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Working Party on State Trading Enterprises

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STATE TRADING

NEW AND FULL NOTIFICATION PURSUANT TO ARTICLE XVII:4(A) OF THE GATT 1994 AND PARAGRAPH 1 OF THE UNDERSTANDING ON THE INTERPRETATION OF ARTICLE XVII

UKRAINE

The following communication, dated and received on 1 July 2022, is being circulated at the request of the delegation of Ukraine.

Pursuant to the provisions of Article XVII:4(a) of the GATT 1994 and paragraph 1 of the Understanding on the Interpretation of the Article XVII, and in response to the call for notifications set forth in document G/STR/N/19, Ukraine submits herewith its notification, covering the years 2020-2021, concerning the State Enterprise of liqueur and alcoholic beverage industry "Ukrspirt" (hereinafter – the State Enterprise "Ukrspirt").

At the same time, Ukraine notifies that according to the relevant changes in Ukraine's legislation, the State Enterprise "Ukrspirt" from 1 July 2020 was deprived of its exclusive or special rights or privileges to export agricultural products (in particular, undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher – heading 2207). The corresponding explanation is given below.

I. Enumeration of state trading enterprises

A. Identification of state trading enterprises

The State Enterprise "Ukrspirt"
16, Gagarina Street,
Brovary, 07400,
Kyiv Region, Ukraine
Tel: +38 (044) 393 58 01
e-mail: office@ukrspirt.com
web address: www.ukrspirt.com

B. Description of products affected

Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher; ethyl alcohol and other spirits, denatured, of any strength, – heading 2207 of the UKTZED (*UKTZED is the Ukrainian Foreign Economic Activity Commodity Classification, based on Harmonized System 2017*).

II. Reason and purpose

A. Reason or purpose for establishing and/or maintaining state trading enterprise

The State Enterprise "Ukrspirt" was established according to the Resolution of the Cabinet of Ministers of Ukraine of 28 July 2010 No. 672 "On establishment of the State Enterprise of liqueur

and alcoholic beverage industry" to increase the efficiency of the functioning of state enterprises of liqueur and alcoholic beverage industry and to improve the management system in the mentioned area.

B. Summary of legal basis for granting the relevant exclusive or special rights or privileges, including legal provisions and summary of statutory or constitutional powers

According to the previous wording (valid until 30 June 2020) of paragraph 1 of Article 2 of the Law of Ukraine of 19 December 1995 No. 481/95-BP: "On state regulation of production and circulation of ethyl, cognac and fruit alcohol, alcoholic beverages, tobacco products, liquids used in electronic cigarettes, and fuel", the **production** of ethyl alcohol (including as a medical product), ethyl rectified grape alcohol, ethyl rectified fruit alcohol, grain distillate can be performed **only by state enterprises**. The production of bio-ethanol can be carried out by enterprises of all patterns of ownership, which are granted corresponding licenses.

New wording of paragraph 1 of Article 2 of the mentioned Law that is applicable from 1 July 2020:

The **production** of ethyl alcohol (including as a medical product), ethyl rectified grape alcohol, ethyl rectified fruit alcohol, grain distillate and bio-ethanol can be carried out **by business entities of all patterns of ownership**, which are granted corresponding licenses.

Paragraph 1 (previous wording that was valid until 30 June 2020) of Article 14 of the mentioned Law says that import, **export** of ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol **can be carried out only by state enterprises** (or organizations) that are **authorized by the Cabinet of Ministers of Ukraine** to carry out such activities. The **wholesale** of ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol on the territory of Ukraine **can be carried out only by state enterprises** (or organizations) that are **authorized by the Cabinet of Ministers of Ukraine** and **granted a corresponding license**, except the wholesale of ethyl alcohol meant for medicine and veterinary medicine that can be carried out by medical institutions, business entities (including business entities operating through their registered permanent representative offices) or veterinary medicine supplying companies, irrespective of patterns of ownership, having appropriate license.

New wording of paragraph 1 of Article 14 the Law (*applicable from 1 July 2020*):

Export of ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol can be carried out **by business entities**, that are **granted a license to produce such alcohol**. Import and the **wholesale** of ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol on the territory of Ukraine **can be carried out with a license** for wholesale of such alcohol. The wholesale of ethyl alcohol meant for medicine and veterinary medicine can be carried out by medical institutions, business entities (or organizations) or veterinary medicine supplying companies, irrespective of patterns of ownership, having a license for wholesale of ethyl alcohol.

According to paragraph 11 (previous wording that was valid until 30 June 2020) of Article 14 of the mentioned Law, the **business entities** (including business entities operating through their registered permanent representative offices) that produce ethyl alcohol **export it through the state enterprises** (or organizations) that are **authorized by the Cabinet of Ministers of Ukraine**.

New wording (*applicable from 1 July 2020*):

The **business entities** (including business entities operating through their registered permanent representative offices) – producers of ethyl alcohol **export it having a license for production of ethyl alcohol**.

Paragraph 12 (previous wording that was valid until 30 June 2020) of Article 14 of the mentioned Law provides that the **business entities** (including business entities operating through their registered permanent representative offices) that produce ethyl alcohol **sell it to the national consumers through the state enterprises** (or organizations) that are **authorized by the Cabinet of Ministers of Ukraine** and granted a corresponding wholesale license.

New wording (applicable from 1 July 2020):

The **business entities** that produce ethyl alcohol **sell** it to the national consumers having a license for wholesale of ethyl alcohol.

Paragraph 1 of Article 15 of the mentioned Law states that import, export of alcoholic beverages can be carried out by business entities (including business entities operating through their registered permanent representative offices) of all patterns of ownership without having a license. The wholesale of alcoholic beverages can be carried out by business entities (including business entities operating through their registered permanent representative offices) of all patterns of ownership having appropriate wholesale licenses.

III. Description of the functioning of the state trading enterprise

A. Short description of the State Enterprise "Ukrspyr"t"

The State Enterprise "Ukrspyr"t" was established through merging assets of the State Concern of liqueur and spirits industry "Ukrspyr"t", state enterprises and associations of alcohol and alcoholic beverage industry under the authority of the Ministry of Agrarian Policy and Food of Ukraine.

The State Enterprise "Ukrspyr"t" was the successor of the State Concern of liqueur and spirits industry "Ukrspyr"t".

The State Enterprise "Ukrspyr"t" had exclusive rights (*until 30 June 2020*) to produce, export and wholesale of ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol (falling under heading 2207 of the UKTZED). From 1 July 2020, the State Enterprise "Ukrspyr"t" was deprived of its above mentioned exclusive rights.

B. Specification of exclusive or special rights or privileges enjoyed by the state trading enterprise

In 2020 (1 January 2020 - 30 June 2020), the State Enterprise "Ukrspyr"t" was authorized to export ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol (falling under heading 2207 of the UKTZED) and wholesale of ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol (falling under heading 2207 of the UKTZED) according to the Resolution of the Cabinet of Ministers of Ukraine of 28 July 2010 No. 672 "On establishment of the State Enterprise of liqueur and alcoholic beverage industry".

In 2020 (1 January 2020 - 30 June 2020), the State Enterprise "Ukrspyr"t" produced and sold ethyl alcohol and alcohol-based substances based on:

- License on production of ethyl alcohol (series AE No. 297370, reg. No. 171), issued by the State Fiscal Service of Ukraine, valid from 15 October 2015 to 15 October 2020;
- License for wholesale trade in ethyl alcohol (series AE No. 297267, reg. No. 100305), issued by the State Fiscal Service of Ukraine, valid from 2 September 2015 to 2 September 2020;
- License for ethyl alcohol, cognac and fruit alcohol export (series EC No. 000040, reg. No. 1500000100104), issued by the Ministry of Economic Development and Trade of Ukraine, valid from 4 September 2015 to 4 September 2020. From 1 July 2019 the requirement for an export license for ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol was abolished in accordance with the Law of Ukraine of 23 November 2018 No. 2628-VIII "On Amendments to the Tax Code of Ukraine and some other legislative acts of Ukraine to improve the administration and revision of the rates of certain taxes and fees".

C. Type of entities other than the state trading enterprise that are allowed to engage in importation/exportation and conditions for participation

Until 30 June 2020, import, export of ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol could be carried out only by state enterprises (or organizations) that were authorized by the Cabinet of Ministers of Ukraine to carry out such activities. The wholesale of ethyl alcohol,

ethyl rectified grape alcohol and ethyl rectified fruit alcohol on the territory of Ukraine could be carried out only by state enterprises (or organizations) that were authorized by the Cabinet of Ministers of Ukraine and granted a corresponding license, except the wholesale of ethyl alcohol meant for medicine and veterinary medicine that could be carried out by medical institutions, business entities (including business entities operating through their registered permanent representative offices) or veterinary medicine supplying companies, irrespective of patterns of ownership, having appropriate license.

From 1 July 2020, export of ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol can be carried out by business entities, that are granted a license to produce such alcohol. Import and the wholesale of ethyl alcohol, ethyl rectified grape alcohol and ethyl rectified fruit alcohol on the territory of Ukraine can be carried out with a license for wholesale of such alcohol. The wholesale of ethyl alcohol meant for medicine and veterinary medicine can be carried out by medical institutions, business entities (or organizations) or veterinary medicine supplying companies, irrespective of patterns of ownership, having a license for wholesale of ethyl alcohol.

Until 30 June 2020, import, export of alcoholic beverages could be carried out by business entities (including business entities operating through their registered permanent representative offices) of all patterns of ownership without having a license. The wholesale of alcoholic beverages could be carried out by business entities (including business entities operating through their registered permanent representative offices) of all patterns of ownership having appropriate wholesale licenses.

D. How import/export levels are established by the state trading enterprise

In 2020 (1 January 2020 - 30 June 2020), when establishing export levels, the State Enterprise "Ukrspyr" considered international prices and commercial reasoning. The State Enterprise "Ukrspyr" did not conduct imports.

E. How export prices are determined

In 2020 (1 January 2020 - 30 June 2020), in the process of determining the export prices, the State Enterprise "Ukrspyr" was guided by the price formed in the conditions of a market economy and competition.

F. How the resale prices of imported goods are determined

In 2020 (11 January 2020 - 30 June 2020), the State Enterprise "Ukrspyr" neither conducted imports, nor resold imported products.

G. Whether long-term contracts are negotiated by the state trading enterprise. Whether the state trading enterprise is used to fulfill contractual obligations entered into by the government

In 2020 (1 January 2020 - 30 June 2020), no long-term contracts were negotiated by the State Enterprise "Ukrspyr".

In 2020 (1 January 2020 - 30 June 2020), the State Enterprise "Ukrspyr" was not involved in fulfilling contractual obligations entered into by the Government.

H. Short description of the structure of the market

In 2020 (1 January 2020 - 30 June 2020), besides the State Enterprise "Ukrspyr", more than forty companies of liqueur and alcoholic beverage industry could produce ethyl alcohol and alcohol-based products.

IV. STATISTICAL INFORMATION

TABLE II

STATE TRADING: THE STATE ENTERPRISE "UKRSPYRT"

STATISTICAL INFORMATION, EXPORTS, 2020

Description of product(s) (including HS number(s))	Total quantity exported (thousand decalitres)*	Quantity exported by state trading enterprise (thousand decalitres)**	Average procurement price	Average representative domestic sales price (UAH/decalitre)	Average export price (USD/decalitre)* **	National production (thousand decalitres)****
1	2	3	4	5	6	7
Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher (UKTZED 2207 10 00)	395.9	304.3	-	-	4.8	9,422.1

* According to the State Statistics Service of Ukraine, for the period 1 January - 30 June 2020 (<http://www.ukrstat.gov.ua>).

** According to the State Enterprise "Ukrspyr", for the period 1 January - 30 June 2020.

*** According to the State Enterprise "Ukrspyr", for the period 1 January - 30 June 2020.

**** According to the State Statistics Service of Ukraine (<http://www.ukrstat.gov.ua>).

TABLE III

STATE TRADING: THE STATE ENTERPRISE "UKRSPYRT"

STATISTICAL INFORMATION, DOMESTIC ACTIVITIES, 2020

Description of product(s) (including HS number(s))	Domestic purchases by state trading enterprise (thousand decalitres)	National production (thousand decalitres)*	Domestic sales by state trading enterprise (thousand decalitres)**	National consumption (thousand decalitres)
1	2	3	4	5
Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher (UKTZED 2207 10 00)	-	9,422.1	6,420	-

* According to the State Statistics Service of Ukraine (<http://www.ukrstat.gov.ua>).

** According to the State Enterprise "Ukrspyr".