

GENERAL AGREEMENT ON TARIFFS AND TRADE

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ACCESSION OF UKRAINE

Communication from Ukraine

The Minister of Foreign Economic Relations of Ukraine has submitted the communication and documentation reproduced hereunder.

The strategic objective of economic policy of Ukraine as stated in the Report of the President of Ukraine to the Supreme Rada consists in the creation of a socially-oriented market economy expected to ensure public welfare. In other words, the President and newly-formed Supreme Rada of Ukraine are seeking to overcome stagnation and high-rate inflation characteristics of the recent two years. This is why the Government has resolved to implement an integrated programme of macroeconomic stabilization and structural reforms aimed at creating the market economy.

The Economic Programme of the President approved by the Supreme Rada and coordinated with IMF proceeds from the four interrelated factors. First, macroeconomic stabilization is based on financial and monetary limitations supported by an adequate tax policy. Then, the measures designed to promote competition at the market of goods and services extend to several strategic lines, e.g., the liberalization of prices at the domestic market and the foreign trade regime and currency exchange, rejection of the system of State awards, creation and development of a strong private sector and liberalization of domestic trade. Now, it is planned that the initiation of a large-scale privatization, the application of the liquidation procedures and provisions of the Law on Bankruptcy and the revision of the methods of control over enterprises should bring about stringent fiscal constraints for enterprises. The stringent fiscal policy along with the reform of the financial sector will promote the implementation of positive changes envisaged by the programme at the level of enterprises. Finally, a number of special social protection measures are envisaged to protect the groups of people most vulnerable to drastic changes related with the restructuring of the national economy.

The Government of the country clearly understands that for a sweeping stabilization and economic rehabilitation to be reached, it is required to carry out a fundamental restructuring of the production which will convert the economic system, incorporating, so far, the elements of centralized planning into a market economy system based on an energetic private sector.

A general task in the price policy is a considerable limitation of the interference of the State (at the level of both the Government and local authorities) in the process of ascertaining and regulating of prices. This will help to make the distribution of resources more effective, in particular, scarce power resources, and, at the same time, to bolster the State budget. The Resolution of the Cabinet of Ministers of Ukraine of 21 October 1994, No. 733 cancelled most kinds of interference of the State in the process of ascertaining of prices, including a direct control over prices. At the industrial level, the State control over prices will be kept unchanged only for those goods and services that the monopoly of a producer is natural, i.e., electric power generation, gas, central heating systems, water supply and canalization systems, municipal transport and for few monopolists. At the level of retail trade, the regulation will concern only the prices of bread, communal services, municipal fares, fuel for the population and rents.

The solution of urgent problems of economic reforms in Ukraine and, in particular, in foreign trade, as the Government of Ukraine sees it, is directly related with the accession to GATT and WTO. Measures that will allow Ukraine to enjoy full rights in the GATT system make an integral part of economic reforms in Ukraine and the most important factor facilitating the process of perfection of the legislative infrastructure (trade, tariff, tax, investment, fiscal as well) so that it can meet the GATT/WTO standards.

Actually, the strategy adopted and efforts being made to harmonize laws have already become an integral part of economic reform in Ukraine. It is along these lines that a number of the Decrees of the President of Ukraine have been made valid, e.g., on a fundamental reformation of economic laws in the field of foreign trade (which, first of all, apply to the system of currency regulation, formation of an integrated State policy of import, application of the INCOTERMS Rules, documentary letters of credit and collection in foreign trade payments, prevention of export of goods at dumping prices, mechanism of protection of the interests of Ukrainian manufacturers at world market, etc.).

The proposals of the Government are now being prepared to bring the national laws into conformity with the Uruguay Round agreements, in particular, on regulation of the State procurement.

At this time a new reading is being prepared of the law on foreign trade activities, some amendments to investment laws and those on free economic zones are being worked out, that aimed at improving the investment climate and re-establishing the interest of foreign investors in Ukraine.

In compliance with this course, the Government of Ukraine has had successful negotiations with the International Monetary Fund on a system transformation loan.

Among the measures of the integrated programme of economic reforms described in the Memorandum on the Policy of Economic Reforms in Ukraine and adjusted with IMF, the most important were the priorities of reformation of the economic regime, hence, the foreign trade regime of Ukraine. The latter will be implemented along the following lines:

- Unification of the exchange rate;
- liberalization of the export regime by rejection of export quotas and licences reducing their effect only to grain, scraps of ferrous and non-ferrous metals, cast iron, coal, scraps of noble metals and metals inlaid with noble metals. The list above is a provisional one to be revised once the first evidences of reduction of the negative trade and payment balance and the creation of an effective system bringing stable returns from export operations;
- application of a system of encouragement of producers to export goods by applying a differential taxation depending upon the level of processing of the goods;
- application of the system of economic substantiation of tariff regulation of imports and its use for the regulation of the access to the domestic market only of those goods that are manufactured in Ukraine in insufficient, sufficient or excess levels;
- application of the system of protection of economic interests of Ukraine against unfair competition and prevention of such a competition in import of goods (services), reduction of non-critical import, rational use of hard currency resources, protection of the domestic market against poor-quality products in compliance with the GATT principles.

It should be specially pointed out that the Government of Ukraine clearly ascertains that only the fastest accession of Ukraine to GATT/WTO can drastically solve the problem of improvement of the trade with all partners in trade and the integration of the national economy into the international multilateral trade system.

However, there are too many obstacles on the way of Ukraine to GATT/WTO caused by deepening of the crisis phenomena in the national economy. Shortage of top-professionals in the implementation of effective trade and economic measures, in particular, in the development of the required legislative fundamentals aimed to integrate national laws with the GATT/WTO principles and requirements.

Having submitted on 28 July 1994, the Memorandum on Foreign Trade Regime for consideration of the Members concerned, Ukraine initiated the implementation of the measures designed to enter the GATT/WTO system. At present, every effort is being made to prepare replies to the questions' put to the Memorandum to be discussed at the first meeting of the Working Party planned to be held in January of next year.

Unofficial translation

Decree
of the President of Ukraine

ON MEASURES TO ORDER PAYMENTS UNDER CONTRACTS
CONCLUDED BY ENTERPRISES OF UKRAINE

To ensure prompt and fair contract payments by enterprises of Ukraine, the President of Ukraine has decided that:

1. The payments under foreign trade agreements (contracts) made by enterprises of Ukraine irrespective of their form of ownership, the subject of which are goods (services) be made in conformity with the Unified Rules and Practices for documentary letter of credit of the International Chamber of Commerce, Unified Rules for collection of the International Chamber of Commerce (hereinafter referred to as Unified Rules).

Enterprises of Ukraine should meet the Unified Rules requirements in concluding and executing foreign trade agreements (contracts).

2. Foreign trade agreements (contracts) concluded by enterprises of Ukraine irrespective of their form of ownership, the subject of which is goods (services), can be considered invalid in an established order given they do not meet the requirements of this Decree.

3. This Decree extends to the relations brought about by foreign trade agreements (contracts) concluded after this Decree has been made valid.

4. Payments under other agreements concluded by the enterprises irrespective of their form of ownership should be made in compliance with the Unified Rules if it is provided for by these agreements.

5. The Cabinet of Ministers of Ukraine:

should publish in two weeks, in the State language of Ukraine, in the URYADOVY KURIER newspaper, the Unified Rules and Practices for documentary letters of credit of the International Chamber of Commerce (in reading of 1983), Unified Rules for collection of the International Chamber of Commerce (in reading of 1978);

should publish in the State language of Ukraine the further amendments of the Unified Rules. Such amendments will be applied, ten days after they are published in the URYADOVY KURIER, to the relations originating from foreign trade agreements (contracts) made after publishing the amendments in question.

6. The Cabinet of Ministers of Ukraine jointly with the National Bank of Ukraine should approve, in a month, the Provision on Protective Notification for Agreements that involve payments in foreign currency.

7. The executive power bodies should bring their decisions (standards) into conformity to this Decree.

The National Bank of Ukraine is recommended to bring its standards into conformity with this Decree.

8. This Decree will be made valid ten days after the Unified Rules are published.

The President of Ukraine
Kiev
4 October 1994
No. 566/94

L. Kuchma

Unofficial translation

DECREE OF THE PRESIDENT OF UKRAINE

On Measures to Prevent the Export of Goods of Domestic Origin
at Prices that can be Considered Dumping, and to Settle
Trade Disputes

The President of Ukraine, in order to implement the Principles of General Agreement on Tariffs and Trade (GATT),

to prevent applying the anti-dumping measures by foreign States and their economic groupings to the goods of domestic origin and to create favourable conditions for export, implementation in due time of measures designed to protect economic interests of Ukraine and to support its international agreements and in compliance with Item 7-4 of Clause 114-5 of the Constitution of Ukraine, has decided that:

1. An Interdepartmental Commission on anti-dumping investigations as to the export of goods of domestic origin (hereinafter referred to as Commission) be formed.
2. A Minister of Foreign Trade of Ukraine be authorized to head the Commission.
3. Deputy Ministers of the Ministry of Foreign Economic Relations, Ministry of Economics, Ministry of Industry, Ministry of Agriculture and Foodstuffs, Machine Building Ministry, Military-Industrial Complex and Conversion Ministry, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Finance, Ministry of Internal Affairs, and Deputy Heads of the State Customs Committee, National Security Agency, State Export-Import Bank of Ukraine be authorized to be members of the Commission.
4. The primary tasks of the Commission be as follows:

revealing and investigating the facts of application or threat of application of anti-dumping measures to the goods of Ukrainian origin by other States, economic groupings or customs unions;

coordination of activities of the ministries and departments, as well as organizations of Ukraine, related to processing of documentation and output of information required to hold an investigation and make appropriate decisions, provided that the procedure of holding anti-dumping investigations, governed by international laws or those of the States involved, necessitates the documents and information above to be processed and output;

preparation of proposals as to ways of settling trade disputes and protection of the interests of the Ukrainian enterprises in anti-dumping investigations and in application of the measures related to anti-dumping investigations to the enterprises above by foreign States;

generalization of the world practice and experience in application of anti-dumping measures and laws of other countries.

5. The Commission be authorized to apply sanctions provided for in Clause 37 of the Law of Ukraine "On Foreign Economic Activities" to enterprises of Ukraine as long as a procedure of anti-dumping investigation (or a threat of such an investigation is initiated in relation to domestic-origin goods.

6. In carrying out import-export operations, directly or through mediation of a foreign trade body, the contract (foreign trade) prices for goods be in conformity with the prices either established or will be established in the export or import market at the instant of an import-export operation. Enterprises shall bear responsibility for fair substantiation of prices assigned in foreign trade contracts.

7. Enterprises of Ukraine should present an expert resolution as to conformity of exported goods to standards in force to the Ministry of Foreign Economic Relations on presenting an application for legalization of a licence and to customs bodies on executing customs formalities.

8. In export of goods not meeting the standards of Ukraine in force or the requirements subject to which indicative prices are calculated, the enterprises of Ukraine should present a substantiation of contract prices to the Ministry of Foreign Economic Relations on presenting an application for legalization of licences and to customs bodies on legalizing customs declaration. Such contract prices should be calculated proceeding from the database covering prices for competing goods in appropriate market and the certificate of quality of export goods. If required, the latter can include a certificate of expert's examination for compliance of the export goods with the standards of Ukraine in force, these certificates being issued as-established.

9. The Ministry of Foreign Economic Relations jointly with the Ministry of Foreign Affairs, Ministry of Economics and the State Customs Committee:

should hold negotiations with appropriate bodies of the States and economic groupings or customs unions applying trade limitations including anti-dumping ones or those maintaining a threat of a unilateral application of such measures to import of the goods of Ukrainian origin;

should draw up draft international agreements of interdepartmental nature on limitation of the export of goods of Ukrainian origin in compliance with the laws in force and in coordination with the Cabinet of Ministers of Ukraine. Here, the agreements above should incorporate provisions of generally accepted measures to remove trade limitations, including anti-dumping ones;

should arrange that the export of goods of Ukrainian origin under the force of international agreements of interdepartmental nature on limitation of the export of the goods above is implemented provided that an enterprise possesses a goods-origin certificate.

10. The Ministry of Foreign Economic Relations of Ukraine should:

present in ten days a Draft Provision on Interdepartmental Commission on Anti-Dumping Investigations related with the export of goods of Ukrainian origin and proposals on personal membership of the Commission;

present in a month a Draft Provision on Indicative Prices for the main goods the export of which is a stable and high-liquidity one;

publish on no later than the fifth day of every month the list of indicative prices for the main types of goods the export of which is a stable and high-liquidity one;

present on no later than the fifth day of every month the list of enterprises of Ukraine to which applied are the sanctions provided for in Clause 5 of this Decree to the State Customs Committee.

11. The Committee should draw up the drafts of required laws bringing the laws of Ukraine into conformity to GATT trade limitations including anti-dumping ones and submit them for consideration of the Supreme Soviet of Ukraine.

12. The Ministry of Foreign Economic Relations be vested in providing a normal operation of the Commission.

13. The Cabinet of Ministers of Ukraine should make the decision of the Government complying with this Decree.

14. This Decree be valid after it is signed.

The President of Ukraine
Kiev
25 August 1995

L. Kuchma

Unofficial translation

Decree of the President of Ukraine

ON APPLICATION OF INTERNATIONAL
RULES OF INTERPRETATION OF
COMMERCIAL TERMS

To unambiguously interpret commercial terms in concluding agreements and/or in relations resulted from these agreements, the President of Ukraine has resolved that:

1. In concluding agreements, including foreign trade agreements (contracts) the subjects of which are goods (services), International Rules of Interpretation of Commercial Terms (hereinafter referred to as INCOTERMS Rules) worked out by the International Chamber of Commerce in 1953 be used by enterprises of Ukraine notwithstanding their form of ownership.

Enterprises of Ukraine should adhere to the INCOTERMS Rules in concluding agreements, including foreign trade agreements (contracts).

2. The Cabinet of Ministers:

should publish in two weeks the INCOTERMS Rules worked out by the International Chamber of Commerce (in reading of 1990) in the Uryadovy Kurier newspaper in the State language of Ukraine;

should publish all amendments and supplements to come in the INCOTERMS Rules in the State language of Ukraine. Such amendments and supplements shall be considered valid in 10 days after they are published in the Uryadovy Kurier newspaper as applied to agreements including foreign trade agreements (contracts), or relations originating therefrom, concluded after publishing the amendments and supplements above.

3. The Executive Power bodies should bring their decisions (standards) in conformity with this Decree.

The National Bank is recommended to bring its standards in conformity with this Decree.

4. This Decree shall extend to the relations originating from the agreements including foreign trade agreements (contracts) concluded after this Decree is made valid.

5. This Decree shall be valid in 10 days after the INCOTERMS Rules are published.

The President of Ukraine

L. Kuchma

Kiev

4 October 1994

No. 567/94

Unofficial translation

CABINET OF MINISTERS OF UKRAINE RESOLUTION
OF 24 OCTOBER 1994, Regd. No 734
Kiev
"ON LIBERALIZATION OF EXPORT OPERATIONS"

To implement particular provision of the Report of the President of Ukraine on the primary measures of economic and social policy approved by the Supreme Rada of Ukraine, the Cabinet of Ministers of Ukraine has resolved:

1. To approve the range of products for 1994 the export of which is required to be subjected to setting up of quotas and licensing and the volumes of export quotas conforming to Supplements 1 and 2.

2. To establish that:

licences obtained by enterprises for export of goods specified in Supplement 1 are valid ones;

export of noble metals, precious stones and jewellery made thereof specified in Supplement 3 be implemented permitted by the Ministry of Finance.

3. To charge the Ministry of Foreign Economic Relations, Ministry of Foreign Affairs, Ministry of Justice, State Tax Committee to submit in ten days to the Cabinet of Ministers of Ukraine the proposals on re-export operations, export operations with domestic-origin goods import quotas for which are established by the other countries, export operations with domestic-origin goods against which appropriate services either initiated or are holding an anti-dumping investigation and on registration of export contracts.

4. To admit the resolutions of the Government of Ukraine specified in Supplement 4 to be invalid.

5. This Resolution shall be valid since the 1st day of November 1994.

Prime Minister of Ukraine
Deputy Secretary

V. Masol
I. Dotsenko

Unofficial translation

Supplement 1 to the Resolution of the Cabinet of Ministers
of Ukraine of 24 October 1994, Regd. No 734

List of Goods to be Subjected to Setting of Quotas and Licensing in 1994

Goods	HN FT Code
Grain	10.01-10.08 except for 10.08 300000)
Coals	27.01
Wastes of noble metals and metals inlaid with noble metals	71.12
Hematite pig-iron	72.01
Wastes of ferrous and non-ferrous metals	72.04, 74.04, 75.03, 76.02, 78.02, 79.02, 80.02

Deputy Secretary

I. Dotsenko