

# **WORLD TRADE ORGANIZATION**

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**Working Party on the  
Accession of Ukraine**

**DRAFT REPORT OF THE WORKING PARTY ON  
THE ACCESSION OF UKRAINE  
TO THE WORLD TRADE ORGANIZATION**

Revision



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## **I. INTRODUCTION**

1. The Government of Ukraine applied for accession to the General Agreement on Tariffs and Trade (GATT 1947) on 30 November 1993. At its meeting on 17 December 1993, the GATT 1947 Council of Representatives established a Working Party to examine the application of the Government of Ukraine to accede to the General Agreement under Article XXXIII of the General Agreement. In a communication dated 20 December 1994 (PC/W/30), the Government of Ukraine applied for accession to the Agreement Establishing the World Trade Organization (WTO) pursuant to Article XII of the WTO Agreement. Following Ukraine's application and having regard to the Decision adopted by the WTO General Council on 31 January 1995 (WT/GC/M/1), the Working Party on the Accession of Ukraine to the GATT 1947 was transformed into a WTO Accession Working Party. The terms of reference and membership of the Working Party are reproduced in document WT/ACC/UKR/20/[Rev.23].

2. The Working Party met on 27-28 February and 11-12 December 1995; 24-25 June 1996; 6-7 May and 24-25 November 1997; and 10 June 1998 under the Chairmanship of Mr. A. L. Stoler (United States), and 12 July 2000; 13-14 June 2001; 25-26 June 2002; 25 February and 27 October 2003; 26-27 April and 20 September 2004; 22 March 2005 and [...] under the Chairmanship of H.E. Mr. Sergio Marchi (Canada). In addition, the Working Party held several informal sessions between the formal meetings to clarify positions [and work on the Draft Report of the Working Party].

## **DOCUMENTATION PROVIDED**

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of Ukraine (document L/7499), questions and comments submitted by Members on the foreign trade regime of Ukraine together with the responses thereto and other information provided by the Ukrainian authorities (documents WT/ACC/UKR/1, WT/ACC/UKR/3 to 7, WT/ACC/UKR/16, WT/ACC/UKR/22 to 25, WT/ACC/UKR/41, WT/ACC/UKR/50, WT/ACC/UKR/53, WT/ACC/UKR/59, WT/ACC/UKR/91, WT/ACC/UKR/110 and Addenda 1 to 4 and Corrigenda 1 and 2, WT/ACC/UKR/110/Add.1/Corr.1, WT/ACC/UKR/114, WT/ACC/UKR/116, WT/ACC/UKR/117 and Add.1, WT/ACC/UKR/118, WT/ACC/UKR/119, WT/ACC/UKR/120, WT/ACC/UKR/125, WT/ACC/UKR/126, WT/ACC/UKR/127, WT/ACC/UKR/130, WT/ACC/UKR/131 and [...]). Enacted laws and draft legislation relevant to Ukraine's accession to the WTO have been enumerated in documents WT/ACC/UKR/111/Add.1 and Rev.1, WT/ACC/UKR/106/Rev.1 and WT/ACC/UKR/93/Rev.4. Legislation submitted to the Working Party by Ukraine during the accession process is listed in Annex 1.

## INTRODUCTORY STATEMENTS

4. The representative of Ukraine said that accession to the WTO was an integral part of overall domestic economic reform and a major component of Ukraine's economic policy. Implementation of the WTO Agreements would make Ukraine a reliable, predictable partner for the entire international community. The President of Ukraine had instructed his Government to speed up all technical work related to the accession negotiations, and Ukraine was committed to harmonizing its national legislation with the rules and requirements of the WTO. He noted that Ukraine had enacted a Customs Code and a Land Code, established an effective regime for the protection of intellectual property, and advanced significantly the harmonization of standardization and certification systems, sanitary and phytosanitary requirements, and government procurement in accordance with WTO principles and rules. His Government attached priority to building and maintaining a broad consensus to support continued economic reform and market liberalization, instrumental in raising living standards and the development of Ukraine's unique industrial, agricultural, scientific, technological, intellectual and cultural capacity and potential.

5. The Ukrainian economy had performed well recently and was expected to improve further through a combination of accelerated investment, small and medium sized enterprise development, and capital shifting from the informal to the formal sectors of the economy. A tax reform, involving lower tax rates and abolition of privileges and subsidies, was underway to support this trend. Private consumption was expanding due to increasing personal income. On 15 August 2001, the President of Ukraine had ratified Decree No. 637, approving a Strategy for Overcoming Poverty, and the strategy was implemented through an integrated program involving elements such as job creation in the private sector, reductions in wage arrears, and higher pensions.

6. Members of the WTO welcomed Ukraine's application for accession to the WTO, noting this as a very important step for the economic development of Ukraine and its integration into the multilateral trading system. Ukraine's ambitious trade reform program, improvements in the legal structure and the broad-based push for economic reforms were encouraging first steps. However, WTO Membership would require substantial reforms and efforts to bring the foreign trade regime into full conformity with the rules and requirements of the WTO. Members pledged to work constructively with Ukraine to complete the accession negotiations on appropriate terms and conditions at the earliest possible date.

7. The Working Party reviewed the economic policies and the foreign trade regime of Ukraine and the possible terms of a draft Protocol of Accession to the WTO. The views expressed by the Members of the Working Party on the various aspects of the foreign trade regime of Ukraine, and on



the terms and conditions of Ukraine's accession to the WTO are summarized hereunder in paragraphs 8 to [408].

## **II. ECONOMIC POLICIES**

### **- Monetary and Fiscal Policy**

8. The representative of Ukraine said that the National Bank of Ukraine (NBU) fulfilled the functions assigned to it under Article 99 of the Constitution and the Law "On the National Bank of Ukraine" No. 679-XIV of 20 May 1999. The principal objective of the National Bank was to ensure monetary stability, thereby minimizing macroeconomic risk to promote investment and facilitate rapid economic growth. The National Bank had managed to curb inflation and to stabilize the exchange rate of the hryvnia to the US dollar. The NBU met the demand for cash through interventions in the foreign exchange market; it refinanced banks and supported their liquidity through the use of short and medium-term tenders, extension of overnight credit to banks and direct REPO operations. When required, the National Bank conducted mobilization operations, i.e. allocated its own depository certificates and conducted open market transactions with government securities. In 2003, Ukraine's [real] GDP had increased by 9.3 per cent while the annual rate of inflation had been contained at 8.2 per cent.

9. His Government's economic programme aimed at fostering innovation and investment-led growth. The programme envisaged tax cuts to stimulate the private sector, budget reform, closer integration with the world economy, financially stronger enterprises, the elimination of payment crises, and income growth for the population. Ukraine was introducing a single treasury account for budgets at all levels. The Cabinet of Ministers and the National Bank had developed a draft Order "On the Coordination of Activities of the Ministry of Finance of Ukraine, the State Treasury of Ukraine and the National Bank of Ukraine" to improve the coordination of monetary and fiscal policies, and allow the National Bank to regulate the monetary supply by ensuring the necessary liquidity of the banking system and, as a final result, stabilize the national currency. The Ministry of Finance, the National Bank, and the State Treasury planned to set up a mechanism for the exchange of information and, assisted by an inter-ministerial consultative group including the State Customs Service and the State Property Fund of Ukraine, to respond appropriately to the impact of external factors on Ukraine's money and credit markets.

10. The Supreme Rada, the Supreme Rada of the Autonomous Republic of Crimea, and Radas at the level of townships, villages and cities/towns decided on the introduction and abolition of taxes and mandatory payments (i.e. fees and duties) as well as the granting of tax privileges pursuant to

Ukraine's Constitution and the Law "On Taxation System" No. 1251–XII of 25 June 1991, as amended, and other Ukrainian laws in the area of taxation. The tax laws established the tax rates, as well as the procedures for the collection of taxes and fees and any privileges granted. Natural and legal persons registered with the State tax service and other State bodies in accordance with established legislation for the purpose of paying taxes and other dues.

11. State taxes and fees (mandatory payments) levied in Ukraine included (i) value added tax, levied at a rate of 20 per cent; (ii) excise tax – imposed on a list of excisable goods – and expressed in *ad valorem*, specific, combined and mixed rates (i.e. *ad valorem*, but not less than the specific rate); (iii) enterprise profit tax – including dividends paid to the State budget by non-corporate State, governmental or communal companies – levied at 25 per cent; (iv) personal income tax of 13 per cent, effective beginning in 2004 and rising to 15 per cent in 2007; (v) customs duty; (vi) State duty; (vii) real estate tax; (viii) land tax and rent payment on State- and municipally-owned land plots; (ix) rental payments; (x) a tax on owners of motor vehicles and other self-propelled machines and mechanisms; (xi) a craft tax; (xii) a fee on geological exploration works; (xiii) special use of natural resources fee; (xiv) environmental pollution fee; (xv) obligatory State pension insurance; (xvi) activity licence payments; (xvii) agricultural tax; (xviii) a fee for the development of viticulture, gardening and hop-growing; (xix) the unified fee for customs clearance; (xx) a fee for the use of radio-frequencies; (xxi) a fee for the Fund for Guaranteeing Deposits of Natural Persons; (xxii) an extra charge on electricity and heating; (xxiii) a fee on performances; and (xxiv) a bonus fee to the approved tariff for natural gas for consumers of all types of ownership. In addition to a communal tax, a tax on advertising was levied at the local level. Various fees had also been established at the local level including fees on resorts; gambling (horse racing); permissions to conduct local auctions, competitive sales and lotteries, the establishment of trade or service outlets, the use of local signs and symbols, and permissions to shoot motion pictures and TV programs; a market fee; and fees on housing, parking and dog ownership. The representative of Ukraine confirmed that this was the definitive list of taxes and fees levied at the State and local levels.

12. The tax system was based on the principles of equality, non-discrimination and stability. Since 2002, a number of laws had been adopted to reform the tax system and reduce the tax burden. The strategic goal of these reforms was to define a new system of tax relations between State and business, which would not be dependent on the particular type of ownership, economic activity, or economic area. The objective was to create conditions for further integration of Ukraine into the world community. The tax reform was carried out in the context of the Cabinet of Ministers' Action Program "Towards the People", which defined a number of priorities, including (i) avoidance of ambiguous tax laws open to multiple interpretations; (ii) a wider tax base through the elimination of

privileges granted to specific industries or territories; (iii) best possible convergence of the principles of taxation and accounting procedures; (iv) unification of the rules governing income taxation with international accounting standards; (v) elimination of discriminatory norms applicable to particular areas of activity; and (vi) harmonization of the tax legislation with European Union principles and directives. The taxation regime was gradually switching from being a purely fiscal instrument to become an effective lever of State economic policy.

13. Law No. 2505 "On Amendment of the Law of Ukraine 'On the State Budget of Ukraine for 2005' and Some Other Legislative Acts" of 25 March 2005 addressed outstanding issues of concern in the area of taxation, improved the principles of tax administration, and eliminated branch privileges and privileges for businesses registered in special economic zones, priority development areas and technological parks. This legislation did not alter existing taxation principles and did not increase the tax burden on producers.

14. Eventually, he expected Ukraine's tax system to include features such as (i) corporate tax no higher than 20 per cent; (ii) an individual property tax, and possibly a single social fee; (iii) unified standards for the reporting of financial, statistical and accounting information for all enterprises irrespective of ownership; (iv) improved depreciation rules; (v) gradual harmonization of accounting and taxation bookkeeping and inventory, stage-by-stage reduction and further elimination of economically unjustifiable benefits; and (vi) simplified systems of taxation, accounting and reporting rules for small businesses.

- **Foreign Exchange and Payments**

15. The representative of Ukraine said that his authorities had introduced the national currency hryvnia (UAH) - replacing the karbovanets at a rate of 100,000:1 - in September 1996. The hryvnia, which had initially been pegged informally to the U.S. dollar, had subsequently been allowed to fluctuate within established bands. Ukraine had moved to a "dirty" float exchange rate regime in February 2000. The National Bank aimed at exchange rate stability, and would intervene in the foreign exchange market to smooth short-term fluctuations in the value of the hryvnia. The foreign currency reserves of the National Bank as of 1 January 2004 equalled approximately 2.6 months of imports of goods and services.

16. He added that Ukraine had accepted the obligations of Article VIII of the Articles of Agreement of the International Monetary Fund on 24 September 1996, and thus maintained an exchange system free of restrictions on payments and transfers for current international transactions, as defined in Article XXX of the Agreement of the IMF.

17. In the aftermath of the global financial crisis of 1997 and 1998, the Governing Board of the National Bank had imposed a foreign exchange surrender requirement to ensure a minimum guaranteed supply of foreign exchange in support of the hryvnia, and to ease speculative pressures on the national currency. In response to some Members' concerns about the consistency of such a restriction with Ukraine's obligations ensuing from the acceptance of Article VIII of the IMF Articles of Agreement, the representative of Ukraine stated that the foreign exchange surrender requirement had been eliminated as of 15 April 2005, pursuant to Resolution No. 101 of the National Bank of 31 March 2005 "On the Cancelling of Mandatory Foreign Exchange Surrender for Residents".

18. Foreign exchange could be purchased in the domestic inter-bank market and, if used in payment of imports, appropriate documents proving the legality of the transaction for which foreign exchange was to be purchased should be filed with an authorized bank. Appropriate documentation in this respect meant a copy of the contract with the non-resident or any other document considered a contract pursuant to Ukrainian law; a cargo customs declaration for goods imported into Ukraine; an act or any other document proving the rendering of services, performance of work, or importation of intellectual property rights; and the letter of credit, promissory note or other documentation of the payment. A reference paper (statement) from the State tax administration had been necessary for purchases exceeding the equivalent of US\$ 10,000. However, this requirement had been eliminated pursuant to Cabinet of Ministers' Resolution No. 100 of 31 March 2005.

19. Purchases of foreign exchange for capital account operations were only allowed to cover specific commitments of residents towards non-residents. Thus, a resident guaranteeing for the debt of a non-resident towards another non-resident would not be able to purchase foreign exchange in the inter-bank market should the guarantee be invoked. In this case, the resident would need to use his/her own foreign exchange resources. A resident guarantor could nevertheless purchase foreign exchange to repay debt owed by non-residents to residents. These procedures had been introduced in order to exercise effective control over capital outflows, thus maintaining macroeconomic stability and tackling the problem of money laundering. Once the capital outflows issue had been resolved effectively, these measures would eventually be removed. Permanent representative offices of non-resident legal entities partially engaged in business activities in Ukraine had the right to use their current accounts in hryvnia to purchase foreign exchange and transfer the funds to the legal entity whose interests they represented in Ukraine. The sale of hard currency in cash to non-resident natural persons, or the sale of hryvnias in exchange of hard currency to non-resident natural persons, in an amount exceeding UAH 50,000, could be conducted only through the cash offices of banks or financial institutions (Article 6 of the "Instruction on the Procedure of Organization and Execution of

Currency Exchange Operations on the Territory of Ukraine", approved by Resolution No. 502 of the National Bank of 12 December 2002).

20. The representative of Ukraine said that, pursuant to Article 2 of Law No. 185 "On Procedure of Payments in Foreign Currency" of 22 September 1994, importers were required to obtain an individual licence from the National Bank for import prepayments for goods (works, services) of delivery terms exceeding 90 days. This provision was aimed at preventing the illegal outflow of capital, while imposing a degree of financial discipline on resident importers. Some Members noted that this requirement could have a negative impact on importers and enquired about plans to reduce and eventually eliminate this restriction. In reply, the representative of Ukraine said that Article 6 of Law No. 185 "On Procedure of Payments in Foreign Currency" contained a provision for obtaining an individual licence from the National Bank for an extension of the time period allowed for settlements beyond 90 days, for certain types of contracts that required such an extension.

21. The representative of Ukraine noted that Article 3 of the Law "On Procedure of Payments in Foreign Currency" No. 185/94 of 23 September 1994 (as amended) stipulated that residents purchasing foreign exchange in pursuance of obligations towards non-residents were required to remit the amount within five business days from the date of entry of the purchase in the resident's foreign currency account. A Member considered this provision contrary to Article III:4 of the GATT 1994, as well as Article VIII of the IMF Articles of Agreement. This Member was concerned that this provision placed onerous restrictions on the financing of current international transactions and sought details on how this requirement would be eliminated. In reply, the representative of Ukraine said that this provision imposed financial discipline on economic agents, prevented irrational use of foreign exchange, and reduced the scope for destabilizing currency speculation. In his opinion, this provision did not restrict the right of residents to make payments to non-residents within the terms set forth in their contracts, and thus did not impose less favourable terms for payments of imports than for payments of domestically-produced goods. He held the view that this provision did not contradict GATT requirements.

22. A Member enquired about the provisions of Resolution No. 482 of October 2004, which required foreign investors to open two bank accounts in Ukraine – first depositing investment funds in a foreign currency account, then converting the funds into Hryvnia and depositing them in a second account. The representative of Ukraine replied that this procedure had been eliminated pursuant to Resolution of the Board of the National Bank No. 154 of 29 April 2005.

23. In reply to a specific question, the representative of Ukraine said that exchange rate losses were not tax deductible.

- **Investment Regime**

24. The representative of Ukraine said that regulation of investment was founded on the Law "On Investment Activities" No. 1560-XII of 18 January 1991 and the Law "On the Regime of Foreign Investment" No. 93/96-BP of 19 March 1996. Specialized legislation regulated investment in areas such as mineral resources (Law "On Production-Sharing Agreements" No. 1039-XIV of 14 September 1999) and infrastructure (Law "On Concessions for Construction and Operation of Motorways" No. 1286-XIV of 14 December 1999). Ukraine had amended its legislation to improve the conditions for foreign investment, notably through the Law "On removal of taxation discrimination against business entities formed on the basis of property and funds of domestic origin" No. 1457-III of 17 February 2000, Presidential Decree No. 748/98 "On certain issues of foreign investment" of 7 July 1998 (acquisition of State debentures), and the Law "On amendment of certain Laws of Ukraine with objective to stimulate investment activities" No. 977-XIV of 15 July 1999 amending the Law "On value-added tax". The Law "On ownership of property" No. 697-XII of 7 February 1991 allowed foreign investors to own property, and State and municipal property could be leased for periods up to 50 years under the Law "On Concessions" No. 997-XIV of 16 July 1999. Articles 81 and 82 of the Land Code No. 2768-III of 25 October 2001 allowed foreign investors to own non-agricultural land if buying existing real estate or if intending to build premises for conducting business activities.

25. Concerning investment incentives in the automobile industry, he acknowledged that the Laws "On Stimulation of Automobile Manufacture in Ukraine" No. 535/97-VR of 19 September 1997 and "On Development of Ukraine's Automobile Industry" No. 1624-VI of 18 March 2004 had contained local content requirements. In particular, benefits had been extended, *inter alia*, to the Closed Joint Stock Companies "Lviv Automobile Plant", "Zaporizhzhia Automobile Plant" and LuAZ. However, Law No. 2505-IV "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other Legislative Acts" of 25 March 2005 had abolished tax privileges granted to car producers, establishing equal rates of excise tax for domestic and imported motor vehicles. VAT, profit tax and import duty privileges had been eliminated, along with a gradual phasing out of the land tax exemption. The provisions of Article 4 of the Law "On Stimulation of Automobile Production in Ukraine", which had been the basis for granting the privileges, had subsequently been eliminated pursuant to the Law "On Amendment of the Law of Ukraine 'On Stimulation of Automobile Manufacture in Ukraine'" of 6 July 2005, which harmonized existing legislative provisions with WTO requirements.

26. The Law "On Investment Activities" stipulated equal rights and conditions for domestic and foreign investors. The Law "On the Regime of Foreign Investment" addressed specific features of foreign investment, including the repatriation of funds in case of termination (Article 11), remittance of income and profits (Article 12), and the protection of investors' rights. Foreign investors were non-resident natural persons or legal entities, which could establish wholly-owned companies in Ukraine, branch offices, or form joint ventures with Ukrainian corporations or natural persons. A company with foreign investment was defined as a legal structure set up under Ukraine's legislation with minimum 10 per cent foreign participation in its statutory fund. According to Article 19 of the Law, companies with foreign investment determined the conditions under which their products were sold independently. The Law "On the Regime of Foreign Investment" protected foreign investment against nationalization. Ukraine had signed agreements on the encouragement and mutual protection of investment with more than 50 countries. These agreements were regulated by the Law "On the Regime of Foreign Investment", other legislative acts, as well as international treaties (which prevailed over the provisions of domestic legislation). The Supreme Rada had ratified the Convention on the procedure for resolution of disputes between States and foreign persons in March 2000.

27. The Law "On the Regime of Foreign Investment" (Articles 18 and 24) provided for import duty exemptions for contributions to the statutory fund of companies with foreign investment and joint ventures. The payment of import duty on equipment imported as foreign investment could be deferred for up to 30 calendar days against a promissory note issued by the company, and would not be collected if the property was recorded on the company's balance-sheet within the deferred payment period. Asked about the possibility for foreign companies to use promissory notes for the payment of VAT, he said that the Law "On Value Added Tax" had been amended pursuant to Law No. 2505 "On Amendment of the Law of Ukraine "On the State Budget of Ukraine for 2005" and Some Other Legislative Acts" of 25 March 2005. Ukraine had thus eliminated the less favourable treatment of enterprises with foreign investment with regard to the use of promissory notes.

28. [The representative of Ukraine stated that, from the date of accession, the regime regulating the use of promissory notes would be non-discriminatory and in compliance with Article III of GATT 1994. The Working Party took note of this commitment.]

29. In order to qualify for the benefits and guarantees provided by Ukraine's laws, foreign investment required registration in accordance with the procedures laid down in the Cabinet of Ministers' Resolution No. 928 "On the Regulation on the Procedure for the State Registration of Foreign Investment" of 7 August 1996. Foreign investment could be registered with the Government of the Autonomous Republic of Crimea, Oblast State administrations, or the Kiev City and Sevastopol

City State administrations within three working days. The authorities could only refuse registration if the documentation was incomplete or if the investment would be contrary to Ukraine's legislation. Refusals were communicated in writing and could be appealed to a court.

30. Asked specifically about the respective competence of the national and sub-national authorities regarding the investment regime, the representative of Ukraine replied that the implementation of decisions affecting the investment regime, i.e. further liberalization, would be compulsory for authorities at all levels of government.

31. Noting that foreign investment could be made in any object, except those prohibited by law, and that registration of investment could be refused on similar grounds, some Members requested Ukraine to describe the nature of prohibited investments in more detail. In particular, they requested Ukraine to draw up and submit a negative list of forbidden investment activities to the Working Party.

32. The representative of Ukraine replied that the Law "On Investment Activities" included a general provision (Article 4) prohibiting investment contrary to the norms of national legislation, such as environmental, sanitary and hygienic, radiation, architectural and other rules. Investments violating the legally-protected interests and rights of citizens – i.e. those guaranteed by legislation, such as the rights to intellectual property and private property – or the interests and rights of enterprises or the State, were also prohibited. A specific list of prohibited investment activities did not exist. He added that the general provision of the Law "On Investment Activities" applied equally to both foreign and domestic investors and confirmed that there was no list of prohibited objects/activities that only applied to foreign investors. Asked for more detailed information, he replied that Ukraine would readily respond to queries regarding specific investment projects.

- **State Ownership and Privatization**

33. The representative of Ukraine said that the regulation of the privatization process in Ukraine was principally founded on the Law "On State Property Privatization" No. 2163-XII of 4 March 1992, the Law "On State Program of Privatization", the Commercial Code, the Civil Code, the Law "On Specifics of Privatization in Agricultural Sector", the Law "On the Assessment of Property, Property Rights and Professional Activity in Ukraine", the Law "On the Specifics of Privatization of the Objects of Unfinished Construction" and the Law "On the Rent of State and Municipal Property". The privatization process had been regulated by successive rounds of State Privatization Programmes (SPP), the first Programme being approved by Resolution of the Supreme Rada No. 2545-XII of 7 July 1992. The most recent SPP had been adopted for a period of three years by Law No. 1733-III on 18 May 2000. A new State Programme for 2005-2007, aimed at identifying a set of organizational



and legislative measures to support the privatization process, had been developed and was being coordinated with the Ministries of Finance and Economy.

34. He noted that by the end of the second quarter of 2005 some 97,000 entities had changed ownership since privatization had begun in Ukraine. Among them, around 72,000 entities had been under collective (municipal) ownership, while the rest (25,000 entities) had been State-owned. Some 81,291 objects of small privatization and 4,649 uncompleted construction objects had been privatized. Large enterprises had in many instances been split and spun off into smaller independent units. As a result of the privatization process, some 11,168 joint-stock companies had been established. The proceeds of the privatization process had totalled UAH 18,954.3 million, of which UAH 18,108.1 million had been channelled to the General Fund of the State budget for addressing social issues.

35. In terms of number of privatized enterprises, the process had mainly affected wholesale and retail trade, including motor vehicle repair and sales outlets (33,500); personal, collective and public services (14,000); and industrial enterprises (8,100). He added that the industrial enterprises having undergone transformations in ownership had accounted for approximately 54 per cent of Ukraine's industrial output on 1 October 2002 according to data provided by the State Statistics Committee. He provided information on privatizations planned in 2003 in Table 1(a).

Table 1(a): Privatization of Enterprises in 2003

Economic sector	Number of enterprises with a controlling or blocking interest to be auctioned or sold in the stock market	Balance sheet value of capital assets (UAH million)	Number of employees
Oil and gas	4	45.94	29,675
Energy	3	167.10	10,985
Agriculture	32	329.76	6,662
Metallurgy	9	3,373.11	70,255
Machine building and metal-working	49	154,139	96,601
Aircraft industry	1	20.84	854
Shipbuilding	2	6.22	6,167
Communications equipment	4	392.54	4,213
Chemicals	6	1,947.94	11,510
Petrochemicals	3	73.86	6,002
Transportation	27	203.86	6,015
Total	140	160,700.17	248,939

36. The representative of Ukraine noted that nearly 24,000 privately owned enterprises had been established during the years of privatization. In addition, more than 8,000 enterprises operated as joint-stock companies with mixed State and private capital. Detailed information on these enterprises is provided in Table 1(b).

Table 1(b): Joint-stock enterprises with State-owned and private capital (per 1 November 2004)

Industry	Total	Percentage of private ownership in total capital			
		up to 25%	25-50	50-75	75-100
Power engineering	36	1			
Fuels	18			2	
Ferrous metallurgy	106	3	3	1	7
Chemicals and petrochemicals	122	8	3	3	7
Machine building and metal processing	1,414	53	32	61	60
Woodwork, and pulp and paper industry	224	1		4	4
Light industry	360	6	5	6	8
Food industry	975	5	4	32	67
Transportation	838	15	2	94	45
Construction	1,187	9	11	23	32
Other industries	3,469	125	45	249	255
Total:	8,749	226	105	475	485

37. Some Members requested more information on the areas of economic activity in which State-owned enterprises still played a significant role, on the relative position of State-owned enterprises in GDP and trade, as well as on the proportion of privatized enterprises among all the enterprises included in the State Register. Ukraine was also asked to indicate whether any of these enterprises traded on behalf of the State. Information was also sought on the relative importance and specific activities of State-owned enterprises engaged in international trade or competing with exports, notably operating in the areas of agriculture and banking. Ukraine was also asked to provide more information on the enterprises to remain under State ownership, indicating whether any plans existed for their future privatization. A Member expressed concerns that some "privatized" enterprises had been transformed into "collective property" under the control of regional and local governments and requested more information on the latest status of these firms. Finally, a Member requested information on the Agricultural Fund, and specifically on whether it had the exclusive right to purchase or sell grain. This Member asked for further detail on the agricultural entities not subject to privatization.

38. In reply, the representative of Ukraine said that State-owned enterprises were currently active in all areas of the economy. The share of the public sector in the economy had been estimated at 22.9 per cent for the first half of 2004, notably in (i) agriculture, hunting and forestry (69.9 per cent); (ii) transportation and communication (55.8 per cent); (iii) industry (26.4 per cent); (iv) health protection and social assistance (21.6 per cent); (v) education (14.7 per cent); and (vi) construction (14.0 per cent). In 2004, 751 State-owned enterprises were involved in exportation, accounting for an export volume of US\$ 2,236.1 million (about 8 per cent of total exports); 562 enterprises were involved in importation, accounting for imports worth US\$ 9,520.9 million (about 30 per cent of total imports). Lists of major State-owned enterprises are provided in Tables 2(a) and 2(b).

39. He added that more than 1,500 agricultural State enterprises, institutions and organizations had been privatized by 1 January 2004, including 149 agribusinesses, 204 industrial entities, 17 civil engineering companies, 70 design and 52 research and development institutions and organizations, 138 educational establishments, 177 laboratories and inspections, 28 standardization centres, 23 training and experimental farms, and over 500 veterinary medicine establishments. [Information on other sectors is in preparation and will be submitted at a later stage.]

40. Concerning the Agricultural Fund, the representative of Ukraine said that the Fund was a specialized State institution. The Agricultural Fund had the exclusive right to purchase and sell certain commodities to maintain the State reserves and to conduct official interventions in the organized agricultural market. The commodities concerned are enumerated in Table 3.

Table 3: Commodities/objects of possible State price regulation, for which the Agricultural Fund has an exclusive right to conduct official market interventions

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

41. Objects of national importance would not be subject to privatization according to the Law "On State Property Privatization" No. 2163-XII of 4 March 1992. Article 5 of the Law defined the objects of national importance in general terms, i.e. property and assets essential for the maintenance of Ukraine's sovereignty and the performance of basic State functions, defence and national security, health and the environment, public utilities, or objects considered important for the social development of Ukraine. Lists of specific State-owned property not subject to privatization were approved by the Supreme Rada upon a proposal of the Cabinet of Ministers. The Supreme Rada had accordingly promulgated the Law "On the List of State Property Assets not Subject to Privatization" No. 847-XIV of 7 July 1999. The list of such enterprises, organized by oblast, comprised more than 100 pages of text and included 465 agricultural entities, notably 131 food processing enterprises, 110 agricultural enterprises, and 90 units of the joint stock company "Khib Ukrayiny". He confirmed

that this list was exhaustive. A draft Law amending the Law "On the List of State Property Assets not Subject to Privatization" was under consideration in the Supreme Rada. The list of State-owned enterprises not subject to privatization would accordingly be revised and reduced.

42. [The representative of Ukraine confirmed that to ensure full transparency and to keep WTO members informed of its progress in the reform of its transforming economic and trade regime, Ukraine would provide periodic reports to WTO Members on developments in its program of privatization along the lines of the information provided to the Working Party, and on the other issues related to its economic reforms as relevant to its obligations under the WTO Agreement. The Working Party took note of this commitment.]

- **Pricing Policies**

43. The representative of Ukraine said that the Economic (Commercial) Code of Ukraine No. 436-IV of 16 January 2003 stipulated that economic agents sold their products freely in the domestic market at prices determined independently or on a contractual basis, and price controls would only be applied in cases specified by legislative acts. Price controls effected by the State had been established through the Law "On Prices and Pricing" No. 507-XII of 5 December 1990, and Resolutions of the Cabinet of Ministers "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations" No. 1548 of 25 December 1996, and "On Rules on State Price (Tariff) Regulations for the Products of Production and Technical Designation, Consumer's Goods, Works and Services of Monopolistic Formations" No. 135 of 22 February 1995. The Cabinet of Ministers determined the lists of goods and services subject to State regulation of prices and tariffs. The lists are reproduced in Tables 4 (goods) and 5 (services).

44. The Cabinet of Ministers had entrusted the price control functions to Derzhzhsininspectsia (the State Inspectorate on Price Control) pursuant to its Resolution No. 1819 of 13 December 2000. The State Inspectorate had established local offices in the Autonomous Republic of Crimea, the oblasts, Kyiv and in Sevastopol. The State Inspectorate monitored the prices and tariffs of goods and services in the retail market as well as the prices and tariffs set by central and local authorities, the Council of Ministers of the Autonomous Republic of Crimea, and other institutions and organizations. The Cabinet of Ministers had approved the list of goods and services subject to control at the sub-central level through Resolution No. 1548 "On the Determination of Price Regulation Powers of Agencies of Executive Power and Executive Bodies of City Councils" of 25 December 1996. Price regulation affected in particular natural resources important in the determination of prices of other products, goods and services of significant social importance and thus affecting the livelihood of the low-paid

and poor, and prices set in monopolistic markets. Price controls took the form of either prices (tariffs) fixed by the State, maximum prices, limits on the profit rate, or limits on the mark-up of the supplier.

45. Noting the extensive use of price controls in Ukraine, a Member asked if any plans existed to reduce the scope of these price controls, notably in the utilities sectors and the areas of consumer goods and services. Some Members stressed the importance of ensuring that no new price controls were introduced and requested Ukraine to respect fully all WTO provisions related to price controls upon accession, providing, as necessary, a timetable for the elimination of inconsistent practices. In reply, the representative of Ukraine said that all categories of goods subject to price controls were listed in Table 4. As for utilities – characterized by the existence of natural monopolies – prices in these sectors were subject to State regulation. He added that Ukraine would abide by WTO rules with respect to price controls.

46. Some Members noted that some of the goods listed in Table 4 were subject to minimum prices and sought confirmation whether this requirement was also applied to imported goods. A Member stated that the minimum prices specifically applied to imported vodka and other alcoholic products, as reported in Table 4, violated Article XI of the GATT 1994. Ukraine was asked how the minimum price requirements for bitter aromatic beverages and spirits would be brought into conformity with Article III of GATT 1994 by the date of accession. A Member also noted that WTO jurisprudence had established that a regulation requiring that domestic and imported products adhered to a minimum-price requirement was not consistent with Article III of GATT 1994, on the grounds that the imported product would be prevented from being sold at a price below that of the domestic product.

47. The representative of Ukraine replied that minimum prices and related procedures had been established for vodka and other spirits sold in Ukraine under the Law "On State Regulation of Production and Circulation of Ethyl, Cognac and Fruit Alcohol, Alcoholic and Tobacco Products" No. 481/95-VR of 19 December 1995, Resolution No. 700 "On Introduction of Minimum Prices for Domestic and Imported Vodka and Alcoholic Products" of 21 June 2001, and Order No. 371/168/239 "On Approval of Procedures for Setting and Application of Prices for Domestic and Imported Vodka and Alcoholic Products" of the Ministry of Finance, the Ministry of Economy and the Ministry of Agrarian Policy, of 8 August 2001. In his view, the minimum price regime did not contravene the provisions of Article XI of the GATT 1994 in this instance as the minimum prices had been applied at the wholesale and retail level irrespective of the origin of the products, whether domestically-produced or imported. The purpose of this measure had been to fight illegal production and trade in alcoholic beverages in Ukraine. However, Resolution of the Cabinet of Ministers No. 407

"On Invalidation of Certain Resolutions of the Cabinet of Ministers of Ukraine" of 28 May 2005 had cancelled the provisions of Resolution No. 700, thereby abolishing minimum price measures applied to domestically-produced and imported spirits. He confirmed that by the date of accession, the pricing policy applying to bitter aromatic beverages and spirits would be brought into conformity with GATT Article III [by eliminating the minimum price] [by eliminating the application of the minimum price to the imported goods]. He added that minimum prices were applied neither on bitter aromatic beverages (HS code 21.0390.30.00), nor on alcoholic beverages falling within HS categories 2203-2207, i.e. beer, wines, fermented beverages or undenatured ethyl alcohol (alcoholic strength of 80 per cent or more) or denatured ethyl alcohol and other spirits.

48. A Member held the view that the minimum price regulation on domestic beet and refined sugar, maintained in parallel with restrictions on imported raw cane sugar, constituted a subsidy to the domestic production of beet sugar and refining of local beet sugar in Ukraine, and contravened Article III:4 of the GATT 1994 by according considerably less favourable treatment to imported raw sugar relative to its domestic equivalent (beet sugar). This Member also sought specific information on Ukraine's sugar pricing arrangements, negotiated on preferential terms in the context of international agreements. This Member requested Ukraine to acknowledge the WTO inconsistencies of its minimum price regulations in relation to sugar and agree to remove them.

49. In reply, the representative of Ukraine said that minimum price regulations for sugar beet and refined beet sugar (support prices) had been introduced in 1999 by Law No. 758 "On State Regulation of Sugar Production and Sale" of 17 June 1999. With regard to sugar beet, the mandatory minimum purchase price was defined by the minimum price established at the time that sale/purchase agreements for sugar beet were signed, in fulfilment of processors' production quotas for refined sugar – A quota for the domestic market exclusively; and B quota for exports under international contracts. Concerning refined (beet) sugar, the mandatory minimum purchase price was defined by the minimum price established at the time that sale/purchase agreements for refined sugar were signed in fulfilment of the A quota. Selling (or purchasing) sugar at below the minimum price, or in excess of the established quota for the domestic market, was not prohibited. However, sugar producers were liable to pay a fine in the amount of two times the cost of sugar sold in violation of the established procedure. The Cabinet of Ministers designated specific authorities to enforce the collection of fines. The relevant authorities made a motion and the courts issued a decision approving the collection of fees. These requirements were enforceable throughout the entire territory of Ukraine. He stated that, in his opinion, minimum prices were administered in accordance with the provisions of Annex 3 of the Agreement on Agriculture. Since 2000, no administrative prices for refined sugar had been applied by means of official intervention. Imported refined sugar, as well as refined sugar produced

from raw (cane) sugar imported into Ukraine, were sold domestically at prices determined by the market. The volumes of imported refined sugar and domestically-refined imported raw sugar were, in his view, insignificant relative to domestic production, especially given the seasonal nature of raw cane sugar imports. Therefore, imports could not influence the domestic market price level. He confirmed that imported refined sugar was not subject to mandatory minimum price requirements applicable to domestic sugar and that Ukraine imposed no import restrictions or restrictions of any kind on the internal purchase/sale of imported refined sugar. In addition, he stated that the Law "On State Regulation of Sugar Production and Sale" did not contain a "mandatory" price requirement and, therefore, the term "mandatory minimum price" was not appropriate. He added that he did not recognize any inconsistency with Article III:4 nor with Article III:5 of the GATT 1994. He acknowledged that the minimum pricing of sugar increased the profitability of domestic sugar beet production, but held the opinion that the system complied with the provisions on domestic support under Article 21.1, Article 6 and Annex 3 of the Agreement on Agriculture. He recognized that, as for most governmental policy measures applicable to domestic and imported goods, such domestic policy measures – to the extent that these affected prices – could have an impact on the total amount of charges levied at the border. However, he stressed that, as minimum prices were not applied to imported raw cane sugar, these had no direct effect on charges levied at the border. Asked specifically about minimum import prices for raw cane sugar, he confirmed that Ukraine had never maintained any such regime. As for sugar pricing arrangements in the context of international agreements signed by Ukraine, he said that sugar and sugar products listed in Table 6(c) had been excluded from the free trade regime with the Russian Federation, Belarus, Georgia and Moldova. Ukraine had not been involved in any international trade agreements on the export of sugar since 1996. Table 6(a) provides information on imports and domestic production of refined sugar for 2002-2004 and Table 6(b) contains information on the volumes of refined sugar imports in 2003-2004. Information (data series) on actual prices for refined sugar and sugar beet could be obtained, against payment, from [www.ukrsugar.kiev.ua](http://www.ukrsugar.kiev.ua) and [www.agroperspectiva.com](http://www.agroperspectiva.com).

Table 6(a): Domestic refined sugar production and imports of refined sugar, 2002-2004

Thousand tons, calendar years

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

Table 6(b): Imports of white sugar during the period 1 September 2003 – 31 August 2004

Country	2003				2004								Market Year 2003/2004
	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	July	August	
Georgia	3,100	1,800	3,900	3,363	1,300			2,500					15,963
Lithuania							11,700	3,600	2,900	5,100	2,500		25,800
Kazakhstan		100			1,000		1,500	1,500	300		1,000		5,400
Poland			875	4,573	300	3000	4,500						13,248
Others			7	11									18
Total	3,100	1,900	4,782	7,947	2,600	3000	17,700	7,600	3,200	5,100	3,500	0	60,429

Note: Average unit import price for refined sugar (c.i.f. basis) for the 2003/04 marketing year: Georgia – US\$ 350 per ton; Kazakhstan – US\$348 per ton; Lithuania – US\$249 per ton; Poland – US\$ 230 per ton (general conditions applied, i.e. importers paid an import duty of €300 per ton and VAT). Source: Derzhkomstat.

Table 6(c): Exclusion of sugar and sugar products from the free trade regime with CIS countries

HS Code	Product	Legal basis
<b>Georgia</b>		
1701	Sugar	Resolution of CMU No. 473 of April 14, 2004 “On temporary exclusion of sugar and sugar syrup from free trade regime with Georgia and Russia”
1702 19 00 00, 1702 30 59 00, 1702 30 99 00, 1702 40 90 00, 1702 60 95 00, 1702 90 71 00, 1702 90 79 00, 1702 90 99 00, 2106 90 20 00, 2106 90 59 00, 2106 90 99 00	Sugar syrup	Resolution of CMU No. 473 of April 14, 2004 “On temporary exclusion of sugar and sugar syrup from free trade regime with Georgia and Russia”
<b>Russian Federation</b>		
1701	Sugar	Protocol to “Agreement between Government of Ukraine and Government of the Russian Federation on Free Trade of June 24, 1993”, signed in Kyiv, November 14, 1997
1702 19 00 00, 1702 30 59 00, 1702 30 99 00, 1702 40 90 00, 1702 60 95 00, 1702 90 71 00, 1702 90 79 00, 1702 90 99 00, 2106 90 20 00, 2106 90 59 00, 2106 90 99 00	Sugar syrup	Resolution of CMU No. 473 of April 14, 2004 “On temporary exclusion of sugar and sugar syrup from free trade regime with Georgia and Russia”
<b>Republic of Moldova</b>		
1209 11 00 00	Sugar beet seed	Resolution of CMU No. 456 of April 14, 2004 “On temporary exclusion of sugar beet seed from free trade regime with Republic of Moldova”
1701	Sugar	Resolution of CMU No. 344 March 14, 2002 “On temporary exclusion of sugar from free trade regime with Republic of Moldova”
1702 19 00 00, 1702 30 59 00, 1702 30 99 00, 1702 40 90 00, 1702 60 95 00, 1702 90 71 00, 1702 90 79 00, 1702 90 99 00, 2106 90 20 00, 2106 90 59 00, 2106 90 99 00	Sugar syrup	Resolution of CMU No. 344 March 14, 2002 “On temporary exclusion of sugar from free trade regime with Republic of Moldova”
<b>Belarus</b>		
1701	Sugar	Resolution of CMU No. 1304 October 10, 2001 “On temporary exclusion of sugar from free trade regime with Republic of Belorussia”
1702 19 00 00, 1702 30 59 00, 1702 30 99 00, 1702 40 90 00, 1702 60 95 00, 1702 90 71 00, 1702 90 79 00, 1702 90 99 00, 2106 90 20 00, 2106 90 59 00, 2106 90 99 00	Sugar syrup	Resolution of CMU No. 1304 October 10, 2001 “On temporary exclusion of sugar from free trade regime with Republic of Belorussia”



50. In response to specific questions raised by a Member, the representative of Ukraine confirmed that prior to 2000, sugar support was provided by administered prices for refined sugar applied through official interventions. From 2000 onwards, sugar support was provided by the [mandatory] minimum sale prices [(an administered price in terms of the provisions of Annex 3 of the Agreement of Agriculture)] for domestic refined sugar of beet origin within the limits of the A quota. He confirmed that a sugar owner could be fined for breaching the requirement, pursuant to Article 9 of Law No. 758 "On the State Regulation of Sugar Production and Sale of 17 June 1999, for selling domestic refined sugar of beet origin produced under the A Quota at or below the [mandatory] minimum sale price. The fine was twice the level of the minimum price for the quantities sold below the level of minimum sale price. He also confirmed that the [mandatory minimum sale price requirement] [minimum prices] applied to domestic refined sugar of beet origin produced under the A Quota did not apply to imported refined sugar or to domestic sugar refined from imported raw cane sugar and that, accordingly, in this respect the measure was consistent with the requirements of Article III:4 of the GATT 1994.

51. A Member enquired about some of the other price measures enumerated in Table 4 – namely glass, and precious metals and stones. The representative of Ukraine replied that price measures (pledged prices) on glass ware of HS Chapter 70 did not apply to imported products. Accordingly, in this respect these measures were consistent with the requirements of Article III:4 of GATT 1994. As for precious metals and stones, he noted that the State regulation of prices had been revoked by Resolution of the Cabinet of Ministers No. 974 of 18 July 2004.

52. Some Members cited several recent examples of what they considered increased State intervention in pricing. Thus, in November 2003, the Government of Ukraine had signed an agreement with chemical plants obliging the producers to sell fertilizer to farmers below market prices. On 1 March 2004, the Government and representatives of the largest metallurgical plants had signed a Memorandum whereby the metal producers would sell up to 18 per cent of their production at a reduced price in the domestic market, allowing the remaining 82 per cent to be exported. The Cabinet of Ministers had signed a similar document with plants mining iron ore works, coke and ferro-alloys and supplies of fire-resistant materials on 3 March 2004, whereby the enterprises had agreed to reduce prices, but only for the volumes necessary for metal producers to satisfy the internal demand. On 31 March 2004, the Government had established a commission on pricing issues in the metal industry. As these price measures had not been included in Table 4, the representative of Ukraine was invited to update the Working Party on the state of play for these products.

53. The representative of Ukraine replied that the cited measures had not been included in Table 4 as these were short-term measures designed to protect the domestic market against external shocks caused by rising prices in world markets. The fertilizer agreement had been applied for the first six months of 2004, and measures affecting the mining and metallurgical industries had been in effect from 1 April to 1 September 2004. The commission on pricing issues in the metal industry had been dissolved on 1 September 2004 and the pricing arrangements were no longer in effect. No internal or external price regulations applied to ferro-alloys, fire-clays, iron ores and coke.

54. Specifically concerning the determination of prices for industrial users of electricity, he said that these were established by energy distribution companies in accordance with the "Terms and Rules for Effectuation of Entrepreneurial Activity on Distribution of Electricity under the Regulated Tariff" approved by the National Commission for Regulation of Electricity, Resolution No. 15/1 of 13 June 1996. Tariffs were unified for all consumers, according to voltage class and corrected for power losses during transmission, within the territory of the energy supplier. Additional detail on the method used and an example of the tariff computation is provided in Table 7.

55. Asked about price (tariff) controls in the basic telecommunications sector, the representative of Ukraine stated that tariffs on telecommunication services were set independently by operators and providers, except for tariffs on nation-wide services, which were subject to State regulation carried out by the National Commission for Regulation of Communications. The Commission had discharged its powers on 1 January 2005.

56. In reply to a specific question, the representative of Ukraine said that no indicative import prices for meat had been introduced.

57. Some Members noted that the new Law "On State Support of Agriculture in Ukraine" contained minimum price provisions that could contravene Article III:9 of GATT 1994 if applied to imports, and asked Ukraine to confirm that it intended to repeal these provisions prior to the date of accession. A Member requested Ukraine to notify the completion of the process of repeal prior to the adoption of the Working Party Report, refrain from applying these provisions prior to repeal, commit to not re-enact these provisions through any law or legal act before or after accession, and commit to not seek recourse to measures of this kind after accession. This Member asked Ukraine to clarify whether minimum/maximum purchase prices had been applied to imports or exports of any product pursuant to the provisions of this Law. Ukraine was requested to provide advice of all legislative provisions providing a framework for the application of minimum/maximum purchase price requirements.

58. The representative of Ukraine replied that the Law "On State Support of Agriculture in Ukraine" did not provide for the application of mandatory minimum purchase prices on imported goods. Minimum purchase prices were used rather as an indicator for triggering market intervention. Buyers or sellers would not be obliged to buy or sell at the minimum price, given that the sole means of influencing the price was intervention purchases and sales. Pursuant to Article 8 of the Law, minimum and maximum purchase prices could only be applied to imports or exports temporarily if the Antimonopoly Committee concluded that the competitive operation of the market was threatened and the Cabinet of Ministers endorsed this finding. He emphasized that this provisional measure was aimed at preventing, or putting an end to, speculative or collusive pricing behaviour in the agricultural sector, in cases where standard State intervention procedures were ineffective. The purpose of this policy was to provide State support to domestic agricultural producers by guaranteeing that a minimum amount of their products was purchased. He confirmed that the provisions of the Law "On State Support of Agriculture in Ukraine" that could trigger market interventions were distinct from, and unrelated to, the provisions which related to minimum/maximum purchase prices applied to imports and exports contained in Article 8 of this Law. He also confirmed that, so far, Ukraine had neither applied the Law's provisions allowing for the triggering of market intervention aimed at supporting domestic producers, nor the provisions for minimum/maximum purchase prices applicable to imports or exports of any product (Article 8). He stated that Ukraine did not apply minimum import prices to agricultural products and would not do so in the future.

59. [The representative of Ukraine confirmed that from the date of accession, the Government of Ukraine would apply price control measures in a WTO-consistent fashion, and take account of the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994 and in Article VIII of the General Agreement on Trade in Services (GATS). [He confirmed that Ukraine did not apply minimum import prices to agricultural products, including raw cane sugar, and would not do so in the future.] [He confirmed that Ukraine committed to not apply mandatory minimum price requirements to any imported product.] He also confirmed that Ukraine published notices of the goods and services subject to State price controls and would continue to do so after accession. The Working Party took note of these commitments.]

- **Competition Policy**

60. The representative of Ukraine said that the principle that the State should encourage competition, prevent the abuse of monopoly positions, and combat illegal restrictions on competition and unfair competition had been laid down in the 1996 Constitution as well as the Law "On the

Protection of Economic Competition" No. 2210-III of 11 December 2001, and the Law "On the Protection from Unfair Competition" No. 236/96 of 7 June 1996.

61. The monopolization of markets and potential abuse of dominant positions had been addressed in Ukraine's privatization programmes, and many large enterprises had been reorganized, restructured, and split prior to privatization. Central and local authorities monitored, in particular, the formation of prices, unauthorized tax concessions and other privileges granted, and restrictions on the movement of goods within Ukraine. Natural monopolies within energy and communications were subject to State regulation. Law No. 1280-IV "On Telecommunications" of 18 November 2003 provided the possibility for any natural and legal person resident in Ukraine to operate, service or own telecommunications networks.

62. An Antimonopoly Committee had been established to implement Ukraine's competition legislation. The Antimonopoly Committee contributed to the formulation and implementation of Ukraine's competition policy, including the monitoring of compliance with competition legislation based on equality of legal rights among business entities and protection of the interests of consumers; monitoring of market concentration, co-operation among enterprises and the pricing of goods and services produced or distributed by natural monopolies; as well as the promotion of fair competition.

63. The regulation of natural monopolies was the responsibility of the National Commissions for Regulation of Natural Monopolies Entities. The main task of the National Commissions was to formulate a price policy for the natural monopolies in their respective area. At present, a National Electricity Regulatory Commission, a National Commission for Regulation of Communications, and a State Committee on Housing and Communal Services had been established. The Head and Members of these Commissions were appointed by the President, upon the recommendation of the Prime Minister.

64. He added that Article 1 of the Law "On Natural Monopolies" No. 1682-III of 20 April 2000 defined a natural monopoly as a market characterized by the absence of competition due to proprietary technology and/or economies of scale in the production of a good or service with no close substitutes. In addition, Article 5 of the Law specified as natural monopoly activity pipeline transportation of oil and oil products, natural gas and petroleum gases, and other substances; the distribution of natural gas and petroleum gases; the transmission and distribution of electric energy; railway services; air traffic control; centralized supply of heating, water and the drainage system; and the rendering of specialized services by transport terminals, ports and airports. He confirmed that this list was exhaustive.

65. Asked about the existence of a timetable for the dissolution of natural monopolies, the representative of Ukraine replied that "The State Program for Reforming and Development of Utilities' Economy in 2005-2010" had been approved by Law No. 1869-IV on 24 June 2004. The Program foresaw the introduction of an efficient system of State regulation of the activities of natural monopolies in the area of water supply and heating, as well as further dissolution of monopolies operating in the utilities sector through the creation of a competitive environment in the market for utility services.

66. A Member expressed concerns that Ukrainian legislation on competition still appeared to be somewhat patchy and enquired whether Ukraine intended to introduce a full-fledged legislation on competition. In reply, the representative of Ukraine said that Law No. 2210-III of 11 January 2001 covered all issues relevant to competition, including merger controls, prohibition of cartels and monitoring of the compliance of administered prices with the competition legislation.

### **III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES**

67. The representative of Ukraine said that the Republic of Ukraine was a unitary State and the Autonomous Republic of Crimea thus formed an integral part of Ukraine. The Constitution of 28 June 1996 proclaimed Ukraine a democratic State, with State power divided among the legislative, executive and judicial branches of government (Article 6).

68. Legislative power was vested in Ukraine's Parliament, the Supreme Rada, made up of 450 deputies elected for four-year terms. Article 85 of the Constitution established the principal functions of the Supreme Rada, notably to promulgate legislation, approve the State budget, determine the main directions of foreign and domestic policy, approve economic policy programmes and lists of State property not subject to privatization, and to establish the basic rules for nationalization of property. The Supreme Rada had exclusive powers to determine the basic rules for the exploitation of Ukraine's natural resources, its exclusive economic zone, continental shelf and outer space; the organization and use of Ukraine's energy, transportation and communications systems; the protection of property and entrepreneurship; and policies in the areas of antimonopoly and competition, foreign relations and foreign economic activities, and customs. In addition to promulgating the State budget, the Supreme Rada established the budgeting procedure, the taxation system, the rules for Ukraine's financial and money markets, Ukraine's national debt in foreign and domestic currency, and the issue and circulation of State securities.

69. Article 113 of the Constitution stipulated that the highest body of executive government would be the Cabinet of Ministers headed by the Prime Minister, appointed by the President with the

consent of more than half the constitutional number of members of the Supreme Rada. The Cabinet of Ministers - comprising the Prime Minister, the First Vice Prime Minister, three Vice Prime Ministers, and Ministers - directed and coordinated the activities of 17 Ministries and more than 40 central bodies of executive government, established in accordance with the Decree of the President "On Changes in the Structure of Central Government Authorities" No. 1573/99 of 15 December 1999. The Cabinet of Ministers was responsible for the development of draft budget laws and implementation of the State budget; finance and taxation policy; investment; pricing policy; as well as the management of public property. The Cabinet of Ministers also supervised foreign economic activities and Ukraine's Customs.

70. Section XI of the Constitution and the Law "On Local Self-Government" No. 280/97 of 21 May 1997 delegated extensive executive functions to local self-government institutions, and local State administrations had been established in each rayon, oblast, and in the cities of Kiev and Sevastopol. The Heads of local administrations were appointed by the Cabinet of Ministers with the approval of the President pursuant to Article 118 of the Constitution, and were responsible towards the superior executive authorities. Only the President could dismiss the heads of local State administrations. These administrations were charged with the implementation of State and regional social, economic, environmental and cultural development programmes, as well as the preparation and implementation of their local budgets. However, local governments were financially dependent on the executive authorities as budget revenue largely consisted of national taxes collected within their territories and subsidies from the national budget. The determination and collection of local taxes and fees was implemented within ceiling rates set by law. The Law "On Local Self-Government" did not specifically address the issue of subsidies or restrictions on the movements of goods. Local authorities had been delegated powers with respect to the administration and supervision of border trade and coastal commerce, the functioning and operation of customs agencies within their territories, and, in accordance with assigned responsibilities, ensuring the implementation of Ukraine's international commitments.

71. The representative of Ukraine confirmed that sub-central entities had no autonomous authority over issues of subsidies, taxation, trade policy or any other measures covered by WTO provisions. He confirmed that the provisions of the WTO Agreement, including Ukraine's Protocol of Accession, shall be applied uniformly throughout its customs territory and other territories under its control, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations are established. He added that when apprized of a situation where WTO provisions were not being applied or were applied in a non-

uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the courts. The Working Party took note of these commitments.

[The representative of Ukraine confirmed that the provisions of the WTO Agreement should be applied uniformly throughout the Ukrainian customs territory, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations were established. He added that, when informed of a situation where WTO provisions were not being applied or were applied in a non-uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the courts.]

72. The judiciary comprised the Constitutional Court and courts of general jurisdiction, i.e. local courts, appellate courts, higher specialized courts, and the Supreme Court of Ukraine. Local general courts - established at the level of districts, city districts, cities and united city and district courts, as well as the military courts of garrisons - tried criminal and civil cases as well as (minor) administrative offence cases pursuant to paragraph 2 of Article 22 of the Law "On Judiciary in Ukraine" No. 3018-III of 7 February 2002. Local economic courts - the economic courts of the Autonomous Republic of Crimea, oblasts, Kiev and Sevastopol - tried cases arising from economic legal relations and other cases assigned to their jurisdiction by procedural law. Local administrative courts were specialized courts, established at the level of regions (okrug), which tried administrative cases connected with legal relations in public (state) and local governance (cases of administrative jurisdiction), except for cases of administrative jurisdiction related to military governance, which were tried by the military courts. As far as WTO-related matters were concerned, administrative courts dealt with violations of trade-related payments procedures and violations in the area of government export controls. Appellate courts, which included the appellate courts of oblasts, Kiev, Sevastopol, the Autonomous Republic of Crimea's appellate court, the appellate courts of military regions, the appellate court of Ukraine's Navy, and the Appellate Court of Ukraine reviewed appeals in accordance with procedural law and tried cases, specified by law, as courts of first instance. The higher specialized courts (including the Higher Economic Court and the Higher Administrative Court) reviewed, by cassation, cases of the appropriate jurisdiction and other cases as provided by procedural law. The Supreme Court of Ukraine, the highest judicial body among the courts of overall jurisdiction, reviewed (by cassation) the judgments of the general courts in cases assigned to its jurisdiction by procedural law.

73. A system of arbitration had been established pursuant to the Law "On the Arbitration Court" No. 1142-XII of 4 June 1991. However, the 1991 Law had been ineffective since 1 June 2002 in

accordance with Chapter VII (Final and Transitional Provisions) of the Law "On Judiciary in Ukraine" No. 3018-III of 7 February 2002.

74. Concerning the status of international treaties, including the WTO Agreements, in the hierarchy of domestic legislation, the representative of Ukraine said that international treaties in force were part of the national legislation of Ukraine pursuant to Article 9 of the Constitution. Moreover, Article 17 of the Law "On International Treaties of Ukraine" provided that international treaties concluded and duly ratified in the form of a law were part of Ukraine's legislation and would be applied pursuant to the procedures specified for provisions of national legislation. The WTO Agreements would accordingly become part of the domestic legislation upon Ukraine's accession to the WTO. Should an international treaty ratified by Ukraine and concluded in the form of a law set out rules other than the rules established by Ukrainian law, then the rules of the international treaty would prevail.

75. As for the right of appeal, the representative of Ukraine said that Article 55 of the Constitution guaranteed citizens the right to challenge in court the decisions, actions or omissions of any body of State power or local self-government, its officials and officers. Complaints against decisions of agencies and officials could be addressed to higher-level bodies, regulating agencies or superior officials with the administration. Should the outcome be unsatisfactory, the complainant could lodge a case with the local commercial court, i.e. the commercial courts of the Autonomous Republic of Crimea, the provincial (oblast) commercial courts, or the city courts in Kyiv and Sevastopol pursuant to the Law "On Judiciary in Ukraine", Articles 21 (Part 2) and 22 (Part 3). Commercial courts were specialized courts, functionally distinct from administrative courts, that heard cases arising from commercial legal disputes between business entities in the areas of trade in goods, services and the protection of intellectual property rights. Since March 2003, specialized court chambers (collegiums), operating within the commercial courts framework, were being set up to hear cases related to the protection of intellectual property rights – namely industrial property, copyright and related rights. However, as with all cases that were heard in commercial courts, the specialized chambers on intellectual property had the authority to try cases arising solely as a result of legal disputes between business entities. Decisions of the local commercial courts could be challenged before the commercial court of appeal in the respective appellate district and eventually in the Higher Commercial Court, whose decisions were final and binding. Having exhausted all domestic legal remedies, appeals could also be brought before international judicial institutions or bodies having Ukraine as a member or participant. He confirmed that administrative decisions related to areas such as TBT, SPS, intellectual property rights, licensing, the payment of fees, etc. could be appealed to the commercial courts.



76. The Code on Administrative Violations provided the right of appeal to the person against whom the decision had been taken, or to an injured party. Pursuant to Article 288 of the Code, (i) decisions of an administrative commission could be appealed to the executive committee of the competent Rada, or to the rayon, municipal district, city or inter-district court, whose decision would be final; (ii) decisions of the executive committee of a village, town or city Rada could be appealed to the applicable Rada or to the rayon, municipal district, city or inter-district court, whose decision would be final; and (iii) administrative sanctions imposed by other governmental authorities (and their officers) could be appealed to the higher governmental authority (or high-ranking officer) or to the rayon, municipal district, city or inter-district court. Court decisions in cases involving administrative violations were final and could not be appealed except as otherwise provided by the laws. Appeals were lodged with the officer or authority having taken the decision, and these were obliged to transfer the complaint, together with the case records, to the authority (or officer) empowered to hear it within three days. The resolution in a case involving an administrative violation could also be protested by the prosecutor according to Article 290 of the Code. Fees for the filing of lawsuits, appeals, cassation pleas, petitions and the like had been established pursuant to Decree No. 7-93 of the Cabinet of Ministers "On State Duties" of 21 January 1993.

77. The representative of Ukraine confirmed that from the date of accession Ukraine's laws would provide for the right to appeal administrative rulings on matters subject to WTO provisions to an independent tribunal in conformity with WTO obligations including, but not limited to, Article X:3(b) of the GATT 1994. The Working Party took note of this commitment.

[The representative of Ukraine stated that, from the date of accession, Ukraine would implement Article X of the GATT 1994 and the other provisions of the WTO Agreements related to the right of appeal. The Working Party took note of these commitments.]

#### **IV. POLICIES AFFECTING TRADE IN GOODS**

##### **- Trading Rights**

78. The representative of Ukraine said that the Law "On State Registration of Legal Entities and Natural Persons Engaged in Entrepreneurial Activity" of 15 May 2003 provided for registration of business entities with the State Registrar, an official located at the executive committee of the city council or with the district authorities. The Law had entered into force on 1 July 2004. Legal entities and natural persons engaged in entrepreneurial activities, including foreigners, were recorded in the Registry of Legal Entities and Natural Persons Entrepreneurs. The Law required the registration of legal entities to be effected within three working days of the receipt of the documents requesting State

registration. For natural persons the deadline was two working days, and a registration certificate would be issued no later than on the following working day. Foreign economic activity was not subject to any special registration requirements. Thus, an applicant wishing to import, export and/or trade should specify the intended activity in the scope of business to be registered.

79. In addition to the registration requirements, Ukraine applied a system of activity licensing (Table 8(a)) and a system of licensing on the right to import (Table 8(b)). Activity licensing applied for nearly 60 goods- and services-related activities based on the Law "On Licensing of Certain Types of Economic Activity" No. 1775-III of 1 June 2000, as amended. According to Article 2 of this Law, activities not specifically enumerated in its Article 9 were not subject to licensing. The manufacturing and sale of ethyl spirit, cognac and fruit alcoholic drinks and tobacco goods was regulated under separate legislation. The representative of Ukraine did not envisage any reduction in the number of goods or services-related activities subject to licensing, as he considered activity licensing a regulatory measure maintained to attain legitimate objectives such as the protection of human, animal or plant life and health, the environment, public morals, national security, or for prudential regulation of the financial sector. In addition, the number of goods- and services-related activities subject to licensing had been drastically reduced in recent years. Detailed information on the scope and operation of the activity licensing system was provided in document WT/ACC/UKR/110/Add.2, Annex 6.

80. The Supreme Rada determined the general direction of Ukraine's policy with respect to licensing, and approved amendments to the list of activities subject to licensing based on proposals from the Cabinet of Ministers. The Cabinet of Ministers and designated licensing authorities (see Cabinet of Ministers' Resolution No. 1698 "On the Approval of the List of Licensing Authorities" of 14 November 2000) were responsible for the implementation and further development of the licensing regime. Economic agents approached the licensing authority with duly completed application forms and other required documentation. An exhaustive list of documentation and information requirements is reproduced in Table 8(d). Licenses, issued against payment of UAH 340 (US\$ 64), were normally valid for five years (Cabinet of Ministers' Resolution No. 1755 "On Validity of the Licence for Specific Types of Economic Activity and Fee for its Issuance" of 29 November 2000). Incomplete or incorrect applications would be refused. However, such applications could be resubmitted after correction or completion, and minor errors would in any case not cause the application to be rejected or lead to the imposition of penalties. The reasons for denial of a licence were communicated to the applicant in writing. Generally, all activity licences for importation could be obtained within ten days.

81. The legal basis for the regulation of production and trade in alcohol and tobacco goods included the Law "On State Regulation of the Production and Trade in Ethyl, Cognac and Fruit Spirits, Alcoholic Beverages and Tobacco Goods" No. 481 of 19 December 1995, with changes and amendments, and Resolution No. 493 of the Cabinet of Ministers "On Provisional Procedure for Issuance of Licenses to Import and Export Ethyl, Cognac and Fruit Spirits, Alcoholic Beverages and Tobacco Goods" of 13 May 1996. The Ministry of Economy, acting upon the consent of the tax authorities, issued separate licenses for importing and exporting operations. The right to be the importer of record was not linked to domestic investment. Licences (for the production and trade in alcohol and tobacco products) were generally available to all economic agents. Importers, producers and distributors of alcohol beverages and tobacco products were only required to obtain a licence for the activity they were engaged in. No additional import licence was required. However, economic agents engaged in import/export of ethyl alcohol, cognac spirits and fruit spirits were required to obtain a licence on the right to import/export. These licenses were issued only to State-owned enterprises or to "specialized enterprises" (residents) specifically approved by the Cabinet of Ministers. In the case of cognac spirits, "specialized enterprises" referred to enterprises possessing the necessary facilities, equipment and expertise for the making of cognac spirits. Foreign enterprises would not be allowed to import or export cognac spirits. Licences, issued by the Ministry of Economy within ten days of receipt of the required documentation (stipulated in Article 15 of Law No. 481/95), were valid for five years against payment of an annual fee of UAH 250,000 (US\$ 47,000) for the importation of alcoholic beverages and tobacco products; UAH 170,000 (US\$ 32,000) for the importation of cognac spirits; UAH 85,000 (US\$ 16,000) for the exportation of cognac spirits; and UAH 3,000 (US\$ 560) for the exportation of other alcoholic beverages and tobacco products. He considered the relatively high annual fee of UAH 250,000 (US\$ 47,000) for the importation of alcoholic beverages and tobacco products to be justifiable, as these products had a high profit margin and the licences were imposed on a non-discriminatory basis to both domestic and foreign producers and traders. An enterprise holding a licence to manufacture, sell (wholesale) and export ethyl alcohol, cognac and fruit spirits would be exempt from the export licence fee for its own production of spirits sold abroad, but this provision was not applied at present as the fee was levied on such exporters.

82. Some Members stated that Ukraine appeared to be using its activity licensing system to restrict the importation of alcohol in favour of domestic producers and distributors, which would be inconsistent with Article XI of the GATT 1994. A Member noted that foreign enterprises were not allowed to import or export cognac spirits, even if they fulfilled the necessary criteria, and asked the representative of Ukraine to provide further justification for this measure. This Member noted that the licensing fees for alcoholic beverages and tobacco were excessive and did not reflect the cost of services rendered. Ukraine was asked to bring its licensing fees for alcohol beverages and tobacco in

compliance with Article VIII of the GATT 1994. Another Member sought the elimination of all licenses on the right to import/export listed in Table 8(b) by the date of accession.

83. The representative of Ukraine replied that spirits had the potential to affect human health significantly. The State exercised control over the production and distribution of such products, in an effort to prevent the use of falsified and low-quality products. He added that Ukraine did not apply restrictions on alcoholic beverages, including on the importation of alcoholic products. He stated that, by the date of accession, Law No. 481 of 19 December 1995 would be amended to bring licensing fees for alcohol beverages and tobacco in compliance with Article VIII of the GATT 1994.

84. Concerning importation and exportation of optical media equipment and discs, he noted that the Ministry of Economy had established a procedure for the issuance of activity licences pursuant to its Order No. 244 of 8 August 2002, registered with the Ministry of Justice of Ukraine, Order No. 704/6992, of 23 August 2002. Access to the special identification codes (SID-codes) was a necessary requirement to obtain a licence, and the licence holder was also required to notify the Ministry of every consignment imported or exported. In response to a specific question, he said that activity licensing for the importation of optical media equipment and discs, as well as for the importation of holographic protection elements, and cryptosystems and means for cryptographic protection (Table 8(a)) was required to ensure protection against deceptive practices and for the protection of intellectual property rights.

85. A Member held the view that the activity licensing requirements mentioned in the preceding paragraph were not an appropriate basis for measures to protect consumers against deceptive practices and for ensuring protection of intellectual property rights. This Member sought the elimination of these activity licensing requirements by the date of accession. In response, the representative of Ukraine reiterated the need for such a measure for ensuring the effective enforcement of intellectual property rights.

86. The representative of Ukraine said that importation (and exportation) of narcotics was governed by the Law "On Turnover of Narcotics, Psychotropic Substances, Their Analogs and Precursors" No. 60/95-VR of 15 February 1995 and the Resolution of the Cabinet of Ministers "On the Approval of the Procedure for Issuance of Certificates to Import into Ukraine and to Export from Ukraine of Narcotics, Psychotropic Substances and Precursors" of 3 February 1997. Activities related to the import and export of narcotics were carried out by State enterprises or municipal enterprises provided that they had (i) the relevant activity licence; and (ii) an import/export certificate (for each separate transaction) issued by the Committee on Control Over Narcotics, which was attached to the Ministry of Health Protection, in agreement with the Security Service of Ukraine. In his view, these

enterprises were not State-trading enterprises as they did not enjoy special or exclusive privileges – in the meaning of Article XVII of GATT 1994 – in the exercise of which they influenced the level and direction of imports and exports.

87. The representative of Ukraine said that licence applications for the production of medicines, and wholesale and retail trade in medicines were submitted to the State Service of Medicines and Articles of Medical Purpose. Licence holders were required to observe the provisions of the Economic (Commercial) Code of Ukraine and the Law "On Ensuring of Sanitary and Epidemiological Well-being of Population", as well as qualification and other special requirements stipulated in the licence. Only medicines registered in Ukraine, and carrying a quality certificate issued by the manufacturer, were allowed in wholesale and retail trade. The registration of a medicine was valid for five years, subsequent use required re-registration. Registration fees for medicines had been established by the Cabinet of Ministers through its Resolution No. 1422 "On the Approval of the Procedure for State Registration (Re-registration) of Medicines and Fees for State Registration (Re-registration) of a Medicine" of September 2000, as changed and amended by Resolution No. 678 of 21 June 2001. Registration fees amounted to € 1,000 for each medical form, € 100 for each next dose and € 100 for each next package of a medicine; and 50 per cent of the mentioned fees for re-registration. For registration and re-registration of radioactive medicine, diagnostic means and simple or complex (halenic) preparations of plant medical raw materials the fees were half of those mentioned above. Fees for registration and re-registration of medicine supplied in bulk, including medicine packed in Ukraine from bulk supply, amounted to € 25 for each medical form and € 25 for each next package of a medicine; and for substances (active and auxiliary matters) the fee amounted to € 25 for each item. In addition to the activity licensing, wholesale and retail trade outlets were subject to State accreditation, and individuals directly engaged in production, wholesale and retail trade were required to possess the necessary professional qualifications. He confirmed that no additional activity licence was required for the importation of medicines.

88. Asked to detail the reasons for the differentiation of registration fees for medicines, which could act as a restriction, the representative of Ukraine said that the registration fees did not include the cost of pharmacological or additional expertise, which was a financial matter between the applicant and the specialized institution performing the verification and analysis service. Specialized institutions included the State Service for Medical Preparations and Products of Medical Designation, as well as the Pharmacopoeia Centre. In his view, the relatively high level of the registration fee for medicines did not act as a trade barrier, as evidenced by the steady increase of imports over the years 2002-2004. Asked specifically whether the registration fee corresponded to the approximate cost of

services rendered, he said that, given the relevant technical support, Ukraine would consider reducing this fee along with improvements in laboratory equipment and infrastructure.

89. Licensing of activities related to the production of pesticides and agro-chemicals, and wholesale and retail trade in such products, was based on the Law "On Pesticides and Agro-Chemicals" No. 86-95/VR of 2 March 1995, a joint Order of the State Committee for the Issues of Regulatory Policy and Entrepreneurship and the Ministry of Industry "On the Approval of Licensing Terms and Conditions for Carrying out Business Activities on Production of Pesticides and Agro-Chemicals, Wholesale and Retail Trade in Pesticides and Agro-Chemicals" No. 40/70 of 22 February 2001, and the Law "On Amendments to Some Laws of Ukraine regarding Pesticides and Agricultural Chemicals" No. 1628-IV of 18 March 2004. The Ministry of Industry issued licences for the production, wholesale and retail trade in pesticides and agro-chemicals against a fee of UAH 255. In addition, importation, manufacturing and marketing of pesticides and agro-chemicals required prior registration – valid for up to ten years – of the products in Ukraine. The fees for State registration and re-registration of pesticides and agrochemicals are enumerated in Table 9. In exceptional circumstances, the State Interdepartmental Commission on the Issues of Testing and Registration of Plant Protection Means and Growth Regulators could issue an import and usage permit for unregistered pesticides and agro-chemicals, provided documentation could testify to their use in the country of origin. He confirmed that no additional activity licence was required for the importation of pesticides and agro-chemicals.

90. The representative of Ukraine confirmed that no restrictions existed on the right of individuals or firms to import and export goods, other than the requirements applicable to goods subject to activity licensing.

91. [The representative of Ukraine said that from the date of accession the Government of Ukraine would ensure that its laws and regulations relating to the right to trade in goods and all fees, charges or taxes levied on such rights would be in full conformity with WTO obligations, including Articles VIII:I(a), XI:1, and III:2 and 4 of the GATT 1994 and that it would implement such laws and regulations in full conformity with these obligations. The Working Party took note of these commitments.]

**A. IMPORT REGULATION**

**- Ordinary customs duties**

92. The representative of Ukraine said that import duties were established on the basis of the Law "On the Customs Tariff of Ukraine" No. 2371-III of 5 April 2001, as amended. The Law set out the framework for the regulation of tariffs and reserved the right to make tariff changes exclusively for the Supreme Rada. Imports from trading partners holding MFN status were assessed at the "privileged" (preferential) rate of import duty, except in cases where duties were established in the context of a special preferential trade agreement. Imports from other non-preferential sources were assessed at the "common" (full) rate of import duty. The common rate of import duty, which could be up to 2-10 times higher than the privileged rate, was applied to goods originating from 81 countries, mostly developing countries. Ukraine had no Generalized System of Preferences (GSP) scheme. Upon accession, Ukraine would apply the "privileged" (MFN) rate of import duty to all goods originating from WTO Members, in accordance with Article I of the GATT 1994. The nomenclature in Ukraine's Customs Tariff reflected the Ukrainian Foreign Economic Activity Classification of Goods, which was based on the 1996 version of the Harmonized System (HS) nomenclature. Ukraine planned to switch to the 2002 version of the Harmonized System on 1 January 2006. Asked to provide a concordance table for the conversion of Ukraine's tariff commitments to HS 2002, the representative of Ukraine replied that Members would receive this table once the relevant Law had come into force.

93. The current Customs Tariff comprised more than 11,000 tariff lines. Most tariffs were levied at *ad valorem* rates, but 1,655 tariff line items (15.02 %) were subject to specific rates of duty. Further details on the current applied tariffs are presented in Table 10.

Table 10: Import duties (privileged rates) levied on goods and other items imported into Ukraine's territory

Ukrainian applied customs tariff									
Import duty rate (%)	0	0-5	5-10	10-15	15-20	20-25	More than 25	Specific Rate	Total
number of tariff lines	1,842	3,890	1,984	654	362	336	294	1,655	11,017
total number of lines (%)	16.72	35.31	18.01	5.94	3.29	3.05	2.67	15.02	100
The maximum of the import duty rate is:									
for items of groups 1-24:			50 % (of which 11.23 % are higher than the 25 % rate)						
for items of groups 25-97:			50 % (of which 0.07 % are higher than the 25 % rate)						
average arithmetic rate of the applied custom tariff (%)					10.22				
average weighted rate of the applied custom tariff (%)					5.00				

94. A Member was concerned about the discriminatory potential of product descriptions in Ukraine's tariff nomenclature based on geographical origin. This Member asked Ukraine to describe

in detail the criteria used by Ukraine's customs authorities in deciding whether or not imported products fell to national tariff lines where the product coverage of the tariff lines was based on geographical origin. Ukraine was also asked to provide import statistics for tariff lines that included details on country of origin. In reply, the representative of Ukraine said that customs authorities relied on the documents submitted by the importer, namely the certificate of origin of goods. He stated that the determination of country of origin was based on criteria established by the Customs Code in accordance with international practice. He confirmed that tariffs in Ukraine's Schedule of Concessions and Commitments on Goods would be bound at the six-digit level for cheese and wines (HS Headings 0406 and 2204).

95. A Member asked whether the staged reductions of the bound base rate of duties, envisaged in Ukraine's tariff offer, would be effected independently from the date of Ukraine's accession to the WTO. In reply, the representative of Ukraine confirmed that Ukraine committed not to change the staging of the tariff reductions, as indicated in its tariff offer, i.e. the bound rate for a given year would come into effect on the condition that Ukraine acquire WTO membership in that year.

96. Ukraine undertook bilateral market access negotiations on goods with members of the Working Party. The results of these negotiations are contained in the Schedule of Concessions and Commitments on Goods (document WT/ACC/UKR/.../Add.1 [to be completed]).

- **Other duties and charges levied on imports but not on domestic production**

97. The representative of Ukraine said that imported petroleum products had been subject to a fee of €0.01 per kg – earmarked for the Pension Fund – levied at the time of customs clearance in accordance with Resolution No. 1460 of the Cabinet of Ministers of 18 September 1998 and Law No. 1344 of 27 November 2003. The fee had been abolished pursuant to Cabinet of Ministers' Resolution No. 355 of 18 May 2005.

98. The representative of Ukraine stated that the application of "other duties and charges", other than the ordinary customs duties and fees and charges for services rendered, would be in accordance with WTO provisions from the date of accession. He further confirmed that Ukraine would not list any "other duties and charges" in its Schedule of Concessions and Commitments on Goods under Article II:(b) of the GATT 1994, binding such charges at "zero" from the date of accession. The Working Party took note of this commitment.



- **Tariff rate quotas, tariff exemptions**

99. The representative of Ukraine said that the Law "On the Single Customs Tariff" provided for exemptions from duties, duty rate reductions, or the establishment of tariff rate quotas for the importation of goods and other items. In addition, the Customs Tariff also specified tariff preferences for goods originating in countries which had formed a customs union or free trade area with Ukraine, as well as for border trade. Detailed information specifying some 24 categories of duty exempt imports was provided in document WT/ACC/UKR/118, Annex 1 and included re-exports and temporary exports; damaged goods; currency and securities; items for official and private use of organizations and officials enjoying duty-free privileges in accordance with international agreements and Ukrainian law; goods imported for disaster relief; imports for priority innovation projects; specific imports in connection with production-sharing contracts; goods for the production of ammunition and certain armoured combat vehicles and parts; materials for the publishing industry; materials, equipment and components for the construction of aircraft as well as for the shipbuilding industry; safety equipment and components for the coal mining industry; and pharmaceutical products and compounds not manufactured in Ukraine.

100. A Member requested a detailed explanation from Ukraine concerning the provision to establish quotas for preferential importation of goods and other items and, in particular, its consistency with GATT provisions including those contained in Articles I, III, VIII, XI, XIII, and Article 4 of the Agreement on Agriculture.

101. A Member noted that Ukraine had applied a tariff rate quota on one product – sugar – in 2003, and requested a detailed description of the tariff rate quota regime applied by Ukraine.

102. In reply, the representative of Ukraine said that Ukraine had opened a tariff rate quota for imports of raw cane sugar (HS Code 1701.11) of 125,000 tons until 15 September 2004 with a specific import duty of € 30 per ton pursuant to the Law "On State Budget For 2004". This was a tariff rate quota with no quantitative restriction. Out-of-quota imports were subject to 50 per cent import duty, minimum € 300 per ton. There were no normative acts introducing tariff rate quotas for imports of raw cane sugar in 2005. In addition, Law No. 1691 of 20 April 2004 authorized a tariff rate quota for clear glass bottles size 0.33-1.00 litre (HS Code 7010.91 21 00) for 2004-2005. In-quota imports were subject to zero duty, while 10 per cent import duty was levied on above-quota imports. The laws authorizing tariff rate quotas for raw cane sugar and glass bottles were temporary. Further details on currently applied tariff rate quotas are provided in Tables 11(a) and 11(b). Table 11(c) contains data on the application of tariff rate quotas for raw sugar during 1998-2004.

Table 11(a): Tariff rate quotas in Ukraine

Tariff Code	Product Description	Entity(ies) responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO justification or the Date of Elimination
7010.91 21 00	----- Bottles: - Of colourless glass	Cabinet of Ministries of Ukraine	The Law of Ukraine "On Amendments to Customs Tariff of Ukraine, approved by the Law of Ukraine "on Customs Tariff of Ukraine" No. 1691 dated 20 April 2004	Not prohibited under WTO rules.  This is an interim measure until the end of 2005

Table 11(b): Goods subject to tariff rate quotas under agreement with FYROM

Names of products	HS Code	Amount of quota, metric tons
Meat of sheep or goats, fresh, chilled or frozen:	0204	500
- Fruits of the genus Capsicum or of the genus Pimenta:	0709 60	5,000
Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared:	0712	500
Fruit, dried, other than that of headings 08.01 to 08.06; mixtures of dried fruits or nuts of this Chapter:	0813	200
Pepper of the genus Piper; dried or crushed or ground fruits of the genus Capsicum or of the genus Pimenta:	0904	500
Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, fresh or dried, whether or not cut, crushed or powdered:	1211 90	500
Sugar confectionery (including white chocolate), not containing cocoa:	1704	500
Chocolate and other food preparations containing cocoa:	1806	500
Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour and meal), pre-cooked, or otherwise:	1904	500
- Sweet biscuits; waffles and wafers:	1905 30	100
Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid:	2001	6,000
Tomatoes prepared or preserved otherwise than by vinegar or acetic acid:	2002	4,000
Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading № 2006:	2005	3,000
Jams, fruit jellies, marmalades, fruit or nut puree and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter:	2007	100
Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:	2008	500
Fruit juices (including grape must) or vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:	2009	3,000,000*
Sauces and preparations therefore; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:	2103	3,000

Names of products	HS Code	Amount of quota, metric tons
Wine of fresh grapes, including fortified wines; grape must other than that of heading № 2009:	2204	40,000,000*
- Spirits obtained by distilling grape wine or grape marc:	2208 20	100,000*
- - Other spirits and other spirituous beverages:	2208 90	100,000*
Vinegar and substitutes for vinegar obtained from acetic acid:	2209 00	100,000*
- Tobacco, not stemmed/stripped:	2401 10	10,000

Note: In-quota quantities imported duty free; MFN duty applied to quantities exceeding the quota.  
\* In Litres

Table 11(c): Tariff rate quotas for the import of raw cane sugar in Ukraine (1998 – 2004)

Year	Established quota (tons)	Actual imports (tons)
1998	300,000	96,000
1999	60,000	217,000
2000	260,000	229,000
2001	260,000	260,000
2003	560,000	380,000
2004	125,000	125,000

103. The tariff rate quota for raw cane sugar was auctioned. The auctions were organized by authorized commodity exchanges under the supervision of an Interdepartmental Committee. The Minister of Economy and European Integration issued import licenses valid until 15 September of the current year to the successful bidders, and the State Customs Service reported the volume of licensed imports monthly to the Ministry of Economy and to the Ministry of Agrarian Policy. The Committee and the authorized commodity exchanges published the quantity offered for sale, the terms of admission, and the place and date of the auction in two national newspapers seven days before the auction. The Committee should receive the applications, accompanied by a notarized copy of the registration certificate of the legal entity or entrepreneur, no later than three days before the auction date. The Committee would announce the list of participants the day before the auction, and minimum two participants were needed for the auction to be valid. Participants were required to pay an accreditation fee and an auction duty to the authorized commodity exchange, and transfer in advance the established minimum price of one lot to a special account at the State Treasury. In 2003, the starting price had been set at € 600,000 per lot (10,000 tons). Successful bidders settled the difference between the price of the acquired lots and the advance payment with the State Treasury within three days after the closure of the trading session. Purchased lots could not be resold. No applicant was authorized to buy more than 50 per cent of the import volume, and 20 per cent of the tariff rate quota was reserved for new entrants. In 2003, the Supreme Rada had authorized tariff rate quotas totalling 560,000 tons of raw cane sugar - 200,000 tons with a specific import duty of € 60 per ton, and an additional 360,000 tons at € 6 import duty per ton.

104. Some Members stated that the current allocation system for tariff rate quotas – in particular the auctioning method, including its starting price provisions – was inconsistent with WTO rules. A Member also noted that this measure had not been reflected in Ukraine's latest goods offer. Ukraine was also requested to provide the legal instruments pertaining to the establishment and administration of tariff rate quotas.

105. In reply, the representative of Ukraine said that upon accession to the WTO Ukraine would modify the system of tariff rate quota allocation for raw sugar, as described in document WT/ACC/UKR/110/Add.1. In addition, he stated that Ukraine would not use auctioning for the allocation of raw sugar from the date of accession.

106. Responding to a specific question, he stated that Ukraine was not considering legislation to introduce a tariff rate quota on poultry products. In response to specific concerns raised by a Member, he also stated that Ukraine was not currently applying tariff rate quotas on imports of cognac and had not applied such quotas in 2003.

107. A Member raised concerns over the use of auctioning as a method of allocating tariff quota. In the view of this Member, auction prices represented additional imposts on amounts imported under the quota that would be inconsistent with tariff commitments established under Article II of GATT 1994 and Article 4 of the Agriculture Agreement where the total imposts on those amounts were raised to levels that exceed the in-quota bound rate. As well as being additional imposts on imported amounts, the auction prices concerned also represented minimum import prices to purchasers of products that enter under the quota where they placed a floor under the prices payable by those purchasers for imports and accordingly afforded additional protection to domestic production, inconsistently with Article XI of GATT 1994 and Article 4 of the Agriculture Agreement. Moreover, the terms and conditions of importation of a product subject to auctioning could not be fully known in advance and could therefore not meet appropriate standards of transparency and predictability under Article X of GATT 1994 and Article 4 of the Agriculture Agreement. In addition, where a starting price was used under a normal auctioning method, the starting price would itself represent a minimum import price and accordingly would be inconsistent with Article XI of GATT 1994 and Article 4 of the Agriculture Agreement. The Member concerned also raised concerns over any non-automatic licensing associated with the allocation or other administration of tariff quota that would have trade-restrictive or -distortive effects on imports additional to those occasioned by the quantity-limited in-quota rate and the out-of-quota rate, contrary to the provisions of the Agreement on Import Licensing Procedures. This Member called upon Ukraine to allocate tariff quota consistently with the WTO from the date of accession.

108. The representative of Ukraine said that from the date of accession Ukraine would allocate tariff quota only in conformity with the WTO Agreement, including Articles I, II, VIII, X, XI and XIII of GATT 1994, Article 4 of the Agriculture Agreement, the Agreement on Import Licensing Procedures and other WTO provisions. Ukraine would not maintain, apply or revert to the auctioning of tariff quota for any product. Allocation methods used would not have trade-restrictive or – distortive effects on imports additional to those occasioned by a quantity-limited in-quota rate and an out-of-quota rate and would take account of the need to issue any licenses in economic quantities. Any arrangements applied would be administered and applied in a uniform, impartial, reasonable, transparent, predictable and fair manner. Ukraine would introduce a process for consultation with trading partners, importers and exporters prior to the amendment of tariff quota regulations, involving public notification of intended arrangements and the provision of adequate opportunity for comments to be made before final decisions are taken and implemented on such changes. [Tariff quota under the bound tariff rate quota for raw cane sugar would be allocated by the first-come-first-served method.] The Working Party took note of these commitments.

- **Fees and charges for services rendered**

109. The representative of Ukraine said that the Customs Code (Articles 47, 76, 77, 85, 86 and 87) and Cabinet of Ministers' Resolution No. 65 "On Customs Duty Rates" of 27 January 1997 had established fees for customs-related services such as customs clearance, temporary imports or exports, storage, warehousing, issue of certificates, registration, etc. These fees would be in force until 1 January 2006. The list of such fees is reproduced in Table 12(a). To simplify the customs clearance of motor vehicles and cargo, the Supreme Rada had approved the Law "On Amendments to the Law of Ukraine "On the Introduction of the Unified Fee charged at Points of Entry through the State Border of Ukraine"" No. 2659-III on 12 July 2001. The Law provided for a one-time unified fee (Table 12(b)) levied at the border and covering customs inspection; sanitary, veterinary, phytosanitary, radiological and environmental controls; as well as the use of Ukraine's highways from the border to the point of destination. The unified fee did not include import licence fees or charges for mandatory certification, which were not levied at the border entry points. The unified fee would enter into force on 1 January 2006. Unlike the customs clearance fee, which was expressed in US dollars, the unified fee was stipulated in Euro but payable in hryvnia at the official exchange rate. In his view, this apparent discrepancy was not discriminative since both currencies were freely convertible. The distinction existed solely because the Euro had not been in circulation in 1997 when the customs clearance fee had been defined by Cabinet of Ministers' Resolution No. 65 "On Customs Duty Rates". Beyond the unified fee, the new Customs Code No. 92-IY (Article 71) of 11 July 2002 envisaged only fees for customs clearance of goods outside the offices of the customs authorities or

outside regular working hours. The supplementary charges for off-location or overtime customs clearance had been established by Resolution of the Cabinet of Ministers No. 93 of 18 January 2003, and ranged from US\$ 20 to US\$ 50 per hour worked (Table 12(c)). Customs operations were effected round the clock. He confirmed that the overtime and off-location customs clearance fees were already in place and held the view that these fees reflected the approximate cost of services rendered.

110. Ships arriving in Ukraine were charged port fees pursuant to Resolution No. 1544 of the Cabinet of Ministers "On Port Fees" of 12 October 2000 (detailed information is provided in documents WT/ACC/UKR/110/Add.2, Annex 7, and WT/ACC/UKR/118, Annex 3).

Table 12(a): Customs clearance fees in Ukraine (until 1 January 2006)

Customs Fee Type	Rate (US dollars)
1. Customs clearance of goods and other items with customs value:	
- up to \$100	Free
- \$100-1000	5
- more than \$1000	0.2% of the customs value of goods and other items, but no more than the equivalent of \$1000
2. Customs clearance of property temporarily imported to (exported from) Ukraine upon a commitment to (re-import) re-export it:	30
- for every customs cargo declaration	30
- for every additional sheet supplemented thereto	15
3. Customs clearance of goods in transit (currently not valid):	
- for every customs cargo declaration	7
- for every additional sheet supplemented thereto	3
4. Customs clearance of goods brought to customs licence warehouse:	
- for every customs cargo declaration	30
- for every sheet supplemented thereto	15
5. Keeping goods and other items under customs control, per day:	
- first 15 calendar days	free
- every next calendar day	0.05% of the customs value of goods and other items
6. Customs clearance of goods and other items in the customs control zones, on territories and premises of enterprises where such goods and other items are stored, or during non-working hours (per one hour work of one customs officer):	
- during working hours	20
- during non-working hours, on Saturdays, Sundays	40
- holidays	50
7. Refusal from ordered services provided in Section 6 hereof, without giving a previous notice in writing:	20
8. Customs clearance of an individual means of transport provided it is used for carriage of goods and other items in amounts subject to customs duty:	10
9. Issuing certificates and permits for registration (re-registration) of means of transport imported to Ukraine, including brought to Ukraine for temporary use, and also numbered aggregates that are subject to registration with the State Automotive Inspectorate:	15
10. Storage of goods and other items at the customs warehouses excluding goods and other items specified in the Customs Code of Ukraine, Article 86), per day (for 1 kg):	
- first 10 calendar days	0.1
- every next calendar day	0.5
11. Storage of goods and other items subject to compulsory transfer to and keeping under the customs and specified in the Customs Code of Ukraine, Article 86, per day (for 1 kg):	

Customs Fee Type	Rate (US dollars)
- first 10 calendar days	0.1% of the value of goods and other items
- every next calendar day	0.5% of the value of goods and other items
12. Issuing the certificate recognizing the enterprise as a declarant (for a period up to one year):	1,500
13. Prolongation (re-registration) of the certificate recognising the enterprise as a declarant (annually)	1,000
14. Issuing the certificate of confirmation of delivery of goods accepted under export control regime of Ukraine	100

Table 12(b): Unified fee for customs and other inspection, and for usage of Ukraine's highways (applicable as of 1 January 2006)

Type of motor vehicle	Capacity or weight of charged motor vehicle	Unified fee in €	
		For performance of border control, per motor vehicle	Supplement for use of Ukrainian highway to final destination, per kilometre
1. Buses	From 10 to 30 seats inclusive	2	0.02
	Over 30 seats	5	0.02
2. Trucks with or without trailers and tractors with or without semi-trailers	Under 20 tons inclusive	5	0.02
	Over 20 to 40 tons inclusive	10	0.02
3. Heavy-weight motor vehicles	Over 40 to 44 tons inclusive	10	0.1
	Over 44 to 52 tons inclusive	10	0.2
	From 52 to 60 tons	10	0.27
	Over 60 tons (per additional 10 ton)	10	0.78
4. Large-size motor vehicles with axial load exceeding	Under 5% inclusive	-	0.05
	Over 5% to 10% inclusive	-	0.1
	Over 10% to 20% inclusive	-	0.27
	Over 20% for each next 5%	-	0.15
5. Large-size motor vehicles with exceeding of width, height, length parameters	For each parameter	-	0.03
6. Railway car, container		2	-

Table 12(c): Overtime and off-location customs clearance fees

Description of Operation	Per One Hour of Work of a Customs Body Official during the Customs Clearance of One Consignment of Goods or One Vehicle, US\$	
1. Customs clearance of goods and vehicles performed out of the location of customs bodies:		
	During working time	20
	During overtime, night time and on weekends	40
	On holidays and nonworking days	50
2. Customs clearance of goods and vehicles performed at the location of customs bodies beyond the hours of operation set for customs bodies:		
	During overtime, night time and on weekends	40
	On holidays and nonworking days	50

111. Some Members noted that the fees mentioned in Table 12(a) were not totally consistent with Article VIII of GATT 1994. For instance, the *ad valorem* fee for goods valued at more than

US\$ 1,000 did not correspond to the approximate cost of services rendered. Specifically, the representative of Ukraine was requested to confirm whether Ukraine continued to levy *ad valorem* charges for the customs clearance of goods for re-export; products brought into a licensed customs warehouse; goods under customs control and goods at customs control zones within territories and in premises of enterprises that were storing such goods and other items, or after regular working hours. Ukraine was requested to remove the *ad valorem* fees at the latest from the date of accession. Some Members also noted that the unified fee, while equal for domestic and foreign operators, depended on the type of vehicle and not the cargo carried by it, and therefore, asked Ukraine to clarify how the unified fee could correspond to the approximate cost of the services rendered. Members also sought information on the collection of the unified fee.

112. In reply, the representative of Ukraine said that customs-related fees enumerated in Table 12(a) would be applicable until 1 January 2006. He added that, pursuant to Cabinet of Ministers' Resolution No. 362 of 18 May 2005, import and export licensing fees would reflect the cost of services rendered. He stated that the unified fee implied a major simplification of border crossing procedures, and that the level of the fee corresponded to the average cost of all types of control performed at the border.

113. A Member noted that Ukraine charged port fees at differentiated rates – regular and reduced rate – according to the flag of the vessel, and requested that the two-fee system be removed upon accession to achieve consistency with Articles I, II and VIII of the GATT 1994. Another Member asked Ukraine to confirm whether any of the ship fees, berthage fees, canal fees, lighthouse fees, cargo fees and other port fees were *ad valorem* in nature. In reply, the representative of Ukraine said that the Cabinet of Ministers had adopted Resolution No. 1069 "On amendments to the Regulation on port fees" on 17 July 2003, which had equalized the regular and reduced-rate port fees for foreign owned vessels and removed completely the last restriction in the maritime transport services market. The ship, lighthouse, canal, berthage, anchor, administrative and sanitary fees for vessels were generally stipulated in specific amounts per cubic metre, as detailed in document WT/ACC/UKR/118, Annex 3.

114. Asked to provide information on Ukraine's system for setting tariffs (prices) for transportation of goods by rail, the representative of Ukraine replied that the Ukrainian railway was a natural monopoly, and as such, operated within the regulatory framework that governed the activities of natural monopolies (including pricing policy). Tariff regulation of railway services, in particular, was carried out in accordance with the Laws "On Transport", "On Railway Transport", "On the Ratification of the Agreement on Carrying out a Coordinated Policy in Determining the Transport



Tariffs", as well as Resolutions of the Cabinet of Ministers No. 1548 of 25 December 1996, No. 457 of 6 April 1998 and No. 105 of 21 January 2003. The Ministry of Transport Communication and the Ministry of Economy no longer had the authority to establish the tariffs for goods transportation by rail (pursuant to Resolution No. 105 "On Amendment of the Addendum to the Resolution of the Cabinet of Ministers of Ukraine No. 1548 of 25 December 1996"). A mechanism for introducing proposals by the Ministry of Transport Communication to the Cabinet of Ministers was in preparation, but the procedure for the approval of tariffs had not yet been established.

115. He added that differential tariffs were applied for the transportation of certain products, notably iron ore, coal, carbamide, ferrous and non-ferrous scrap metal, as well as (since 2004) cast iron, coke, oil products, fertilizers, grain and foodstuffs. The decision for allowing the differential pricing had been adopted by the Cabinet of Ministers at the initiative of several interested Ministries. In his view, the difference between tariffs applied for the transportation of exports/imports and tariffs applied domestically was relatively modest (1.19 times higher for transportation of imports/exports) and of negligible economic impact as far as exports were concerned. Differential tariff rates were applied only for freight transportation of ferrous metal, fertilizers, timber and tar of coal in the direction of Reny port and the transportation of ferrous metal in the direction of Illichevsk port. Concerning differential tariff rates accorded to certain trading partners, he said that Ukraine had signed international agreements with CIS member-States that aimed at coordinating tariff policies in the railway sector. These international agreements defined the areas under which individual economic operators were to sign special bilateral agreements, rather than detailing the preferential rates.

116. Some Members asked Ukraine to accept a commitment to apply railway tariffs in conformity with WTO obligations and to end any discrimination upon accession. A Member requested Ukraine to clarify, in particular, the situation with regard to transit. In reply, the representative of Ukraine said that the process of harmonization of rail transportation tariffs had begun with the adoption of Cabinet of Ministers' Order No.91-r "On Indexation of Tariffs for Transportation of Cargos by Railway Transport and Related Services" of 1 April 2005. Thus, tariffs for the transportation of coal, grain and ferrous metal scrap had already been equalized. Differential pricing was still applied to the tariffs charged for the transportation of iron ore raw materials, cast iron, rolled ferrous metal, mineral fertilizers, foodstuff and oil products. Proposals for the equalization of the outstanding tariffs would be prepared upon the expiration of a moratorium on the increase of transportation tariffs (in force until 16 September 2005). He confirmed that Ukraine would harmonize differential railway tariffs for the transportation of goods by the date of accession.

117. [The representative of Ukraine confirmed that Ukraine would ensure that any fees and charges for services rendered listed in Tables 12(a), 12(b) [and 12(c)] or introduced in the future would only be applied in conformity with the relevant obligations of the GATT 1994, and from the date of accession any application of fees and charges by Ukraine for services rendered on or in connection with importation, exportation [or transit] would be in accordance with the relevant provisions of the WTO Agreements, in particular Articles I, [III,] V, VIII, X and XI of the GATT 1994. After accession, information regarding the application and level of any such fees, revenues collected and their use, would be provided to WTO Members upon request. The Working Party took note of these commitments.]

- **Application of Internal Taxes on Imports**

- **Excise Taxes**

118. The representative of Ukraine said that the entities – manufacturers and importers of excisable goods – that were liable to pay excise taxes were defined in Article 2 of the Decree of the Cabinet of Ministers "On Excise Duty" No. 18-92 of 26 December 1992 (as amended). He also noted that excise duties were stipulated in *ad valorem*, specific and combined or mixed rates (i.e. *ad valorem*, but not less than the specific rate).

119. Some Members noted that Ukraine's excise duty regime differentiated between imported and domestically-produced goods, providing for lower rates for domestically-produced wines, non-filter cigarettes, and certain motor vehicles, as well as reduced rates for ethyl alcohol used in research, laboratories or by health care institutions, and for the manufacture of certain goods. These Members noted that the excise tax on motor vehicles was based on the cubic capacity of the engine, and thus biased against automobiles with larger-size engines. Concerning alcoholic beverages, some Members noted that Ukraine required "excise stamps" to be fixed on each bottle prior to importation, whereas domestic producers were only required to affix the stamps before commercialization. Ukraine was requested to acknowledge the WTO inconsistencies in its present excise tax regime, and commit that Article III of the GATT 1994 would be observed fully from the date of accession.

120. The representative of Ukraine replied that excise taxes were levied on alcoholic beverages, ethyl alcohol, tobacco, petroleum products and motor vehicles on the basis of the Laws "On Rates of Excise Tax and Import Duties on Ethyl Alcohol and Alcoholic Beverages" No. 178/96-BP of 7 May 1996, "On Rates of Excise Tax and Import Duties on Certain Categories of Vehicles" No. 216/96-BP of 24 May 1996, and "On Rates of Excise Tax and Import Duties On Certain Commodities" No. 313/96-BP of 11 July 1996, as amended. He said that Ukraine applied excises

taxes uniformly on all imports on the basis of the "destination principle" and confirmed that excise taxes were not imposed on goods destined for exportation, i.e. goods for which a customs cargo declaration had been issued. The excise tax rates in force in April 2005 and the products affected are enumerated in Table 13. In response to a specific question, he confirmed that this list was exhaustive and that no excise duty was levied on jewellery. As for the affixing of "excise stamps", he did not consider this an element of discrimination as foreign producers marked the alcoholic products and tobacco products destined for the Ukraine market in the course of the production process, and so did Ukrainian manufacturers.

121. He added that Law No. 2505 "On Amendments to the Law of Ukraine "On the State Budget of 2005" and Some Other Legislative Acts" of 25 March 2005 had cancelled the excise tax preferences on domestically-produced cars, pickup (freight/passenger) vehicles and motorcycles, as well as on the components used in the production of these vehicles. A synoptic overview of measures affecting the automotive sector, including the application of internal taxes, is provided in Table 21. The Law "On Excise Tax Rates on Ethyl Spirit and Alcoholic Beverages" imposed higher tax rates on imported alcoholic beverages, but only until the date of Ukraine's accession to the WTO (Article 7). His Government was developing a draft Law "On Amending Certain Laws on Issues of Excise Taxation" which would accelerate the elimination of these higher taxes. The mechanisms for the administration of excise taxes, the monitoring of production procedures, and the circulation and designated use of ethyl spirit would be significantly improved. As for non-filter cigarettes, he stated that no discrimination existed between imported and domestically-produced goods in the application of excise duty in this sector.

122. The representative of Ukraine confirmed that from the date of accession, Ukraine would apply its domestic taxes including the excise taxes and the value added taxes in full compliance with the relevant provisions of the WTO including Articles I and III of the GATT 1994, in a non-discriminatory manner to imports from all WTO Members and to domestically produced goods. The Working Party took note of this commitment.

- **VAT**

123. The representative of Ukraine said that Value Added Tax was applied pursuant to the Law "On Value Added Tax" No. 168/97-SR of 3 April 1997, entering into force on 1 July 1997 and replacing the Cabinet of Ministers' Decree No. 14-92 "On Value Added Tax" of 26 December 1992. VAT was levied at the general rate of 20 per cent, but numerous goods and services were exempt or zero-rated. Thus, the Law had zero-rated coal, coal products and electricity provided to households until 1 January 2000, and zero rate VAT was also applied to meat and milk products in Ukraine. The

zero rate VAT for milk and meat products would be in force until 1 January 2006. As of 1 January 2005, all gas imports would be exempt from VAT, while the import of other energy products (including raw oil and natural gas condensate) would be subject to 20 per cent VAT. This new regime would be applied in a non-discriminatory manner, irrespective of the country of origin. Domestic energy products were not exempt from the payment of VAT. Exports were zero-rated. The VAT paid for an operative leasing agreement was tax deductible, except for financial leasing.

124. He added that Article 11.5 of the Law "On Value Added Tax" allowed taxpayers to issue promissory notes for the payment of VAT. This provision did not apply to the importation of excisable goods, nor to agricultural goods. Asked about the possibility for foreign companies to use promissory notes for the payment of VAT, he said that the Law "On Value Added Tax" had been amended pursuant to Law No. 2505 "On Amendment of the Law of Ukraine "On the State Budget of Ukraine for 2005" and Some Other Legislative Acts" of 25 March 2005. Ukraine had thus eliminated the less favourable treatment of enterprises with foreign investment with regard to the use of promissory notes (see also section on "Investment Regime").

125. [The representative of Ukraine stated that, from the date of accession, the regime regulating the use of promissory notes would be non-discriminatory and in compliance with Article III of GATT 1994. The Working Party took note of this commitment.]

126. Some Members noted that sales of domestic automobiles were exempt from VAT until 1 January 2008, and that many other sectors – from shipbuilding to aircraft and spacecraft – enjoyed similar treatment. A Member stated that Ukraine should eliminate differential VAT rates (and excise taxes) applied to imports of automobiles by the date of accession.

127. The representative of Ukraine replied that, during 2004, the Law "On the State Budget of Ukraine for 2004" had suspended the VAT privileges for domestically-produced automotive vehicles (except for enterprises with an investment programme approved prior to 1 January 2004), and for imports of inputs for shipbuilding and aircraft construction (except for some 150 companies which had signed contracts prior to 2004 and provided the advance payments received had exceeded 20 per cent of the contract price). Moreover, Law No. 2505 "On Amendments to the Law of Ukraine "On the State Budget of Ukraine for 2005" and Some Other Legislative Acts" of 25 March 2005 had abolished VAT exemptions extended to the automobile, shipbuilding and aircraft construction industries. Information on the VAT exemptions that had been granted to legal entities was provided in document WT/ACC/UKR/119.

128. He added that the Law "On Value Added Tax" exempted medicines registered in Ukraine, as well as imported medicines, from the payment of VAT. Law No. 1344-IV "On the State Budget for the Year 2004" had suspended this exemption during 2004 for both domestic and imported medicines. However, Law No. 2505 "On Amendments to the Law of Ukraine "On the State Budget of Ukraine for 2005" and Some Other Legislative Acts" of 25 March 2005 had restored the VAT exemption for both domestic and imported medicines.

129. A Member noted that Ukraine provided several forms of VAT exemptions to its agricultural producers that were inconsistent with Article III of the GATT 1994, irrespective of whether these measures constituted a form of domestic support to local producers. This Member requested Ukraine to repeal these policies.

130. The representative of Ukraine replied that two mechanisms were in place in the agricultural sector. One regime applied to the production of milk and meat; the other allowed other agricultural producers to deposit and use accumulated VAT for purchases of agricultural inputs. Milk and meat (live weight) producers sold their output to the processors assessing VAT at a zero rate. The processors applied 20 per cent VAT to the sales of the final products, deducting 20 per cent VAT on all inputs, even though no VAT was collected on the milk and meat in live weight purchased from agricultural producers. The VAT liability, which would normally be payable to the State budget, was transferred, as a subsidy, to milk and meat producers. For agricultural products other than milk and meat, a second mechanism – involving the accumulation of VAT for the purchase of agricultural inputs – had been put in place. The Law "On Value Added Tax" had exempted agricultural enterprises from VAT until 1 January 2004 with respect to transactions involving sales of goods (works, services) of their own production, including products manufactured under tolling arrangements, except for excisable goods. These exemptions had been extended until 1 January 2005 through the Law "On Amendments to the Law "On the State Budget of Ukraine for the Year 2003" and certain other Legislative Acts" No. 849-IV of 22 May 2003 and the Law "On the Prolongation of Effect of Certain Provisions in the Law of Ukraine "On Value Added Tax"" No. 1352-IV of 28 November 2003. The Law "On Amendments to Certain Laws on Taxation of Agricultural Enterprises" No. 2287 of 23 December 2004 had extended these exemptions further, allowing the use of the VAT accumulation mechanism until 1 January 2006. He stressed that agricultural producers were required to pay 20 per cent VAT on their inputs, and the agro-industry calculated 20 per cent VAT on agricultural commodities they purchased from agricultural producers. However, these payments were not channelled into the State budget, but transferred to special accounts the agricultural producers held in commercial banks. The agricultural producers could use the funds accumulated in these accounts to purchase agricultural inputs – fuel, seeds, fertilizer, pesticides and

agricultural equipment or machinery – whether domestically-produced or imported. He emphasized that both VAT regimes – the one governing the taxation of milk and meat products sold by processing enterprises, and the one governing the taxation of all other agricultural products – provided for the non-discriminatory application of a 20 per cent VAT rate on all agricultural products sold, whether or not these products were imported or domestically-produced. He considered these measures to be compliant with Article III of the GATT 1994, generating a subsidy tantamount to "revenue foregone" by his Government and thus to be examined under the provisions of the Agreement on Agriculture.

131. A Member noted that the VAT regime governing the production of milk and meat appeared to benefit processors rather than producers and as such would not satisfy the criterion of paragraph 7 of Annex 3 of the Agreement on Agriculture. As the VAT measures appeared to apply solely in relation to the use of domestic goods by processors, these measures would also be inconsistent with the provisions of Article 3.1(b) of the Agreement on Subsidies and Countervailing Measures. This Member asked Ukraine to indicate how it would eliminate VAT measures applicable to milk and meat by the date of accession. As for the VAT regime governing agricultural products other than milk and meat, this Member noted that the requirement that the accumulated VAT funds be transferred to special bank accounts would appear to restrict producers' discretion over the uses to which accumulated VAT funds may be put. This measure would, therefore, amount to an internal quantitative regulation applicable to purchases undertaken by producers and would distort investment incentives in agriculture. A Member asked whether any plans existed to extend this exemption system for agricultural products beyond 1 January 2005.

132. The representative of Ukraine replied that, in his view, the sole beneficiaries of the VAT mechanism governing milk and meat production were milk and meat producers. Processors acted as mere intermediaries who were authorized by the State to transfer their VAT liabilities, as subsidies, to agricultural producers. Thus, he did not consider the existing mechanism more advantageous to processors rather than to producers of basic agricultural products. Concerning the VAT regime governing other agricultural products, he said that he did not perceive VAT accumulation as a distortion. He reiterated that, in essence, the State provided an input subsidy for agricultural producers in the form of accumulated VAT, rather than through direct payments from the budget. He added that the regime governing the taxation of agricultural products would also be applied in 2005.

133. The Law "On Amendments to Certain Laws of Ukraine on Taxation of Agricultural Producers and Support of Social Standards for their Employees" (Article 81) foresaw the introduction a new special regime for the taxation of agricultural products, thus supplementing the Law "On the Value Added Tax". The new special regime would come into force on 1 January 2006 and would

apply to agriculture, forestry and fish (and related processing), providing for the application of a sales tax of 9 per cent (agriculture) and 6 per cent (forestry and fish). Agricultural enterprises could dispose of the accumulated tax at their own discretion. During the transition period a VAT rate of 10 per cent would be introduced. The lower VAT rate would be applicable until 1 January 2007. Agricultural enterprises were free to switch to the new special regime but had to register in order to do so. They could also continue to operate under the general VAT regime, which provided for 20 per cent VAT on agricultural products.

134. Some Members stated that the new special regime discriminated against imported agricultural goods, which would be subject to a VAT rate of 20 per cent, and as such was inconsistent with Article III of GATT 1994. These Members sought a commitment from Ukraine to eliminate this practice by the date of Ukraine's accession to the WTO. Some Members reiterated their view that discriminatory tax exemptions, irrespective of purpose, violated Article III of the GATT 1994 and therefore had to be eliminated. In reply, the representative of Ukraine said that Ukraine would amend the Law "On Amendments to Certain Laws of Ukraine on Taxation of Agricultural Producers and Support of Social Standards for their Employees" prior to WTO accession. Specifically, by the end of 2005, Ukraine planned to eliminate the provision allowing the discriminatory application of VAT rates.

135. The representative of Ukraine confirmed that from the date of accession, Ukraine would apply its domestic taxes including the excise taxes and the value added taxes in full compliance with the relevant provisions of the WTO including Articles I and III of the GATT 1994, in a non-discriminatory manner to imports from all WTO Members and to domestically produced goods. The Working Party took note of this commitment.

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

136. The representative of Ukraine said that the Law "On Foreign Economic Activity" No. 959-XII of 16 April 1991 allowed quantitative import restrictions to be introduced (i) in the event of a significant deterioration in Ukraine's balance of payments, or reserves of gold and foreign currency; (ii) to protect human, animal or plant life or health; public morals; the environment; national treasures of artistic, historic or archaeological value; or national security; (iii) on imports of precious metals, except for banking metals; (iv) for the protection of intellectual property, including patents, trademarks and copyright; (v) to fulfil Ukraine's obligations under international treaties; or (vi) in the implementation of safeguard measures. In his view, these provisions were in accord with the situations foreseen in Articles XII, XIX, XX and XXI of the GATT 1994.

137. Importation (and exportation) of arms, ammunition, military equipment and products containing information constituting State secrets, was governed by the Law "On State Control over International Transfers of Products of Military Designation and Dual Use" No. 549-IV of 20 February 2003. Those engaged in such trade required authorization from the Cabinet of Ministers, and the control procedures had been laid down in several Resolutions of the Cabinet of Ministers, i.e. Resolution No. 384 "On Approval of the Regulation on Procedures for Control over Exports, Imports and Transit of Products that may be used in the Manufacturing of Chemical, Bacteriological (Biological) and Toxic Weapons" of 22 April 1997; Resolution No. 563 "On Approval of the Regulation on Procedures for Control over Exports, Imports and Transit of Missile Devices, as well as Equipment, Materials and Technologies used in the Manufacturing of Missile Weaponry" of 27 July 1995; Resolution No. 302 "On Approval of the Regulation on Procedures for Control over Exports, Imports and Transit of Products that relate to Nuclear Activities and may be used in the Manufacturing of Nuclear Weapons" of 12 March 1996; and Resolution No. 1005 "On Procedures for Control over Exports, Imports and Transit of Certain Types of Devices, Equipment, Materials, Software and Technologies that may be used in the Manufacturing of Armaments, Military or Special Equipment" of 22 August 1996.

138. Asked specifically about the existence of bans on imports, he stated that import bans could be imposed in exceptional cases to protect human, animal or plant life and health, in compliance with Article XX (b) of the GATT 1994 (Table 14(a)).

139. A Member noted that Ukraine had prohibited the import of buses and trucks that were more than five years old under the Cabinet of Ministers Resolution No. 1191 of 8 September 2004 "On changes to the Rules of importation of means of transport to the Ukraine's territory". Ukraine had subsequently introduced new legislation raising the age of passenger vehicles, buses and trucks subject to import bans to eight years. This Member urged Ukraine to eliminate these import bans prior to WTO accession.

140. The representative of Ukraine replied that from the date of accession Ukraine would not apply import restrictions related to the age of vehicles imported into Ukraine. Ukraine had already limited the restriction related to the age of vehicles from five to eight years old. In addition, draft legislation that would eliminate the restriction on second-hand vehicles was in preparation.

141. Some Members noted that Ukraine had restricted livestock imports through annual quotas from 1997 to 2003 under the Law "On State Regulation of Agricultural Imports" No. 468/97 of July 1997, subsequently amended by Law No. 32/98 of January 1998, and sought a commitment from Ukraine not to maintain, introduce or revert to any such quotas or any other quantitative



restrictions – including in relation to the importation of livestock – that have no valid WTO justification after accession. These Members also noted that Ukraine would have to conform with the provisions of Article XI:1 of the GATT 1994 and Article 4 of the Agreement on Agriculture.

142. The representative of Ukraine replied that import quotas were applied only in connection with safeguard measures (Table 16) and as preferential import tariff quotas on some food products established under the free trade agreement with FYROM (Table 11(b)). Ukraine's anti-dumping legislation provided for the use of anti-dumping duties, but not for import quotas nor for licensing. As for livestock, the validity of Article 3 of the Law "On State Regulation of Agricultural Imports" had expired in 2003 and livestock imports were no longer subject to quotas.

143. A Member asked Ukraine to undertake a commitment to refrain from the introduction of import quotas for meat both prior to and after accession to the WTO. In addition, this Member asked Ukraine to provide information on previously existing import quotas on raw cane sugar, as well as restrictions on electrical light bulbs and synthetic fur. This Member also expressed concerns regarding a requirement to export the entire output of domestically-produced refined sugar derived from imported raw sugar, noting that this measure would violate Article III of the GATT 1994 as well as the TRIMs Agreement. This Member sought clarification as to when this provision would be repealed.

144. In reply, the representative of Ukraine confirmed that no import quotas on meat existed in Ukraine and that Ukraine would not introduce such measures in the future. He added that safeguard measures in the form of import quotas on electric light bulbs and synthetic fur had been terminated on 22 May 2003. Concerning the import quota on raw cane sugar, he said that an import quota had been established in 1994 pursuant to Resolution No. 1046 of the Cabinet of Ministers of 17 December 1993. This Resolution had been invalidated as of 1 January 1995. Thereafter no import quotas on raw cane sugar had been used. He emphasized that even though import quotas had been applied, they had not been used, as actual volumes of imported raw sugar in some years were smaller than the volumes set by legislation. Concerning the mandatory export requirement for sugar refined domestically from imported raw sugar, he said that Ukraine would amend its legislation in order to cancel this rule, and revoke the mandatory exportation of raw cane sugar prior to WTO accession (see sections on "Trade-Related Investment Measures" and "Agricultural Policies").

145. A Member was concerned about the consistency of Ukraine's preferential import quotas with the provisions of Article XXIV:8(b) of the GATT 1994. This Member requested Ukraine to notify all import quotas, other than safeguard measures, and asked for information on how these would be eliminated upon accession. The representative of Ukraine replied that upon accession Ukraine would

notify its free trade agreement with FYROM to the WTO Committee on Regional Trade Agreements and would comply with its recommendations. He added that information on import quotas (tariff rate quotas) applied in Ukraine was available in Tables 11(a) and 11(b).

146. A Member noted a statement by Ukraine that import quotas allocated to individual importers "may not exceed 35 per cent of the size of the quota period or such other period envisaged by the relevant decision of the Commission" and questioned the consistency of this requirement with Article 3:5(h) of the Agreement on Import Licensing Procedures. The representative of Ukraine replied that this provision stemmed from the antimonopoly legislation of Ukraine. However, an importer having exhausted his 35 per cent share of a quota could apply again for another licence within the same quota period.

147. On the subject of licensing, the representative of Ukraine said that Ukraine had implemented a licensing system to shield consumers against low-quality products, and to protect the environment from ozone-depleting substances. Licensing requirements directed at low-quality imports were no longer in force as Article 16 of the Law "On Foreign Economic Activity" had been amended in July 2003. A completed Questionnaire on Import Licensing Procedures was provided in document WT/ACC/UKR/99, subsequently revised and updated in document WT/ACC/UKR/99/Rev.1. The list of goods covered by the licensing regime and the licence terms were decided annually by the Cabinet of Ministers upon a proposal from the Ministry of Economy. Comprehensive lists of goods subject to licensing in 2005 are provided in Tables 14(b), 14(c) and 14(d). Import licences applied in connection with safeguard measures were issued on a first-in first-out basis.

148. He added that, for some of these products, the importer was also required to receive prior approval from the relevant administrative agency before obtaining the import licence. The prior approval was not automatic. Thus, for importation of herbicides permission was granted by the Main State Inspection on Plant Protection at the Ministry of Agricultural Policy while for agrochemicals the relevant agency was the State Technological Center for protection of Land Fertility of the Ministry of Agricultural Policy (in these cases, prior approval was necessary to ensure plant, soil and environmental protection). The Ministry of Science and Education approved the importation of optical polycarbonate for production of discs and laser reading systems, and the Ministry of Environmental Protection issued permits for ozone-depleting substances and products containing ozone-depleting substances. Goods subject to prior approval (non-automatic licensing) are listed in Tables 14(b) and 14(c).

149. Referring to Table 14(b), as well as Table 8(a), a Member invited Ukraine to include references to the TBT Agreement alongside references to GATT Article XX(b). This Member was

also concerned about Ukraine's justifications – provided in the framework of the GATT 1994 – regarding import approvals in relation to "precious metals and alloys", "precious stones", as well as "scrap metal" (Table 14(c)) and sought the elimination of the import approval requirements by the date of accession. Specifically, this Member noted that scrap metal was not an exhaustible natural resource and stated that import approval requirements could not be justified under GATT Article XX(g) nor under Article XX(b). The representative of Ukraine replied that, in practice, no import approval was applied to imports of "precious metals and alloys". He added that the references to "precious metals and alloys" and "precious stones" would be changed to "gold and silver" and that the Law "On Foreign Economic Activities" would be amended accordingly by the date of accession. As for scrap metal, he considered the provisions justifiable under Article XX(b) of GATT 1994 as the issuance of import approvals addressed concerns related to ecological and radiation safety. Nevertheless, he confirmed that Ukraine would eliminate import approval requirements for scrap metal by amending the Law "On Foreign Economic Activities" by the date of WTO accession.

150. Asked about the existence of automatic import licensing (Articles 1 and 2 of the Agreement on Import Licensing Procedures), the representative of Ukraine said that a list of goods subject to automatic licensing had been approved by Resolution of the Cabinet of Ministers No. 1722 of 23 December 2004. All subjects of economic activity (legal and natural persons), registered in accordance with the Ukrainian legislation, were equally eligible to apply for an import licence. A licence application could be submitted on any working day prior to the customs clearance of goods. A licence was issued as long as the application, including supporting documents, was completed in line with legal requirements. Approval of the application was granted in all cases, except if there had been gross violations of the rules governing the application procedure. Regardless of the type of goods concerned, a licence could be refused if (i) the submitted documents were not in compliance with legal requirements; (ii) the provisions of Law No. 959-XII "On Foreign Economic Activity" of 16 April 1991 were not observed; (iii) the applicant was subject to special sanctions, such as the application of an individual licensing regime or the suspension of the right to conduct foreign economic activity pursuant to Article 37 of the Law "On Foreign Economic Activity"; and (iv) the applicant or the foreign counterpart had breached laws governing foreign economic activity. An application could not be refused for minor documentation errors, which did not alter the principal data contained in the application, i.e. data covered by the terms and conditions of the foreign economic contract. He confirmed that the goods subject to automatic licensing were not subject to any other administrative procedures and added that this measure would remain in place until a more appropriate way was found to achieve the underlying administrative purposes. The list of goods subject to automatic licensing is reproduced in Table 14(d).

151. Licence applications were processed by the Ministry of Economy or, by delegation of authority, by the Ministry of Economy of the Autonomous Republic of Crimea, or the relevant division of oblast, Kiev and Sevastopol city State administrations. No deposit or advance payment was required and licence applications could be filed at any time during the year. Automatic licenses were issued within ten days against a charge of UAH 220 (approximately US\$ 45). Non-automatic licenses were issued either within 30 days (if applications were considered on a first-in first-out basis) or within 60 days (if all applications were considered at the same time) against payment of UAH 780 (approximately US\$ 155). All import licence fees reflected the cost of services rendered. The applicant could appeal a decision to refuse an import licence in a judicial order according to the provisions of the Civil Procedural Code and the Commercial Procedural Code. Licences were not transferable between importers. An import licence was valid until the end of the calendar year, but would still be effective for customs processing until 1 March of the following year. No penalties were imposed for partial or non-utilization of an import licence. Asked about the requirement to produce a certificate of origin for products subject to import licensing, the representative of Ukraine replied that this provision applied only to import licensing of ozone-depleting substances from countries determined according to the Montreal Protocol (information on certificates of origin is provided in the section on "Rules of origin").

152. Some Members understood that the Law "On Foreign Economic Activity" was being amended and sought further detail on the nature of the changes, in particular regarding Ukraine's application of import restrictions and its import licensing procedures. Ukraine was also requested to provide information on import licenses issued by the Ministry of Agrarian Policy to import certain products, including fish and other seafood.

153. The representative of Ukraine replied that the Law "On Foreign Economic Activity" was being revised to ensure full conformity with WTO rules on trade remedies, through the harmonization of existing provisions with WTO requirements and the introduction of new definitions. In particular, the principles of national treatment and most-favoured nation treatment with respect to foreign economic agents would be reflected in the new Law. The Ministry of Agrarian policy did not issue import licenses for any product, including fish and other seafood, and imports of fish and seafood products were not subject to licensing in Ukraine.

154. [[The representative of Ukraine confirmed that Ukraine will eliminate the ban on imports of buses and trucks of older than eight years and of cars older than eight years from the date of accession. After this date, the imported vehicles will be subject to the same domestic legislation that is applied to all cars of similar age used in traffic in the territory of Ukraine to ensure that they comply

with the relevant technical norms on safety and environmental standards.] From the date of accession, Ukraine would eliminate and would not introduce, re-introduce or apply quantitative restrictions on imports or other non-tariff measures such as licensing, quotas, bans, permits, prior authorization requirements, licensing requirements, and other restrictions having equivalent effect, that cannot be justified under the provisions of the WTO Agreement[, including measures referred to in paragraph [141]]. He further confirmed that the legal authority of the Government of Ukraine to suspend imports and exports or to apply licensing requirements that could be used to suspend, ban, or otherwise restrict the quantity of trade would be applied from the date of accession in conformity with the requirements of the WTO, in particular Articles XI, XII, XIX, XX, and XXI of the GATT 1994, and the Multilateral Trade Agreements on Agriculture, Sanitary and Phytosanitary Measures, Import Licensing Procedures, Safeguards and Technical Barriers to Trade. The Working Party took note of these commitments.]

- **Customs valuation**

155. The representative of Ukraine said that Section XI, Chapters 46 and 47, of the new Customs Code No. 92-IV of 11 July 2002 and the Cabinet of Ministers' Resolution No. 1375 "On Approval of the Procedure for Declaring the Customs Value of Goods that Move Across the Customs Border of Ukraine" of 28 August 2003, both of which had entered into force on 1 January 2004, had replaced the previous valuation rules based on the Customs Code of Ukraine of 12 December 1991. He confirmed that the Cabinet of Ministers' Resolution No. 1598 of 5 October 1998 had remained in force and effect until 1 January 2004. An English translation of the new Customs Code could be consulted at [www.welcometo.kiev.ua](http://www.welcometo.kiev.ua).

156. The new valuation regime was governed by Articles 259-273 of the Customs Code of Ukraine, establishing the transaction value for the import of goods as the principal valuation method (Article 267) and the sequence for the application of valuation methods in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (the Customs Valuation Agreement) in Articles 266 to 273. A detailed examination of the provisions of the Customs Valuation Agreement and the corresponding provisions of the new Customs Code was provided in document WT/ACC/UKR/110/Add.2, pages 30-34. The valuation provisions in the new Customs Code were, in his opinion, in full compliance with the WTO Customs Valuation Agreement.

157. Some Members stressed that the Interpretative Notes to the Customs Valuation Agreement were an integral part of the Agreement, and needed to be incorporated in full in national legislation. Moreover, Ukraine's legislation did not seem to provide the right of appeal to a higher authority within the Customs administration as an option to taking a matter to the courts, and Ukraine's practice

regarding the publication of administrative rulings and judicial decisions did not appear to be in line with the requirements of Article 12 of the Customs Valuation Agreement. Ukraine was also reminded that Article 7 of the Customs Valuation Agreement prohibited the use of arbitrary or fictitious values to determine the customs value; and that the Agreement contained critical provisions concerning the withdrawal of goods against surety with the final determination of customs value pending, the application of exchange rates, and protecting the confidentiality of information. Moreover, Ukraine's Customs Code appeared not to contain any reference to the use of Generally Accepted Accounting Principles (GAAP), and its provisions appeared to differ from the text of the Agreement with respect to the definition of transactions value, lack of provisions for deduction from transaction value, deficiencies in the criteria for the use of transaction value between related parties, lack of procedural protection for declarants when the declared value was rejected, gaps and differences concerning the valuation of royalties and licensing fees, as well as inconsistencies regarding the circumstances for using the "fallback method" of valuation. [Other discrepancies between the provisions of the WTO Agreement and the Customs Code with regard to valuation methods might be due to incorrect translation.]

158. In reply, the representative of Ukraine said that the State Customs Service was preparing a draft Law to amend the Customs Code to ensure the integration of the Interpretative Notes in Ukraine's legislation. The right to appeal decisions of the Customs authority was provided under Article 393 of the Customs Code. Decisions of customs offices subordinate to the regional customs administrations could be appealed to the regional customs administration, whose decisions could be brought before the State Customs Service. Simultaneously, the appellant could also file a complaint with the local court at the place where the valuation decision had been rendered. In this case, the higher customs authority would terminate its consideration of the complaint should the court accept the appeal. The procedure for appeal against the court's decision was determined by the Code of Administrative Violations and other laws. Moreover, the provisions for appeal procedures were fully reflected in the Amendments to the Customs Code (Article 264). Administrative decisions on valuation were at present published in the periodicals "Customs Affair", "Customs Broker", "Customs Newspaper" and "Customs Parallel". Court decisions were published in the periodical "Court Practice of the Supreme Court of Ukraine in Commercial Cases". The Customs Code would be amended to stipulate mandatory publication of administrative and court decisions on valuation. From the date of accession, decisions of the courts – particularly in the area of customs valuation – would be placed on the Internet site of the State Customs Service. [As far as Internet availability of court decisions was concerned, the precise date was not yet known.]

159. He added that Article 273 of the Customs Code stated that "arbitrary and non-credible values" could not be used to determine customs values. Article 264 of the Code did not authorize the Customs Service to charge the importer the cost of verification of the declared value, but simply stated that the Customs Service would not reimburse the importer for any additional expenses incurred by him or her for having to file supplementary information with the Customs Service. The exchange rates used by the Customs Service were the rates established by the National Bank for the day of commencement of customs clearance. Article 30 of the Law "On Information" contained a general provision, which allowed confidential business information to be disclosed by court order, in connection with criminal investigations conducted by law enforcement agencies and the tax administration, or if secrecy could endanger the life or health of the population – e.g. due to the poor quality of food products and consumer goods. Article 263 of the Customs Code stipulated that confidential information could be used by the Customs Service for customs purposes only, and could under no circumstances be disclosed without the declarant's permission. [The English translation of new Customs Code would be redone to eliminate inaccuracies caused by translation.]

160. As for Ukraine's adherence to the GAAP, he said that the Law "On Accounting and Financial Reporting in Ukraine" ensured that enterprises established in Ukraine used accounting methods which did not contradict international financial reporting standards. A TACIS project carried out in 2003-2004 had confirmed that Ukraine's accounting standards were based on international financial reporting standards. The requirement to use the Generally Accepted Accounting Principles would be stipulated in the legislative act adopting the Interpretative Notes. He added that Article 271 of the Customs Code included provisions for deductions from the transaction value which, in his opinion, were in line with the requirements of Article 5 of the Customs Valuation Agreement.

161. Asked specifically about the adoption of legislation amending the Customs Code, the representative of Ukraine said that a draft of the Amendments to the Customs Code and a draft of the Customs Order on Interpretative Notes had been prepared and would be adopted in the second half of 2005. The amendments to the Customs Code would reconcile the Code's provisions with those of the WTO Agreements, in particular with regard to the determination of country of origin of goods, the determination of customs value, and the mandatory publication of court decisions on customs issues.

162. A Member noted that minimum price provisions in the new Law "On State Support of Agriculture in Ukraine" No. 1877-IV of 24 June 2004 might be incompatible with the customs valuation method, as outlined in Article 273 of the Customs Code. This Member also sought the elimination of a US\$ 1,500 fee for firms to be recognized as declarants, listed in Table 12(a).

163. The representative of Ukraine replied that the Law "On State Support of Agriculture in Ukraine" did not provide for the application of mandatory minimum purchase prices on imported goods. Minimum purchase prices were used as an indicator for triggering market intervention aimed at supporting domestic agricultural producers. Pursuant to Article 8 of the Law, minimum and maximum purchase prices could only be applied to imports/exports temporarily if the Antimonopoly Committee concluded that the competitive operation of the market was threatened and the Cabinet of Ministers endorsed this finding. He emphasized that this provisional measure was aimed at preventing, or putting an end to, speculative or collusive pricing behaviour in the agricultural sector, in cases where standard State intervention procedures were ineffective. He also added that the customs value of imported goods was regulated in observance of section XI of the Customs Code (also see section on "Pricing Policies"). As for the US\$ 1,500 fee listed in Table 12(a), he confirmed that this fee was slated for elimination along with other customs fees.

164. [The representative of Ukraine indicated that Ukraine will apply the WTO provisions concerning customs valuation from the date of accession, particularly the Agreement on the Implementation of Article VII of the GATT 1994. The Working Party took note of these commitments.]

[The representative of Ukraine confirmed that, from the date of accession, Ukraine would apply the WTO provisions concerning customs valuation, including the Agreement on the Implementation of Article VII of the GATT 1994 and Annex I (Interpretative Note) and paragraph 2 of the Decision on Valuation of Carrier Media Bearing Software for Data Processing Equipment (Decision 4.1), providing that valuation of the software was based on the value of the media. He stated that Ukraine would not use any form of reference or minimum price or fixed valuation schedule for the valuation of imports or to apply duties and taxes, and that all methods of valuation used were in conformity with those provided for in the WTO Agreement on the Implementation of Article VII of the GATT 1994. The Working Party took note of these commitments.]

- **Rules of origin**

165. The representative of Ukraine said that Ukraine's non-preferential rules of origin were governed by Section XII of the 2002 Customs Code, Articles 276 to 285. The Code established the main criteria for determining the country of origin for goods, while the Resolution of the Cabinet of Ministers "On Approval of the Order of determination of Country of Origin of a Good, Crossing the Customs Border of Ukraine" No. 1864 of 12 December 2002 laid down detailed rules. Other relevant legislative acts included the Resolution of the Cabinet of Ministers No. 1861 of 12 December 2002, which approved the Procedure for the Verification of Certificates of the Ukrainian Origin of Goods,



and the Resolution of the Cabinet of Ministers No. 2030 of 27 December 2002, which approved the Schedule of Production and Technological Processes for Determining the Criterion of Sufficient Processing of Goods, and the Procedure for the Establishment and Application of the Criterion in Determining the Country of Origin of Goods. The implementation of the provisions of Article 2(h) and Annex II, paragraph 3(d) of the Agreement on Rules of Origin (i.e. the right of an importer, exporter or any person with a justifiable cause to seek an origin determination prior to shipment, delivered within 150 days and valid for three years, providing the facts and conditions underlying the assessment remain comparable) had been ensured, in his view, through the adoption of the Cabinet of Ministers' Resolution "On Supplementing the Procedure for Identifying the Country of Origin of a Product Which is Moved Across the Customs Border of Ukraine" No. 1443 of 28 October 2004.

166. As to preferential rules of origin, these were governed by international treaties and agreements concluded by Ukraine. At present, these included the rules of origin of the CIS countries, adopted by the Council of Governments of the Commonwealth of Independent Countries on 30 November 2000, and the rules of origin of the Free Trade Agreement between Ukraine and FYROM. The rules of origin of CIS countries were based on the wholly-obtained or minimal processing criterion as well as, for processed goods, the substantial transformation criterion involving change of tariff heading (at the four-digit level of the Harmonized System) and/or *ad valorem* percentage requirements. Imports from a CIS country covered by the wholly-obtained criterion included mineral resources, products of plant origin, animals and animal products, fish and fish products, products extracted from the sea bed, waste and scrap, high technology products made in open space or on board spaceships owned or rented from the CIS country; or products manufactured exclusively from the materials indicated above. Simple assembly operations; the preparation of goods for sale or transportation; preservation during storage or transport; mixing operations which did not result in an essentially different product; and the slaughter of cattle did not constitute sufficient transformation or processing. Imports from a CIS country were deemed to have undergone substantial transformation if the value added proportion exceeded 50 per cent. As for residency rules, a product qualified for free trade treatment if it was traded on the basis of a contract/agreement signed between residents of CIS member-States or if it was imported from the territory of a CIS member-State by a natural person resident in another CIS member-State. To be eligible for this treatment, goods could not leave the territory of member-States, unless direct transportation was impossible due to the geographical location of member-States, or in cases agreed upon with the competent authorities. The rules included a provision on the right to request prior assessment of origin. The rules had been published in official gazettes and were also accessible on the Internet. The Customs Code included additional provisions concerning the confidentiality of information, the right of appeal against

decisions of the Customs authorities in court, and the absence of retroactivity, in accordance with the Constitution of Ukraine.

167. Asked to clarify a reference to "particular countries" and "particular goods" found in Articles 278 and 279 of the Customs Code, the representative of Ukraine said that the sufficient processing criterion for a specific good or a specific country (countries) was applied in accordance with the requirements of the Customs Code and Resolution of the Cabinet of Ministers No. 2030 of 27 December 2002. According to this Resolution, goods originating in countries with which Ukraine had signed international agreements regulating the procedure for determining the country of origin of goods, the sufficient processing criterion was applied in accordance with the provisions of these agreements. Whenever the sufficient processing criterion had not been identified in the international agreement, the provisions of Articles 279 and 280 of the Customs Code applied. In accordance with the provisions of Article 279 of the Customs Code, the Cabinet of Ministers had the authority to determine the criteria for sufficient processing for specific countries or goods. Pursuant to this Article, the sufficient processing criterion was determined by a change in the four-digit tariff heading, the *ad valorem* rule, or the list of specific production or technological operations. The list of products (determined by the Cabinet of Ministers pursuant to Resolution No. 2030 of 27 December 2002), for which the sufficient processing criterion was determined by specific production and technological operations, included products falling to HS Chapters 25 and 27 and HS Headings 2818, 3301, 3403, 4001, 4017, 7103, 7111 and 8702-8704. If the Cabinet of Ministers did not establish rules for specific goods, then the sufficient processing criterion was determined by a change in the tariff heading.

168. Asked about a mandatory requirement for certain imports to be accompanied by certificates of origin, the representative of Ukraine added that Article 282 of the Customs Code stipulated that certificates of origin were required for imports subject to preferential treatment by Ukraine; goods originating in countries which under the circumstances were subject to quantitative restrictions or other regulatory measures; stipulated in international agreements or in Ukrainian legislation pertaining to the protection of public health, the environment, the rights of consumers, public order, State security, or other vital interests as outlined in the Constitution, including the ecological, economic and informational safety of Ukraine; or when the documents submitted for customs clearance did not contain any indication of origin, or the customs authorities had good reason to believe the declared origin to be incorrect. A certificate of origin was not mandatory for goods receiving MFN treatment. Certificates of origin included an exporter's declaration (written statement) attesting the country of origin, as well as a statement by the Chambers of Commerce (or other competent authority) in the exporting country, confirming the validity of the information contained in the certificate. In case the certificate of origin was not available, imports could be accompanied by a declaration of origin.

Article 284 of the Code stated that customs clearance and the release of goods, whose country of origin could not be determined reliably, could be effected without a certificate of origin against payment of full duties. The "common" rate of import duty was always levied on imports not accompanied by certificates of origin. However, importers could reclaim duty on goods enjoying preferential treatment by presenting the certificate of origin retrospectively within one year from the date of customs clearance. As for free zones, rules of origin of goods imported from special economic zones were determined in accordance with the procedure established by Article 18 of the Law "On Single Customs Tariff" No. 2097-XII of 5 February 1992. Moreover, with the adoption of the Law "On amending the Law of Ukraine "On the State Budget of Ukraine for 2005" and Some Other Legal Acts" No. 2505 of 25 March 2005, the rules of origin would apply uniformly throughout the entire territory of Ukraine, including in any special economic zones.

169. [The representative of Ukraine confirmed that, from the date of accession, Ukraine[']s preferential and non-preferential rules of origin] would comply with the provisions of the WTO Agreement on Rules of Origin. The Working Party took note of this commitment.]

[The representative of Ukraine confirmed that from the date of accession Ukraine's preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin, and that the requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement, which require provision upon request of an assessment of the origin of the import and outline the terms under which it will be provided, would be established in Ukraine's legal framework prior to accession. The Working Party took note of this commitment.]

- **Other customs formalities**

170. Some Members stated that Ukraine's customs clearance procedures were cumbersome and encouraged Ukraine to make further progress in the simplification and reform of its customs regime. A Member noted that importers were required to present a "certificate of goods examination" issued by the Ukraine Chamber of Commerce and Industry or its regional department, determining the commodity nomenclature of the importation, and wondered why this task could not be performed by customs officials. Ukraine was asked to explain why the Customs Service was not responsible for establishing the classification of imports and invited to indicate when the Customs Service would resume this function.

171. In reply, the representative of Ukraine said that the new Customs Code aimed at simplifying customs procedures. He also pointed to the amendments made to the Law "On the Unified Fee Charged at the Entry Points through the State Border of Ukraine", which simplified customs

procedures and optimized the customs clearance process. He stressed that the Customs Service was the main body responsible for determining the commodity classification of goods and its decisions on the classification of goods were binding on companies and citizens (Article 313 of the new Customs Code). In cases where the customs official and the importer (declarant) held differing views on the appropriate code, the declarant could appeal to a higher body within the Customs Service or to the courts. The right of appeal to the Ukrainian customs authorities, or to any State authority, was guaranteed in accordance with standard procedures. If the classification was a complex technical matter, the Chamber of Trade and Commerce or its regional divisions could be approached in writing for additional information or an expert opinion. The Chamber of Trade and Commerce and its regional divisions identified the appropriate HS Code pursuant to the Law "On Chambers of Trade and Commerce in Ukraine" No. 671 of 2 December 1997. The methodological and expert documents issued by the Chamber within its sphere of competence were mandatory on the entire territory of Ukraine. Therefore, the Chamber's expert opinion on the classification of imports should be taken into account by the Customs Service. The Customs Service remained, however, the authority in charge of the classification of goods.

- **Preshipment inspection**

172. Noting that Ukraine did not require mandatory pre-shipment inspection of goods, some Members stated that Ukraine, in the event that pre-shipment inspection services would be employed in the future, would need to ensure that such services would be carried out in observance of WTO provisions, e.g. in the application of fees and charges for services rendered, other WTO requirements in customs processing, and in providing a right of appeal to the Government of the decisions of pre-shipment inspection entities.

173. The representative of Ukraine confirmed that if Ukraine employed preshipment inspection services in the future, the Government of Ukraine would [comply with the provisions] [ensure that the requirements] of the WTO Agreement on Preshipment Inspection were fully implemented and that the operations of any preshipment inspection companies retained by Ukraine met the requirements of the WTO Agreements, including the Agreement on the Implementation of Article VII and Articles VIII and X of the GATT 1994. The Working Party took note of these commitments.

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

174. The representative of Ukraine said that the Law "On Single Customs tariff" No. 2097-XII of 5 February 1992 included general provisions for the application of anti-dumping, countervailing and safeguard measures.

175. Detailed provisions to implement the anti-dumping regime were laid down in the Law "On Protection of National Producer From Dumped Imports" No. 330-XIV of 22 December 1998, as amended by Law No. 1595-III of 23 March 2000 and Law No. 860-IV of 22 May 2003. The amendments were of editorial nature. A new draft law, amending certain provisions of Law No. 330-XIV of 22 December 1998, had been submitted to the Supreme Rada for consideration. Anti-dumping procedures were initiated by a domestic producer, or its labour or trade union, filing a complaint on behalf of the domestic industry with the Ministry of Economy. The complaint should include evidence of dumping and injury, and establish a causal link between the dumped imports and the injury to the domestic industry. The Ministry reviewed the complaint and decided whether to conduct an investigation. Anti-dumping investigations were carried out by the Ministry in cooperation with the State Customs Service and the Interdepartmental Commission on International Trade. Decisions to apply anti-dumping duty, which was the only remedy provided for by law, were promulgated by the Interdepartmental Commission on International Trade. Anti-dumping measures imposed during 2000-2005 are described in further detail in Table 15.

176. He added that Ukraine's anti-dumping legislation was based on the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and, in his opinion, in compliance with the Agreement. He stated that Ukraine had never been accused of violating WTO norms and requirements in the application of anti-dumping measures. However, the *de minimis* thresholds with respect to the volume of dumped imports were higher in current legislation than the thresholds stipulated in the Agreement as these thresholds were based on the percentage of volume of consumption. The implementation of several provisions related to *de minimis* in the Law was linked to Ukraine's entry into the WTO, notably its Article 16, Part 4; and Article 12, Part 9 (paragraph 2) and Part 7. In response to a query from a Member whether Ukraine had not established a practice to inform the authorities in the exporting country of the initiation of an anti-dumping investigation, and only intended to do so upon accession to the WTO, the representative of Ukraine replied that the Law provided for mandatory notification to the authorities in the country of export of the initiation of an anti-dumping investigation. In practice, the Ministry of Foreign Affairs provided such notification by informing the relevant authorities in foreign countries. He confirmed that no anti-dumping duty would be imposed if the imports of a given product constituted less than 3 per cent of the total import volume of this product. In response to a specific question, he confirmed that Ukraine applied the principle of the lesser duty in its anti-dumping investigations.

177. The Law "On Protection of National Industry Against Subsidized Imports" No. 331-XIV of 22 December 1998 established detailed provisions for the application of countervailing measures. The Law was based on the Agreement on Subsidies and Countervailing Measures and was, in the

opinion of the representative of Ukraine, consistent with the requirements of the Agreement. As with anti-dumping actions, investigations were conducted by the Ministry of Economy in cooperation with the State Customs Service and the Interdepartmental Commission on International Trade.

178. The representative of Ukraine said that the Law "On the Application of Safeguard Measures Against Imports to Ukraine" No. 332-XIV of 22 December 1998 laid down detailed provisions for the application of safeguard measures. Safeguard measures were applied by decision of the Interdepartmental Commission on International Trade following investigations conducted by the Ministry of Economy. Completed and ongoing safeguard investigations are enumerated in Table 16. Imports could be made subject to surveillance if the safeguard investigation failed to detect any injury to the domestic producer, but the threat of injury was deemed to persist. In such cases, the volume and value of imports would be monitored through non-restrictive automatic import licensing.

179. His authorities had reviewed the consistency of the Law with the requirements of the Agreement on Safeguards and had found most of the provisions to be in compliance with the Agreement. However, some of the provisions of the Law were inconsistent, notably its Article 10, paragraph 3 which recognized that factors other than increased imports could cause injury but did not require that injury from these other causes not be attributed to increased imports, as required in Article 4.2 of the Agreement on Safeguards; and Chapter IV, which provided for a "Surveillance Measure" if the Ministry established a threat of serious injury in the course of the investigation - by necessity prior to a final determination - a measure which had no counterpart in the Agreement. The provisions of Article 16 did not comply fully with the provisions of Article 5.1 of the Agreement on Safeguards. Moreover, in applying definitive measures, Article 16.3 required the Commission to specify the countries, which was not consistent with Article 2.2 of the Agreement, although Article 21 exempted developing WTO members from this provision. Articles 18 and 19 of the Law would also need to be revised to make the terms and procedures for review and liberalization of safeguard measures consistent with Article 7 of the Agreement. In this connection, his Government had prepared a draft law to bring domestic legislation in line with WTO requirements. The draft law had been submitted to the Supreme Rada (Parliament) for consideration.

180. A Member noted that some of the basic concepts in Law No. 330-XIV "On Protection of National Producer from Dumped Imports" of 22 December 1998, Law No. 331-XIV "On Protection of National Industry Against Subsidized Imports" of 22 December 1998, and Law No. 332-XIV of 22 December 1998 did not seem to be fully in line with the WTO Agreement on Implementation of Article VI of the GATT 1994, the Agreement on Safeguards, and the Agreement on Subsidies and Countervailing Measures. While in many cases this could possibly be due to translation problems,

confusion might also arise about the meaning of the concept itself. Ukraine was encouraged to align the wording of its legislation as much as possible with that of the WTO Agreements. In reply, the representative of Ukraine said that Ukraine would take this Member's concerns into account when drafting amendments to existing relevant legislation.

181. Some Members highlighted a number of difficulties experienced in connection with Ukraine's implementation of safeguard measures. Concerning safeguards taken in 2000 on imported plates, sheets, films and other Articles of polyurethane, Members noted late receipt of information which in addition had been insufficient to prove a surge in imports, the injury to industry, and the causal link. Moreover, the protective quotas had been set at approximately 2.5 times below the average of imports in the last three representative years, which was not consistent with Article 5 of the Safeguards Agreement. These Members requested that this and other safeguard measures, and practices not corresponding to WTO rules, be eliminated as soon as possible.

182. In reply, the representative of Ukraine noted that imports of polyurethane had caused considerable injury to domestic producers and, specifically, resulted in a 33 per cent decline in domestic production of polyurethane. This effect had been established by a special investigation. He noted that the application of special measures to imports of polyurethane had been terminated on 3 October 2003 (Decision No. SP-83/2003/52-49 of the Interdepartmental Commission on International Trade). At present, Ukraine applied safeguard measures to imports of five items, four of them were subject to quotas and one item to an additional duty. More than 92 per cent of the imports, prior to the introduction of safeguards, originated in non-WTO Members.

183. [The representative of Ukraine confirmed that, from the date of accession, Ukraine would comply with the provisions of the WTO Agreements on Anti-Dumping, Subsidies and Countervailing Measures, and Safeguards. The Working Party took note of these commitments.]

[The representative of Ukraine confirmed that[, from the date of accession,] Ukraine would not apply any anti-dumping, countervailing or safeguard measure until it had notified and implemented appropriate laws in conformity with the provisions of the WTO Agreements on the Implementation of Article VI, on Subsidies and Countervailing Measures, and on Safeguards. In the elaboration of any legislation concerning such anti-dumping, countervailing and safeguard measures Ukraine would ensure their full conformity with the relevant WTO provisions, including Article VI and XIX of the GATT 1994 and the Agreements on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Ukraine would also apply any anti-dumping duties, countervailing duties and safeguard

measures in full conformity with the relevant WTO provisions. The Working Party took note of these commitments.]

[The representative of Ukraine confirmed that from the date of accession Ukraine would apply any anti-dumping, countervailing or safeguard measure in full conformity with the relevant WTO provisions, particularly with the provisions of the WTO Agreements on the Implementation of Article VI, on Subsidies and Countervailing Measures, and on Safeguards. The Working Party took note of these commitments.]

## B. EXPORT REGULATIONS

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

184. The representative of Ukraine said that export duties had been introduced on the basis of the Laws "On Export Duty on Live Cattle and Hides" No. 180/96-BP of 7 May 1996; "On Export Duty Rates for Seeds of Some Oil Crops" No. 1033-XIV of 10 September 1999, as amended by Law No. 2555-III of 21 June 2001, and "On Export Duty on Ferrous Waste and Scrap" No. 216-IV of 24 October 2002. The products covered and the corresponding rates of duty at present are listed in Table 17.

Table 17: Export duties levied by Ukraine

Tariff code	Product description	Duty rate	Legislative basis	Date of elimination
01.02.90100	Live cattle: Young cattle weighing 350 kg and less; Cattle weighing over 350 kg	€75 but not less than €1,500 per ton	Law "On Export Duty on Live Cattle and Hides" No. 180/96-BP of 7 May 1996	Ukraine will conduct a policy of gradually reducing the level of export duties. Some duties may be eliminated. Ukraine is not planning to bind export duties at "Zero".
01.02.90310	Heifers (female bovines that have never calved), cows, bulls, bullocks, etc.	€55 but not less than €540 per ton	""	""
01.04.10	Live sheep	€50 but not less than €390 per ton	""	""
41.01	Cattle hides	€30 but not less than €400 per ton	""	""
41.02	Sheep or lamb skin	€30 but not less than €1 per animal	""	""
41.03.90000	Pigskin only	€27 but not less than €170 per ton	""	""



Tariff code	Product description	Duty rate	Legislative basis	Date of elimination
12 04.00900	Flax seeds, shattered or non-shattered	17 per cent	Law "On Export Duty Rates for Seeds of Some Oil Crops" No. 1033-XIV dated 10 September 1999, as amended by Law No. 2555-III of 21 June 2001	""
12.06.00900	Sunflower seeds, shattered or non-shattered		""	""
12.07.99990	False flax seeds only		""	""
7204.1000	- Waste and scrap of cast iron	€30 per ton	Law "On Export Duty on Ferrous Waste and Scrap No. 216-IV of 24 October 2002.	""
	- Waste and scrap of alloy steel:		""	""
7204.21	-- Of stainless steel		""	""
7204.2110	- - - Containing by weight 8% or more of nickel (ECSC)		""	""
7204.2190	- - - Other (ECSC)		""	""
7204.2900	- - Other		""	""
7204.3000	-Waste and scrap of tinned iron or steel (ECSC)		""	""
	- Other waste and scrap:		""	""
7204.41	- - Turnings, shavings, chips, milling waste, sawdust, filings, trimmings and stampings, whether or not in bundles:		""	""
7204.4110	- - - Turnings, shavings, chips, milling waste, sawdust and filings (ECSC)		""	""
	- - - Trimmings and stampings:		""	""
7204.4191	- - - - In bundles (ECSC)		""	""
7204.4199	- - - - Other		""	""
7204.49	- - Other:		""	""
7204.4910	- - - Fragmentised (shredded) (ECSC)		""	""
	- - - Other:		""	""
7204.4930	- - - - In bundles (ECSC)	""	""	
	- - - - Other:	""	""	
7204.4991	- - - - - In bundles (ECSC)	""	""	
7204.4999	- - - - - Other	""	""	
7204.50	- Remelting scrap ingots:	""	""	
7204.5010	- - Of alloy steel (ECSC)	""	""	
7204.5090	- - Other	""	""	

185. Some Members stated that Ukraine's export duties were very high, with a strong trade-distorting impact, and in some cases prohibitive for trade. A Member raised particular concerns about the export tax on ferrous scrap. Another Member noted that Ukraine appeared to apply a TRIM in the meaning of paragraph 2(c) of the Annex to the Agreement on Trade-Related Investment Measures by granting an exemption from export duties to agricultural producers, contingent on the production of certain agricultural commodities. This Member stated that Ukraine was expected to achieve

conformity with its future obligations under the TRIMs Agreement. Ukraine was also requested to continue phasing out its export duties, so that these would be eliminated by the date of Ukraine's accession to the WTO, and thereby allowing Ukraine to commit not to apply export duties as a Member of the WTO.

186. In reply, the representative of Ukraine stated that export duties per se were consistent with the WTO Agreements, but he acknowledged that high export duties could act as trade barriers and hence needed reduction. The export duty on oilseeds had resulted in increased capacity utilization among seed processors and higher domestic output of oil, margarine, special fats and mayonnaise. As for live animals and hides and skins, he noted that the consumption of meat and meat products had declined substantially in Ukraine in the 1990s to the detriment of domestic producers. The introduction of export duty on hides had resulted in a substantial improvement in the structure of Ukraine's exports of hides. However, Ukraine recognized the negative impact the export duties had on investment and bilateral trade, but a proposal to repeal the export duties on live cattle and hides had been defeated in the Supreme Rada in 2000, and the Cabinet of Ministers had rejected a similar proposal in 2002. With regard to the TRIM-related concern raised by a Member, he stressed that agricultural producers which were legal entities in any case were allowed to export live cattle (as specified in Law No. 180/96-VR of 7 May 1996), except young cattle weighing 350 kg or less and hides from their own production, without payment of export duty. The export duty on oilseeds, originally set at 21 per cent, had been reduced to 17 per cent in 2001. Law No. 2773-IV "On Amending the Law On Export Duty Rates for Seeds of Some Oil-Yielding Plants" of 7 July 2005 provided for a further reduction of the export duty on oilseeds to 16 per cent and then to 10 per cent, through one per cent annual reductions. This Law would enter into force after Ukraine's accession to the WTO. Ukraine had prepared a draft law, which would eliminate the export duty on live cattle and reduce the export duty on hides (cattle hides, sheep and lamb skin, pigskin) from 15 to 10 per cent, through one per cent annual reductions. Ukraine also committed to reduce the €30 per ton export duty on ferrous metal waste and scrap to €25 per ton from 1 January 2006, and then to €18 per ton from 1 January 2007. The export duty on livestock would also be brought down upon accession – including reductions from 75 to 60 per cent on "live bovine animals", and 50 to 40 per cent on "live sheep and goats" – thereafter followed by a further five per cent annual reduction over a period of four years. Export duties on raw fur-skins would be reduced to 20 per cent by the date of accession, followed by a further reduction over the course of five years by one per cent annually. The draft laws on reducing export duties had been submitted to the Supreme Rada for consideration.

187. Some Members noted that Ukraine had also established minimum "indicative" export prices for a wide range of goods, and requested Ukraine to explain why this measure should not be

considered an export restriction, or related to export restrictions. A Member questioned whether these minimum export prices did not act to create artificially low internal prices for exportable goods. Another Member noted that products subject to minimum indicative prices also seemed to be subject to export contract registration requirements and questioned the rationale for such a measure.

188. The representative of Ukraine replied that the Commercial Code No. 436-IV of 16 January 2003, which had entered into force on 1 January 2004, in its Article 189, clause 4, had maintained the legal basis to stipulate indicative prices. In his view, Article XI:I did not apply to restrictions applied temporarily to prevent a serious shortage of products of critical importance to an exporting country. The Ministry of Economy established the indicative prices based on analytical input from the State Information and Analytical Centre for External Commodity Markets Monitoring (Derzhzovnishinform), upon consultation with leading exporters. The prices were binding on business entities entering into sales/purchase contracts. He noted that minimum indicative export prices were not aimed at creating low internal prices for exports, as these prices were not related to trade on the domestic market. Minimum indicative export prices guaranteed the sale of Ukrainian products at the estimated cost, which was set at the destination market. Since sellers of Ukrainian sensitive products did not always set their prices according to the average market price, they were likely to become subject to restrictive measures imposed by importers. Minimum indicative export prices allowed to avoid the application of trade restrictive measures against Ukrainian exporters, while preserving the existing market outlets for domestic producers. The minimum indicative prices in force in January 2005 are listed in Table 18. The minimum indicative prices were reviewed monthly, and updated information could be found on the website [www.ukrdzi.com.ua](http://www.ukrdzi.com.ua). He added that Decree of the President No. 691 of 18 November 1994 was no longer in force and that, at present, no indicative export prices existed. With regard to export contract registration, he said that not all goods requiring such registration had been subject to indicative prices. Presidential Order "On Considering Invalid Some Orders of the President of Ukraine" No. 1003/2005, cancelling the registration requirement had come into force on 12 July 2005. Thus, Ukraine no longer maintained export contract registration requirements.

189. Minimum indicative prices were established for Ukrainian exports subject to (i) quotas or licensing in an importing country, to ensure that Ukrainian exports were sold at the estimated market price prevailing in the foreign market and to avoid the imposition of restrictive measures; (ii) "special regimes", i.e. price undertakings by Ukraine to allow the suspension of anti-dumping proceedings affecting Ukrainian exports; (iii) special import procedures effective in Ukraine, i.e. international bidding or other similar procedures and advance import deposits in banks, as stipulated in Article 19 of the Law "On Foreign Economic Activity"; (iv) special procedures according to Article 20 of the

Law "On Foreign Economic Activity"; (v) anti-dumping action in foreign markets – to ensure that Ukrainian producers set prices at a level consistent with the estimated price effective in the export market; (vi) requirements ensuing from Ukraine's international commitments – for instance the Agreement on Suspending the Anti-dumping Investigation on Certain Cut-to-length Carbon Steel Plate. He added that special import procedures, as described in item (iii) above, were not applied in Ukraine and noted that the new draft law "On Foreign Economic Activity" did not provide for any such special import procedures. He confirmed that the list of cases governing the application of minimum indicative prices, as listed in this paragraph, was exhaustive.

190. In summary, the indicative prices on ferrosilicium, ferrochrome silicon, ferromagnesium silicon, carbamide, rolled steel, heavy sheet rolled metal, ammonia and ferro-concrete reinforcements were due to anti-dumping measures taken by foreign trading partners, while for agricultural products the indicative prices had been introduced to prevent a decrease of customs value and to ensure effective implementation of Ukraine's export duties. Producers, wholesalers and processors were free to sell their products to exporters at any price, including at prices lower than the indicative price. Exporters, on the other hand, were legally bound to set their prices at least at the level of the minimum indicative export price, since in the absence of indicative prices there would most likely be a reduction in the customs value and in the corresponding duty collected. However, pursuant to Order No. 547-a of the Ministry of Foreign Economic Relations and Trade of 31 August 1998, business entities were allowed to deviate from the indicative prices if they obtained an approved expert opinion from the Analytical Centre for Monitoring of External Product Markets, by providing supporting documentation that would justify a deviation from the stipulated price in their contracts. Enterprises would not be able to export their products at a price lower than the indicative price established by the Ministry of Economy if they failed to produce the documents required for justifying the deviation. The Analytical Centre could also offer business entities expert assistance on preparing the supporting documentation.

191. A Member noted that the system of minimum indicative export prices placed the onus on the exporter to justify why products should be sold at a price that did not coincide with the applicable indicative price. Thus, products could not be exported if the government did not agree with the exporter's justification. Some Members stated that Ukraine should eliminate its minimum export prices by the date of accession, and commit not to apply or revert to minimum export prices after accession, thereby ensuring conformity with Article 4 of the Agreement on Agriculture and Article XI:I of the GATT 1994.

192. [The representative of Ukraine confirmed that at present export duties were applied only to the goods listed in Table [17]. Ukraine would reduce progressively the export duties listed in Table [17] according to the timetable indicated. After accession to the WTO, Ukraine would minimize the application of export duties on other products and apply such measures only in accordance with the provisions of the WTO Agreement. He further confirmed that the current duties and any changes in their application would be published in the Official Gazette. The Working Party took note of these commitments.]

- **Export restrictions**

193. The representative of Ukraine said that the Law "On Foreign Economic Activity" No. 959-XII of 16 April 1991 allowed quantitative export restrictions to be introduced (i) in the event of a considerable imbalance in the internal market, particularly of agricultural goods, fish and fish products, foodstuff and priority industrial goods, as well as other goods of vital importance to Ukraine; (ii) to protect human, animal or plant life or health; public morals; the environment; national treasures of artistic, historic or archaeological value; or national security; (iii) on exports of precious metals, except for banking metals (Table 19(b)); (iv) for the protection of intellectual property, including patents, trademarks and copyright; (v) to fulfil Ukraine's obligations under international treaties; or (vi) in the implementation of safeguard measures. In his view, these provisions were in accord with the situations foreseen in Articles XI, XIX, XX and XXI of the GATT 1994 and the TRIPS Agreement.

194. He added that Ukraine primarily regulated exports through the application of export duties on some products, as noted above. In addition, Ukraine prohibited exports of scrap non-ferrous metal pursuant to the Law "On Scrap Metal" No. 619-XIV of 5 May 1999 (Table 19(a)). He reiterated that Article XI:1 of the GATT 1994 did not apply to bans or restrictions on exports that were applied temporarily in order to prevent a serious shortage of products of critical importance to an exporting country. Exports of scrap metals generated by Ukraine's military, as well as exports of assembled parts/units of machines, ships, vessels, military equipment and railway rolling stock, were not allowed for security reasons. Parts/units in a disassembled state could, however, be exported as scrap. He confirmed that no ban on the export of copper ore existed in Ukraine. Article 9 (part 2) of the Law "On Scrap Metals" prohibited the export of ferrous metal scrap as "give-and-take" raw materials. The same Article prohibited the export of scrap alloy ferrous metals, scrap non-ferrous metals, primary metallurgical products in the form of ingots, blocks, slices and other semi-processed products of crude copper (including anodes). He added that voluntary export restraints affecting the exportation of metal products were currently in place, in compliance with signed international agreements. These

measures would be removed upon accession and the relevant laws would be amended to meet the requirements of Article 11.1(b) of the Agreement on Safeguards.

195. In response to a specific question he said that Ukraine did not envisage the introduction of export quotas on grain. Asked specifically about Ukraine's quota regime governing the export of sugar, he said that the A quota determined the production of refined sugar for sale on the domestic market, while the B quota was intended for supplies outside Ukraine under international contracts. After fulfilling their obligations under the A and B quotas, sugar owners (business entities operating in the sugar market) were free to determine the volume of sugar intended for exports (C quota). Owners were not obliged to supply the A and B quotas before they were allowed to export under the C quota. He added that B and C quotas had never been established by the Government (see section on "Agricultural Policies").

196. The registration requirements for engaging in exportation, as well as the HS numbers for goods requiring an export licence, were the same as those for importation. An activity licence was needed to export alcoholic beverages; ethyl alcohol, cognac and fruit spirits; tobacco products; narcotics, psychotropic substances and precursors; laser-readable discs and equipment for laser-readable discs, and polycarbonate for the production of optical information storage devices; cryptosystems and means for cryptographic protection; and holographic protection elements (Tables 8(a) and 8(b)). Goods subject to export licensing included (i) precious metals; (ii) certain types of rolled flat metal from carbonic steel, hot rolled, without electrolytic or other metal covering, not in rolls, and more than 150 mm width, exported to the United States; (iii) textile products in categories 435, 442, 444, 448 exported to the United States; (iv) rolled flat metal, alloyed and plain steel exported to the EU; (v) certain types of rolled flat metal exported to the Russian Federation; as well as (vi) optical polycarbonates for the production of discs for laser reading systems; (vii) products, which might contain ozone-depleting substances and imported in aerosol packaging; (viii) products which might contain ozone-depleting substances; (ix) ozone-depleting substances; (x) iron ores and concentrates; (xi) certain copper products falling into HS Chapter 74; (xii) certain aluminium products falling into HS Chapter 76; (xiii) unwrought lead; (xiv) specific machinery or machinery parts, relating to metal working, falling into HS Chapter 84; and (xv) certain petroleum oils and oils obtained from bituminous minerals. For some of these products, the exporter was also required to receive prior approval from the relevant administrative agency. In addition, depending on the needs for ferrous scrap metal, the Cabinet of Ministers could impose export restrictions. The export licences were issued to control exports, but were not restrictive in nature. He confirmed that no products were subject to export duty as well as licensing. Quantitative export restrictions and export licensing

requirements are listed in Tables 19 (a) – (f) and 20(a), (b) and (c), including the list of goods subject to export approval (Table 20(b)).

197. A Member invited the representative of Ukraine to provide further details and justifications for some of the measures listed in the preceding paragraph. In response, the representative of Ukraine noted that precious metals were regarded as exhaustible natural resources, which were substitutes for gold and silver, and therefore fell under the provisions of Article XX(c) of GATT 1994. He added that so far no licence for the export of gold and silver had been issued since none had been requested. He further noted that the export control measures, listed in items (ii) to (v), had been imposed in compliance with Ukraine's international agreements negotiated with trading partners. These measures would be repealed upon the agreements' termination. He also confirmed that the licensing measure affecting exports of iron ore and concentrates was automatic and applied exclusively to domestically-produced goods; he stressed that this measure had been introduced to strengthen the State's regulatory role in strategic sectors of the economy through trade monitoring. He acknowledged that products listed in items (xi) to (xiv) were subject to both prior approvals and export licensing, but held the view that these requirements were compatible with the provisions of Article 1(6) of the Agreement on Import Licensing Procedures. He noted that the export licensing measures listed in item (xv) were no longer in effect.

198. Some Members requested full information indicating the basis on which Ukraine would assess that a serious shortage of products of crucial importance to Ukraine continue to exist. Ukraine should also detail the measures applied to domestic producers (to justify measures under Article XX(g)) and any government stabilization plans in place (to justify measures under Article XX(i)). Unless such justifications could be provided, Ukraine's export restrictions on non-ferrous metals and scrap metal would need to be eliminated by the date of accession. Some Members noted that the export ban on non-ferrous scrap had been in place for five years, and considered the ban clearly non-WTO consistent. Moreover, the Government of Ukraine appeared to have suspended the issuance of licences for ferrous scrap in February 2004, effectively halting the exportation of scrap. A Member noted that, should the export ban on non-ferrous scrap be substituted with an export duty, the level of this duty must not be prohibitive and form part of Ukraine's schedule to eventually phase out all export duties. A Member enquired specifically about the existence of any recent export bans or other restrictions on maize and barley.

199. The representative of Ukraine replied that non-ferrous metal scrap, which constituted a raw material for Ukraine's metallurgy industry, was in critically short supply. Ukraine had no other domestic source of raw material for most non-ferrous metals. He added that all contracts for the

exportation of metal scrap were subject to registration pursuant to the Law "On Scrap Metal". Ukrainian exports of ferrous scrap had not been suspended, but re-registration had been required for all registered and ongoing export contracts for ferrous scrap in February 2004. There were no restrictions applying to the export of ferrous scrap, other than the export duty of €30 per ton, which would be subject to gradual liberalization. He stated that Ukraine committed to eliminate the export ban on non-ferrous scrap by the date of accession and intended to substitute it by export duties – 50 per cent but not less than €0.4 per 1 kg (alloy steel and aluminium), 50 per cent but not less than €0.15 per 1 kg (lead), 50 per cent but not less than €0.45 per 1 kg (copper), 50 per cent but not less than €0.75 per 1 kg (nickel), 50 per cent but not less than €1.25 per 1 kg (titanium), 30 per cent but not less than €0.35 per 1 kg (tin) and 30 per cent but not less than €0.2 per 1 kg (zinc). Exports of scrap metal from Ukraine had averaged 2,450,000 tons in 2004. As for maize and barley, he said that no export restrictions or export bans had been applied to the exportation of these products.

200. Some Members noted that Ukraine appeared to apply export licence fees derived in proportion to individual income in Ukraine or as a percentage of the transaction value, whereas Article VIII of the GATT 1994 stated that all fees and charges related to importing or exporting should be limited to the approximate cost of the services rendered. Ukraine was invited to describe the steps it was taking to ensure the consistency of its fees and charges with the provisions of Article VIII of the GATT 1994 prior to accession.

201. The representative of Ukraine said that export licences were issued against a fee equal to 0.1 per cent of the value of the export contract. He added that, pursuant to Cabinet of Ministers' Resolution No. 285 of 7 March 1998, customs clearance of scrap metal and ferrous and non-ferrous metal scrap was subject to a fee five times higher than the ordinary customs clearance fee for such transactions, except for business entities exporting such products pursuant to a State program for utilization of metals in common types of ammunition not suitable for further use and storage. The additional fee for customs clearance of metal scrap had been eliminated on 1 January 2005 pursuant to Law No. 1344 of 27 November 2003 and Cabinet of Ministers' Resolution No. 1995 of 24 December 2003. Moreover, he stated that the Cabinet of Ministers had adopted Resolution No. 362 "On the Amount of State Duty for Issuing Export (Import) Licenses" of 18 May 2005, which provided for the application of import and export licensing fees that reflected the cost of services rendered.

202. Some Members requested that Ukraine remove, by the date of accession, the WTO-inconsistent policies in relation to exports of live animals, hides and skins, non-ferrous metal scrap and sunflower seeds and commit not to introduce or revert to any such export restrictions after



accession in order to maintain conformity with Article XI:1 of GATT 1994 and, in view of the discriminatory effect such restrictions may have on imported products, to comply with Article III:4 of GATT 1994 and Article 4 of the Agreement on Agriculture.

203. A Member requested Ukraine to revoke – prior to accession – the provision for imposing restrictions on the export of ferrous metal scrap by the Cabinet of Ministers, depending on the need for ferrous scrap. This Member sought the elimination of all remaining bans on the export of scrap metals and copper ores – including scrap metals generated by the military – by the date of accession, regardless of whether or not they were intended for processing abroad followed by subsequent importation. This Member also noted that the B quota for sugar amounted to a restriction that stipulated how sugar must be exported, while also affecting the destination of exports. Since this was inconsistent with both Article XI and Article I of GATT 1994, Ukraine was asked to eliminate the B quota by the date of accession and, accordingly, repeal Law No. 758 "On the State Regulation of Sugar Production and Sale" of 17 June 1999. With regard to the restrictions on precious metals, alloys and stones, this Member had not been convinced of the relevance of the justification provided by Ukraine in relation to Article XX(c) of GATT 1994. This Member expressed doubts whether the measures on gold and silver were significant measures of currency control in Ukraine. Ukraine was, therefore, requested to eliminate prior approval and subsequent licensing requirements applied on the export of these products (listed in Table 19(b)). Finally, this Member stated that prior approval and licensing requirements applicable to all products in Table 20(a) for which justification was provided under Article XX(d) or (g) of the GATT 1994 – including *inter alia* products of iron ore and concentrates, copper, aluminium and lead falling to HS Heading 26.01 and HS Chapters 74, 76, 78, as well as a number of machinery parts falling to HS Chapter 84 – had to be eliminated by the date of accession.

204. The representative of Ukraine said that a draft Law "On Introduction of Amendments to the Law on Export Duty on Ferrous Waste and Scrap" providing for the elimination of the export ban on ferrous metal scrap as "give-and-take", raw materials and the elimination of the export ban on scrap non-ferrous metals (to be replaced by export duties), had been adopted by the Supreme Rada in its first reading. A draft law, abolishing the B and C quotas, as well as the mandatory exportation of raw cane sugar, had also been developed and was under review in Parliament.

205. [The representative of Ukraine said that on accession Ukraine will ensure that any export quantitative controls or export licensing requirement maintained or introduced are consistent with the relevant WTO provisions, including those contained in Articles XI, XVII, XX and XXI of the GATT 1994. He added that from the date of accession the nonferrous scrap metal export regime

would be applied in conformity with the GATT 1994 provisions including Articles I, III, VIII and XI. [The Working Party took note of this commitment.]

[The representative of Ukraine confirmed that from the date of accession the export licensing requirements and other export restrictions and control requirements listed in Table [19(b)] and paragraphs [194 and 196] of this report or any introduced in the future would be applied in conformity with WTO provisions, including those contained in Articles XI, XVII, XX and XXI of the GATT 1994. [He also confirmed that any existing or future export licence fee would be consistent with article VIII GATT.] The export ban on nonferrous scrap metal would be eliminated from the date of accession. The Working Party took note of this commitment.]

- **Export subsidies**

206. The representative of Ukraine stated that Ukraine had no export subsidy measures in place.

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

208. [The representative of Ukraine confirmed that from the date of accession Ukraine will not maintain subsidies[, except subsidies to the shipbuilding industry in the form of exemption from the import duty until 1 January 2007, [including export subsidies]] which meet the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and that it will not introduce such prohibited subsidies in the future. The Working Party took note of this commitment.]

**C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS**

- **Industrial policy, including subsidies**

209. Some Members requested that Ukraine provide information on its non-agricultural subsidy programmes in the format applicable to WTO Members under the Agreement on Subsidies and Countervailing Measures (ASCM).

210. In reply, the representative of Ukraine provided a draft notification of industrial subsidies, circulated in document WT/ACC/UKR/116. The document covered programmes for the special

economic zones and priority territories, technological parks, as well as sector-specific programmes for fisheries, shipbuilding, the automotive sector, aircraft construction, the space industry, coal mining, and publishing (of books). On a general note, he observed that tax arrears had been written off for insolvent enterprises in 2001. This was a one-time write-off based on the Law "On Procedures for the Repayment by Taxpayers of Arrears to Budgets and State Target Funds" No. 2181 of 21 December 2000.

211. Subsidies in the coalmining industry were governed by the policies laid down in the Mining Law and a restructuring programme "Ukrainian Coal", approved by Cabinet of Ministers' Resolution No. 1205 of 19 September 2001. The purpose of the subsidies was to modernize the mining industry and thereby reduce production costs. According to Cabinet of Ministers Order No. 182-p of 31 March 2003, the overall level of support was not to exceed 5 per cent of the cost of production. Direct subsidy payments were provided pursuant to Cabinet of Ministers' Resolution No. 1311 "On Procedures for Provision and Identification of Amounts of State Support to Coal Mining Enterprises for Partial Coverage of Production Cost and Construction and Technical Re-equipment of Enterprises producing Coal, Lignite (Brown Coal) and Peat" of 21 August 2003. Previously, subsidies had been provided pursuant to Cabinet of Ministers' Resolutions No. 1733 of 27 December 2001 and No. 26 of 6 January 1999. The Ministry of Fuel and Energy approved the payments, which were allocated by its Industry Commission within the limits set by the budget. The Commission assessed the efficiency of the subsidies on a monthly basis, and would make a proposal to the Ministry on adjustment in support levels for the next budgetary period. No end date had been set for the subsidy programme for the coal mining industry.

212. The Ministry estimated the annual production of various types of coal, and would target support toward those types of coal where production would fall short of domestic demand. Eligible for support were enterprises which satisfied all of four criteria, i.e. (i) possessing considerable reserves of quality coal; (ii) inability to support viable modernization from own funding; (iii) reporting an operating loss for the last accounting year; and (iv) provision of adequate documentation on the enterprise's financial situation. Support was allocated to State-owned and privately owned enterprises alike. Asked to provide data on coal production, exports and level of support, he added that during the first nine months of 2003 total production of coal had amounted to 44.6 million tons, of which 1.1 million tons had been exported. Two third of the exported coal was produced by mines which did not receive State support, while the support accounted for approximately 9 per cent of the cost of production for the subsidized enterprises exporting coal.

213. The Law "On Measures of State Support for the Ship-Building Industry in Ukraine" No. 1242-XIV of 18 November 1999, as amended, established the legal basis for support to the shipbuilding industry. This Law provided for subsidies in the form of deferred tax payments, notably for advances received from clients, which would only be booked and subject to profit tax at the time of a ship's delivery; VAT and customs duty exemptions on imported materials, equipment and assembled parts provided goods of similar specifications were not manufactured in Ukraine; exemption from payment of land tax; zero rated VAT on the final products; and a reduced price of credit for shipbuilding. The Cabinet of Ministers approved a list of shipyards eligible for support, as well as an annual list of products covered by the VAT and customs duty exemptions on the basis of the economic results of these enterprises (see document WT/ACC/UKR/110/Add.2, Annex 9). However, Law No. 2505-IV "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other Legislative Acts" of 25 March 2005 had cancelled the VAT exemption on imports, reduced the term of the import duty exemption to 2007 (instead of 2012), and introduced a gradual phasing-out of the land tax exemption.

214. The Law "On State Support of Aircraft Construction Industry in Ukraine" No. 2660-III of 12 July 2001 (as amended) established the legal basis for support to the aircraft industry. Tax benefits included a delay in the booking to income of advance and preliminary payments from clients until delivery of the aircraft or final product; exemption from land tax; and VAT and tariff exemption on imported materials, equipment and components provided such goods were not manufactured in Ukraine. The Cabinet of Ministers approved an annual list of products covered by the VAT and customs duty exemptions. However, Law No. 2505-IV "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other Legislative Acts" of 25 March 2005 had cancelled the VAT and import duty exemptions on imports, and had introduced a gradual phasing-out of the land tax exemption.

215. The Law "On State Support of Space Activity" No. 1559-III of 16 March 2000 established the legal basis for support to the space industry. Tax benefits included a land tax exemption, a VAT and import duty exemption on imported inputs, and zero-rated VAT for sales of final products in the domestic market. The Cabinet of Ministers approved a list of products, import volumes and related procedures for VAT exempt imported inputs. Law No. 2505-IV "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other Legislative Acts" of 25 March 2005 had cancelled the VAT and import duty exemptions on imports, as well as the land tax exemption.

216. Tax benefits to the construction industry were based on the Law "On Amending Some Legislative Acts of Ukraine due to Adoption of the Law of Ukraine 'On Performing an Experiment in

Housing Construction on the Basis of Kyivmiskbud Holding Company" No.1694-III of 20 April 2000. The benefits were related to housing savings accounts held by individuals and banks' reserves for long-term savings deposits. The programme would be in place until 1 January 2006. However, a VAT exemption for the fiduciary management services of authorized banks had been suspended for 2004 according to the Law "On the State Budget of Ukraine for the Year 2004". The Law "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other Legislative Acts" No. 2505-IV of 25 March 2005 had cancelled the norm regarding beneficial taxation of the Kyivmiskbud Holding Company from 31 March 2005.

217. Subsidies to the steel industry had been provided from 1 July 1999 to 1 January 2002 pursuant to the Law "On the Conduct of the Economic Experiment at Enterprises of the Mining and Smelting Sector in Ukraine" No. 934-XIV of 14 July 1999. The programme had expired and no subsidies were provided during 2003. The chemical industry had been granted investment incentives until 1 January 2003 in accordance with the Law "On Taxation of Enterprise Profit".

218. Legislation governing industrial policy on fertilizers had been in force temporarily during the first six months of 2004. Information on the legal acts regulating the application of these measures is provided in Table 4.

219. The representative of Ukraine said that the support regime applicable to the automotive sector had depended on the date of approval of the investments. Investment projects approved before 1 January 2004 had been governed by the Law "On Stimulation of Automobile Production in Ukraine" No. 535/97-VR of 19 September 1997. The Law, as amended, had provided subsidies in the form of deferred tax payments to the motor vehicle industry, i.e. manufacturers of automobiles, buses and spare parts. Eligibility had been linked to the level of investment. Exemptions from land tax had also been linked to the level of investment. However, the local content requirement present in this Law had been eliminated through the Law "On Amending the Law "On Stimulation of Automobile production in Ukraine"" No. 2779-II of 15 November 2001. In his opinion, Ukraine's support to automotive investment approved before 1 January 2004 had not violated Article 3 of the Agreement on Subsidies and Countervailing Measures. As for enterprises producing automobiles, motorcycles and spare parts under investment projects approved after 2004, these projects had been governed by the Law "On Development of the Automobile Industry of Ukraine" No. 1624-IV of 18 March 2004, which had entered into force in May 2004. The benefits provided to a qualifying producer had included import duty exemption on goods and components used in the construction, modernization and refitting of the production facilities; exemption from corporate profit tax for reinvested profits; and exemptions from the payment of import duties on inputs used to produce automobiles,

motorcycles and spare parts originating in Ukraine. The Law "On Rates of Excise Duty on Motor Vehicles" No. 216/96 of 24 May 1996 had exempted domestically-produced vehicles from excise tax, provided the manufacturers produced more than 1,000 units annually. The representative of Ukraine acknowledged the existence of a TRIM in Law No. 1624-IV of 18 March 2004.

220. Some Members considered the tax privileges accorded to the Ukrainian automotive industry de facto discriminatory as they applied only to two producers. Eligibility linked to minimum 50 per cent local input and certain production stages to be performed locally appeared to constitute a local content requirement inconsistent with Article 3 of the Agreement on Subsidies and Countervailing Measures and Article III:5 of the GATT 1994. In their view, these measures should be brought into full WTO conformity upon accession.

221. In reply, the representative of Ukraine stated that the Law "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other Legislative Acts" No. 2505-IV of 25 March 2005 had abolished tax privileges granted to car producers, establishing identical rates of excise tax for domestic and imported motor vehicles. VAT, profit tax and import duty privileges had been eliminated, along with a gradual phasing out of the land tax exemption. The provisions of Article 4 of the Law "On Stimulation of Automobile Production in Ukraine", which had been the basis for granting the privileges (local content requirement), had subsequently been eliminated pursuant to the Law "On Amendment of the Law of Ukraine "On Stimulation of Automobile Manufacture in Ukraine"" of 6 July 2005, which harmonized existing legislative provisions with WTO requirements. A synoptic overview of measures affecting the automotive sector, is provided in Table 21.

222. Some Members sought a commitment from Ukraine that from the date of accession it would not maintain subsidies, including export subsidies which met the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures and that it would not introduce such prohibited subsidies in the future, and that export financing and other export promotion policies would be operated in conformity with WTO provisions. A Member stated that the commitment should also address Ukraine's transparency obligations under the Agreement.

223. [The representative of Ukraine confirmed that from the date of accession Ukraine will not maintain subsidies, [except subsidies to the shipbuilding industry in the form of exemption from the import duty until 1 January 2007, [including export subsidies]] which meet the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and that it will not introduce such prohibited subsidies in the future. The Working Party took note of this commitment.]

- **Technical barriers to trade, sanitary and phytosanitary measures**

224. The representative of Ukraine said that the principal laws governing standards, technical regulations and conformity assessment were the Laws "On Standardization" No. 2408-III of 17 May 2001, "On Conformity Assessment" No. 2406-III of 17 May 2001, "On Accreditation of Conformity Assessment Bodies" No. 2407-III of 17 May 2001, and "On Metrology and Metrology Activity" No. 113/98 of 11 February 1998; and for mandatory product certification the Laws "On Protection of Consumer Rights", "On State Regulation of Imports of Agricultural Products", "On Labour Protection", "On Quality and Safety of Foodstuffs and Raw Food", "On Communications", "On Highway Traffic", "On Transport", "On Permissible Activity in the Area of Nuclear Energy Use", and "On Tourism". He provided a detailed comparison between Ukraine's basic legislation in this area and the provisions of the TBT Agreement in document WT/ACC/UKR/113, adding that the Supreme Rada had adopted the Law "On making amendments to the Law of Ukraine "On metrology and metrological activity"" No. 1765-IV on 16 June 2004. The Amendments did not contradict the principles of the WTO TBT Agreement and primarily introduced modern international terminology and principles in the area of metrology. He added that the Law "On Veterinary Medicine" and the Cabinet of Ministers' Decrees "On Standardization and Certification" and "On State Supervision of Compliance with Standards, Norms and Rules, and Sanctions for Violations thereof" had been amended in February 2003 to eliminate duplication of supervisory and controlling functions in central agencies of executive power. A new draft Law "On Standards, Technical Regulations and Conformity Assessment Procedures", which would supersede the Laws "On Conformity Assessment" and "On Standardization", had been submitted to Parliament.

225. Producers were responsible for the marking of their products, and imported goods which did not comply with marking requirements could not be sold in Ukraine. Requirements were specified in the Laws "On Protection of Consumer Rights", "On Quality and Safety of Foodstuffs and Raw Food" and "On State Regulation of Production and Turnover of Ethyl Alcohol, Cognac and Fruit Alcohol, Alcoholic Beverages and Tobacco Products". The Department of Consumer Protection within the State Committee of Ukraine for Technical Regulation and Consumer Policy (Derzhspozhyvstandart) supervised the compliance with marking requirements through random inspections at the retail level. Producers and importers of special dietary food products had to obtain the consent of the Ministry of Health.

226. The State Committee of Ukraine for Technical Regulation and Consumer Policy (Derzhspozhyvstandart) was the central body of executive power in the area of standardization and

technical regulation as well as a specially authorized central body of executive power in the area of conformity assessment. The Committee developed and implemented the policy of Ukraine in these areas. In the area of standardization, Ukraine's forthcoming draft legislation would ensure that priority consideration would be given to relevant international standards, guidelines and recommendations as a basis for Ukraine's own standards, technical regulations and associated conformity assessment procedures. He noted that approximately 80 per cent of the 1,314 national standards adopted during 2001-2003 were identical to international standards. In all, some 2,600 harmonized standards were in effect in July 2005, and he estimated that around 8,000 standards would need to be implemented in Ukraine.

227. Concerning technical regulations and conformity assessment, he noted that Ukraine operated a State certification system (UkrSEPRO) based on six certification schemes, i.e. certification of either (i) single products; (ii) groups of products or articles; (iii) serially manufactured products; (iv) products with examination/inspection of production; (v) products with attestation of production; or (vi) products with assessment of a quality system or certification of a quality system. The State Committee had drawn up a list of the products subject to mandatory certification, approved by Order No. 498 of Derzhspozhyvstandart of 30 August 2002. However, the coverage of the mandatory certification system was diminishing gradually as Ukraine was reviewing its regulations to conform with basic international practice, i.e. compliance with standards which - by definition - was voluntary, or mandatory requirements to be promulgated in technical regulations. Thirty categories of low-risk goods had been removed from the list in 2002 and Ukraine had continued to revise the list to eliminate additional low-risk goods. The updated list of products subject to mandatory certification had been approved by Order of the State Committee for Technical Regulation and Consumer Policy No. 28 of 1 February 2005. Accordingly, 25 categories/subcategories of low-risk products had been removed from the list. Pursuant to the Committee's Order No. 171 of 14 July 2005 an additional category, namely "Optical devices for medicinal purposes", had also been removed from the list. He stated that Ukraine would not resort to mandatory certification if the legitimate objectives could be met in a less trade-restrictive manner. He confirmed that, when approved, the draft Law "On Standards, Technical Regulations and Conformity Assessment Procedures" would ensure full compliance with the provisions Article 2 of the TBT Agreement.

228. Some Members noted that the Ministry of Agriculture imposed technical regulations and requested Ukraine to provide information about such technical regulations, in particular government-mandated shelf-life standards applicable to imported fish products. Ukraine appeared also to have introduced new restrictions on the port of entry for fish products, which seemed to contradict internationally accepted norms. Ukraine was encouraged to continue reviewing the list of products



subject to mandatory certification with a view to removing lower risk products such as cocoa beans, coffee beans, roasted and ground coffee, and powdered flavours.

229. The representative of Ukraine confirmed that the Ministry of Agriculture could impose technical regulations pursuant to the Law "On Standardization" No. 2408-III of 17 May 2001. He added that after the adoption of the draft Law "On Standards, Technical Regulations and Conformity Assessment Procedures", technical regulations would only be adopted by the Cabinet of Ministers. Fish products were subject to technical regulations through mandatory application of Interstate Standard (DSTU) 1168-86, which mandated a use-by-date term from four months to one year for fish products. Fish products which did not comply with the shelf-life requirements under this standard could not be circulated within the territory of Ukraine. He stated that the requirement applied equally to domestic and imported fish products. He added that for imported products the use-by-date term set by the manufacturer would be accepted, provided that a State sanitary and epidemiological examination had reached the same conclusions. When imports of fish products arrived at the Ukrainian border a Veterinary Inspector verified whether the manufacturer-determined shelf-life exceeded the requirements of Ukraine's standards and, if that was the case, stamped the product with the Ukrainian shelf-life standard. The State Authorities were aiming at harmonizing shelf-life and use-by-date terms for fish products in line with international requirements by amending DSTU 1168-86. He denied that Ukraine had introduced new requirements or border measures on the importation of food, agricultural or fish products. He added that importation of animals, animal products and foodstuffs was regulated by Veterinary Requirements Regarding Products Imported into Ukraine that Fall under the Control of the State Veterinary Medicine Service. Asked about the existence of multiple testing requirements by different public authorities, he added that imported food raw materials and food products of animal origin were subject to veterinary and/or sanitary examination and certification. He noted that at present Ukraine had no intention to impose any new technical regulations, but should such technical regulations be imposed, a relevant notification would be provided.

230. Some Members welcomed the steps that Ukraine was taking to make technical regulations, standards, and conformity assessment procedures compatible with WTO obligations although Ukraine was also reminded that the adoption of regional standards, regulations or systems would not necessarily constitute compliance with WTO TBT requirements. Some Members suggested that producers should be allowed to choose between different conformity assessment procedures depending on the level of risk to consumers, workers and others, including the choice of a manufacturers' declaration for low to medium risk products. Ukraine was requested to indicate the maximum period of time needed for the conformity assessment procedures, as well as the

establishment and publication of conformity assessment fees proportional to the services rendered. Some Members also noted that Articles 10 and 12 of the Law "On Conformity Assessment" restricted the accreditation of conformity assessment bodies to those resident in Ukraine.

231. In reply, the representative of Ukraine said that producers could opt between conformity assessment schemes based on the analysis of production documents and technical supervision, inspection of production, attestation of production, and certification or assessment of compliance with ISO 9000. Depending on the type of products, as well as the type of testing and certification scheme, the certification process could take from three days to up to a month. The Law "On Conformity Assessment" (Articles 9 to 11) allowed manufacturers' declaration of conformity, although such declarations could not substitute for conformity certificates required for goods subject to mandatory certification. He added that 11 technical regulations had been adopted covering the conformity assessment modules used in technical regulations and rules for the granting and use of marks of conformity; the safety of low-voltage equipment; electric household refrigerating devices; electromagnetic compatibility; non-automatic weighing devices; and the safety of gas appliances; boilers; simple pressurized vessels; equipment operating under pressure; lifts; and toys. An overview of the recommended certification schemes (models) in Ukraine is presented in Table 22(a). The duration of the works depended on the certification scheme chosen. A list of fees did not exist; these were calculated case-by-case pursuant to the "Rules on Determinations of the Cost of Works to certify Products and Service", registered with the Ministry of Justice and published in the Official Viysnyk of Ukraine No. 14/1999. The fee was the same for both domestic and imported goods. The fee was calculated according to the formula " $0.1 * \Delta_{\text{min}} * N$ " where  $\Delta_{\text{min}}$  was the non-taxable minimum income of citizens and N was the number of copies of the certificate of conformity. Blank forms were paid for separately (see Table 22(b)).

232. Ukraine allowed the accreditation of private conformity assessment bodies, but had no intention to permit accreditation of non-resident conformity assessment bodies at this stage. However, Ukraine intended to negotiate agreements for the mutual recognition of the results of conformity assessment procedures in accordance with Article 6.3 of the TBT Agreement. Once Ukraine's National Accreditation Agency would become a member of ILAC, Ukraine would work towards increasing the acceptance of test results of laboratories accredited with and notified by ILAC member bodies.

233. He added that Order No. 633 of Derzhstandart "On Approval of Procedures for Accomplishment of Works concerned with Certification of Foreign Serially Manufactured Products" of 18 August 1998 had been repealed by Derzhstandart Order No. 514 of 25 September 2002, and

thereby been brought into compliance with Article 5 of the TBT Agreement. Imported goods were certified under the procedures and rules applicable to domestically-manufactured products. The introduction of technical regulations on conformity assessment would give manufacturers the right to choose the conformity assessment procedure for their products. Importers could obtain serial conformity certificates, valid for five years based on the selected scheme of certification, prior to the importation of a good subject to mandatory certification. Goods imported with serial certificates were not tested at the border unless it was evident that the goods had been damaged during transportation. In the absence of a serial conformity certificate, testing would be performed upon importation to issue a certificate of conformity for the specific shipment.

234. Regarding the establishment of a TBT Enquiry Point, the representative of Ukraine said that Cabinet of Ministers' Resolution No. 84 of 1 February 1995 had established a National Information Centre of the International Information Network (ISONET), allowing Derzhspozhyvstandart to provide regular information (notifications) on the development and adoption of technical regulations, products subject to mandatory certification, standardization programmes, as well responses to queries of WTO members. Draft conformity assessment procedures were published on the website of the Derzhspozhyvstandart. Draft product standards and technical regulations were not published, primarily for technical and financial reasons. He confirmed that Ukraine would implement the Code of Good Practice for the Preparation, Adoption, and Application of Standards (Annex 3 of the TBT Agreement) as well as the requirements for comments under Item 6 of Annex 2 and Articles 2, 3, 5, and 7 of the TBT Agreement in its national legislation by the date of accession. Ukraine would accordingly establish a formal procedure to give fair consideration to public comments prior to the adoption of final rules. He added that on 31 May 2005, the Cabinet of Ministers had approved a Resolution "On Establishment of a Centre for Processing Inquiries from WTO Member-States and for Notifications (the Enquiry and Notification Point)". He confirmed that the single Enquiry and Notification Point would be operational from the date of WTO accession. [Specific information to follow; for the time being queries can be directed to [dstu@issi.kiev.ua](mailto:dstu@issi.kiev.ua) or by dialling 380 44 268-92-73 (telephone) or 380 44 268-54-02 (fax).]

235. Having examined document WT/ACC/UKR/113, a Member remained concerned that Ukrainian legislation did not appear to reflect fully the provisions of the TBT Agreement, notably that technical regulations should not be maintained if their objectives could be addressed in a less trade-restrictive manner, and the recognition of other Members' regulations as "equivalent" rather than the principle of "adoption" of the regulations of others. Moreover, the Law "On Standardization" failed to address the issue of non-discrimination, and its text did not specify how decisions were taken regarding mandatory compliance and/or the development of a technical regulation. Parts of the Law

"On Conformity Assessment" also appeared to contradict Article 6.4 of the TBT Agreement. Ukraine was also requested to clarify how it would meet the requirements of the TBT Agreement with respect to the preparation, adoption and application of technical regulations by local government bodies and non-governmental bodies, and whether Standard DSTU 1.13-2002 "On Rules of providing notifications to trade partners of Ukraine" met the requirements of Article 2.9 of the Agreement. In general, Ukraine was requested to be in full conformity with the obligations of the WTO TBT Agreement from the date of accession.

236. The representative of Ukraine replied that Ukraine could commit to having its legislation in compliance with all the substantive provisions of the Agreement on Technical Barriers to Trade, including the procedural and transparency requirements, from the date of accession. He pointed to the new draft Law "On Standards, Technical Regulations and Conformity Assessment Procedures", which would supersede the Laws "On Conformity Assessment" and "On Standardization". This draft Law had been submitted to Parliament and, once adopted, would bring the legal framework governing standards, technical regulations and conformity assessment procedures into full conformity with the TBT Agreement.

237. The [draft] Law "On Standards, Technical Regulations and Conformity Assessment Procedures" established the legal and organizational framework for the development and application of national standards, technical regulations, and conformity assessment procedures, as well as for the granting of the right to use conformity marks for all products, processes and services, whether of domestic or foreign origin. The main principle of the [draft] Law was that standards, technical regulations and conformity assessment procedures could not be developed, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade. This [draft] Law delineated the difference between voluntary standards and obligatory technical regulations, which fulfilled the legitimate goal to protect human, animal and plant health and life, the environment and natural resources, national security, and to prevent deceptive practices. This [draft] Law also defined the stages of development and the bodies responsible for the adoption of standards, technical regulations and conformity assessment procedures. The equivalence of foreign and Ukrainian technical regulations was recognized by this [draft] Law. With regard to transparency requirements, the [draft] Law provided for publication of notices of draft standards; an opportunity for public comments; a publication in which notices of proposed technical regulations and conformity assessment procedures would appear; an authority responsible for making notifications to the WTO; non-discriminatory treatment of comments in the preparation of the final regulation; and a reasonable period of time between the final publication of a technical regulation (or a conformity assessment procedure) and its entry into force, thus providing suppliers with sufficient time to adapt to it. The

[draft] Law reflected the principles of the Code of Good Practice for the Preparation, Adoption and Application of Standards.

238. All existing technical regulations (mandatory standards) would be brought in line with the TBT Agreement as the technical regulations would be reviewed and, as necessary, revised to eliminate all provisions exceeding international requirements and not justifiable under Article 2.4 of the TBT Agreement. In addition, the technical regulations would be revised to assess whether or not the circumstances or objectives giving rise to their adoption continued to exist, or whether the changed circumstances or objectives could be addressed in a less trade-restrictive manner. Appropriate amendments would be introduced to bring existing legislation in compliance with Article 2.7 of the TBT Agreement and address the issue of accepting other Members' regulations as equivalent. Technical regulations that did not comply with Article 3 of the TBT Agreement would also be eliminated. He considered DSTU 1.13-2002 "On the rules for notification of trade partners of Ukraine" to be in conformity with Article 2.9 of the TBT Agreement. This Standard had been developed to meet the requirements of documents G/TBT/W/2/Rev.1 and G/TBT/9, as well as the notification requirements of the TBT Agreement and the provisions of the Code of Good Practice for the Preparation, Adoption and Application of Standards. Ukraine would not use standards, technical regulations and conformity assessment procedures in a manner that would be restrictive to international trade, prohibitive to imports, and discriminatory of individual exporters and suppliers. [The complete alignment of technical regulations and standards with WTO norms could not be completed by the date of accession. Ukraine would therefore ask for an implementation period and submit a work program to the Working Party spelling out the steps remaining to be taken, and the required timeframe, to achieve full conformity.] [He confirmed that Ukraine committed to be in full conformity with the obligations of the WTO TBT Agreement from the date of accession provided it received adequate technical assistance from WTO Members.] The State Committee for Technical Regulation and Consumer Policy had prepared an Action Plan for the full harmonization of standards and technical regulations during 2005-2011.

239. [The representative of Ukraine confirmed that Ukraine will comply with all obligations under the WTO Agreement on Technical Barriers to Trade from the date of accession without recourse to any transition period, and would sign and follow the Code of Good Practice for the Preparation, Adoption and Application of Standards from the date of its accession to the WTO.

The representative of Ukraine further confirmed that from the date of accession, all existing Soviet-era and other regional standards will be voluntary with respect to products imported from WTO member countries. National standards will remain mandatory only for non-imported products

and only by reference to a technical regulation, adopted by a public authority in accordance with legitimate objectives, such as national security, preventing of misuse practices, protection of the health and life of physical persons, of the health and life of animals, plants protection, and environment protection. All existing Soviet-era and other regional standards will continue to apply as mandatory only to products produced in Ukraine or imported from non-WTO member CIS states. These standards will be replaced with international standards, or technical regulations based on international standards, in accordance with the timetable outlined in document WT/ACC/UKR/129, and be fully replaced by 31 December 2011. With respect to the items for which certification remains mandatory in Ukraine, the representative of Ukraine confirmed that imported products meeting either international, European, or national standards will be accepted.

The representative of Ukraine confirmed that Ukraine will use relevant guides or recommendations issued by international standardizing bodies as the basis for new conformity assessment procedures in accordance with Article 5.4 of the TBT Agreement. Ukraine shall accept conformity assessment certificates issued by internationally recognized authorities of the exporting countries, or approvals provided by recognized independent conformity assessment bodies or agencies recognized by the Ukrainian Governmental body. Ukraine also shall reduce further the number of categories of imported products subject to mandatory certification prior to the end of year 2011 and shall notify the revised list to the WTO by 31 January 2012, and will complete the process of conversion to voluntary certification in accordance with the timetable outlined in document WT/ACC/UKR/129.

The representative of Ukraine confirmed that prior to the date of accession, Ukraine will amend its laws and regulations as described in document WT/ACC/UKR/129 to ensure that its conformity assessment procedures reflected options for achieving confidence in the technical competence of bodies located in the territory of other WTO members to perform conformity assessment and have their results accepted by Ukrainian authorities. Such options would include: the conclusion of agreements with conformity assessment bodies in other countries (e.g., accreditation bodies; certification bodies); the acceptance and non-discriminatory consideration of applications for accreditation from conformity assessment bodies located in other WTO members and the acceptance of conformity assessment results from qualifying bodies; and other means of recognition of equivalent procedures.

The representative of Ukraine confirmed that Ukraine shall apply the same controls, criteria and rules regarding technical regulations, standards certification and labelling requirements to imported and domestic goods, and will not use such regulations to restrict imports. Ukraine will

ensure that its technical regulations, standards certification and labelling requirements are not applied to imports in an arbitrary manner, in a way that discriminates between supplier governments where the same conditions apply or as a disguised restriction on international trade. Ukraine shall make sure that internal mechanisms will exist, upon accession, to inform and consult with, on an ongoing basis, government agencies and ministries (at national and sub-national levels), and private sector interests on the rights and obligations under the GATT 1994 and the TBT Agreement.

The representative of Ukraine confirmed that Ukraine will, upon request of WTO members, meet to discuss all these measures and their impact on trade with a view to resolving problems. The Working Party took note of these commitments.]

240. [Ukraine confirms its intention to comply with all provisions of the Agreement on Technical Barriers to Trade (TBT Agreement) on the date of its WTO accession and to abide by the provisions of the Code of Good Practice for the Preparation, Adoption and Application of Standards (i.e., Annex 3 to the TBT Agreement) as regards the development, adoption and application of standards that it signed in December 1998.

Ukraine confirms the voluntary nature of its application of all national standards except for those national standards that are referred to in technical regulations approved in accordance with legislation intended to ensure national security, prevent deceptive practices, protect the life and health of people, animals or plants, as well as protect the environment. Standards will apply equally and in a non-discriminatory fashion to domestic products and to products imported from WTO Member countries, CIS countries and non-CIS countries alike.

Ukraine confirms its intention to review and replace all its national standards (i.e., former USSR standards) with international standards or technical regulations based on international standards in accordance with the Program of Current Standards Review envisioned by the 2005 – 2011 Action Plan (the "Action Plan") to achieve full conformity of the national system of standards and technical regulations in Ukraine to the WTO Agreement on Technical Barriers to Trade (document WT/ACC/UKR/129). To guarantee the necessary degree of technical and regulatory effectiveness to fulfil its legitimate objectives, while avoiding unnecessary obstacles to international trade, Ukraine's process of technical and regulatory harmonization shall be carried out on the basis of an informed and technical process of standards' development and harmonization, not by means of automatic and systematic substitution of domestic with international standards.

In accordance with the "Action Plan", as well as with the special State standardization program for 2006 – 2010, which is being prepared in accordance with the Decree of the President of

Ukraine "On Measures to Improve Activities in the Field of Technical Regulation and Consumer Policy" No. 1105 / 2005 of 13 July 2005, the said standards shall all be replaced at the latest by January 2011.

Ukraine also reaffirms its intention in the field of conformity assessment to use international standards, guidelines and recommendations of the International Organization for Standardization as regards conformity validation procedures in accordance with Article 5 of the WTO Agreement on Technical Barriers to Trade. Ukraine would recognize and accept the results of conformity assessment in accordance with Article 6 of the WTO Agreement on Technical Barriers to Trade provided by conformity assessment bodies of exporting countries based on their confirmed adequacy and reliable technical competence as well as the recognition of the said bodies by the National Executive Authority for Conformity Assessment.

Ukraine shall shorten the List of Products subject to obligatory certification by the end of 2005 by de-listing the products of low risk to consumers and shall inform the WTO Members by means of a notification to the WTO by 1 December 2005. Ukraine shall also complete the process of regulating conformity assessment (manufacturer's declaration of conformity and third party's certification) as well as the voluntary certification in accordance with the "Action Plan" for 2005 – 2011 (document WT/ACC/UKR/129).

By the date of its WTO accession, Ukraine shall have introduced relevant changes to its laws in the field of conformity assessment envisioning the participation of competent authorities in the field of conformity assessment located in the territories of other WTO Members, implementation of national conformity assessment procedures, recognition and acceptance of conformity assessment results provided by bodies in exporting countries by the National Executive Authority for Conformity Assessment. This would envision the entry into agreements with conformity assessment bodies of other countries, acceptance and non-discriminatory review of accreditation applications from conformity assessment bodies located in the territories of other WTO Members, acceptance of results and conformity assessments provided by technically competent authorities in accordance with the established procedure based on international standards, guidelines and recommendations, recognition of the equivalence of technical regulations and conformity assessment procedures.

Ukraine shall not use standards, technical regulations and conformity assessment procedures in a manner that would be restrictive to international trade, prohibitive of imports, and discriminatory of individual exporters and suppliers. Ukraine shall use the same standards, technical regulations and conformity assessment procedures for imported and domestic goods.



At the request of WTO Members, Ukraine shall hold consultations and meetings to discuss any issue related to the application of standards, technical regulations and conformity assessment procedures that are stipulated by the TBT Agreement and may have a negative impact on international trade. In particular, upon its WTO accession, Ukraine shall ensure a national mechanism for ongoing information and holding of consultations with national and regional executive authorities as well as with stakeholders representing its private sector as regards rights and obligations in accordance with the General Agreement on Tariffs and Trade 1994 and the Agreement on Technical Barriers to Trade.]

241. [The representative of Ukraine stated that, upon accession to the WTO, Ukraine would comply with all the provisions of the Agreement on Technical Barriers to Trade without recourse to any transitional arrangements. The Working Party took note of this commitment.]

[Ukraine commits to be in full conformity with the substantive provisions including procedural and transparency requirements of the WTO TBT Agreement from the date of accession. Ukraine intends to bring all existing technical regulations (mandatory standards) into line with the TBT Agreement. This will be implemented through a program of revision of all existing technical regulations (mandatory standards) and elimination of those, which exceed international requirements and cannot be justified under Article 2.4 of the TBT Agreement. In addition, remaining technical regulations will be reviewed to assess whether the circumstances or the objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner. Technical regulations that do not comply with Article 3 of the TBT Agreement will also be eliminated. Ukraine intends to implement this program over a period of 5-6 years.]

- **Sanitary and Phytosanitary Measures**

242. The representative of Ukraine said that his authorities had embarked on a programme of reform to bring Ukraine's regulation of sanitary and phytosanitary (SPS) measures in line with WTO requirements. He provided detailed information on ongoing and planned efforts in the form of a Sanitary and Phytosanitary Measures (SPS) Completion Report (document WT/ACC/UKR/110/Add.3 and Add.4), an "Action Plan for Resolution of Problem Issues, particularly at the State Border", reproduced in Annex 8 of document WT/ACC/UKR/110/Add.1, and a SPS harmonization plan (document WT/ACC/UKR/128).

243. In pursuance of Presidential Decree No. 797 "On Additional Measures Towards Acceleration of Ukraine's WTO Accession" of 5 September 2001, key legislation such as the Laws "On Ensuring Sanitary and Epidemic Safety of the Population", "On Quality and Safety of Foodstuffs and Food

Raw Materials", "On Protection of Population from Infectious Diseases", "On Veterinary Medicine", "On Responsibility of Enterprises for Violation on the Law on Veterinary Medicine", "On Quarantine of the Plants" and "On Amendments to the other Laws in Connection to the Adoption of the Law on Quarantine" as well as secondary legislation in this area, were being examined and amended as necessary to bring national legislation into conformity with international requirements and standards.

244. At present, however, Ukraine's legislative system concerning SPS measures remained complex and fragmented, as illustrated by the "Provisional List of Legislation Relevant to SPS Issues", reproduced in Annex B to document WT/ACC/UKR/110/Add.3, and by the fact that the administration of SPS measures fell within the scope of several institutions, including the Ministries of Health; Economy; Environment; and Agrarian Policy; the Department of Veterinary Service, the State Service for Plant Quarantine, the State Customs Service. Thus, for example, imported food of animal origin was subject to certification by the Ministry of Health and authorization by the State Committee on Standardization, the certificate was checked at the Health Border Point and the product, including collection of a sample, at the Veterinary Border Point, followed by surveillance in the market by the Epidemiological Unit, the Veterinary Service and the Association of Consumers' Rights.

245. A project funded by TACIS had also concluded that Ukraine's system of Border Inspection Points would need to be reviewed. All consignments of imported food of animal origin were subjected to elaborate laboratory tests with part of the costs covered by the owner of the goods. Meat and poultry were, for example, tested for toxic elements (lead, cadmium, arsenic, copper, zinc, mercury), ten different pesticides, micotoxine, microbiological parameters and radionuclide, at a cost of approximately US\$ 120 per consignment. Moreover, these costs were likely to increase in the future as the State would no longer support this activity. In this connection, the representative of Ukraine noted that the Ministry of Health (Order No. 247 of 9 October 2000) had confirmed a new procedure for issuing medical hygiene certificates, and that the Cabinet of Ministers' Resolution No. 1569 "On the Procedure for Collecting the Unified Fee at Points of Crossing the State Border of Ukraine" of 24 October 2002 included a list of the products subject to sanitary and phytosanitary control at the border, determined pursuant to UCC FEA. However, he expected that the provisions of the new (forthcoming) SPS-related legislation would reduce significantly the number of inspections requiring sampling and testing procedures. In particular, low-risk consignments would be cleared after a standard document verification and a visual inspection. All fees charged in relation to the border inspection would not exceed the actual cost of services rendered.

246. Some Members noted the ongoing work in Ukraine to improve the legal framework and related practices in the application of sanitary and phytosanitary measures, and stated their expectation that Ukraine would be in full conformity with all provisions of the SPS Agreement upon accession. A Member stated that current testing requirements of imported consignments under the veterinary border regime appeared to be excessive.

247. In reply, the representative of Ukraine added that efforts were under way to submit to the Supreme Rada draft laws amending SPS-related provisions contained in the Laws "On Veterinary Medicine", "On Quality and Safety of Food and Food Raw Materials", "On Plant Quarantine", "On Foreign Economic Activity", "On Ensuring Sanitary and Epidemic Safety of Population", "On State Regulation of Import of Agricultural Products", "On the Protection of Population from Infectious Diseases", and "On Pesticides and Agrochemicals". Ukraine intended to consolidate all existing SPS provisions into three separate framework laws, i.e. a Law on Veterinary Medicine, a Law on Safety and Quality of Food Products, and a Law on Plant Quarantine, which would be the only laws governing SPS matters. The framework laws would incorporate the provisions of the WTO SPS Agreement related to terminology; harmonization; equivalence in measures; risk assessment and appropriate level of protection; adaptation to regional conditions; transparency (enquiry and notification points); and inspection, control and approval procedures. Ukraine had drafted the amendments for bringing the relevant SPS-related provisions into full conformity with the WTO SPS Agreement, including substantive provisions, procedural and transparency aspects. These draft laws had been submitted to Parliament for consideration.

248. The new Law on Veterinary Medicine would address animal health issues. Provisions applicable to food products of animal origin would be included in the Law on Safety and Quality of Food Products. In addition to the explicit inclusion of provisions of the SPS Agreement, the Law on Veterinary Medicine would include harmonization with international terminology, the introduction of international standards, recommendations and guidelines in disease control, producer responsibility for ensuring the production and circulation of disease-free animals and products, accreditation and authorization requirements for laboratories involved in the testing of domestic and imported animals and products, monitoring of animals and feed for residues of harmful substances, provisions enabling traceability of non-edible products of animal origin, transparent import procedures, and application of risk-based border control. If no international standards, guidelines or recommendations were available, veterinary-sanitary measures would be introduced on the basis of a risk assessment conducted using the methodology of relevant international organizations. If scientific evidence needed to carry out the risk assessment was insufficient, veterinary-sanitary measures would be based on available information obtained from relevant international organizations, or on the measures used

by other WTO Members. The criteria for accepting equivalence would be based on the guidelines contained in the Terrestrial Animal Health Code published by the Office of International Epizootics (OIE).

249. The new Law on Safety and Quality of Food Products would cover all food products regardless of content and stage of processing. The Law would introduce major conceptual changes in the production and handling of food products by introducing best international practices encompassing a food-chain approach to safe food, including mandatory implementation of HACCP systems in food producing enterprises. Thus, the producer would become responsible for the suitability (safety and acceptability) of food for human consumption, enabling the State to reduce its role to that of verifying the conditions and practices necessary to produce safe food. In addition, the quality of food products would be determined according to (voluntary) standards and, as appropriate, minimum quality specifications defined in technical regulations. The Law on Safety and Quality of Food Products would also include a clear delineation of authority between the Veterinary Department and the Sanitary Service, minimize the documentation requirements for imported food products, streamline border control procedures based on the risk presented by a particular food product, establish requirements for the accreditation of all food control laboratories, and ensure broad acceptance of international standards and recommendations, to be adopted by the National Codex Alimentarius Commission of Ukraine. Minor amendments to the Laws "On Ensuring Sanitary and Epidemiological Safety of the Population", "On Protection of the Population from Infectious Diseases", and "On Pesticides and Agrochemicals" would ensure that the new Law would be the only legislation in Ukraine governing the importation of food products.

250. The new Law on Plant Quarantine would update Ukrainian phytosanitary legislation to international standards by explicitly incorporating SPS principles and advances in the protection of plant health and life. The new Law would be the only legislation in Ukraine applicable to imported plants, plant products, and other Articles capable of carrying or transmitting plant pests. The Law would require that all phytosanitary measures be based on international standards, guidelines and recommendations of relevant international organizations, i.e. the International Plant Protection Convention (IPPC) and its regional organizations. The Law would specify clearly the basis for the determination of regulated pests, and the Articles that could be subjected to phytosanitary measures. Additional features of the new Law included enhanced transparency in the process of granting quarantine permits (import permission), minimization of documentation for importing, and the introduction of a risk- and performance-based system of border control. The criteria for accepting equivalence would be based on the guidelines contained in the (draft) International Standard for Phytosanitary Measures of the IPPC.

251. The new legal framework would call for the establishment of a single SPS Enquiry and Notification Point, to be located at the Ministry of Economy. Pursuant to Cabinet of Ministers' Resolution No. 408 of 31 May 2005 the SPS Enquiry and Notification Point had been established. The Enquiry point would be in operation from the date of Ukraine's accession to the WTO. All existing SPS measures would be brought in line with the SPS Agreement. Measures exceeding relevant international recommendations and guidelines under the Codex Alimentarius, the IPPC and the OIE would be assessed to determine whether or not sufficient scientific evidence existed to justify such protection, or whether the results of risk assessment would show that a higher level of protection was necessary - as stipulated in Articles 2.2, 3, and 5 of the SPS Agreement. Measures inconsistent with the SPS Agreement would be eliminated.

252. The representative of Ukraine stated that Ukraine would fully implement the provisions of the SPS Agreement upon accession – including its procedural and transparency requirements – provided it received adequate technical assistance from WTO Members for upgrading of testing laboratories, border inspection, control methods and sampling procedures and for training of relevant personnel.

253. [The representative of Ukraine stated that from the date of accession to the WTO his Government would apply all its sanitary requirements consistently with the requirements of the WTO Agreements on Sanitary and Phytosanitary Measures and Import Licensing Procedures without recourse to any transitional arrangements. He added that [Ukraine would not require additional certification or sanitary registration for products which have been certified as safe for human use and consumption by recognized foreign or international bodies, and ]Ukraine would ensure that from the date of accession its criteria for granting prior authorization or securing the required certification for imported products would be published and available to traders. He confirmed that sanitary and other certification requirements in Ukraine were administered in a transparent and expeditious manner, and that his Government would be willing to consult with WTO Members concerning the effect of these requirements on their trade with a view to resolving specific problems. The Working Party took note of these commitments.]

- **Trade-related investment measures**

254. Some Members noted that the Law "On Stimulation of Production of Motor Cars in Ukraine" of 19 September 1997 contained certain trade-related provisions including local content requirements. These Members requested Ukraine to remove these elements. A Member also noted that Ukraine's regulation of the sugar market appeared to infringe several provisions of the Agreement on Trade-Related Investment Measures. In particular, Ukraine's policy of mandatory exportation of sugar, refined domestically from raw sugar of foreign origin, violated Article III:4 of the GATT 1994 and

Article 2.1 of the TRIMs Agreement in that it required an enterprise to use domestic goods in terms of the value and volume of local production and limited an enterprise's purchases or use of imported raw sugar to the volume of local products exported. This Member also considered that Ukraine's minimum price policies constituted a prohibited TRIM in the meaning of Annex 1(a) as the purchase or use by an enterprise of domestic products was required to obtain an advantage on the sale of refined sugar. Finally, Ukraine's internal production quota for sugar, under which producers were required to sell a fixed quantity of refined sugar on the domestic market, limited the sale for export and thereby represented a prohibited TRIM in the meaning of Annex 2(c) of the TRIMs Agreement. This Member requested Ukraine to abolish these requirements and restrictions, and to remove minimum internal prices on sugar.

255. The representative of Ukraine replied that the Law "On Stimulation of Production of Motor Cars in Ukraine" had been amended on 15 November 2001 to eliminate the local content requirements. The Law "On Development of the Automobile Industry of Ukraine" No. 1624-IV of 18 March 2004, on the other hand, had linked State support to enterprises producing automobiles, motorcycles and spare parts to the value of inputs (minimum 50 per cent of the ex-factory price) originating in Ukraine. However, the Law "On Amendment of the Law of Ukraine "On the State Budget for 2005" and Some Other Legislative Acts" No. 2505-IV of 25 March 2005 had abolished tax privileges granted to car producers, establishing identical rates of excise tax for domestic and imported motor vehicles. VAT, profit tax and import duty privileges had been eliminated, along with a gradual phasing out of the land tax exemption. The provisions of Article 4 of the Law "On Stimulation of Automobile Production in Ukraine", which had been the basis for granting the privileges, had subsequently been eliminated pursuant to the Law "On Stimulation of Automobile Manufacture in Ukraine" of 6 July 2005, which harmonized existing legislative provisions with WTO requirements.

256. As for sugar, his Government would amend the Law "On State Regulation of Sugar Production and Sale" No. 758-XIV of 17 June 1999 and abolish the requirement of mandatory exportation of sugar derived from imported raw materials. This requirement was not in compliance with Article XI:1 of the GATT 1994. He considered the other existing regulations affecting the sugar market in compliance with the provisions of the TRIMs Agreement. In his view, the application of minimum prices to sugar complied with Article 6 of the Agreement on Agriculture and did not constitute a prohibited TRIM in the meaning of Article 1(a) of the TRIMs Agreement. With regard to Ukraine's production quota on refined sugar, under which producers were required to sell a fixed quantity of refined sugar on the domestic market, he explained that Ukraine's legislation provided for two other quota systems, one for the supply of sugar outside Ukraine in accordance with international

agreements (quota B) and one for sugar produced in excess of the first two quotas and intended for sale exclusively outside Ukraine (quota C). He was therefore of the opinion that the quota on the production of refined sugar (quota A) did not restrict exports. He added that his Government had developed a draft Law, which would abolish the B and C quotas, as well as the mandatory exportation of sugar.

257. [The representative of Ukraine confirmed that from the date of accession, Ukraine will apply its investment regime in compliance with the relevant provisions of the WTO, including the Agreement on Trade-Related Investment Measures, and in a non-discriminatory manner - to imports from all WTO Members and to domestically produced goods. The Working Party took note of this commitment].

- **State-trading entities**

258. The representative of Ukraine provided general information on the role of State-owned enterprises in Ukraine's economy and foreign trade in document WT/ACC/UKR/67 and Add.1. He added that the share of the public sector in the economy had been estimated at 22.9 per cent for the first half of 2004. Information on the import and export activities of enterprises by type of ownership is provided in Table 23.

Table 23: Distribution of exports/imports of goods by type of ownership (2004)

	Total	of which:		
		Private	State and State corporate	Communal and communal corporate
<b>Export</b>				
Number of enterprises	13,573	12,694	805	74
Value, Million US\$	32,666.1	29,799.2	2,803.9	63.0
Share in total exports (%)	100.0	91.2	8.6	0.2
<b>Import</b>				
Number of enterprises	19,545	18,685	620	240
Value, Million US\$	28,996.8	19,310.1	9,648.0	38.7
Share in total imports (%)	100.0	66.6	33.3	0.1

Source: State Statistics Committee

259. In response to requests for detailed information on the State trading enterprises and evidence that these were operating in accordance with Article XVII of the GATT 1994, he provided a list of 13 State-owned enterprises in document WT/ACC/UKR/110 (item No. 62). He stated that the activities of these enterprises were in conformity with Article XVII of the GATT 1994. He added that the 13 enterprises enumerated in document WT/ACC/UKR/110 had been either privatized or liquidated during 2000-2002 pursuant to the Law "On State Program of Privatization" No. 1723-III of 18 May 2000.

260. Some Members reiterated their request for detailed information on the operation and purpose of each enterprise, stating why these should be considered State trading enterprises, and documenting that their actions were in conformity with the requirements of Article XVII. Ukraine was asked to confirm that it had enumerated all enterprises enjoying exclusive or special privileges in relation to purchases or sales involving export or imports. Some Members enquired about how State-trading entities would be treated in the future. In connection with activity licensing, it had been noted that only State-owned or specialized enterprises were granted licences to import and export ethyl alcohol, cognac and fruit spirits. Thus, these enterprises had been designated trade privileges not available to other firms and individuals, and accordingly met the criteria for State trading enterprises. A Member requested additional information on "Khib Ukrainy", which had not been included in the list of 13 enterprises. Information was also sought on the other unprivatized State-owned enterprises operating in the agricultural sector, particularly in light of the new agricultural support law. In addition, Ukraine was asked to provide information on the relative share of imports, exports and economic activity accounted for by State-owned and State-trading firms in agriculture.

261. The representative of Ukraine replied that the State Joint Stock Company "Khib Ukrainy" had been established in 1996. The company had 81 wholly-owned production subsidiaries located in all oblasts of Ukraine, and controlled 18 to 20 per cent of Ukraine's grain storage and flour, cereal, and mixed fodder production capacities. Its activities also included domestic and foreign trade in grain. The basic exports of the company comprised of grain and grain products. "Khib Ukrainy" was authorized by the Cabinet of Ministers to act as a State agent for the State pledge procurement of grain and for carrying out interventions on the market for grain. The enterprise was undergoing restructuring pursuant to Resolution No. 604-p of 25 October 2002. A brief description of the activity of SJSC "Khib Ukrainy" is provided in Table 24.

262. Activity licences issued to "specialized enterprises" referred to enterprises possessing the necessary facilities, equipment and expertise for the making of cognac spirits. Although not listed among the 13 State-owned enterprises, he subsequently completed State Trading Questionnaires for "Ukrspirt" - a corporation licensed to produce and export ethyl alcohol, vodka and liqueurs - and the electric energy wholesale operator "Energorynok". "Ukrspirt" held a monopoly on the exportation of ethyl alcohol, but not on vodka and liqueurs, which "Ukrspirt" manufactured and sold in competition with other producers and traders. The questionnaires are reproduced in document WT/ACC/UKR/115.

263. The representative of Ukraine confirmed that his Government would apply its laws and regulations governing the trading activities of State-owned enterprises and other enterprises with



special or exclusive privileges and would otherwise act in full conformity with the provisions of the WTO Agreement, in particular Article XVII of the GATT 1994 and the Understanding on that Article and Article VIII of the GATS, and Article III and XI of the GATT 1994. The Working Party took note of this commitment.

- **Free zones, special economic areas**

264. The representative of Ukraine said that free economic zones and priority development areas had been established to encourage investment in regions characterized by structural unemployment (mining regions and military areas) or undergoing structural changes following technical or environmental disasters, such as the Chernobyl accident. The Crimea special investment regime aimed at promoting industrial production and investment in the public health and tourism sectors. In addition, technological parks had been set up to encourage investment, promote research, and encourage the development of new technologies. He submitted detailed information on free economic zones and Territories of Priority Development with Special Regime of Investment Activity in Ukraine in Annex 9 of document WT/ACC/UKR/110/Add.1. Additional information on free economic zones, priority development areas and technological parks is provided in document WT/ACC/UKR/116.

265. Technological parks had been established for a period of 15 years starting on 1 January 2000 pursuant to the Law "On Special Regime of Investment and Innovation Activity of Technology Parks" No. 991-XIV of 16 July 1999 and Cabinet of Ministers' Decree No. 2311 of 17 December 1999. Priority areas had been established pursuant to the Law "On Priority Directions of Science and Technology" No. 2623-III of 11 July 2001. Ukraine's special (free) economic zones and priority development territories were regulated by the Law "On General Grounds of Creation and Functioning of Special (Free) Economic Zones" No. 2673-12 of 13 October 1992, as amended on 15 May 2003 and 25 March 2005. Each free zone or other special zone, having an economic regime other than the general economic regime applicable in Ukraine, was regulated through a specific Law as stipulated in Article 92 of the Constitution. Any legal person or association of legal persons implementing investment and innovation projects aiming at developing high technology in priority areas were eligible for benefits.

266. Benefits granted under free economic zones (FEZ) and priority development areas could include exemptions from profit, investment, and land tax, VAT and import duties, mandatory sale of foreign currency earnings (imposed temporarily between September 1998 and March 1999), and certain fees (Tables 25(a) and 25(b)). FEZ benefits were not limited to specific industrial sectors. In the case of priority development areas, benefits were awarded to investments in priority economic activities, the list of which was determined by Resolution of the Cabinet of Ministers. Incentives

were granted to duly approved investment projects implemented by any legal person registered in a FEZ territory or priority development area and upon payment of a registration fee in accordance with Resolution No. 1199 of 5 July 1999. Investment projects were approved by a management body after examination of the project's compatibility with the objectives and economic priorities of the zone, its financial sustainability and contribution to economic, scientific, technological and social development, and upon justification of the amount and list of equipment, hardware and parts to be imported into the zone. Minimum levels of investment were required in priority development areas and in some free economic zones (Tables 26(a) and 26(b)).

Table 26(a): Minimum investment levels in priority economic activities

	Investment Project Cost/Economic activities
Priority Territories in Chernihiv Oblast	At least: <ul style="list-style-type: none"> <li>- US\$200,000 – in agriculture, food-processing and agricultural produce processing industries, light industry, pulp and paper industry, wood processing, furniture production, health protection and education;</li> <li>- US\$300,000 – in construction, tourist and recreation industry; and</li> <li>- US\$500,000 – in extractive industry, machine and equipment building, non-metal mineral products, chemical production, transport.</li> </ul>
Volyn Oblast	At least US\$200,000 – in all priority business activities
The city of Kharkiv	At least: <ul style="list-style-type: none"> <li>- US\$3 million – in metallurgy and metal working, machine and equipment building, building of electrical, electronic and transport equipment;</li> <li>- US\$1 million – in producing of electricity, gas, water, coke, other non-metal mineral products, in transport, communications, in metal waste and scrap working.</li> <li>- US\$700,000 – in construction, sanitation, scavenging and waste working, in chemical production, furniture, pulp and paper industry, printing industry; and</li> <li>- US\$500,000 - in food-processing and agricultural products processing industry, textile and clothing industry, tanning and shoe manufacturing industry, in health protection and education, in public assistance and in research and development in natural and technical sciences.</li> </ul>
Zhytomyr Oblast	At least: <ul style="list-style-type: none"> <li>- US\$200,000 - in agriculture, food-processing industry, textile industry, pulp and paper industry, wood processing, furniture production, clothes and furs manufacturing, health protection and education;</li> <li>- US\$300,000 – in construction; and</li> <li>- US\$500,000 – in extractive industry, machine and equipment building, mineral material products, chemical production, transport.</li> </ul>
the City of Shostka, Sumy Oblast	At least: <ul style="list-style-type: none"> <li>- US\$200,000 - in food-processing industry and agricultural products processing, wood processing and wood working, health protection;</li> <li>- US\$500,000 – in construction, waste working, producing electricity by thermoelectric power station and in distribution of heat; and</li> <li>- US\$1 million – in machine and equipment building, powder metallurgy and chemical production.</li> </ul>

	Investment Project Cost/Economic activities
Autonomous Republic of Crimea	At least: <ul style="list-style-type: none"> <li>- US\$100,000 – in activity for protection of historical and natural resources, research and development in information infrastructure, culture and sport, consumer services, territory cleaning, forestry, production of sport and fancy goods, toys, souvenirs;</li> <li>- US\$200,000 - in health protection and public assistance, in agriculture, fish industry, food-processing and agricultural produce processing industries, textile industry, wood working, furniture production;</li> <li>- US\$500,000 – in activity of health and resort centres, hotel and restaurant business, transport and communications, in construction, waste working, tourism services, rest and entertainment services; and</li> <li>- US\$1 million – in extractive industry, processing industry, electricity, gas and water production.</li> </ul>
Zakarpatska Oblast	At least US\$200,000 – in all priority business activities
Luhansk Oblast	At least: <ul style="list-style-type: none"> <li>- US\$500,000 - in agriculture, food-processing and agricultural produce processing industries, health protection;</li> <li>- US\$700,000 – in construction and transport industry; and</li> <li>- US\$1 million - in extractive industry, electrical energy and coke production, chemical production and machine building.</li> </ul>
Donetsk Oblast	At least: <ul style="list-style-type: none"> <li>- US\$1 million (US\$250,000 – for small enterprises) - in all priority business activities</li> </ul>

Table 26(b): Minimum investment levels in free economic zones

FEZ	Investment Project Cost
Reni	At least US\$200,000
Porto-franco at Odessa Commercial Sea Port	At least US\$1 million
Slavutych	At least US\$200,000
Port Crimea	At least US\$100,000
Mykolayiv	At least: <ul style="list-style-type: none"> <li>US\$500,000 – in food processing and agricultural produce processing industries;</li> <li>US\$700,000 – in construction, energy and transportation;</li> <li>US\$1 million – in machine building and instrument building;</li> <li>US\$3 million – for shipbuilding industries.</li> </ul>
Yavoriv	At least US\$500,000 (except projects involving technological park)

267. In response to specific questions, he said that benefits were not linked to export performance or local content. Pursuant to Resolution No. 1199 of 5 July 1999 investors had been allowed in the course of an investment project to give preference to products (works and services) of Ukrainian origin in the event of similar price, term of completion, quality and compliance with international standards (section 3, sub-section 13). This provision had only been a recommendation and had never been implemented. He added that his Government had adopted a Resolution "On Amendment of the paragraph 3 of Model Agreement (Contract) for the Implementation of the Investment Project at the Territory of Priority Development, in Special (Free) Economic Zone" of 30 May 2005, which had eliminated the non WTO-compliant reference to preferences accorded to products of Ukrainian origin.

268. A Member sought clarification about the extent to which goods manufactured in free zones were deemed to have transformed imported inputs sufficiently to be exempted from customs duties and taxes. The representative of Ukraine replied that, pursuant to Article 18 of the Law "On the Single Customs Tariff", sufficiently transformed goods included (i) finished goods, such as natural resources extracted within the special economic zone territory; plantation products grown on its soil; live animals bred in the zone; animal products produced within the zone; hunting, fishery and seafood products produced within the zone; seafood products extracted or produced in the world ocean by vessels of the given country, as well as by vessels leased or freighted by it; secondary raw materials and wastes generated through production and other processes completed within the zone; and goods manufactured in the zone exclusively with the products referred to above; and (ii) adequately processed goods, i.e. goods classified in a tariff position other than the position of imported materials and products used for their production and goods with an added value of at least 50 per cent. Goods safety operations for transportation or storage, preparation for sale and transportation, simple assembling operations, and limited transformation operations were not considered sufficient working or processing.

269. A Member noted that the provision according to which a product, in order to be transported duty free to the customs territory of Ukraine, had to be of FEZ origin, e.g. with a value added of at least 50 per cent, constituted a local content requirement and violated Article 3 of the Agreement on Subsidies and Countervailing Measures and Article III:5 of the GATT 1994. Some Members asked Ukraine to ensure that its domestic legislation on free economic zones and priority development areas would comply fully with WTO obligations upon accession, i.e. that normal taxes, tariffs, customs charges and other regulations would be applied to goods from those zones sold in the rest of Ukraine, that the provision of benefits would not be contingent on export performance, trade balancing, or local content criteria, and that the provisions of the WTO Agreement on Subsidies and Countervailing Measures, and of the TRIMs and TRIPS Agreements would be observed.

270. The representative of Ukraine replied that several draft laws amending the current FEZ regime had failed to be adopted by the Rada. These included (i) draft Law "On Amendment of Some Laws of Ukraine On Creation and Functioning of Special (Free) Economic Zones and Application of Special Regimes of Investment Activity in the Territories of Priority Development" to modify the customs regime of the "Azov", "Donetsk", and "Zakarpattia" special economic zones; (ii) draft Law No. 2569 of 28 March 2003 to cancel privileges applicable to agricultural goods of Chapters 1 to 24, annul import duty benefits for agricultural goods within the special regimes of investment activity, and specify criteria for determining the level of processing; and (iii) draft Law No. 3162 of 25 February 2003 determining the level of processing.

271. However, the Law "On Amendment of the Law of Ukraine "On the State Budget of Ukraine for 2005 and Some Other Legal Acts" No. 2505 of 25 March 2005 had cancelled the privileges for business entities registered in special economic zones, territories of priority development and technological parks. In particular, the Law had cancelled the exemption from land tax, corporate income tax, import duty and value added tax on imports. The new amendments did not alter the principles of the effective taxation mechanism, and did not increase the tax burden on manufacturers. Goods imported from free economic zones into the customs territory of Ukraine were subject to internal taxes as indicated in Table 27.

Table 27: Importation of goods from free economic zones into the customs territory of Ukraine

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

272. He added that a moratorium on the establishment of new special economic zones until 1 January 2010 had been integrated in the Law "On the State Budget for 2004", Article 9, and had expired at the end of 2004. A moratorium on the approval of new investment projects had also been introduced, however, it had been lifted following the entry into force of the Law "On Amendments to the Law on the State Budget for 2004" No. 1801-IV on 1 July 2004. The 2005 Budget Law (Article 9) had imposed a moratorium on the creation of new special (free) economic zones, on the introduction of special investment regimes in new territories, and on the creation of new technological parks. A moratorium on the approval of new investment projects in special (free) economic zones and on territories with special investment regimes had also been imposed.

273. Other recently adopted legislation included Resolution No. 704 of 15 May 2003, which modified the Sample Agreement (Contract) for the implementation of investment projects in special economic zones and priority development areas; Cabinet of Ministers' Resolution No. 404 of

30 May 2005, which removed the requirement giving preference to products (works, services) of Ukrainian origin from the Sample Agreement (Contract); Resolution No. 1435 of 10 September 2003, which established maximum volumes of imports into the customs territory of Ukraine for certain meat products fully or sufficiently processed within the "Donetsk" zone; and Resolution No. 1368 of 27 August 2003, which provided for mandatory expert examinations of changes made to investment projects to be carried out by central agencies of the executive power. The Resolution prohibited volume increases of imported goods under Chapters 1 to 24 of the Ukrainian nomenclature and made the approval of investment projects subject to the consent of all central agencies involved in the expert examination. It also offered guarantees to special economic zone operators in the event of changes to the priority types list. He noted that Resolution No. 146 of 11 February 2004, which restricted the import volumes from the Donetsk FEZ, had been cancelled. There were no plans to renew it.

274. [The representative of Ukraine confirmed that the free zones or free economic zones would be administered in compliance with WTO provisions upon accession[, including the Agreements on TRIPS, TRIMs, and Subsidies and Countervailing Measures.] and that goods produced in these zones under tax and tariff provisions that exempt imports and imported inputs from tariffs and certain taxes would be subject to normal customs formalities when entering the rest of Ukraine including the application of tariffs and taxes. The Working Party took note of these commitments.]

[The representative of Ukraine confirmed that free zones or free economic zones would be administered in compliance with the norms and requirements of the WTO Agreements.]

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

275. A Member was concerned about the incidence of barter in Ukraine's foreign trade. While the overall prevalence of barter had been reduced, barter was still applied on a significant scale in Ukraine and could affect up to 20 per cent of transactions occurring between Ukrainian parties in the sugar sector, particularly between beet producers and processors/refiners. This Member accordingly sought information on the steps Ukraine was taking to eliminate barter practices in internal and international trade, and when such practices were expected to be completely eliminated. Questions were also raised concerning the application of VAT or other internal taxes to barter transactions, and whether such measures conformed with the provisions of Articles I:1 and III:2 of the GATT 1994. In addition, a Member sought information about the licensing requirements affecting barter transactions.

276. The representative of Ukraine replied that barter trade was regulated by the Law "On Regulation of Goods Exchange (Barter) Transactions in Foreign Economic Area" No. 351-XVI of 23 December 1998, as well as Cabinet of Ministers' Resolution No. 1489 of 13 August 1999, Cabinet

of Ministers' Resolution No. 756 of 29 April 1999, Decree of the Ministry of Economy No. 188 of 9 June 2000, and Decree of the Ministry of Foreign Economic Relations No. 831 of 1 November 1999. He confirmed that barter imports were subject to the same customs duties, fees and charges, and internal taxes as other like products imported into Ukrainian territory.

277. The incidence of barter in foreign trade transactions had declined rapidly in recent years and represented no more than 0.1 per cent of Ukraine's imports and exports in 2002. In manufacturing, where barter operations had accounted for more than 40 per cent of the transaction settlements in 1998, the share of barter had fallen to 2.2 per cent in early 2003. Specifically concerning the sugar sector, the share of barter transactions had amounted to 5 per cent in sales of sugar beet in 2002, and less than 10 per cent for sugar sold by agricultural enterprises.

278. Ukraine had applied a special procedure in the determination of tax credit and tax liability to discourage barter operations. However, this procedure had been abolished according to the Law "On Amendments to the Law of Ukraine "On Value Added Tax"" No. 469-IV of 16 January 2003, and barter was now treated on par with other commercial transactions. The Law "On the 2003 National Budget of Ukraine" (Article 7) stipulated that for goods, works and services exported from the customs territory of Ukraine as part of a barter transaction, VAT paid (calculated) in connection with the purchase of goods (or works or services) would not give rise to an increase of the tax credit, and would be included in the total gross production (turnover) costs of the taxpayer. This rule had been extended by the Law "On the State Budget of Ukraine for the Year 2004".

279. The representative of Ukraine confirmed that barter transactions, as such, were not subject to licensing. Licensing, including the licensing of barter transactions, was applicable only to goods, which were subject to licensing. Goods imported under a barter contract had to be imported into the customs territory of Ukraine no later than 90 days following their customs clearance. To exceed this period, the party engaged in the barter transaction had to obtain a one-time individual permit. An applicant seeking such a permit should file with the Ministry of Economy (i) a request, describing the reasons and needs for extension of the authorized timeframes for entry of imports into the customs territory of Ukraine under barter Agreements; (ii) an application for a one-time individual permit in the format set by the Ministry; (iii) a conclusion of the Ministry or another central executive power authority that a barter contract for the import of goods (works, services) was referred to those providing for production cooperation, consignment, complex construction, supply of sophisticated technical items and special purpose goods, determining the period of possible extension of timeframes for the entry of imports into the customs territory of Ukraine; (iv) a certified copy of a barter contract; (v) certified copies of customs declarations accompanying the import and export of goods (works,

services) under respective barter contracts; and (vi) a certified copy of a certificate of State registration of a business entity involved in foreign economic activity. This package of documents had to be filed no later than 15 days following the expiration of the term for entry of goods (works, services) into the customs territory of Ukraine, i.e. 90 days following the date of customs clearance of goods imported under barter contracts. If submission deadlines were not respected, an applicant might be denied the issue of the requested permit, and the application could be reconsidered only once a complete set of documents had been filed.

- **Government procurement**

280. The representative of Ukraine said that the agency responsible for the implementation of Ukraine's government procurement policy was the Department for Coordination of Government Procurement and Government Orders of the Ministry of Economy established in 1998. In recent years, efforts had focused on developing and improving government procurement legislation, training personnel, and disseminating information. He submitted a Memorandum on the purchase of goods, works, and services in document WT/ACC/UKR/74. However, the system had been modified in 2000 with the adoption of the Law "On Procurement of Goods, Works, and Services" No. 1490-III of 22 February 2000. The Law was based on the UNCITRAL model law on government procurement and incorporated provisions of the WTO Agreement on Government Procurement and European Union Directives. The Law provided for a single government procurement system. The Law regulated tendering procedures to be applied in public procurements financed by the State budget and local-government budgets, as well as expenses of non-budget funds and credits secured by the Cabinet of Ministers. The Law established thresholds (equivalent to € 2,000 for goods and services and € 100,000 for works) for procurements to be effected by tender in compliance with the procedures and requirements of the Law. Purchases for State needs were limited to the Government's own consumption.

281. Ukraine operated a decentralized government procurement system whereby procurement was carried out directly by the purchasing entity, i.e. the State power authorities, local self-government bodies and institutions reporting to them, social insurance funds, the Pension Fund, the National Bank, as well as enterprises and organizations funded by State and local budgets. The purchasing entity established a tender committee, responsible for ensuring optimal utilization of public funds by organizing open tenders in a competitive environment. The Law stipulated the conduct of sequential steps such as (i) the invitation to participate in a tender; (ii) the elaboration of detailed tender documents containing clear, impartial and accurate specifications; (iii) objective evaluation of the



conformity with the established criteria; (iv) the inadmissibility of negotiations between the procuring entity and the successful bidder; and (v) the conclusion of a Procurement Agreement.

282. Article 5 of the Law, which stipulated the principle of non-discrimination, had been aligned with universally acceptable international norms and practice. The Law accordingly maintained that no supplier could be excluded from a State procurement procedure based on national affiliation, and transparent and fair bidding procedures enabled the selection of the most economical proposal. In addition, Article 6 of the Law introduced price preferences for domestic producers relative to foreign suppliers.

283. The Law also included provisions concerning the review of complaints. These matters were addressed in Chapter VII of the Law – "Appealing the Applied Procurements Procedures". The receipt of a complaint served as sufficient grounds for an inspection conducted by a competent authority as well as controlling agency. A decision would be taken to abrogate the tender if the alleged violations were proved. Should a substantiated complaint be recognized as unsatisfied because the procuring entity had entered into a procurement agreement prior to the filing of the complaint, then the materials of the case could be submitted to the competent controlling agencies and, in individual cases, to the law enforcement bodies. Any party objecting to a decision rendered by a competent authority could appeal the decision according to applicable law.

284. The Ministry of Economy had launched an information and analytical bulletin "Visnyk Derzhavnykh Zakupivel" (Government Procurements Newsletter) in November 1998. The bulletin provided relevant information to those participating in government procurement processes, and could be accessed by all business entities interested in submitting bids for the procurement of goods, services and works by the State. In accordance with the Law, the bulletin published all open tender invitations as well as the outcome of the tenders. In addition, data concerning government procurement tenders were posted on the official web-site of the Ministry of Economy ([www.me.gov.ua](http://www.me.gov.ua)) and on the Government's web-portal ([www.kmu.gov.ua](http://www.kmu.gov.ua)), as well as on the home pages of the purchasing entities.

285. Some Members urged Ukraine to initiate negotiations to join the Agreement on Government Procurement after accession. In the interim, procurement should be conducted in a transparent manner and MFN treatment should be applied when tenders were opened to foreign goods and bidders.

286. The representative of Ukraine confirmed that upon WTO accession, Ukraine would start negotiations on the accession to the Government Procurement Agreement. [Ukraine would become

observer to the GPA at the time of accession to the WTO and start GPA negotiations by requesting membership and tabling an entities offer [one year after][immediately after accession]. He confirmed that Ukraine would conduct procurement in a transparent manner and apply MFN treatment providing all foreign suppliers with equal opportunity to participate in that procurement pursuant to the principle of MFN treatment, i.e., if a procurement was opened to foreign suppliers, all foreign suppliers would be provided with equal opportunity to participate in that procurement. The Working Party took note of these commitments.]

- **Trade in civil aircraft**

287. A Member sought a commitment from Ukraine to join the Agreement on Trade in Civil Aircraft upon accession to the WTO. The representative of Ukraine replied that his Government intended to join the Agreement on Trade in Civil Aircraft in 2010.

- **Transit**

288. The representative of Ukraine said that transit of goods through the territory of Ukraine was regulated by the Law "On Cargoes in Transit" No. 1172-XIV of 20 October 1999. In his view, the Law fully complied with Article V of the GATT 1994. "Cargoes in transit" were understood as shipments by transport means in transit subject to customs control through the Ukrainian territory between two points of entry or within one point – temporary storage of goods in warehouses, customs terminals, etc. The Law guaranteed the freedom of transit and did not include any restrictions nor distinctions based on the flag of vessels, the place of origin, shipping, entry, departure, or destination, or on any circumstances that related to the ownership of goods, ships, or other means of transport, in conformity with Article V:2 of the GATT 1994. The Law provided for MFN treatment of goods in transit. Pursuant to Article 157 of the new Customs Code, goods in transit could be moved along the routes determined freely by the carriers. However, the Cabinet of Ministers could set restrictions on the displacement of excisable goods in transit (alcoholic beverages and tobacco products) along specific routes and through designated points of entry at the customs border, as well as deadlines for transit of such goods by motorway or railway (Resolutions No. 484 of 6 May 1996 and No. 938 of 12 August 1996).

289. Some Members noted that the Ukrainian authorities could impose specific routes for the transit of excisable goods, and questioned whether this provision was compatible with Article V:2 (first sentence) of the GATT 1994. It was argued that the government would not always be aware of what the most convenient route for a given economic operator might be. Moreover, Articles V:3 and V:4 allowed only reasonable charges for transportation or those commensurate with administrative

expenses entailed by transit or with the cost of the services rendered. In addition, Articles V:5 and V:6 mandated "treatment no less favourable" rather than "equal treatment" to be accorded to traffic in transit.

290. The representative of Ukraine replied that Article 201 of the Customs Code stipulated that carriers chose the most economical transit routes provided that requirements determined pursuant to the Customs Code were complied with. The Cabinet of Ministers' Resolution No. 938 of 12 August 1996 (with changes and amendments) specified the designated border crossing points for the importation and exportation of excisable goods. He noted that Article V:2 of the GATT 1994 stipulated freedom of transit via the routes most convenient for international transit which, in his opinion, confirmed the right of WTO Members to impose a "convenient route". Ukraine had designated such routes for specific types of goods to prevent circumvention of controls on excisable goods, which in turn would discourage smuggling. He confirmed that goods in transit were exempt from duties, fees, and taxes, except for the unified fee (Table 12(b)), which in his opinion corresponded to the cost of transit. The unified fee was not collected on empty railway cargo cars crossing the territory of Ukraine. Motor vehicles and containers crossing the Ukrainian border without cargo were subject to one fifth of the fee stipulated according to Article 5 of the Law "On the Unified Fee that is charged at Customs Points of Entry through the Ukrainian State Border". The fee for usage of Ukrainian highways was collected in full. Goods from any country were carried through Ukrainian territory on equal terms, and Ukrainian law did not provide for limitations regarding the MFN treatment of transit shipments. He considered Ukraine to be in full compliance with the provisions of Articles V:5 and V:6 of the GATT 1994.

291. Transit cargoes were subject to simplified and express control procedures (Article 9 of the Law). Controls could not be interrupted and - in the event of agreements with neighbouring states - they were performed jointly. The delivery of goods could be subject to security measures including a guarantee issued by the owner of the goods and vehicles or an authorized person to the customs authority; escort by the customs authority; carriage of the goods by the customs carrier; or transportation of the goods under the conditions of the 1975 Convention of TIR (Article 161 of the Customs Code). These guarantee measures were compulsory (Article 165 of the Customs Code) for excisable goods. Asked whether the security measures could be imposed on products other than excisable goods and for what justification, the representative of Ukraine said that the security measures aimed at guaranteeing the arrival of such goods at a designated customs office, and that the type of guarantee to be provided was chosen by the owner of the goods or his representative pursuant to Article 165 of the Customs Code and Cabinet of Ministers' Resolution No. 700 "On the Regulation

on the Furnishing to Ukrainian Customs Authorities of Financial Guarantees regarding the Mandatory Delivery of Goods to Designated Customs Offices" of 29 June 1996.

292. The time limit for the shipment of goods to the destination customs authority was established by the entry customs authority in accordance with Ukrainian standards for cargo transportation and on the basis of the itinerary, transport means, distance and other shipment conditions. The time limit did not include the period of storage in warehouses due to the reloading of the goods into another transport means, nor the time period required for other cargo handling operations allowed by the customs authorities. In his view, these provisions provided for a reasonable deadline for transit as stipulated in Article V:4 of the GATT 1994. He added that the Law did not include any specific requirements for aircraft in transit. Goods in air transit and cargoes were subject to normal customs controls and clearance (Chapter 33 of the new Customs Code).

293. In response to a specific question, he noted that pursuant to Article 200 of the Customs Code, Ukraine's transit customs regime covered both vehicles and cargo in transit. Therefore, an empty truck transiting through the territory of Ukraine would be subject to transit customs procedures, but no cargo customs declaration would be issued.

294. [The representative of Ukraine confirmed that on accession his Government would ensure that Ukraine's laws and regulations governing transit operations would be in conformity with the provisions of the WTO Agreement, in particular Article V of the GATT 1994. The Working Party took note of this commitment.]

- **Agricultural policies**

**(a) Imports**

295. The representative of Ukraine said that agricultural products were subject to ordinary customs duties. Quantitative restrictions were no longer applied on any agricultural products. The Supreme Rada had authorized tariff rate quotas for the importation of raw cane sugar totalling 560,000 tons in 2003, and a tariff rate quota of 125,000 tons had been opened for 2004, as indicated in Table 11(c). No normative acts had been prepared for the introduction of tariff rate quotas in 2005 (see the section "Tariff rate quotas, tariff exemptions").

**(b) Exports**

296. The representative of Ukraine said that live cattle and sheep, oilseeds, and certain hides and skins, were subject to export duty (see the section "Export regulations" for details).

**(c) Internal policies**

*[Ukraine has submitted data on domestic support and export subsidies in agriculture for the period 1994-1996 in documents WT/ACC/SPEC/UKR/1 and its Revisions 2, 3, 4, 7 and 8, for the period 1997-1999 in documents WT/ACC/SPEC/UKR/1/Rev.5 and 6, and for the period 2000-2002 in Annex 10 of document WT/ACC/UKR/110/Add.2. Revised information, covering both 1994-96 as well as 2002-2002 has been provided in documents WT/ACC/SPEC/UKR/1/Rev.9 and 10. Information "on the need for annual State support ("Amber box measures")" has been presented in Annex 11 of document WT/ACC/UKR/110/Add.1.]*

297. The representative of Ukraine said that important measures had been undertaken over the past few years to create a more favourable economic environment and raise the efficiency of agricultural enterprises. A new Land Code had been adopted in 2001, which recognized the legal right to own land and thereby facilitated the privatization of land for agricultural purposes. The possibility to purchase and sell agricultural land had initially been foreseen for 2005. However, a moratorium on this had been imposed until 2007 and no further changes to the situation were envisaged. At the end of 2001, some 37,600 private farmers owned 2 million hectares of agricultural land – and 20.7 million hectares were leased – and about 7,000 agro-industrial enterprises (State farms, processing enterprises, agrarian service and construction enterprises) had been privatized. Mandatory insurance of agricultural crops and plantations had been introduced in 2001, and the infrastructure related to agricultural markets had been improved. Institutions had been developed to provide consultancy and advisory services and education to farmers. He provided a list of laws and regulations related to Ukraine's domestic agricultural policies in document WT/ACC/UKR/110/Add.2, Item 164, and presented information on reforms in the agrarian sector in document WT/ACC/UKR/96/Rev.1.

298. A new Law "On State Support to Agriculture in Ukraine" No. 1877-IV had been adopted on 24 June 2004. The Law contained provisions on State support for agriculture, including animal (husbandry) products and beet sugar production. Provisions of other normative and legal acts remained in effect, insofar as these did not contradict the provisions of the new Law.

299. Some Members raised concerns regarding the new Law "On State Support to Agriculture in Ukraine", noting that some of its provisions governing *inter alia* the imposition of import quotas (Article 8.6(d)), as well as the use of minimum import prices (Article 8.8.1(a)), were not consistent with WTO requirements. The representative of Ukraine replied that Ukraine would amend this Law prior to WTO accession. To this end, a relevant draft Law had been prepared and was at present under review. He added that according to the new Law, minimum import purchase prices were used as an indicator for triggering market intervention aimed at supporting domestic agricultural producers.

Buyers/sellers would not be obliged to buy or sell at the minimum price, given that the sole means of influencing the price was intervention purchases and sales. Minimum and maximum purchase prices could only be applied to imports/exports temporarily if the Antimonopoly Committee concluded that the competitive operation of the market was threatened and the Cabinet of Ministers endorsed that finding. He emphasized that this provisional measure was aimed at preventing, or putting an end to, speculative or collusive pricing behaviour in the agricultural sector, in cases where standard State intervention procedures were ineffective.

300. Domestic support in addition to "green box" measures was mainly provided in the form of support prices for specific agricultural products, such as sugar beet, cattle, sugar, poultry, pigs, sheep and goats, and milk. Ukraine also provided some non-product-specific support in the form of partial reimbursement of the cost of complex agricultural equipment and subsidized credit from commercial banks, support to individual farmers, maintenance of young orchards, reduction in the fixed agricultural tax, write-off of loan advances and tax arrears, and accumulation of VAT for purchases of inputs. In response to a specific question, he confirmed that his Government did not maintain any internal quantitative restrictions on the purchase and sale of agricultural products.

301. Some Members noted that, considering that Ukraine's accession negotiations had extended over a number of years, a recent and representative base period would need to be adopted as a basis for appropriate commitments. The representative of Ukraine said that Ukraine had provided a rationale for its choice of base period in Annex 11 of document WT/ACC/UKR/110/Add.1. He asked Members to take into account the arguments presented therein, while showing consideration for Ukraine's situation in the context of its transition to a market economy, as well as the particular difficulties facing its agricultural sector.

302. Priority areas in agrarian reform in the coming years included administrative reforms to improve the State management and regulation of agro-industrial enterprises and to support private initiative; land reform to promote the development of a land market and improve land and property regulation; the provision of medium and long-term low interest credit to agricultural enterprises and development of the legal basis for insurance of agricultural activities; the development of entrepreneurship and markets through the promotion of investment, innovation and technologies available to agricultural producers due to a favourable tax and investment environment, to promote agricultural advisory services and support land owner associations, and the development of advertising and other marketing services; the social development of rural areas, the establishment of social protection for the rural population, and job and skills enhancement programmes; and the

development of measures to support exports of agricultural products and harmonize domestic trade laws with WTO requirements.

303. A Member expressed deep concerns with regard to Ukraine's sugar policies. In particular, the establishment of a tariff rate quota for the supply of refined sugar onto the domestic market for a period from 1 September 2003 to 1 September 2004, pursuant to Resolution No. 1977 of 25 December 2002, appeared to constitute a prohibited quantitative restriction under Article XI of the GATT 1994 and a prohibited TRIM. This Member noted that Ukraine had not implemented tariff-rate quotas on sugar previously, thus the introduction of such a measure violated the standstill expectation. In addition, Ukraine's mandatory exportation requirement for sugar refined domestically from raw sugar of foreign origin seemed inconsistent with the provisions of Article 4 of the Agreement on Agriculture and Article XI:4 of the GATT 1994. Finally, the use of minimum internal prices for refined sugar, set at a level almost twice as high as the average world price and maintained by means of registration requirements, inspection and penalties for non-compliance, combined with the mandatory export requirement for refined sugar, afforded support to sugar processors contingent on local content and therefore constituted a prohibited subsidy in the meaning of Article 3.1(b) of the Agreement on Subsidies and Countervailing Measures. By according less favourable treatment to imported raw sugar *vis-à-vis* its competitor (beet sugar), this measure violated Article III:4 of the GATT 1994. This Member asked Ukraine to justify the attestation, registration and inspection requirements applied to sugar refining plants and to explain in detail the functioning of the internal quota on sugar. Ukraine was requested to eliminate the internal quota, the mandatory exportation requirement, and internal minimum prices on sugar.

304. The representative of Ukraine replied that Resolution No. 1977 of 25 December 2002 had introduced a production quota (A quota) for refined sugar of domestic beet origin for the domestic market from 1 September 2003 to 1 September 2004, not a tariff rate quota for the sale of refined sugar in the domestic market. Domestic legislation determined the production quota (A quota) for refined sugar to be sold in the domestic market and not to be exported. In addition, a B quota was foreseen for supplies outside Ukraine under international contracts, on price terms determined by these contracts. A third quota – the C quota – amounted to sugar produced in excess of the A and B quotas, and thus to be sold exclusively outside Ukraine. In his opinion, the A quota could not be viewed as an import restriction nor as an obstacle to importation. He confirmed that Ukraine had not exported refined sugar under international agreements (B quota) since 1997. Sugar owners (business entities operating in the sugar market) determined the volumes of sugar export sales independently (C quota), taking due account of the resources needed to fulfil their obligations under the A and B quotas. Owners were not obliged to supply the A and B quotas before they were allowed to export under the

C quota. He stressed that the B and C quotas had never been set by the government. The production quotas for the sale of sugar were established to ensure that domestic sugar beet production remained cost efficient. Sugar processors were allowed to decide the quantity of sugar beet they purchased, as long as their purchases were made at prices which were not below the established minimum. Since the relevant legislation had been in effect, however, the quantity of sugar beet purchased by processors had never exceeded the volume required for fulfilling their sugar production quotas. Thus, processors had paid the mandatory minimum price for their purchases of sugar beet, effective within the A quota. Processors could purchase raw cane sugar, and refine and/or sell sugar of cane origin, even while beet was available for purchase and the processors' production quota (A quota) had not been filled. Processors could not transfer production quotas between themselves at their own discretion. Ukraine did not consider the production quota a prohibited quantitative restriction, as defined by Article XI of the GATT 1994 and banned according to the Agreement on Trade-Related Investment Measures. He added that his Government had submitted to the Supreme Rada a draft Law, which would abolish the B and C quotas, as well as the mandatory exportation of sugar (see also the section on "Trade-Related Investment Measures").

305. He added that imported refined sugar, as well as refined sugar produced domestically from imported raw (cane) sugar, were sold on the internal market at market prices. However, as the volumes of imported refined sugar and domestically-refined imported raw sugar were insignificant relative to domestic production, imports could not influence the domestic market price level. Thus, the domestic market price for sugar was effectively determined by the minimum price. He confirmed that imported refined sugar was not subject to mandatory minimum price requirements applicable to domestic sugar. There were no import restrictions or restrictions of any kind on the internal purchase/sale of imported refined sugar. He also confirmed that minimum import prices for raw cane sugar had never been applied. He did not consider the use of internal minimum prices on sugar to be inconsistent with Article 4 of the Agreement on Agriculture, Articles III:4 and XI:4 of the GATT 1994, nor with Article 3.1(b) of the Agreement on Subsidies and Countervailing Measures. Table 6(b) contains information on Ukrainian imports of refined sugar for 2003-2004 (see also the section on "Pricing Policies").

306. He noted that the Resolution "On Measures to Ensure that the Domestic Market is Supplied with Domestic Sugar and is Protected Against Unauthorized Imports" No. 494-p of 29 August 2002 provided for registration of sugar producers, allocated sugar quantities and established permanent control over wholesale prices for sugar. State registration had been effectively introduced pursuant to Order No. 335 of 17 October 2002. State Registration Certificates for sugar refining plants were delivered after inspection and attestation by the Commission for Attestation and State Registration of



Sugar Refining Plants. Attestations were valid for one year. The Commission was composed of representatives of the Chief Departments for Agriculture and Food, the State Technical Supervision Inspectorates of the Oblast State Administrations, the oblast Sugar Industry Associations, the State Sanitary and Epidemiological Service, and, depending on the location of the sugar refining plants, of other specialists and advisors (upon their consent). State registration opened the right to participate in tenders for the allocation of sugar production within the A and B quotas. He confirmed that participants in tenders were required to undergo comprehensive inspections every five years. Inspections included an analysis of the production process (cultivation, collection, acceptance and storage of sugar beet, modernization, energy consumption and thermal indicators, water balance and use of water, degree of production automation, organization of labour, and environmental indicators) and the formulation of proposals by the inspectors to improve and develop the production. He added that these measures aimed at raising the efficiency of beet production and processing. In his view, they could not be regarded as restrictions on the importation of raw cane sugar and exportation of refined sugar.

307. He acknowledged that Article 3.11 of the Law "On State Regulation of Sugar Production and Sale" No. 758-XIV of 17 June 1999 stated that sugar could be produced in Ukraine from imported raw materials on the exclusive condition that the entire output of the finished products be exported within time periods specified by Ukraine's legislation. The provision extended only to sugar produced from imported raw materials, not to the product as such. His Government intended to amend the Law "On State Regulation of Sugar Production and Sale" in order to cancel this rule. The relevant draft Law had been submitted to the Supreme Rada (see also section on "Trade-Related Investment Measures").

308. He added that under the "give-and-take" raw materials system, once the finished product had been re-exported, import duties were no longer due on the initial import of raw materials. Since the minimum price requirement did not apply to this system, sugar produced through the "give-and-take" arrangement was exported at a price which was lower than the domestic price. In reply to a specific question, he said that the "give-and-take system" was not applied under the import tariff quota regime. He also confirmed that Ukraine had no information about the existence of any arrangements for refining "give-and-take" raw sugar of Ukrainian origin in neighbouring countries.

309. In response to specific questions he acknowledged that upon accession, Ukraine intended to have in place a WTO-compliant system for anti-dumping and countervailing measures. Ukraine would be prepared to use this system against imports of refined sugar produced below normal cost, that may originate from any trading partner. He also confirmed that Ukraine did not benefit from any

reciprocal commitments from countries in exchange for the importation of refined sugar originating from their territories. He finally noted that Ukraine had stopped exporting sugar beets in 1997.

310. The representative of Ukraine agreed that, upon Ukraine's accession, his country would bind its agricultural export subsidies at zero in its Schedule of Concessions and Commitments for Goods, and would not maintain or apply agricultural export subsidies as defined in paragraphs 1 (a)-(f) of Article 9 of the Agreement on Agriculture. He also confirmed that Ukraine would not seek recourse to the special safeguard provisions (SSGs) of Article 5 of the Agreement on Agriculture.

- **Textiles regime**

311. The representative of Ukraine said that export licences were issued for textile products falling within categories 435, 442, 444 and 448 exported to the United States. Pursuant to Cabinet of Ministers Resolution No. 1774 "About Bringing of Changes to the Resolution of the Cabinet of Ministers No. 1722 of 23 December 2004 "On Approval of the List of Goods Export and Import of which is Subject to Licensing and Falling under Quotas in 2005"" of 31 December 2004, export licences were no longer issued for textile products falling within categories 2, 2(a), 4, 5, 6, 7, 8, 12, 13, 15, 26/27, 29, 83, and 117 exported to the EU.

**V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

- **General**

**(a) Industrial property protection**

312. The representative of Ukraine said that his Government paid considerable attention to the effective protection of intellectual property. Ten specific laws regulated intellectual property rights in Ukraine, and Ukraine participated in 18 multilateral treaties regulating the area. In total, nearly 100 bylaws and regulations regulated intellectual property rights in Ukraine. Important efforts had been made over the past years to bring Ukraine's legislation on intellectual property rights closer to the standards set by the WTO. In 2001-2002, a new Criminal Code had been adopted and the Code on Administrative Violations had been amended to reinforce criminal and administrative liability for violation of intellectual property rights. New Civil, Commercial and Customs Codes had been approved during 2002-2003. During this period, the Cabinet of Ministers had also adopted 14 resolutions for the prevention of manufacturing and distribution of counterfeited goods, and six laws pertaining to intellectual property had been approved. On 6 July 2005, the Supreme Rada had adopted the Law "On Amendments to Certain Legislative Acts of Ukraine" (in respect of Bringing Order to Operations Involving Production, Exportation and Importation of Laser-Readable Discs,

Equipment and Raw Materials for their Production), which aimed at improving the State regulation of procedures applicable to the production, licensing, exportation and importation of laser-readable discs, equipment and raw materials used in their production. This Law introduced more effective mechanisms for combatting piracy in Ukraine. The Law had entered into force on 2 August 2005.

313. He considered that with these legislative adjustments, in particular the adoption on 22 May 2003 of the Law "On Amendments to Certain Laws with Respect to Legal Protection of Intellectual Property Rights", Ukraine's legislation on intellectual property rights had been brought into compliance with the TRIPS Agreement. He added that efforts would be made to improve the legislative and institutional framework further. He provided detailed information on the implementation of the TRIPS Agreement in documents WT/ACC/UKR/94, WT/ACC/UKR/102 and Rev.1, WT/ACC/UKR/112 and WT/ACC/UKR/117, and a comparative table of compliance of the national legislation with the TRIPS Agreement in documents WT/ACC/UKR/95 and WT/ACC/UKR/123. Asked about the newly adopted Civil Code of Ukraine (Book Four) and its role in Ukraine's implementation of the requirements of the TRIPS Agreement, the representative of Ukraine referred to the information contained in documents WT/ACC/UKR/112 and WT/ACC/UKR/117.

**(b) Responsible agencies for policy formulation and implementation**

314. The representative of Ukraine said that the State Department for Intellectual Property was responsible for the formulation and implementation of Ukraine's intellectual property policy. In 2002, his Government had established the "Intelzakhyst", an office in charge of issuing control stamps for audio and audiovisual products and maintaining Ukraine's Integrated Register of Control Stamps Recipients. A special subdivision of the Department, composed of State inspectors, had also been created to combat manufacturing and distribution of counterfeit goods, in particular discs for laser-readable systems. The State inspectors could draw up reports of administrative offences. They worked in close cooperation with the Ministry of Internal Affairs, the State Tax Administration, and the State Customs Service. His Government was now considering the establishment of a research institution within the Ministry of Justice for the technical examination of intellectual property objects.

315. Measures had also been taken to strengthen the judicial institutional framework for the enforcement of intellectual property rights and establish a specialized Patents Court, as permitted by the Law "On the Judiciary of Ukraine". In 2002, special boards of justice had been created within the Supreme Commercial Court of Ukraine, the commercial courts of Kiev and Sevastopol, the oblasts, and the Republic of Crimea, and within commercial courts of appeal to deal specifically with

intellectual property cases. Subsequently, specialized chambers within the Supreme Commercial Court and the commercial courts of appeal had been established in March 2003.

**(c) Participation in international intellectual property agreements**

316. The representative of Ukraine said that Ukraine was a founder member of the World Intellectual Property Organisation (WIPO) and had adhered without reservations to the Berne Convention for the Protection of Literary and Artistic Works; the 1952 World Copyright Convention; the Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms; the Rome Convention for the Protection of Rights of Phonograms Performers, Producers and Broadcasting Organizations; the WIPO Treaties on Copyright and Performances and Phonograms; the Paris Convention for the Protection of Industrial Property of 20 March 1883; the Madrid Agreement Concerning the International Registration of Marks and its Protocol of 28 June 1989; the Nice Agreement On International Classification of Goods and Services for the purposes of Marks Registration; the Trademark Law Treaty; the Nairobi Treaty on the Protection of the Olympic Symbol; the Patent Cooperation Treaty; the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure; the Patent Law Treaty; the Hague Agreement On International Registration of Industrial Designs; and the International Agreement on the Protection of New Plant Varieties. In addition, his Government cooperated with a number of regional and international organizations dealing with intellectual property protection, such as the NIS Interstate Intellectual Property Protection Council; the European Patent Organization; the International Industrial Property Protection Association; the International Federation of Patent Attorneys; the Licensing Union; the International Association of Trade Marks Owners; the International Federation of Phonogram Producers; and the International Federation of Authors and Composers Partnerships.

317. He added that his Government planned to consider the issue of acceding to the Strasbourg Agreement Concerning the International Patent Classification, the Locarno Agreement Establishing an International Classification for Industrial Designs, and the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks, and intended to join most of the agreements administered by WIPO and UNESCO. Ukraine had not signed the Brussels Convention Relating to the Distribution of Programme-Carrying Signals by Satellite, but would examine the commitments ensuing from the Brussels Convention as well as the possibility of acceding to this Convention.

**(d) Application of national and MFN treatment to foreign nationals**

318. The representative of Ukraine said that national and MFN treatment was granted under Article 423 of the Civil Procedure Code, Article 5 of the Law "On inventions and utility models" No. 3687-XII of 15 December 1993, Article 4 of the Law "On industrial designs" No. 3688-XII of 15 December 1993, Article 4 of the Law "On trademarks" No. 3689-XII of 15 December 1993, Article 6 of the Law "On copyrights and related rights" No. 2627-III of 11 July 2001, Article 5 of the Law "On origin of goods" No. 752-XIV of 16 June 1999, and Article 3 of the Law "On integrated circuits" No. 621/97 of 5 November 1997.

319. A Member noted that the Ukraine's legislation did not afford national or MFN treatment to foreign geographical indications, by requiring a bilateral agreement to be concluded between Ukraine and the foreign country where the GI was located, for each separate foreign GI for which protection was sought in Ukraine, while Ukrainian GIs benefited from a registration system through which they received protection. This was in clear violation of Articles 3 and 4 of the TRIPS Agreement, concerning national treatment and MFN, as well as Article 2 of the Paris Convention. This Member urged Ukraine to modify its relevant legislation and bring it into conformity with WTO rules.

320. In response, the representative of Ukraine said that the draft Law "On the Protection of Rights to Trademarks, Geographic Indications and Trade Names" aimed at bringing Ukraine's legislation in the area of intellectual property in conformity with international rules. Pursuant to Article 28, item 7 of this draft Law, an indication related to a geographical location in a foreign state was not "suitable for acquiring rights to the geographical indication if (i) the rights to such a geographical indication were not protected in the said foreign state; and (ii) the laws of the foreign state did not allow protections of rights to geographical indications in Ukraine". In his opinion such a provision would be in full compliance with Articles 3 and 4 of the TRIPS Agreement, as well as Article 2 of the Paris Convention.

**(e) Fees and taxes**

321. The representative of Ukraine said that the Procedure governing payments for actions related to the protection of intellectual property rights had been approved by Cabinet of Ministers' Resolution No. 1716 of 23 December 2004. He noted that this Procedure had been developed in line with Article 3 of the TRIPS Agreement. The Procedure established fees for actions related to the protection of rights on inventions and utility models, industrial designs, integrated circuit layout-designs, trademarks and service marks, and indications of origin. Different fees were charged

depending on the country's Gross Domestic Product (above or below a threshold of US\$ 3,000 per capita).

## **2. Substantive Standards of Protection, Including Procedures for the Acquisition and Maintenance of Intellectual Property Rights**

### **(a) Copyright and related rights**

322. The representative of Ukraine said that copyright protection was regulated by Ukraine's Civil Code and the Law "On Copyright and Related Rights" No. 3792-XII of 23 December 1993, as amended. The Law provided for the administration of copyright through collective management organizations. As of early 2005, there were nine collective management organizations responsible for the collection, distribution and payment of royalties for the use of copyright and/or related rights, in particular rights of authors of musical works, audiovisual works, and works of applied or fine arts, and rights of manufacturers of phonograms and videograms.

323. In his view, the Civil Code and the Law "On Copyright and Related Rights" were fully compliant with Articles 1 to 21 of the Berne Convention. The rights of performers and phonograms and videogram producers subsisted for 50 years from the date of first disclosure of the performance, or fixation. In the case of broadcasting organizations, protection was valid for 50 years following the first broadcast. The Law "On Copyright and Related Rights" and the Law "On Ukraine's Accession to the Bern Convention on Protection of Literary and Artistic Works" had been amended to provide retroactive protection for performers and producers of phonograms in compliance with Article 18 of the Berne Convention and Article 14(6) of the TRIPS Agreement.

324. A Member noted that Ukraine had put a reservation concerning Article 18(3) of the Berne Convention and requested Ukraine to withdraw it upon accession. The representative of Ukraine replied that the Law "On Amendments to the Law of Ukraine "On Copyright and Related Rights"" of 11 July 2001 had ensured that Article 18 of the Berne Convention was fully effective in Ukraine. The World Intellectual Property Organization had been formally notified of Ukraine's withdrawal of the reservation with respect to Article 18(3) of the Berne Convention on 10 June 2004. [The representative of Ukraine confirmed that the new revision of the Law "On Copyright and Related Rights" satisfied fully the requirements of Article 18 of the Berne Convention and Article 14 of the TRIPS Agreement. He further noted that the Berne Convention applied in Ukraine without reservation. With regard to the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT), he stated that Ukraine had incorporated their provisions in the new revision of the Law "On Copyright and Related Rights", and that Article 9 of the Constitution of

Ukraine provided that international agreements and treaties whose binding nature had been approved by the Supreme Rada were incorporated in the national legislation of Ukraine.]

**(b) Trademarks, including service marks**

325. The representative of Ukraine said that trademarks, including service marks, were protected under Ukraine's Civil Code and the Law "On Protection of Rights to Marks for Goods and Services" No. 3689-XII of 15 December 1993, as amended by the Law "On Amendments to Certain Legal Acts of Ukraine with Respect to Legal Protection to Intellectual Property" No. 850-IV of 22 May 2003. Pursuant to Article 6 of the Law, names could not be registered as trademarks when they were identical or similar to (i) marks previously registered or whose application for registration had already been submitted; (ii) marks protected under an international treaty or agreement to which Ukraine was a party, including marks recognized as well-known under Article 6*bis* of the Paris Convention; (iii) protected firm names; (iv) indications of origin of goods protected under Ukraine's law – such indications could only be included as non-protected elements of a trademark; and (v) duly registered certification marks. The 2003 law amended the Law "On Protection of Rights to Marks for Goods and Services" *inter alia* to ensure protection against the use of similar and identical marks, to enable a third party to challenge and object to an application, as well as to grant protection to well-known marks even to the extent that they were not registered. Collective marks were granted similar legal protection to that accorded to "individual" marks. An association seeking the registration of a collective mark should indicate this under the INID code (551) on the registration form. As of 12 August 2005, 53,171 Ukrainian certificates for marks for goods and services had been issued and approximately 45,000 international registrations were in effect.

326. Trademarks were protected for an initial period of ten years from the date of filing of the application. The term of validity could be renewed for a further ten years upon request (filed during the last year of the present term). State registration was not a prerequisite for the recognition of trademark licensing agreements; a licensing agreement in writing signed by the parties to it would be considered valid. Well-known marks were protected in accordance with Article 6*bis* of the Paris Convention pursuant to Article 25 of the Law "On Protection of Rights to Marks for Goods and Services." Marks were recognized as well-known by the Appellate Chamber or the court. Ukrainian law did not require the Appellate Chamber to recognize a mark as well-known before legal action could be taken to protect it.

327. In response to some Members, who noted that pursuant to Article 6 of the Law "On Advertising", all advertising, including trademarks in foreign languages, had to be presented in the Ukrainian language, and further inquired about the practical application of this measure, the

representative of Ukraine said that the inconsistencies of the Law "On Advertising" with Article 6*quinquies* of the Paris Convention had been removed with the adoption of the Law "On Amendments to certain Legislative Acts of Ukraine regarding Protection of Intellectual Property" No. 1407-IV of 3 February 2004.

**(c) Geographical indications, including appellations of origin**

328. The representative of Ukraine said that the Law "On Protection of Rights to Indications of Origin of Goods" No. 752-XIV of 16 June 1999 and the Law "On Protection of Rights to Marks for Goods and Services" No. 3689-XII of 15 December 1993 provided for the protection of geographical indications. Pursuant to Article 1 of the Law "On Protection of Rights to Indications of Origin of Goods", geographical indications could be "simple indications of the origin of goods", i.e. any verbal or graphical indication, which directly or indirectly pointed to the geographical origin of goods, or "qualified indications of the origin of goods", i.e. the name of the place of origin or the geographical indication of the origin of goods. Legal protection was provided to qualified indications of origin on the basis of registration (Article 6, paragraph 2). Registration certificates providing the right to the qualified indication of origin were valid for ten years and could be extended an unlimited number of times (Article 15). Registrations could only be terminated for the reasons stated in Article 21.1 of the Law. Article 6 of the law provided that legal protection shall be granted to qualified indications of origin, subject to their registration remaining in force, for an indefinite period from the registration date. Article [3][18] of the Law provided that any person, including foreign nationals, shall have the right to file a lawsuit in court requesting the [invalidation or suspension of registration][termination of the certificate]. Legal tools were available to interested parties for the prevention from the use of geographical indications constituting an act of unfair competition under Article 10*bis* of the Paris Convention as set by the Civil Code and the Law "On Protection from Unfair Competition". [They][Ukrainian law] provide[s] for civil legal, administrative and criminal liability.

329. Pursuant to Article 16, item 6 of the Law on Marks, the exclusive right of a trademark holder to prohibit the use by third persons of the registered mark without the holder's consent did not extend to the use of protected qualified indications of origin. Protection of a qualified indication of origin could not be denied on the grounds that a mark registered in Ukraine consisted in or contained a geographical indication (Article 8, item 3 of the Law "On Indication of Goods Origin"), but registration of a mark would be rejected if the mark was identical or similar to a "qualified indication of origin", including spirits and liquors, and thereby likely to lead to confusion (Article 6, item 3 of the Law on Marks). Qualified indications of origin could only be non-protected elements of marks owned by the persons entitled to use such indications.



330. A Member noted that Ukraine's legislation did not afford the rights to trademark owners required by Article 16.1 of the TRIPS Agreement, as the representative of Ukraine had noted that, "the exclusive right of a trademark holder to prohibit the use by third persons of the registered mark without the holder's consent did not extend to the use of protected qualified indications of origin", and further that, "[p]rotection of a qualified indication of origin could not be denied on the grounds that a mark registered in Ukraine consisted in or contained a geographical indication (Article 8, item 3 of the Law "On Indication of Goods Origin"), but registration of a mark would be rejected if the mark was identical or similar to a "qualified indication of origin", including spirits and liquors, and thereby likely to lead to confusion (Article 6, item 3 of the Law on Marks)." This would deny the trademark owner its rights pursuant to Article 16.1 of the TRIPS Agreement, by forcing the earlier trademark to co-exist with a later established GI that would be likely to cause confusion with the earlier trademark, or worse yet, would call for an earlier trademark to be invalidated or cancelled due to a later-in-time GI.

331. Asked whether an application for a geographical indication from a foreign country should include a government document proving the right to the indication in the country of origin, the representative of Ukraine said that pursuant to the Law "On Protection of Rights to Indications of Origin of Goods", an indication related to a geographical location in a foreign state would not be granted protection unless the indication was protected in the foreign state concerned, and Ukraine had concluded a mutual agreement with the foreign state concerning the protection of this particular geographical indication.

332. A Member noted that the Law "On Protection of Rights to Indications of Origin of Goods" did not afford national or MFN treatment to foreign GIs. The requirement of the conclusion of separate bilateral agreements concerning each GI for which protection was sought constituted treatment unequal to that afforded to Ukrainian GIs, which benefited from a system of registration set up for their protection in Ukraine. This was clearly in violation of Articles 3 and 4 of the TRIPS Agreement, as well as Article 2 of the Paris Convention. This Member urged Ukraine to modify its relevant legislation and bring it into conformity with WTO rules.

333. In response, the representative of Ukraine said that the draft Law "On the Protection of Rights to Trademarks, Geographic Indications and Trade Names" aimed at bringing Ukraine's legislation in the area of intellectual property in conformity with international rules. Pursuant to Article 28, item 7 of this draft Law, an indication related to a geographical location in a foreign state was not "suitable for acquiring rights to the geographical indication if (i) the rights to such a geographical indication were not protected in the said foreign state; and (ii) the laws of the foreign state did not allow

protections of rights to geographical indications in Ukraine". In his opinion, this new text was in full compliance with Articles 3 and 4 of the TRIPS Agreement, as well as Article 2 of the Paris Convention.]

**(d) Industrial designs**

334. The representative of Ukraine said that industrial designs were protected under Ukraine's Civil Code and the Law "On Protection of Rights to Industrial Designs." Pursuant to Articles 5 and 6 of the Law, only new industrial designs, which did not contradict public order, humanity or moral principles, could be registered. The term of protection for an industrial design was ten years from the date of filing of the application. The term of protection could be extended, upon request, for a maximum of five years.

335. Applications for registration were checked against the requirements of Article 11 of the Law. In the event of incompatibility with patentability requirements, protection could be invalidated in full or in part in accordance with Article 25 of the Law. The industrial design "Tires Protector" had been invalidated in October 2003 on such grounds.

**(e) Patents**

336. The representative of Ukraine said that inventions representing new products or processes, involving an inventive step and capable of industrial application were eligible for patent protection under Ukraine's Civil Code and the Law "On Protection of Rights to Inventions and Utility Models" No. 3687-XII of 15 December 1993, as amended by the Law "On Amendments to Legal Acts of Ukraine with Respect to Legal Protection of Intellectual Property Rights" No. 850-IV of 22 May 2003. Patents could not be issued for inventions contrary to public order, humanity and moral principles; plant varieties and animal breeds; biological methods for breeding plants and animals, other than microbiological methods; integrated circuits of layout designs; and artistic design products. The term of protection was 20 years from the filing date. Decree No. 298 of the Ministry of Science and Education of 13 May 2002 approved the terms, conditions and procedures for the extension of patents on pharmaceuticals, means of animal protection, or means of plant protection for a period of protection of up to five years. Ukraine's legislation provided for judicial review of decisions of nullification or termination of a patent. In the event of violation of a holder's rights, the burden of proof rested with the defendant. In response to a specific question, he confirmed that Article 28 of the Law "On Protection of Rights to Inventions and Utility Models", as amended, provided for the reversal of the burden of proof for process patents in accordance with the requirements of Article 34 of the TRIPS Agreement.

337. Compulsory licenses could be delivered by the Cabinet of Ministers for public health or environmental safety reasons or for other public interests with a view to predominantly supplying the domestic market or by the court following three years of non-use or insufficient use of a patent without valid reason or refusal of a patent holder to grant a licence, including in the event where an invention presenting different objectives or features from a patented invention could not be used without violating the patent holder's rights. When granting a compulsory licence, the court or Cabinet of Ministers determined the extent of use of the invention, the period of effect of the licence, and the amount and procedure of payment of royalties to the patent holder so as to ensure adequate compensation. Patent holders retained their right to deliver licenses. Compulsory licence holders did not have the exclusive right to use an invention, nor did they have the right to issue sublicenses. In the case of compulsory licenses issued by the Cabinet of Ministers, licenses were granted following the filing of a petition to the competent authority, which should specify the motivation for the use of the patented invention and include a feasibility study describing the conditions of use of the invention and the amount of royalties payable to the patent holder. Petitions were examined by the competent authority and, if admissible, transmitted to the Cabinet of Ministers for decision in accordance with Article 30 of the Law "On Protection of Rights to Inventions and Utility Models". Licenses were nullified when the circumstances under which they had been granted ceased to exist. Decisions of the Cabinet of Ministers could be appealed. The procedures concerning the filing and examination of petitions were described in the Cabinet of Ministers' Resolution No. 8 of 14 January 2004. Similar provisions were contained in the Law "On Protection of Rights to Integrated Circuits Design".

**(f) Plant variety protection**

338. The representative of Ukraine said that plant varieties were protected under the Civil Code and the Law "On Protection of Rights to Plants Varieties" No. 3116-XII of 21 April 1993. Protection was provided for 35 years for arboreal and shrubby cultures and vines, and 30 years for all other plant varieties. On 17 January 2002, the Supreme Rada had approved the Law "On Amendments to the Law of Ukraine on Protection of Rights to Plant Varieties", which revised the wording of the Law.

339. He added that the draft Law "On Amendments to Certain Laws", which was being discussed in the Supreme Rada, provided for Ukraine's accession to the 1961 International Convention on Protection of New Plants Varieties, as modified in Geneva on 10 November 1972 and 23 October 1978.

**(g) Layout designs of integrated circuits**

340. The representative of Ukraine said that protection of layout designs of integrated circuits was provided under the Civil Code and the Law "On Protection of Rights to Integrated Circuits Design" No. 621/97 of 5 November 1997. The term of protection was ten years from the date of application or date of first commercial exploitation. The Law included provisions concerning compulsory licensing.

**(h) Requirements on undisclosed information, including trade secrets and test data**

341. The representative of Ukraine said that Ukraine's Criminal, Civil, and Commercial Codes, the Law "On Information" No. 2657-XII of 2 October 1992, and the Law "On Protection Against Unfair Competition" No. 236/96-VR of 7 June 1996 provided protection for undisclosed information that was secret (not generally known or readily ascertainable), had a commercial value because of its secrecy, and had been subject to reasonable steps to keep it secret.

342. Some Members asked how Ukrainian legislation ensured the protection against disclosure of undisclosed test or other data submitted by an applicant to a responsible State agency to obtain marketing approval for pharmaceutical or agricultural chemical products, and how such test and other data was protected against unfair commercial use by competitors. Ukraine was also requested to indicate whether a second applicant could rely on or refer to the original data of the first applicant when applying for market authorization for a similar product, and whether Ukraine's legislation set a specific term of protection for undisclosed test or other data of the first applicant, and under what conditions possible exceptions would apply to such a provision.

343. The representative of Ukraine replied that Ukraine's Civil Code protected test data submitted to obtain marketing approval for pharmaceutical, agricultural, or chemical products utilising a new chemical entity in conformity with Article 39.3 of the TRIPS Agreement. Article 508 of the Code provided that the term of validity of intellectual property rights to a commercial secret was limited by the period of existence of the entirety of characteristics of commercial secrets (as defined in Article 505 of the Code). Article 507 of the Civil Code and the Law "On Protection Against Unfair Competition" ensured that test and other data was protected against unfair commercial use. He emphasized that the terms of protection against unfair commercial use of test data were not, in his view, inconsistent with the provisions of the TRIPS Agreement. Illegal acquisition of trade secrets, the disclosure of trade secrets, and illegal use of trade secrets constituted acts of unfair competition which were punishable by fines imposed by the Antimonopoly Committee as well as giving rise to administrative, civil and criminal liability pursuant to the Code on Administrative Offences (Article 164-3) and Articles 231 and 232 of the Criminal Code.

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

345. [The Representative of Ukraine stated that the requirements regarding the protection of undisclosed information, stipulated by the Part 3 of Article 39 of the TRIPS Agreement, were fulfilled by Ukraine in full. According to Part 1 of Article 507 of the Civil Code of Ukraine, the State authorities were obliged to protect from unfair commercial use the information, which was a commercial secret and the creation of which required considerable efforts, and which was provided to them with a view of obtaining the legislatively stipulated permit for conducting the activity related to pharmaceutical, agricultural, chemical products containing the new chemical formulas. This information was also protected by the State authorities against disclosure in case the disclosure was necessary for ensuring the protection of the population, or no measures were taken to protect he information from unfair commercial use. According to Article 506 of the Civil Code of Ukraine, the exclusive right to allow the use of commercial secret and the exclusive right to prevent the unlawful disclosure, gathering or use of commercial secret belonged to the person, who had legally defined the information as constituting a commercial secret, if other was not stipulated by the Agreement. Article 431 of the Civil Code of Ukraine provided that violation of intellectual property rights, including the recognition or non-recognition of rights or encroachment of rights entailed a liability established by this Code, other Law or Agreement. Any legal entity or natural person in possession of intellectual property rights, shall have their rights protected in an administrative or judicial procedure, by way of addressing the relevant authorities of the executive branch or the court. Such authorities of the executive branch of the government were: the State Department of Intellectual Property, the Anti-Monopoly Committee of Ukraine, the Ministry of Internal Affairs of Ukraine, the State Customs

Service of Ukraine, the State Tax Administration of Ukraine, the State Committee of Ukraine on Technical Regulation and the Consumption Policy.]

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

### **3. Measures to Control Abuse of Intellectual Property Rights**

347. The representative of Ukraine said that the provisions of the Law "On the Protection from Unfair Competition" No. 236/96 of 7 June 1996, the Law No. 2210-III of 11 January 2001, as well as Chapter 75 (book 5) of the Civil Code on "Disposal of intellectual property rights", established the legal basis for the protection of entrepreneurs and consumers from unfair competition involving the illicit use of industrial property objects. This legislation also regulated legal relations with regard to the coordination of activities concerning intellectual property rights. The Antimonopoly Committee was in charge of implementing this legislation. The methods used by the Committee included prevention, detection and termination of anti-competitive (monopolistic) behaviour in the area of intellectual property.

### **4. Enforcement**

#### **(a) General**

348. The representative of Ukraine said that the most wide-spread offences of intellectual property rights were the manufacturing and distribution of counterfeit products and copies of audiovisual

works and phonograms; the duplication and distribution of unlicensed computer software; and the manufacturing, exportation and importation of discs for laser-readable systems. Various measures had been undertaken over the past few years to reinforce the fight against violation of intellectual property rights. The Law "On Copyright and Related Rights" had been amended in July 2001 to include an exhaustive list of acts constituting infringements of copyright and related rights as well as detailed civil remedies, providing the right holders more effective protection of their rights. Moreover, the Cabinet of Ministers had issued 12 Resolutions to reinforce the protection of copyright and related rights and fight against piracy (detailed in document WT/ACC/UKR/118, pages 117-119).

349. In addition, Ukraine had signed a joint programme of action "On Combating Illegal Production of Optical Carriers of Information" with the United States in May 2000 and a joint Agreement "On Cooperation in the Field of Assigning SID Codes" involving the State Department of Intellectual Property, the International Federation of Phonogram Industry (IFPI), and Philips International B.V. In 2002, the Cabinet of Ministers had approved a Concept for Legitimizing Software and Combating Illicit Use of Software and a new mechanism had been introduced to better monitor the transfer of goods across Ukraine's borders. A Law "On Specifics of State Regulation of the Activities of Business Entities Associated with Production, Export, and Import of Discs for Laser-Readable Systems" had also been adopted to address the problem of piracy of copyright. In addition, the Supreme Rada had adopted on 6 July 2005 the Law No. 2734-IV "On Amending Some Laws of Ukraine" (on harmonization of the legislation with the requirements of the multilateral Agreement on Trade-Related Aspects of Intellectual Property Rights). Under this Law, the production, exportation and importation of laser discs was subject to special licensing. The amendments would introduce licensing for each consignment of imported or exported discs, as well as licensing for the production, export and import of matrices for the manufacturing of discs. Finally, steps had been taken to improve the coordination of agencies involved in the fight against the illegal production and distribution of audio and audiovisual products. A coordination programme had been adopted in May 2003. Its implementation was supervised by a Coordination Council headed by the Chair of the State Department for Intellectual Property.

350. Controls over intellectual property rights had been reinforced during 2001-2004. In 2002, the Ministry of Internal Affairs had conducted over 12,000 inspections of commercial entities operating in the area of intellectual property; 4,000 violations of intellectual property rights were uncovered, and the value of seized counterfeited products amounted to UAH 7 million (US\$ 1.3 million). Over the period 2001-2003, Ukrainian courts had processed 465 intellectual property infringement cases. In several instances, the cases had resulted in imprisonment, fines, the payment of damages, as well as the confiscation of equipment. Notwithstanding the application of any other penalties, confiscation of

equipment was always imposed as a sanction in the case of production of pirated products. He added that in 2004 alone, 218 cases had been initiated relating to the enforcement of intellectual property rights. Most cases had involved invalidation of trademarks and service marks certificates on grounds of inconsistencies of the registered marks with the requirements for granting legal protection. As for audiovisual piracy, he said that the increase in the number of hologram marks issued (5 million more than in 2003) testified to the gradual increase in the share of licensed audio/video production in Ukraine. The Ministry of Internal Affairs continually undertook measures aimed at preventing and uncovering criminal activities related to intellectual property rights infringement. Infringers were tried in the courts (183 persons convicted in 2004) and could also be subject to administrative sanctions. Illegal "underground" production facilities specializing in the production of counterfeit goods (in particular involving well-known trademarks) were being shut down.

351. A Member noted that effective control of the border with the Russian Federation appeared to be a problem, the border checkpoints being easy to circumvent, even for heavy trucks. This Member asked Ukraine to inform the Working Party of any measures taken or planned to address this problem.

352. The representative of Ukraine replied that effective border control was complicated as the border remained non-demarcated. The Cabinet of Ministers had approved an anti-smuggling programme for 2002-2005, and Ukraine was implementing a comprehensive program to coordinate the actions of its law enforcement agencies and control authorities to combat illicit manufacturing, distribution and sale of audio and video products, compact discs and other Articles covered by intellectual property rights. In addition, the Border Guard units had been reinforced, nine new border checkpoints had been opened in 2003, and an additional nine new checkpoints would be established in 2004. Impediments were being installed to make it increasingly difficult for motor vehicles to circumvent the border checkpoints.

**(b) Civil judicial procedures and remedies**

353. The representative of Ukraine said that provisions on civil judicial procedures and remedies were included in Ukraine's Civil Procedural Code, the Economic (Commercial) Procedural Code, the Criminal Code, the Criminal Procedural Code, the Code on Administrative Offences, and the Law "On Protection Against Unfair Competition" No. 236/96-VR of 7 June 1996.

354. Asked how damages were calculated and whether pre-established damages were available, the representative of Ukraine said that, according to the provisions of procedural laws, each party was required to provide evidence of the circumstances cited in corroboration of his/her claims and objections. Existing legislation did not determine any methodology for calculating damages caused



by violations of intellectual property rights. Thus, the person whose rights had been infringed upon carried the burden of proving the amount of damage actually suffered, i.e. the losses suffered in consequence of the violation of his/her rights; expenses incurred or due for the restoration of the infringed rights, and the potential income the person could have gained but for the infringement of his/her rights.

355. He added that that pursuant to Order No. 19 of the High Economic Court of 26 July 2001, the boards instituted in economic courts were charged with judging cases, in particular, related to (i) the invalidation of legal protection documents; (ii) the early termination of validity of legal protection documents; (iii) the determination of true owners of legal protection documents; (iv) the conclusion and execution of licensing agreements; (v) infringements of the property rights of owners of legal protection documents; (vi) the granting of compulsory licenses; and (vii) the right of prior use. The economic courts also passed judgments on other cases related to the protection of rights provided by intellectual property laws. In cases pertaining to intellectual property where the applicants' claims were upheld in full or in part, the decisions adopted by the economic courts could administer the payment of moral (non-property) damages and damages for incurred losses; the recovery of income gained by the offender as a result of the committed infringement; compensation instead of damages for incurred losses or the recovery of income; impose a fine; prohibit the importation of certain goods into Ukraine or the exit of such goods; issue injunctions obliging the culprits to discontinue the violation of rights and/or obliging the culprit to disclose information on the committed offence in the mass media; and withdraw or seize all goods determined to have been manufactured with rights infringements.

356. Specialized court chambers of the High Economic Court and of the economic courts of appeal had been in operation since 1 March 2003. The specialized chambers were charged with judging cases related to economic disputes pertaining to the protection of rights to objects of intellectual property. In addition, appropriate specialization of judges had been introduced in the local economic courts. He added that current Ukrainian legislation did not lay down any procedure for the destruction of counterfeit goods. The execution of a court order to destroy counterfeit goods was assigned to the State Executors' Service.

**(c) Provisional measures**

357. The representative of Ukraine said that the Civil Code (Article 432), the Civil Procedure Code (Chapter 4-A), and the Commercial Code included provisions enabling the application of provisional measures to prevent an infringement and preserve relevant evidence. Applicable provisional

measures could include inspection of the premises where infringing activities were believed to be taking place, and seizure of assets.

358. In response to specific questions, he added that provisional measures could be ordered in civil cases. The Law "On Introducing Amendments to Certain Legislative Acts of Ukraine on Legal Protection of Intellectual Property" of 22 May 2003 had introduced appropriate amendments to the Code of Civil Proceedings. According to Article 62<sup>1</sup> of the Code, a person having good reasons to suspect that his/her rights were being infringed upon or that a real threat of such infringement existed, was granted the right to submit to the court a request for adequate preventive measures to be taken. Such preventive measures might include inspection of premises where activities related to such rights infringement were taking place, and the attachment of property in possession of the person in regard to whom the preventive measures were being taken (Article 62<sup>2</sup>). The applicant's request for such preventive measures could be secured by a pledge, the amount of which was determined by the court. The court administered the performance of preventive measures. Following the filing of a claim by the applicant, the preventive measures served as means for securing evidence or as means for securing the claim (Article 62<sup>3</sup>).

359. Provisional measures could be requested prior to an action being filed for a determination on the merits of the claim. According to Article 62<sup>1</sup> of the Code of Civil Proceedings, a person having good reasons to believe that his/her rights had been infringed upon, or that a real threat of such infringement existed, was granted the right to submit to the court a request for the performance of preventive measures prior to the filing of a formal claim in court.

360. The representative of Ukraine confirmed that, in order to ensure that evidence of intellectual property rights could be preserved, Ukraine would establish a judicial procedure whereby, even before the commencement of proceedings on the merits of a case on intellectual property rights infringement, the competent judicial authorities might, on application by a party who had presented reasonably available evidence to support his/her claims that his/her intellectual property right had been infringed or was about to be infringed, [order] [pass rulings ordering] prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to the protection of confidential information.

361. Such measures [would include the detailed description, with or without the taking of samples, or the physical seizure of the infringing goods, and, in appropriate cases, the materials and implements used in the production and/or distribution of these goods and the documents relating thereto] [shall include discovery and examination of written and material evidence, examination by the court of evidence immediately at the place of location thereof, examination of premises, in which

actions relating to infringements took place, seizure of property owned by a person, against whom the provisional measures had been taken, and held by such person or other persons]. Those measures shall be taken, if necessary without the other party having been heard, in particular where any delay was likely to cause irreparable harm to the right holder or where there was a demonstrable risk of evidence being destroyed.

362. In establishing such procedure, Ukraine would preserve the rights of the defendant by ensuring that (i) where [measures to preserve evidence were adopted] [a ruling ordering measures to preserve evidence was passed] without the other party having been heard, the parties affected shall be [given notice] [sent a copy of such ruling], without delay after the execution of the measures [at the latest]. A review, including a right to be heard, shall take place upon request of the parties affected with a view to deciding, within a reasonable period after the [notification of] [furnishing of the rulings on] the measures, whether the measures shall be modified, revoked or confirmed; (ii) [measures to preserve evidence might be] [in passing the ruling on measures to preserve evidence the court might require that it be] subject to the lodging by the applicant of adequate security or an equivalent assurance intended to ensure compensation for any prejudice suffered by the defendant; (iii) the measures to preserve evidence [could] [might] be revoked or otherwise cease to have effect, upon request of the defendant, without prejudice to the damages which might be claimed, if the applicant did not institute[, within a reasonable period,] proceedings leading to a decision on the merits of the case before the competent judicial authority[, the period to be determined by the judicial authority ordering the measures where the law of a Member State so permits or, in the absence of such determination, within a period not exceeding 20 working days or 31 calendar days, whichever is the longer] [within 10 working days from the date on which the ruling ordering measures to preserve evidence was passed]; and (iv) where the measures to preserve evidence were revoked, or where they lapsed due to any act or omission by the applicant, or where it was subsequently found that there had been no infringement or threat of infringement of an intellectual property right, the judicial authorities shall have the authority to order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any injury caused by those measures.

363. The representative of Ukraine confirmed that Ukraine would establish a judicial procedure that would allow right holders to obtain [provisional and precautionary] [preventive] measures in case of allegation of intellectual property right infringement. In particular, (i) Ukraine shall ensure that the judicial authorities might, at the request of the applicant [(a) issue against the alleged infringer an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right, or to forbid, on a provisional basis and subject, where appropriate, to a recurring penalty payment, the continuation of the alleged infringements of that right, or to make such continuation

subject to the lodging of guarantees intended to ensure the compensation of the right holder; an interlocutory injunction may also be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe an intellectual property right; injunctions against intermediaries whose services are used by a third party to infringe a copyright or a related right] [(a) take measures to secure a claim through seizure of property or funds owned by the defendant and held by such defendant or other persons; to prohibit to take certain actions; prohibit other persons to make payments or transfer property to the defendant; suspend the sale of the seized property, if a claim is filed with respect to the right of ownership to such property or exclusion of such property from the list of seized property. Persons, who are guilty of violating the prohibition to take certain actions or transfer property to the defendant, may be subjected to a fine by a ruling of the court. In addition, the plaintiff may recover damages caused by the failure to comply with the ruling securing the claim. Such measures may be taken against an intermediary whose services are used by a third party to infringe intellectual property rights, in particular to infringe a copyright or a related right]. (b) [order] [pass a ruling ordering] the seizure or delivery up of the goods suspected of infringing an intellectual property right so as to prevent their entry into or movement within the channels of commerce; (ii) In the case of an infringement committed on a commercial scale, Ukraine shall ensure that, if the injured party demonstrated circumstances likely to endanger the recovery of damages, the judicial authorities might [order] [pass a ruling ordering] the [precautionary] [preventive] seizure of the movable and immovable property of the alleged infringer, including the blocking of his/her bank accounts and other assets. To that end, the competent authorities might [order] [pass a ruling ordering] the communication of bank, financial or commercial documents, or appropriate access to the relevant information; (iii) The judicial authorities shall, in respect of the measures referred to under (i) and (ii), have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant was the right holder and that the applicant's right was being infringed, or that such infringement was imminent; (iv) Ukraine shall ensure that the [provisional] [preventive] measures referred to under (i) and (ii) might, in appropriate cases, be taken without the defendant having been heard, in particular where any delay would cause irreparable harm to the right holder; and (v) In establishing such procedures, Ukraine would preserve the rights of the defendant by ensuring that (a) In the event of [provisional] [preventive] measures taken without the defendant being heard, the parties shall be so informed without delay after the execution of the measures at the latest. A review, including a right to be heard, shall take place upon request of the defendant with a view to deciding, within a reasonable time after notification of the measures, whether those measures shall be modified, revoked or confirmed; (b) the [provisional] [preventive] measures, referred to under (i) and (ii) were revoked or otherwise ceased to have effect, upon request of the defendant, if the applicant did not institute[, within a reasonable

period,] proceedings leading to a decision on the merits of the case before the competent judicial authority[, the period to be determined by the judicial authority ordering the measures where the law of a Member State so permits or, in the absence of such determination, within a period not exceeding 20 working days or 31 calendar days, whichever is the longer] [within 10 working days from the date on which the ruling ordering the measures to preserve evidence was passed]. (c) [the competent judicial authorities might make the provisional measures referred to under (i) and (ii)] [in passing a ruling ordering the preventive measures referred to under (i) and (ii), the court might demand that such measures be] subject to the lodging by the applicant of adequate security or an equivalent assurance intended to ensure compensation for any prejudice suffered by the defendant as provided for in the following paragraph. (d) where the [provisional] [preventive] measures were revoked or where they lapsed due to any act or omission by the applicant, or where it was subsequently found that there had been no infringement or threat of infringement of an intellectual property right, the judicial authorities shall have the authority to order the applicant, upon request of the defendant, to provide the defendant appropriate [compensation for any injury caused by those measures].

**(d) Administrative procedures and remedies**

364. The representative of Ukraine said that administrative procedures and remedies were provided for under the Civil Procedural Code, the Economic (Commercial) Procedural Code and the Criminal Procedural Code, the Code on Administrative Offences, and the Law "On Protection Against Unfair Competition" No. 236/96-VR of 7 June 1996. Authorities responsible for the administrative protection of intellectual property rights included the State Department for Intellectual Property, the Antimonopoly Committee, the Ministry of Internal Affairs, the Security Service, the State Customs Service, the State Tax Administration, and the State Committee for Technical Regulation and Consumer Policy. Ukraine's legislation provided for the possibility to appeal administrative decisions related to intellectual property rights to the Appellate Chamber of the State Department for Intellectual Property.

365. Asked to explain when the administrative procedures and legal remedies provided under the Administrative Infringement Code would be applicable, rather than the civil judicial procedures and remedies under the newly adopted Civil Code, the representative of Ukraine said that administrative procedures were applied in instances provided for in Articles 51-2, 164-3, 164-9, 164-13 of the Code of Administrative Offences – i.e. in cases of intellectual property rights infringement; actions resulting in unfair competition; illegal distribution of copies of audiovisual works, phonograms, videograms, software applications and databases; and violations of the laws governing the production, exportation and importation of laser-readable discs, or the exportation and importation of equipment and raw

materials used for their production. Administrative sanctions for offences listed in this Code were applicable if these offences did not, by their nature, entail criminal procedures. The rights were protected by imposing administrative sanctions (seizure, correctional work, administrative arrest) or by imposing administrative penalties provided for in Article 24 of the Code of Administrative Offences.

366. Since 2001, administrative sanctions had been imposed on some 6,000 persons, while 4,000 had become subject to such sanctions in 2004 alone. In 2004, State inspectors, together with units of the Ministry of Internal Affairs, had carried out 659 joint inspections of economic entities active in the area of intellectual property. As a result, 397 administrative protocols had been filed, counterfeit products valued at more than UAH 46 million had been confiscated, and 58 criminal cases on infringement of copyright and related rights had been initiated. For the first six months of 2005, some 379 inspections of business entities had been carried out. As a result, 237 reports on administrative offences had been drawn up, 133 injunctions had been issued and counterfeit goods to the value of UAH 2,641,522 had been seized. On 10 August 2005, the State Department for Intellectual Property Rights had suspended the operations and sealed the equipment of "CD MASTER", an enterprise producing laser-readable discs in violation of Ukrainian law.

**(e) Special border measures**

367. The representative of Ukraine said that customs authorities were authorized, at the request of a rights holder, to suspend the release of goods suspected of containing a counterfeit trademark or infringing on copyright. Such measures were provided for in Ukraine's Customs Code (Articles 255 to 258 and 345) and the Cabinet of Ministers' Resolution "On the Procedure on Registration and Transfer Across Ukraine's Border of Goods Containing Intellectual Property Objects" No. 412 of 28 April 2001.

368. Responding to specific questions, he indicated that the State Customs Service had seized 34,411 compact discs for laser-readable systems and 13,622 units of other audiovisual works in 2003, and an additional 28,832 compact discs and 270 audio and video cassettes during the first five months of 2004. Paragraph 25 of the Procedures approved by the Cabinet of Ministers' Resolution No. 412 of 28 April 2001 gave a customs body the right to suspend the customs clearance of goods containing intellectual property objects, if such goods had been entered in a register maintained by the State Customs Service (as per an application from a rights holder). As of 1 June 2004, the customs bodies had suspended the clearance procedures for goods suspected of being counterfeit in 19 instances.

369. The register of goods containing intellectual property objects maintained by the State Customs Service pursuant to paragraph 6 of the Decree "On the Regulations for the Procedure of Registration and Transportation of Goods subject to Intellectual Property Rights across the Customs Border of Ukraine" comprised 67 goods (products) rights held by Ukrainian and foreign producers as per 1 June 2004. The right owner or his representative applied to the central administration of the State Customs Service to have a good containing intellectual property objects entered in the register. The register was maintained in electronic form using specially developed software for the integrated computerized information system of the State Customs Service, and satellite communications allowed the customs bodies to retrieve information on goods entered in the register as from the date of registration. Access to the tool was limited and reserved for specially authorized officials of the customs bodies. The fees for registration of goods containing intellectual property objects with the State Customs Service were stipulated in the Resolution of the Cabinet of Ministers No. 413 of 28 April 2001. The fee for one-year registration amounted to US\$ 400 for the first good containing an intellectual property object, and US\$ 200 for each additional good containing the same intellectual property object. Six-month registration amounted to US\$ 200 for the first good containing an intellectual property object, and US\$ 100 for each additional good containing the same intellectual property object. The registration could be extended for six months or one year at a cost of US\$ 100. The fees were payable in hryvnia at the rate of exchange established by the National Bank on the date of payment.

370. Concerning the amount charged for filing an application to suspend the release of goods, he said that the State Customs Service required a letter of guarantee (guarantee obligation) without indication of the amount of guarantee. A deposition of cash pledge or guarantee was not required. The guarantee served to compensate for the costs of storing goods whose customs clearance had been suspended. The storage fees for goods at customs warehouses had been fixed in the Resolution of the Cabinet of Ministers No. 65 of 27 January 1997.

371. All suspensions of customs clearance procedures had so far been undertaken by the customs bodies on the basis of Paragraph 25 of the Procedures, i.e. in respect of goods suspected of being counterfeit. Information regarding the quantities and categories of goods subject to suspended customs clearance was classified. He stressed that the customs bodies did not seize the goods but simply suspended the customs clearance procedures. According to Ukrainian law, only courts could decree the seizure of goods, in which case the matter would be handed over to the State Enforcement (Execution) Service subordinated to the Ministry of Justice. The customs bodies had not received any court decisions on the seizure of counterfeit goods as of 1 July 2003. The customs bodies did not adopt decisions on the merit of cases, all such decisions were taken solely by the courts.

372. [The representative of Ukraine confirmed that by accession, Ukraine will change its customs legislation to include the possibility of an *ex officio* action of the customs authorities against suspected intellectual property infringers. Ukraine will also [reduce] [consider a matter of reducing] the fees charged from right-holders to lodge applications to a level that shall not unreasonably deter recourse to these procedures. The representative of Ukraine confirmed that Ukraine would apply the commitments undertaken under TRIPS in a manner so as to permit effective action against acts of infringements of intellectual property rights, including if justified act expeditiously on the basis of complaints lodged by right-holders against well identified [factories] [enterprises] dedicated largely or exclusively to the production of pirated [digital media] [discs for laser-readable systems] and, if such allegations are proven correct, ensure that such protection is permanently stopped and that the infringers are punished. The Working Party took note of these commitments.]

**(f) Criminal procedures**

373. The representative of Ukraine said that the Criminal Code provided for criminal liability for infringement of copyright, trademarks, qualified indications of origin, industrial designs, patents, plant variety, and layout designs of integrated circuits (Articles 176, 177 and 229); unlawful use or disclosure of information constituting a commercial secret (Articles 231 and 232); violation of provisions governing the production, exportation and importation of discs for laser reading systems and the exportation/importation of materials for their production (Article 203-1); and unlawful production, counterfeiting or distribution of control stamps for copies of audiovisual works and phonograms, computer programs and databases (Article 216). Criminal infringement cases were punishable with fines, correctional works or imprisonment. In the event of violation of intellectual property legislation concerning laser discs, penalties included fines varying from US\$ 10,000 to US\$ 15,000 and imprisonment for up to five years pursuant to the Law "On Specifics of State Regulation of the Activities of Business Entities Associated with Production, Export and Import of Discs for Laser Reading Systems". Fines were doubled for second offences.

374. Article 176 of the Criminal Code, as amended, made illegal use of an intellectual property right object, the appropriation of authorship or any other intentional violation punishable by imprisonment, correctional labour or a fine, provided the actions caused "significant material damage". The amendment defined significant material damage as a value equal to or higher than two hundred minimum untaxed personal incomes (currently UAH 17x200=UAH 3,400). In criminal cases of this nature, courts would normally order the destruction of counterfeit goods, as well as the implements and raw materials used in the manufacture of such goods. He also noted that the Law "On Introducing Amendments to Certain Legislative Acts of Ukraine on Legal Protection of



Intellectual Property" had introduced amendments to the Criminal Code which increased the sanctions applicable to offenders. Thus, violations of copyright and related rights inflicting large-scale material damage were currently punishable by a fine (200 to 1,000 tax-free minimum untaxed personal incomes, i.e. approximately US\$ 640 to US\$ 3,000), corrective labour, or imprisonment of up to two years as well as the confiscation of all counterfeit goods and implements and raw materials used in manufacture of such goods. Penalties were increased for repeat offences, offences committed by a group of persons, or offences causing particularly significant damage, i.e. a fine amounting to 2,000 tax-free minimum personal incomes (approximately US\$ 6,400), and five-year imprisonment (or corrective labour). Appropriate penalties were also being envisaged for infringements of rights to objects of industrial property (inventions, utility models, industrial patterns, integral circuit topographies, trademarks, indications of the origin of goods).

375. The representative of Ukraine also noted that in 2003-2004, units of the Ministry of Internal Affairs had uncovered 748 offences related to intellectual property right violations. In 2004, some 850,000 counterfeit products (valued at UAH 13.9 million) had been seized while 140 "underground" production facilities involved in the manufacturing of various counterfeit products had been shut down. Criminal charges had been filed in 185 cases, representing 80.7% of all investigations. While in 2002 only 11 persons had been sentenced by the courts, in 2003 this figure had risen to 30, and in 2004 some 42 persons had been sentenced on charges relating to intellectual property rights infringement.

376. [The representative of Ukraine stated that Ukraine would apply the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights no later than the date of its accession to the WTO, without recourse to any transitional periods. The Working Party took note of this commitment.]

- **Policies affecting trade in services**

377. The representative of Ukraine submitted information on services in documents WT/ACC/UKR/13, WT/ACC/UKR/19, WT/ACC/UKR/24, WT/ACC/UKR/36 and WT/ACC/UKR/37 and Rev.1. Information on services legislation was provided in documents WT/ACC/UKR/81 and Rev.1, WT/ACC/UKR/87 and Rev.1, WT/ACC/UKR/93 and Revisions 1 to 4, and WT/ACC/UKR/111 and Add.1, Rev.1. He added that a number of draft laws amending legislation on insurance, banking activities, auditing, legal services, television and radio broadcasting, and information agencies had been or would soon be submitted to the Supreme Rada for examination. A list of services-related activities subject to activity licensing is presented in Table 8(c).

378. The banking sector was regulated by the Law "On Banks and Banking" No. 2121-III of 7 December 2000, as amended. The Law set identical levels of authorized funds for domestic and foreign equity banks. Amendments to the Law, which would allow foreign banks to set up branches in Ukraine, had been drafted and submitted to the Supreme Rada (draft Law No. 7274) which had passed its first reading on 6 July 2005. The second reading was scheduled to take place in the Fall of 2005.

379. The insurance sector was regulated by the Law "On Insurance" No. 85/96 of 7 March 1996, as amended. The registration and licensing of insurance activity was regulated by Article 38 of the Law "On Insurance" and was effected by Derzhfinposlug in accordance with the provisions of Article 34 of the Law "On Financial Services and State Regulation of Financial Services Markets" (2664-14) and the requirements of paragraph 8 of Clause 4 of the Bylaw "On State Commission for Regulation of Financial Services Markets of Ukraine" approved by Presidential Decree No. 292 (292/2003) of 4 April 2003. The procedure and the rules for mandatory insurance would be established by the Cabinet of Ministers.

380. As regards professional services, Ukraine's legislation did not include any restrictions, except for the provision of legal and auditing services, which were subject to nationality requirements. However, the Law "On Auditing" had been amended to remove the nationality requirement (the Law "On Amending the Law of Ukraine 'On Auditing'" had been signed into force on 26 July 2005). A draft Law "On Bar" (registration No. 7051 of 4 February 2005), which would also remove the nationality requirement, had been submitted to the Supreme Rada. Responding to a Member who enquired about the nationality restriction in legal services in the event of criminal cases and whether qualification requirements for criminal lawyers were different from the requirements for other lawyers, the representative of Ukraine said that amendments to Article 44 of the Criminal Procedure Code of Ukraine had been adopted on 21 June 2001 (Law No. 2533-III) to eliminate the obligation for criminally prosecuted persons to be represented only by a Ukrainian attorney.

381. Access to Ukraine's transportation services had been broadened and there were no limitations on foreign equity participation. As for telecommunication services, the Law "On Specifics of Privatization of Open Joint Stock Company UKRTETCOM" No. 1869-III of 13 July 2000 had abolished the 49 per cent limitation on foreign ownership in the telecommunications sector. No further changes in the limitations on foreign equity participation were foreseen in this sector. The Law "On Telecommunications" No. 1280-IV of 18 November 2003 provided the general legal framework for telecommunications, defined the powers of the State in managing and regulating the activity, as well as the rights, obligations, and liability principles for physical persons and legal

entities taking part in the activities or making use of telecommunication services; established the licensing procedure for telecommunications, and defined the activities subject to such licensing. One of the key provisions of the Law was the allocation of regulation and management functions, and the establishment of the National Commission for Matters of Communication Regulation (NCCR).

382. Television and radio broadcasting was regulated by the Law No. 3759-XII of 21 December 1993. The Supreme Rada was currently considering a new draft law on introducing amendments to Article 13 of the Law "On Television and Radio Broadcasting" regarding an increase in the share of foreign capital in the charter funds of television and radio broadcasting companies from 30 to 35 per cent.

383. Legislative changes had been introduced with regard to information agencies. The Law "On Introducing Amendments to the Law of Ukraine "On Information Agencies"" No. 1379-IV of 11 December 2003 had increased the permitted share of foreign capital in the charter funds of information agencies from 30 to 35 per cent. No further changes in the limitations on foreign equity participation were foreseen in this sector.

384. Some Members requested information on the independence of the regulatory authorities from services suppliers. The representative of Ukraine said that bank regulation and supervision was entrusted to the National Bank. The Bank was responsible before the President and the Supreme Rada. The National Bank was not accountable to other banks' liabilities and was therefore independent from banking services suppliers. A National Committee for Communication Regulation (NCCR) had been established pursuant to the Law "On Telecommunications" No. 1280-IV of 18 November 2003 and had become the regulating authority in the area of telecommunications. The competence of the NCCR included matters related to licensing and registration of telecommunication services suppliers, tariff regulation and organizational and legal support to general access telecommunication services. The NCCR's powers had been exercised by the State Committee for Communications and Informatization until 1 January 2005. The NCCR reported to the Cabinet of Ministers and was independent from the telecommunication services suppliers.

385. As for transportation, the regulatory authority was the Ministry of Transport and Communications as provided for in Decree No. 304/2002 of 27 March 2002. The Ministry acted as a coordinating body within the system of central executive authorities administering and implementing State policies in the area of transportation and use of air space, and provided navigational and hydrographical backup to seafaring. The Ministry issued activity licences where provided for by law. The regulatory activities of the Ministry were financed exclusively from the State budget and did not

depend on sponsorship or donations. The Ministry was therefore independent from the services suppliers.

386. A Member requested Ukraine to guarantee the transparency of its licensing requirements and procedures, qualification requirements and procedures, as well as other authorization requirements, in particular with respect to obtaining, extending, renewing, denying and terminating licences and other approvals required to provide services in Ukraine's market and the appeals of such actions. Ukraine's licensing procedures and conditions should not in themselves act as a barrier to market access and should not be more trade restrictive than necessary. Ukraine should publish (i) a list of authorities responsible for authorizing, approving or regulating the service sectors in which Ukraine was making specific commitments and (ii) Ukraine's licensing procedures and conditions. Ukraine should ensure that these procedures and conditions were pre-established, publicly available, and based on objective criteria; identified the activities, terms and conditions; included all critical information for the valid completion of applications; included the relevant timeframe and critical deadlines (at least indicative ones); and identified the competent authority.

387. In reply, the representative of Ukraine said that the Law "On Licensing of Certain Types of Economic Activity" No. 1775-III of 1 June 2000, which applied to all economic entities, determined the types of economic activity subject to licensing and the licensing procedure, established governmental supervision, and stipulated the liability of economic entities and licensing bodies in case of violation of Ukraine's licensing legislation. His Government's policy in the area of licensing was based on the principle of securing equal rights and the lawful interests of all economic entities; the protection of rights, lawful interests, lives and health of individuals, protection of the environment, and ensuring the State's security; the establishment of a uniform procedure for the licensing of economic activity in Ukraine; and the establishment of a single list of types of economic activity subject to licensing. Article 3.2 of the Law stated that licensing could not be used to limit economic competition. The licence was a uniform document, which allowed the conduct of a certain type of economic activity which, in accordance with legislation, was subject to a limitation. Ukraine's policy with respect to licensing was carried out by the Cabinet of Ministers, specifically authorized licensing bodies, by the Cabinet of Ministers through specified bodies of the executive branch of government, and by local councils' executive bodies specifically authorized to licence certain types of economic activity. As required by Law, the list of institutions responsible for the issuing of licenses was published in the Government's press.

388. The Law guaranteed the transparency of licensing requirements and procedures, qualification requirements and procedures, and other procedures, in particular, with regard to the receipt, renewal,

re-receipt, refusal and suspension of licenses and other authorizations needed to render services in Ukraine's market, and the procedures for challenging these actions. Ukraine's licensing procedures and conditions were not in themselves barriers to market access or more restrictive than necessary to achieve their objectives. He stressed that the licensing procedures and conditions were established in advance, available to the public and based on objective criteria; determined the activity, time periods and conditions; included all essential information required to complete the applications; stipulated appropriate time frames and deadlines (at least indicative ones); and determined the competent bodies.

389. Responding to specific requests of a Member, the representative of Ukraine confirmed that for the services included in the Ukraine's Schedule of Specific Commitments Ukraine would guarantee the fulfilment of licensing procedures and conditions specified by appropriate legislative acts, in particular that (i) Ukraine's licensing procedures and conditions would be published prior to becoming effective; (ii) Ukraine would specify reasonable time frames for the review and decision by all relevant authorities in Ukraine's licensing procedures and conditions; (iii) applicants would be able to request licensing without individual invitation; (iv) any fees charged, which were not deemed to include fees determined through auction or a tendering process, would be commensurate with the administrative cost of processing an application; (v) the competent authorities of Ukraine would, after the receipt of an application, inform the applicant whether the application was considered complete under Ukraine's domestic laws and regulations and in the case of incomplete applications, would identify the additional information required to complete the application and provide an opportunity to rectify deficiencies; (vi) decisions would be taken promptly on all applications; (vii) if an application was terminated or denied, the applicant would be informed in writing and without delay of the reasons for such action. The applicant would have the possibility to resubmit, at his/her discretion, a new application addressing the reasons for termination or denial; and (viii) in case examinations were held for the licensing of professionals, such examinations would be scheduled at reasonable intervals.

390. The representative of Ukraine confirmed that the measures described in this Report will in no way affect Ukraine's obligations deriving from its specific GATS commitments. He guaranteed that, for the services included in the Schedule of Specific Commitments, the appropriate regulatory bodies would be separated from, and not subordinated to, any of the services providers governed by them. He also guaranteed that foreign suppliers would have the right to choose their partners.

391. [Ukraine's Schedule of Specific Commitments on Services is annexed to its draft Protocol of Accession reproduced in the Appendix to this Report (see paragraph [410] below). This Schedule of Specific Commitments on Services contains the legally binding market-access commitments of Ukraine in respect of services.]

- **Transparency**

- **Publication of information on trade**

392. Concerning the transparency requirements prescribed in Article X of the GATT 1994, Article III of the GATS and other WTO Agreements, the representative of Ukraine said that Laws, other normative acts of the Supreme Rada, as well as acts of the President and the Cabinet of Ministers, had to be published in official gazettes no later than five days after their adoption, and in any case prior to their entry into force. These Laws and normative acts – as well as the acts of the Constitutional Court, the National Bank, Ministries and other central agencies – were published in Ukrainian in *Ofitsiyniy Visnyk Ukrainy*. International agreements and treaties, which had entered into force, were also published in *Ofitsiyniy Visnyk Ukrainy*. Other official gazettes included *Vidomosti Verkhovnoji Rady Ukrainy* and *Presydentskiy Visnyk Ukrainy*. Effective normative acts were also published in *Uryadoviy Courier* and *Holos Ukrainy*. Normative acts, published in any of the official gazettes, entered into force on the earliest date of publication in either of the gazettes. Normative acts of the Supreme Rada and the President entered into force ten days after publication, unless otherwise provided in the acts, but in any case not prior to the date of publication. Normative acts of the Cabinet of Ministers entered into force as of the date of their publication, unless otherwise provided in the acts. Draft normative acts were published in *Halitski Contracty* and *Visnyk*, a periodical of the National Bank, and made available for discussion on the Internet ([www.zakon.com.ua](http://www.zakon.com.ua)). Ministries were also increasingly placing draft legal acts on their official websites to make them available for public discussion. He confirmed that administrative rulings on customs issues were considered normative acts.

393. He added that a Uniform State Registry for Normative Acts – an automated system for the collection, accumulation and processing of legislative acts (State Registry) – had been established, pursuant to Decree No. 468 of the President "On the Uniform State Registry for Normative Acts" of 27 June 1996. All of the above-mentioned laws, normative acts and international treaties, including temporary normative acts, would be included in the State Registry. Resolution No. 376 of the Cabinet of Ministers, dated 23 April 2001, approved the Procedures for Maintenance of the State Registry for Normative Acts and their Enforcement.

394. Pursuant to the Law "On Foreign Economic Activity," any interested person could obtain information on foreign trade regulation, except for State or commercial secrets. Moreover, draft regulatory acts were published for comments and proposals, pursuant to the Law "On Principles of State Regulatory Policies in the Area of Business Activities". Timely access to all normative acts was guaranteed. Legislative texts could be obtained in Ukrainian (all documents) and English (some 120

documents) free of charge at [www.rada.kiev.ua](http://www.rada.kiev.ua). They could also be obtained against payment at [www.welcometo.kiev.ua](http://www.welcometo.kiev.ua) (an up-to-date database, which covered a wide range of trade-related topics and contained translations of Ukrainian laws and draft laws in English, including summaries), [www.liga.kiev.ua](http://www.liga.kiev.ua) and [www.nau.kiev.ua](http://www.nau.kiev.ua). Normative acts and information relating to intellectual property issues in particular, were available from [www.sdip.go.ua](http://www.sdip.go.ua). Upon request, copies of legal texts could also be delivered against payment by any State authority.

395. He added that the State Committee on Statistics was responsible for collecting factual information on foreign economic activity. The data was published annually and made available to any interested person. The Ministry of Finance was responsible for the collection of information on foreign trade balance and payments, foreign debt, and gold and currency reserves.

396. A Member sought a commitment from Ukraine to publish promptly in a single official source all regulations and other normative acts or measures pertaining to or affecting trade in goods, services, or TRIPS, ensuring that no such regulation or other normative act or measure became effective or enforced prior to such publication; to establish or designate an official journal or website, published or updated on a regular basis and readily available to WTO members, individuals and enterprises, dedicated to the publication of all regulations and other measures pertaining to or affecting trade in goods, services, and TRIPS prior to enactment; to provide a reasonable period, i.e., no less than 30 days, for comment to the appropriate authorities before such measures were implemented, except for those regulations and other measures involving national emergency or security, or for which the publication would impede law enforcement; and to ensure that the publication of such regulations and other measures would include the effective date of these measures and list the products and services affected by the particular measure, identified by appropriate tariff line and classification.

397. [The representative of Ukraine confirmed that from the date of accession all laws, regulations, decrees, judicial decisions and administrative rulings of general application related to trade would be published promptly in a manner that fulfils WTO requirements. As such, no law or regulation related to international trade would become effective prior to such publication in the Official Journal. He further stated that all laws which were amended to comply with the WTO Agreements contained provisions which require such publication. He further confirmed that upon accession Ukraine would post the contents of current and past editions of the Official Journal on the Government website and keep them current. In addition, all regulations and other normative acts or measures pertaining to or affecting trade in goods, services, or TRIPS would be published promptly in a single official source, and that no such regulation or other normative act or measure would become effective or be enforced prior to such publication. He further confirmed that by 1 January 200[X], Ukraine would establish or

designate an official journal or website, published or updated on a regular basis and readily available to WTO members, individuals and enterprises, dedicated to the publication of all regulations and other measures pertaining to or affecting trade in goods, services, and TRIPS prior to enactment, and that Ukraine would provide a reasonable period, i.e., no less than 30 days, for comment to the appropriate authorities before such measures are implemented, except for those regulations and other measures involving national emergency or security, or for which the publication would impede law enforcement. The publication of such regulations and other measures would, where appropriate or possible, include the effective date of these measures and list the products and services affected by the particular measure, identified by appropriate tariff line and classification. The Working Party took note of these commitments.]

[The representative of Ukraine stated that, from the date of accession, Ukraine would implement fully Article X of the GATT 1994, and Article III of the GATS and the other transparency requirements of the WTO Agreements requiring notification and publication. The Working Party took note of these commitments.]

- **Notifications**

398. [The representative of Ukraine said that upon entry into force of the Protocol of Accession, Ukraine would submit all the initial notifications required by any Agreement constituting part of the WTO Agreement. Any regulations subsequently enacted by Ukraine which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of these commitments.]

- **Trade Agreements**

399. The representative of Ukraine said that Ukraine had concluded bilateral trade and economic agreements establishing most-favoured nation treatment with Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, China, Croatia, Cuba, the Czech Republic, Denmark, Egypt, Estonia, Finland, the Former Yugoslav Republic of Macedonia, France, Germany, Great Britain, Guinea, Greece, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, the Republic of Korea, the Democratic People's Republic of Korea, the Kyrgyz Republic, Lebanon, Libya, Luxembourg, Montenegro, Moldova, Mongolia, the Netherlands, Norway, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Turkey, the United Arab Emirates, the United States, and Viet Nam. Ukraine had also concluded a Partnership and Co-operation Agreement with the European Union, which provided for the application of MFN treatment between the parties to the Agreement, except for advantages granted in the context of the creation of a customs union or a



free-trade area; advantages granted to developing countries; and advantages accorded to adjacent countries in order to facilitate frontier traffic.

400. He added that his Government had concluded bilateral free trade agreements providing for exemption of customs duties, taxes and charges having the equivalent effect on exports/imports, with the Republic of Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, the Russian Federation, Tajikistan, Turkmenistan, the Republic of Uzbekistan, as well as with the Former Yugoslav Republic of Macedonia. The national treatment rule was effective in the provisions governing the application of internal taxes and fees, as well as in the provisions governing warehousing, reshipment, storage, transportation, payments and transfer of payments. Discriminatory measures, quantitative restrictions or other equivalent measures, were not allowed, except on an exceptional basis in mutually-agreed cases recognized in the provisions of the GATT 1994. Rules of origin were governed by the Rules adopted on 30 November 2000 by all CIS countries, with the exception of Uzbekistan and Turkmenistan. The bilateral free trade agreements contained no provisions with regard to services, investment or government procurement. He acknowledged that some exemptions from the free trade regime applied to trade relations with Belarus, the Russian Federation, Moldova and Kazakhstan. In his view, the trade preferences granted by Ukraine to CIS countries were not in contradiction with WTO rules. Detailed information on Ukraine's relations with CIS countries was provided in documents WT/ACC/UKR/65 and Add.1.

401. A Member noted that the exemption from domestic taxation of imports from the Russian Federation violated Article I of the GATT 1994 and enquired about Ukraine's plans to address this issue prior to accession. The representative of Ukraine replied that the exemption had applied only to value-added tax and only for crude oil, natural gas condensate, natural gas, non-irradiated fuel elements (fuel rods), rods with capacitors, and security and management rods (bumatic absorbers) imported from the Russian Federation. As of 1 January 2005, however, all gas imports would be exempt from VAT, while other imported energy products (including crude oil and natural gas condensate) would be subject to a 20 per cent VAT rate. This new regime would be applied in a non-discriminatory manner, irrespective of the country of origin, thus eliminating previously-existing discriminatory practices in this sector.

402. Concerning the CIS free trade zone and economic union, he said that Ukraine had not yet acceded to the CIS economic and customs unions, nor to the agreements providing for their gradual implementation, such as the Agreement on Single Agricultural Market, signed on 6 March 1998 to promote the liberalization of agricultural trade, the coordination of pricing policies and the harmonization of SPS systems. Ukraine had joined the Economic Union as an associated Member

only. Ukraine's status in the Union would be determined in a separate agreement. The Union, established on 24 September 1993 by Azerbaijan, Belarus, Kazakhstan, Moldova, the Russian Federation, Tajikistan and Uzbekistan, foresaw the gradual liberalization of movements of goods, services, capital and individuals. As for the CIS free trade zone, Ukraine was a signatory to the 15 April 1994 Agreement providing for the creation of the free trade zone. Ukraine had applied the Agreement temporarily until the adoption of the new Constitution in 1996, which made the entry into force of international agreements conditional upon ratification by the Supreme Rada. So far, the Agreement had been ratified by Azerbaijan, Kazakhstan, the Kyrgyz Republic, Moldova, Uzbekistan, and Tajikistan. The Agreement aimed at creating a free trade area, coordinating economic policy, promoting inter- and intra-sectoral co-operation and scientific and technical development, and harmonizing legislation and regulations, in particular with regard to customs duties and procedures, and technical regulations to trade.

403. Ukraine was a party to the Production Co-operation Agreement signed by all CIS countries on 23 December 1993 in Ashkhabad. The Agreement aimed at promoting industrial cooperation between enterprises and industries of CIS countries. It provided for preferences to certain enterprises located in CIS countries in the form of exemption from quantitative restrictions and customs duties and taxes on raw materials, spare parts and other intermediate products, engineering and repair services, technical maintenance, and technological operations. Finished products were not covered by the Agreement and therefore subject to VAT and excise taxes if eventually sold in Ukraine. He added that importers of products subject to exemptions under the Agreement might pay duties by submitting credit documents upon importation, pursuant to the Cabinet of Ministers' Resolution No. 1303 of 24 November 1997. According to the State Committee on Statistics, imports and exports falling within the scope of the Agreement amounted to US\$ 36.1 million, i.e. 0.44 per cent of Ukraine's trade with other CIS countries.

404. In response to specific questions concerning recent developments in the formation of a Single Economic Space (SES), the representative of Ukraine said that the Agreement on the Formation of the Single Economic Space had been signed by the Presidents of Belarus, Kazakhstan, Ukraine and the Russian Federation on 19 September 2003. The Agreement foresaw the establishment of an Organization for Regional Integration. The Agreement aimed at promoting trade, investment, and social and economic progress on the basis of generally recognized international law principles, including WTO rules, and provided for the possibility of differentiated integration within the Organization. Ukraine had agreed to participate in the Agreement to the extent that it would not contradict its course towards European and Euro-Atlantic integration and would facilitate its

accession to the WTO. For his Government, the main objective of the SES should be the establishment of a free trade zone without any restrictions.

405. The Supreme Rada had ratified the Agreement on the Formation of the Single Economic Space on 20 April 2004. In accordance with the reservations made at the time of ratification, Ukraine intended to participate in the establishment and functioning of the SES to the extent this would be in compliance with the Constitution of Ukraine. The Parties to the Agreement held regular High Level Group meetings to analyze existing national legislation and prepare plans, tasks and proposals of legal and technical nature, including the preparation of international legislative documents, to ensure the establishment of the Single Economic Space. A Decision to levy value-added tax on the basis of the country of destination principle as of 1 January 2005 had been adopted. The High Level Group had also been mandated to develop documents by the end of 2004 on a procedure to facilitate the movement of natural persons across the borders of SES member-States.

406. The priority international legislative documents necessary for completing the formation of the SES had already been drafted and would have to be signed by 1 July 2005. These legislative documents included an Agreement on the Uniform Commodity Nomenclature in Foreign Economic Activities of the SES; an Agreement on the Cancellation of Quantitative Restrictions; an Agreement laying down uniform principles for regulating the activity of natural monopolies; Agreements for Simplification of Procedures for Customs Clearance and Customs Control at Internal Borders of the State Members of the SES; Agreements on Uniform Conditions of Transit through Territories of the State Members of the SES; a Treaty on the Establishment of the Commission for Trade and Tariffs; an Agreement entrenching the main (basic) principles for pursuit of competitive policies in the State Members of the SES; an Agreement on Uniform Principles for Collection of Indirect Taxes in Mutual Trade of the State Members of the SES; an Agreement on the List of Main Macroeconomic Indicators; an Agreement on the Mechanism of Control over Implementation of Measures aimed to Approximate Macroeconomic Indicators of the State Members of the SES; and an Agreement on Investment Activities and Free Movement of Capital within the Territory of the State Members of the SES.

407. Some Members requested Ukraine to provide clear and detailed information on each of its trade arrangements providing for non-MFN trade in goods, including the coverage of products subject to preferential trade and the precise nature of the preferential access. In particular, information was sought on preferential trade arrangements, signed since 2002, that had involved the opening of an import or export quota for a particular product. A Member also enquired about the conditions under

which Ukraine had purchased wheat from the Russian Federation and Kazakhstan in 2003, and in particular whether any official or political intervention had been involved.

408. [The representative of Ukraine confirmed that Ukraine would observe all WTO provisions, including those of Article XXIV of the GATT 1994 and Article V of the GATS in the trade agreements, and would ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning free trade areas and customs unions of which Ukraine was a Member were met from the date of accession. The Working Party took note of this commitment.]

[The Representative Ukraine confirmed that Ukraine would observe all WTO provisions including Article XXIV of GATT 1994 and Article V of the GATS in its participation in preferential the trade agreements, and would ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning free trade areas and customs unions of which Ukraine was a member were met from the date of accession. He confirmed that Ukraine would, upon accession, submit notifications and copies of its Free Trade Areas and Custom Union Agreements to the Committee on Regional Trade Agreements (CRTA). He further confirmed that any legislation or regulations required to be altered under its Trade Agreements would remain consistent with the provision of the WTO and would, in any case, be notified to the CRTA during its examination of the same. The Working Party took note of these commitments.]

- **CONCLUSIONS**

409. The Working Party took note of the explanations and statements of Ukraine concerning its foreign trade regime, as reflected in this Report. The Working Party took note of the assurances and commitments given by Ukraine in relation to certain specific matters which are reproduced in paragraphs [... and ...] of this Report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Protocol of Accession of Ukraine to the WTO.

410. Having carried out the examination of the foreign trade regime of Ukraine and in the light of the explanations, commitments and concessions made by the representative of Ukraine, the Working Party reached the conclusion that Ukraine be invited to accede to the Marrakesh Agreement Establishing the WTO under the provisions of Article XII. For this purpose, the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this Report, and takes note of Ukraine's Schedule of Concessions and Commitments on Goods (document WT/ACC/UKR/.../Add.1) and its Schedule of Specific Commitments on Services (document WT/ACC/UKR/.../Add.2) that are annexed to the draft Protocol. It is proposed that these texts be

adopted by the [General Council][Ministerial Conference] when it adopts the Report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by Ukraine which would become a Member thirty days after it accepts the said Protocol. The Working Party agreed, therefore, that it had completed its work concerning the negotiations for the accession of Ukraine to the Marrakesh Agreement Establishing the WTO.

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## ANNEX 1

### Laws, Regulations and Other Information Provided to the Working Party by Ukraine

#### **Economic Policies**

- Resolution of the Supreme Rada No. 251/95-IIB on the Draft Law of Ukraine "On the Foreign Investment Regime" of 12 May 1995;
- Law of Ukraine on the Foreign Investment Regime No. 93/96-SR of 19 March 1996;
- Law of Ukraine No 1540a-XII on Protection of Foreign Investment In Ukraine of 10 September 1991;
- Law of Ukraine on Revocation of the Decree of the Cabinet of Ministers of Ukraine "On the Payment of Dividends (a Part of Profits) by Agents of Economic Activity, Established through State Enterprises and Organizations" Kiev, No. 480/95-SR of 15 December 1995;
- The Law of Ukraine "On Licensing of Certain Types of Economic Activity" No. 1775-III of 1 June 2000;
- The Law of Ukraine "On Publishing" No. 318/97-VR of 5 June 1997;
- Decree of the President of Ukraine on Measures to Provide Currency and Export Control No. 504/94 of 7 September 1994;
- Decree of the President on Measures Regarding the Improvement of Price Policy Configuration in Foreign Economic Activity No. 124/96 of 10 February 1996;
- Extract of the Decree of the Cabinet of Ministers of Ukraine No. 15-93 on the System of Currency Regulation and Currency Control of 19 February 1993;
- Decree of the President on Improvement of Currency Regulation No. 457/94 of 22 August 1994;
- Resolution of the Cabinet of Ministers about the Procedure of Providing Financial Support of Enterprises and the Regulations Governing the Issue of Providing Budgetary Financial Support to the State-Owned and other Enterprises in whose Property the State Share Exceeds 50 per cent No. 645 of 19 September 1994;
- Decree of the President of Ukraine "On Urgent Measures Aimed to Regulate Activities of State-Owned (National) Joint Stock and Holding Companies" No. 1049/2001 of 7 November 2001;
- Decree of the President No. 412, on Liquidation of External Economic Association "Concern Ukrzovnishtorg" of 2 December 1994;
- The Law of Ukraine "On State Registration of Legal Entities and Natural Persons as Entrepreneurs" No. 755-IV of 15 May 2003;
- Resolution of the Cabinet of Ministers "On the Approval of the Procedures for Provision and Identification of Amounts of State Support to Coal Mining Enterprises for Partial Coverage of Production Costs and Construction and Technical Re-equipment of Enterprises producing Coal, Lignite (Brown Coal) and Peat" No. 1311 of 21 August 2003;
- The Law of Ukraine "On Experiments in Residential Construction On the Basis of the Holding Company 'Kyivmiskbud'" No. 1674-III of 20 April 2000;
- Order of the Cabinet of Ministers No. 91-p "On the Indexation of Tariffs (Rates) for Carriage of Freight by Rail and Related Services" dated 1 April 2005;
- Order of the Cabinet of Ministers No. 233-p "On the Indexation of Tariffs (Rates) for Carriage of Freight by Railway", dated 1 July 2005;
- Draft Law On Amendment of Some Legislative Acts of Ukraine on Regulation of Car Market in Ukraine of 13 July 2000;
- The Draft Law of Ukraine "On State Registration of Right to Real Property" No. 2580 of 26 December 2002; and

- Investment Climate in Ukraine in Connection with the Adoption of the Law of Ukraine "On the Foreign Investment Regime".

### **Taxation**

- Law of Ukraine on Taxation of Profits of Enterprises of 28 December 1994, No 334/94-SR;
- Law No. 283/97-VR on Amendments and Additions to the Law On Enterprise Profit Tax of 22 May 1997;
- Law No. 77/97-SR on Amending the Law On the Tax System of 18 February 1997;
- Law No. 168/97-SR on Value Added Tax of 3 April 1997;
- The Law of Ukraine on Excise Duty and Import Duty Rates for Certain Goods (Products) No. 313/96 of 11 July 1996;
- Decree of the President of Ukraine No. 609/95 on Brands of the excise Duty on Alcoholic Drinks and Tobacco Products of 12 July 1995;
- Resolution of the Supreme Rada on Procedures for Implementing the Law of Ukraine "On Excise Duty on Alcoholic Drinks and Tobacco Products" of 15 September 1995 No. 330/95-SR;
- Resolution of the Supreme Rada on Enforcing the Law of Ukraine "On the Excise Tax and Import Duty Rates on Tobacco Products" of 06 February 1996 No 31/96-SR;
- Resolution of the Supreme Rada of Ukraine on Procedures for Implementing the Law of Ukraine "On Certain Issues Concerning the Taxation of Goods Subject to Excise Duty", Kiev No. 433/95-SR of 16 November 1995;
- The Draft Tax Code of Ukraine;
- Information on the State of Unification of Excise Duties of 1997; and
- List of Products not Subject to Privileges Provided by Article 1 of the Decree of the President of Ukraine of 30 June 1995, No. 499 "On the Collection of Value-Added-tax".

### **Customs Regulations**

- The Customs Code of Ukraine No. 92-IV of 11 July 2002;
- Law No. 3893-XII, On making Amendments to the Decrees of the Cabinet of Ministers on Customs Regulation of 28 January 1994;
- Decree of the Cabinet of Ministers of Ukraine on Single Customs Tariff of 11 January 1993, No. 4-93;
- Law of Ukraine On the Introduction of Changes and Additions to the Decree of the Cabinet of Ministers of Ukraine No. 4-93 "On the Uniform Customs Tariff of Ukraine" of 11 January 1993;
- Law of Ukraine On Amendment of the Law of Ukraine No. 1212-XIV "On the Introduction of the Unified Fee Collected upon Crossing of Ukrainian State Border", No 2659-III of 12 July 2001;
- Law of Ukraine On Amendments to the Law of Ukraine No. 1212-XIV "On the Introduction of the Unified Fee Collected at Entry Points on the Ukrainian State Border", No 387-IV, 26 December 2002;
- Law No. 2739-IV "On Some Issues Related to Importing Motor Vehicles to the Customs Territory of Ukraine" of 6 July 2005;
- Law No. 2740-IV "On Amending the Law 'On Development of Automobile Industry in Ukraine'" of 6 July 2005;
- Resolution of the Cabinet of Ministers of Ukraine "On Certain Matters Pertaining to Customs Clearance of Goods" No. 1985 of 25 December 2002;

- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the List of Checkpoints on the Customs Border of Ukraine through which Narcotics, Psychotropic Substances and Precursors are Permitted to be Moved" No. 1950 of 25 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the List of Industrial-Purpose Goods which May not be Exported from the Customs Territory of Ukraine by Ukrainian Nationals, Foreigners or Stateless Persons" No. 1911 of 13 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Establishment of Deadlines for Customs Transit of Goods" No. 1908 of 13 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Permission for Goods to be Moved Across the Customs Border of Ukraine through Airports having no Customs Offices" No. 1884 of 12 December 2003;
- Resolution of the Cabinet of Ministers of Ukraine "On Re-importing the Goods Across the Customs Border of Ukraine" No. 1881 of 12 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Certain Issues of Application of the Customs Warehouse Regime" No. 1867 of 12 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedures for Sampling of Goods, Conduct of Research (Tests, Expert Examination) for Purposes of Customs Clearance of Goods, and of Disposal of the Samples" No. 1862 of 12 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Permission for Goods to be Moved Across Ukraine's Customs Border, under the Temporary Import (Export) Regime" No. 1855 of 12 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the List of Paid Services that May be Rendered by Customs Bodies" No. 1952 of 25 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Approving the Procedure for the Certification of Certificates of the Ukrainian Origin of Goods" No. 1861 of 12 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Identifying the Country of Origin of a Product which is Moved Across the Customs Border of Ukraine" No. 1864 of 12 December 2002;
- The Resolution of the Cabinet of Ministers of Ukraine No. 1443 "On Amending the Procedure of Determination of the Country of Origin of Goods Crossing the Customs Border of Ukraine " dated 28 October 2004;
- Resolution of the Cabinet of Ministers of Ukraine "On the Schedule of Production and Technological Processes for Determining the Criterion of Sufficient Processing of a Good, and on the Procedure for the Establishment and Application of the Criterion in Determining the Country of Origin of a Goods" No. 2030 of 27 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the List of Crossing Points for Automobile Traffic Across the State Border of Ukraine with Purpose of Bringing Across by Citizens of Vehicles and of Chassis and Bodies for Vehicles" No. 1987 of 25 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Procedure for Customs Inspection, Clearance, and Admission Across the Customs Border of Ukraine for Goods in Respect to the Transfer of Which Restrictions have been Introduced" No. 1986 of 25 December 2002;
- Resolution of the Cabinet of Ministers of Ukraine "On Entry into Force of the Certain Enactments of the Cabinet of Ministers of Ukraine" No. 92 of 18 January 2003;
- Resolution of the Cabinet of Ministers of Ukraine "On Charging of Fee for the Customs Clearance of Goods and Vehicles Performed out of the Location of Customs Bodies of Beyond the Hours of Operation Set for Customs Bodies" No. 93 of 18 January 2003;



- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Customs Clearance of Military Equipment and Military Vehicles Crossing the Customs Border of Ukraine" No. 63 of 13 January 2003;
- Resolution of the Cabinet of Ministers of Ukraine "On Approving the Procedure for the Extension of the Time Period Granted for the Submission to a Customs Authority and for the Prolongation of the Term Granted for the Declaring to a Customs Authority, of Goods and Vehicles Transferred Across the Ukrainian Customs Border" No. 377 of 26 March 2003;
- Decree of the President of Ukraine No. 255/96 of 6 April 1996 on The Concept of the Transformation of the Customs Tariff of Ukraine 1996-2005 according GATT/WTO;
- Resolution of the Cabinet of Ministers on Customs Duty Rates No. 65 of 27 January 1997;
- Resolution of the Cabinet of Ministers of Ukraine "On Port Fees" No. 1544 of 12 October 2000;
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Declaring the Customs Value of Goods that Move Through the Customs Border of Ukraine" No. 1375 of 28 August 2003;
- The Draft Regulation of Ukraine "On Interpretative Notes for Application of the Customs Code Provisions on Customs Valuation";
- 1993 Harmonized Tariff Schedule;
- Unified Custom Tariff of 1997;
- Unified Custom Tariff currently in force in Ukraine with applied non-tariff measures and with customs tariff restructuring offer according to WT/ACC/UKR/22 of 1997;
- Customs Tariff of March 1998;
- Replies to the questionnaire on Customs Valuation;
- Methods of Determining the Customs Value of Goods. Part XI: Customs Value of Goods. Chapter 49: General Provisions (Customs Code No.92-IV of July 11, 2002);
- Section XII. Customs Value of Goods. Methods of Determining Customs Value of Goods;
- Explanatory Notes on the Concept of Reorganizing the Tariff System of Ukraine for 1996-2005 in Conformity with GATT/WTO Requirements; and
- The Concept Paper on the Transformation of the Customs Tariff of Ukraine 1996-2005.

### **Import/Export regulations**

- Law of Ukraine On Foreign Economic Activity No. 959-XII of 16 April 1991;
- The Law of Ukraine No. 1315-IV "On Amendments to Article 16 of the Law of Ukraine 'On Foreign Economic Activities'" of 20 November 2003;
- Decree of the President of Ukraine on Registration of Certain Types of Foreign Economic Agreements (Contracts) in Ukraine of 7 November 1994 No 659/94;
- Resolution of the Cabinet of Ministers on the State Duty for Issuance of Import Licenses of 2 August 1996 No 893;
- Resolution of the Cabinet of Ministers of Ukraine No. 938 "On Further Strengthening of Control over Importation, Exportation and Transit through Ukraine's Territory of excisable Alcohol Beverages and Tobacco Products" of 12 August 1996;
- Resolution of the Cabinet of Ministers of Ukraine No. 1191 "On Amendment of the Rules of Vehicles Importation into Ukraine" dated 8 September 2004;
- Decree of the President on the Procedure for Application of Restrictions on Import in Accordance with Rules and Principles of GATT/WTO of 27 June 1996 No 478/96;
- The Responses of Ukraine to the Questionnaire Concerning Import Licensing Procedures;
- List of Goods Subject to Import Licensing 1997; and
- List of Minimum Levels of the Indicative Prices for Certain Products Exported from Ukraine in April 1997.

### **Trade remedies**

- Law of Ukraine No. 331-XIV On Protection of the National Industry Against Subsidized Imports of 22 December 1998;
- Law of Ukraine No. 330-XIV on Safeguards of the National Industry Against Dumped Imports of 22 December 1998; (Analysis);
- The Law of Ukraine No. 332-XIV "On Special Measures in Regard to Imports in Ukraine" dated 22 December 1998";
- Draft Law of Ukraine "On Amendments to the Law of Ukraine 'On Application of Safeguards with respect to Imports into Ukraine";
- The Draft Law of Ukraine No. 7117 "On Amendment of the Law of Ukraine 'On Protection of the National Producer Against Dumped Imports' (regarding Procedures of Antidumping Investigations)";
- The Draft Law of Ukraine No. 7127 "On Introduction of Changes to the Law of Ukraine 'On Application of the Special Measures to Ukrainian Imports' "; and
- Explanatory Notes to the Draft Law of Ukraine "On Subsidies and Countervailing Measures".

### **Standards, certification, technical regulations**

- The Law of Ukraine No. 2406-III "On Conformity Assessment" of 17 May 2001;
- The Law of Ukraine No. 2407-III "On Accreditation of Conformity Assessment Bodies" of 17 May 2001;
- The Law of Ukraine No. 2408-III "On Standardization" of 17 May 2001;
- Law on Metrology and Metrological activity No. 113/98-SR of 11 February 1998;
- Decree of the Cabinet of Ministers on Standardization and Certification No. 46-93 Amended by the Law No. 333/97 of 27 June 1997;
- Decree of the Cabinet of Ministers on State Supervision Over the Observance of Standards, Norms and Rules and Responsibility for their Violation No. 30-93 of 8 April 1993;
- Resolution of the Cabinet of Ministers on the Approval of the Procedure for Customs Clearance of Imported Goods Subject to Mandatory Certification in Ukraine No. 1211 of 4 November 1997;
- Order No. 28 "List of Products Subject to Mandatory Certification in Ukraine" dated 1 February 2005;
- The Draft Law of Ukraine "On Development and Application of Standards, Technical Regulations and Conformity Assessment Procedures";
- Agreement on Cooperation Between the State Committee of Ukraine on Standardization, Metrology and Certification and U.S. National Institute of Standards and Technologies of 28 May 1994;
- Agreement on Cooperation in the Sphere of Standardization, Metrology and Certification between the Cabinet of Ministers of Ukraine and Government of Turkmenistan of 7 April 1998;
- Agreement on Cooperation between the Sphere of Standardization, Metrology and Certification between the Government of Ukraine and the Government of the Russian Federation of 12 April 1994;
- Agreement on Co-operation between the State Committee of Ukraine on Standardization, Metrology and Certification and the French Association on Standardization of 9 January 1997;
- Agreement on Co-operation in the field of standardization, certification, quality and metrology between the Cabinet of Ministers of Ukraine and the Government of France of 24 April 1997;

- Agreement between the State Committee of Ukraine on Standardization and the National Institute of Technology and Quality of the Republic of Korea of 2 June 1997;
- Rules of Compulsory Certification for Road Vehicles, Their Components and Tools (Approved by Order No. 23 of the Ukrainian Derzhstandard (State Standards Committee) of 17 January 1997;
- Rules for Obligatory Certification of Building Materials, Products and Constructions (Approved by Decision No. 192 of State Committee of Ukraine for Standardization, Metrology and Certification) of 11 April 1997;
- DSTU 3413-96 Certification System UkrCEPRO Procedure for Certification of Products of 31 December 1996;
- Procedure For Recognition of Results of Imported Goods Certification (UkrCEPRO Certification System);
- DSTU 3414-96 Certification System of 31 December 1996;
- DSTU 3419-96 Certification System UkrCEPRO Certification of Quality Systems of 31 December 1996;
- The State Standard of Ukraine of the National System of Standardization on "Rules for the Provision of Information to the Trade Partners of Ukraine";
- State Standard of the Union of Soviet Socialist Republics No. OKP-92-6130 "On Frozen Fish" dated 1 January 1988 (DSTU Standard No. 1168-86);
- Technical Regulation on the Conformity Assessment of Safety of Low Voltage Equipment registered under No. 448/9047 on 7 April 2004;
- Notifications concerning Agreements Reached by a Member with Another Country or Countries on Issues Related to Technical Regulations, Standards or Conformity Assessment Procedures; and
- UkrCEPRO Certification System.

#### **SPS measures**

- The Law of Ukraine No. 771/97-VR "On Quality and Safety of Food Products and Raw Food Materials" of 23 December 1997;
- The Law of Ukraine "On Plant Quarantine" No. 3348-XII of 30 June 1993;
- Law of Ukraine on Ensuring Sanitary and Epidemic Safety of the Population No. 4004-XII of 24 February 1994;
- The Law of Ukraine No. 3037-III "On Amendment of the Law of Ukraine on Ensuring Sanitary and Epidemic Safety of the Population" of 7 February 2002;
- The Law of Ukraine No. 2775-III "On Amendments to the Law of Ukraine "On Veterinary Medicine" of 15 November 2001;
- Resolution of the Supreme Rada of Ukraine No. 567/96-SR on Procedure of Enforcement of the Law On Introduction of Amendments to the Law "On Veterinary Medicine" of 5 December 1996;
- Resolution of the Supreme Rada of Ukraine No. 569/96-SR on Coming Into Force of the Law "On Responsibility of Enterprises, Institutions and Organizations for Violation of Veterinary Medicine Legislation" of 5 December 1996;
- Order of the Ministry of Health Protection of Ukraine No. 247 "On Approval of the Temporary Procedure for State Sanitary and Hygienic Expertise" of 9 October 2000;
- Rules of Issue of Veterinary Documents for Freight Subject to Compulsory Veterinary Control (with Annexes), approved by order of Chief State Inspector of Veterinary Medicine of Ukraine of 7 August 1997 No. 27;
- Veterinary Requirements to Importing Pedigree Cattle, Horses, Poultry, Fish, Fur Animals and Bees to Ukraine, approved by order of Chief State Inspector of Veterinary Medicine of Ukraine of 20 October 1999 No. 39;

- The List of Food Additives Permitted for Use in Ukraine, approved by Resolution of the Cabinet of Ministers No. 12 of 4 January 1999;
- Order of the State Department for Veterinary Medicine "On Amendments to Veterinary Requirements for Imports into Ukraine of Cargoes subject to Control by the Service of State Veterinary Medicine" No. 52 of 27 September 2002;
- Draft Law On Amendment of the Law of Ukraine On Quality and Safety of Food and Food Products No. 6292 of 14 December 2000;
- Special Types of Border Control: Veterinary, Quarantine and Ecological; and
- Summary List Of Pests, Plant Diseases and Weeds that are Subject to Plant Quarantine in Ukraine.

### **Agriculture**

- Land Code of Ukraine (New Edition) No 2768-III, 25 October 2001;
- The Law of Ukraine "On State Regulation of Production and Trade in Ethyl Alcohol, Cognac and Fruit Spirits, Alcoholic Drinks and Tobacco Products" No. 481/95 of 19 December 1995;
- The Law of Ukraine On Export Duty for Live Cattle and Leather Raw Materials No. 180/96 of 7 May 1996. Resolution of the Supreme Rada of Ukraine No. 181/96 of 17 May 1996;
- Law of Ukraine On state Regulation of Sugar Production and Sale No. 758-XIV of 17 June 1999;
- The Law of Ukraine "On Stimulation of Agricultural Development for the Period of 2001-2004" No. 2238-III of 18 January 2001;
- Law "On State Support of Agriculture in Ukraine" No. 1877-IV of 24 June 2004;
- Resolution of the Cabinet of Ministers of Ukraine on Live Cattle Export Regulation No. 71 of 15 January 1996;
- Resolution of the Cabinet of Ministers on Establishment of SJSC Khib Ukrainy No. 1000 of 22 August 1996;
- Resolution of the Cabinet of Ministers of Ukraine No. 625 "On Measures Regarding Pledge Operations with Grain Harvested in 2004" dated 12 May 2004;
- Order of the Cabinet of Ministers of Ukraine "On Restructuring of SJSC 'Khib Ukrainy'" No. 604-r of 25 October 2002;
- The Resolution of the Cabinet of Ministers of Ukraine "On Establishment of the State-Owned Enterprise 'Agency for Restructuring of Enterprises in the Agro-Industrial Complex'" No. 690 of 15 May 2003;
- Resolution of Cabinet of Ministers of Ukraine No. 868 on Certain Issues of State Regulation of Sugar Production and Sale of 2 June 2000;
- The Resolution of the Cabinet of Ministers of Ukraine "On Measures Aimed to Stabilize and Develop Livestock Husbandry and Poultry Farming for 2001-2004" No. 799 of 11 July 2001;
- The Law of Ukraine " On Amendments to certain Ukrainian Laws dealing with Pesticides and Agricultural Chemicals" No. 1628-IV of 18 March 2004
- Draft Law On Amendment of the Law of Ukraine On State Regulation of Import of Agricultural Produce of 18 April 2000;
- Data on Export of Live Cattle in 1995 and the First Quarter of 1996;
- Calculation of Export Duty rates for Live Cattle and Leather Raw Materials; and
- Explanatory Note on the Calculation of Export Duty Rates and Leather Raw Materials.

### **Government Procurement**

- The Law of Ukraine On the Supply of Production for State Needs No. 493/95 of 22 December 1995;
- Resolution of the Cabinet of Ministers of Ukraine on Procedures for the Formulation and Placing of State Orders for the Supply of Production for State Purposes and Review of their Implementation, Kiev No. 266 of 26 February 1996; and
- Draft Law of Ukraine "On Procurement of Goods, Works and Services for National Needs" of 1998.

### **Intellectual Property protection**

- Law No. 3792-XII, on Copyright and Related Rights of 23 December 1993;
- Law of the Ukraine on Protection of Rights to Trademarks and Service Marks No. 3689-XII of 15 December 1993;
- Final Version of Ukraine's Law on Trademarks and Service Marks;
- Ukrainian Law No. 3687-XII on Protection of Rights for Inventions and Utility Models of 15 December 1993;
- Resolution of the Supreme Rada of Ukraine of 23 December 1993 No. 3770-XII on the Enactment of the Law of Ukraine on the Protection of Rights for Industrial Designs;
- Resolution of the Verkhovna Rada of Ukraine, No. 3117-XII of 21 April 1993 on the Enactment of the Law of Ukraine On Protection of Rights for Sorts of Plants (Summary);
- Resolution of the Verkhovna Rada of Ukraine, No. 3771-XII of 23 December 1993 on the Enactment of the The Law of Ukraine On Protection of Rights for Products and Services (Summary);
- Resolution of the Verkhovna Rada of Ukraine, No. 3769-XII of 15 December 1993 on the Enactment of the Law of Ukraine On Protection of Rights for Inventions and Useful Models (Summary);
- Law of Ukraine of the Protection of Plant Variety Rights of 21 April 1993 No 3116-XII;
- The Law of Ukraine No. 1771-III of 1 June 2000 On Amendment of the Law of Ukraine No. 3687-XII On Protection of Rights to Inventions and Utility Models;
- Law of Ukraine On Protection of Rights to Indication of Origin of Goods No. 752-XIV of 16 June 1999;
- The Law of Ukraine On Protection of Rights for Industrial Design No. 3688-XII of 15 December 1993 (Summary);
- Law of Ukraine On Protection of Rights to Integrated Circuit Designs No. 621/97 of 5 November 1997;
- Law of Ukraine On Amendment of Certain Legislative Acts of Ukraine on Increasing the Liability for Violations of Intellectual Property Rights No. 2362-III of 5 April 2001;
- Law of Ukraine On Joining the Agreement of the World Intellectual Property Organization on Performance and Phonograms No. 2732-III of 20 September 2001;
- Law of Ukraine On joining the Agreement of the World Intellectual Property Organization on Protection of Interests of Performers, Phonogram Producers and Broadcasting Organizations No. 2730-III of 20 September 2001;
- Law of Ukraine On Joining the Agreement of the World Intellectual Property Organization on Copyright No. 2733-III of 20 September 2001;
- The Law of Ukraine "On Evaluation of Property and Property Rights and Professional Evaluation Activity in Ukraine" No. 2658-III of 12 July 2001;
- The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Legal Protection of Intellectual Property" No. 850-IV of 22 May 2003;

- Decree of the President of Ukraine No. 491/98 "On the Regulation of Trade in Certain Excisable Goods Connected with Utilization of Audiovisual Works and Services" of 20 May 1998;
- Resolution of the Cabinet of Ministers of Ukraine No. 611 on Information that does not Constitute Commercial Secret of 9 August 1993;
- The Law of Ukraine "On Distribution of Copies of Audiovisual Works, Phonograms, Videograms, Computer Software, Databases" No. 1587-III of 23 March 2000;
- The Law of Ukraine "On Amendments of Certain Legislative Acts of Ukraine regarding Protection of Intellectual Property" No. 1404-IV of 03 February 2004;
- Draft Law On the Specifics of Governmental Regulation of Business Activity in the Sphere of Production, Export and Import of Laser-Readable Discs No. 6251-1 of 22 December 2000;
- Draft Law On Amendments to the Law of Ukraine "On Copyright and Related Rights" No. 1106 of 28 May 1998;
- Draft Law (version 5 December 2000) On Amendment of the Arbitration Procedural Code of Ukraine No. 4233 of 22 December 1999;
- Table from the State Patent Agency of Ukraine on Compliance of Ukrainian Legislation with Requirements of the Agreement on TRIPS in the Field of Intellectual Property Protection; and
- Table from the State Agency on Copyright and Related Rights on the Compliance of Ukrainian Legislation with Requirements of the Agreement on TRIPS in the Field of Copyrights and Related Rights.

### **Services regulations**

- Maritime Code of 23 May 1995 No. 176/95-BP;
- The Law of Ukraine "On Insurance" No. 85/96-VR of 7 March 1996;
- Law on Ukraine on Banks and Banking Activity, No. 2121-III of 7 December 2000;
- The Law of Ukraine "On Auditing Activity" No. 3125-XII of 22 April 1993;
- The Law of Ukraine "On Postal Service" No. 2759-III of 4 October 2001;
- The Law of Ukraine "On Telecommunications" No. 1280-IV of 18 November 2003;
- Order of the Ministry of Foreign Economic Relations and Trade of Ukraine on Approval of Regulations on the Procedure of Registration of Foreign Agents of Economic Activity Representative Offices in Ukraine No. 30. Registered in the Ministry of Justice of Ukraine, No 34/1059 of 18 January 1996;
- Resolution of the Cabinet of Ministers of Ukraine "On Approving the Procedure of State Accreditation of Health Care Institutions as amended and added under Resolution of the Cabinet of Ministers of Ukraine No. 678 dated 21 June 2001" No. 765 of 15 July 1997;
- Licensing Conditions of Conducting Business Activity Related to Health Care Practice, approved by Order of the State Committee of Ukraine for Regulatory Policy and Entrepreneurship and the Ministry of Health Protection of Ukraine of 16 February 2001 No. 38/63.
- Draft Law On Amendment of the Law of Ukraine On Insurance No. 2021-D;
- Draft Law On Amendment of the Law of Ukraine On Television and Radio Broadcasting No. 3505;
- The Draft Law of Ukraine "On Amendment of the Law of Ukraine 'On Auditing'" No. 1282-I of 18 September 2002;
- The Draft Law of Ukraine "On Mortgages" No. 2555-d of 13 February 2002;
- Current Status of the Banking System of Ukraine;
- Volume of Services Provided to Ukraine's Population;
- Volume of Household Services According to Type; and
- Questionnaire on Basic Telecommunications.

## Trade agreements

- Interim Agreement on Trade and Related Matters between the European Community and Ukraine;
- Partnership and Co-operation Agreement between the European Communities and their Member States, and Ukraine, with Protocol on Mutual Assistance between Administrative Authorities on Customs Matters, including Exchange of Letters and Declarations of 14 June 1994;
- Two trade agreements with FSU countries and three legal texts in Ukrainian language;
- Agreement on General Conditions and Mechanism of Support of the Development of Industrial Cooperation of Enterprises and Branches of Member States of the Commonwealth of Independent States of 23 December 1993;
- Protocol A Concerning the Definition of Originating Products and Methods of Administrative Cooperation to the Agreement between Ukraine and the Republic of Latvia of 21 November 1995;
- Agreement between the Government of Ukraine and the Government of the Republic of Armenia on Free Trade of 7 October 1994;
- Agreement between Ukraine and the Republic of Azerbaijan on Free Trade of 28 July 1995;
- Agreement between the Government of Ukraine and the Government of the Republic of Belarus on Free Trade of 17 December 1992;
- Protocol to the Agreement between the Government of Ukraine and the Government of the Republic of Belarus on Free Trade Regarding Exclusions from the Free Trade Regime of 17 December 1992, of 13 February 1995;
- Agreement between Ukraine and the Republic of Estonia on Free Trade of 24 May 1995;
- Protocol A Concerning the Definition of Originating Products and Methods of Administrative Cooperation to the Agreement between Ukraine and the Republic of Estonia of 24 May 1995;
- Agreement between Ukraine and the Republic of Georgia on Free Trade of 9 January 1995;
- Agreement between Ukraine and the Republic of Kazakhstan on Free Trade of 17 September 1994;
- Agreement between Ukraine and the Kyrgyz Republic on Free Trade of 26 May 1995;
- Agreement between Ukraine and the Republic of Latvia on Free Trade of 21 November 1995;
- Protocol A Concerning the Definition of Originating Products and Methods of Administrative Cooperation to the Agreement between Ukraine and the Republic of Latvia of 21 November 1995;
- Protocol B Concerning the Agreement on Trade in Agricultural Products Between Ukraine and the Republic of Latvia of 21 November 1995;
- Memorandum of Understanding Relating to the Free Trade Agreement Between Ukraine and the Republic of Lithuania of 4 August 1993;
- Agreement between Ukraine and the Republic of Lithuania on Free Trade of 4 August 1993;
- Protocol to the Agreement between Ukraine and the Republic of Lithuania on Free Trade Regarding Exclusions from the Free Trade Regime of 14 October 1994;
- Agreement between the Government of Ukraine and the Government of the Republic of Moldova on Free Trade of 29 August 1995;
- Protocol to the Agreement between the Government of Ukraine and the Government of the Republic of Moldova on Rules for Determining the Country of Origin of 29 August 1995;
- Protocol to the Agreement between the Government of Ukraine and the Government of the Republic of Moldova on Re-export of Goods and the Procedure for Issuing a Licence for Re-export of 29 August 1995;
- Agreement between the Government of Ukraine and the Government of the Russian Federation on Free Trade of 24 June 1993;

- Protocol to the Agreement between the Government of Ukraine and the Government of the Russian Federation on Free Trade of 24 June 1993;
- Protocol to the Agreement between the Government of Ukraine and the Government of the Russian Federation on Free Trade of 14 November 1997;
- Agreement between the Government of Ukraine and the Government of Turkmenistan on Free Trade of 5 November 1994;
- Agreement between the Government of Ukraine and the Government of the Republic Uzbekistan on Free Trade of 29 December 1994;
- Protocol to the Agreement between the Government of Ukraine and the Government of the Republic of Uzbekistan on Free Trade Regarding Exclusions from the Free Trade Regime of 18 April 1997; and
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Russian Federation on Production Cooperation of 24 April 1998.

### **Miscellaneous**

- Import-export data for eleven months of 1994;
- Foreign Trade Data on Goods and services for 1994 (28 tables);
- Statistical information (tables) concerning the foreign trade turnover of Ukraine in 1996;
- Ukraine's WTO Accession Process: Brief History. May 1998; and
- Three Laws and Decrees in Ukrainian Language.

### **Legislation provided by Ukraine which is no longer in effect**

- The Law of Ukraine on State Programme for the Encouragement of Foreign Investment in Ukraine 3744-XII of 17 December 1993;
- Resolution of the Cabinet of Ministers of Ukraine No. 203 on Measures to Execute the Law of Ukraine "On the State Programme for Promotion of Foreign Investments in Ukraine" of 31 March 1994;
- Decree of the Cabinet of Ministers of Ukraine No 55-93 on the Procedure of Foreign Investment of 20 May 1993;
- Draft Translation of the Decree of the Cabinet of Ministers of Ukraine on Regime of Foreign Investment No. 55-93 of 20 May 1993;
- Law of Ukraine on Containing Monopolism, Preventing Unfair Competition No. 2132-XII of 18 February 1992;
- Extract of the Law of Ukraine on the State Budget of Ukraine for 1994 of 2 February 1994;
- Decree of the President of Ukraine on State Support of Periodicals in 1996, Kiev No. 148/96 of 24 February 1996;
- Resolution of the Supreme Rada No. 149/94-SR, on the Improvement of the Privatization Mechanism in Ukraine and the Strengthening of Control for its Implementation of 29 July 1994;
- Decree of the Cabinet of Ministers of Ukraine on Specific Features of Privatization of Property in Agroindustrial Complex, No. 51-93 of 17 May 1993;
- Decree of the President of Ukraine on Acceleration of Process of Privatization of Property in Agroindustrial Sector, Kiev No. 66/95 of 19 January 1995;
- Resolution of the Supreme Council of Ukraine on Perfection of the Privatization Mechanism in Ukraine and Effective Supervision of Its Implementation No. 149/94 of 29 July 1994;
- Resolution of the Supreme Council of Ukraine on the List of Products the Excise Duty on which is Established and on the Rates of This of 4 February 1994 No. 3951-XII;



- Resolution of the Cabinet of Ministers of Ukraine on Amending the List of Goods (Products) the Excise Duty on which has been Imposed and on the Rate of this Duty of 5 August 1994 No. 526;
- Resolution of the Cabinet of Ministers of Ukraine on Approval of Conventional Fixed Rates of Excise Duty, No. 969 of 1 December 1995;
- Resolution of the Cabinet of Ministers on Approval of the Procedures for Collection of Value Added and Excise Tax on Goods Imported to Ukraine of 27 January 1997 No 66;
- Customs Code of Ukraine of 12 December 1991 No 1970-XII;
- Draft Customs Code of Ukraine;
- Law No. 3892-XII, on Making Amendments to Certain Legislative Acts on Customs of 28 January 1994;
- Order of the State Customs Committee of Ukraine on the Procedure for Customs Clearance of Goods Imported in Ukraine by Economic Agents who are Entitled to Tax Concessions No. 1 of 3 January 1996;
- Resolution of the Cabinet of Ministers No. 577, about changes of import duty rates for particular kinds of goods of 22 August 1994;
- Resolution of the Cabinet of Ministers No. 285, on Changes of Import Duty Rates for Goods of 3 May 1994;
- Resolution of the Cabinet of Ministers of Ukraine No. 622 of 10 August 1995 on Introducing Changes to Import Duty Rates for Particular Types of Goods and to the Resolution of the Cabinet of Ministers of Ukraine No. 285 of 3 May 1994;
- Resolution of the Cabinet of Ministers On Making Changes to Import Duty Rates for Certain Goods not Produced in Ukraine (and amendment), No. 192 of 12 February 1996;
- Resolution of the Cabinet of Ministers on Making Changes to Import Duty Rates for Certain Goods and to Certain Decisions of the Government of Ukraine, Kiev No.360 of 27 March 1996;
- Resolution of the Cabinet of Ministers on Introduction of Changes to Import Duty Rates for Certain Types of Goods of 21 January 1997 No. 43
- Resolution of the Cabinet of Ministers of Ukraine No. 133 on Changes of the Rates of Customs Duties of 2 March 1994;
- Resolution of the Cabinet of Ministers of Ukraine on Procedures for Applying a Numbered Transit Band, the Amount of Payment and Procedures for Making Payments for Marking Goods, subject to Excise, in Transit through the Territory of Ukraine No.952 of 29 November 1995;
- Resolution of the Cabinet of Ministers on the Procedures for the Mandatory Payments when Importing Certain Types of Goods of 23 January 1997 No. 52;
- Resolution of the Cabinet of Ministers on Modifications to the Import Duty Rates for Certain Types of Goods of 27 January 1997 No. 64;
- Resolution of the Cabinet of Ministers on Minimum Customs Value of Imported Tobacco, of 27 January 1997 No. 63;
- Resolution of the Cabinet of Ministers on Adopting the Procedure for Determining Customs Value of Goods and Other Items Crossing the Customs Border of Ukraine, No. 1598 of 5 October 1998;
- Order of the Cabinet of Ministers of Ukraine No. 343-P, on the Activities of the Customs-Tariffs Council of Ukraine of 16 May 1994;
- Resolution of the Cabinet of Ministers No. 1046, on Nomenclature of Export and Import Commodities Subject to Quota Allocations and Licensing in 1994 of 17 December 1993;
- Resolution of the Cabinet of Ministers of Ukraine No. 146 on Modifications to the Cabinet of Ministers Decree No. 1046 (adopted on 17 December 1993) of 4 March 1994;
- Resolution of the Cabinet of Ministers No. 249, on Changes to the Resolution No. 1046, (dated 17 December 1993) of 27 April 1994;

- Resolution of the Cabinet of Ministers No. 35, on the List of Goods the Export and Import of which are Subject to Quotas and Licensing in 1995 of 18 January 1995;
- Decree of the Cabinet of Ministers No. 6-93, on Regulations Governing the Procedure of Granting Quotas and Issuing Licences for the Export of Commodities in 1993 of 12 January 1993;
- Nomenclature of Export Commodities Subject to Quota Allocation and Licensing in 1993 (Approved by the Decree of the Cabinet of Ministers of Ukraine No. 6-93) of 12 January 1993;
- Resolution of the Cabinet of Ministers of Ukraine No. 734 on Liberalization of Export Operations of 24 October 1994;
- Resolution of the Cabinet of Ministers of Ukraine No. 222 on Introducing Changes to Particular Decisions of the Ukrainian Government of 31 March 1995;
- Resolution of the Cabinet of Ministers of Ukraine No. 7 "On the List of Export and Import Goods which are under Quotas and Licensing in 1998" of 5 January 1998;
- Resolution of the Cabinet of Ministers No. 310 "on the List of Goods, Export and Import which is Subject to Quotas and Licenses in 1997" of 4 April 1997;
- Order of the Ministry of Foreign Economic Relations and Trade of Ukraine on the Approval of the Provision on Export Licensing Procedure in 1996 and Provision on Import Licensing Procedure in 1996, Kiev No. 134-a, Registered with the Ministry of Justice of Ukraine, No. 115/1140 of 26 February 1996;
- The Order of the Ministry of Economy of Ukraine "On Approval of the List of Minimal Indicative Price for Some Products, Exported from Ukraine in May 2003" No. 112 of 30 April 2003;
- Decree of the President of Ukraine on Indicative Prices for Goods During Export and Import Operations by Subjects of Foreign Economic Activity of Ukraine of 18 November 1994 No. 691/94;
- Order of the Ministry of Foreign Economic Relations and Trade on Measures of the MFERT on the Implementation of the Order of the President of Ukraine No. 1140/95 "On Export Regime of Ferrosilicon Manganese, Originating from Ukraine, to the Countries of the European Community" of 17 January 1996 No 25;
- Decree No. 84/95, of the President of Ukraine on Regulation of Barter (Commodity Exchange) Operations in Foreign Economic Activity of 27 January 1995;
- Decree of the President on Introduction of 19 December 1995 No. 1163/95 on Changes into the Order No. 84 of the President of Ukraine dated 27 January 1995 "On Regulation of Barter (Goods Exchange) Operations in the Field of Foreign Economic Activity".
- Decree of the President of Ukraine No. 660/95 on Additional Measures on the Regulation of Barter (Counter Trade) Operations on the Area of Foreign Economic Activity of 26 July 1995;
- Decree of President of Ukraine on Measures in Respect to Prevention Export of Goods which Originate from Ukraine at Prices that can be Considered as the Dumping ones and to Settle Trade Disputes of 25 August 1994 No. 475/94;
- Decree of the President of 27 June 1996 No. 478/96 on Procedures for the Application of Safeguard Measures Pursuant to the Principles and Disciplines of the General Agreement on Tariffs and Trade GATT/World Trade Organization (WTO);
- Draft Decree of the President of Ukraine on Procedures for the Application of Safeguard Measures Pursuant to the Principles and Disciplines of the General Agreement on Tariffs and Trade (GATT)/World Trade Organization (Provisions included);
- Resolution of the Cabinet of Ministers No. 244 on Measures for Gradual Introduction in Ukraine of European Union Directives, Sanitary, Ecological, Veterinary and Phytosanitary Rules, and International and European Standards of 19 March 1997;
- Order of the State Committee of Ukraine on Standardization, No. 633 of 18 August 1998;

- Draft Law On Conformity Assessment No. 6013 of 4 August 2000;
- Draft Law On Accreditation of Conformity Assessment Bodies No. 6014 of 4 August 2000;
- Draft Law On Standardization No. 6130 of 5 October 2000;
- The Procedure for the State Sanitary and Hygienic Expertise of the Development, Production and Use of Products potentially Harmful to Human Health approved by the Order of the Ministry of Health Protection of Ukraine No. 190 of 20 October 1995;
- Draft Law On Amendment of the Law of Ukraine On Providing Sanitary and Epidemic Safety of the Population;
- Draft Law On Amendment of Some Legislative Acts of Ukraine on Veterinary Medicine;
- Law of Ukraine On Imports into Ukraine of Raw Cane Sugar in 2001 No. 2462-III of 29 May 2001;
- Decree of President No. 51/95 on Government Contract for Agricultural Products for 1995 of 16 January 1995;
- Decree of the President of Ukraine No. 63/95 on Reform Measures in Agriculture of 18 January 1995;
- Decree of the President of Ukraine on Immediate Measures to Accelerate Land Reform in the Sphere of Agricultural Production of 10 November 1994 No. 666/94;
- Resolution of the Cabinet of Ministers of Ukraine on Procedures for Exporting Selected Hybrid seeds of oil seed cultures from Ukraine No. 920 of 21 November 1995;
- Resolution of the Cabinet of Ministers No. 1375 on Approval of Statute of "SJSC Khlib Ukrainy" of 12 November 1996;
- Resolution of the Cabinet of Ministers on the Procedure for Using the Funds of the Governmental Leasing Fund to Purchase Domestic Agricultural Machinery No. 25 of 15 January 1998;
- The Decree of the President of Ukraine "On Measures Aimed to Stabilize the Situation on the Consumer Market and Develop Livestock Husbandry in 2001-2002" No. 100/2001 of 17 February 2001;
- Resolution of the Cabinet of Ministers No. 932 of 12 November 1993, on the Procedure of Formation and Placement of State and Government Order in 1994;
- Decree of the President of Ukraine on the State Contract and State Order for 1994 No. 489/93 of 28 October 1993;
- Resolution No. 140, On securing the Export of Products Governed by State Contracts in 1994 of 2 March 1994;
- Decree of the President of Ukraine No. 62/95 on Government Contracts in 1995 of 19 January 1995;
- Order of the Ministry of Economy of Ukraine No. 102 on Confirmation of the Regulation of the Procedure of Organizing Purchases under the State Contract for the State Needs on the Competitive Basis (Provisions Included) of 3 July 1995;
- Resolution of the Cabinet of Ministers No. 694 Regulations on Conducting International Tenders for State Procurement of 28 June 1997;
- Resolution of the Cabinet of Ministers of Ukraine No. 657 "On Amending and Supplementing Several Resolutions of the Cabinet of Ministers of Ukraine Concerning the Creation of a Uniform System of Government Procurement of Goods (Works, Services)" of 7 May 1998;
- Draft Regulation on Organizing and Holding International Tenders in the Field of Government Procurement Concerning the Import of Goods/Works, Services in Ukraine;
- Draft Decree of the President on Organizing and Holding International Tenders in the Field of Government Procurement Concerning the Import of Goods/Works, Services in Ukraine;
- Explanatory Notes on the Draft Order of the President on Organizing and Holding International Tenders in the Field of Government Procurement Concerning the Import of Goods/Works, Services in Ukraine;

- Explanatory Note to the Resolution of the Cabinet of Ministers on Organization and Conducting of International Auctions (Tenders) for State Procurement of Goods (Works, Services) of Foreign Origin, and the Regulations on the Procedure of Organization and Fulfilment of International Tenders for State Procurements of Goods (Service) of Foreign Origin in Ukraine of 28 June 1997;
- Law No. 3942-XII, on Making Changes to the Civil Code of Ukraine of 4 February 1994;
- Annex to the Resolution of the Cabinet of Ministers No. 806 List of Plant Genera and Species for the Varieties of Which Patents are Granted of 28 September 1993;
- Draft Law On Amending Certain Legislative Acts of Ukraine on Increasing the Liability for Violations of the Rights to Objects of the Right of Intellectual Property No. 5213 of 23 March 2000;
- Draft law of Ukraine on the Amendment of Certain Legislative Acts of Ukraine on Intellectual Property;
- Law of Ukraine on Communication, No. 160/95-VR of 16 May 1995;
- Resolution of the Cabinet of Ministers on the Approval of Priority Measures for 1996 concerning Ukraine's Accession to the General Agreement of Tariffs and Trade (GATT) and Joining the World Trade Organization No. 329 of 18 March 1996; and
- Decree of the President of Ukraine on the Interdepartmental Committee for Ukraine's joining the General Agreement on Tariffs and Trade and Accession to the World Trade Organization, Kiev No. 135/96 of 19 February 1996.

Table 2(a): Major State-owned enterprises by type of activity (May 2005)

Major State Enterprises	Import/Export of Goods	Trade on Behalf of the State (Yes/No)
1. State concern "Ukrspyrnt"	Export of ethyl spirits.	No
2. State Corporation "Energorynok"	Export/import of electric energy.	Yes
3. National joint-stock company "Naftogas of Ukraine"	Export/import of oil and gas products and transportation services.	Yes
4. State joint-stock company "Khib Ukrainy"	Acts as an agent and as a seller at grain market including state reserve of grain.	Yes
5. National joint-stock company 6. "Ukragroleasing"	Organization and control over leasing operations in agro-industrial complex that are performed pursuant to the Agreements, concluded by the directorate of the state leasing fund, including, with regard to funds reimbursement to this fund. Organization of authorized servicing of agricultural machinery, tractors, automobiles and equipment. Organization of trade for carrying out settlements for supplied agricultural machinery, tractors, automobiles, equipment and spare parts.	Yes
7. Public corporation "Ukrtransnafta"	Subsidiary of "Naftogas of Ukraine"	No
8. Public corporation "Ukrnafta"	Subsidiary of "Naftogas of Ukraine"	No
9. Subsidiary company "Ukrasvydobuvannya" of joint-stock company "Naftogas of Ukraine"	Subsidiary of "Naftogas of Ukraine"	No
10. Subsidiary company "Ukrtransgas" of joint-stock company "Naftogas of Ukraine"	Subsidiary of "Naftogas of Ukraine"	No
11. Subsidiary company "Gas of Ukraine" of joint-stock company "Naftogas of Ukraine"	Main tasks of the state company (SC), Gas of Ukraine" are: selling natural and liquefied gas to population, communal-general utilities, budgetary organizations, as well as industrial consumers, power generating companies of the Ministry of Fuel and Energy, entrepreneurial entities of the country; providing for gas settlements; operation and development of gas distribution networks, facilities and equipment.	Yes
12. State company "National Energy Company "Ukrenergo"	Management of state power stations. No trading activities.	No
13. State company "National Atom Energy generating company "Energoatom"	Import and export of nuclear materials.	Yes
14. Ukrainian State Center of specialized carriages exploitation "Ukrspetzhvagon"	The subsidiary of the State owned company "Ukrzaliznytsia". Rendering of transport-dispatch services in course of transportation of export, import, transit and other consignments.	No
15. Urkzaliznytsia	Transport services. No trading activities.	No

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

Note: In 2004, the enterprises in this table accounted for 2 per cent of total exports and 14 per cent of total imports

**Table 2(b): Major State-owned enterprises by type of activity**

Type of industry	Number of enterprises	Major enterprises
Aircraft	7	Kyiv State-Owned Plant "AVIANT"; Antonov Design Bureau
Radio electronics and radio technical	8	"KHEMS" (large electrical machinery)
Shipbuilding	2	"NVKG "Zoria" – "Mashprojekt" (steam and gas ship turbines); "Ship-Building Plant named after 61 Komunars" (building and repairs of military ships)
Chemicals	5	Odessa State Port Plant (production, sale, and export storage of chemical products – privatization planned to begin in 2005)
Metallurgy	5	[Scientific and Production Combine]; "Titanium-Magnesium Combine"

Table 4: Goods subject to State regulation of prices and tariffs

Codes of Goods	Description of goods prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative Acts/ period of application (if applicable)
12.12.91	Sugar beets	Approval of minimum prices (support prices)	The Cabinet of Ministers of Ukraine	The Law of Ukraine "On State Regulation of Sugar Production and Sale," No. 758-XIV, dated 17 June 1999, and Resolutions of the Cabinet of Ministers of Ukraine (hereinafter the "CMU") "On Certain Issues of State Regulation of Sugar Production and Sale," No. 868, dated 2 June 2000 "Certain Issues of State Regulation of Sugar Production and Sale," No. 142, dated 15 February 2002, and "On State Regulation of Sugar Production and Sale of," No. 1977, dated 25 December 2002.
0402.29 11	Profitability caps and trade mark-ups for preparations of infant nutrition	Establishment of profitability caps and trade mark-ups	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities.
	Trade mark-ups for medicines and produce of medical purposes mentioned in the list of domestic and imported medicines and produce for medical purpose, prices of which are subject to state regulation	Establishment of trade mark-ups	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities.
1001, 1002, 1003, 1004, 1005, 1008	Common wheat; rye; barley; oats; maize (corn); buckwheat	Pledged price <sup>1</sup>	The Cabinet of Ministers of Ukraine	The Resolution of the CMU "On measures on executing pledged operations with grain of the 2004 year harvest", No. 625, dated 12 March 2004.
17.01.99	Sugar produced from sugar beet in Ukraine within the A quota	Approval of minimum prices (support prices)	The Cabinet of Ministers of Ukraine	The Law of Ukraine "On State Regulation of Sugar Production and Sale," No. 758-XIV, dated 17 June 1999, and Resolutions of the Cabinet of Ministers of Ukraine (hereinafter the "CMU") "On Certain Issues of State Regulation of Sugar Production and Sale," No. 868, dated 2 June 2000 "Certain Issues of State Regulation of Sugar Production and Sale," No. 142, dated 15 February 2002, and "On State Regulation of Sugar Production and Sale of," No. 1977, dated 25 December 2002.

<sup>1</sup> Price guaranteed by the State for the purchase of grain from agricultural producers for a certain period of time, as set in an agreement, at pledged prices. During the agreed period, the producers retain the right to withdraw the grain in order to be able to sell it later at higher market prices.

Codes of Goods	Description of goods prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative Acts/ period of application (if applicable)
2701-2710	Prices on fuel-energy resources (coal, coal briquettes, common stove fuel, burning kerosene, fuel peat, firewood, peat briquettes and compressed gas) supplied to population for domestic (home) needs	Establishment of prices and profitability caps or declaration	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities.
2711	Wholesale price caps of enterprises for natural gas used for needs of population and budget organizations	Establishment of wholesale price caps	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Resolution of the NCRE "On the Approval of Wholesale Price Caps on the Natural Gas Used for Needs of Population, and Tariffs on Services on Transportation and Distribution of the Natural Gas to Consumers of Ukraine," No. 337, dated 18 March 1999.
	Retail prices of natural gas used for needs of population	Establishment of retail prices	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Resolution of the NCRE "On Retail Prices on the Natural Gas Used by Population for Communal-General Needs," No. 310, dated 10 March 1999.
2716	Tariffs on electricity supplied to the population for domestic (home) needs	Establishment of retail tariffs	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Resolution of the National Commission for Regulation of Electricity (hereinafter the "NCRE") "On Tariffs on Electricity Supplied to Population and Populated Areas," No. 309, dated 10 March 1999.
31	Fertilisers	Wholesale price	The Cabinet of Ministers of Ukraine	The Resolution of the CMU "On Approval of the Order (Procedure) for use of the State Budget, that is provided for partial compensation of the price of the domestically produced mineral fertilisers No. 13, dated 14 January 2004 (is in force from the 16 April 2004 – 1 August 2004 and the Order of Ministry of Industrial Policy of Ukraine "On regulations of the boundary level of the whole sale prices on domestically produced mineral fertilisers for the partial cost compensation of which the money is being provided by the State Budget, No. 18, dated 20 January 2004 (is in force from the 1 January 2004 – 1 July 2004).



Codes of Goods	Description of goods prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative Acts/ period of application (if applicable)
4901-4911	Norm of production profitability (in the amount of 15%) in case of issuance of printed material at the expense of the state budget and delivery of such material to consumers (norm of profitability in the amount of 5%)	Establishment of profitability norms	It is established by the Ministry of Education and Science of Ukraine, Derzhkomtelradio (State Committee for Television and Radio of Ukraine) and other central authorities of the executive power, which place state order on issuance of printed produce	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996.
70.10 ex 7010.1000 7010.2000	Deposit prices on glass tare purchased from population	Establishment of the fixed and minimum prices or deposit price caps	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities.
9021	Prices on prosthetic and orthopedic appliances and technical means for preventive measures as to disablement and rehabilitation	Establishment of price	The Ministry of Labour of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996.
	Prices on products of hunting, including wild fowl supplied for export	Establishment of price	Derzhkomlisp (State Committee for Forestry of Ukraine) in agreement with the Ministry of Economy of Ukraine for all users of hunting grounds	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996.
	Prices on hunting trophies obtained by foreign citizens	Establishment of price caps	Derzhkomlisp in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of State Committee for Forestry of Ukraine "On the Approval of Price Caps on Hunting Trophies Obtained by Foreign Citizens and Tariff Caps on Services Provided to such Citizens," No. 26, dated 28 February 2002.

Example:

Minimum retail price (MRP) for one 0.5 litre bottle of vodka (40 per cent vol. alcohol):

$$\text{MRP} = \frac{\text{UAH } 27.34 \times 40 \times 0.5}{100} = \text{UAH } 5.47$$

where:

- 27.34 – the affirmed minimum retail price in hryvnia for domestic and imported vodka and liqueur-vodka articles, per litre of pure (100 per cent) alcohol;
- 40 – alcoholic strength (in per cent); and
- 0.5 - bottle size (in litre).

Notes:

- Price regulation regarding ferro-alloys, fire-clays, iron ores, coke provided by the Decree of the CMU "On Creation of the Intergovernmental Commission on State Price Policy in Mining and Smelting Complex", No. 204 on 1 September 2004 in accordance with the Decree of the CMU "On some issues on stimulating the development of internal market of metals production" No. 179 26 March 2004 thus these items were not included in this table. These Decrees had expired and were no longer valid.
- In order to stabilize the situation with food stuff prices the Cabinet of Ministers of Ukraine issued Resolution No. 1150 of 24 July 2003, "On Performance Drawbacks of Certain Bodies of Executive Power in Insuring Food Stuff Safety and On Measures Aimed at Stabilizing the Market of Main Food Products". This Resolution empowered the Council of Ministers of the Autonomous Republic of Crimea, Oblsats' State Administrations, Kyiv and Sevastopol Cities' State Administrations with the authority:
  - To temporarily regulate the prices on "grain, flour, bread, rolls and buns, pasta, groats, sugar, beef, boiled sausage, milk, cheese, butter, and sunflower oil"; and
  - To regulate boundary trade mark-ups on "grain, flour, bread, rolls and buns, pasta, groats, sugar, beef, boiled sausage, milk, cheese, butter, and sunflower oil".
- In order to stabilize the situation with meat and meat products' prices the Cabinet of Ministers of Ukraine in addition issued Resolution No. 1359 of 15 October 2004, "On Introducing Changes in Annex to Cabinet of Ministers of Ukraine Resolution No. 1548 of 25 December 1996". This regulation was a temporary measure, which broadened the scope of authority provided to the Council of Ministers of the Autonomous Republic of Crimea, Oblsats' State Administrations, Kyiv and Sevastopol Cities' State Administrations in respect to regulation of prices on beef, pork, and poultry meat.

Table 5: Services Subject to State Regulation of Prices or Tariffs

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative Acts
Tariffs on transportation of cargo by railway transport within Ukraine and services related thereto	Establishment of tariffs	Ministry of Transport and Communication of Ukraine,	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Cargo by Railway Transport of Ukraine and Coefficients Applied to such Tariffs," No. 551, dated 15 November 1999.
Tariffs for work related to processing of foreign commercial and transit cargo in sea and river ports (berths), and charges and fees on services provided to foreign shipping in sea and river ports of Ukraine	Establishment of tariffs	Ministry of Transport and Communication of Ukraine, in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Works and Services Provided to Cargo Owners in Sea Ports of Ukraine," No. 392, dated 31 October 1995.
Tariffs on transportation of passengers, luggage and cargo by railway transport in international and domestic communication (excluding suburban services)	Establishment of tariffs	Ministry of Transport and Communication of Ukraine, in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Passengers, Luggage and Cargo by Railway Transport in International Communication East - West," No. 853, dated 2 December 2002, and the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Passengers, Luggage and Cargo by Railway Transport in Domestic Communication," No. 103, dated 19 February 2001.
Tariffs on transportation of passengers and luggage by buses on inter-city and inter-oblast routes	Establishment of tariff caps	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Passengers and Luggage by Buses of Inter-City and Inter-Oblast Routs," No. 380, dated 22 July 1999.
Air-navigation fees for air-navigation services to aircraft in the airspace of Ukraine	Approval of fee rates	State Aviation Service, in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Transport of Ukraine "On the Approval of Fee Rates on Air-Navigation Services of Aircraft in the Airspace of Ukraine," No. 145, dated 22 April 1997.
Airport fees for servicing aircraft and passengers in airports of Ukraine (landing and take-off of an aircraft, servicing of passengers in an airport, stay of an aircraft over the designated time and ensuring aviation security)	Approval of fee rates	State Aviation Service, in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and 18 orders of the Ministry of Transport of Ukraine (as to each airport separately).

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative Acts
Tariffs for services related to payment and delivery of pensions and pecuniary aid to population, which are paid from the funds of the Pension Fund of Ukraine	Establishment of tariffs	Ministry of Transport and Communication of Ukraine, in agreement with the Ministry of Economy of Ukraine and Pensions Fund of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of State Committee for Communications of Ukraine "On the Approval of Tariffs Caps on the Basic Services of Telecommunication and Tariffs on Payment of State Pensions and Pecuniary Aid," No. 120, dated 7 June 2002.
Tariffs for water delivery provided by Production Association "Ukrpromvodchormet" an Enterprise "Kryvbaspromvodpostachannya"	Agreeing on the limit level of tariffs	The Ministry of Industrial Policy of Ukraine in agreement with the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Industrial Policy of Ukraine "On Improvement of Tariff Regulations on Services on Water Delivery," No. 225, dated 29 June 1999.
Payment cap for residence in student hostels	Establishment of payment cap	The Ministry of Education and Science of Ukraine, the Ministry of Health Protection of Ukraine and other ministries and central authorities of the executive power under competence of which there are teaching and educational institutions, in agreement with the Ministry of Finance of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Education and Science of Ukraine, the Ministry of Health Protection of Ukraine and the Ministry of Finance of Ukraine "On Establishment of Payment Cap for Residence in [Student] Hostels," No. 453/362/260, dated 21 December 1998.
Payment caps for residence in hostels of the system of the Ministry of Interior of Ukraine	Establishment of payment cap	The Ministry of Interior of Ukraine in agreement with the Ministry of Finance of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996.
Tariffs for transportation of natural gas, oil, oil products, ammonia and ethylene substances supplied to consumers of Ukraine by trunk pipelines	Establishment of tariffs	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and Resolutions of the NCRE "On Tariffs on Transportation of Oil by Trunk Pipelines through the Territory of Ukraine," No. 1092, dated 26 August 1999, "On the Approval of Tariffs on Transportation and Supply of the Natural Gas," No. 73, dated 29 January 2001, "On Tariff on Transportation of Ammonia of the Russian Origin through the Territory of Ukraine by a Trunk Pipeline," No. 1285, dated 28 December 2000, "On Tariff on Transit and Transportation of Liquid Ammonia by a Trunk Ammonia Pipeline," No. 252, dated 23 January 2001, and "On Tariffs on Transportation of Liquid Ammonia by Trunk Pipelines," No. 1067, dated 27 September 2002.
Tariffs for storage of natural gas	Establishment of tariffs	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Resolution of the NCRE "On Tariffs on Storing, Pumping-in and Extracting of the Natural Gas by Subsidiary Enterprise "Ukrtransgas," No. 447, dated 27 April 2000.

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative Acts
Tariffs for transportation of natural gas by distributive networks and supply of natural gas	Establishment of tariffs	The National Commission for Regulation of Electricity	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and Resolutions of the NCRE on the approval of tariffs on transportation of the natural gas by distributive pipelines for regional enterprises.
Tariffs for services provided to foreign citizens who are users of hunting grounds	Establishment of tariff caps	Derzhkomlisgosp in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of State Committee for Forestry of Ukraine "On the Approval of Price Caps on Hunting Trophies Obtained by Foreign Citizens and Tariff Caps on Services Provided to such Citizens," No. 26, dated 28 February 2002.
Prices of licenses for hunting wild hoofed hunting animals and bear	Establishment of prices	Derzhkomlisgosp in agreement with the Ministry of Economy of Ukraine	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and the Order of the Ministry of Forestry of Ukraine "On the Approval of Price of Hunting Licenses for Hunting in Hunting Grounds of Ukraine for Citizens of Ukraine and Foreign Citizens," No. 85, dated 8 August 1996.
Amount of payment for services provided to drunk persons by medical departments of sobriety attached to interior authorities	Establishment of the amount of payment, price caps or profitability caps	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities.
Tariffs for services provided by the state-owned and communal medical and preventive institutions of health protection	Establishment of prices and profitability cap or declaration	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities.
Tariffs on inventory of real estate, legalization of ownership rights to real estate objects and registration of such rights	Establishment of tariffs, tariff caps and profitability cap or declaration	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities.
Tariffs for transportation of passengers and price of tickets in city passenger vehicles, i.e. the underground, bus, tram and trolley bus (which works in an ordinary regime of traffic)	Approval of tariffs and tariff caps or profitability cap	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations, executive authorities of the L'viv and Kryviy Rig City Councils	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities.
Tariffs for transportation of passengers and luggage by passenger electric transport (trolley bus) in inter-city and suburban communication	Establishment of tariff caps	The Council of Ministers of the Autonomous Republic of Crimea	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of the Council of Ministers of the Autonomous Republic of Crimea.

Description of goods or services prices (tariffs) which are subject to state regulation	Form or nature of price regulation	Authorities of the executive power which effectuate regulation	Normative Acts
Tariffs for transportation of passengers and luggage by railway transport in suburban communication	Approval of tariff caps	Departments of railways in agreement with the Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996.
Tariffs for transportation of passengers and luggage by motor transport (which works in an ordinary regime of traffic) in inter-city, within oblast and suburban communication	Approval of tariff caps	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, the Order of the Ministry of Transport of Ukraine "On the Approval of the Standard Forms of Tickets for Trip of Passengers and Transportation of Luggage by Motor Transport and Tariffs Zones of Transportation of Passengers by Motor Transport in Suburban Routs," No. 278, dated 31 May 2000, and the Order of the Kyiv City Territorial-Production Association of Motor Transport "On the Approval of Tariff Caps on Transportation of Passengers and Luggage in Inter-city within Oblast Routs," No. 75, dated 11 July 2001.
Payment caps for services provided by market places housing sellers of food and non-food goods.	Establishment of payment or payment caps	The Council of Ministers of the Autonomous Republic of Crimea, oblast, the Kyiv and Sevastopol City State Administrations	The Resolution of the CMU "On Establishment of Powers of the Executive Power Authorities and Executive Authorities of City Councils Regarding Price (Tariff) Regulations," No. 1548, dated 25 December 1996, and normative documents of local authorities.

Table 7: Calculation of Tariffs for the Supply of Electric Energy

1. Calculations of expected average purchasing price for the electric energy for the month in question for which the retail tariff is established are made in four stages, as below.
- 1.1 Actual average purchasing price for the electric energy determined within the month prior to the last month in question is calculated, subsidy corrections included:

$$\text{Цр-2C3факт} = \frac{\text{Цр-2OPфакт} * \text{Ep-2OPфакт} + \text{Цр-2H} * \text{Ep-2Hфакт} + \sum \text{Др2}}{\text{Ep-2OPфакт} + \text{Ep-2Hфакт}} \quad (\text{UAH/Megawatt per year})$$

Цр-2OPфакт is a price paid by the licensee purchasing the electric energy for Wholesale Electric Energy Market in the month prior to the last month in question (according to the electric energy sales act), (UAH/Megawatt per year).

Цр-2H is the price for which the licensee has purchased the electric energy according to an agreement directly from the producing company or the tariff for the electric energy supplied by an electric power station owned by the licensee in the month prior to the last month in question (UAH/Megawatt per year).

Др-2 is the total sum of subsidies granted for the licensee and adopted by the National Committee for Regulation of Electric Energy Industry licensee in the month prior to the last month in question, UAH.

Ep-2OPфакт is the actual amount of the electric energy purchased by the licensee for Wholesale Electric Energy Market in the month prior to the last month in question (according to the electric energy sales act), (UAH/Megawatt per year).

Ep-2Hфакт is the actual amount of the electric energy purchased by the licensee directly from the producing company or the electric energy received by an electric power station owned by the licensee in the month prior to the last month in question (UAH/Megawatt per year).

- 1.2 Expected average purchasing price for the electric energy for the month prior to the last month in question is calculated, subsidy corrections not included:

$$\text{Цр-2C3} = \frac{\text{Цр-2OP} * \text{Ep-2OP} + \text{Цр-2H} * \text{Ep-2H}}{\text{Ep-2OP} + \text{Ep2H}} \quad (\text{UAH/Megawatt per year})$$

Цр-2OP is an expected wholesale market price in the month prior to the last month in question (confirmed by National Committee for Regulation of Electric Energy Industry), (UAH/Megawatt per year).

Цр-2H is the price for which the licensee has purchased the electric energy according to an agreement directly from the producing company or the tariff for the electric energy supplied by an electric power station owned by the licensee in the month prior to the last month in question (UAH/Megawatt per year).

Ep-2OP is the expected amount of the electric energy purchased by the licensee for Wholesale Electric Energy Market in the month prior to the last month in question, Megawatt per year (according

to expected balance of the electric energy adopted by the Ministry of Fuel and Electric Energy and technical/business indices calculated as based upon this balance for the month concerned).

Ep-2H is the expected amount of the electric energy purchases by the licensee directly from the producing company or the expected amount of the electric energy received by an electric power station owned by the licensee in the month prior to the last month in question, UAH/Megawatt per year (according to expected balance of the electric energy adopted by the Ministry of Fuel and Electric Energy and technical/business indices calculated as based upon this balance for the month concerned).

1.3 Deviation of the payment amount for the electric energy purchased is determined, i.e.

$$Cp-2 = (\Pi p-2C3_{\text{факт}} - \Pi p-2C3) * (Ep-2Op_{\text{факт}} + Ep-2H_{\text{факт}}) + Cp-2_{\text{кор}} \text{ (UAH)},$$

$\Pi p-2C3_{\text{факт}}$  is the actual average purchase price for the electric power determined in the month prior to the last month in question is calculated, subsidy corrections included (calculated by the licensee), UAH/Megawatt per year.

$\Pi p-2C3$  is the expected average purchasing price for the electric energy for the month prior to the last month in question, corrections for payment amount deviations not included (calculated by the licensee), UAH/Megawatt per year.

Ep-2OP факт is the actual amount of the electric energy purchased by the licensee for Wholesale Electric Energy Market in the month prior to the last month in question, Megawatt per year (according to the electric energy sales agreement).

Ep-2H факт is the actual amount of the electric energy purchases by the licensee directly from the producing company or the electric energy received by the licensee from the electric power station owned by him in the month prior to the last month in question, UAH/Megawatt per year (according to the electric energy sales agreement).

Cp-2кор – cost of the corrections made for the standard technology expenses of the electric energy determined in compliance with the "Temporary Enactment for Procedures of Submission, Determination and Adoption of Economic Rates Of Standard Technologic Expenses of Electric Energy for Licensees Transferring Electric Energy by Local Electric Power Networks" adopted by the decree of the National Committee for Regulation of Electric Energy Industry dated 30 November 2001, No 1179.

No DCp-2кор is calculated for the licensees, for which the tariffs for transfer of the electric energy and the retail tariffs are calculated according to the Decree issued by the National Committee for Regulation of Electric Energy Industry dated 10.042001 No 348 concerning definition of the expected purchasing price for the electric energy for a month in question coming next after that reported.

1.4 The expected average purchasing price for the electric energy for a month in question for which the retail tariffs are established shall be calculated, i.e.

$$\Pi pC3 = \frac{\Pi p-OP * Ep-OP + \Pi pH * EpH + Cp-2}{EpOP + EpH} \quad \text{(UAH/Megawatt per year)}$$

$\Pi pOP$  is an expected wholesale market price in a month in question (confirmed by the National Committee for Regulation of Electric Energy Industry), (UAH/Megawatt per year).



$\Pi_{pH}$  is the price for which the licensee has purchased the electric energy according to an agreement directly from the producing company or the tariff for the electric energy supplied by an electric power station of the licensee in the month in question (UAH/Megawatt per year).

$E_{pOP}$  is the expected amount of the electric energy purchases by the licensee at the Wholesale Electric Energy Market in the month in question, Megawatt per year (according to expected balance of the electric energy adopted by the Ministry of Fuel and Electric Energy and technical/business indices calculated as based upon this balance for the month concerned).

$E_{pH}$  is the expected amount of the electric energy purchases by the licensee directly from the producing company or the expected amount of the electric energy received by an electric power station owned by the licensee in the month in question, UAH/Megawatt per year (according to expected balance of the electric energy adopted by the Ministry of Fuel and Electric Energy and technical/business indices calculated as based upon this balance for the month concerned).

DCP-2 are deviations of the amount paid off for the electric energy purchased, UAH (calculated by the licensee).

2. Calculation of the retail tariff for the electric energy consumed is to be made using the formulae:

$$T_{ij} = \frac{\Pi_{pc3}}{\Pi (1-kl) (=)} + T_{jM} + T_{i\Pi}$$

$i$  = a group of a user in compliance with standard procedures (methods) adopted by the National Committee for Regulation of Electric Energy Industry;

$j$  = a class of a user in compliance with standard procedures (methods) adopted by the National Committee for Regulation of Electric Energy Industry;

$l$  = classes of voltages in the networks that transferred the electric energy up to the end user;

$\Pi_{pc3}$  = expected average purchasing price for the electric energy for a month in question ( $p$ ) for which the retail tariffs for the electric energy are established, UAH/Megawatt per year (to be calculated by the licensee as based upon the methods described in the paragraph 1).

$kl$  = economic coefficient of the standard technologic spending of the electric energy at the first class of voltage. To be determined as a ratio of the standard technologic spending of the electric energy at corresponding classes of the voltage to the electric energy amounts transferred to the local power networks with the correspondent class of voltage for transfer for the users at the territory of licensed activities within a period concerned.

$T_{jM}$  = the tariff for the electric energy transfer by the local power supply networks, UAH/Megawatt per year (confirmed by the National Committee for Regulation of Electric Energy Industry);

$T_{i\Pi}$  = the tariff for the electric energy supply, UAH/Megawatt per year, to ensure coverage of the licensee expenses for delivery of the electric energy to the users.

Example of calculation of retail tariff for electric energy.

Data	Unit	July	August
Expected wholesale market price	UAH/Megawatt per year	99.5	100.0
Actual price of electric power purchases at wholesale power market	UAH/Megawatt per year	78.15	
Subsidy amount	UAH	3,514,647	4,271,296
Amounts of electric energy purchases at wholesale power market	Megawatt per year	216,180 - (expected) 217,292 - (actual)	246,990 - (expected)
Tariff for electric energy supplied by electric power station directly to licensee delivering electric energy under regulated tariffs	UAH/Megawatt per year	24.7	24.7
Amounts of electric energy purchases from electric power station	Megawatt per year	690 - (expected) 720 - (actual)	594 - (expected)
Economic coefficient of standard technology spending of electric power			
1st class	%	7.41	7.19
2nd class	%	13.02	12.85
Tariff for electric energy transfer by local power networks			
1st class	UAH/Megawatt per year	5.55	5.55
2nd class	UAH/Megawatt per year	29.06	29.06
Tariff for supply of electric power			
1st group	UAH/Megawatt per year	2.15	2.15

The example of the calculation was given on the assumption that the licensee was not concerned with licence fees of the users.

Calculation of actual average purchasing price for July corrected with regard to subsidies.

$$\text{Цр-2C3факт} = \frac{78.15 \times 217292 + 24.7 \times 720 + 3514647}{217292 + 720} \quad \text{UAH 94.09/ Megawatt per year}$$

Calculation of expected average purchasing price for July not corrected with regard to amount of payment deviation.

$$\text{Цр-2C3} = \frac{99.5 \times 216180 + 24.7 \times 690}{216180 + 690} \quad \text{UAH 99.26/ Megawatt per year}$$

Calculation of payment deviation in July.

$$\Delta \text{Cp-2} = (94.09 - 99.26) \times (217,292 + 720) = -\text{UAH } 1,127,122.04$$

Calculation of average purchase price for August.

$$\text{Цп-C3} = \frac{100 \times 246990 + 24.7 \times 594 - 1127122.04}{246990 + 594} \quad \text{UAH 95.27/ Megawatt per year}$$

Calculation of retail tariffs for August.

Tariff for users of the 1st class, 1st group.

$$T11 = 95.27 + 5.55 + 2.15 = \text{UAH 110.4/Megawatt per year } (1 - 0.0719)$$

Tariff for users of the 2nd class, 1st group.

$$T12 = 95.27 + 29.06 + 2.15 = \text{UAH 149.0/Megawatt per year } (1 - 0.0719) \times (1 - 0.1285)$$

Table 8(a): Goods, the import or export of which requires an activity licence

HS	Product	Licensing Body	Eligibility	Timeframe for Obtaining Licence/ Cost of Licence	Measure Description/WTO Justification
8523, 8524	Laser-readable discs; matrixes.	Ministry of Economy	All agents of economic activity	Within 10 working days UAH 340	GATT Article XX (d)
List approved by Resolution of the Cabinet of Ministers No. 932 of 5 July 2002	Holographic protection elements	Security Service of Ukraine	All agents of economic activity	Within 10 working days UAH 340	GATT Article XX (d)
3001-3006	Narcotics, psychotropic substances and precursors	State Department for Supervision over Quality, Safety and Production of Medicines and Articles for medical Use	Note <sup>2</sup>	Within 9 working days UAH 340	GATT Article XX (b)
Note <sup>3</sup>	Cryptosystems and means for cryptographic protection	Security Service of Ukraine	All agents of economic activity	Within 10 working days UAH 340	GATT Article XX (d)

<sup>2</sup> According to the Law "On Turnover of Narcotics, Psychotropic Substances, Their Analogs and Precursors" No. 60/95-VR of 15 February 1995 the activity, connected with the turnover of narcotics, psychotropic substances (with exception of some psychotropic substances and the precursors defined in this Law) is conducted by enterprises of the state and municipal form of property which have licenses for certain types of activity such as cultivation, development, production, storage, distribution, transportation, sending, purchase, selling, import, export, use and destruction of narcotics, psychotropic substances, their analogs and precursors.

It is indeed the case, when the state and municipal enterprises are eligible to apply for activity licence (Article 6 Law No. 60/95-VR) and certificate for import or export of narcotics, psychotropic substances and precursors (art. 12 Law No. 60/95-VR). A certificate (separate permit) to import or export narcotics, psychotropic substances and precursors is being issued by the Committee on Narcotics Control attached to the Ministry of Health Protection upon approval with the Security Service of Ukraine.

<sup>3</sup> Development of hardware, hardware and software means for cryptographic protection of information and cryptosystems.

Development of software means for cryptographic protection of information and cryptosystems.

Production of hardware, hardware and software means for cryptographic protection of information and cryptosystems.

Production of software means for cryptographic protection of information and cryptosystems.

Production and operation of means for cryptographic protection of information and cryptosystems.

Certification tests and exert examination of cryptosystems and means for crypto-graphic protection of information.

Thematic research of means for cryptographic protection of information and cryptosystems.

Provision of services in the area of cryptographic protection of information.

Importation and exportation of means for cryptographic protection of information and cryptosystems.

Trading in means for cryptographic protection of information and cryptosystems.

Other goods-related activities subject to licensing according to Article 9 of the Law "On Licensing of Certain Types of Economic Activity" No. 1775-III of 1 June 2000, as amended:

- 1) minerals exploration activity;
- 2) production and service of arms and ammunition thereto, cold steel arms, pneumatic arms of caliber exceeding 4.5 millimetres and bullet airspeed over 100 meters per second, sales of arms and ammunition thereto, cold arms, pneumatic arms of caliber over 4.5 millimetres and bullet airspeed over 100 meters per second;
- 3) production of explosives (under the list, established by the Cabinet of Ministers of Ukraine);
- 4) production of extra-dangerous chemical agents (according to the list, established by the Cabinet of Ministers of Ukraine);
- 5) uranium ore mining;
- 6) extraction of precious metals and stones, organogenic jewels and semiprecious stones;
- 7) production of precious metals and stones, organogenic jewels and semiprecious stones;
- 8) manufacture of products of precious metals and precious stones, organogenic jewels and semiprecious stones and trade in precious metals and stones, organogenic jewels and semiprecious stones;
- 9) production of medicines, wholesale and retail trade in medical products;
- 10) production of veterinary medications, wholesale and retail trade in veterinary medications;
- 11) production of pesticides and agricultural chemicals, wholesale and retail trade in pesticides and agricultural chemicals;
- 12) production of special-purpose devices, loaded with lachrymatory and irritating substances, devices of individual protection or offensive defensive;
- 13) designing and production of special-purpose technical appliances for taking information from communication channels, other devices for a private obtaining of information, trade in special-purpose technical appliances for taking information from communication channels and other devices for a private obtaining of information;
- 14) development, production, utilization, operation, certification testing, subject research, expertise, importation and exportation of cryptosystems and means of cryptographic protection of information, providing services in the sphere of cryptographic protection of information, trade in cryptosystems and means of cryptographic protection of information;
- 15) designing, production, introduction, certification testing, importation and exportation of holographic protection of elements;
- 16) manufacture of forms of securities and documents of obligatory accounting;
- 17) transportation of oil and petroleum products by a trunk pipeline, transportation of natural gas and oil gas by trunk pipelines and its distribution;
- 18) development, production, preparation, storage, transportation, purchase, carriage, importation, exportation and liquidation of drugs and psychotropics and their precursors;
- 19) cultivation and utilization of plants, containing drugs, for the industrial purposes;
- 20) storing, processing, and metallurgical treatment of scrap ferrous and non-ferrous metals;
- 21) collection, primary processing of wastes and scrap of non-ferrous metals and precious stones, organogenic jewels and semiprecious stones;
- 22) collection and storage of certain kinds of wastes as secondary raw materials (under the lists, established by the Cabinet of Ministers of Ukraine);
- 23) production of discs for laser reading systems;
- 24) exports and imports of equipment and discs for laser reading systems; and
- 25) production of perfumes and cosmetics with the use of ethyl alcohol.

Table 8(b): Goods, the import or export of which requires a licence on the right to import

HS	Product	Licensing Body	Eligibility	Cost of Licence	Measure Description/WTO Justification
2207, 2208 202900, 2208 208900	Ethyl alcohol, cognac spirits, fruit spirits	Ministry of Economy	Only designated state enterprises	UAH 170,000	GATT Article XX (b and d)
2204, 2205, 2206, 2208	Alcoholic beverages: Products obtained by alcoholic fermentation of materials containing sugar or produced on the basis of food alcohol with an ethyl alcohol content higher than 1.2 per cent of volumetric units.	Ministry of Economy	All agents of economic activity	UAH 500,000	GATT Article XX (b and d)
2402, 2403	Tobacco products: Cigarettes, cigarettes with a cardboard holder, cigars, cigarillos and also pipe tobacco, snuff, chewing tobacco and other products from tobacco or its substitutes, which influence the physiology of a person while consuming them.	Ministry of Economy	All agents of economic activity	UAH 500,000	GATT Article XX (b and d)

Table 8(c): Licensing in Ukraine (Services-related Activities)

- 1) Design, production, introduction, servicing and research of efficiency of systems and devices of technical protection of information, providing services in the sphere of technical protection of information;
- 2) Supply of natural gas at controlled and non-controlled tariffs;
- 3) Storage of natural gas in the amounts, exceeding the rate, specified by terms of licensing;
- 4) Centralized water supply and draining;
- 5) Design, testing, production, operation of carrier rockets, space vehicles and their component parts, earth space infrastructure and its components, equipment, which is a constituent part of a space segment of satellite systems;
- 6) Disinfection, disinsection and deratization works;
- 7) Medical practice;
- 8) Treatment of donor blood and its components, making medications thereof;
- 9) Veterinary practice;
- 10) Organization and maintenance of totalizators, gambling houses, issuance and arranging of lotteries;
- 11) Building activity (exploration and projecting works for the purpose of construction, erection of bearing and filler structures, construction and assemblage of engineering and transport networks);
- 12) Providing services in conveyance of passengers and cargoes by air transport;
- 13) Providing services in conveyance of passengers and cargoes by river and sea transport;
- 14) Providing services in conveyance of passengers and cargoes by motor transport of public use (except services in conveyance of passengers and their luggage by taxi);
- 15) Providing services in conveyance of passengers and their luggage by taxi;
- 16) Providing services in conveyance of passengers and cargoes by railway transport;
- 17) Operations in the area of treatment of dangerous waste products;
- 18) Design, assemblage, technical maintenance of means of fire protection and heating systems, evaluation of fire-prevention situation within the objects;
- 19) Testing of fire safety of substances, materials, building structures, wares and equipment, as well as assessment of conformity of fire engineering, fire-engineering equipment and fire-protection products with the established norms;
- 20) Providing services in guarding of state and other property, guarding of citizens;
- 21) Performing topography-and-geodesic and cartographic works;
- 22) Execution of aviation and chemical works;
- 23) Sending of postal orders, non-registered and registered letters, post cards, postal packages and parcels under 30 kilograms;
- 24) Providing services in the sphere of radio communication (with the use of radio frequencies);
- 25) Providing services in telecommunication (except departmental objects);
- 26) Technical servicing of television, radio and wire broadcasting networks within the framework of industrial operation;
- 27) Arrangement of foreign, home and international tourism; arranging of excursions;
- 28) Recreational and sports activity;
- 29) arranging and conducting of trainings of sports professionals and amateurs;
- 30) training of sportsmen for participation in competitions in various sports, recognized in Ukraine;
- 31) Activities of arbitration directors (administrators of property, sanitation managers, liquidators);
- 32) Mediation in employment abroad;
- 33) Professional activity in the equity market;
- 34) Fulfilment of land planning and land appraisal works;

- 35) Design, construction of new and reconstruction of the existing reclamation systems and individual objects of engineering infrastructure;
- 36) Activity related to the industrial fishing at industrial areas of water bodies of fish industries, except inner water bodies (ponds) of fish industries; and
- 37) mediation activity of a customs broker and customs carrier.

Source: Article 9 of the Law "On Licensing of Certain Types of Economic Activity" No. 1775-III of 1 June 2000, as amended.



Table 8(d): Documentation requirements for obtaining an activity licence

The application must contain the following information:

- name;
- location;
- banking details and identification code – for a legal entity;
- surname, name, patronymic and passport details (series, number, issuing authority, date of issuance and residence), and identification number of a physical person who is the payer of taxes and other mandatory payments – for a physical person;
- type of business activity for which an applicant intends to obtain a licence; and
- copy of the certificate of state registration of the agent of entrepreneurial activity or copy of the certificate on its inclusion into the Unified State Register of Enterprises and Organizations of Ukraine certified by a notary or by the authority which issued the original document.

Documentation required to obtain a licence to import and export alcoholic beverages and tobacco products:

- an application form to obtain a licence to import and export ethyl, cognac and fruit spirits, distilled grape ethyl spirits, distilled fruit ethyl spirits, alcoholic beverages and tobacco goods;
- a copy of the certificate on state registration of the agent of entrepreneurial activity, certified by a notary or by the authority which issued the original document; and
- a copy of the document which confirms the special authorities granted by the Cabinet of Ministers of Ukraine to the state-owned enterprise or organization to carry out import and export of ethyl, cognac and fruit spirits, distilled grape ethyl spirits and distilled fruit ethyl spirits, certified by the head's signature and stamped with a company's seal (in case of submission of the documents for receipt of a licence to carry out the given operations).

Information required for an activity licence to import and export optical media equipment and discs:

Application including the following information:

- name of the legal entity with all its subsidiaries and branches, and its location;
- surname, name, patronymic and passport details (series, number, issuing authority, date of issuance and residence) – for a physical person;
- contact telephone number;
- organizational and legal form;
- identification code for a legal entity (identification number for a physical person);
- banking details;
- type of activity (export or import, optical media equipment or discs);
- location of effectuation of the activity; and
- obligations concerning the fulfilment of licensing terms and conditions.

Required documentation attached to the application form:

- copy of the certificate on state registration of the agent of entrepreneurial activity or copy of the certificate on its inclusion into the Unified State Register of Enterprises and

- Organizations of Ukraine certified by a notary or by the authority which issued the original document;
- list of the management of an agent of entrepreneurial activity (its head, deputy heads and chief accountant), including their surnames, names and patronymics, positions and office telephone numbers signed by the head and duly stamped, as well as the reference concerning owners, signed by the head of a company and duly stamped;
  - duly certified copies of the founding documents (for a legal entity);
  - duly certified copies of the documents which confirm ownership rights or lease of storage facilities;
  - duly certified copies of the documents which confirm the information on the premises where wholesale and/or retail trade in optical media discs (for a licence to import discs) shall take place;
  - information on availability of optical media disc remainders as of 21 April 2002 (for export and import of optical media discs) – in case of such availability; and
  - list of main components for specialized equipment for production of optical media systems, export or import of which are subject to licensing pursuant to laws (for licenses on export and import of equipment).

Requirements for obtaining a licence for the production, wholesale and retail trade in pesticides and agro-chemicals:

Application containing the following:

- name of the legal entity with all its subsidiaries and branches, and its location;
- surname, name, patronymic and passport details (series, number, issuing authority, date of issuance and residence) – for a physical person;
- identification code for a legal entity (identification number for a physical person);
- type of activity;
- location of effectuation of the activity;
- obligations concerning the fulfilment of licensing terms and conditions; and
- a copy of the certificate of state registration of the agent of entrepreneurial activity or copy of the certificate of its inclusion into the Unified State Register of Enterprises and Organizations of Ukraine certified by a notary or by the authority which issued the original must be attached to the application form.

In order to produce pesticides and agro-chemicals, business agent must possess the following documentation:

- normative documents of standardization (GOST [State Standards of the former Soviet Union, which still apply in Ukraine], TU [Technical Terms and Conditions], DSTU [State Standards of Ukraine]) for production of goods of the given quality;
- technological regulations;
- positive conclusions of sanitary and epidemiological service;
- permit to commence work;
- permit to produce testing groups of domestic pesticides and agro-chemicals; and
- rules, drafted and approved by business agent on the basis of the approved technological regulations.

In order to carry out business activities on wholesale and retail trade in pesticides and agro-chemicals, a business agent must possess the following:

- storing facilities for storage of pesticides and agro-chemicals. Such storing facilities must meet sanitary and hygienic requirements and safety engineering rules, as well as to have sanitary passports;
- quality certificates for pesticides and agro-chemicals;
- regulations to carry out trade operations;
- rules on labour protection, production sanitation and fire safety;
- duties regulation; and
- positive conclusions of sanitary and epidemiological service.

A business agent must sell pesticides and agro-chemicals to the population in a small-packed form with mandatory instructions printed in Ukrainian concerning the safe use of such pesticides and agro-chemicals. Employees of business agents whose activities relate to wholesale and retail trade in pesticides and agro-chemicals must have special education and training, undergo retraining once per three years and medical examination, as well as have a permit to work with the said pesticides and agro-chemicals, certificate and medical book.

Documentation required to obtain a certificate to import/export narcotics, psychotropic substances and precursors:

- application on a company's letterhead addressed to the Head of the Committee, containing the following information:
- purpose of importation;
- complete names, exact addresses and telephone (telexes) numbers of the importer (consignee) and exporter;
- international non-proprietary name of the imported produce, if such name is available, and/or the first name under which the said produce was issued, and/or the name under which it is manufactured in importing or exporting countries;
- amount of narcotics, psychotropic substances and precursors subject to importation;
- medical form of a narcotic, psychotropic substance and precursor;
- name and amount of narcotics, psychotropic substances and precursors which are imported under a contract and included to the List of narcotics, psychotropic substances, their analogs and precursors that are subject to the special control pursuant to applicable laws of Ukraine (hereinafter "those included to the list of controlled substances");
- name of the producer;
- number of the contract for supply;
- price (sum) of the contract for supply;
- name and number of tare items – for narcotics, psychotropic substances and precursors in the form of substance used for production of medicines;
- type of transport for supply;
- delivery term for supply;
- name of the crossing point at state border of Ukraine through which importation shall be made;
- invoice, cargo declaration, cargo, customs and transportation documents which contain the information on the amount of narcotics, psychotropic substances and precursors;
- a company's Charter certified by a notary;
- a copy of the contract, according to which importation of narcotics, psychotropic substances and precursors into Ukraine is effectuated, certified by a notary;
- certificate of Medicines Registration Bureau of the Ministry of Health Protection of Ukraine on registration of medicines that are imported into Ukraine;

- quality certificate of a narcotic or psychotropic substance with indication of its serviceable life (quality passport of the producer is attached as to precursors);
- obligations of the company on use of narcotics, psychotropic substances and precursors only for the declared purposes (import); and
- a licensed copy for carrying out the given activity in the field of turnover of narcotics, psychotropic substances and precursors, certified by a notary.

Information required to obtain a licence for production, wholesale and retail trade in medicines:

- name of the legal entity with all its subsidiaries and branches, and its location;
- surname, name, patronymic and passport details (series, number, issuing authority, date of issuance and residence) – for a physical person;
- identification code for a legal entity (identification number for a physical person);
- type of activity;
- location of effectuation of the activity;
- obligations concerning the fulfilment of licensing terms and conditions; and
- a copy of the certificate of state registration of the agent of entrepreneurial activity or copy of the certificate of its inclusion into the Unified State Register of Enterprises and Organizations of Ukraine certified by a notary or by the authority which issued the original to be attached to the application form.

**Table 9: Required payment for expertise, State registration and re-registration  
of pesticides and agrochemicals in Ukraine**

No.	Types of works	Amount of payment in UAH for Chemicals of foreign and domestic production	
		registration	expertise
1	State registration of pesticides and agrochemicals (except for bio-chemicals and growth regulators)		
	- for a period of 5 years	16,500	5,500
	- for a period of 2 years	6,600	5,500
	- for a period of 1 year	3,300	5,500
2	State registration of chemicals for combating home insects and rodents		
	- for a period of 5 years	8,250	2,750
	- for a period of 2 years	3,300	2,750
	- for a period of 1 year	1,650	2,750
3	State registration of bio-chemicals and growth regulators		
	- for a period of 5 years	5,500	2,750
	- for a period of 2 years	2,750	2,750
	- for a period of 1 year	1,375	2,750
4	Change of period for state registration of pesticides and agrochemicals (except for bio-chemicals and growth regulators)		
	- up to 5 years	13,200	1,650
	- for 1 year period	3,300	1,650
5	Change of period for state registration of chemicals for combating home insects and rodents		
	- up to 5 years	6,050	1,650
	- for 1 year period	1,650	1,650
6	Change of period for state registration of bio-chemicals and growth regulators		
	- up to 5 years	4,125	1,650
	- for 1 year period	1,375	1,650
7	State registration of previously registered chemicals		
	1. Expansion of sphere of application up to 5 specimen or hazardous objects:		
	- for a period of 5 years	2,750	1,650
	- for a period of 2 years	1,650	1,650
	- for a period of 1 year	1,100	1,650
	2. Expansion of sphere of application of a chemical up to more than five specimen or hazardous objects:		
	- for a period of 5 years	5,500	1,650
	- for a period of 2 years	2,750	1,650
	- for a period of 1 year	1,650	1,650
	3. Change of chemical's directions for use:		
	- for a period of 5 years	3,300	1,650
	- for a period of 2 years	1,650	1,650
	- for a period of 1 year	1,100	1,650
	4. Change of chemical's expenditure norm:		
	- for a period of 5 years	-	1,650
- for a period of 2 years	-	1,650	
- for a period of 1 year	-	1,650	
5. Minor change in chemical's preparative form:			
- for a period of 5 years	-	1,650	
- for a period of 2 years	-	1,650	
- for a period of 1 year	-	1,650	
8	State re-registration of pesticides and agrochemicals (except for bio-chemicals and growth regulators)		
	- for a period of 5 years	8,250	1,650
	- for a period of 2 years	3,300	1,650
	- for a period of 1 year	1,650	1,650
9	State re-registration of chemicals for combating home insects and rodents		
	- for a period of 5 years	4,125	1,650
	- for a period of 2 years	1,650	1,650
	- for a period of 1 year	825	1,650

No.	Types of works	Amount of payment in UAH for Chemicals of foreign and domestic production	
		registration	expertise
10	State re-registration of bio-chemicals and growth regulators		
	- for a period of 5 years	2,750	1,650
	- for a period of 2 years	1,650	1,650
	- for a period of 1 year	550	1,650

Table 13: Excise duty rates applied in Ukraine to beer, alcohol beverages, ethyl alcohol, tobacco, oil products and certain vehicles (as of April 2005)

Commodity Code in accordance with CN FEA	Commodity description	Excise duty rates in UA hryvnias per product unit	
		Temporarily, until Ukraine accedes to the World Trade Organization the excise duty rates for the alcohol beverages imported into Ukraine	For all products subject to the excise
<b>Alcohol beverages</b>			
2203 00	Beer made from malt	0,27 UAH per 1 litre	
2204 (except for 2204 10, 2204 21 10 00, 2204 29 10 00)	Wine of fresh grapes	3 UAH per 1 litre	0,25 UAH per 1 litre
2204 (except for 2204 10, 2204 21 10 00, 2204 29 10 00)	Fortified wine of fresh grapes	3 UAH per 1 litre	0,50 UAH per 1 litre
2204 10, 2204 21 10 00, 2204 29 10 00	Sparkling wine	5 UAH per 1 litre	1,6 UAH per 1 litre
2204 30	Grape wine raw materials	0 for the wine materials produced in Ukraine from domestic raw materials (code UCN FEA 2204 30), sold to intermediary organizations and consumers and wine materials produced in the enterprises of primary production for the subjects of entrepreneurial activity who are producers of the wine raw materials (grapes), except for enterprises of secondary wine production who use those wine materials for the production of end products – 1.0 UAH per 1 litre;	
220500	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	5 UAH per 1 litre	2.6 UAH per 1 litre
220600	Fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	5 UAH per 1 litre	1.2 UAH per 1 litre
220600	Fermented beverages (for example, cider, perry, mead) without alcohol added	1.2 UAH per 1 litre	
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher; ethyl alcohol and other spirits, denatured, of any strength	17 UAH per 1 litre of 100 per cent alcohol	
2208 (except for 2208 20)	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages	17 UAH per 1 litre of 100 per cent alcohol	

Commodity Code in accordance with CN FEA	Commodity description	Excise duty rates in UA hryvnias per product unit	
		Temporarily, until Ukraine accedes to the World Trade Organization the excise duty rates for the alcohol beverages imported into Ukraine	For all products subject to the excise
2208 20 (except for 2208 20 12 00, 2208 20 29 00 – only brandy, 2208 20 89 00 – cognac alcohol only)	- Spirits obtained by distilling grape wine or grape marc	17 UAH per 1 litre of 100 per cent alcohol	
2208 20 1200	Cognac	16 UAH per 1 litre of 100 per cent alcohol	6 UAH per 1 litre of 100 per cent alcohol
2208 20 2900	Brandy only	16 UAH per 1 litre of 100 per cent alcohol	6 UAH per 1 litre of 100 per cent alcohol
2208 20 8900	Only cognac alcohol	16 UAH per 1 litre of 100 per cent alcohol	
<b>Tobacco products</b>			
2401	Unmanufactured tobacco; tobacco refuse	0	
2402 10 00 00	- Cigars, cheroots and cigarillos, containing tobacco	20 UAH per 100 pieces plus 8 per cent of the sale turnover of the product	
2402 20 90 10	Cigarettes without filters from tobacco	5 UAH per 1000 pieces plus 8 per cent of the sale turnover of the product	
2402 20 90 20	- - - Cigarettes with filters from tobacco	11.5 UAH per 1000 pieces plus 8 per cent of the sale turnover of the product	
2403 (except for 2403 99 10 00 2403 10)	Manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences	0	
2403 10	- Smoking tobacco, whether or not containing tobacco substitutes in any proportion	10 UAH per 1 kg plus 8 per cent of the sale turnover of the product	
2403 99 10 00	Chewing tobacco and snuff	10 UAH per 1 kg plus 8 per cent of the sale turnover of the product	
<b>Oil products</b>			
	Light distillers		
2710 00 11 00	For specific processing	€ 12 per 1,000 kg	
2710 00 15 00	For chemical transformations in the processes not included in 2710 00 11 00	€ 12 per 1,000 kg	
	Special spirit		
2710 00 21 00	White spirit	€ 12 per 1,000 kg	
2710 00 25 00	Others	€ 20 per 1,000 kg	
	Motor spirit		
2710 00 31 00	Aviation spirit	€ 20 per 1,000 kg	
2710 00 37 00	Jet fuel	€ 20 per 1,000 kg	
2710 00 39 00	Other light fractions	€ 20 per 1,000 kg	



Commodity Code in accordance with CN FEA	Commodity description	Excise duty rates in UA hryvnias per product unit	
		Temporarily, until Ukraine accedes to the World Trade Organization the excise duty rates for the alcohol beverages imported into Ukraine	For all products subject to the excise
	Medium oils		
2710 00 41 00	For undergoing a specific process	€ 20 per 1,000 kg	
2710 00 45 00	For undergoing chemical transformation by a process other than those specified in respect of subheading 2710.00610	€ 12 per 1,000 kg	
	For other purposes		
	Kerosene		
2710 00 51 00	Jet fuel	€ 12 per 1,000 kg	
2710 00 55 00	Others	€ 20 per 1,000 kg	
2710 00 59 00			
2710 00 27 11 2710 00 27 31 2710 00 29 01 2710 00 32 01 2710 00 34 11 2710 00 34 31 2710 00 36 01	Only motor spirits (DSTU 320.00149943.015-2000) containing not less than 5% of high-octane oxygen-containing agents: A-76 Ек, A-80 Ек, A-92 Ек, AI-93 Ек, A-95 Ек, A-98 Ек	€ 60 per 1,000 kg	
2710 00 27 19 2710 00 27 39 2710 00 27 90 2710 00 29 09 2710 00 32 09 2710 00 34 19 2710 00 34 39 2710 00 34 90 2710 00 36 09	Motor spirits A-726 A-766 A-806 A-906 A-916 A-926 AIII-936 A-956 A-966 A-98	€ 60 per 1,000 kg	
2710 00 61 00 2710 00 65 00 2710 00 69 00	Heavy distillers (diesel fuel)	€ 30 per 1,000 kg	
3811 19 00 00	High octane gasoline additives containing oxygen (TUU 30183376.001 - 2000)	0	
<b>Vehicles</b>			
8703	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading № 87.02), including station wagons and racing cars		
8703 10	- Vehicles specially designed for travelling on snow; golf cars and similar vehicles		

Commodity Code in accordance with CN FEA	Commodity description	Excise duty rates in UA hryvnias per product unit	
		Temporarily, until Ukraine accedes to the World Trade Organization the excise duty rates for the alcohol beverages imported into Ukraine	For all products subject to the excise
8703 10 11 00	---- Vehicles specially designed for travelling on snow with compression-ignition internal combustion piston engine (diesel or semi-diesel), or with spark-ignition internal combustion piston engine	€ 0.6 per 1 cm <sup>3</sup>	
8703 10 18 00	-- others	€ 0.6 per 1 cm <sup>3</sup>	
	-- Other vehicles, with spark-ignition internal combustion reciprocating piston engine		
8703 21	- Of a cylinders capacity not exceeding 1,000 cm <sup>3</sup>		
8703 21 10 00	--- new	€ 0.02 per 1 cm <sup>3</sup>	
8703 21 90	--- used		
8703 21 90 10	---- for not more than 5 years	€ 1 per 1 cm <sup>3</sup>	
8703 21 90 30	---- more than 5 years	€ 1.25 per 1 cm <sup>3</sup>	
8703 22	-- Of a cylinders capacity exceeding 1,000cm <sup>3</sup> but not exceeding 1,500 cm <sup>3</sup>		
8703 22 10 00	--- new	€ 0.02 per 1 cm <sup>3</sup>	
8703 22 90	--- used	€ 1.25 per 1 cm <sup>3</sup>	
8703 22 90 10	---- for not more than 5 years		
8703 22 90 30	---- more than 5 years	€ 1.5 per 1 cm <sup>3</sup>	
8703 23	-- Of a cylinders capacity exceeding 1,500cm <sup>3</sup> but not exceeding 3,000 cm <sup>3</sup>		
	---new		
8703 23 11	---- Motor caravans		
8703 23 11 10	----- Of a cylinder capacity exceeding 1,500 cm <sup>3</sup> but not exceeding 2,200 cm <sup>3</sup>	€ 0.03 per 1 cm <sup>3</sup>	
8703 23 11 30	----- Of a cylinder capacity exceeding 2,200 cm <sup>3</sup> but not exceeding 3,000 cm <sup>3</sup>	€ 0.06 per 1 cm <sup>3</sup>	
8703 23 19	----other		
8703 23 19 10	----- Of a cylinder capacity exceeding 1,500 cm <sup>3</sup> but not exceeding 2,200 cm <sup>3</sup>	€ 0.03 per 1 cm <sup>3</sup>	
8703 23 19 30	----- Of a cylinder capacity exceeding 2,200 cm <sup>3</sup> but not exceeding 3,000 cm <sup>3</sup>	€ 0.06 per 1 cm <sup>3</sup>	
8703 23 90	---used		
	--- Of a cylinder capacity exceeding 1,500 cm <sup>3</sup> but not exceeding 2,200 cm <sup>3</sup>		
8703 23 90 11	---- not more than 5 years	€ 1.5 per 1 cm <sup>3</sup>	
8703 23 90 13	----- more than 5 years	€ 2.0 per 1 cm <sup>3</sup>	

Commodity Code in accordance with CN FEA	Commodity description	Excise duty rates in UA hryvnias per product unit	
		Temporarily, until Ukraine accedes to the World Trade Organization the excise duty rates for the alcohol beverages imported into Ukraine	For all products subject to the excise
	---- Of a cylinder capacity exceeding 2,200 cm <sup>3</sup> but not exceeding 3,000 cm <sup>3</sup>		
8703 23 90 31	---- not more than 5 years	€ 2.0 per 1 cm <sup>3</sup>	
8703 23 90 33	----- more than 5 years	€ 3.0 per 1 cm <sup>3</sup>	
8703 24	-- Of a cylinder capacity exceeding 3,000cm <sup>3</sup>		
8703 24 10 00	--- new	€ 0.1 per 1 cm <sup>3</sup>	
8703 24 90	---used		
8703 24 90 10	---- not more than 5 years	€ 3.0 per 1 cm <sup>3</sup>	
8703 24 90 30	---- more than 5 years	€ 3.5 per 1 cm <sup>3</sup>	
	-- Other vehicles, with compression-ignition internal combustion piston engine (diesel or semi-diesel)		
8703 31	-- Of a cylinders capacity not exceeding 1,500cm <sup>3</sup>		
8703 31 10 00	---new	€ 0.02 per 1 cm <sup>3</sup>	
8703 31 90	---used		
8703 31 90 10	---- not more than 5 years	€ 1.25 per 1 cm <sup>3</sup>	
8703 31 90 30	---- more than 5 years	€ 1.5 per 1 cm <sup>3</sup>	
8703 32	--of a cylinders capacity exceeding 1,500cm <sup>3</sup> but not exceeding 2,500 cm <sup>3</sup>		
	--- new		
8703 32 11 00	---- Motor caravans fitted for temporary dwelling of people	€ 0.03 per 1 cm <sup>3</sup>	
8703 32 19 00	---- other	€ 0.03 per 1 cm <sup>3</sup>	
8703 32 90	--- used		
8703 32 90 10	---- not more than 5 years	€ 1.75 per 1 cm <sup>3</sup>	
8703 32 90 30	---- more than 5 years	€ 2 per 1 cm <sup>3</sup>	
8703 33	--- Of a cylinders capacity exceeding 2,500 cm <sup>3</sup>		
	--- new		
8703 33 11 00	---- Motor caravans fitted for temporary dwelling of people	€ 0.1 per 1 cm <sup>3</sup>	
8703 33 19 00	---- other	€ 0.1 per 1 cm <sup>3</sup>	
8703 33 90	--- used		
8703 33 90 10	---- not more than 5 years	€ 2.5 per 1 cm <sup>3</sup>	
8703 33 90 30	---- more than 5 years	€ 3.25 per 1 cm <sup>3</sup>	
8703 90	- other	€ 100 per 1 piece	
8703 90 10 00	--Vehicles with electric motors		
8703 90 90 00	-- other	€ 100 per 1 piece	

Commodity Code in accordance with CN FEA	Commodity description	Excise duty rates in UA hryvnias per product unit	
		Temporarily, until Ukraine accedes to the World Trade Organization the excise duty rates for the alcohol beverages imported into Ukraine	For all products subject to the excise
8711 40 00 00	Motorcycles (including mopeds) with reciprocating internal combustion piston engine with or without sidecars and bicycles with auxiliary motor - of a cylinders capacity exceeding 500 cm <sup>3</sup> but not exceeding 800 cm <sup>3</sup>	€ 0.2 per 1 cm <sup>3</sup>	
8711 50 00 00	Motorcycles (including choppers) with reciprocating internal combustion piston engine with or without sidecars and bicycles with auxiliary motor - of a cylinders capacity exceeding 800 cm <sup>3</sup>	€ 0.2 per 1 cm <sup>3</sup>	
8711 90 00 00	Motorcycles (including choppers) with reciprocating internal combustion piston engine with or without sidecars except for those) with reciprocating internal combustion piston engine; side cars	€ 0.2 per 1 cm <sup>3</sup>	
8716 10 99 00	Trailers and semi-trailers of the caravan type, for housing or camping, exceeding 3,500 kg except for those that can be deconstructed	€ 100 per 1 piece	

Table 14(a): Goods, imports of which are restricted to protect human, animal or plant life and health

UCC FEA commodity code (HS 96)				The applied non-tariff measure (NTM)	The date of application of the NTM	The customs regime, when the NTM applies	Document proving the origin of control/ and the place of its application	The State authority issuing the permit for importation, exportation or transit	Notes
The position of the good	The sub-position of the good	The category of the good	The sub-category of the good						
1	2	3	4	5	6	7	8	9	10
0102, 0201, 0202, 0206, 0210, 0506, 0507, 0511, 1516, 1517, 1602, 2104, 2301, 2309, 3001, 3002, 3502, 4101, 4103, 4206	150200 150300 151800 152200 160100 300450 350300		0106009010 0106009090 0410000000 0504000000 0510000000 1506000000 3002905000 3101000000 3504000000	Prohibition	11 January 2005	Import Transit	Veterinary document (certificate or form No.2, with the CIS countries)	The State Department of Veterinary Medicine (DVM) and its structural sub-divisions	Canada - Encephalopathia spongiforme
0105, 0207, 0210, 0408, 0505, 0507, 1516, 1517, 1602, 2309, 3001, 3002, 3502, 4103, 4206, 4301	020900 040700 150100 160100 300450 350300		010600 9010 0106009090 0410000000 0504000000 0510000000 1506000000 3002905000 3101000000 3504000000 6701000000	Prohibition	12 April 2005	Import Transit	Veterinary document (certificate or form No.2, with the CIS countries)	The State Department of Veterinary Medicine (DVM) and its structural sub-divisions	Greece – Newcastle disease
0105, 0207, 0210, 0408, 0505, 0507, 1516, 1517, 1602, 2309, 3001, 3002, 3502, 4206, 4103, 4301	020900 040700 150100 160100 300450 350300		0106009010 0106009090 0410000000 0504000000 0510000000 1506000000 3002905000 3101000000 3504000000 6701000000	Prohibition	12 April 2005	Import Transit	Veterinary document (certificate or form No.2, with the CIS countries)	The State Department of Veterinary Medicine (DVM) and its structural sub-divisions	The Republic of Korea – Avian Influenza (Bird Flu)

UCC FEA commodity code (HS 96)				The applied non-tariff measure (NTM)	The date of application of the NTM	The customs regime, when the NTM applies	Document proving the origin of control/ and the place of its application	The State authority issuing the permit for importation, exportation or transit	Notes
The position of the good	The sub-position of the good	The category of the good	The sub-category of the good						
1	2	3	4	5	6	7	8	9	10
0105, 0207, 0210, 0408, 0505, 0507, 1516, 1517, 1602, 2309 3001, 3002, 3502, 4206, 4103, 4301	020900 040700 150100 160100 300450 350300		010600 9010 0106009090 0410000000 0504000000 0510000000 1506000000 3002905000 3504000000 3101000000 3504000000 6701000000	Prohibition	28 April 2005	Import Transit	Veterinary document (certificate or form No.2, with the CIS countries)	The State Department of Veterinary Medicine (DVM) and its structural subdivisions	Japan - Newcastle Disease
0102, 0103, 0104, 0201, 0202, 0204, 0206, 0210, 0401, 0402, 0403, 0404, 0405, 0406, 0502, 0505, 0506, 0507, 0511, 1214, 1505, 1516, 1517, 1602, 1703, 2104, 2301, 2302, 2303, 2306, 2308, 2309 3001, 3002, 3501, 3502, 4101, 4102, 4103, 4105, 4106, 4206, 4301, 5101, 5102	150200 150300 151800 152200 160100 210500 300450 350300		0106009010 0106009090 0410000000 0503000000 0504000000 0510000000 1213000000 1506000000 2304000000 2305000000 2309099100 3002905000 3101000000 3504000000 6701000000	Prohibition	18 May 2005	Import Transit	Veterinary document (certificate or form No.2, with the CIS countries)	The State Department of Veterinary Medicine (DVM) and its structural subdivisions	China - Foot and Mouth Disease

Table 14(b): Goods subject to import licensing upon prior approval (non-automatic licensing)

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description/ WTO Justification	Timeframe for Prior Approval/ Fee for Prior Approval
3808 10, 3808 20, 3808 30, 3808 90 (except for individual consignments, imported free of charge upon permission of the Ministry of Ecologic Resources exclusively for state testing, academic research and demonstrative experiments)	Insecticides (except for veterinary medicines), fungicides, herbicides, other anti-sprouting products and plant-growth regulators, rodenticides (except veterinary medicines), as well similar remedies	Issuance of Licence: Ministry of Economy	Resolution of the Cabinet of Ministers No. 1722 of 23 December 2004 "On the List of Goods, Export and Import of which is Subject to Licensing, and Which Fall under the Quota Regime in 2005	Import Licensing, without quantitative restriction. GATT Article XX (b)	Within 10 working days of receipt of the required documentation  Free of charge
		Prior Approval: The main State Inspection for Plant Protection of the Ministry of Agrarian Policy of Ukraine for the imports of herbicides (code 3808 10, 3808 20, 3808 30) Prior Approval: The State Technological Center for protection of Land Fertility of the Ministry of Agricultural Policy of Ukraine for the Imports of agrochemicals (plant growth regulators – code 3808 90)			
3907 40 00 00	Optical polycarbonates for production of discs for laser reading systems	Issuance of Licence: Ministry of Economy	""	Import Licensing, without quantitative restriction. GATT Article XX (d)	Within 15 working days of receipt of the required documentation  Free of charge
2710 00 98 00, 3004, 3208, 3209, 3212, 3214, 3304, 3305, 3306, 3307, 3402, 3403, 3405, 3506 91 00 00, 3808, 3809, 3811, 3812, 3814 00, 3820 00 00 00, 3824 90 70 00, 3824 90 95 00, 3910 00 00	Products, which may contain ozone-depleting substances and are imported in aerosol package	Issuance of Licence: Ministry of Economy	""	Import Licensing, without quantitative restriction. GATT Article XX (b)	Within 15 working days of receipt of the required documentation  Free of charge
		Prior Approval: Ministry of Environmental Protection for 3208, 3209, 3212, 3214, 3304, 3305, 3306, 3307, 3402, 3403, 3405, 3506 91 00 00, 3808, 3809, 3811, 3812, 3814 00, 3820 00 00 00, 3824 90 70 00, 3824 90 95 00, 3910 00 00			
8415, 8418, 8424 10, 8476 21 00 00, 8476 81 00 00, 9304 00 00 00	Products, which may contain ozone-depleting substances	Issuance of Licence: Ministry of Economy	""	Import Licensing, without quantitative restriction. GATT Article XX (b)	Within 15 working days of receipt of the required documentation  Free of charge
		Prior Approval: Ministry of Environmental Protection			
2903 14 00 00, 2903 19 10 00, 2903 30 33 00, 2903 41 00 00, 2903 42 00 00, 2903 43 00 00, 2903 44 10 00, 2903 44 90 00, 2903 45 10 00, 2903 45 15 00, 2903 45 25 00, 2903 45 30 00,	Ozone-depleting substances	Issuance of Licence: Ministry of Economy  Prior Approval: Ministry of Environmental Protection	""	Import Licensing, without quantitative restriction. GATT Article XX (b)	Within 15 working days of receipt of the required documentation

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description/ WTO Justification	Timeframe for Prior Approval/ Fee for Prior Approval
2903 45 35 00, 2903 45 40 00, 2903 45 45 00, 2903 45 50 00, 2903 45 55 00, 2903 45 90 00, 2903 46 10 00, 2903 46 20 00, 2903 46 90 00, 2903 49 10 00, 2903 49 30 00, 3824 71 00 00, 3824 79 00 00, 3824 90 95 00					Free of charge
3215 11 00 00, 3215 19 00 00	Only printing ink, defined according to the methods established by the Ministry of Finance and the State Customs Service, with protective qualities, in particular: fluorescence and change of colour in the rays of ultra-violet light; change of colour during the heating or cooling; reaction on polar or non-polar solvents and oxidants; invisible in the rays of infra-red light; penetrating onto the reverse side of the paper accompanied by change in colour	Issuance of Licence: Ministry of Economy Prior Approval (Clearing): Ministry of Finance	""	Import Licensing, without quantitative restriction. GATT Article XX (d)	Within 15 working days of receipt of the required documentation  Free of charge
4802 52, 4802 53	Uncoated paper with water marks not containing the fibre obtained mechanically, or in which such fibres content reaches not more than 10% of the gross weight of fibre weighting 40g per 1m <sup>2</sup> or more	Issuance of Licence: Ministry of Economy Prior Approval (Clearing): Ministry of Finance	""	Import Licensing, without quantitative restriction. GATT Article XX (d)	Within 15 working days of receipt of the required documentation  Free of charge



Table 14(c): Goods subject to import approval (non-automatic licensing)

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or the Date of Elimination
9303-9306	arms, ammunition, defence military equipment and special components for production thereof	Cabinet of Ministers of Ukraine after agreement with respective committees of the Verkhovna Rada of Ukraine (Parliament)	Law on Foreign Economic Activities No. 959-XII dated 16 April 1991	GATT Article XXI (b)
3602	explosive substances	""	""	GATT Article XXI (b)
2844 50 8401	nuclear materials (including materials in the form of heat-radiating assemblages), technologies, equipment, mounts, special non-nuclear materials and connected thereto services, sources of ionizing radiation	""	""	GATT Article XXI (b)
	other types of products, technologies and services, which now are used to develop arms and military equipment or present state secret of Ukraine that is determined by the laws of Ukraine	""	""	GATT Article XXI (b)
2616 2843	precious metals and alloys	""	""	GATT Article XX (c)
7018 7103 7104 7105	precious stones	""	""	GATT Article XX (c)
	narcotic and psychotropic means	""	""	GATT Article XX (b)
7112 7204 7404 00 7503 00 7602 00 7802 00 7902 0000 8002 0000	Scrap Metal	State Administrations on Ecology and Natural Resources in regions of Ukraine, Kiev and Sevastopol cities, the Committee on Ecology and Natural Resources of Autonomous republic of Crimea governed by the Ministry of Environmental Protection	Law on Scrap Metal No. 619-XIV dated 5 May 1999	GATT Article XX (g)

Table 14(d) Goods subject to import licensing, for which no prior approval is necessary

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description/ WTO justification
2833 25 00 00	Copper sulphate	Issuance of Licence: Ministry of Economy	Resolution of the Cabinet of Ministers No. 1722 of 23 December 2004 "On the List of Goods, Export and Import of which is Subject to Licensing, and Which Fall under the Quota Regime in 2005	Import Licensing, without quantitative restriction. GATT Article XX(g); monitoring of trade flows.
3907 40 00 00	Optical polycarbonates for production of discs for laser reading systems	Issuance of Licence: Ministry of Economy	""	Import Licensing, without quantitative restriction. GATT Article XX (d).
4907 00 10 00, 4907 00 91 00, 4907 00 99 00	Unused postage, excise labels and similar products being in circulation or have to be in circulation in the country of destination; stamp-impressed paper	Issuance of Licence: Ministry of Economy	""	Import Licensing, without quantitative restriction. GATT Article XX(d); monitoring of trade flows.

Table 15: Anti-dumping measures imposed during 2000-2005

Commodity that is subject to the Anti-dumping Investigation	Country of Origin of the Commodity	Results of Investigation and Measures Taken
<b>ANTI-DUMPING INVESTIGATIONS</b>		
Artificial fur and Articles thereof (HS code – 4304 00 00) Pile fabrics and terry fabrics (HS code - 6001)	Republic of Belarus	On 23 February 2001, by Decision No. AD-15/2001/52-54 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty for artificial fur – 179.70%; pile fabrics – 53.29% (of the customs value of the commodity, were introduced for a period of 5 years.
Electric filament lamps (HS code – 8539 22 90 00)	Russian Federation	On 7 December 2000, by Decision No. AD-11/2000/52-39A of the Interdepartmental Commission on International Trade, final anti-dumping measures in the form of a anti-dumping duty in the amount 97.50% of the customs value of the commodity, were introduced for a period of 5 years.
Fiberboard of wood (HS code- 4411 11 00 00)	Republic of Belarus	On 12 July 2002, Decision No. AD-45/2002/52-61 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty in the amount of 68.75% of the customs value of the commodity, were introduced for a period of 5 years.
Crossing pieces (HS code - 8608 00 10 00)	Russian Federation	On 5 July 2002, by Decision No. AD-43/2002/52-63 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty in the amount of 59.4% of the customs value of the commodity, were introduced for a period of 5 years.
Ruberoid (HS code- 6807 10 1000)	Republic of Belarus	On 12 July 2002, by Decision No. AD-47/2002/52-62 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty in the amount of 75% of the customs value of the commodity, were introduced for a period of 5 years.
Electric lamps (HS code – 8539 22 90 10)	Kyrgyz Republic	On 27 December 2002, by Decision No. AD-62/2002/52-65 of the Interdepartmental Commission on International Trade, final anti-dumping measures, in the form of an anti-dumping duty in the amount of 38.31% of the customs value of the commodity, were introduced for a period of 5 years.
Matches (HS code – 3605 00 00 00)	Russian Federation Republic of Belarus	<p>On 12 September 2003, by Decision No. AD-81/2003/52-123 of the Interdepartmental Commission on International Trade anti-dumping measures were taken in the form of an anti-dumping duty in the amount:</p> <ol style="list-style-type: none"> <li>1. for commodities originating from the Russian Federation: <ul style="list-style-type: none"> <li>- production of Private JSC "Plitsichprom"</li> <li>- (Balabanovo) – 0%; and</li> <li>- other producers – 8.8%.</li> </ul> </li> <li>2. for commodities originating from the Republic of Belarus: <ul style="list-style-type: none"> <li>- production of Private JSC "Pinskdiv" (Pinsk)- 31.8%;</li> <li>- production of Public JSC "Borisovdiv" (Borisov) – 68.7%; and</li> <li>- other producers – 95.7%.</li> </ul> </li> </ol> <p>The term of anti-dumping measures expires in 5 years.</p>

Commodity that is subject to the Anti-dumping Investigation	Country of Origin of the Commodity	Results of Investigation and Measures Taken
Fiber sheets (HS code – 4411 19 00 00)	Poland	On 25 March 2004, by Decision No. AD-90/2004/52-111 of the Interdepartmental Commission on International Trade, final anti-dumping measures were introduced in the form of an anti-dumping duty in the amount of 20.31% of the customs value of the commodity. Individual anti-dumping duty for Ekoplyta S.A. Czarnkow, Polska, Przemyslowa 2 in amount of 17.9%. The term of anti-dumping measures expires in 5 years.
Wood shaving sheets (HS - 4410 19 50 00)	Poland, Slovak Republic	On 15 February 2005, by Decision No. AD 109/2005/52-85 of the Interdepartmental Commission on International Trade, final anti-dumping measures were introduced in the form of an anti-dumping duty for Poland – 25.1%, Slovak Republic – 15.4% in the amount of the customs value of the commodity. Individual anti-dumping duty for production of "Kronospan Slovakia" – 11.7%. The term of anti-dumping measures expires in 5 years.
Citric acid (HS code – 2918 14 00 00)	People's Republic of China	On 25 March 2004, by Decision No. AD- 92/2004/52-113 of the Interdepartmental Commission on International Trade, final anti-dumping measures were introduced in the form of an anti-dumping duty in the amount of margin between minimal import price (US\$ 977 per ton) and the customs value of the commodity. The term of anti-dumping measures expires in 5 years.
Screw Compressor Systems (HS 8414 80 71 00, 8414 40 10 00, 8414 40 90 00)	Belarus, Belgium, Italy, Finland	On 28 February 2005, by Decision No. AD-110/2005/52-116 of the Interdepartmental Commission on International Trade, preliminary anti-dumping measures were introduced in the form of an anti-dumping duty for Belarus – 17.8%, Belgium – 58.6%, Italy – 43.2%, Finland – 49.5% in the amount of the customs value of the commodity. The term of preliminary anti-dumping measures expires in one hundred and twenty days.

Table 16: Safeguard measures taken by Ukraine

Country	Commodity - subject of investigation	Date and number of decision	Investigation started	Investigation completed	Measures taken		Duration of measure
			Date of publication of decision	Date and number of decision	Date of publication of decision	Size of annual safeguard quota	Date of publication of decision
<b>COMPLETED SAFEGUARD INVESTIGATIONS</b>							
Russian Federation	Baking soda	Decision No. SP-24/2001/52-46 dated 7 November 2001	14 November 2001	Decision No. SP-44/2002/52-46 dated 5 July 2002	10 July 2002	2,500 tons	From 10 July 2002 to 10 July 2006
Russian Federation	Portland cement	Decision No. SP-25/2001/52-48 dated 13 December 2001	19 December 2001	Decision No. SP-49/2002/52-48 dated 7 October 2002	10 October 2002	165,000 tons	From 10 October 2002 to 10 October 2006
Russian Federation	New cars	Decision No. SP-28/2002/52-49 dated 8 January 2002	11 January 2002	Decision No. SP-54/2002/52-49 dated 6 December 2002	12 December 2002	20,826 units	From 12 December 2002 to 12 December 2006
Irrespective of country of origin	Biscuit products	Decision No. SP-59/2002/52-54 dated 6 December 2002	11 December 2002	Decision No. SP-85/2003/52-99	30 December 2003	Safeguard measures were introduced in the form of a duty in the amount of 18.3% of the customs value of the commodity but not less than €0.3 per kilo (for products with value not exceeding US\$ 1.5 per kilo)	From 30 December 2003 to 30 December 2007
Irrespective of country of origin	Abrasive instrument	Decision No. SP – 95/2004/52 of 25 March 2004	8 April 2004	Decision No. SP-107/2005/52-104 of 28 January 2005	18 February 2005	Special duty was applied in the size of 45.31%, but at least €0.51 per kilo for products with value not exceeding US\$ 2.34 per kilo	From 18 February 2005 to 18 February 2009
Irrespective of country of origin	Ingots of grey and super solid cast iron for the production of hydraulic transmission GST-90	Decision No. SP – 97/2004/52 of 25 March 2004	8 April 2004	Decision No. SP-108/2005/52-103- of 28 January 2005	18 February 2005	683,313 kg	From 18 February 2005 to 18 February 2009

Country	Commodity - subject of investigation	Date and number of decision	Investigation started	Investigation completed	Measures taken		Duration of measure
			Date of publication of decision	Date and number of decision	Date of publication of decision	Size of annual safeguard quota	Date of publication of decision
<b>ONGOING SAFEGUARD INVESTIGATIONS</b>							
Irrespective of country of origin	Ruberoid	Decision No. SP-105/2004/52-107 of 23 September 2004	20 October 2004				

Table 18: Minimum indicative prices applied to exports (January 2005)

"-": measure not applied to product indicated  
"+": measure applied to product indicated

No.	Products	Price (US\$/MT, FOB Ukrainian ports)	Export duty	Registration of export contract
1	Armature, ASTM standard (*):		-	-
	if supplied to the Middle East except Iraq			
	code 7214:			
	diameter up to 10 mm	335		
	diameter over 10 mm	325		
	code 7213	325		
	code 7228:			
	diameter up to 10 mm	335		
	diameter over 10 mm	325		
	if supplied to the USA:			
codes 7213, 7214, 7228	325			
2	Armature, other standards (*):		-	-
	if supplied to the Middle East:			
	code 7214			
	diameter up to 10 mm	320		
	diameter over 10 mm	315		
	code 7213	315		
	code 7228:			
	diameter up to 10 mm	320		
diameter over 10 mm	315			
3	Rolled wire (*) if supplied to the USA:		-	-
	diameter 5,5 mm	385		
	diameter over 5,5 mm	385		
4	Billet(*)	280	-	-
	if supplied to Egypt:	285		
5	Hot-rolled coil (*)**	400	-	+
	if supplied to Mexico, Canada, Argentina, India and Egypt	400		
	if supplied to the USA	500		
	if supplied to China, Turkey, Israel, the United Arab Emirates	385		
		500		
6	Hot-rolled sheet, thickness 8 - 50 mm (*)**	475	-	+
	if supplied to Latin America and India	485		
	if supplied to the USA:			
	A-36	607.82		
	A-572	655.18		
	A-516	660.25		
	API-2H	897.30		
	A-283	603.14		
	ABC A/B	611.61		
A-515	655.25			
7	Ferrosilicon-65	500	-	+
	Ferrosilicon-75	600		
8	Ferrosilicoon manganese		-	+
	P-0.35%	632		
	P-0.50%	584		
	P-0.35% BT***	646		
	P-0.50% BT***	627		
	P-0.60% BT***	622		
	if supplied to the EU, CIF ****			
	C>0.5%	€660		
	C<0.5%	€775		
	C<0.05%	€835		
9	Carbamide	180	-	+

No.	Products	Price (US\$/MT, FOB Ukrainian ports)	Export duty	Registration of export contract
10	Ammonia	230	-	+
	for the second half of January, 2005, FOB/DAF)	170		
11	Live cattle*****		+	+
	weight up to 350 kg/head	1,250-1,350		
	weight over 350 kg/head	1,200-1,300		
12	Live rams and sheep*****		+	+
	weight up to 30 kg/head	1,050-1,200		
	weight over 30 kg/head	1,000-1,100		
13	Cattle skins wet-salted and otherwise preserved, non-circumscribed, automatic takeoff (**) *****		+	+
	1st class	1,550-1,650		
	2nd class	1,450-1,550		
	3rd class	1,315-1,400		
	4th class	1,200-1,300		
	Weight up to 10 kg, 1st class	2,450-2,850		
14	Sheep skins, wet-salted (US\$/piece.) *****		+	+
	1st class	5.0-6.0		
	2nd class	4.0-5.0		
	3rd class	3.0-4.0		
	4th class	1.7-3.0		
15	Swine skins wet-salted and otherwise preserved, non-circumscribed, automatic takeoff: *****		+	+
	1st class	775-850		
	2nd class	725-770		
	3rd class	650-690		
	4th class	600-630		
16	Flax seed, grinded or non-grinded*****	400	+	-
17	Sunflower seed, grinded or non- grinded*****	315	+	-
18	Red flax seed*****	150	+	-
19	Electric power (US\$/kWh) if supplied to Bulgaria, Moldova, Poland, Romania, Slovakia, Czech Republic and Hungary*****	0.0205	-	-

Note:

- \* unless otherwise specified.
- \*\* in case of supplies of metal products with a chemical composition of higher quality the price may be higher.
- \*\*\* BT – basic ton of non-fractional alloy.
- \*\*\*\* FOB price is €19.5 different to CIF price.
- \*\*\*\*\* on FOB terms – Black Sea ports or DAF – the Ukrainian border.
- \*\*\*\*\* on DAF terms – the Ukrainian border.
- (\*) Ports of the Azov Sea, Zaporizhyya, Dnipropetrovsk - US\$ 5/MT discount.
- (\*\*) For wet-salted skins, non-circumscribed, manual takeoff, prices according to the class are reduced to 10 per cent respectively.



Table 19(a): Export prohibitions

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description / WTO Justification or Date of Elimination
7404.00 7503.00 7602.00 7802.0000 7902.0000 8002.0000	Waste and scrap of non-ferrous metals	n. a.	Law on Scrap Metal No. 619-XIV dated 5 May 1999	Prohibition of export. GATT Article XX (g) Prohibition is valid till 1 January 2010

Table 19(b): Quantitative export restrictions (precious metals)

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description / WTO Justification or Date of Elimination
2530 90 95 00	Amber	Ministry of Economy Prior Approval: Ministry of Finance	Resolution of the Cabinet of Ministers No. 1996 of 24 December 2003 On the List of Goods, Export and Import of Which is Subject to Licensing, and which Fall under the Quota Regime in 2004	GATT Article XX (c)
2616	Precious metal ores and concentrates:	""	""	GATT Article XX (c)
2843	Colloidal precious metals; inorganic or organic compounds of precious metals, whether or not chemically defined; amalgams of precious metals:	""	""	GATT Article XX (c)
7102	Diamonds, whether or not worked, but not mounted or set: <sup>4</sup>	""	""	GATT Article XX (c)
7103	Precious stones (other than diamonds) and semi-precious stones, whether or not worked or graded but not strung, mounted or set; ungraded precious stones (other than diamonds) and semi-precious stones, temporarily strung for convenience of transport:	""	""	GATT Article XX (c)
7106	Silver (including silver plated with gold or platinum), unwrought or in semi manufactured forms, or in powder form:	""	""	GATT Article XX (c)

<sup>4</sup> Diamonds that have a symmetric or artistically defined form of a polyhedron with qualitatively polished edges shall be considered as such.

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description / WTO Justification or Date of Elimination
7108	Gold (including gold plated with platinum), unwrought or in semi-manufactured forms, or in powder form:	""	""	GATT Article XX (c)
7110	Platinum, unwrought or in semi-manufactured forms, or in powder form:	""	""	GATT Article XX (c)
7112	Base metals, silver or gold, clad with platinum, not further worked than semi-manufactured	""	""	GATT Article XX (c)

Table 19(c): Quantitative export controls (certain steel commodities)

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
7208 4010 00 7208 51, 7208 52 7208 53 10 00 7208 53 90 00 7208 90 7210 70 39 00 7210 70 90 00 7210 90 38 00 7210 90 90 00 7211 13 00 00 7211 14, 7211 90 7212 40 91 00 7212 40 93 00 7212 40 98 00 7212 50 51 00 7212 50 58 00 7212 50 99 00	Specific types of flat-rolled products of carbon steel, hot-rolled, not clad, electrolytically or metallic coated, not in coils, of a thickness of 150mm	""	""	<p>This measure only applies to implement an Agreement with the USA on halting anti-dumping dated 24 October 1997.</p> <p>This measure shall be eliminated from the date of Ukraine's accession to the WTO.</p>

Table 19(d): Quantitative Export Controls on Goods (certain textiles) destined to the United States of America

Category	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
435	Outer clothing for women and girls	Ministry of Economy	Resolution of the Cabinet of Ministers of Ukraine No. 1996 of 24 December 2003 On the List of Goods, Export and Import of Which is Subject to Licensing, and Which Fall under the Quota Regime in 2004	To administer quota applied by US on Ukrainian textiles in accordance with Agreement with the USA  This measure shall be eliminated from the date of Ukraine's accession to the WTO.
442	Skirts for women and girls	""	""	""
444	Suits for women and girls	""	""	""
448	Trousers, breeches and shorts for women and girls	""	""	""

Table 19(e): Quantitative export controls on goods (certain steel products) destined to European Union countries

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
7208 10 00 00 7208 25 00 00 7208 26 00 00 7208 27 00 00 7208 36 00 00 7208 37 10 00 7208 37 90 00 7208 38 10 00 7208 38 90 00 7208 39 10 00 7208 39 90 00 7211 14 10 00 7211 19 20 00 7219 11 00 00 7219 12 10 00 7219 12 90 00 7219 13 10 00 7219 13 90 00 7219 14 10 00 7219 14 90 00 7225 20 20 00 7225 30 00 00	Flat-rolled products in coils	Ministry of Economy	Resolution of the Cabinet of Ministers of Ukraine No. 1996 of 24 December 2003 On the List of Goods, Export and Import of Which is Subject to Licensing, and Which Fall under the Quota Regime in 2004	To administer quota applied in accordance with Agreement between European Community and Ukraine on Trade of Certain Steel products dated 17 June 2003 and Council Decision of 15 December 2003 on Trade of Certain Steel products (2003/893/EC)  This measure shall be eliminated from the date of Ukraine's accession to the WTO.

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
7208 40 10 00 7208 51 10 00 7208 51 30 00 7208 51 50 00 7208 51 91 00 7208 51 99 00 7208 52 10 00 7208 52 91 00 7208 52 99 00 7208 53 10 00 7211 13 00 00 7225 40 20 00 7225 40 50 00 7225 99 10 00	Flat-rolled products not in coils	""	""	""
7208 40 90 00 7208 53 90 00 7208 54 10 00 7208 54 90 00 7208 90 10 00 7209 15 00 00 7209 16 10 00 7209 16 90 00 7209 17 10 00 7209 17 90 00 7209 18 10 00 7209 18 91 00 7209 18 99 00 7209 25 00 00 7209 26 10 00 7209 26 90 00 7209 27 10 00 7209 27 90 00 7209 28 10 00 7209 28 90 00 7209 90 10 00 7210 11 10 00 7210 12 11 00 7210 12 19 00 7210 20 10 00 7210 30 10 00 7210 41 10 00 7210 49 10 00 7210 50 10 00 7210 61 10 00 7210 69 10 00	Flat-rolled products	""	""	

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
7210 70 31 00				
7210 70 39 00				
7210 90 31 00				
7210 90 33 00				
7210 90 38 00				
7211 14 90 00				
7211 19 90 00				
7211 23 10 00				
7211 23 51 00				
7211 29 20 00				
7211 90 11 00				
7212 10 10 00				
7212 10 91 00				
7212 20 11 00				
7212 30 11 00				
7212 40 10 00				
7212 40 91 00				
7212 50 31 00				
7212 50 51 00				
7212 50 51 00				
7212 50 51 00				
7212 50 51 00				
7212 50 51 00				
7212 50 51 00				
7212 60 11 00				
7212 60 91 00				
7219 21 10 00				
7219 21 90 00				
7219 22 10 00				
7219 22 90 00				
7219 23 00 00				
7219 24 00 00				
7219 31 00 00				
7219 32 10 00				
7219 32 90 00				
7219 33 10 00				
7219 33 90 00				
7219 34 10 00				
7219 34 90 00				
7219 35 10 00				
7219 35 90 00				
7225 40 80 00				

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
	Other flat-rolled products	""	""	""
7207 19 31 00 7207 20 71 00 7216 31 11 00 7216 31 19 00 7216 31 91 00 7216 31 99 00 7216 32 11 00 7216 32 19 00 7216 32 91 00 7216 32 99 00 7216 33 10 00 7216 33 90 00	Semi-finished products and files	""	""	""
7213 10 00 00 7213 20 00 00 7213 91 10 00 7213 91 20 00 7213 91 41 00 7213 91 49 00 7213 91 70 00 7213 91 90 00 7213 99 10 00 7213 99 90 00 7221 00 10 00 7221 00 90 00 7227 10 00 00 7227 20 00 00 7227 90 10 00 7227 90 50 00 7227 90 95 00	Bars and rods, hot-rolled, in irregularly wound coils	""	""	""
7207 19 11 00 7207 19 14 00 7207 19 16 00 7207 20 51 00 7207 20 55 00 7207 20 57 00 7214 20 00 00 7214 30 00 00 7214 91 10 00 7214 91 90 00 7214 99 10 00 7214 99 31 00 7214 99 39 00 7214 99 50 00 7214 99 61 00	Semi-finished products, bars and rods, files, hollow bars and rods, Sheet piling	""	""	""

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
7214 99 69 00				
7214 99 80 00				
7214 99 90 00				
7214 99 90 00				
7214 99 90 00				
7215 90 10 00				
7216 10 00 00				
7216 21 00 00				
7216 22 00 00				
7216 40 10 00				
7216 40 90 00				
7216 50 10 00				
7216 50 91 00				
7216 50 99 00				
7216 99 10 00				
7218 99 20 00				
7222 11 11 00				
7222 11 19 00				
7222 11 21 00				
7222 11 29 00				
7222 11 91 00				
7222 11 99 00				
7222 19 10 00				
7222 19 90 00				
7222 30 10 00				
7222 40 10 00				
7222 40 30 00				
7224 90 31 00				
7224 90 39 00				
7224 90 39 00				
7228 10 10 00				
7228 10 30 00				
7228 20 11 00				
7228 20 19 00				
7228 20 30 00				
7228 20 30 00				
7228 30 20 00				
7228 30 41 00				
7228 30 49 00				
7228 30 61 00				
7228 30 69 00				
7228 30 70 00				
7228 30 89 00				
7228 60 10 00				
7228 60 10 00				

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
7228 70 10 00 7228 70 31 00 7228 80 10 00 7228 80 90 00 7301 10 00 00				

Table 19(f): Quantitative export controls on goods (certain steel) destined to the Russian Federation

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
7210 49 10 00 7210 49 90 00 7210 61 10 00 7210 61 90 00 7212 30 11 00 7212 30 19 00 7212 30 90 00 7225 92 10 00 7225 92 90 00 7226 94 20 00 7226 94 80 00	Flat-rolled products plaited or coated with zinc	Ministry of Economy	Resolution of the Cabinet of Ministers of Ukraine No. 1996 of 24 December 2003 On the List of Goods, Export and Import of Which is Subject to Licensing, and Which Fall under the Quota Regime in 2004	In accordance with an agreement between the Ministry of Economy of Ukraine and the Ministry of Economic Development and Trade of the Russian Federation.  This measure shall be eliminated from the date of accession to the WTO of the Russian Federation.



Table 20(a): Goods subject to export licensing, upon prior approval

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
2710 00 98 00, 3004, 3208, 3209, 3212, 3214, 3304, 3305, 3306, 3307, 3402, 3403, 3405, 3506 91 00 00, 3808, 3809, 3811, 3812, 3814 00, 3820 00 00 00, 3824 90 70 00, 3824 90 95 00, 3910 00 00	Products, which may contain ozone-depleting substances and are imported in aerosol package	Issuance of Licence: Ministry of Economy Prior Approval: Ministry of Environmental Protection for 3208, 3209, 3212, 3214, 3304, 3305, 3306, 3307, 3402, 3403, 3405, 3506 91 00 00, 3808, 3809, 3811, 3812, 3814 00, 3820 00 00 00, 3824 90 70 00, 3824 90 95 00, 3910 00 00	Resolution of the Cabinet of Ministers of Ukraine No. 1996 of 24 December 2003 On the List of Goods, Export and Import of Which is Subject to Licensing, and Which Fall under the Quota Regime in 2004	GATT Article XX (b)
8415, 8418, 8424 10, 8476 21 00 00, 8476 81 00 00, 9304 00 00 00	Products, which may contain ozone-depleting substances	Issuance of Licence: Ministry of Economy Prior Approval: Ministry of Environmental Protection	""	GATT Article XX (b)

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
2903 14 00 00, 2903 19 10 00, 2903 30 33 00, 2903 41 00 00, 2903 42 00 00, 2903 43 00 00, 2903 44 10 00, 2903 44 10 00, 2903 44 90 00, 2903 45 10 00, 2903 45 15 00, 2903 45 25 00, 2903 45 30 00, 2903 45 30 00, 2903 45 35 00, 2903 45 40 00, 2903 45 45 00, 2903 45 50 00, 2903 45 55 00, 2903 45 90 00, 2903 46 10 00, 2903 46 20 00, 2903 46 90 00, 2903 49 10 00, 2903 49 30 00, 3824 71 00 00, 3824 79 00 00, 3824 90 95 00,	Ozone-depleting substances	Issuance of Licence: Ministry of Economy Prior Approval: Ministry of Environmental Protection	""	GATT Article XX (b)
2601	Iron ores and concentrates, including roasted iron pyrites:	Issuance of Licence: Ministry of Economy Prior Approval: Ministry of Industrial Policy of Ukraine	""	GATT Article XX(g)
	- Iron ores and concentrates, other than roasted iron pyrites:	""	""	""
2601 11 00 00	-- Non-agglomerated	""	""	""
2601 12 00 00	-- agglomerated	""	""	""
2601 20 00 00	- Roasted iron pyrites	""	""	""
7401	- Copper mattes; cement copper (precipitated copper):	""	""	""
7402 00 00 00	Unrefined copper; copper anodes for electrolytic refining.	""	""	""
7403	Refined copper and copper alloys, unwrought:	""	""	""
7405 00 00 00	Master alloys of copper	""	""	""
7406	Copper powders and flakes:	""	""	""
7407	Copper bars, rods and profiles	""	""	""

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
7415	Nails, tacks, drawing pins, staples (other than those of heading <sup>1</sup> 83.05) and similar articles, of copper or of iron or steel with heads of copper; screws, bolts, nuts, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar wares of copper	""	""	""
7416 00 00 00	Copper springs	""	""	""
7419	articles of copper:	""	""	""
7601	Unwrought aluminium:	""	""	""
7603	Aluminium powders and flakes:	""	""	""
7604	Aluminium bars, rods and profiles:	""	""	""
7610	Aluminium structures (excluding prefabricated buildings of heading <sup>1</sup> 94.06) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrade, poles and columns); aluminium sheets, bars, files, tubes etc, intended for application while construction building	""	""	""
7616	Articles of aluminium	""	""	""
7801	Unwrought lead:	""	""	""
8454 20 00 00	- Ingot moulds and ladles	""	""	""
8454 90 00	Parts of converters, ladles and Ingot moulds, and casting machines, used in metallurgy or in metal foundries	""	""	""
8455 90 00 00	Parts of metal-rolling mills and rolls therefore:	""	""	""
8474 90 90	Parts of machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic pastes, non-solidified cement, gypsum or other mineral substances in the form of powder or paste; shaping machinery for the production of sand moulding forms	""	""	""
8480	- Moulding boxes for metal foundry; mould bases; moulding patterns; moulds for metal (other than ingot moulds), metal carbides, glass, mineral materials, rubber or plastics:	""	""	""

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
	Petroleum Oils or raw oil products obtained from bituminous minerals	Issuance of Licence: Ministry of Economy Prior Approval: Ministry of Fuel and Energy of Ukraine	""	GATT Article XX(g)
2709 00 90 00	other	""	""	""
	- Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70 % or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic component parts: - Light oils and preparations: for other purposes: other: ---- Motor spirit: ----- Other, with lead content ----- Not exceeding 0.013g per litre ----- With an octane number (RON) of less than 95 ----- With an octane number to 80 inclusive	""	""	""
2710 00 27 11	----- containing not less than 5% of high-octane oxygen-containing agents	""	""	""
2710 00 27 19	other	""	""	""
	----- with an octane number to 93 inclusive	""	""	""
2710 00 27 31	----- containing not less than 5% of high-octane oxygen-containing agents	""	""	""
2710 00 27 39	other	""	""	""
2710 00 27 90	other	""	""	""
	----- with an octane number of 98 or more	""	""	""
	----- with an octane number of 95 or more, but not more than 98	""	""	""
2710 00 29 01	----- Containing not less than 5% of high-octane oxygen-containing agents	""	""	""
2710 00 29 09	other	""	""	""
2710 00 32 01	----- Containing not less than 5% of high-octane oxygen-containing agents	""	""	""
2710 00 32 09	other	""	""	""
	----- exceeding 0,013 g per litre	""	""	""
	----- with an octane number of less than 98	""	""	""
	----- with an octane number to 80 inclusive	""	""	""
2710 00 34 11	----- containing not less than 5% of high-octane oxygen-containing agents	""	""	""

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
2710 00 34 19	other	""	""	""
	----- with an octane number to 93 inclusive	""	""	""
2710 00 34 31	----- containing not less than 5% of high-octane oxygen-containing agents	""	""	""
2710 00 34 39	----- other	""	""	""
2710 00 34 90	----- other	""	""	""
	----- with an octane number of 98 or more	""	""	""
2710 00 36 01	----- containing not less than 5% of high-octane oxygen-containing agents	""	""	""
2710 00 36 09	other	""	""	""
	- Heavy oils:	""	""	""
	-- gas-oils	""	""	""
2710 00 61 00	--- For undergoing a specific process	""	""	""
2710 00 65 00	--- For undergoing chemical transformation by a process other than those specified in respect of subheading 2710006100	""	""	""
2710 00 69 00	--- For other purposes	""	""	""
	- - Fuel oils:	""	""	""
2710 00 71 00	- - - For undergoing a specific process	""	""	""
2710 00 72 00	- - - For undergoing chemical transformation by a process other than those specified in respect of subheading 2710 00 71	""	""	""
	- - - For other purposes:	""	""	""
2710 00 74 00	- - - - With a sulphur content not exceeding 1 % by weight	""	""	""
2710 00 76 00	- - - - With a sulphur content exceeding 1 % by weight but not exceeding 2 % by weight	""	""	""
2710 00 77 00	- - - - With a sulphur content exceeding 2 % by weight but not exceeding 2,8 % by weight	""	""	""
2710 00 78 00	- - - - With a sulphur content exceeding 2,8 % by weight	""	""	""

Note: Export licensing for 7601 10 00 00 is required only when produced using scrap-metal.

Table 20(b): Goods subject to export approvals

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
9303-9306	arms, ammunition, defence military equipment and special components for production thereof	Cabinet of Ministers of Ukraine after agreement with respective committees of the Verkhovna Rada of Ukraine (Parliament)	Law on Foreign Economic Activities No. 959-XII dated 16 April 1991	GATT Article XXI (b)
3602	explosive substances	""	""	GATT Article XXI (b)
2844 50 8401	nuclear materials (including materials in the form of heat-radiating assemblages), technologies, equipment, mounts, special non-nuclear materials and connected thereto services, sources of ionizing radiation	""	""	GATT Article XXI (b)
	other types of products, technologies and services, which now are used to develop arms and military equipment or present state secret of Ukraine that is determined by the laws of Ukraine	""	""	GATT Article XXI (b)
2616 2843	precious metals and alloys	""	""	GATT Article XX (c)
7018 7103-7105	precious stones	""	""	GATT Article XX (c)
	narcotic and psychotropic means	""	""	GATT Article XX (b)
9701-9706	masterpieces of arts and antique items from museum funds of Ukraine	""	""	GATT Article XX (f)

Table 20(c): Goods subject to export licensing

Tariff Code	Product Description	Entity Responsible for Applying the Measure	Legislative Basis	Measure Description and Purpose WTO Justification or Date of Elimination
3907 40 00 00	Optical polycarbonates for production of discs for laser reading systems	Issuance of Licence: Ministry of Economy		

Table 21: Support measures in the automotive sector

Laws	Provisions of Laws	Changes in legislation after adoption of the Law of Ukraine No. 2505 "On the State Budget of Ukraine for 2005" of 25 March 2005
Clauses 11.18, 11.19 of the Law of Ukraine "On Value-Added Tax"	<p>Clause 11.18 provided for temporary, till January 1, 2008, tax exemption of operations in importation (sending) into the customs territory of Ukraine according to the Law of Ukraine "On Stimulation of Automobile Production in Ukraine" of goods (including automobile assemblies) used for construction and production activity of enterprises producing automobiles, buses and components thereto. The list of such goods (including automobile assemblies) with specification of codes under the Ukrainian classification of goods of foreign economic activity, as well as the procedure and volumes of importation of such goods are established by the Cabinet of Ministers of Ukraine, if such goods are not produced by enterprises within the territory of Ukraine;</p> <p>In the event of violation of a special-purpose use of the said goods (including automobile assemblies) a taxpayer shall be obliged to increase its tax obligations according to the results of the tax period, where such violation took place, by the amount of the value-added tax that had to be paid at the moment of importation of such goods (including automobile assemblies) into the customs territory of Ukraine, as well as to pay a fine accrued on such amount of tax based on 120% discount rate of the National Bank of Ukraine effective on the day of increase of the tax obligation, and during the period from the date of importation of such goods (including automobile assemblies) to the date of the increase of tax obligations.</p> <p>Clause 11.19 provided that transactions in supply of automobiles, buses and components thereto of own production of residents carrying out their activities according to the Law of Ukraine "On Stimulation of Automobile Production in Ukraine". Such resident manufacturers should have had an investment program approved by the Cabinet of Ministers of Ukraine.</p>	Cancelled
Clauses 22.21, 22.30 of the Law of Ukraine "On Enterprise Income Tax"	<p>Clause 22.21 provided for the following, temporary till January 1, 2008, peculiarities of income taxation for enterprises producing automobiles, buses and components thereto that carry out their activities according to the Law of Ukraine "On Stimulation of Automobile Production in Ukraine".</p> <p>Clause 22.30 provided for temporary, from the date of entering into force of the Law of Ukraine "On Development of Automobile Industry in Ukraine" till December 31, 2008 the following peculiarities of income taxation shall be established for enterprises producing automobiles, motorcycles and/or components and spare parts thereto that carry out their activities according to the Law of Ukraine "On Development of Automobile Industry in Ukraine".</p>	Cancelled
Articles 4, 5 of the Law of Ukraine "On Excise and Import Duty Rates for Certain Vehicles"	<p>Article 4 provided for exemption from the excise duty of sales turnover of cars and cargo and passenger vehicles, produced by Ukrainian enterprises of all ownership forms. Benefits introduced by this Article shall apply under the procedure determined by the Cabinet of Ministers of Ukraine to vehicles produced at Ukrainian enterprises from imported and domestic components, provided that the annual output is at least 1,000 vehicles per year.</p> <p>Article 5 <u>proposed</u> to establish that components, of which vehicles mentioned in the Law are produced at Ukrainian enterprises are not subject to excise duty.</p>	Cancelled
Parts 6, 11 of Article 2 of the Decree of the Cabinet of Ministers of Ukraine "On the Unified Customs Tariff of Ukraine"	Part 6 of Article 2 provided that temporarily till January 1, 2008 the import duty would not be charged in the event of importation into the customs territory of Ukraine according to the Law of Ukraine "On Stimulation of Automobile Production of Ukraine" of goods (including automobile assemblies) used for construction and production activity of enterprises producing automobiles, buses and components thereto. The list of such goods (including automobile assemblies) with specification of codes under the Ukrainian classification of goods of foreign economic activity, as	Cancelled

Laws	Provisions of Laws	Changes in legislation after adoption of the Law of Ukraine No. 2505 "On the State Budget of Ukraine for 2005" of 25 March 25 2005
	<p>well as the procedure and volumes of importation of such goods are established by the Cabinet of Ministers of Ukraine, if such goods are not produced by enterprises within the territory of Ukraine.</p> <p>Part 11 of Article 2 provided that temporarily, from the temporary, from the date of entering into force of the Law of Ukraine "On Development of Automobile Industry in Ukraine" till December 31, 2008 the import duty would not be charged in the event of importation into the customs territory of Ukraine by enterprises producing automobiles, motorcycles and/or components and spare parts thereto operating under the Law of Ukraine "On Development of Automobile Industry of Ukraine" of goods and components used by these enterprises for production of automobiles, motorcycles, components and spare parts of the Ukrainian origin, as well as for construction, reconstruction, technical equipment and/or refurbishment of production capacities, creation and/or modernization of production facilities. The list of such products with specification of codes under the Ukrainian classification of goods of foreign economic activity, the procedure and volumes of importation, as well as the criteria of their special-purpose use, and the procedure of conducting control over them are established by the Cabinet of Ministers of Ukraine if such goods are not produced in Ukraine. In the event of violation of the terms of special-purpose use of the said goods the taxpayer shall be under the obligation to pay the import duty and a fine under the procedure and in the size provided by the effective legislation.</p>	
<p>Clause 6 of part one of Article 12 of the Law of Ukraine "On Land Tax"</p>	<p>Clause 6 of part one of Article 12 provided that temporarily till January 1, 2008 enterprises producing automobiles, buses and components thereto operating according to the Law of Ukraine "On Stimulation of Automobile Production in Ukraine" that have investments (including foreign investments) exclusively in a monetary form duly registered and under the official exchange rate of the National Bank of Ukraine as of the day of making such investments are the equivalent: at least USD 150 mln in the event of car production, at least USD 30 mln. in the event of production of trucks and buses; at least USD 10 mln. in the event of production of components for automobiles and buses. The land area exempt from the land tax is determined on the basis of the size of investment in the monetary form to the authorized fund of such enterprises per 1 ha of land area they occupy equivalent of USD 400,000 at the official exchange rate established by the National Bank as of the day of granting an investment (including foreign investment);</p>	<p>Step-by-step cancellation.</p> <p>Land tax envisaged in clause 6 of part one, Article 12 of the Law of Ukraine "On Land Tax": from April 1, 2005 shall be exercised at the level of 75 per cent of the effective rate on the corresponding territories; from January 1, 2006 – at the level 50 per cent of the effective rates on the corresponding territories; from January 1 2007 – at the level of 25 per cent of the effective rates on the corresponding territories; from January 1, 2008 clause 6 of part one of Article 12 of this Law shall be removed.</p>



Table 22(a): Recommended certification schemes (models) in Ukraine

Products to be certified	Plant (Manufacturing) Inspection	Plant (Manufacturing) Attestation	Certification (Assessment) of the Quality System	Tests for Certification Purposes	Technical Supervision	Documents that are issued by the Product Certification Body
Products that are serially manufactured	Conducted	Not conducted	Not conducted	Conducted on product samples that are taken in the manner and quantities prescribed by the certification body	Conducted in the manner specified by the certification body, and includes inspections of manufacturing and check tests of product samples	Conformity certificate with a term of up to 2 years, which is determined by a licensing agreement
	Not conducted	conducted	Not conducted	Conducted on product samples that are taken in the manner and quantities prescribed by the certification body	Conducted in the manner specified by the certification body, and includes inspections of manufacturing and check tests of product samples	Conformity certificate with a term of up to 3 years, which is determined by a licensing agreement, taking into account the term of the manufacturing attestation
	Not conducted	Not conducted	Conducted by the authority for system quality certification	Conducted in the manner specified by the certification body	Conducted in the manner specified by the authority for system quality certification	Conformity certificate with a term of up to 3 years, which is determined by a licensing agreement, taking into account the term of a certificate for the quality system
Single product	Not conducted	Not conducted	Not conducted	Conducted on each Article	Not conducted	Conformity certificate for each Article
Shipment of products (articles)	Not conducted	Not conducted	Not conducted	Conducted on product samples that are taken in the manner and quantities prescribed by the certification body	Not conducted	Conformity certificate for a shipment of products (articles) with indication of the amount of the certified shipment
Products that are serially manufactured	Not conducted	Not conducted	Not conducted	Conducted on product samples that are taken in the manner and quantities prescribed by the certification body	Conducted through tests of product samples with the periodicity, in the manner prescribed by the certification body. If necessary, an inspection of manufacturing is conducted	Conformity certificate with a term that is set by a licensing agreement with a term of up to 1 year

Table 22(b): Additional certification-related fees for imported goods

Description of work	Unit of Measurement	Norm of payment
Preparing references (conclusions) for customs control bodies	Hour	4 Δmin
Translation and confirmation of authenticity of translation of the documents	Printed sheet	8 Δmin

Table 24: Commercial activity of SJSC "Khib Ukrainy"

The Company sells grain to private companies on the domestic market.

The structure of the clients who are sold grain by the Company on the external market:

100 per cent privately owned enterprises, including:

- "Alfred C. Topfer International Ltd" - 47.1 per cent;
- "Mark Man Grains" - 18.3 per cent;
- "Agrotechnologia" - 10.6 per cent;
- "Luis Dreyfus Negos S.A." - 9.6 per cent;
- "Yumekos" - 7.6 per cent;
- "Nidera" - 2.0 per cent;
- "Glencorn" - 1.1 per cent; and
- Others - 3.7 per cent

Main indicators of production and commercial activities of the SJSC "Khib Ukrainy"  
for nine months of 2004

No.	Name of the indicator	9 months of 2004	9 months of 2003
1	Production, in thousand tons, Including - flour - groats - mixed fodder	225 16 57	201 16 65
2	Total amount of received revenues, in million UAH, including net revenues (proceeds) from sales of products without VAT, in million UAH	646 537	236 199
3	Prime costs of sold products, in million UAH	503	179
4	Gross profits, in million UAH	34	19
5	Payments transferred into the budget, in million UAH	29	31
6	Average number of employed persons, men	9,878	11,091

Table 25(a): Main privileges granted to investors in Special (Free) Economic Zones (SEZ/FEZ)

Name of FEZ/Form of Assistance	Special Customs Zone Regime	Exemption from income tax	Exemption from taxation of investments	Exemption from Import Duty and VAT	Exemption from land tax
Azov	+	rate – 20%	+	-	+ (for duration of site preparation)
Donetsk	+	rate – 20%	+	-	+ (for duration of site preparation)
Zakarpattia	+	rate – 20%	-	-	-
Yavoriv, including Krakovets Autoport	+ (only for Krakovets Autoport)	+ (5 years), next -50%	-	+ (5 years)	+ (3 years), next -50% of existing rate
Slavutych	-	+ (3 years), from Year 4 to year 6 -50% of existing rate	+	+ (5 years)	+ (3 years), Year 4 to Year 6 -50% of existing rate
Kurotopolis Truskavets	-	+ (3 years), from Year 4 to Year 6 -50% of existing rate	+	+	+ (for duration of site preparation), next 10 years - 50% of existing rate
Porto-Franco	+	+(3 years), from Year 4 to Year 6 - 50% of existing rate	+	-	-
Reni	+	rate – 20%	+	-	-
Port Krym	+	rate – 20%	+	-	+ (5 years)
Interport Kovel	+	rate – 20%	-	-	+ (5 years)
Mykolaiv	+ (ship-building dock territory only)	+ (3 years), from Year 4 to Year 6 - 50% of the existing rate, from Year 4 to 10 years -reinvestment	+	+ (5 years)	+ (5 years)

Note: "+" means that the benefit is available throughout the period of investment.

"-" means that the benefit is not available.

"+ (two years) year three to year five – 50 per cent of existing rate" means that the benefit is fully available for the first two years of investment. During the following three years, the tax is levied at fifty per cent of its normal rate. The normal tax rate applies thereafter.

"rate – 20 per cent" means that the applied tax rate is 20 per cent.

Table 25(b): Main privileges granted to investors on Territories with a Special Regime of Investment Activity

Name of territory	Exemption from income tax	Exemption from taxation of investments	Exemption from payment of import duty and VAT	Exemption from payment for land
Donetsk Oblast	+ (3 years) Year 4 to Year 6 - 50% of existing rate	+	+ (5 years)	-
Luhansk Oblast	+ (3 years) Year 4 to Year 6 - 50% of existing rate	+	+ (5 years)	+ (5 years)
Zakarpatska Oblast	+ (2 years) Year 3 to Year 5 - 50% of existing rate	+	+ (5 years)	-
Autonomous Republic of Crimea	+ (3 years) Year 4 to Year 6 - 50% of existing rate	+	+ (5 years)	+ (5 years)
City of Shostka, Sumy Oblast	+ (3 years) Year 4 to Year 6 - 50% of existing rate	+	+ (5 years)	+ (5 years)
Zhytomyr Oblast	+ (3 years) Year 4 to Year 6 - 50% of existing rate	+	+ (5 years)	+ (5 years)
Kharkiv City	+ (3 years) Year 4 to Year 6 - 50% of existing rate	+	+ (5 years)	+ (5 years)
Chernihiv Oblast	+ (3 years) Year 4 to Year 6 - 50% of existing rate	+	+ (5 years)	+ (5 years)
Volyn Oblast	+ (3 years) Year 4 to Year 6 - 50% of existing rate	+	+ (5 years)	-

[Draft Decision

**ACCESSION OF THE REPUBLIC OF UKRAINE**

*Decision of [...]*

[The General Council], [The Ministerial Conference]

*Having regard to* paragraph 2 of Article XII and paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement"), and the Decision-Making Procedures under Articles IX and XII of the Marrakesh Agreement Establishing the World Trade Organization agreed by the General Council (WT/L/93);

[*Conducting* the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;]

*Taking note* of the application of the Republic of Ukraine for accession to the Marrakesh Agreement Establishing the World Trade Organization dated [...];

*Noting* the results of the negotiations directed toward the establishment of the terms of accession of the Republic of Ukraine to the WTO Agreement and having prepared a Draft Protocol on the Accession of the Republic of Ukraine;

*Decides* as follows:

The Republic of Ukraine may accede to the WTO Agreement on the terms and conditions set out in the Draft Protocol annexed to this Decision.

## DRAFT PROTOCOL

### ON THE ACCESSION OF THE REPUBLIC OF UKRAINE

#### Preamble

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), and the Republic of Ukraine,

*Taking note* of the Report of the Working Party on the Accession of the Republic of Ukraine to the WTO Agreement reproduced in document WT/ACC/UKR/[...], dated [...] (hereinafter referred to as the "Working Party Report"),

*Having regard* to the results of the negotiations on the accession of the Republic of Ukraine to the WTO Agreement,

*Agree* as follows:

#### PART I - GENERAL

1. Upon entry into force of this Protocol pursuant to paragraph 8, the Republic of Ukraine accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which the Republic of Ukraine accedes shall be the WTO Agreement, including the Explanatory Notes to that Agreement, as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall include the commitments referred to in paragraph [396] of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in paragraph [409] of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by the Republic of Ukraine as if it had accepted that Agreement on the date of its entry into force.
4. The Republic of Ukraine may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure was recorded in the list of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

#### PART II - SCHEDULES

5. The Schedules reproduced in Annex I to this Protocol shall become the Schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the General Agreement on Trade in Services (hereinafter referred to as "GATS") relating to the Republic of Ukraine. The staging of the concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.
6. For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of entry into force of this Protocol.

PART III - FINAL PROVISIONS

7. This Protocol shall be open for acceptance, by signature or otherwise, by the Republic of Ukraine until [...].

8. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by the Republic of Ukraine.

9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance by the Republic of Ukraine thereto pursuant to paragraph 9 to each Member of the WTO and to the Republic of Ukraine.

10. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at [...] this [...] day of [...] in a single copy in the English, French and Spanish languages, each text being authentic, except that a Schedule annexed hereto may specify that it is authentic in only one of these languages.

ANNEX I

**SCHEDULE [...] – REPUBLIC OF UKRAINE**

Authentic only in the ... language.

(Circulated in document WT/ACC/UKR/.../Add.1)

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***SCHEDULE OF SPECIFIC COMMITMENTS ON SERVICES***

***LIST OF ARTICLE II EXEMPTIONS***

Authentic only in the ... language.

(Circulated in document WT/ACC/UKR/.../Add.2) ]

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