution No. 694? If a new draft procurement law is being considered, does it require that performance criteria be stressed over design criteria?

Reply:

In Paragraph No. 30 (sub-paragraph 4) of Resolution No. 694, dated 28 June 1997, it states that tender documents for suppliers must include technical and quality characteristics of the good, works or service to be provided, including appropriate technical specifications, plans, drawings, drafts etc.

The said characteristics are based on technical instructions in line with the Ukrainian system of standardization.

It is not always possible to rely on international standards, although this is permitted in Paragraph 26 of Article VI of the GPA.

Therefore it is inaccurate to label Resolution No. 694 as incomplete. In addition to this, the draft law foresees a separate article on "Qualification Requirements for Suppliers (Implementers)", which includes the following demands:

Question 75.

Also in response to Question 80, with respect to offsets, Ukraine states that the contracting authority can use any of the criteria listed in "Article 29 (4)" of Resolution No. 694 in the bid evaluation and selection process. Article 29 of the version of Resolution No. 694 available to us deals with requirements for supplying potential suppliers with tender documents, Our question with regard to offsets, however, referred to Article 41 of Resolution 694, which allows tender organizers to use criteria such as "volume of local resources use", "internal investment", and

"transfer of technology" as criteria for selecting the winner of a tender. As noted in Question 80, such criteria may be considered prohibited offsets under Article XVI of the Government Procurement Agreement.

Reply:

Resolution No. 694 does indeed permit the specified criteria as a way of supporting domestic suppliers. At the same time, the new draft Law of Ukraine "On Procurement of Goods, Works and Services for State Needs" (adopted by the Supreme Rada on 30 June 1999 in first reading) has excluded the provision specifying that "certain goods, works and services [for state orders] be provided by domestic providers only." In addition to this, the draft law does not set any mandatory criteria for selecting suppliers, rather this is left at the discretion of those placing an order.

Question 76.

How does Ukraine plan to address the offsets issue? Will it modify Resolution No. 694? If a new draft procurement law is being considered, does it make clear that such criteria may be used only in limited circumstances to determine qualifications to participate in the procurement process?

Reply:

See reply to Question 75.

Question 77.

We remain very concerned will the 15 per cent price preference for Ukrainian suppliers permitted under Article 41 of Resolution No. 694, Ukraine's answer to Question 80 in WT/ACC/UKR/50 states that procuring entities will be required to make clear in the tender documents whether a price preference is included, and notes that all bidders will be provided with relevant tender documents.

Notwithstanding that assurance, the price preference contemplated appears to violate the MFN provisions of the Government Procurement Agreement and other WTO obligations. How would this provision be addressed in the context of Ukraine's accession to the GPA?

Reply:

Notwithstanding the existence of the said standard in Resolution No. 694, since 1997 there have been no cases of price preferences being utilized to the benefit of local suppliers, in the first case due to insufficient financing to cover the difference in price.

The new draft law (see the previous answer) retains the possibility of utilizing the 10 per cent price preference, whoever only on condition that the expected value of the purchase shall be no greater than the equivalent of:

- for goods - 200,000 Euro
- for services - 300,000 Euro
- for works - 4,000,000 Euro

Such subsidies are permitted by legislation governing state purchases in force in many countries, including WTO member states.

Question 78.

The Government Procurement Agreement requires that a procurement review body "which is not a court shall either be subject to judicial review" or ensure that anyone challenging a bid has specific rights which are set forth in the Government Procurement Agreement.

Resolution No. 694 appears to allow tender organizers or the Ministry of Foreign Economic Relations and Trade to hear complaints. Are the decisions of these bodies subject to judicial review?

Reply:

In accordance with Article 71 of Cabinet of Ministers Resolution No. 694, dated 28 June 1999, the decision of the MFEAT or the entity placing an order, regarding a supplier's (subcontractor's) complaint, is final, unless the entity placing an order or the supplier (subcontractor) file a complaint in court or arbitration court.

Article 72 of the Resolution gives suppliers (subcontractors) who have made a complaint to go to court (or arbitration court), if the MFEAT or the entity that ordered the tender to not resolve the complaint within 15 calendar days of its submission.

Question 79.

The answer to Question 80 states that any supplier may appeal the decision of the contracting authority. Who hears the appeal?

Reply:

A court or arbitration court in accordance with legislation in force considers appeals.

Question 80.

Could Ukraine supply a list of the procuring entities operating at the central, subcentral, and state enterprise level subject to Ukraine's government procurement rules and regulations?

Reply:

We are not quite certain what is meant by "preparatory enterprises." If one has in mind state purchasers who are regulated by the law governing state purchases, then the following would be included: ministries, other central and local executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, enterprises and institutions of all forms of ownership, as well as other subjects that purchase goods, works and services with budgetary resources or foreign credits issued under Cabinet of Ministers guarantees.

At the same time any subject of enterprise of any state affiliation, that has confirmed its intent to take part in a tender or issue a tender, can be considered a supplier.

There are no lists extant in Ukraine of enterprises subject to the standards and rules of state purchases.

All enterprises that purchase goods, works or services with budgetary funds or foreign credits guaranteed by the Cabinet of Ministers of Ukraine are subject to the rules governing state orders.

4. Policies affecting foreign trade in agricultural products:

Concerning the Law on State Regulation of Agricultural Imports:

Question 81.

WT/ACC/UKR/50, Question 96: In its reply to Question 96. Ukraine explains that seasonal tariffs will not exceed the maximum 50 per cent tariff contained in Ukraine's offer on market access in goods.

We would prefer that Ukraine include these seasonal rates in its schedule, so that the rates are transparent and predictable.

Reply:

In accordance with Part 1, Article 2 of the Law of Ukraine "On State Regulation of Import of Agricultural Produce" as amended on 16 January 1998 No. 32/98-VR, seasonal import duties at rates double those of preferred import duties are applied to those goods that fall under the following Codes of the Commodity Nomenclature of Foreign Economic Activity: 07.01 - 07.08, 08.06.10, 08.07.10, 08.08.10, 08.08.20, 08.09.10.000, 08.09.20, 10.01 - 10.05, 10.08, 12.06 - 12.08, 12.10, 12.12.91, 12.12.92, 12.13, 12.14 .

In accordance with Part 5, Article 2 of the Law, the above-denoted agricultural goods are subject to seasonal import duty at preferred rates, if the preferred rate is equal to or greater than 30 per cent in accordance with Article 6 of this Law.

The government is doing everything in its power to make the process of tariff regulation maximally transparent and predictable. The Cabinet of Ministers Resolution No. 1213, dated 3 August 1998, "On the Procedure of Changing Customs Duty Rates" has instituted a new procedure for making changes in import duties. In 1999 changes may be made not more often than once every six months, while in 2000 - no more than once a year.

Question 82.

WT/ACC/UKR/50, Question 97; Ukraine's response to Q. 97 concerning the use of import quotas is unclear.

Please provide a complete, concise explanation of the Law on State Regulation of Agricultural Imports, including amendments made to this Law on 17 February 1998. Does Ukraine intend to implement the import quotas that are mandated in Article 3 of this Law?

We seek a commitment from Ukraine that it will not introduce import quotas for any products and will amend the Law on State Regulation of Agricultural Imports to reflect this commitment.

Reply:

In accordance with the Law of Ukraine No. 468/97, the Cabinet of Ministers sets annual quotas (quantity limits) on the import of goods that fall under the first and second groups in the Commodity Nomenclature of Foreign Economic Activity (codes: 01.02, except for 01.02.10.000; 01.03, except 01.03.10.000; 01.05, except 01.05.10.000; 01.06; 02.01; 02.02; 02.03; 02.04; 02.05; 02.06; 02.07, except 02.07.39.130, 02.07.39.230, 02.07.41.510, 02.08, 02.09.00, 02.10.

Since the law's enactment, import quotas have not been levied. Therefore, de-facto, importers' interests have not been violated.

Question 83.

We have heard reports that the Cabinet of Ministers is considering an import quota on poultry meat.

Will import quotas be introduced on poultry meat, and if so, when? Please provide a concise outline of the provisions contained in the amendments to the Law on State Regulation of Agricultural Imports from 17 February 1998. Are further amendments to this Law envisioned?

Reply:

In accordance with the Law of Ukraine No. 468/97, the Cabinet of Ministers sets annual quotas (quantity limits) on the import of goods that fall under the first and second groups in the Commodity Nomenclature of Foreign Economic Activity (codes: 01.02, except for 01.02.10.000; 01.03, except 01.03.10.000; 01.05, except 01.05.10.000; 01.06; 02.01; 02.02; 02.03; 02.04; 02.05; 02.06; 02.07, except 02.07.39.130, 02.07.39.230, 02.07.41.510, 02.08, 02.09.00, 02.10.

Since the law's enactment, import quotas have not been levied. Therefore, de-facto, importers' interests have not been violated.

There are no quotas to be levied on poultry. This issue is not under discussion.

The Law of Ukraine No. 32/98 -VR, dated 16 January 1998 "On Amendments to the Law of "On State Regulation of Agricultural Imports"" amends:

1. Article 1 "Tariff Regulation of Import of Agricultural Products":
 - Full import duty rates for goods in groups one and two of the Commodity Nomenclature of Foreign Economic Activity (except for those subject to excise) will be set at double the preferred rate of import duty;
 - Full import duty rates for goods in groups three and four of Commodity Nomenclature of Foreign Economic Activity as well as goods to which luxury tax applies, will be set at the preferred rate of import duty.
2. Article 2 "Seasonal Import Duties"
 - Seasonal import duties are set annually at a rate double the preferred import duty rate and apply to goods, that fall under the following codes of the Commodity Nomenclature of Foreign Economic Activity: 07.01 -07.08, 08.06.10, 08.07.10, 08.08.10, 08.08.20, 08.09.10000, 08.09.20, 10.01 - 10.05, 10.08, 12.06 - 12.08, 12.10, 12.12.91, 12.12.92, 12.13, 12.14 ;
 - In accordance with Part 5, Article 2 of the Law, the above-noted agricultural production is subject to seasonal import duty at a rate equivalent to the preferred rate, if the preferred rate is equal to or greater than 30 per cent in accordance with Article 6 of this Law.

The following Laws of Ukraine have amended Law of Ukraine No. 468/On State Regulation of Import of Agricultural Produce”:

No. 644/97 -VR (19 November 1997);

No. 794 -VR (30 December 1997);
No. 32 - VR (16 January 1998);
No. 198/98 -VR (5 March 1998);
No. 439-XIV (18 February 1999);
No. 518-XIV (18 March 1999);
No. 597-XIV (9 April 1999).

Other Legislation

Question 84.

Please provide an explanation of how the VAT on livestock and dairy products sold to processors is administered. We have seen a copy of the Cabinet of Ministers' resolution from 16 February 1998 No. 145 on establishing the procedure for calculating and paying subsidies to agricultural producers who sell milk and meat in live weight to processors.

Reply:

The Law of Ukraine No. 770 (n. 11.21), dated 29 December 1997, sets forth that VAT paid into the budget by processing enterprises from the sale of milk and dairy products, meat and meat products is refunded to the agricultural producer for the raw material sold by the processing enterprise: milk and meat by live weight. At the same time these agricultural producers are partially freed from paying VAT on the sale of raw material to processors, by having VAT levied at the 0 per cent rate. (CMU Resolution No. 145, dated 26 February 1998).

The Cabinet of Ministers Resolution No. 1096, dated 15 July 1998 "On Amendments to the CMU Resolution No. 145, dated 16 February 1998" introduced substantive changes to parts 4, 5, 6, 9 and 16 of "The Order of Calculation and Payment of Subsidies to Agricultural Producers for Milk and Meat Sold by Live Weight to Processing Enterprises confirmed by the Cabinet of Ministers. In particular, it was stipulated that agricultural enterprises with full, closed processing cycles of grown cattle, poultry and milk, are to transfer VAT, that should otherwise be paid into the budget according to their sale of milk, dairy products and meat, into the development of their own cattle-breeding and poultry business.

Question 85.

Please provide a concise summary of the provisions contained in Presidential Decree "On the main directions of development of the agro-industrial complex in Ukraine," from 5 May 1998 (29 April 1998, No. 389/98). We would also like an English translation of this decree.

Reply:

Presidential Decree No. 398, dated 24 April 1998 laid down the basic guidelines for the development of the Ukrainian agro-industrial complex. This decree set down priorities in the development of horticulture, cattle breeding, and food-processing. A separate section is set aside for private sector development. Taking into account that 87 per cent of Ukraine's agro-industrial sector is loss-making, the following priorities were set:

- restructuring of agro-industrial enterprises' debts before the state, their sanation, and the creation of a special crediting fund (section 9, n.4);
- the introduction of mortgage crediting and the development of a legislative and normative base for a State Joint Stock Village Mortgage Bank (Seliansky Bank) (section 3, n. 4);

- creation of a state support fund for prices and incomes in the agro-industrial complex, strengthening of anti-monopoly control of prices for material-technical resources, energy (fuel), provided to agricultural producers, strengthening of price controls for services provided by natural monopolies (section 4, n. 2, 3, 4);
- formation of a market infrastructure for agriculture, including adoption of an infrastructure development program for 1998-2000. Formation of wholesale markets, trading houses (commodities exchanges), entry into the CIS agricultural market and international manufacturing and trade organizations (section 8, n. 1, 6);
- . simplification of the tax system and lessening of the tax burden. A fixed tax was implemented on 1 January 1999. The value of this tax (or the amount) is calculated depending on the location and other characteristics of the land in question (a standard unit of measurement), with additional privileges for food processing enterprises. (Section 7, p.3).

In accordance with n. 4 of section 9 of the Presidential Decree, the Cabinet of Ministers adopted Resolution No. 922, dated 16 June 1998 "On Details Concerning the Sanation of Agro-industrial Enterprises," which sets the 1998-2000 period as one of restructuring for the sector. Interagency and regional commissions have been established to facilitate this reconstruction.

Question 86.

Please explain how the Presidential Decree No. 444/98 of 8 May 1998 "On the procedure of import of various types of vegetable oils to Ukraine in 1998" will be implemented. How will licenses or quotas be allocated to importers for these products?

Reply:

The Presidential Decree No. 444, dated 8 May 1998, "On the Procedure of Importing into Ukraine Certain Types of Oil in 1998" set a 0 per cent customs duty for unrefined sunflower oil and unrefined soybean oil, which were imported within a certain quota. In order to import the named goods into Ukraine it was necessary to:

1. Obtain MFEAT permission;
2. Hold a license from MFEAT.

We must note that the Decree at issue was a temporary instrument and as of 1 September 1999, it will be null and void.

Question 87

Please provide information concerning Presidential Decree No. 443/98 of 8 May 1998 "On measures for regulation of marketing of ethyl spirits and alcoholic beverages."

Reply:

Presidential Decree No. 443/98 of 8 May 1998 " On Measures Regulating the Sale of Ethyl Alcohol and Alcoholic Beverages " was introduced in order to regulate levying of excise duty on ethyl spirits sold for the purposes of producing goods subject to excise duties. The decree's provisions provide for the following:

1. Producing enterprises shall ship ethyl spirits and alcoholic beverages for export only under the condition that these goods will be protected and convoyed by customs service authorities, or under the condition of paid cash collateral;
2. Producing enterprises shall sell ethyl spirits and alcoholic beverages to subjects of entrepreneurial activities [trades and businesses] of all forms of property ownership for their own consumption, commercial processing, manufacturing of goods subject to excise duties under the condition that the excise duty is paid;
3. If domestic manufacturers use ethyl spirits for the purpose of producing medicines, pectin, essences [extractions] and vinegar obtained from food, veterinary substances, and silicon and organic compounds, and if they paid excise duty while purchasing ethyl spirits, they shall be reimbursed the amount of paid excise duty within one year after the date this amount was transferred to the budget.

Question 88

Presidential Decree No. 87/98 of 5 February 1998 established the regulations for the Committee on Food Industry, which has been tasked as the central organ under the Ministry of Agro-Industrial Complex to directly implement government policy in the areas of food and processing industries and measures to guarantee food safety.

What role is envisioned for the recently created Committee on Food Industry (Ukrpishcheprom)? How does this new Committee fit into the existing governmental structure?

Reply:

In compliance with the "Regulations on the Committee on Food Industry of Ukraine" approved by Presidential Decree No. 87/98 of 5 February 1998, UkrKharchProm [Ukrpishcheprom in Russian] is tasked with the functions of an Agency which has to directly insure implementation of the government policy in the areas of food and processing industries, and control the process of implementation of respective legislative acts pertaining the issues of agro-industrial complex. The above mentioned functions of UkrKharchProm are carried out through Committee's participation in the process of drafting proposals on the main avenues of agrarian and industrial policy, conducting innovation activities, developing and designing measures aimed at activization of foreign economic activities, establishing equal conditions for development of all types of property ownership and business management, and others.

The Committee on Food Industry within the current framework of government structure will play the role of an agency charged with coordinating the development of food and processing industry within the scope of its authority.

Question 89

As we understand it, until 1 September, a 0 per cent tariff will be applied to specific quantities of various types of unrefined vegetable oil. In addition, there is a 30-day deferral on the payment of VAT. The Cabinet of Ministers was given 10 days to establish a procedure and a maximum customs value for these imports, as well as a mechanism to control their end-use. We also understand that a minimum ("indicative") import price will be imposed for products entering Ukraine under this regime.

Please confirm if this information is correct, and we note that the use of artificial import prices for customs valuation is WTO-inconsistent.

Reply:

Presidential Decree of 8 May 1998, No. 444 "On the Procedure of Importing into Ukraine Certain Types of Oil in 1998" stipulated that by 1 September 1998, a zero rate of customs duty on unrefined sunflower oil and unrefined soybean oil imported to Ukraine within the set quota shall be introduced.

The decree was introduced in order to satisfy country's domestic needs in vegetable oil, and insure in-flow of additional revenue to the budget through increase of its supplies for further processing and use at the food industry enterprises.

It is important to note, however, that the mentioned Presidential Decree was introduced on the temporary basis, and it is no longer valid as of 1 September 1999.

In compliance with the Ukraine's legislation indicative prices for goods imported to Ukraine are not introduced.

Question 90.

Our understanding of the resolution is that domestic producers are exempt from paying the VAT on milk and meat in live weight that is sold to processors.

This measure may violate GATT Article III if imported products are not treated equally.

Reply:

As for paying VAT on sold raw materials to processors, manufacturers of agricultural goods are exempt through application of zero rate. (Cabinet of Ministers Resolution No. 145 of February 26, 1998).

The Cabinet of Ministers Resolution No. 1096 of 15 July 1999, "On Introducing Changes and Amendments to Cabinet of Ministers Resolution No. 145 of 26 February 1998" introduced substantive changes to paragraphs 4, 5, 6, 9, and 16 of the "Procedures on Accruing and Paying Subsidies to Manufacturers of Agricultural Goods for Milk and Meat in Live Weight Sold by Them to Processing Enterprises" approved by the Cabinet of Ministers Resolution. In particular, it was stipulated that agricultural enterprises which carry out on their own production facilities processing of grown live stock, poultry and milk shall transfer VAT [payments] subject to be paid to the budget for selling milk products, meat and milk goods for the purposes of development of their live stock raising and poultry raising capacities.

Question 91

The Cabinet of Ministers Resolution of 28 May 1998, No. 754 introduced seasonal tariffs for a number of agricultural products, to go into effect 45 days after being published in the newspaper "Uriadovyi Kurier."

Please provide a list of all products (including specific HS codes) that are affected by the resolution, as well as the seasonal rates and the dates of their validity.

Reply:

TERMS
of application of the seasonal import duties in 1998

HS code	Type of the agricultural products	Seasonal import duty rate (by percentage of the customs value and fixed amounts to the unit of weight or quantity)*	Term of application of seasonal import duty
07.01	Potatoes, fresh or chilled	100, but not less than ECU 0,4 per 1 kg.	From 15 August to 15 November
07.02.	Tomatoes, fresh or chilled	60, but not less than ECU 0,6 per 1 kg.	From 15 July to 15 September
07.03	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled	60, but not less than ECU 0,4 per 1 kg.	From 15 July to 12 November
07.04	Cabbages, cauliflower, kohlrabi, kale and similar edible brassicas, fresh or chilled	60, but not less than ECU 0,4 per 1 kg.	From 1 August to 28 November
07.05.11 07.05.19000	Lettuce (<i>Lactuca sativa</i>)	60, but not less than ECU 0,4 per 1 kg.	From 15 August to 15 September
07.06	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled	60, but not less than ECU 0,4 per 1 kg.	From 15 July to 25 October
07.07 00	Cucumbers and gherkins, fresh or chilled	60, but not less than ECU 0,6 per 1 kg.	From 15 July to 15 September
07.08	Leguminous vegetables, shelled or unshelled, fresh or chilled	60, but not less than ECU 0,6 per 1 kg.	From 15 July to 15 September
08.06.10	Grapes, fresh	60, but not less than ECU 0,6 per 1 kg.	From 1 August to 28 November
08.07.10	Melons and watermelons	60, but not less than ECU 0,6 per 1 kg.	From 1 August to 1 November
08.08.10	Apples, fresh	60, but not less than ECU 1 per 1 kg.	From 1 August to 28 November
08.08.20	Pears and quinces, fresh	60, but not less than ECU 1 per 1 kg.	>From 1 August to 28 November
08.09.10 000	Apricots, fresh	60, but not less than ECU 1 per 1 kg.	From 15 July to 15 September
10.01 (excluding those for sowing)	Wheat and meslin	60, but not less than ECU 80 per 1 ton.	From 1 September to 1 December

* Seasonal import duty rate is twice as high as the preferential import duty rate for agricultural products, as provided by Articles 2, 6 of the Law of Ukraine "On the State Regulation of Import of Agricultural Products".

HS code	Type of the agricultural products	Seasonal import duty rate (by percentage of the customs value and fixed amounts to the unit of weight or quantity)*	Term of application of seasonal import duty
10.02 00000	Rye	60, but not less than ECU 40 per 1 ton.	From 1 September to 1 December
10.03.00	Barley	60, but not less than ECU 40 per 1 ton.	From 1 September to 1 December
10.04.00	Oats	60, but not less than ECU 40 per 1 ton.	From 1 September to 1 December
10.05 (excluding those for sowing)	Maize (corn)	60, but not less than ECU 40 per 1 ton.	From 1 September to 1 December
10.08	Buckwheat, canary seed and other cereals	60, but not less than ECU 0.1 per 1 kg.	From 1 September to 1 December
12.06 00	Sunflower seeds	100, but not less than ECU 1 per 1 kg.	From 1 September to 1 December
12.07	Other oil seeds and oleaginous fruits	60, but not less than ECU 0.6 per 1 kg.	From 1 September to 1 December
12.08	Flours and meals of oil seeds or oleaginous fruits	60, but not less than ECU 0.6 per 1 kg.	From 1 September to 1 December
12.10	Hop	100, but not less than ECU 4 per 1 kg.	From 15 August to 1 December
12.12. 91	Sugar beat, fresh, dried or powdered	60, but not less than ECU 0.3 per 1 kg.	From 1 September to 28 November
12.12.92 000	Sugar cane	100, but not less than ECU 0.2 per 1 kg.	From 1 September to 28 November
12.13	Cereal straw and husks	60, but not less than ECU 0.06 per 1 kg.	From 15 July to 10 November
12.14	Fodder	60, but not less than ECU 0.02 per 1 kg.	From 1 September to 28 November

Question 92

Information we have concerning these rates implies that seasonal tariffs will be set at 60 per cent in addition to a minimum per unit tariff.

This appears to contradict Ukraine's reply to Q. 96 of WT/ACC/UKR/50 (p. 49), which states that the maximum level of a seasonal rate may not exceed 50 per cent.

Can Ukraine clarify this situation? We are very concerned by the lack of a standstill on tariff rates, since these rate increases make it difficult for us to conduct meaningful market access negotiations with Ukraine.

Reply:

In compliance with Part 1 of Article 2 of the Law of Ukraine "On State Regulation of Import of Agricultural Produce" with changes and amendments of 16 January 1998, No. 32/98-BP seasonal

[tariffs] of customs duty are approved on the annual basis in the amount which is twice the amount of preferential rates of import duty applied to goods subject to the following codes of the Commodities Nomenclature of Foreign Economic Activities: 07.01-07.08, 08.06.10, 08.08.10, 08.08.20, 08.09.10000, 08.09.20, 10.01-10.05, 10.08, 12.06-12.08, 12.10, 12.12.91, 12.12.92, 12.13, 12.14.

Meanwhile, in compliance with Part 5 of Article 2 of the Law the above mentioned agricultural products shall be taxed with the seasonal import duty at the preferential rate if the preferential rate equals or exceeds 30 per cent in accordance with Article 6 of this Law.

Thus, maximum level of seasonal tariff does not exceed 50 per cent.

However, taking into account the difficult situation of Ukraine's agriculture in 1998 the Cabinet of Ministers Resolution of 28 May 1998, No. 754 was approved which provides for seasonal duty to be levied in a double amount to the amount of preferential rates of import duty.

Question 93

The Cabinet of Ministers Order of 19 May 1998 established import quotas on cognac spirits for 1998-99.

Please provide details on this Order. We are also interested in details concerning the provisions of the Cabinet of Ministers Resolution of 24 February 1998 (25 February 1998, No. 208) that established import quotas for wine inputs (vinomaterialy) used to produce champagne and cognac.

Reply:

The Cabinet of Ministers Order of 19 May 1998, No. 340 established import quotas on purchases of cognac spirits for certain enterprises. The quotas are established for the period of 1998 and 1999 for 10 manufacturers of wine and cognac products at the level of \$30 to \$500,000. The total amount of quota on import of cognac spirits for these enterprises equals \$1,550,000.

The Cabinet of Ministers Resolution of 24 February 1998, No. 208 established volumes of import for certain champagne and cognac wine inputs (vinomaterialy) for 1998 and 1999. Only wine inputs under 22.04.30 code (other wine must) are subject to quota; the quota is established at the level of \$18,600,000.

Question 94

Quantitative import restrictions are not consistent with WTO provisions. How does Ukraine intend to address this?

Reply:

Ukraine considers establishment of quantitative restrictions as a temporary measure, taking into account the difficult economic situation.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

Question 95

Please provide an update on progress made since May 1997 to move Ukraine towards TRIPS compliance in the areas identified, e.g., what new proposals, laws; and other measures to enact,

implement, and enforce TRIPS-quality protection of intellectual property rights in Ukraine have been developed or enacted since that time?

Reply:

Memorandum on the issues of intellectual property was sent to the WTO Secretariat, where we reviewed the mentioned information.

VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

1. Bilateral or plurilateral agreements relating to foreign trade in goods and trade in services

Question 96

We seek Ukraine's commitment in its accession documentation that it will accede to the Agreement on Trade in Civil Aircraft at the time of its accession to the WTO, and will bind its customs tariffs on aircraft and aircraft parts at "zero" in its WTO Schedule of Commitments for Goods.

Reply:

Under the proposal of the Ministry of Policy (MinPolityky) the gradual transition to zero level is taking place in Ukraine, in particular [phasing-out is as follows]:

Until 2006	-	according to Customs Tariff Transformation Concept;
In 2006	-	10%;
From 2007 to 2009	-	5%;
2010	-	0%.
