

WORKING PARTY ON THE ACCESSION OF UKRAINE

ELEMENTS OF A DRAFT REPORT

Introduction

1. At its meeting on 17 December 1993, the Council of Representatives established a Working Party to examine the application of the Government of Ukraine to accede to the General Agreement on Tariffs and Trade (GATT 1947) under Article XXXIII, and to submit to the Council recommendations which might include a draft Protocol of Accession. The terms of reference of the Working Party were circulated in document L/7367/Rev.1. 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 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.

2. The terms of reference of the Working Party were reproduced in document WT/ACC/UKR/20/Rev.18. H E. Sergio Marchi (Canada) was appointed Chairman of the Working Party replacing Mr. A. L. Stoler (United States).

3. The Working Party met in February and December 1995, June 1996, May and November 1997, June 1998, July 2000, June 2001, June 2002, February 2003 and [.....].

Documentation Provided

4. The Memorandum on the Foreign Trade Regime of Ukraine was circulated in document L/7499. Questions and replies were circulated in documents WT/ACC/UKR/1, 3-7, 16, 22-25, 41, 50, 53, 59 and 91. The check list of issues was circulated in documents WT/ACC/UKR/110 and Addenda and Corr.. The legislation submitted by Ukraine is listed in Annex 5. The Laws enacted and the draft laws relevant to Ukraine's accession to the WTO are listed in documents WT/ACC/UKR/111/Add.1, WT/ACC/UKR/106/Rev.1 and WT/ACC/UKR/93/Rev.4.

Introductory Statements

5. The representative of Ukraine said that accession to the WTO was an integral part of the overall economic reform in Ukraine. WTO accession was a major component of Ukraine's domestic economic policy and the implementation of the WTO Agreements would make Ukraine a reliable predictable partner for the entire international community.

6. Ukraine reaffirmed its loyalty to the principles of the development of civilized relations in international trade. The President of Ukraine had instructed the Government a challenging objective: to complete all the technical accession negotiations in 2003. Ukraine was committed to harmonizing the national legislation with the rules and requirements of the WTO Agreements. The enactment of the Customs Code together with the Land Code and the establishment of an effective regime of protection of intellectual property rights had been primary activities and achievements. Significant advancements had been made towards the harmonization with WTO principles and rules of the standardization and certification systems, the state procurement system and the sanitary and phytosanitary regime.

7. Over the recent period, economic indicators had improved and become positive in many sectors of the Ukrainian economy. In the forthcoming years, Ukraine was expecting to reach 8 per cent annual GDP growth through accelerated investments, the development of small and medium size enterprises and persuading capital to move out of the informal and into the formal

economy. To this effect, the tax regime would be reformed, lowering tax rates, abolishing privileges and subsidies.

8. The continued development of Ukraine's unique industrial, scientific, technological, intellectual and cultural capabilities and potential were essential national tasks. In order to achieve these goals and increasing the present and future national well-being, the Government would continue to seek out the support of the population at large including workers and business, in the building of consensus for the continuation of economic reforms and market liberalization.

9. Increases of personal income played a significant role in stimulating the internal demand of consumers. The normative basis for resolving issues in the social field was being established. In particular, the President of Ukraine ratified Decree No. 637, dated 15 August 2001, which approved the Strategy for Overcoming Poverty. The integrated program for ensuring implementation of the Strategy for Overcoming Poverty was being developed. The increase of pensions, decrease of wage arrears and the creation of new jobs through the development of entrepreneurial activity, small businesses, and services, including foreign investments, are all aimed at resolving the main issue – overcoming poverty in Ukraine. Among the most important measures in this direction were the following: creation of conditions for independent employment of the population, development of entrepreneurial initiative, improvement of conditions for conducting entrepreneurial activities and creating a comprehensive competitive environment, optimization of state intervention into the financial and business activities of business agents, simplification of the procedure for receipt of permits for conducting entrepreneurial activity, optimization of the procedure for registration of business agents, facilitating technological innovation, education and training etc.

10. In order to expedite the pace of the WTO accession negotiations, the Ukrainian authorities had prepared a comprehensive tariff offer on goods encompassing all tariff lines in the Ukrainian Tariff and their implementation periods and covering 16 out of 19 sectoral initiatives. Ukraine's services offer covered 139 out of the 155 services subsectors including full market access commitments in sectors such as banking, insurance, telecommunications, transportation, professional, construction, distribution, and tourism services.

11. Members of the WTO welcomed Ukraine's application for accession to the WTO. This very important step for the economic development of Ukraine and its integration into the multilateral trading system would require substantial reforms and efforts to bring the foreign trade regime into full consistency with the WTO Agreements. Members were encouraged by the ambitious determination of Ukraine's trade reform programme, the legislative action plans and the involvement of all economic and political sectors. They pledged to work constructively with Ukraine in order to achieve these goals and complete the accession negotiations on appropriate terms and conditions, at an early date.

12. 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

Economic Policies

Monetary and Fiscal Policy

13. In response to the request for information on the guiding principles of Ukraine's monetary policies and Central Bank operation, the representative of Ukraine said that the main efforts of the National Bank of Ukraine are centred on the fulfilment of the principal mission assigned to it under the Constitution of Ukraine (Article 99) and the "On the National Bank of Ukraine" No. XIV of 20 May 1999 requiring the Bank to ensure domestic currency stability. A stable monetary unit

minimizes macroeconomic risk and promotes the growth of external lending and of investment activity. It thus provides a basis for sustainable economic growth and improvement in the quality of life which is fully commensurate with the key objectives of economic and social policy pursued by the Government of Ukraine. As a manifestation of Ukraine's commitment to openness and transparency of its economy, the criteria for the assessment of national monetary and credit policy are provided by domestic price indices and currency exchange rates, whereas the criterion for operational objectives is the monetary base indicator. The demand for cash is met by expanding the money supply by conducting operations in the currency market and increasing bank refinancing, and through creation of preconditions for money multiplication through monetary measures (decreasing reserve requirements and lowering of the discount rate). New bank refinancing instruments have been introduced to include weekly short-term and medium-term tenders of various sorts, daily extension of overnight credits to banks via continuously operating refinancing lines which have enabled banks to address the National Bank of Ukraine as the lender of last resort to sustain their liquidity. The banks currently are able to obtain credits without collateral in unlimited amount. Seeking to stimulate lending to the economy's productive sector, the National Bank has expanded the list of types of collateral accepted for the security of the National Bank's loans which allows bank to choose the most appropriate options for ensuring effective management of their assets. Measures used by the National Bank to support economic growth are aimed at: Increasing the banks' resource base; Improving the structure of banks' assets and liabilities; Increasing lending amounts; Promoting banks' investment commitments; Lowering the cost of credit; and Promoting the development of the stock market. Policy priorities in the foreign exchange segment of the market include the retention of the nominal exchange rate within the limits of its gradual devaluation and suppression of large fluctuations with adequate response to an expected global economy recession. Effective February 2000, a floating rate regime had been put in place in Ukraine. Against this background exchange rate stability was sustained due to interventions of the National Bank of Ukraine and purchases of the surplus supply of foreign currency which allows to concurrently enlarge the National Bank's international reserves. In the past three years, the currency and exchange rate policy has had positive macroeconomic effects that have had a stabilizing impact on monetary and credit markets and promoted the nation's economic development due to the following factors: stability of the nominal exchange rate: the nominal devaluation of the hryvnia against the US dollar: equalled 2.2 per cent; positive dynamics of the real effective exchange rate, the decline of which was 4.1 per cent; increase in the amounts of international currency reserves of the National Bank of Ukraine which grew fourfold over the last three years reaching a level enabling goods and services import financing for a period of 2.5 months.

Foreign Exchange and Payments System

14. In response to questions concerning the foreign exchange acquisition, retention, and payments system, including the approval of these measures by the International Monetary Fund, the representative of Ukraine said that on 24 September 1996, Ukraine announced the assumption of commitments under Article VIII of the IMF Articles of Agreement that implied the introduction of hryvnia convertibility for current account operations and non-application of restrictions to payments and money transfers under current account operations. Presently, currency regulation standards and provisions meet the requirements of Article VIII of the IMF Articles of Agreement. Residents of Ukraine have the right to purchase foreign exchange for hryvnias at the interbank currency market. For purchasing a Group 1 currency as per Classifier of the National Bank and its transfer abroad for the purposes of payment of imports, residents of Ukraine are required to file relevant foreign economic contracts with an authorized bank. Under Article 3 of the Law of Ukraine On Procedure of Payments in Foreign Currency No. 185/94 of 23 September 1994 (as amended), the purchased foreign currency must be remitted by a resident in pursuance of its obligations to a non-resident within five business days following the date of such amount entering into the currency account of the resident. All permanent representative offices of non-resident legal entities partially engaged in business activities in Ukraine, have the right to the unimpeded purchase at the interbank currency market of Ukraine of foreign exchange from their own hryvnia current accounts for the purposes of foreign exchange transfer to accounts of the legal entity whose interests such organizations represent in

Ukraine. Resident natural persons may purchase foreign exchange in cash and enter same onto their accounts without any restrictions. Non-resident natural persons may purchase foreign exchange in cash to the extent that the amount of such purchased currency does not exceed the amount previously imported into the country and declared at the time of such importation. In addition to that, non-resident natural persons may purchase foreign exchange for hryvnias from their current accounts for the purposes of transfers abroad against the presentation of documents attesting to the origin of the hryvnias. The purchase of foreign exchange for the performance by residents of capital account operations is allowed at the interbank currency market of Ukraine exclusively against specific commitments residents have to non-residents. Foreign exchange may not be purchased for the purpose of repaying debts owed by non-residents. Repayment by a resident of a non-residents' debt may be effected through the resident's own foreign exchange balances. The payment by a resident of such obligations is allowed on the basis of its own funds in foreign currency.

Investment Regime

15. In response to requests for information concerning Ukraine's investment regime, the representative of Ukraine provided the detailed information reproduced in Annex 5 of document WT/ACC/UKR/110/Add.2. The Law of Ukraine No.1560-XII of 18 January 1991 "On Investment Activities" is the fundamental legislative act governing investment activities in the territory of Ukraine. The Law determines general legal, economic and social conditions for investment activities in the territory of Ukraine, and aims at ensuring the protection of rights, interests and property of investing entities irrespective of types of property ownership or the nationality. The Law sets the same rules for both national and foreign investors. Specific features of the foreign investment regime are determined by Law of Ukraine No. 93/96-BP of 19 March 1996 "On the regime of foreign investment". In accordance with the Law, foreign investors carrying out investment activities in the territory of Ukraine, are: corporate bodies set up under legislation other than Ukraine's legislation; natural persons - foreigners who do not have permanent residence in the territory of Ukraine and who have full legal capability; foreign states, inter-governmental organizations and non-governmental organizations; and other foreign investing entities which are defined as such in accordance with Ukraine's legislation. The company (enterprise) with foreign investment is a company of any legal structure set up under Ukraine's legislation with foreign participation in its statutory fund of not less than 10 per cent. The company obtains the status of a company with foreign investment on the day that the foreign investment is recorded in its balance-sheet. Foreign investment is investment by foreign investors in objects of investment activities under Ukraine's legislation with the objective to obtain a profit or achieve a social effect. Foreign investment may be made in any object, except those prohibited by the Laws of Ukraine. Foreign investment may be made in the form of: foreign currency which is determined as convertible by the National Bank of Ukraine; Ukrainian currency - when reinvesting into the initial object of investment or any other object of investment under Ukraine's legislation provided that the profit tax is paid; any movable or immovable (real) property and related property rights; shares, bonds, other securities, and also interest holder rights with regard to a corporate body set up under the legislation of Ukraine or under the legislation of other countries, in hard currency terms; monetary claims and rights to demand the payment of contractual obligations which are guaranteed by first-rate banks and valued in hard currency and confirmed in accordance with laws of the investor's country or with international trade practice; any intellectual property rights the hard currency value of which is confirmed in accordance with laws of the investor's country or international trade practice and also confirmed by an expert appraisal in Ukraine, including copyrights, rights to inventions, utility models, designs, service and trade marks, know-how and so on, legalized in the territory of Ukraine; rights to carry out business activities, including rights to use mineral and other natural resources granted in accordance with legislation or contracts, the hard currency value of which is confirmed in accordance with laws of the investor's country or international trade practice; and other valuables in accordance with Ukraine's legislation. Foreign investment may be made in the following ways: holding an interest in companies which are set up jointly with Ukrainian corporate bodies and natural persons, or acquiring an interest in existing companies; formation of companies wholly owned by foreign investors, of branch offices and other

separate divisions of foreign corporate bodies, or complete acquisition of existing companies; acquisition of personal or real property not prohibited in Ukraine, including houses, apartments, premises, equipment, transport vehicles and other property through immediate possession of property and property complexes or in the form of shares, bonds other securities; independently, or jointly with Ukrainian corporate bodies or natural persons, acquisition of rights to use land and natural resources in the territory of Ukraine; acquisition of other property rights; carrying out business activities according to production sharing agreements; and in other manners not prohibited by the Laws of Ukraine, including on the basis of contracts with Ukraine's business entities without setting up a corporate body. According to Article 19 of the Law, companies with foreign investment independently determine conditions for the sale of their products. Other relevant legal texts were the Law of Ukraine No. 1457-III of 17 February 2000 "On removal of taxation discrimination against business entities formed on the basis of property and funds of domestic origin"; Ukraine's Presidential Decree No. 748/98 of 7 July 1998 "On certain issues of foreign investment" regulates making foreign investment in the form of acquiring state debentures; the Law of Ukraine No. 977-XIV of 15 July 1999 "On amendment of certain Laws of Ukraine with objective to stimulate investment activities" had made amendments to Law of Ukraine "On value-added tax"; the Law of Ukraine No. 697-XII of 7 February 1991 "On ownership of property", in pursuance of which foreign investors shall be entitled to own houses, structures, facilities and other property of social and cultural, and production designation; the Law of Ukraine No. 1457-III of 17 February 2000 "On removal of taxation discrimination against business entities formed on the basis of property and funds of domestic origin" had implemented the single national regime of currency and tax regulation for companies with 100 per cent Ukrainian capital and those with foreign investment; the Law of Ukraine No. 93/96 of 19 March 1996 "On the Regime of Foreign Investment" which provides that foreign investment shall not be nationalized. When activities are terminated, the foreign investor is guaranteed the duty-free return of his investment in kind or in the currency of investment in the amount of the actual contribution (allowing for the possible decrease in the size of the statutory fund), and also of income from the investment in monetary form or in the form of products at the actual market value on the moment of the termination of investment activities (Article 11 of the Law). Article 12 provides guarantees for remitting profits, incomes, and other funds generated by foreign investment, in particular, of the unhindered and immediate remittance of profits, income and other funds in foreign currency lawfully generated by foreign investment. In case the guarantees of foreign investment protection provided by Ukraine's legislation are changed, foreign investment protection guarantees provided by the Law of Ukraine No. 93/96 of 19 March 1996 "On the Regime of Foreign Investment", shall apply at the foreign investor's demand, within ten years of the effective date of such legislation. The legislation imposes on foreign investors in Ukraine the national regime of investment and of other economic activities, and conditions equal to those for domestic investors. The state registration of foreign investment is done by the Government of the Autonomous Republic of Crimea, Oblast state administrations, Kiev City and Sevastopol City state administrations within three working days after it is made in accordance with the procedure. Unregistered foreign investment shall not be granted privileges or guarantees provided by the Laws. In order to protect foreign investment, Ukraine signed on 3 April 1998 the Convention on the procedure for resolution of disputes between states and foreign persons. The Verkhovna Rada of Ukraine ratified the Convention on 16 March 2000. Ukraine had signed agreements on encouragement and mutual protection of investment with more than 50 countries. Ukraine's Cabinet of Ministers' Resolution No. 928 of 7 August 1996 had approved "the Regulation on the procedure for the state registration of foreign investment. The state registration of foreign investment is done through assigning a registration number to the notice that the foreign investment has been made. State registration of foreign investment may be refused only when the investment would contradict Ukraine's legislation, or when the stated documents do not meet the Regulation's requirements. Refusal on the grounds of foreign investment's inexpediency (uselessness) waxes not allowed. Refusal of the state registration shall be in writing, shall state the grounds, and may be appealed in court. Articles 18 and 24 of Law of Ukraine No. 93/96 of 19 March 1996 "On the Regime of Foreign Investment" provide that the foreign investor's contribution into the statutory fund of companies with foreign investment and also under agreements on joint investment activities shall be exempted from the customs duty. Property being

imported into the territory of Ukraine as foreign investment shall be allowed in on the basis of the promissory note issued by the company to the amount of the duty with payment deferred for not more than 30 calendar days from the day on which the import customs declaration is processed. In case the stated property is actually recorded on the company's balance-sheet within the period for which the payment is deferred (which is confirmed by the state tax inspectorate at the company's location), the promissory note shall be extinguished and the import duty shall not be levied. The Law of Ukraine No. 997-XIV of 16 July 1999 "On Concessions" gives domestic and foreign investors significant opportunities to take and use state and municipal properties on a concession basis for a period of up to 50 years. The Law of Ukraine No. 1286-XIV of 14 December 1999 "On Concessions for Construction and Operation of Motorways" had created conditions for the attraction of investment in the field of constructing motorways and motorway infrastructure facilities. The issuance of concessions for the construction of motorways, first of all along international transport corridors, and of E Class motorways. The representative of Ukraine said that Cabinet of Ministers' Resolutions have approved the following: the procedure for determination of objects of concession and for conducting a concession tender (Ukraine's Cabinet of Ministers' Resolution No. 1521 of 4 October 2000); the procedure for the setting of the fee for use of roads constructed on a concession basis (Ukraine's Cabinet of Ministers' Resolution No. 1299 of 22 August 2000); the granting of privileges, subsidies and compensations to investors (Ukraine's Cabinet of Ministers' Resolution No. 1065 of 6 July 2000); and the standard concession contract for the construction and operation of a motorway (Ukraine's Cabinet of Ministers' Resolution No. 1519 of 4 October 2000). Production sharing agreements to be signed in accordance with Law of Ukraine No. 1039-XIV of 14 September 1999 "On Production-Sharing Agreements", are another opportunity for foreign investment. The Law is designed to create favorable conditions for investment into the search, survey and extraction of mineral resources within the territory of Ukraine, its continental shelf and exclusive (sea) economic zone.

State ownership and privatization

16. In response to questions concerning Ukraine's privatization programme, the portion of enterprises privatized, in the process of privatization, and still state-owned and the future plans including the on nature and size of those parts of the economy that would not be privatized, the representative of Ukraine said that more than 85,000 enterprises had been privatized over the years of privatization. More than 61,000 entities had been transferred into the collective form of ownership, and almost 24,000 private enterprises had been formed. By types of economic activity, the privatization process had covered principally wholesale and retail trading businesses, including businesses engaged in sales of motor vehicles and motor vehicle repair services; rendering of collective, public and personal services; industrial sectors. Altogether, more than 68,000 entities were privatized during 1992-2002, in particular: integrated property complexes of state-owned and leasing enterprises and structural divisions of enterprises spun off into independent enterprises, as well as hotels, sanatorium and resort facilities and recreation homes etc. Privatizations of 179 large state-owned enterprises with capital assets valued at more than UAH 170 million had begun over the past ten years. Not less than 40 per cent of the shares in 132 companies had been sold. As of the beginning of 2003, more than 11.5 thousand medium- and large-size enterprises were privatized with depth of not less than 70 per cent, among which almost 47 per cent constitute industrial enterprises. In the industrial sector, enterprises, which changed their form of ownership, produced UAH66.6 billion worth of output as 1 October 2002, which constitutes 53.9 per cent of the total volume of output.

Table 1

Plans for the Future - Privatization of Enterprises in 2003

Sectors of the economy	Number of enterprises whose controlling or blocking packages of shares are planned for sale on the stock market and at auctions	Balance sheet value of capital assets, million UAH	Number of employees, persons
Oil and gas complex	4	45.94	29,675
Energy sector	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 industry	2	6.22	6,167
Sector of communications devices	4	392.54	4,213
Chemical industry	6	1,947.94	11,510
Petrochemical industry	3	73.86	6,002
Transport	27	203.86	6,015

17. The representative of Ukraine said that according to the data of the State Statistics Committee of Ukraine the output of industrial enterprises that changed their ownership form was UAH66.6 million as of 1 October 2002, which is 53.9 per cent of the total output. The number of joint-stock companies set up on the basis of state enterprises and the share of private capital in total capital may be seen in the following table.

Table 2

Number of enterprises (as of 1 April 2003)

Industry	Total	Percentage of private capital in total capital			
		up to 25%	25% to 50%	50% to 75%	75% to 100%
Power engineering	34	8	10	7	9
Fuel industry	13	4	1	2	6
Ferrous metallurgy	96	8	5	7	76
Chemical and petrochemical	108	14	7	9	78
Machine building and metal processing	1,254	91	61	114	988
Woodwork, and pulp and paper industry	171	9	2	5	155
Light industry	221	13	3	9	196
Food industry	842	65	6	46	725
Transport	909	57	5	128	719
Construction	78	7			71
Other industries	4,526	377	67	420	3,662
Total:	8,252	653	167	747	6,685

[18. 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 programme 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

19. In response to questions concerning price regulations in Ukraine, in document WT/ACC/UKR/110/Add.2, the representative of Ukraine submitted the List of Goods, the Prices (Tariffs) of which are Subject to State Regulation (Annex 1) and the List of Services, Prices (Tariffs) of which are Subject to State Regulation (Annex 2). He said that pursuant to Article 23 of the Law of Ukraine "On Enterprises in Ukraine," No. 887-XII, dated 23 March 1991, business agents shall sell their products and property on the domestic market according to prices and tariffs which they determine independently or on a contractual basis, and, in cases provided by legislative acts of Ukraine, according to prices and tariffs subject to regulation. The Law of Ukraine "On Prices and Pricing," No. 507-XII, dated 5 December 1990, Resolutions of the Cabinet of Ministers of Ukraine "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 "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, dated 22 February 1995, are the basis for state price regulations. Pursuant to Article 9 of the Law of Ukraine "On Prices and Pricing," state fixed and regulated prices and tariffs shall be established on the following: resources, which significantly influence the general level and dynamics of prices; goods and services, which have significant social importance; and products, goods and services, production of which is concentrated at enterprises that have monopolistic status on the market. Price regulations were aimed at ensuring a balanced market for means of production, goods and services, creating necessary economic guarantees for producers, observing price parity between branches and types of business activity and counteracting monopolistic trends of producers of products, goods and services, as well as ensuring social guarantees, first of all, for low-paid and poor people. Pursuant to the Constitution of Ukraine, the authority for state price policy lies within the Cabinet of Ministers of Ukraine. According to the Law of Ukraine "On Prices and Pricing," the Cabinet of Ministers of Ukraine shall determine the list of products, goods and services for which state fixed and regulated prices are established. The Cabinet of Ministers of Ukraine shall also determine the powers of state authorities in the field of establishment and application of prices, as well as in relation to control over prices. State regulation of prices and tariffs shall be effectuated in the following ways: establishment of state fixed prices (tariffs); and establishment of limit levels of price (tariff) caps or limit deviation caps from state fixed prices and tariffs. The Cabinet of Ministers of Ukraine (pursuant to its Resolution No. 1819, dated 13 December 2000) entrusted the State Inspectorate on Prices Control with functions regarding state control over prices. The main tasks of Derzhtsininspektzia (State Inspectorate on Prices Control) are the following: organizing and conducting control and surveillance functions as regards observance of the requirements regarding formation, establishment and application of the regulated prices and tariffs by central and local authorities of the executive power, Council of Ministers of the Autonomous Republic of Crimea, enterprises, institutions and organizations, as well as monitoring prices and tariffs of goods and services in consumer markets, generalising the results of such monitoring and preparing suggestions regarding application of measures for stabilization of price situation.

20. In response to further questions concerning minimum prices maintained in a number of sectors such as alcohol and tobacco products, sugar, energy, transportation and others, the representative of Ukraine said that the Law of Ukraine, dated 19 December 1995, under No. 481/95-VR, "On State Regulation of Production and Circulation of Ethyl, Cognac and Fruit Alcohol, Alcoholic and Tobacco Products" and Resolution No. 700, dated 21 June 2001, "On Introduction of Minimum Prices for Domestic and Imported Vodka and Alcoholic Products" approved amounts of minimum prices for domestic and imported vodka and alcoholic products that are sold in Ukraine by

wholesale and retail enterprises, public catering establishments, producers, irrespective of their ownership forms, and by natural persons who are registered as entrepreneurs. Procedures for setting minimum prices for domestic and imported vodka and alcoholic products are governed by Order No. 371/168/239 of the Ministry of Finance, the Ministry of Economy and the Ministry of Agrarian Policy, dated 8 August 2001, "On Approval of Procedures for Setting and Application of Prices for Domestic and Imported Vodka and Alcoholic Products". Effective tariffs were equal for the carriage of domestic and foreign trade cargoes. They apply to all lines of the general railway network in Ukraine for all cargo forwarders and recipients. Tariff rates depend on distance, type of carriage, cargo weight and type of railway car. The list of products, goods and services, prices for which are subject to control at the sub-central level was approved by Resolution No. 1548 of the Cabinet of Ministers of Ukraine, dated 25 December 1996, "On the Determination of Price Regulation Powers of Agencies of Executive Power and Executive Bodies of City Councils". Territorial offices of the State Price Control Inspectorate – State Price Control Inspectorates in the Autonomous Crimean Republic, oblasts, Kyiv and Sevastopol – control compliance with procedures for formation, setting and application of state fixed and regulated prices in regions. Energy distribution companies shall determine retail prices on electricity for consumers (except for the general population) in accordance with the Terms and Rules for Effectuation of Entrepreneurial Activity on Distribution of Electricity under the Regulated Tariff, approved by the Resolution of the National Commission for Regulation of Electricity of Ukraine, No. 15/1, dated 13 June 1996. These tariffs are unified for all consumers of the appropriate class of voltage within the territory of the relevant energy distribution company. It depends on the level of the wholesale price of energy sold to the Wholesale Market of Energy of Ukraine, as well as costs of energy distributors for transportation of energy to consumers. The formation of wholesale tariffs for electric energy is realized in the wholesale market of electric energy of Ukraine on a contractual basis. Consumer prices for electric energy are set by suppliers of electric power according to conditions and rules of accomplishment of entrepreneur activity on supplies of electric power which are established by the NCPI. The NCPI defines the market procedure for computing the retail tariff for electric power, the level of which is determined on the basis of the average predicted purchasing price of electric power for the settlement month, corrected by the coefficient of technological losses of electric power and tariffs for transmitting and supplying electric power. In addition, the average predicted purchase price is determined by each operator of the electric power market (licensee) on the basis of actual and predicted prices for previous periods of time. This allows to operatively react to changes in market prices. The coefficient of technological losses of electric power takes into account normative technological expenses, and tariffs for supplies and transmitting of electric power are established according to actually incurred expenses by the operator of the electric power market of Ukraine (licensee). The state, with the purpose of preventing monopolization and unwarranted overestimation of prices in the market of electric power, regulates the operation of the electric power market using market mechanisms to attain it. The method and an example of the retail tariff computation is given in Annex 3. For the time being, indicative prices for the export of the following products were being set on a monthly basis: reinforcement rods, square billets, hot roll, stitch-free pipes of non-ferrous metals, ferrosilicon manganese, carbamide, ammonia, live cattle, live rams and sheep, skins and hides of cattle wet-salted and otherwise conserved, sheep's skins wet-salted, linseeds, sunflower seeds, seeds of red flax, and electric power. The indicative prices are set by the Ministry of Economics and European Integration of Ukraine upon the submission of the State Information and Analytical Center for External Commodity Markets Monitoring (Derzhzovnishinform) based on the results of review of information received from customs, financial, statistical state authorities, banking, information and other institutions of Ukraine and from other sources (global commodity exchanges data). Minimal indicative prices are listed in Annex 4. These prices serve as benchmarks for business entities entering in sale-purchase agreements.

[21. 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 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 Policies

22. The representative of Ukraine said that according to the Constitution, of 28 June 1996, the Law "On Restriction of Monopolism and Avoiding of Unfair Competition in Business Activity", No. 2132-XII, of 18 February 1992, and the Law "On the Protection from Unfair Competition", No. 236/96, of 7 June 1996, the state must protect competition, prevent abuse of monopoly position, illegal restriction of competition and unfair competition. The Antimonopoly Committee is authorized to control the implementation of the competition legislation. The monopolization of markets by a small number of enterprises was a basic problem for the competition policies of Ukraine. Ukraine had taken steps to reorganize, restructure, split and privatize state enterprises. The system of state regulation included natural monopolies as energy and communications to prevent the abuse of monopoly position and negative effects on competition. The Law "On Communication", No. 160/95, of 16 May 1995, had given to state enterprises exclusive right to own basic telecommunications and satellite telephone systems. Violations of monopoly legislation by central and local authorities were:

- Regulations of prices not in compliance with the legislation;
- Unauthorised granting of tax and other privileges; and
- Restrictions of movement of commodities within Ukraine.

FRAMEWORK FOR MAKING AND ENFORCING POLICIES

23. The representative of Ukraine said that Ukraine is a republic. The people is the only source of power in Ukraine. It exercises power directly or through central and local government authorities (Constitution, of 28 June 1996, Article 5 of 28 June). Ukraine is a unitary state (the Constitution, Article 2). The Autonomous Republic of Crimea is an integral part of Ukraine. It is only authorized to resolve only the matters referred to its competence (Constitution, Article 134). The sovereignty of Ukraine applies to all of its territory (Constitution, Article 2). Ukraine is a democratic state and the state power is divided into legislative, executive and judicial (Constitution, Article 6).

24. Article 7 of the Constitution provides that the only executive authority of Ukraine is the Supreme Rada. The parliament consists of four hundred and fifty deputies elected for four years. The main powers of the Supreme Rada are (Constitution, Article 85):

- Legislation;
- Approval of the state budget;
- Basic directions of foreign and domestic policy;
- Approval of national programs of the economic policy;
- Approval of lists of state property not subject to privatization; and
- Establishing the basic rules for the nationalization of state property.

The following are exclusive powers of the Supreme Rada (Constitution, Article 92):

1. Basic rules of:

- use of natural resources;
- use of the exclusive economic zone;
- use of continental shelf;
- exploitation of the outer space;
- organization and exploitation of energy, transport and communications systems;
- protection of property;
- entrepreneurship, guarantees of entrepreneurship;

- competition;
 - antimonopoly;
 - foreign relations;
 - foreign economic activities; and
 - the customs.
2. State budget and budget system of Ukraine.
 3. The system of taxation, taxes and fees.
 4. The rules for the establishment and operation of financial, monetary, loan and investment markets.
 5. The status of the national currency and foreign currencies.
 6. The procedures for the creation and repayment of the national foreign and domestic debt.
 7. The procedures for the issue and circulation of state securities, their types.

25. Article 113 of the Constitution states that the supreme body of the executive power is the Cabinet of Ministers. The cabinet is headed by the Prime Minister, appointed by the President. Thus the President has the most influence on the system of the executive power. The Cabinet includes the Prime Minister, the First Vice Prime Minister, three vice prime ministers, ministers (Constitution, Article 114). The Cabinet of Ministers is responsible for the financial, price, investment and tax policies and management of public property objects. The Cabinet of Ministers must develop draft laws on the state budget. It is responsible for the implementation of the state budget. It supervises foreign economic activities and the customs. It also directs and coordinates ministries and other central government authorities. There are 15 ministries and nearly 30 central government authorities (Decree of the President "On Changes in the Structure of Central Government Authorities", No.1573/99, of 15 December 1999).

26. The jurisdiction of the courts is universal. The judiciary consists of the Constitutional Court and courts of general jurisdiction. The courts of general jurisdiction consist of:

- Territory courts - raion, oblast, city courts, Supreme Court of the Republic of Crimea, Supreme Court of Ukraine.
- Specialized courts - garrison military courts, regional military courts, navy military courts, arbitration courts of Kiev, Sevastopol and oblasts, the Supreme Arbitration Court of Ukraine. (Constitution, Article 125), Law "On the Arbitration Court" No. 1142-XII of 4 June 1991, Law "On Judiciary" No. 2022-X of 5 June 1981). The supreme body of the system of the judiciary is the Supreme Court of Ukraine (Constitution, Article 125). The Supreme Arbitration Court is the supreme body for arbitration courts.
- Raion (city) courts consider civil, criminal and administrative cases (Law "On Judiciary", Article 25).
- The Supreme Court of the Republic of Crimea, oblast courts, Kiev and Sevastopol city courts and the Supreme Court of Ukraine consider civil and criminal cases and also perform the following procedures (Law "On Judiciary", No. 2022-X, of 5 June 1981, Articles 31, 40): cassation procedure; procedure of review of inferior courts' decisions; procedure of review of inferior courts' decisions on the reason of newly established circumstances.

The arbitration court of the Autonomous Republic of Crimea, oblast arbitration courts, Kiev and Sevastopol city courts settle commercial disputes, bankruptcy cases and review their own decisions because of newly established circumstances (Law "On the Arbitration Court", No. 1142-

XII, of 4 June 1991, Article 6). The Supreme Arbitration Court of Ukraine settles commercial disputes referred to its competence in Ukrainian law or international agreements. It may (but does not have to) consider any case if the plaintiff so requests. It may also review decisions of inferior courts (Law "On the Arbitration Court", No. 1142-XII, of 4 June 1991).

27. The local state administrations exist in every raion, oblast, as well as in Kiev and Sevastopol. The Cabinet of Ministers appoints heads of local state administrations with the approval of the President (Constitution, Article 118). The powers of local state administrations include (Constitution, Article 119):

- implementation of state and regional social, economic, environmental and cultural development programs; and
- preparation and implementation of the relevant local budgets.

Heads of local administrations are responsible to the President and the Cabinet of Ministers. They must report to superior executive authorities. Only the President may fire heads of local state administrations.

The Constitution, (Section XI) gives to local self-government institutions extensive powers. However they face serious financial difficulties in the exercise of these powers. Local budgets consist mostly of allocations from the sums of national taxes collected in the relevant territories and subsidies from the national budget. That is why local self-government is dependant on the executive authorities. Local self-government authorities are responsible to citizens.

POLICIES AFFECTING TRADE IN GOODS

Registration Requirements for Trading

28. The representative of Ukraine said that on 15 May 2003, the Supreme Rada of Ukraine passed the Law of Ukraine On State Registration of Legal Entities and Natural Persons Engaged in Entrepreneurial Activity. This Law provides for the state registration of business entities exclusively by the State Registrar – an official responsible for the registration of legal entities and natural persons engaged in entrepreneurship exclusively at the executive committee of the city council or with district authorities having jurisdiction over the location of the natural person-entrepreneur. Registration is accompanied by entering the due record of registration into the Single Registry of Legal Entities and Natural Persons Entrepreneurs. In accordance with the law, legal entity registration must be effected within three working days (for a natural person-entrepreneur – two days) from the date of receipt of documents requesting the state registration of a legal entity. A certificate of state registration of a natural person-entrepreneur must be issued not later than on the working day following the state registration date. The above mentioned law shall enter into effect as of 1 July 2004. No special conditions for registration of a subject of foreign economic activity apply in Ukraine.

29. The representative of Ukraine said that Ukraine had both the system of activities licensing and the system of licensing import and export operations. The system of activities licensing shall confirm the right of a business agent to carry out activities indicated in its licence. For example, the following activities shall be subject to licensing:

- exploration of minerals;
- production of explosives and explosive materials (according to the List established by the Cabinet of Ministers of Ukraine);
- production of specifically dangerous chemical substances;
- extraction and production of precious metals and stones, precious stones of organic formation and semiprecious stones; production of articles thereof;
- production of medicines, and wholesale and retail trade in medicines;

- production of veterinary medicines and preparations, and wholesale and retail trade in veterinary medicines and preparations;
- production of pesticides and agro-chemicals, and wholesale and retail trade in such pesticides and agro-chemicals;
- designing and production of special technical devices for recording of information from communication channels, and other devices of a secret receipt of information, and trade in special technical devices for recording of information from communication channels and other devices of a secret receipt of information;
- designing, production, implementation, maintenance and research of effectiveness of the systems and devices for technical protection of information, and rendering of services in the field of technical protection of information;
- development, production, storage, transportation, purchase, conveyance, importation, exportation, sale and destruction of narcotics, psychotropic substances and precursors;
- production of securities forms and the registered documents forms;
- medical practice;
- veterinary practice;
- services on transportation of passengers and cargo by aircraft;
- services on transportation of passengers and cargo by river and sea transport;
- services on transportation of passengers and cargo by motor transport;
- services on transportation of passengers and cargo by railway transport;
- purchase, processing and metallurgical processing of non-ferrous and ferrous metals scrap; and
- operations on import and export of spirits, alcoholic beverages and tobacco goods, and others.

In order to obtain the licenses, an agent of entrepreneurial activity shall apply to the licensing authority with an application of the established form with the request to issue a 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.

Upon submission of the especially authorized body on licensing issues, the Cabinet of Ministers of Ukraine shall establish the validity term of a licence to carry out the certain type of business activity. The validity term shall not be less than three years. The Ministry of Economy and European Integration of Ukraine or its authorized regional authority shall establish the regime of individual licenses for export and import operations. A licence for performing export and import operations is the basis for the passing of goods subject to licensing regime through the customs border.

30. The representative of Ukraine said that the export and import of optical media equipment and discs operations were among activities subject to licensing. The Cabinet of Ministers of Ukraine (its Resolution "On the Approval of the List of Licensing Authorities," No. 1698, dated 14 November 2000) designated the Ministry of Economy and European Integration of Ukraine as the authority which licenses the activities of exporting and importing optical media equipment and discs.

The Order of the Ministry of Economy and European Integration of Ukraine, No. 244, dated 8 August 2002, registered with the Ministry of Justice of Ukraine, Order No. 704/6992, dated 23 August 2002, approved the procedure for issuance of a licence for the above activities. In order to obtain the licence, it is necessary to submit an application in the established form. The application must contain 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.

At the same time, the following documentation must be 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).

A licence for activities of exporting and importing optical media discs shall give the right to carry out export and import of discs only upon availability of the special identification codes (CID-codes) on such discs. An agent of entrepreneurial activity shall be obliged to export and import only those discs produced with the observance of intellectual property rights. At the same time, an agent of entrepreneurial activity, which obtained a licence, shall be obliged to notify the Ministry of Economy and European Integration of Ukraine on each allotment of optical media discs and/or submit the list of equipment for production of optical media discs exported and/or imported. Such notification shall be effectuated by a letter which shall also contain the list of copyright and related rights objects (if applicable), number of cargo customs declaration and copy of cargo customs declaration for the given allotment, duly certified. The said letter must be submitted within 15 days from the date of effectuation of export/import operation. The following shall be the grounds for refusal to issue a licence:

- false information submitted by an applicant; and

- discrepancy between the submitted documents and Licensing Terms and Conditions established for the given business activity.

In case of refusal to issue a licence on the basis of discovered false information in the submitted documents, the new application shall be accepted not earlier than three months from the date of making decision to refuse a licence. Licenses shall be issued for three years. A fee in the amount of 340 Hryvnias shall be charged. This corresponds to expenses for processing of the licence.

31. The representative of Ukraine said that import operations of precious metals and precious stones into Ukraine were not subject to licensing. The activity of exporting the following precious metals and precious stones from Ukraine shall be subject to licensing:

- colloidal precious metals; inorganic or organic compounds of precious metals, whether or not chemically defined; amalgams of precious metals (code 2843);
- diamonds, whether or not worked, but not mounted or set (code 7102);
- 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 (code 7103);
- silver (including silver plated with gold or platinum), unwrought or in semi manufactured forms, or in powder form (excluding banking metals (code 7106);
- gold (including gold plated with platinum), unwrought or in semi manufactured forms, or in powder form (excluding banking metals (code 7108);
- platinum, unwrought or in semi manufactured forms, or in powder form (excluding banking metals) (code 7110); and
- waste and scrap of precious metal or of metal clad with precious metal (code 7112).

The term of a licence for carrying out the above business activity shall be three years. A fee in the amount of 340 Hryvnias shall be charged for the licence.

32. The representative of Ukraine said that the regime of import of narcotics was governed by the Law of Ukraine "On Turnover of Narcotics, Psychotropic Substances, Their Analogs and Precursors," No. 60/95-VR, dated 15 February 1995, taking into account international obligations of Ukraine. The Law provides that import or export of narcotics shall be carried out by the authorized body of the Cabinet of Ministers of Ukraine according to a certificate (a separate permit) issued by the Committee on Control Over Narcotics attached to the Ministry of Health Protection of Ukraine. Issuance of the certificate shall be effectuated in agreement with the Security Service of Ukraine. The Resolution of the Cabinet of Ministers of Ukraine "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," dated 3 February 1997, shall determine the procedure for issuance of the certificate and its sample. In order to obtain the certificate to export/import narcotics, psychotropic substances and precursors, a company shall submit the following documents to the Committee:

- application on a company's letterhead addressed to the Head of the Committee. The said application must contain the following information:
 - purpose of importation;
 - complete names, exact addresses and telephone (telexes) numbers of the importer (consignee) and exporter;
 - international nonproprietary 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.

The term of a licence for carrying out the above business activity shall be three years. A fee in the amount of 340 Hryvnias shall be charged for the licence issuance. Production of medicines, wholesale and retail trade in medicines is an activity that is subject to licensing according to the Law of Ukraine "On Licensing Certain Business Activities," No. 1775-III, dated 1 June 2000. The founding documents of an agent of business activity must indicate activities that are subject to licensing.

33. The representative of Ukraine said that the production of medicines, wholesale and retail trade in medicines shall be effectuated on the basis of a licence for the given activity. Applications for licenses to carry out these activities shall be submitted to the State Department for Control over Quality, Safety and Production of Medicines and Articles of Medical Purpose. In order to obtain a licence, a business agent shall submit an application in the established form to the State Department for Control over Quality, Safety and Production of Medicines and Articles of Medical Purpose. The application must contain 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;
- identification code for a legal entity (identification number for a physical person);
- type of activity;
- location of effectuation of the activity; and
- obligations concerning the fulfilment of licensing terms and conditions.

At the same time, 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. The following shall be the grounds for refusal of a licence:

- false information submitted by an applicant; and
- discrepancy between the submitted documents and Licensing Terms and Conditions established for the given business activity.

In case of refusal of a licence on the basis of discovered false information in the submitted documents, a new application shall be accepted not earlier than three months from the date of making decision on refusal in a licence issuance. An agent of business activity, while carrying out activities on production of medicines, wholesale and retail trade in such medicines, must ensure observance of consumer rights and effectuate its activities in accordance with the Law of Ukraine "On Enterprises in Ukraine" and "On Ensuring of Sanitary and Epidemiological Well-being of Population." Business agents may carry out production of medicines, wholesale and retail trade in medicines on the basis of a licence on the given activity, if they meet qualifying, organizational and other special requirements as established by licensing terms and conditions. Medicines may be produced after their registration. Only medicines registered in Ukraine shall be allowed in wholesale and retail trade. These medicines must also have a quality certificate issued by the producer. Trade in medicines shall be carried out only through chemist's shops and pharmaceutical centers (warehouses) which must pass state accreditation within a year from the date of a licence issuance. The production of medicines shall be carried out following technical and technological regulations for production of medicines, and analytical normative documentation (pharmacopoeia article and technical terms and conditions) worked out in accordance with normative documents and standards applied in medical and microbiological industry. Wholesale trade in medicines shall be effectuated only through pharmaceutical centers (warehouses). It is mandatory for a pharmaceutical center (warehouse) to have a valid State Pharmacopoeia, normative and technical and normative and legal documents, and special reference literature on the issues of dose, control over quality, storage, and procedure for distribution (shipment) of medicines. Retail trade in medicines shall be effectuated only through chemist's shops and their structural units (pharmaceutical points and pharmaceutical stands). Chemist's shop fronts or their separate structural unit fronts should have the appropriate signboard, indicating the name of business agent and its owner or the owner's authorized body. Individuals who are directly engaged in production, wholesale and retail trade must have the relevant education and meet the unified qualifying requirements. Such individuals must possess the following documents:

- diploma of state standard on pharmaceutical education; and
- certificate on awarding (acknowledgement) of pharmacist rank of general type (for specialists graduated from academies (universities) after 1992).

Specialists who passed special training in educational institutions of foreign countries shall be allowed to carry out professional activities after examination of their qualification. Specialists who do not work within three years on a specialty indicated in their diplomas and certificates shall be allowed to carry out activities on production of medicines, wholesale and retail trade in medicine only after passing through retraining. The term of a licence for carrying out the above business activity shall be three years.

34. The representative of Ukraine said that the Law of Ukraine "On State Regulation of the Production and Trade in Ethyl, Cognac and Fruit Spirits, Alcoholic Beverages and Tobacco Goods (with changes and amendments)," No. 493, dated 19 December 1995, and the Resolution of the Cabinet of Ministers of Ukraine "On Provisional Procedure for Issuance of Licenses to Import and Export Ethyl, Cognac and Fruit Spirits, Alcoholic Beverages and Tobacco Goods," No. 493, dated 13 May 1996, shall govern licensing to import and export spirits, alcoholic beverages and tobacco goods. Licenses to import and export ethyl and fruit spirits, distilled grape ethyl spirits and distilled fruit ethyl spirits shall be issued only to the state-owned enterprises and organizations specifically authorized for such purposes by the Cabinet of Ministers of Ukraine. Licenses to import and export

cognac spirits shall be issued only to the specialized cognac enterprises. The Cabinet of Ministers of Ukraine shall approve the list of the specialized enterprises. The Ministry of Economy and European Integration of Ukraine upon consent of State Department on the Issues of Excise Duty Administration and Control over Production and turnover Excise Goods of the State Tax Administration of Ukraine shall issue the licenses separately for importing and exporting. In case the Cabinet of Ministers of Ukraine shall entrust the enterprises which produce ethyl, cognac and fruit spirits, distilled grape ethyl spirits and distilled fruit ethyl spirits with powers to export such spirits or sell such spirits through wholesale trade to Ukrainian consumers, the enterprises shall be exempted from a fee on the licence to export such spirits within the amounts of their own production. In order to obtain a licence, the following documents must be submitted:

- 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;
- 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
- 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).

The processing and issuance of a licence shall be effectuated on the basis of a copy of the payment order (with the bank's mark) submitted by an applicant which confirms transfer of the annual fee for a licence to the State budget of Ukraine, as well as on the basis of a reference of the relevant financial authority regarding actual receipt of the funds by the State budget of Ukraine. Issuance of a licence shall be effectuated upon availability of the duly made power of attorney for receipt of such licence and a document which identifies the person. The decision to refuse a licence will be made when:

- a discrepancy exists between the submitted documents and applicable laws of Ukraine;
- applicant violates Ukrainian laws in the field of foreign economic activity; and
- non-receipt of consent on issuance of a licence from State Department on the Issues of Excise Duty Administration and Control over Production and turnover Excise Goods of the State Tax Administration of Ukraine.

In case of refusal to issue a licence, the period for review of the documents shall suspend until the applicant submits the reviewed and improved documents or the appropriate substantiation. Licenses shall be issued for five years. A licence fee shall be charged annually. The amount of a licence fee shall be 170,000 Hryvnias. In case of late payment of the regular fee, a licence shall be suspended.

35. The representative of Ukraine said that business activities related to the production of pesticides and agro-chemicals, wholesale and retail trade in such products were activities subject to licensing. The Law of Ukraine "On Pesticides and Agro-Chemicals," No. 86-95/VR, dated 2 March 1995, and the joint Order of State Committee of Ukraine for the Issues of Regulator Policy and Entrepreneurship and Ministry of the Industrial Policy of Ukraine "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, dated 22 February 2001, shall govern licensing terms and conditions of the said activities. Pesticides and agro-chemicals of domestic production, as well as foreign ones, imported for use into Ukraine must meet the following requirements:

- high biological effectiveness as to designated purposes;

- safety for human health and the environment of regulations for their use are observed; and
- conformity to state standards, sanitary norms and other normative documents.

It was prohibited to import into the customs territory of Ukraine, produce, sell, use and advertise pesticides and agro-chemicals prior to their state registration. The State Interdepartmental Commission of Ukraine on the Issues of Testing and Registration of Plant Protection Means and Growth Regulators shall issue a permit to import and use unregistered pesticides and agro-chemicals, if such pesticides and agro-chemicals meet the following requirements:

- they are considered as customs cargo and are under customs control;
- they are used for scientific and research purposes;
- they are imported during rise of a threat of mass seats for reproduction of dangerous organisms;
- they are designated for combatting plant microorganisms within the closed areas or pipeline systems on enterprises and institutions of mining, nuclear and medical industries; and
- they are imported together with seeds which were treated with protective and stimulant substances that pursuant to their chemical content and action methods meet analogs registered in Ukraine.

In order to import and use pesticides and agro-chemicals, unregistered in Ukraine, for the above purposes, it is mandatory to present documentary confirmation of their use in the country where they are produced. Entrepreneurial activity in the field of production, wholesale and retail trade in pesticides and agro-chemicals shall be carried out on the basis of a licence. The Ministry of Industry of Ukraine shall issue a licence for production, wholesale and retail trade in pesticides and agro-chemicals. In order to obtain a licence, a business agent shall submit an application of the established form. The said application must contain 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;
- identification code for a legal entity (identification number for a physical person);
- type of activity;
- location of effectuation of the activity; and
- obligations concerning the fulfillment of licensing terms and conditions.

At the same time, 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. The following shall be the grounds for refusal to issue a licence:

- false information submitted by an applicant; and
- discrepancy between the submitted documents and Licensing Terms and Conditions established for the given business activity.

In case of refusal of a licence on the basis of discovered false information in the submitted documents, the new application shall be accepted not earlier than three months from the date of making the decision on refusal of the licence. In order to carry out business activities on production of pesticides and agro-chemicals, a business agent must ensure mandatory observance of the requirements of technological regulations and rules. 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. A term of a licence for carrying out the above business activity shall be three years. A licence fee shall be charged in the amount of 340 Hryvnias.

36. The representative of Ukraine said that pursuant to Article 9 of the law of Ukraine "On Medicines," the Cabinet of Ministers of Ukraine shall determine the procedure for state registration of medicines. The Resolution of the Cabinet of Ministers of Ukraine "On the Approval of the Procedure for State Registration (Re-registration) of Medicines and Fees for State Registration (Re-registration) of a Medicine," No. 1422, dated September 2000, as changed and amended by the Resolution of the Cabinet of Ministers of Ukraine, No. 678, dated 21 June 2001, established the following fees for state registration (re-registration) of a medicine. The applicant shall pay a fee for state registration (re-registration) of a medicine to the State budget of Ukraine. A fee for state registration (re-registration) of a medicine shall be paid in Hryvnias or in a foreign currency. Conversion into Hryvnias shall be effectuated pursuant to the official exchange rate of the National Bank of Ukraine as of the date of state registration (re-registration) of a medicine. A fee for state registration (re-registration) of a medicine shall be charged in Hryvnias in the following amounts:

- for state registration:
 - of a medicine (except for radioactive medicines, diagnostic means and simple or complex (*halenic*) preparations of plant medical raw materials) – in the amount equal to 1,000 EURO for each medical form, 100 EURO for each next dose and 100 EURO for each next package of a medicine; and
 - of a radioactive medicine, diagnostic means and simple or complex (*halenic*) preparations of plant medical raw materials – in the amount equal to five hundred 500 EURO for each medical form, 50 EURO for each next dose and 50 EURO for each next package of a medicine.

- for re-registration:
 - of a medicine (except for radioactive medicines, diagnostic means and simple or complex (halenic) preparations of plant medical raw materials) – in the amount equal to 500 EURO for each medical form, 50 EURO for each next dose and 50 EURO for each next package of a medicine; and
 - of a radioactive medicine, diagnostic means and simple or complex (*halenic*) preparations of plant medical raw materials – in the amount equal to 250 EURO for each medical form, 25 EURO for each next dose and 25 EURO for each next package of a medicine.
- for state registration (re-registration):
 - of a medicine supplied in bulk, as well as of medicine packed up in Ukraine from in bulk supply – in the amount equal to 25 EURO for each medical form and 25 EURO for each next package of a medicine; and
 - of substances (active and auxiliary matters) – in the amount equal to 25 EURO for each item.

[37. 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.]

Import Regulations

Customs Tariff

38. In response to questions concerning the customs tariff and the existence of surcharges, the representative of Ukraine said that products, imported into the customs territory of Ukraine, are subject to import duty at rates set by Law of Ukraine No. 2371-III of 5 April 2001 "On Customs Tariff of Ukraine" (effective since 1 July 2001) as amended. Law of Ukraine No. 2097-XII of 5 February 1992 "On Single Customs tariff" provides that in case products, imported into Ukraine, are subject to antidumping, compensatory or special measures in accordance with Laws of Ukraine "On Protection of the national manufacturer from dumping-priced imports", "On Protection of the national manufacturer from subsidized imports", non-regular types of duty may be applied which are levied on the basis of the Inter-Departmental Commission of International Trade's decisions to apply antidumping, compensatory or special measures. In particular, Article 11 of Law of Ukraine No. 2097-XII of 5 February 1992 provides for the following types of non-regular duty: special duty; antidumping duty; compensatory duty. Ukraine's current legislation does not provide for any other type of tariff surcharges on products imported into Ukraine.

39. The tariff structure of Ukraine at present was as follows:

Table 4

Ukrainian applied customs tariff									
Customs duty rate (%)	0	0-5	5-10	10-15	15-20	20-25	more than 25	specific rate	Total
number of tariff lines	1,785	3,869	1,797	658	346	434	291	1,762	10,942
percentage of total number of lines	16.31	35.36	16.42	6.01	3.16	3.97	2.66	16.10	100

The maximum of the customs duty rate is:					
for items of groups 1-24:	50 % (of which 0.4% are more than the 25 % rate)				
for items of groups 25-97:	50 % (of which 0.1% are more than the 25 % rate)				
average rate of the applied custom tariff (%)	10.49				
average weighted rate of the applied custom tariff (%)	5.64				

Other duties and charges

40. In response to the request by some Members of the Working Party that Ukraine undertake a commitment to eliminate upon accession and bind at zero the other duties and charges not related to cost of a specific customs or other service governed by the provisions of Article II:1(b) of the GATT 1994 and the relevant Understanding, the representative of Ukraine said that this issue would be addressed in the context of the preparation of the Working Party Report.

Fees and Charges for Services Rendered

41. In response to the request that Ukraine provide information on duties, fees and charges applied to imports and their level of application, the representative of Ukraine said that currently, the following duties, fees, and charges are applied to imports pursuant to effective Ukrainian law: (1) Import Duty: Import duties are imposed on all goods imported into Ukraine at the time such goods cross a customs border (in case of customs clearance at the border) or in the course of customs clearance by internal customs offices located at the address of an importer. Conditions under which import duties are calculated and charged are set out in the Law of Ukraine, dated 5 February 1992, No. 2097-XII, "On the Single Customs Tariff". Import duties are calculated on the basis of customs value of goods or as a flat charge per unit. Import duties are paid by payers prior to/or on the date of customs clearance in Ukrainian hryvnias. Import duties are differentiated: preferential import duty rates are applied to goods that come from countries that are part of customs unions together with Ukraine or have with Ukraine special customs zones, and in the event that any special preferential customs regime is established pursuant to international treaties and agreements to which Ukraine is a party; privileged import duty rates apply to goods that come from countries or economic unions that enjoy MFN treatment in Ukraine; and full (common) import duty rates apply to all other goods. Pursuant to the Law "On the Single Customs Tariff", it is permitted to set preferences with respect to import duty rates in Ukraine in the form of exemption from import duties, reduction of import duty rates or establishment of quotas for preferential importation of goods and other items. Import duty rates are set by the Law of Ukraine, dated 5 April 2001, No. 2371-III "On the Customs Tariff of Ukraine". (2) Customs Fees: Pursuant to Articles 76 and 77 of the effective Customs Code of Ukraine, customs fees are charged for customs clearance and customs control of motor vehicles, goods and other items that cross the customs border of Ukraine. In accordance with Article 77 of the effective Customs Code of Ukraine, customs authorities charge customs fees for customs clearance of goods and other items at customs control zones within territories and in premises of enterprises that store such goods and other items, or after regular working hours prescribed for customs offices, and for storage of goods and other items under responsibility of customs offices in cases when a transfer of such goods and other items into storage is not mandatory under Article 85 of the Code. Rates of customs fees are approved by Resolution No. 65 of the Cabinet of Ministers of Ukraine, dated 27 January 1997, "On Rates of Customs Fees". The Customs fees indicated below will be charged until 1 January 2004. (See the Table below)

Table 5

No.	Name of the transaction	Amount of the fee
1.	Customs clearance of goods and other items if their customs value: is under US\$100	not charged

No.	Name of the transaction	Amount of the fee
	ranges from US\$100 to US\$1,000	US\$5
	is over US\$1,000	0.2% of customs value of goods, but not more than US\$1,000
2.	Customs clearance of temporally imported (exported) property, subject to an obligation to export (import) same back:	
	for each cargo customs declaration	US\$30
	for each additional sheet thereto	US\$15
3.	Customs clearance of goods if brought into a licensed customs warehouse:	
	for each cargo customs declaration	US\$30
	for each additional sheet thereto	US\$15
4.	Stay of goods and other items under customs control, for each day of stay:	
	for the first fifteen calendar days	is not charged
	for each next calendar day	0.05% of total customs value of goods
5.	Customs clearance of goods at customs control zones within territories and in premises of enterprises that store such goods and other items, or after regular working hours prescribed for customs offices (for 1 hour of work of one customs officer):	
	during working hours	US\$20
	during non-working hours, Saturdays, Sundays	US\$40
	holidays	US\$50

In addition, pursuant to Resolution No. 285 of the Cabinet of Ministers of Ukraine, dated 7 March 1998, in the event of customs clearance of scrap metal and ferrous and non-ferrous metal scrap exports, rates of customs fees for customs clearance of such products, stay thereof under customs control and a summons of a customs inspector are paid by business entities five times customs fee rates of such type, except for business entities that export such products pursuant to a State program for utilisation metals in common types of ammunition not suitable for further use and storage.

Resolution No. 1460 of the Cabinet of Ministers of Ukraine, dated 18 September 1998, approved an additional customs fee for customs clearance of oil products that are imported into the customs territory of Ukraine and are subject to the .01 ECU per kilo excise duty that is transferred into the State Budget and specially directed into the Pension Fund. This Resolution does not apply to oil products that are produced and sold in Ukraine. Customs fees indicated above will be charged until 1 January 2004.

The new Customs Code of Ukraine adopted by the Supreme Rada of Ukraine on 11 July 2002, No. 92-IV (Article 71), upon entry into force (1 January 2004), will introduce such terms as "fees for customs clearance of goods, if such clearance takes place off-location or after regular working hours prescribed for customs authorities". Amounts of such fees as set by Resolution No. 93 of the Cabinet of Ministers of Ukraine, dated 18 January 2003, are as follows:

Table 6

No.	Name of the transaction	For 1 hour of work during customs clearance of one shipment of goods or one motor vehicle, in US\$
1.	Customs clearance of goods and motor vehicles off-location by customs authorities:	

	during working time	20
	during extra hours, night time and on weekend days	40
	on holidays and non-working days	50
2.	Customs clearance of goods and motor vehicles on location by customs authorities after regular working hours prescribed for customs authorities:	
	during extra hours, night time and on weekend days	40
	on holidays and non-working days	50

(3) Unified Fee: In order to simplify procedures for customs clearance of motor vehicles that cross the customs border of Ukraine, the Supreme Rada of Ukraine adopted on 12 July 2001 Law No. 2659-III, "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". Information concerning the Unified Fee is reproduced in document WT/ACC/UKR/100. Pursuant to this Law, the unified fee will be charged at points of entry through the state border of Ukraine upon national and foreign owners of motor vehicles. This fee consists of fees for customs control of cargoes and motor vehicles in transit and for sanitary, veterinary, phytosanitary, radiological and environmental control, and of fees for passage by motor vehicles, other self-propelled machines and mechanisms by highways in Ukraine. Pursuant to Article 2 of the Law of Ukraine, dated 12 July 2001, under No. 2659-III, the unified fee shall be charged one time, depending on a regime of passage (importation, transit) under a single payment document. Unified fee rates are approved by Article 5 of the said Law of Ukraine in EURO. Unified fees are charged at points of entry through the State border of Ukraine in Ukrainian hryvnias pursuant to the official exchange rate of the National Bank of Ukraine effective on the date of payment of such fees. The same range of controls regardless the destination of the goods applied to identical goods in transit.

Article 2 of Law No. 2659-III of Ukraine, dated 12 July 2001, sets the following unified fee rates:

Table 7

Type of motor vehicle	Capacity or total mass of the motor vehicle with cargo	Unified fee rate per unit of motor vehicle in EURO	
		For performance of control	For passage by highways for each kilometre of passage
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 (for each next 10 tons)	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

Type of motor vehicle	Capacity or total mass of the motor vehicle with cargo	Unified fee rate per unit of motor vehicle in EURO	
		For performance of control	For passage by highways for each kilometre of passage
6. Railway car, container		2	-

(4) Port Fees: The special fees charged at Ukrainian ports were as follows: ship fees, berthage fees, anchor fees, canal fees, lighthouse fees, cargo fees, administrative fees and sanitary fees. Pursuant to Resolution No. 1544 of the Cabinet of Ministers of Ukraine dated 12 October 2000, "On Port Fees", ship fees have two rates: ordinary and privileged. Ship fees under privileged rates are charged upon vessels that carry flags of those countries with which Ukraine has entered into international treaties and agreements for the grant of Most Favoured and National Treatment to their vessels. The fees do not depend on whether the cargo being carried is imports or exports. The Regulation on Port Fees is reproduced in Annex 7 of document WT/ACC/UKR/110/Add.2.

42. In response to questions concerning the state duties, the representative of Ukraine said that the State duties do not apply to foreign economic operations. Pursuant to Item 2 in Article 2 of Decree No. 7-93 of the Cabinet of Ministers of Ukraine, dated 21 January 1993, "On State Duties", state duties applied for the filing with commercial courts of lawsuits and creditors' claims in bankruptcy proceedings, the filing of appeals and pleas of cassation against, and for the filing of petitions for the review of decisions and orders under newly discovered circumstances. Pursuant to Sub-item d), Item 2 in Article 3 of the above Decree, state duties shall be charged for the filing of appeals and pleas of cassation against decisions and orders, and for the filing of petitions for the review of such decisions and orders under newly discovered circumstances in the amount of 50 per cent of a rate that is to be paid if a lawsuit is filed with a court of first instance (UAH 42.5), and with respect to disputes involving property – 50 per cent of the rate calculated proceeding from the amount in dispute (0.5 per cent of the price of a claim, but not less than UAH 25.5 and not more than UAH 850).

43. In response to the request by some Members of the Working Party that Ukraine undertake a commitment that after accession, all customs fees and charges for services rendered, related to importation or exportation, will be applied by Ukraine in full conformity with the provisions of Articles I, V, VIII, X and XI of the GATT 1994, and all the relevant provisions in other WTO Agreements relating to fees and charges, and that information regarding their application and level, revenues collected and use would be provided to WTO Members upon request, the representative of Ukraine said that this issue would be addressed in the context of the preparation of the Working Party Report.

Application of Internal Taxes on Imports

Excise Taxes

44. Some Members of the Working Party highlighted a number of inconsistencies in the excise taxation system with WTO requirements, because contrary to Article III of GATT 1994, domestic production was afforded protection through reduced rates of excise tax compared to those applied to imports. The representative of Ukraine said that discrimination against goods of foreign origin as regards the levying of the excise tax provided for in current legislation was of a temporary character. The application of preferential rates of excise tax in respect of wine products and brandies manufactured in Ukraine shall be valid until 1 January 2004. The Ministry of Economy and European Integration of Ukraine in concurrence with other ministries, had been drafting laws and/or amendments to the Tax Code of Ukraine aimed at eliminating preferences for domestic automobile manufacturers that currently include the following: tax exemption from payment of excise tax on

sales of automobiles. Furthermore, the draft Tax Code of Ukraine as approved on 11 September 2001 in second reading by the Supreme Rada of Ukraine, provides, inter alia, for the harmonization of provisions in Chapter IV Value Added Tax and in Chapter V Excise Tax with the requirements of WTO Agreements. The Ministry of Finance of Ukraine in concurrence with the State Tax Administration of Ukraine, conducts follow-up monitoring of the deliberations on the draft Tax Code for the third reading at the Supreme Rada of Ukraine. It is expected that the Tax Code will be finally adopted in 2003 and will go into force on 1 January 2004. Ukraine submitted a list of excise taxes and other information on their application to domestic and imported goods in documents WT/ACC/UKR/110 and Add.1. In Annex 8 of document WT/ACC/UKR/110/Add.1, Ukraine provided the comprehensive list of excise taxes as amended by the Law of Ukraine of 24 October 2002 No.195-IV "On Introducing Amendments to Certain Laws of Ukraine on Taxation, Manufacture, and Circulation of Excisable Goods" and by the Law of Ukraine of 24 December 2002 No.347-IV "On Introducing Amendments to Certain Laws of Ukraine on Matters of Levying Tax on Excisable and Some Other Goods", and information on the application thereof to domestic and imported products. The Law of Ukraine of 24 May 1996 No. 216/96 "On Rates of Excise Tax and Import Duties on Certain Vehicles" provided for temporary (until 1 January 2007) exemption from the payment of excise duty on revenues from sales of passenger and dual-purpose automobiles and motorcycles manufactured by Ukrainian enterprises of all forms of ownership. Such exemptions extend to revenues from sales of vehicles manufactured at Ukrainian enterprises from imported and domestically manufactured components, provided the annual output is no less than 1,000 automobiles or 1,000 motorcycles.

45. With reference to automobiles, the representative of Ukraine said that in order to harmonize Ukrainian legislation on support for the automobile industry with the provisions of Partnership and Cooperation Agreement between Ukraine and the EU (PCA) and with the requirements of the World Trade Organization a Draft Law was being prepared to introduce amendments to the Law of Ukraine "On Stimulation of Automobile Production in Ukraine". The draft law provides for: determination of new criteria for providing privileges to the enterprises in the car industry; elimination of privileges for the domestic enterprises with investment in car production, production of components and spare parts, in particular privileges in the form of:

- exemption from VAT on imports (mailing) of goods used in the construction and manufacturing activity of the enterprises with investment in car production, production of components and spare parts;
- exemption from VAT and excise duty on sales of cars for enterprises with investment in car production, production of components and spare parts;
- exemption from tax on land for enterprises with investment in car production, production of components and spare parts;
- granting the following privileges to the enterprises producing car, components and/or spare parts thereto, according to the criteria set forth in Draft Law, for a period of five years from the moment of approval of their investment programs by the Cabinet of Ministers of Ukraine, but not later than 31 December 2008:
 - Exemption from income tax and on that part of income, that is re-invested into production; and
 - Exemption from import duty on goods used in the construction, re-construction, technical re-equipment and modernization of production.

46. The representative of Ukraine said that the Law of Ukraine, dated 24 December 2002, under No. 195-IV "On Amendments to Certain Laws of Ukraine on Taxation, Production and Circulation of Excisable Goods", which entered into force on 1 January 2003, sets a uniform privileged rate of excise tax in the amount of UAH 2 per 1 litre of 100 per cent alcohol for ethyl alcohol (domestic and imported), which is used by health care organizations and institutions for purposes of the treatment

and diagnostic process and accomplishment of laboratory tests as well as by production business entities, and temporarily, until 1 January 2005 – for denaturated ethyl alcohol (technical alcohol), which is used by business entities. In order to control that the alcohol mentioned in the above paragraph is used pursuant to designated purposes, the Law provides for bank-avaled promissory notes, which are issued, prior to receipt of ethyl alcohol, by business entities for a period of 90 days for an amount calculated on the basis of the volume of alcohol purchased and the difference between the full excise tax rate for ethyl alcohol and the privileged rate. The tax promissory note is considered repaid upon presentation of documentary confirmation that the ethyl alcohol has been used for the designated purpose. In the event that ethyl alcohol or denaturated ethyl alcohol (technical alcohol) is not used pursuant to designated purposes, such business entities will be subject to a penalty in the amount that is calculated proceeding from amounts of ethyl alcohol or denaturated ethyl alcohol (technical alcohol) used for purposes other than those designated and the excise tax rate specified in Article 1 of this Law (UAH 17.4 per litre of 100 per cent alcohol) as increased by 1.5.

VAT

47. Some Members of the Working Party noted that the sales of domestic automobiles are exempted from the VAT through 1 January 2008, and that numerous other sectors, from shipbuilding to aircraft to spacecraft, enjoyed similar treatment, and requested that Ukraine prepare draft notifications for these subsidies for Working Party review. The representative of Ukraine said that Ukraine was preparing a draft notification of the existing subsidies according to the requirements of Article 25.1 of the Agreement on Subsidies and Compensation Measures. According to item 5.1.7. of the Law of Ukraine "On Value-Added Tax" No. 168/97 of 3 April 1997 (with changes and amendments) medicines registered in Ukraine in accordance with a legal procedure shall be tax exempted. According to Article 9 of the Law of Ukraine "On Medicines" No.123/96 of 4 April 1996 (with changes and amendments) medicines (irrespective of the country of origin) shall be admitted for use in Ukraine upon their registration. Item 5.5 of the Law of Ukraine "On Value-Added Tax" determines that exemption from taxation shall also apply to importing into the customs territory of Ukraine of these products. These tax benefits shall be applicable to medicines of both domestic origin and imported. To ensure that application of VAT would be fully consistent with the provisions of Article III:2 of GATT 1994, the draft Law "On Incorporating Amendments to the Law of Ukraine "On Value-Added Tax" (registration No.1277-1) had been included in the agenda of the Verkhovna Rada of Ukraine. The Draft had passed the first reading and was presently prepared for the second. The prepared legislative proposals provide for cancelling benefits, including those by industry attribute, in particular in shipbuilding, aircraft construction, as well as restricting exemption from taxation of sales of medicines and medical products through establishing the list of vital medicines and medical products, to which benefits shall be applied. In addition, it is proposed to cancel preferential tax treatment in agriculture, and introduce restricted collection treatment in the area of agriculture and forestry or fishing. In the event of selling agricultural products (services) of own production by the subject of entrepreneurial activity to registered VAT payers the charge shall be established in the size of 6 per cent – for agriculture, and 4 per cent – for products (services) of forestry or fishing from the selling price, instead of the VAT zero rate.

The amendments contained in Draft Law No.1277-1 include: Medicines: The Draft Law proposes to restrict exemption from taxation of sales of medicines and medical products. The list of sales of vital medicines and medical products registered in Ukraine in duly established procedure that will be exempted from the value-added tax shall be approved of by the Cabinet of Ministers of Ukraine. Agriculture: The draft law proposes to cancel: the norm providing for the value-added tax with the zero rate for sales of live weight milk and meat to processing companies with regard to producers of all forms of ownership and economic activity; the norm providing for the value-added tax - subject to payment to the budget by agricultural enterprises of all forms of ownership for sold milk, cattle, poultry, wool, as well as dairy and meat products, produced at own processing facilities - being kept for disposal of such agricultural enterprises and allocated for support of own production of cattle-breeding and poultry products; the norm providing for the value-added tax - with regard to sales

of products (works, services) of own production, including products (except for excisable) produced on the give-and-take basis from own agricultural raw materials, with the exception of sales of live weight milk and meat to processing enterprises, carried out by agricultural producers irrespective of their organizational and legal form and ownership form - being kept at the disposal of agricultural producers and used by them for purchasing material and technical resources of production destination.

Automobile industry: The draft law proposes to cancel the value-added tax with the zero rate for sales of automobiles, buses and component parts thereto of residents' own production that carry out their activities according to the Law of Ukraine "On Stimulation of Automobile Production in Ukraine".

Shipbuilding industry: The draft law proposes to cancel the VAT exemption for importation (forwarding) into the customs territory of Ukraine of materials, equipment and component assemblies (hereinafter referred to as products), used for building vessels (except for excisable products). It would also cancel the VAT with the zero rate for sales of products produced by the specified shipbuilding enterprises at the expense of the State Budget of Ukraine.

Aircraft construction industry: The draft law proposes to cancel the VAT exemption for importation (forwarding) into the customs territory of Ukraine of materials, component products and equipment (hereinafter referred to as products), except for excisable products, used for the needs of development, production of aviation machinery and providing services. It also cancels the VAT exemption with the zero rate for sales of products (services), produced by the specified enterprises of aircraft construction industry at the expense of the State Budget of Ukraine.

48. With respect to agriculture, the representative of Ukraine said that two different special mechanisms of VAT taxation of agricultural enterprises exist in Ukraine. The first is a mechanism, under which processing enterprises calculate and pay subsidies to agricultural producers of all forms of ownership and business, including citizens' private household farms, for their sale to the processing enterprises of milk and meat in live weight, through use of assessed VAT that should be paid into the budget by the processing enterprises and is a source of financing for such subsidies. This support measure is consistent with the WTO rules. In this case, the State refuses a transfer into the budget of such portion of VAT amounts for the benefit of support for agricultural producers of milk and meat. This mechanism for subsidizing agricultural meat and milk producers, wherein VAT is used as a source of financing, was applied for a period due to lack of sufficient direct budget outlays. This mechanism is governed by Article 6 of the WTO Agreement on Agriculture and Annex III:2 of this Agreement, pursuant to which subsidies shall include both budgetary outlays and revenue foregone by the government or its agents for the benefit of agricultural producers. The similar type of agriculture support, which existed in 1994-1996, is included in WT/ACC/SPEC/UKR/Rev.7 and in the Table on AMS Levels for the period of 2000-2002. The above referenced subsidizing mechanism works as follows: agricultural producers sell milk and meat in live weight to processing enterprises of all ownership forms pursuant to concluded agreements, assessing VAT at a zero rate. At the same time, tax credit, which consists of VAT amounts paid by agricultural producers in connection with purchases of goods (works, services) whose costs are treated as their own gross production (trading) costs and capital assets or intangible assets subject to depreciation, is included in a taxpayer's tax returns for the reporting period, pursuant to which payments are made into the budget, with a tax credit reimbursement from the budget under such tax returns. In order to determine the amounts of subsidies for agricultural producers for milk and meat in live weight to be sold by such producers, processing enterprises prepare on an annual basis a preliminary estimate of receipt and use of VAT amounts assessed upon volumes of milk, milk product, meat and meat product sales. Pursuant to this estimate, each processing enterprise determines a VAT amount that will be received by such an enterprise in the course of milk, milk product, meat and meat product sales, as well as a VAT amount that will be assessed for (transferred to) suppliers of goods (works, services), the cost of such goods (works, services) being treated as gross production costs therefore, and the amount of subsidies payable to agricultural producers for their sold milk and meat in live weight per one hryvnia of such products' cost. Processing enterprises confirm such estimates with applicable Agricultural Departments of rayon (oblast) State Administrations, applicable instrumentalities in the Autonomous Crimean Republic; and enterprises that are part of the Ukrainian Cooperative Association system confirm such estimates with consumer societies (associations of consumer societies). The second

measure of support through a special mechanism of VAT taxation is to accumulate VAT for procurement of material and technical resources for production of agricultural products. Pursuant to Article 11.29 of the Law of Ukraine "On the Value Added Tax", dated 3 April 1997, under No. 168, agricultural enterprises are exempted till 1 January 2004 from VAT with respect to transactions involving sales of goods (works, services) of their own production, including products (except for excisable goods) manufactured under tolling arrangements with their own agricultural raw materials, except for transactions involving sales to processing enterprises of milk and meat in live weight carried out by agricultural producers covered by the first mechanism described above, irrespective of their organizational/legal forms and forms of ownership. These exemptions are introduced for agricultural enterprises in order to accumulate VAT amounts for subsidizing the agricultural producers in case of lack of sufficient budget outlays for paying out direct subsidies. Pursuant to procedures approved by Resolution No. 271 of the Cabinet of Ministers of Ukraine, dated 26 February 1999 (as restated by Resolution No. 374 of the Cabinet of Ministers of Ukraine, dated 23 April 2001), remaining tax liabilities pursuant to tax returns on VAT assessed on sold products, goods (works, services) of agricultural producers' own production, including products (except for excisable goods) manufactured under tolling arrangements with agricultural producers' own agricultural raw materials, i.e., the difference between the VAT amount received by agricultural producers from buyers and the VAT amount paid by such producers to suppliers shall be transferred by the agricultural producers from current bank account into separate bank accounts within time limits, within which VAT amounts must be transferred into the budget. An agricultural producer must open the said separate account during one reporting period. The balance of tax credit pursuant to the above referenced tax returns, i.e., a negative difference between the VAT amount received by agricultural producers from buyers and the VAT amount paid by such producers to suppliers is to be credited for the agricultural producers against tax liabilities of next reporting periods. Funds transferred by agricultural producers into separate bank accounts shall be used by such producers for the purchase of production-designated material-technical resources. If funds are used for non-designated purposes, they shall be collected and transferred into the State budget in an indisputable manner. This type of support through a mechanism for accumulation of funds for subsidizing purchases of material-technical resources for agricultural production purposes, wherein VAT is used as a source of financing in case of lack of sufficient direct budget outlays, is governed by Article 6 of the WTO Agreement on Agriculture and Annex III:2 of this Agreement. Pursuant to the provisions of the WTO Agreement on Agriculture, subsidies shall include both budgetary outlays and revenue foregone by the government or its agents for the benefit of agricultural producers. This measure of support for agricultural producers is included in ACC/4 Tables for the period of 2000-2002.

[49. 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

50. The representative of Ukraine stated that the Law of Ukraine "On Foreign Economic Activity" No.959-XII of 16 April 1991 stipulates that licensing and quotas applicable to imports and exports may be introduced independently by state bodies of Ukraine. The decision on approval of import licensing regime is made by the Cabinet of Ministers of Ukraine upon initiation by the Ministry of Economy and European Integration of Ukraine. The latter annually determines the list and terms of validity of licensing regime for each specific type of goods that fall under such treatment. According to this system, the Cabinet of Ministers annually reviews and approves a list of goods subject to import licensing. The list of goods, importation of which is subject to licensing in 2003 was approved by the Resolution of the Cabinet of Ministers of Ukraine No. 1939 of 25 December 2002 "On Lists of Goods Exports and Imports of Which are Subject to Quota Application and Licensing in 2003" with relevant amendments. Imports are licensed irrespective of

the exporting country. There are the following import licensing systems in Ukraine: licensing system for importing goods aimed at protection against low-quality goods, and protection of the environment against ozone-depleting substances. The list of goods importation of which is subject to licensing under the said system (irrespective from the country of exportation) is approved annually by the Cabinet of Ministers of Ukraine. The licensing system with quotas is applied to imports of goods, aimed at the application of protective measures. Protective measures under this system are determined under special decision of the Interdepartmental Commission of Ukraine for International Trade. The licensing requirements applicable to goods imported into Ukraine were in compliance with the provisions of the Agreement on Import Licensing Procedures. In document WT/ACC/UKR/99/Rev.1, Ukraine submitted responses to the questionnaire on import licensing procedures. This licensing system is not intended to restrict the quantity or value of imports. The purposes of licensing are: protection of the market from low-quality products; and protection of environment from ozone-depleting substances. Licenses are issued by the Ministry of the Economy and European Integration of Ukraine. The licence fee is 255 UAH and is paid into the State Budget. Pursuant to this system, imports of the following goods are subject to licensing in 2003:

Table 8

Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators	3808 10, 3808 20, 3808 30, 3808 90 (except separate shipments imported free of charge by authority of the Ministry of Ecological Resources, exceptionally for the State testing, scientific research and demonstration experiments – neocidole (3808 10 40 00) and larinate (3808 90 10 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	4907 00 10 00, 4907 00 91 00, 4907 00 99 00
Products, which may contain ozone-depleting substances and are imported in aerosol package	2106, 3208, 3209, 3210 00, 3212, 3214, 3304, 3305, 3306, 3307, 3402, 3403, 3405, 3506 91 00 00, 3808, 3809, 3811, 3812, 3813 00 00 00, 3814 00, 3820 00 00 00, 3824 90 70 00 - 3824 90 95 00, 3910 00 00
Products which may contain ozone-depleting substances	8415, 8418, 8424 10, 8476 21 00 00, 8476 81 00 00, 9304 00 00 00
Ozone-depleting substances	According to the list of Annex No.1 of WT/ACC/99/Rev.1

The import operations subject to mandatory licensing and quantitative limitations are listed below.

Table 9

Name of Product	HS Code	Quantitative limitations	Basis and compliance with WTO norms
Ozone-destroying substances (chemical substances) and products that may contain ozone-destroying substances	2903	No	International convention Need to defend the life and health of humans, animals or plants and/or the environment
Plant protection means	3808 10, 3808 20 3808 30, 3808 90	No	Need to defend the life and health of humans, animals or plants and/or the environment
Polycarbonate for production of optical information storage devices	3907 40 00 00	No	Measures for protection of intellectual property

Name of Product	HS Code	Quantitative limitations	Basis and compliance with WTO norms
Stamps, heraldic paper, securities	4907 00 10 00 4907 00 99 00	No	Measures for protection of intellectual property
Discs for laser reading systems	8523 90 00 00 8524 31 00 00 8524 32 00 00 8524 39 00 00 8524 91 10 00 8524 91 90 00 8524 99 00 00	No	Measures for protection of intellectual property
Newsprint	4707 90 90 00	Yes	Trade Remedies adopted according to the decision of Interdepartmental Commission on International Trade
Iron ores: non-agglomerated, agglomerated originating in the Russian Federation	2601 11 00 00 2601 12 00 00	Yes	Protective measures adopted according to the decision of Interdepartmental Commission on International Trade
Baking soda originating in the Russian Federation	2836 30 00 00	Yes	Protective measures adopted according to the decision of Interdepartmental Commission on International Trade
Synthetic fur and worsted fabric originating in the Republic of Belarus, People's Republic of China (including from Hong Kong, Siangan, Macao, Aomin), Chinese Taipei, the Russian Federation and the Republic of Hungary,	4304, 6001	Yes	Protective measures adopted according to the decision of Interdepartmental Commission on International Trade
Polyurethane plates, sheets, tape and platters originating in the Russian Federation, Republic of Belarus, Lithuania, Poland, Czech Republic, Republic of Hungary;	3921 13	Yes	Protective measures adopted according to the decision of Interdepartmental Commission on International Trade
Electric light bulbs originating in the Republic of Belarus, Russian Federation, Poland and the Republic of Hungary;	8539 10 8539 22 90 10 8539 22 90 90 8539 29 98 00	Yes	Protective measures adopted according to the decision of Interdepartmental Commission on International Trade
Needle and non-needle syringes made of plastic materials with volume of 2, 5, 10, 20 ml originating in the Russian Federation, Slovakia, the Kingdom of Belgium, Ireland, Poland, the Federal Republic of Germany and the Kingdom of Spain.	9018 31 10 00	Yes	Protective measures adopted according to the decision of Interdepartmental Commission on International Trade

To obtain the import licence for certain types of goods, the importer – under the licensing system – has to receive the approval from the relevant administrative body. Expert opinions are issued, depending on the type of goods, by the following institutions:

Table 10

The Main State Inspection for Plant Protection of the Ministry of Agrarian Policy of Ukraine	Import of chemical means for plant protection (code 3808 10, 3808 20, 3808 30)
The State Technological Center for Protection of Fertility of Soil of the Ministry of Agrarian Policy of Ukraine	Import of agricultural chemicals (plant growth regulators – code 3808 90)
The State Ecological Inspection of the Ministry of Ecology and Natural Resources of Ukraine	Import of ozone-depleting substances and products that may contain ozone-depleting substances and come in aerosol packaging (code 2106, 3208, 3209, 3210 00, 3212, 3214, 3304, 3305, 3306, 3307, 3402, 3403, 3405, 3506 91 00 00, 3808, 3809, 3811, 3812, 3813 00 00 00, 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)

51. In response to questions concerning the status of licensing arrangements for ethyl alcohol, alcoholic beverages, tobacco, optical media materials, special papers, automobiles, armaments, etc, the representative of Ukraine said that according to Ukrainian legislation the right to perform operations with ethyl alcohol and alcoholic beverages (exportation, importation, production, internal wholesale trade) is granted on the basis of an activity licence. No import licence is required. Information on the licence necessary to engage in the activity of importing alcohol and alcoholic beverages was included in WT/ACC/UKR/99/Rev.1. Imports of tobacco and tobacco products are undertaken by firms having a licence to engage in such activity. For these firms no further licence is required. Chemicals (insecticides, rodenticides, fungicides, herbicides, other chemicals preventing germination of sprouts and regulators of plant growth, codes under the UCP FEA – 3808 10, 3808 20, 3808 30, 3808 90), certain types of special papers (postal, excise marks, stamp paper, codes under the UCP FEA – 4907 00 10, 4907 00 91, 4907 00 99) are considered categories subject to import licensing without quantitative limitations. Importation of optical polycarbonate (code 3907 40 0000), discs for laser reading systems and master discs designed for the production of discs for laser reading systems is allowed only by firms having a licence to engage in such import activities. For those firms no further licence is required. With respect to automobiles, quantitative restrictions on the importation of new automobiles from the Russian Federation (code 8703 22 19 00) effective as from 12 December 2002 up to 9 December 2006 were introduced by Decision No. SP-54/2002/52-49 of the Interdepartmental Commission on Foreign Trade, dated 6 December 2002, as protective measures, in accordance with Articles 2 - 5 of the WTO Agreement on Safeguards.

52. As regards the regime applicable to importation of armaments, importation is governed by the Law of Ukraine "On State Control over International Transfers of Products of Military Designation and Dual Use", dated 20 February 2003 under No. 549-IV. Pursuant to the Law (Article 9), lists of names and descriptions of goods, international transfers of which are subject to State expert-performed control, are prepared and approved by Resolution No. 1358 of the Cabinet of Ministers of Ukraine, dated 8 December 1997, "On Approval of the Regulation on Procedures for State Control over International Transfers of Products of Military Designation". The procedures, under which State control is performed, are defined by the following Resolutions of the Cabinet of Ministers of Ukraine:

- Resolution No. 384, dated 22 April 1997, "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";
- Resolution No. 563, dated 27 July 1995, "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";
- Resolution No. 302, dated 12 March 1996, "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"; and
- Resolution No. 1005, dated 22 August 1996, "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".

At the same time, exportation and importation of products of military designation and products, which contain information constituting State secrets, are governed by Article 13 of the above referenced Law, whereby subjects engaged in foreign economic activities must obtain corresponding authorizations from the Cabinet of Ministers of Ukraine. As regards the regime applicable to importation of narcotics, such importation is governed by the Law of Ukraine "On Circulation in Ukraine of Narcotics, Psychotropic Substances, their Analogues and Precursors", dated 15 February 1995, under No. 60/95-B. The Law provides that narcotics shall be imported (brought into) or exported by a body authorized by the Cabinet of Ministers of Ukraine pursuant to a certificate (separate permit) issued by the Narcotics Control Committee within the Ministry of Health Care of Ukraine. The certificate is issued subject to a confirmation from the Security Service of Ukraine.

53. In response to questions concerning the agencies that issue licenses, the representative of Ukraine said that licenses are issued by the Ministry of Economy and European Integration of Ukraine. It assigned the right issuing licenses for importation, exportation of products by subjects of entrepreneurial activity, registered in relevant regions, and whose accounting value under agreements (contracts) does not exceed US\$300,000 to oblast, city state administrations and the Ministry of Economy of the Autonomous Republic of Crimea. Licenses for importation of insecticides, rodenticides, fungicides, herbicides, other chemicals preventing germination of sprouts and regulators of plant growth (except neocidole (3808 10 40 00) and larinat (3808 90 10 00)) are issued upon approval from the State technical center for protection of fertility of soil at the Ministry of Agrarian Policy of Ukraine. Licenses for importation of ozone destructive substances, exportation and importation of which is subject to licensing in 2003, are issued upon approval from the Ministry of Ecology and Natural Resources. Licenses for importation of products that may contain ozone destructive substances, and exportation and importation of which is subject to licensing in 2003, are also issued upon approval from the Ministry of Ecology and Natural Resources.

Table 11

List of Licensing Bodies

Licensing Body	Type of Economic Activity
Ministry for Agricultural Policies	Cultivating, use for commercial purposes of plants containing narcotics
Ministry for Internal Affairs	Production, repairs of fire weapons, ammunition, side-arms, pneumatic weapons of over 4.5 millimeters caliber and more than 100 meters per second bullet speed; trade in weapons, ammunition, side-arms, pneumatic weapons of over 4.5 millimeters caliber and more than 100 meters per second bullet speed. Production of the special means charged with the substances of tear or irritant gas, means for individual protection or active self-protection. Provision of services to provide protection of the state and other property, provision of services to protect citizens.
Ministry for Ecological Resources	Exploration of the mineral resources. Extraction of the uranium ore. Gathering of certain types of waste products as reiterative materials (according to the enumerations determined by the Cabinet of Ministers of Ukraine). Operations with dangerous waste. Topographic-geodesic, cartographical works
Ministry for Economy	Activities of the arbitration managers (managers for the property, managers for readjustment, liquidators). Export, import of discs for laser systems, equipment for production thereof
State Department for Intellectual Property by the Ministry for Education and Science	Production of discs for laser systems

Licensing Body	Type of Economic Activity
Ministry for Health Protection	Disinfection, disinsectization, deratization (except of the objects for veterinary control). Medical practices. Processing of the donor blood and its components, production of medicines thereof
Ministry of Labor and Social Policy	Mediation in employment abroad
Ministry of Finance	Production of precious metals and stones, precious stones of organogenic origin, semi-precious stones. Production of articles made of precious metals and stones, precious stones of organogenic origin, semi-precious stones; trade in items made of precious metals and stones, precious stones of organogenic origin, semi-precious stones Gathering, primary processing of the waste and scrap of precious metals and stones, precious stones of organogenic origin, semi-precious stones. Printing blanks for securities and documents of strict reporting Insurance activity. Issuance and conducting lotteries.
State Committee for Construction (DerzhBud), Council of Ministers of the Autonomous Republic of Crimea, Kyiv and Sevastopol cities state administrations	Centralized water supply and drainage. Construction activities (exploring and designing works for constructions, erection of bearing and guarding constructions, construction and assembling of engineering and transport networks)
State Committee for Water Resources	Design, construction of new and reconstruction of existing melioration systems and certain objects of engineering infrastructure
State Committee for Land Resources	Organization of the use of land and land evaluation works
State Committee for Communications and Informatization	Money orders. Radio communication services (with the use of radio frequencies). Telephone communication services (except of departmental objects). Technical services for networks of TV-, radio-, and wire broadcasting within commercial networks
State Administration for Tourism	Organization of the foreign, domestic and abroad tourism; excursions
Ministry of Industrial Policy	Production of the especially dangerous chemicals (according to enumeration determined by the Cabinet of Ministers of Ukraine). Extraction of precious metals and stones, precious stones of organogenic origin, semi-precious stones Production of pesticides and agricultural chemicals; wholesale and retail trade with pesticides and agricultural chemicals. Storage, processing, metallurgical processing of the ferrous and non-ferrous metal scrap
National Space Agency of Ukraine	Design, testing, production, exploitation of the carrier rockets, space devices and parts thereof, land-based space infrastructure and its components, equipment for space segment of the satellite systems
State Commission on Securities and Stock Market	Professional activities on the stock market
State Customs Service	Mediation activities of the customs broker and customs carrier
National Commission for Regulating Energy Market	Transportation of oil, oil products via long-distance pipeline, transportation of natural and oil gas via pipelines and its distribution. Provision of the natural gas at a regulated and non-regulated tariff Storage of the natural gas in volumes that exceed levels, determined by licence agreements
Security Service of Ukraine	Design, production of special technical means for monitoring information from communication lines, other means of secret monitoring of information; trade in the special technical means for monitoring information from communication lines, other means of secret information monitoring Design, production, implementation, certificate testing, import, export of holographic protection elements
Ministry of Transport	Services for transporting passengers and loads by railway transport

Licensing Body	Type of Economic Activity
State Department for Air Transport	Services for transporting passengers and loads by air transport. Aircraft and chemical works
State Department for Automobile Transport	Services for transporting passengers and loads by automobile transport
State department for Marine and River Fleet	Services for transporting passengers and loads by river, sea transport
State Department for Veterinary Medicine	Production of veterinary medicines; wholesale, retail trade in veterinary medicines. Conducting disinfection, disinsectization, deratization (of the objects subject to veterinary control). Veterinary practices
State Department for Supervision over Quality, Safety and Production of the Medicines and Articles for Medical Use	Production of medicines; wholesale, retail trade in medicines Design, production, storing, transportation, buying, sending, import, export, selling, destruction of narcotics, psychotropic substances and precursors
State Committee for Supervision over Labor Safety	Production of explosives (according to enumeration endorsed by the Cabinet of Ministers of Ukraine)
Department for Administering Excise Duty and Supervision over Production and Turnover of Excise Articles	Production of ethylene, cognac, fruit spirits, alcoholic beverages; wholesale trade with ethylene, cognac and fruit spirits. Wholesale and retail trade in alcoholic beverages. Production of tobacco goods; wholesale, retail trade in tobaccos. Production of cosmetic goods containing ethylene spirit
State Committee for Fishery	Activities relating to commercial fishery on commercial segments of fishery basins, except of inner basins of the firms
Department for Special Telecommunication and Information Systems by the Security Service of Ukraine	Design, production, exploitation, certificate testing, thematic researches, testing, import, export of cryptosystems and means for cryptographic protection of information; provision of services in cryptographic protection of information, trade in cryptographic systems and means for cryptographic protection of information Design, production, implementation, servicing, effectiveness testing of the systems and means for information protection; providing services for technical protection of information
Chief Department of the State Anti-Fire Protection Service, Ministry of Internal Affairs	Design, assembling, technical assistance for means of anti-fire systems and heating systems, evaluation of fire-prevention capacity of objects Conducting tests on fire security of substances, materials, constructions, articles and equipment, as well as fire-prevention machinery, fire-prevention technical equipment, fire-preventing articles
Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol cities administrations	Organization and maintenance of totalizators, gambling establishments Organization of internal tourism, excursions
State Committee of Physical Culture and Sport	Physical training and sport activities: <ul style="list-style-type: none"> - organization and conduct of sport activities for professionals and amateurs; and - activities to train sportsmen for taking part in sport competitions, recognized in Ukraine.

54. Any natural person who has taken the steps necessary to engage in business in Ukraine has the right to obtain an import licence. Licenses are issued according to the procedure established by Article 16 of the Law of Ukraine "On Foreign Economic Activity" and the Order of the Ministry of Economy and European Integration of Ukraine No. 36 of 18 February 2003. Contract registration cards no longer exist, and there was no requirement for an importer to have a contract registration card in order to obtain an import licence. The following documents are furnished to obtain the licence:

- licence application;
- letter of application as to issuing the licence with the guarantee of fee payment for its issuing;
- copy of a contract, all supplements and specifications thereto, certified by the director of the subject of entrepreneurial activity;
- copy of the state registration certificate, certified by the director of the subject of entrepreneurial activity;
- approval of a relevant authorized institution (data on requirements as to the approval are specified above) according to the Resolution of the Cabinet of Ministers of Ukraine No. 1939 of 25 December 2002 "On the List of Products, Exportation and Importation of Which is Subject to Quoting and Licensing in 2003"; and
- expert examination act of the product, issued by the Chamber of Commerce and Industry of Ukraine or a regional chamber of commerce and industry, with specification of the product code.

55. The representative of Ukraine said that in order to avoid double licensing, pharmaceutical products were excluded from the list of exported commodities subject to licensing. According to Article 9 of the law of Ukraine "On Medication" the procedures for state registration of medicines are stipulated by the Cabinet of Ministers of Ukraine. Resolution of the Cabinet of Ministers of Ukraine of 13 September 2000, No. 1422 "On Introduction of Provisions of State Registration (re-registration) of pharmaceuticals and Amount of fees for State Registration (re-registration) of pharmaceuticals" stipulates a unified fee for state registration (re-registration) of imported and domestic pharmaceuticals. Amount of the fee determined with regard to the type of product and its origin. According to the resolution the Ministry of Healthcare prepared a decree of 19 September 2000, No. 220 "On Introduction of Procedures for Analysis of Pharmaceuticals Components Submitted for the State Registration (re-registration) and on Procedures for Introduction of Amendments to the Registration Documents within the Term of Validity of the Registration" registered with the Ministry of Justice (registration of 5 October 2000, No. 685/4906) which introduces unified procedures for analysis of components submitted for pharmaceutical registration and procedures for their registration regardless of the country of origin. As for maximum tariffs for expert analysis and evaluation of components submitted for registration (re-registration) set in the decree of the Ministry of Healthcare of 17 March 2000, No. 55, these tariffs are also unified for all operators of the pharmaceutical market. The tariffs have been updated to meet the requirements of GATT 1994 Article VIII and ratified by the decree of the Ministry of Healthcare of Ukraine of 14 June 2001, No. 228 "On Changes and Amendments to the Maximum Tariffs for Expert Analysis of Pharmaceutical Materials Submitted for the State Registration (re-registration) at the State Scientific Expert Center of Pharmaceutical Materials of the Ministry of Healthcare of Ukraine" registered with the Ministry of Justice (registration of 21 June 2001 No. 4-28-1671). The amount of these tariffs depends on the type of product submitted for registration regardless of the country of origin. Decree of the Ministry of Healthcare of Ukraine of 17 January 2002, No. 13 "On Procedures for Import of Unregistered Pharmaceutical Materials to the Customs Territory of Ukraine with the Aim of Conducting Pre-Treatment Research, Clinical Tests and State Registration" registered with the Ministry of Justice of Ukraine (registration of 15 February 2002, No. 151/6439) introduces a unified procedure for import of unregistered pharmaceutical materials to Ukraine for all operators.

[56. The representative of Ukraine confirmed that, 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. 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

57. In response to questions concerning the implementation of the Agreement on Customs Valuation, the representative of Ukraine said that the new Customs Code of Ukraine would enter into force on 1 January 2004. The customs valuation regime is governed by Articles 259-273 of the Customs Code of Ukraine. Pursuant to Article 259 of the Code, the customs value of goods is the value of goods transferred through the customs border of Ukraine, which value is stated by a declarant or determined by a customs authority and which is calculated at the moment goods cross through the customs border of Ukraine. Pursuant to Article 261 of the Code, the customs value of goods is used for assessment of taxes and fees, maintenance of customs statistics and, as applicable, for calculations in case of application of penalties, other sanctions and fines provided by the laws of Ukraine. Pursuant to Article 262 of the Code, the customs value of goods is determined by a declarant in accordance with the provisions of the Code, and the customs authority, which carries out customs clearance of goods, controls the correctness of the customs value determination for the goods. The applicable provisions of the Agreement on Implementation of Article VII of GATT 1994 set out the customs valuation methods contemplated by the Code (See the Table).

Table 12

Compliance of Articles of the Customs Code with the Agreement on Implementation of Article VII of GATT 1994

Articles of the Code	Articles of the Agreement on Implementation of Article VII of GATT 1994
263. Observance of Information Confidentiality	10
264. Rights and Obligations of the Declarant who declares the Customs Value of Goods	
§ 2	17
§ 4-5	13
265. Rights and Obligations of a Customs Authority in Controlling Customs Valuation of Goods	
§ 3	16
266. Methods of Determination of Customs Value of Goods that are Imported into Ukraine	General Comments, 4
267. Valuation Method based on the Transaction Value of Imported Goods	
§ 2. Inclusion of costs	
1).a)-c)	8.2
2).a)-c)	8.1.(a)
3).a)-d)	8.1.(b)
4)	8.1.(c)
5)	8.1.(d)
§ 3. Conditions for Application of Valuation Methods	
1).a)-c)	1.1.(a)
2).a)-c)	1.1.(b)
4)	1.1.(c)
5).a)-g)	1.1.(d), 15.4
6)	15.5
7).a)-c)	1.1.(b), 1.2.(a)
§ 4.	1.1.(b)

Articles of the Code	Articles of the Agreement on Implementation of Article VII of GATT 1994
268. Method of Valuation based on the Transaction Value of Identical Goods	2, 15.2.(a)
269. Method of Valuation based on the Transaction Value of Similar Goods	3, 15.2.(b)
270. Admonition in Application of Methods for Determination of the Customs Value of Goods according to the Transaction Value of Similar Goods	15.2.(c)-(e)
271. Methods of Valuation based on the Deductive Value	5
272. Method of Valuation based on Computed Value	6
273. Reserve Method	7

Valuation Method specified in Article 1 of the WTO Agreement

The Code (Article 267) provides that the customs value of imported goods shall be the transaction value, which is a price actually paid or payable for the goods imported into Ukraine at the moment of their crossing the customs border of Ukraine.

In addition, this Article of the Code defines:

- conditions for application of the evaluation method; and
- rules for adjustment of the transaction value for determination of the customs value of goods, if they have not included therein before.

Valuation Method specified in Article 2 of the WTO Agreement

The Code (Article 268) provides that in applying the method of valuation based on the transaction value of identical goods (the second method), the transaction value of identical goods will be used for purposes of determining the customs value of goods, provided that requirements specified in the above Article are met. Identical goods are considered to be goods which are the same in all respects with the goods being valued. In this respect, the term "identical goods", as defined in Article 268 of the Code, corresponds to the definition in Item 2.(a) in Article 15 of the Agreement on Implementation of Article VII of GATT 1994.

In addition, this Article of the Code defines:

- conditions for application of the evaluation method; and
- rules for adjustment of the transaction value for determination of the customs value of goods, if they have not included therein before.

Valuation Method specified in Article 3 of the WTO Agreement

The Code (Article 269) provides that in applying the method of valuation based on the transaction value of similar goods (the third method), customs value shall be the transaction value of similar goods imported in accordance with the provisions determined by this Article, for purposes of determining the customs value of imported goods. "Similar goods" mean goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions in comparison with goods being valued, and are commercially interchangeable. In this respect, the term "similar goods", as defined in Article 269 of the Code, complies with the definition in Item 2.(b)) in Article 15 of the Agreement on Implementation of Article VII of GATT 1994.

In addition, this Article of the Code defines:

- conditions for application of the evaluation method; and
- rules for adjustment of the transaction value for determination of the customs value of goods, if they have not included therein before.

Valuation Method specified in Article 5 of the WTO Agreement

The Code (Article 271) provides that the customs value of goods will be determined on the basis of the method of valuation based on the deductive value (the fourth method) in the event that goods being valued or identical or similar imported goods are sold in the customs territory of Ukraine in the condition as imported, the customs value of the goods. In applying this valuation method the customs value of goods will be based on the unit price at which the goods being valued or identical or similar goods are sold in the greatest aggregate quantity on the territory of Ukraine, at or about the same time of the importation of goods being valued, but not later than 90 days from the date of importation of the goods to the unrelated buyer .

In addition, this Article of the Code defines:

- conditions for application of the evaluation method; and
- rules for adjustment of the transaction value for determination of the customs value of goods, if they have not included therein before.

Valuation Method specified in Article 6 of the WTO Agreement

The Code (Article 272) provides that in determining the value of imported goods by applying the method of valuation based on the computed value (the fifth method), the price of goods that is computed by way of adding of costs of production, delivery, sale and profits that the exporter usually receives as a result of delivery of such goods, will be used as a basis for determination purposes. The Code reflects all major provisions of the Agreement on Implementation of Article VII of GATT 1994 that relate to this method of evaluation .

Valuation Method specified in Article 7 of the WTO Agreement

The Code (Article 273) provides that the reserve method (the sixth method) will be applied if the customs value may not be determined by the declarant by way of subsequent application of the first five methods, or if a customs authority has reasons to believe that these methods of determining the customs value can not be applied.

In such case, customs value of goods will be determined through the reserve method on the basis of Ukrainian legislation, and must be consistent with principles and provisions of Article VII of General Agreement Tariffs and Trade (GATT) and Agreement on Implementation of Article VII of GATT 1994.

Among important provisions of the Agreement on Implementation of Article VII of GATT 1994, which have been included in the Code, are the following:

- provisions of Article 10 of the Agreement as to observance of information confidentiality (Article 263 of the Code);
- provisions of Article 13 of the Agreement, which state that in the event that a declarant does not agree with the determination of customs value by a customs authority, the declarant may request to withdraw goods being declared from customs into free circulation, if such a declarant provides bank guarantees, and in such case the customs

- authority is obligated to release such goods into free circulation (paragraphs 4-5 of Article 264 of the Code);
- provisions of Article 16 of the Agreement regarding the right to an explanation in writing from the customs administration as to how the customs value of the importer's goods was determined (paragraph 3 of Article 265 of the Code); and
 - provisions of Article 17 of the Agreement regarding the rights of the customs administration to satisfy itself as to the truth or accuracy of any data and documents (paragraph 2 of Article 264 of the Code).

The Code has implemented the Agreement on Implementation of Article VII of GATT 1994 and protects the interests of *bona fide* traders by demanding from customs authorities to accept the price actually paid by an importer under a contract as a basis for assessment of customs fees and duties. It concerns contracts both with unrelated and related parties. The Agreement provides that prices of different importers for the same good may differ. The only fact that the price for goods of a separate importer is lower than prices, under which other importers import such goods, may not be used as a ground for refusing to use transaction value. Customs authorities are permitted not to use transaction value only in those cases when there are reasons to doubt as to whether the declared price for imported goods is true or correct. Even in such cases customs authorities must ensure for an importer an opportunity to justify its price and, if such justification is not accepted, provide an explanation for their refusal from transaction value, and for application of other customs evaluation methods. In addition to rights of importers to consultations at all stages of customs value determination, the provisions on customs evaluation of goods grant to the importers:

- a right to withdraw goods from customs if a delay in the determination of customs value is apparent, on condition that a sufficient guarantee in the form of a surety or a deposit, covering the ultimate payment of customs duties for which the goods may be liable is provided;
- a right to expect that any information which is by nature confidential that is provided on a confidential basis to customs authorities will be treated as confidential; and
- a right to appeal to a customs administration or judicial authorities regarding decisions of customs authorities.

Ukraine considered that the provisions of the new Customs Code of Ukraine regarding determination of customs value of goods were consistent with the Agreement on Implementation of Article VII of GATT 1994.

58. Some Members of the Working Party asked whether additional regulations would be required. The representative of Ukraine said that the Order No. 1598 of the Cabinet of Ministers of Ukraine, dated 5 October 1998, "On Approval of Procedures for Determination of Customs Values of Goods and Articles transferred through the Customs Border of Ukraine", as amended by Resolution No. 1537 of the Cabinet of Ministers of Ukraine, dated 12 October 2000, which contains a number of provisions that do not comply with provisions of the Ukraine's Customs Code would be brought into conformity with these norms prior to the entry into force of the Code (1 January 2004). He confirmed that the draft Tax Code does not contain any customs valuation procedures. At present, there were no Interpretative Notes in Ukrainian law. Their provisions would be incorporated into the Commentary to the Customs Code of Ukraine, being prepared by the Customs Service. Currently, judicial decisions regarding customs valuation were not published. The Customs Service places decisions of general application on its official site in the Internet.

59. In response to questions concerning the review of administrative decisions on customs valuation, the representative of Ukraine said that Notice was provided to the importer when the transaction value was disallowed. Pursuant to Article 265 of the new Customs Code, which will enter into force on 1 January 2004, a customs authority, upon a written request of the declarant, is required, within a month, to provide the Declarant with written explanations regarding the reasons for the non-

acceptance of the customs value of goods declared by the declarant to the customs authority for assessing the customs fees and duties. Pursuant to Article 265 of the Customs Code, the decisions of customs authorities regarding determination of customs values of goods may be appealed under the procedure established by law. The procedures for the resolution of disputes arising between a customs authority and an entity engaged in foreign economic activities are governed by the Code of Commercial Procedure of Ukraine. Pursuant to Article 1 of the Code of Commercial Procedure of Ukraine, enterprises, organizations, other legal entities (including foreign legal entities), citizens, who are engaged in entrepreneurial activities without establishment of a legal entity and have acquired the status of agent of entrepreneurial activity, shall be entitled to bring action in commercial courts, in order to protect their violated or disputed rights and legislatively protected interest. This Code describes procedural rules for challenging decisions adopted by customs authorities. Pursuant to Article 116 of the Code of Commercial Procedure of Ukraine, a decision of a commercial court shall be enforced on the basis of a writ issued by such a court, which writ shall be an enforcement document. The writ shall be issued to a recovering party or shall be sent to such party upon entry into legal force of the court decision. The writ of the commercial court must specify:

- name of the commercial court, the case number, the date of decision adoption, the date of issuance of the writ, and the term of its effect;
- operative part of the decision; and
- name of the recovering party and the debtor, their addresses, names and bank account numbers.

The writ shall be signed by the judge and attested with a stamp of the commercial court. Pursuant to Article 115 of the Code of Commercial Procedure of Ukraine, decisions, decrees, resolutions, writs of commercial courts, which have entered into legal force, shall be binding within all Ukrainian territory, and shall be enforced through court enforcement officers. Prosecutor's offices shall supervise such enforcement proceedings. Pursuant to Article 264 of the Code, if the customs value of goods declared by a declarant needs to be supported, the declarant may be required, upon the request of a customs authority, to provide necessary information to this authority. If the necessary information does not comply with the prescribed requirements or is insufficient for acceptance of transaction value as a basis for determining customs value, the customs authority may adopt a decision regarding an impossibility to apply the valuation method based on the transaction value of imported goods. In this case, the declarant may request to the customs authority to release goods to such a declarant into use, ensuring the full payment of taxes and fees by providing a bank guarantee or paying taxes and fees based on customs valuation. Also, the declarant has an opportunity to provide documents confirming the customs value for purposes of review of a decision adopted by a customs authority. A customs authority considers a price to be acceptable in the event that relatedness of parties to a transaction has not influenced the value of imported goods, i.e., the price is close to transaction value under which the given goods are sold in Ukraine to other buyers who are not related with the seller – the party to the transaction. Respective explanations are prepared as commentary to the Customs Code. Article 273 of the Customs Code lists seven prohibited customs evaluation methods, including minimum values and the higher of two alternative values.

60. In response to questions concerning the guarantee/surety provisions of the Code that allow importers to withdraw goods from the Customs pending the final determination of the customs value, the representative of Ukraine said that pursuant to Article 264 "Rights and duties of a Declarant who declares the Customs Value of Goods" of the Code, an importer has a right to request a customs authority to release to such an importer goods being declared for free circulation under a guarantee from an authorized bank, or a promissory note issued by the importer to the customs authority and guaranteed by the bank, or a deposit at the bank. If the declarant has provided a guarantee from the authorized bank, the customs authority must release the goods into free circulation.

61. Some Members of the Working Party said they intended to carry out a focused review of the provisions of the new Customs Code regarding customs valuation issues to ascertain its conformity

with the WTO Agreements. The representative of Ukraine confirmed that Order No.1537 of the Cabinet of Ministers of Ukraine, dated 12 October 2000, would remain in force and effect until 1 January 2004. Thereafter it would be amended introducing clarifications to Order No. 1598 of the Cabinet of Ministers of Ukraine, dated 5 October 1998, "On Approval of Procedures for Determination of Customs Values of Goods and Articles transferred through the Customs Border of Ukraine.

62. In response to the request by some Members of the Working Party that Ukraine undertake a strong commitment to bring the customs valuation regime into line with WTO Agreement on Customs Valuation, the representative of Ukraine said that this issue would be addressed in the context of the preparation of the Working Party Report.

Rules of origin

63. In response to questions concerning the inclusion in the Customs Code of preferential and non-preferential rules of origin, the representative of Ukraine said that the Customs Code governs non-preferential Rules of Origin. Preferential Rules of Origin are governed by international treaties and agreements of Ukraine, for instance by the Rules for the Determination of a Country of Goods' Origin, which complies with the provisions of Article XXIV of GATT 1994. The Code lays down the main criteria for determining a country of origin for goods, and provides that procedures on the basis of the Code shall be prescribed by the Cabinet of Ministers of Ukraine. The procedures will contain a rule, whereby an assessment of origin of a good shall be provided by a competent governmental authority upon the request from an exporter or importer within the shortest period of time, but in no even later than within 150 days. Ukraine applies Rules of Origin for CIS countries that were adopted by a decision of the Council of Governments of the Commonwealth of Independent Countries on 30 November 2000. The preferential Rules of Origin, are applied by Ukraine to goods originating from the CIS countries. In particular pursuant to Item 4 of the Rules, a change of tariff classification at the level of at least one of the first 4 digits in the HS which has occurred as a result of processing of a good, is named as the main criterion. This is a general rule that is applied to all goods that are described in the HS. The List of Goods (which is an inseparable part of these Rules) is an exception, and the production and technological transaction rule or the *ad valorem* rule is applied to such goods. In this respect, goods specified in this List are enumerated on the basis of clear tariff classification that is consistent with the HS. One of the criteria set forth in these Rules is an *ad valorem* criterion, for imported materials – on the basis of customs values of such materials at the time such materials are brought into the country, wherein the final products are manufactured, or, if the origin of imported materials is not known, on the basis of documentarily confirmed prices of their first sale within the territory of the country, wherein the final products are manufactured; for final products – on the basis of prices EXW of the seller. The list of transactions that do not comply with the criterion of sufficient processing of goods is provided. There is transparency in the publication of these Rules as they are published in official gazettes and currently may be viewed in the Internet. Also there are rules for assessment of preferential origin upon a request from entities engaged in foreign trade prior to or upon sale of a good by as specially designated authority (the Chamber of Commerce and Industry of Ukraine), whereupon a certificate of origin is issued that will be effective for three years. Additional provisions have been reflected in the effective Customs Code and the new Customs Code of Ukraine concerning the confidentiality of information, the right of appeal against decisions of customs authorities in court, and the absence of retroactive force for rules that make changes thereto, in accordance with the Constitution of Ukraine.

[64. The representative of Ukraine confirmed that, from the date of accession, Ukraine would comply with the provisions of the WTO Agreement on Rules of Origin. The Working Party took note of this commitment.]

Other customs formalities

65. Some Members of the Working Party said that customs clearance procedures continued to present real problems for business and that further simplifications were necessary. The representative of Ukraine said the following documents are required upon actual importation: cargo customs declaration; licence to import; and certificate of product origin. The State fee in the amount UAH255 (about US\$45.00), established for the issue of an import licence, corresponds to the cost of issuing. There is no deposit or advance payment requirement. During the submission of an application for a licence, confirmation of the payment of state fee is not required. A document confirming the payment of state fee is submitted upon receipt of a licence. The customs authorities of Ukraine, while implementing customs policy, carried out the following tasks: control over observance of Ukrainian laws on customs matters; provision of fulfilment of obligations resulting from International Agreements of Ukraine as to customs matters; use of means of customs and tariff and non-tariff regulation during transfer of goods and other articles through the customs border of Ukraine; struggle with smuggling and violations of customs rules; keeping of customs statistics, etc. Taking into account that customs control is an aggregate of measures which are effectuated by customs authorities within their competence in order to ensure observance of the norms of the Customs Code of Ukraine, laws and other normative and legal acts on issues of customs matters and International Agreements of Ukraine made under the procedure established by laws, a range of issues that are resolved by officials of customs authorities is so wide that charging them with the fulfillment of customs control at all stages will not simplify but significantly complicate the process of customs control and customs clearance of goods and vehicles. The State Customs Service of Ukraine drafted the Procedure for Implementation Customs Control and Customs Clearance of Goods and other Articles with Application of Cargo Customs Declaration. Such Procedures allow combination of fulfilment of functions by one official at separate stages of effectuation of customs control and customs clearance of goods. Transition of customs authorities to the system under which the solution of issues of customs clearance at all stages shall be within competence of one official of customs authorities requires substantial work and the creation of the relevant technical conditions and informative and analytical basis with data on goods and vehicles which are transferred through the state border of Ukraine. This was impossible at the moment. The current stage-by-stage procedure for customs clearance of goods using different subdivisions of customs authorities is aimed at improving of customs control. It diminishes risks of corruption abuses by officials of customs offices and is analogous to that one which is effectuated in many WTO Members. The new Customs Code had considered these issues.

Pre-shipment inspection

66. Some Members of the Working Party said that should Ukraine employ pre-shipment inspection services in the future, they should observe WTO provisions in their operations, e.g., in the application of fees for services rendered, observance of other WTO requirements in customs processing, and in providing right of appeal to the Government. The representative of Ukraine said that Ukraine does not require inspection services prior to shipment.

[67. The representative of Ukraine confirmed that if Ukraine employed pre-shipment inspection services in the future, the Government of Ukraine would comply with the provisions of the WTO Agreement on Pre Shipment Inspection. The Working Party took note of this commitment.]

Anti Dumping and Countervailing Duties Regime

68. In response to questions concerning the antidumping and countervailing duties regimes, the representative of Ukraine said that the Law of Ukraine No. 2097-XII of 5 February 1992 "On Single Customs tariff" provides that in case products, imported into Ukraine, are subject to antidumping, compensatory or special measures in accordance with Laws of Ukraine "On Protection of the national manufacturer from dumping-priced imports", "On Protection of the national manufacturer from

subsidized imports", non-regular types of duty may be applied which are levied on the basis of the Inter-Departmental Commission of International Trade's decisions to apply antidumping, compensatory or special measures. In particular, Article 11 of Law of Ukraine No. 2097-XII of 5 February 1992 provides for the following types of non-regular duty: special duty; antidumping duty; and compensatory duty. On 22 December 1998, the Supreme Rada of Ukraine adopted the Law "On Protection of Domestic Producer From Dumped Imports" No. 330-XIV, the Law "On Protection of Domestic Producers From Subsidized Imports" No.331-XIV, and the Law "On the Application of Safeguard Measures Against Imports to Ukraine" No.332-XIV, all of which were developed on the basis of Articles VI, XVI and XIX of the General Agreement on Tariffs and Trade (GATT 1994), and three specialised agreements of the Uruguay Round of Multilateral Trade Negotiations - the Agreement on Implementation of Article VI of GATT-1994, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards. The Law "On Protection of Domestic Producer From Dumped Imports" defines dumping as an entry into Ukraine of goods at prices that are relatively lower than prices for the like products in the exporter's country, which may result in a serious injury to the domestic producer of such goods. This mechanism generally complies with international legal norms governing this area. This Law is applied with regard to imported goods that is the object of dumping, in those situations where import of such goods harms the domestic producer of similar goods. From the moment of Ukraine's entry into the World Trade Organization, paragraph 2 of Article 2 of the Law would be implemented. Antidumping investigations are conducted by the Inter-agency Commission on International Trade (Commission); the Ministry of Economy of Ukraine (Ministry); and the State Customs Service of Ukraine (Service). The Ministry initiates antidumping procedures with the aim of establishing the existence of dumping and damages connected therewith. The Law (Part 2, Article 38) determines that the Ministry will inform the relevant authorities in the exporter country about the initiation of an antidumping investigation, only after Ukraine joins the WTO. As it is said in the Law, the initiator of antidumping investigation is generally the domestic producer. The domestic producer is the sum of national producers of a similar imported good or those national producers whose total production comprises the larger part of the total production of a given good in Ukraine. The antidumping investigation procedure is initiated with filing of a complaint. If domestic producer proves that dumping exists, he may file a complaint with the Ministry. A labour or trade union at a domestic producer may also file such complaints. The complaint should contain not only an evidence of the existence of dumping, but also damages incurred as a result thereof, and the causal link between the two. A complaint must contain the following information:

- information about the complainant;
- name of the country of origin or export;
- information about the goods that are considered to be the object of dumping;
- the scale of production of similar goods in Ukraine;
- prices at which the imported goods are sold on the domestic market of the exporter's country or country of origin; and
- the influence of this import and consequences for the Ukrainian market etc.

The complaint may be withdrawn by the complainant during the antidumping procedures but prior to the start of the actual antidumping investigation. Antidumping procedures may be initiated if the domestic producer's complaint is supported by other producers whose share of the manufacture of similar goods is greater than 25 percent of the total production of such goods in Ukraine. In order to initiate an antidumping investigation it is necessary that the complaint be supported by Ukrainian producers, whose total production of similar goods account for no less than 50 percent of all such goods produced in Ukraine. The Ministry reviews the complaints and reaches a conclusion as to whether sufficient grounds exist to initiate an investigation. If it becomes apparent that the scale of dumping is insignificant and can be neglected, WTO members do not take any antidumping measures. The Law determines (Part 9, Article 12), that after Ukraine's accession to the WTO, antidumping investigations will not be conducted against importers from WTO member countries, if the extent of the dumped import is less than 1 per cent of the total consumption of similar goods in Ukraine. On the condition that the total extent of imports from these WTO member countries will be less than

3 per cent of the total consumption of similar goods in Ukraine. The Agreement provides for 3 and 7 per cent, respectively, as thresholds. In this fashion, at this time any scale of dumped import may trigger an antidumping investigation. After Ukraine's accession to the WTO, antidumping procedures will not be applied to small-scale dumped import from WTO-member countries. In accordance with the laws indicated, Ukraine had initiated the following special and antidumping investigations:

Anti-dumping Investigations and Findings applying Anti-Dumping Duties

Table 13

Commodity that is subject to the Antidumping Investigation	Country of Origin of the Commodity	Date on which the Anti-Dumping Duty was levied, the Term of Effect and the Amount of such Duty
- 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 five 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 five 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 five 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 five 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 five years.

Table 14

Country	Goods that are the object of investigation		Investigation started	Investigation completed	Final measures		
	1	2	3	4	5	6	7
		Date and number of decision	Date of publication of decision	Date and number of decision	Date of publication of decision	Size of annual special quota	
SPECIAL INVESTIGATIONS							
Customs Union of the Baltic States (Estonia, Latvia, Lithuania) Customs Union of the Russian Federation and the Republic of Belarus, Poland, The Czech Republic, Hungary	Polyurethane sheets, tape, plates and coverings	Decision SP-9/1999 dated 9/27/99	1/2/99	Decision SP 2/200 dated 3/2/2000	3/15/2000	292 tons	
Republic of Belarus, Poland, Russian Federation, Hungary	Electric lamps	Decision 3/99, dated 5/14/99	5/20/99	Decision 5/99, dated 8/5/99	9/18/99	3.9 million lamp units	
Republic of Belarus, China (including Taiwan, Hong Kong and Macao), Russian Federation, Hungary	Artificial fur and worsted canvas	Decision 2/99 dated 5/14/99	5/20/99	Decision SP-8/99 dated 9/14/99	9/29/99	1026 tons	
Bulgaria, European Union, Malaysia, Baltic Customs Union, Customs Union of the Russian Federation and the Republic of Belarus, Republic of Korea, Republic of Moldova, Poland, Romania, Slovak Republic, Turkey, Czech Republic, Japan	Automobiles	Decision SP-7/1999 dated 8/20/99	8/28/99				

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

Safeguards Regime

70. Some members of the Working Party referred to a number of difficulties experienced in connexion with the implementation of the Act on the application of Safeguard Measures against Imports in Ukraine. Ukraine had applied safeguard measures to imports of plates, sheets, films and other articles of polyurethane originating in certain countries in the first half of 2000, members only received information about the evidence of injury of the industry in the beginning of 2002 and unsuccessfully sought consultations with the Ukraine. The information received was not sufficient to prove the existence of increase of imports, injury to industry and causal relation. The level of allocated protective quotas, approximately 2.5 times below the average of imports in the last three representative years, was not consistent with Article 5 of the Safeguards Agreement. These Members requested that this and other safeguard measures applied, and the practice not corresponding WTO rules, be eliminated as soon as possible. The representative of Ukraine said that the special investigation regarding imports of polyurethane into Ukraine was initiated pursuant to the provisions of the Law of Ukraine "On Application of the Measures of Safeguards against Imports to Ukraine" under the Decision of the Governmental Commission on International Trade, No.SP-9/1999, dated 24 September 1999. Plates, sheets, films and other articles of polyurethane (the code under the Ukrainian Classification of Goods of Foreign Economic Activity is 3,921, 13 were the object of investigation due to the increased volumes of import into Ukraine of goods which are investigated and/or decrease of prices of these goods. During the period of investigation, decline of production of all producers was 33 per cent. The share of this production in the general production of similar goods decreased to 9.9 per cent. Taking into account materials of the special investigation, on 2 March 2001 (decision No. SP-2/2000), the Governmental Commission on International Trade applied special measures by way of quotas to imports of plates, sheets, films and other articles of polyurethane into Ukraine originating in certain Members. The term of application of the special measures would expire on 3 October 2003.

71. The representative of Ukraine said that the legislation on trade remedies was listed in document WT/ACC/UKR/111/Add.1. His authorities had reviewed the Safeguards Law. The review of the Ukraine Safeguards law showed that most of the provisions comply with the provisions of the WTO Safeguards Agreement. The general approach, time limits, notification, confidentiality, transparency, etc. were considered to be in conformity while some items were not consistent:

- Although the Ukraine Law, Article 10, paragraph 3 recognizes that factors other than increased imports may cause injury it does not require that injury from these other causes not be attributed to increased imports, as required in the Safeguards Agreement Article 4.2.b;
- Chapter IV that establishes a "Surveillance Measure" if the Ministry establishes a threat of serious injury during the course of the investigation, which by necessity is before a final determination. No such measure is contained in the Safeguards Agreement; and
- Article 16.3 requires the Commission to name the countries of origin to which the definitive measure is applied. This is not consistent with the Article 2.2 of the WTO Agreement, which requires application to a product irrespective of its source. (Article 9 of the SGA and Article 21 of Ukraine law do exempt developing WTO members from application).

Safeguard measures were applied by decision of the Interagency Commission on International Trade after the investigations conducted by the Ministry of Economy. Currently, Ukraine applies safeguard measures to imports of five commodity items. The safeguard measures were established in the form of quotas on imports of these goods into Ukraine. More than 92 per cent of these imports, before the safeguards measures were applied thereto, were imported into Ukraine from countries which are not WTO members. The provisions of Article 16 of the Law of Ukraine "On Application of the Measures of Safeguard against Imports to Ukraine" do not fully comply with the provisions of Article 5.1. of the WTO Agreement on Safeguards. A relevant law was drafted in order to bring the

provisions of the Law "On Application of the Measures of Safeguard against Imports to Ukraine" in line with the WTO requirements. In practice, the level of quota is defined as the average volume of imports during the last three years, as stipulated by the WTO Agreement on Safeguards. A review was underway with regard to safeguard measures applied to imports from WTO members (in particular, referring the import into Ukraine of goods made of polyurethane, decision of the Interagency Commission on International Trade No.SP-70/2003/52-49 of 31 March 2003) in order to bring them into compliance with the WTO Agreement on Safeguards.

72. In response to the request by some Members of the Working Party that Ukraine undertake a commitment to bring the safeguards regime into line with the WTO Agreement on Safeguards, the representative of Ukraine said that this issue would be addressed in the context of the preparation of the Working Party Report.

Export Regulations

Customs Tariff

73. In response to requests for information on export duties, the representative of Ukraine said that that Ukraine's export duties are determined by the Laws of Ukraine On Export Duty on Live Cattle and Hides No. 180/96-BP from 7 May 1996 and On Export Duty Rates for Seeds of Some Oil Crops No. 1033-XIV from 10 September 1999 as amended by Law of Ukraine No. 2555-III from 21 June 2001.

The Law of Ukraine No. 180/96-BP from 7 May 1996 sets the following export duty rates:

Table 15

Goods' HS 96 code	Goods' HS 96 description	Duty rate	
		% of customs value	But at least, €/ton
01.02.90100	Live cattle: Young cattle weighing 350 kg and less; Cattle weighing over 350 kg	75	1,500
01.02.90310	heifers (female bovines that have never calved), cows, bulls, bullocks, etc.	55	540
01.04.10	Live sheep	50	390
Hides:			
41.01	Cattle hides	30	400
41.02	Sheep or lamb skin	30	1 euro/animal
41.03.90000	Pigskin only	27	170

In accordance with this law, agricultural producers that are legal entities are allowed to export these goods without export duty, if they are produced by the exporting entity, with the exception of young cattle weighing 350 kg and less (HS 96 codes 41.01, 41.02, 41.03.9000).

The Law of Ukraine On Export Duty Rates for Seeds of Some Oil Crops No. 1033-XIV from 10 September 1999 sets the following export duty rates:

Table 16

Goods' HS 96 code	Goods' HS 96 description	Export duty rate, per cent of customs value
12.04.00900	Flax seeds, shattered or non-shattered	17
12.06.00900	Sunflower seeds, shattered or non-shattered	17
12.07.99990	False flax seeds only	17

Ukraine noted that export duties *per se* are consistent with the WTO Agreements. The export duty on sunflower seeds at a rate of 21 per cent of the goods' customs value was introduced in October 1999 when sunflower seed production was developing extensively. At the time, gross production numbers were attained by means of increasing the area under crop while yield and economic efficiency were decreasing drastically (0.92 tons per hectare and 22 per cent, respectively, in 1998). Because almost 50 per cent of Ukraine's sunflower yield was exported, the country's sunflower seed processing facilities were working at less than 30 per cent capacity, and some of them went out of business. The lack of sunflower oil was holding back margarine production. But the situation had changed since the duty was introduced. Increasing domestic sunflower seed processing and the production of oil, margarine, special fats and mayonnaise had resulted in an increase of revenue to the budget from UAH 345 million to UAH 1,081 million. Oil and fat production had become a good sector to invest into and the only processing industry to reach the production level of the 1990s. Oil was exported to 27 countries, and Ukraine now exports almost twice as much oil as it did in 1990. The introduction of the export duty had not damaged agricultural producers because of the stiff competition on the domestic market between processing enterprises, which have the capacity to process 40 per cent more sunflower seeds than the country produces. The duty was lowered to 17 per cent in 2001. As international sunflower seed production and sales were limited, changing the existing export duty rates would be inexpedient at this stage. A bill repealing the Law of Ukraine "On Export Duty on Live Cattle and Hides" was drafted and submitted to the Cabinet of Ministers in order to deal with the problems of bilateral trade and investment. The bill was introduced to the Verkhovna Rada of Ukraine in January 2000 (as bill No. 4273) but was defeated. The final version of the bill repealing the Law of Ukraine "On Export Duty on Live Cattle and Hides" was rejected at a meeting of the Cabinet of Ministers on 11 April 2002. Domestic consumption of meat and meat products is still a problem to be solved in Ukraine, because average per capita meat consumption had dropped from 68 kg to 30 kg in the last decade, and in industrial regions to 23-26 kg (the minimum approved by the Ministry of Health in its order No. 272 from 18 November 1999 is 60 kg). The introduction of an export duty on hides has resulted in a substantial improvement of the structure of hides export. While in 1995 (prior to the introduction of the duty) the export consisted of US\$85.5 million worth of hides and only US\$19.1 million worth of semi-finished goods and finished leather, in 2001 these numbers were US\$26.8 million and US\$82.0 million, respectively. Therefore, while hide resources have generally diminished, revenue had increased due to the rise in the export of processed goods, improving the situation in the leather and shoe industry. The utilisation of leather factories' capacity had increased from 15-20 per cent to 60-70 per cent. Ukraine still exports some hides on preferential terms to countries with which it has Free Trade Agreements, which means that Ukraine has reoriented its export towards the CIS and the Baltic nations. In 2001, domestic cattle and hide prices approached world prices, so producers can now profitably sell their goods in Ukraine. Cattle export went down from 16,700 heads in 2000 to only 3,300 heads in 2001, and hide exports decreased from 23,800 tons in 2000 to 15,900 tons in 2001. Finally, the law currently in force allows agricultural producers that are legal entities to export cattle (with the exception of young cattle weighing 350 kg and less) and hides of their own production without export duty. Currently, indicative prices are set for the following list of agricultural products: bovine animals live, sheep live, bovine leather wet-salted and otherwise preserved (Group 4101 pursuant to the UCG FEA), sheep skins wet-salted, flax seeds ground or non-ground, sunflower seeds ground or non-ground, red flax seeds. Currently, indicative prices for agricultural products were set by the Ministry of Economy and European Integration of

Ukraine only for those products, for which export duties are prescribed. Indicative prices were introduced in order to ensure that rates of export duties are effective

Export Restrictions

74. In response to questions concerning the elimination of the export restrictions on non ferrous scrap and sunflower seed, the representative of Ukraine said that Article XI:1 of GATT 1994 does not apply to bans or restrictions on exports that are temporarily applied in order to prevent a serious shortage of products that are of critical importance for an exporting country. According to GATT 1994 Article XX,(d), (g), and (i), Ukraine applied export restrictions with regard to non-ferrous metal (export duty), and prohibited the export of scrap ferrous metal. Licensing was not applied. Ukraine believed that at this time it would be premature to consider the elimination of export duties on oilseeds cultures. Export duties on sunflower seeds were introduced by Law No.1033, dated 10 September 1999, as a temporary measure till 1 July 2002. Pursuant to the Law of Ukraine No. 2555, dated 21 June 2001, the level of rates of export duties on sunflower seeds was reduced to 17 per cent; however, the term of effect of such export duties is not currently restricted. The Government would prepare amendments to Law No. 1033, to specify a term of effect for export duties, in order to reinstate the temporary nature of such duties.

Export licensing procedures

75. The representative of Ukraine said that the amount of a fee for issuing a product import licence totals UAH 255, which corresponds to costs associated with the issuance of the licence. As regards the amount of a fee for issuing an export licence, such amount is equal to 0.1 per cent of the value of the export contract.

76. 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 of the Agriculture Agreement. The representative of Ukraine said that Ukraine was cognizant of the obligations of WTO membership and would deal with the issue of commitments in the context of the preparation of the Report of the Working Party.

Export financing, subsidy and promotion policies

77. The representative of Ukraine recalled that within the framework of the negotiation process for purposes of the WTO accession Ukraine, had announced its readiness to undertake a commitment upon accession not to use export subsidies for agricultural exports.

Internal Policies Affecting Foreign Trade in Goods

Industrial Policy including Subsidies

78. In response to questions concerning Ukraine's subsidy and incentives programmes, the representative of Ukraine said that Ukraine had already supplied information on its subsidies and would, after accession, notify its subsidies in the same manner as all WTO Members. He summarized the subsidy programmes for ship building, coal mining, energy, steel, motor cars, aircrafts, space activities, chemicals, construction and pharmaceuticals, as follows:

- Subsidies for the ship-building industry

Subsidies for the ship building industry are provided in compliance with the Law of Ukraine "On Measures of State Support for the Ship-Building Industry in Ukraine" as of 18 November 1999, No. 1242-XIV (including changes and amendments introduced in accordance with the Law of Ukraine as of 13 December 2001, No. 2892-III). The objective for providing subsidies to the ship building industry is an efficient use of the production, research and development (scientific and technical) potential of domestic ship building and the upgrading of competitiveness, as well as facilitating the attraction of investments including foreign investments, scaling down the cost of ship building and increasing the level of the turnover funds of the ship building enterprises. The time period of state support measures starts on 1 January 2000 and ends on 1 January 2005.

Subsidies are provided in the following forms:

- Deferred tax payments, in particular:
 - amounts of advance payments for the ship building industry obtained from the clients ordering ships may be allocated to separate accounts of such enterprises and shall not be subject to the withholding procedure without consent and shall be used only for purposes of targeted use in compliance with the Contract obligations of the above-specified enterprises. Such amounts shall be included as a part of gross revenues of such enterprises for purposes of profit calculation subject to taxation in accordance with the Law of Ukraine "On Corporate Income Tax" at the moment of transferring the ship to the client and expenditures of the ship building enterprises. The enterprises own expenditure in accordance with the target allocation – shall be included in gross expenses for purposes of income calculation subject to taxation in the tax period when the gross revenues are increased by the amounts of the respective payments.
 - Exemption from payment of customs duty during importation into the Customs Territory of Ukraine of the materials, equipment and assembling parts (hereinafter – goods), used for purposes of ship building in case such goods are not produced by the enterprises within the territory of Ukraine or in case such produced goods do not comply with the Certification requirements of the International classification partnerships or do not comply with the requirements of the Clients and with the identified Contract provisions. The Cabinet of Ministers of Ukraine shall approve on an annual basis lists of such goods (except for excisable goods).
 - Exemption from payments of the land tax.
 - VAT exemption for transactions of importation (shipment) into the Customs Territory of Ukraine of materials, equipment and assembling parts (hereinafter – goods), used for purposes of ship building (except for excisable goods), in case such goods are not produced by enterprises within the territory of Ukraine or in case such produced goods do not comply with the Certification requirements of the International classification partnerships or do not comply with the requirements of the Clients and with the identified Contract provisions. The Cabinet of Ministers of Ukraine shall approve on an annual basis lists of such goods (except for excisable goods).
 - Zero rates of value added tax regarding the taxation of transactions on sales of products produced by the specified ship building enterprises, at the expense of funds of the State Budget of Ukraine.
 - VAT exemption for the design and development works performed by the domestic designers (developers) in accordance with the Contracts of the specified ship building industrial enterprises for purposes of ship building.

The Cabinet of Ministers of Ukraine, bearing in mind the results of the operations of the ship building enterprises, shall approve the list of ship building enterprises regarding application of the above-mentioned measures, except as regards enterprises registered in (free) economic zones. The

following is the list of enterprises adopted in accordance with the Cabinet of Ministers of Ukraine Resolution of 16 June 2000, No. 978 (including changes and amendments introduced by the Cabinet of Ministers of Ukraine Orders as of 21 August 2001, No. 1106 and as of 27 May 2002, No. 696)

- Subsidies to the Coal Mining Enterprises

Beginning on 1 January 2002 State Support to Coal Mining Enterprises is provided in accordance with the new procedure approved by the Resolution of the Cabinet of Minister of Ukraine No. 1733 of 27 December 2001 "On approval of procedure for identification and provision of the State support to the Coal Mining Enterprises". (Resolution of the Cabinet of Ministers of Ukraine No. 26 of 6 January 1999, in accordance with which State Support was provided to the Coal Mining Enterprises for the period up to 1 January 2002 has been cancelled). In accordance with the new procedure, State Support at the expense of the State Budget is provided to Coal Mining Enterprises (hereinafter – Enterprises) with substantial production reserves of quality coal but unable to support production with their own funding (in case reconstruction of such enterprises is economically viable). This procedure shall not apply to enterprises making profits from operations or to enterprises being prepared for liquidation. The scope of State Support of enterprises and the respective target use of such support is governed by the Law on State Budget of Ukraine for the corresponding year. In the year 2002 such expenditures were specified in the budget in the amount of UAH 850,000 and for the year 2003 – UAH 830,000. State Support shall be provided directly to enterprises for purposes of reimbursing expenses related to the cost of production of coal products and related to capital investments. The Ministry of Fuel and Energy shall identify the planned cost of production of the coal products and the scope of expenditures for the capital investment on the basis of materials provided by the State Holding Companies, Production Unions and enterprises regarding the elements and directions for application of industry norms (approved production capacities, norms of the work load with respect to the preparation of mines, work load norms, material and power resources and so on) and taking into account the need for measures to improve work productivity and reduce production expenditures. The planned cost of production of coal products, and the extent that expenses are covered by income, shall be identified for each enterprise on the basis of targets for production of coal products introduced by the Ministry of Fuel and Energy and Meeting the target ensures the maximum economic efficiency. The Ministry of Fuel and Energy approves on an annual basis the coal quality indicators for purposes of identification of production amounts. The Industry Commission established by Ministry of Fuel and Energy performs assessment of the results of activity of enterprises. The assessment is performed on the basis of:

- the economic indicators;
- the production potential;
- financial plans of enterprises; and
- results of business plan competitions with regard to capital investments.

- Steel

Subsidies were provided as part of an economic experiment at enterprises of the mining and smelting sector from 1 July 1999 till 1 January 2002. Due to the expiry of the experiment's term and the expiration of effect of the Law of Ukraine, dated 14 July 1999, No. 934-XIV, "On the Conduct of the Economic Experiment at Enterprises of the Mining and Smelting Sector in Ukraine", subsidies were not provided in 2003.

- Motor Cars

The preferred tax treatment in motor car construction introduced by the Law of Ukraine "On Stimulation of Production of Motor Cars in Ukraine" No. 535/97-VR of 19 September 1997 (with changes and amendments) with the purpose of securing conditions for attraction of investments in the domestic motor car construction. For the period to 1 January 2008 the following benefits shall be

granted to enterprises producing motor cars, buses and component parts on the basis of registered investments (including foreign) exclusively in a monetary form, in the amount of at least US\$150 million – in production of passenger cars; at least US\$30 mln. – in production of trucks and buses; at least US\$10 million – in production of component parts to motor cars and buses:

- exemption from import duty while importing into the customs territory of Ukraine according to the Law of Ukraine "On Stimulation of Production of Motor Cars in Ukraine" of products (including car assemblies) with identification of codes under the Ukrainian classification of products of foreign economic activity; the procedure and volumes of importing of such products shall be determined by the Cabinet of Ministers of Ukraine, unless such products are produced within the territory of Ukraine;
 - exemption from the land tax. The land area exempted from taxation, shall be determined based on the amount of a monetary investment to the authorized fund of such enterprises. One hectare of land shall be exempted for each US\$400 thousand of investment exchange rate, established by the National Bank of Ukraine on the day of making such an investment (including foreign);
 - exempted from the value-added tax shall be transactions on bringing in (forwarding) into the customs territory of Ukraine according to the Law of Ukraine "On Stimulation of Production of Motor Cars in Ukraine" of products (including car assemblies), used for construction and production activity of such enterprises. The list of products (including car assemblies) with identification of codes under the Ukrainian classification of products of foreign economic activity, as well as the procedure and volumes of importing of such products shall be established by the Cabinet of Ministers of Ukraine, unless such products are produced within the territory of Ukraine; and
 - transactions on sales of motor cars, buses and component parts of residents' own production that operate under the Law of Ukraine "On Stimulation of Production of Motor Cars in Ukraine" shall be charged with the value-added tax at a zero rate. Such resident producers shall be under the obligation to have an investment program approved of by the Cabinet of Ministers of Ukraine.
- Aircraft construction

The preferred tax treatment in aircraft construction introduced by the Law of Ukraine "On State Support of Aircraft Construction Industry in Ukraine" No. 2660-III of 12 July 2001 with the purpose of securing favourable conditions for effective use of production, science and research potential domestic aircraft construction, modernization of aircraft enterprises, promoting investment activity, including foreign investment activity, and increasing the competitiveness of home aircraft, engines and aviation equipment. The following tax benefits shall be granted to aircraft industry enterprises for the period from 1 January 2002 to 1 January 2007:

- delay in tax payment, particularly: amounts of advance and preliminary payments under the contracts of aircraft industry enterprises, received from product (service) customers shall be added to separate accounts of these enterprises, and be used only under the target destination according to the contractual obligations of the said enterprises. These monies shall be included in gross incomes of enterprises with the purpose of identifying the profit subject to taxation in accordance with the law of Ukraine "On Taxation of Enterprise Profit" at the moment of delivery of products (services) to the customer, and expenses of aircraft construction enterprises, made against advance and preliminary payments according to their target destination, shall be included in the total costs with the purpose of identification of the profit subject to taxation in the tax period, on which falls the date of an increase of the gross income by the amount of the said payments;
- exemption from the customs tariff while importing into the customs territory of Ukraine of materials, component products and equipment (hereinafter referred to as products) used for the needs of development, production of aviation machinery and providing services by

enterprises, unless such products are also produced within the territory of Ukraine, or those produced do not meet international classification requirements or requirements of customers of products (services), stipulated by terms of contracts. The list and volumes of such products (except for excisable) shall be annually approved by the Cabinet of Ministers of Ukraine.

- exemption from the land tax; and
- exemption from the value-added tax for importing (forwarding) into the customs territory of Ukraine of materials, component products and equipment (hereinafter referred to as products), except for excisable products, used for the needs of development, production of aviation machinery and providing services, unless such products are also produced by enterprises within the territory of Ukraine, or those produced do not meet international classification requirements or requirements of customers of products (services), stipulated by terms of contracts. The list of volumes of such products shall be annually approved by the Cabinet of Ministers.

- Space Activities

The preferred tax treatment of subjects of space activity shall be granted according to the Law of Ukraine "On State Support of Space Activity" No. 1559-III of 16 March 2000 with the purpose of preserving and effective use of the existing scientific and research, production potential of the space industry as a priority component of the high technology sector of the economy in order to secure national interests. The following treatment shall be applied to such enterprises during the period up to 1 January 2009:

- import duty shall not be charged while importing into the customs territory of Ukraine of products, used for production of space machinery (including units, systems and their components for space complexes, space carrier rockets, space vehicles and land segments of space systems), unless such products are also produced within Ukraine. The list of these products, except for excisable products, as well as the procedure and volumes of their importing shall be determined by the Cabinet of Ministers of Ukraine.
- exemption from the land tax;
- sales of space complexes, space carrier rockets, space vehicles, land segments of space systems and their units, systems and components, produced by subjects of space activity shall be exempted from the value-added tax; and
- imports by subjects of space activity into the customs territory of Ukraine of products, used for production of space machinery (including vehicles, systems and their components for space complexes, space carrier rockets, space vehicles and land segments of space systems), shall be exempted from the value-added tax, unless such products were produced within Ukraine.

- Chemicals, construction, pharmaceuticals

As to benefits in the chemicals industry, according to the Law of Ukraine "On Taxation of Enterprise Profit" chemical industry enterprises with fixed assets put into operation before 1 January 1993 and used for carrying out economic activity, were entitled up to 1 January 2003 to attribute to gross costs of the reporting (tax) period the costs of modification of such fixed assets in an amount not exceeding 9 per cent of the asset value of the category of such fixed assets before the beginning of the reporting (tax) year.

As to tax benefits in construction, according to the Law of Ukraine "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" (item 22.25 of Article 22 of the Law of Ukraine "On Taxation of Enterprise Profit") No. 1694-III of 20 April 2000, for the period up to 1 January 2006:

- costs, attributed by business entities to housing savings accounts of individuals as a result of contractual relations with such individuals, shall be included in the total costs of the taxpayer in an amount not exceeding 10 per cent of its total income for the reporting period; and
- deposits directed by authorized banks to the special reserve for long-term savings deposits shall be added to the total costs of such banks.

As to tax benefits related to pharmaceutical products, according to the Law of Ukraine No. 168/97 of 3 April 1997 (with changes and amendments) "On Value-Added Tax" sales transactions, as well as importing into the customs territory of Ukraine of medicines and medical products registered in Ukraine under the due procedure shall be tax exempted.

79. The representative of Ukraine said that in accordance with the Law of Ukraine "On Procedures for the Repayment by Taxpayers of Arrears to Budgets and State Target Funds" dated 21 December 2000 No. 2181, tax arrears were written off for insolvent debtor enterprises. These measures were a once-only action in 2001 undertaken in connection with the accumulation of bad debts that had adverse effects on the financial status of taxpayers and whose would not have been possible.

80. Some Members of the Working Party 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. The representative of Ukraine said that Ukraine was cognizant of the obligations of WTO membership and would deal with the issue of commitments in the context of the preparation of the Report of the Working Party.

Technical Barriers to Trade

81. Some Members of the Working Party requested that Ukraine submit information on the requirements and restrictions remaining in the area of conformity assessment and the mandatory standards/technical regulations that Ukraine had inherited, the mutual recognition agreements. In document WT/ACC/UKR/113, the representative of Ukraine submitted a comprehensive analysis of the Laws on Standardization, Conformity Assessment and Accreditation of Certification Bodies.

82. The representative of Ukraine said that pursuant to the Law of Ukraine "On Conformity Assessment", dated 17 May 2001, No. 2406-III, conformity shall be confirmed by accredited certification organizations of any form of ownership, which are authorized to engage in such activity in the legislatively regulated sphere. Ukrainian residents only may act as authorized certification organizations. Subject to confirmation with the specially authorized agency of executive power in the area of conformity assessment, authorized certification organizations are entitled to enter into agreements for mutual recognition of conformity assessment work with authorized organizations from other countries. As of 1 May 2003, in the area of standardization, metrology and certification there are in effect 34 bilateral agreements with 26 countries, out of which 15 have been concluded at an inter-government level. For instance, the Ukrainian Center for Testing and Certification of Electric Equipment (UkrTEST) has entered into agreements for mutual recognition of conformity assessment work in the area of electrical equipment in Europe.

83. The Law of Ukraine "On Conformity Assessment" contains the main principles of state policy. A principle of harmonization of the national normative and legislative acts on conformity of conformation with the international ones is among the said principles. A "module approach" is reflected in Article 10 of the said Law as a possibility to declare conformity. A "module approach" is also reflected in other normative and legislative act, in particular: the draft technical regulations on

modules of the procedure for assessment of conformity and principles of marking with the national sign of conformity which have to apply in technical regulations on conformity. The draft has passed the internal examination. It shall be approved by the Government's decision in the nearest future. Depending on the level of risk, it is provided for application of the relevant module of the procedures for conformity assessment. Thus, for products with low level of risk, it is provided for application of module A, i.e., declaration of conformity in accordance with the results of domestic control of production.

Article 1 of the Law of Ukraine "On Conformity Assessment" No. 2406-III of 17 May 2001 determines that technical regulations for the assessment of conformity are legal-normative acts approved by the Cabinet of Ministers of Ukraine setting forth descriptions of the varieties of products subject to mandatory verification of conformity; establishing requirements in respect to safety for life and wellbeing of humans, animals, and plants, as well as for property and for the environment; setting procedures for the assessment of conformity with such requirements; and setting rules for marking and for putting products into circulation.

Article 9 of the Law of Ukraine "On Conformity Assessment" stipulates that the procedure for the assessment of conformity in the legally regulated field for particular varieties of products that may be potentially dangerous for the life and wellbeing of humans, animals, and plants, as well as for property and for the environment, shall be established by technical regulations for the assessment of conformity.

Article 13 of the Law of Ukraine "On Standardization" No. 2408-III of 17 May 2001 determines that technical regulations and other legal-normative acts establish mandatory requirements regarding:

- Protection of life, wellbeing, and property of people;
- Protection of animals and plants;
- Protection of the environment;
- Safety of products, processes, and services;
- Prevention of deceit regarding the purpose and safety of products; and
- Removal of any threat to national security.

Article 5 of the Law of Ukraine "On Verifying the Conformity" stipulates among the principles of state policies in the field, the following principles:

- Fairness, transparency, and accessibility of conformance assessment procedures;
- Application in line with current international practices, of conformance assessment methods depending on potential risks;
- Uniformity of conformance assessment procedures as applied to products of domestic and foreign origin; and
- Harmonization of national legal-normative acts regulating assessment of conformance, with the international norms.

Ukrainian legislation determines that technical regulations shall be applied to performance of tasks similar to those stipulated in Article 2.2 of the TBT Agreement. The potential risks shall be assessed, with due respect for current international practice. In accordance with Article 2.5 of the TBT Agreement, this means that such technical regulations do not create ungrounded obstacles to international trade.

84. The representative of Ukraine said that mandatory certification of products is prescribed by the Law of Ukraine "On Protection of Consumer Rights", the Law of Ukraine "On State Regulation of Imports of Agricultural Products", the Law of Ukraine "On Labour Protection", the Law of Ukraine "On Quality and Safety of Foodstuffs and Raw Food", the Law of Ukraine "On Communications", the

Law of Ukraine "On Highway Traffic", the Law of Ukraine "On Transport", the Law of Ukraine "On Permissible Activity in the Area of Nuclear Energy Use", the Law of Ukraine "On Tourism" etc. The List of Products subject to Mandatory Certification in Ukraine, approved by Order No. 498 of Derzhspozhivstandart, dated 30 August 2002, had been drawn up on the basis of these Laws. Pursuant to the Law of Ukraine "On Standardization", upon introduction of mandatory technical regulations on conformity assessment, standards that fall under the effect of such regulations shall become voluntary. Article 5 of the Law of Ukraine "On Standardization" names priorities in the implementation of international and regional standards in Ukraine as one of the principles of State policies in the area of standardization. Approximately 80 per cent of the national standards adopted during the years 2001-2002 are identical to international standards. In the event of adoption of EC standards as national standards, preference shall be granted to EC standards that are identical to international standards. As of 1 May 2003, Ukraine had in effect 1,090 national standards harmonized with international standards, out of which 293 had been adopted by 2000, 457 – during 2001 and 340 – in 2002. It plans to harmonize 500 standards during 2003. In general, more than 8,000 standards need to be implemented. In order to ensure compliance with the basic principles of conformity assessment that are used in international practices, in particular application of product conformity assessment modules depending on potential risks for human and animal life and health, as well as for property and environmental protection, there have been prepared 11 draft technical regulations on standardization and conformity assessment for specific types of products, in particular:

- on conformity assessment modules that are used in technical regulations, and rules for granting, use of and marking with conformity marks;
- for the safety of toys;
- for electric household refrigerating devices;
- for the safety of low-voltage equipment;
- for electromagnetic compatibility;
- for non-automated weighing devices;
- for the safety of gas appliances;
- for the safety of boilers operating on liquid fuel;
- for the safety of simple vessels operating under pressure;
- for the safety of equipment operating under pressure; and
- for the safety of lifts.

Upon adoption of technical regulations and standards that fall under their effect, the List of Products subject to Mandatory Certification in Ukraine will be gradually reduced. In order to further harmonize product certification procedures in Ukraine with international procedures, to bring Ukraine's regulatory acts into conformity with the requirements of the Agreement on Technical Barriers to Trade, Order No. 633 of Derzhstandart, dated 18 August 1998 No. 633, "On Approval of Procedures for Accomplishment of Works concerned with Certification of Foreign Serially Manufactured Products" had been repealed. From now on, certification organizations will carry out works concerned with certification of foreign products that are manufactured serially pursuant to rules for mandatory certification of particular types of products. No inspection of imported goods is applied. A conformity certificate is required in the event of importation of goods that are subject to mandatory certification.

85. The representative of Ukraine said that pursuant to Articles 9 through 11 of the Law of Ukraine "On Conformity Assessment", conformity assessment shall be legally possible according to two schemes, which take into account a degree of risk. These schemes are the following:

- declaration on conformity; or
- certificate of conformity.

With transition periods, prior to the introduction of technical regulations, the UkrSEPRO certification system shall operate. This system shall establish six certification schemes, in particular:

- certification of a single article;
- certification of a group of (products) articles;
- certification of products manufactured serially (without examination/inspection of production);
- certification of products with examination/inspection of production;
- certification of products with attestation of production; and
- certification of products with assessment of a quality system or certification of a quality system.

An applicant shall have the right to choose the specific scheme of certification, depending on its possibilities. And the certification authority shall determine the final scheme. In such situation, peculiarities of production, testing, supply and use of specific products, potential expenses of the applicant, as well as the results of review and analysis of the applicant's submitted materials (with consideration of the applicant's requests concerning the certification scheme) shall be taken into account.

86. The representative of Ukraine said that in order to fulfill final provisions of the Laws of Ukraine "On Standardization," "On Accreditation of Authorities on Assessment of Conformity" and "On Confirmation of Conformity," the draft Law of Ukraine "On Amendment of the Law of Ukraine 'On Metrology and Metrology Activity'" was prepared. The draft was submitted to the Cabinet of Ministers of Ukraine for consideration. The main changes provided by the draft shall be the following;

- provisions related to accreditation for the right to carry out metrology works shall be excluded;
- provisions in relation to authorization in State metrology system to carry out metrology works shall be included (provisions which determine authorization authorities, procedure for conducting of authorization and responsibility of authorization authorities);
- sphere of the law's application shall be determine more precisely (the Law shall apply to physical persons);
- state register of methodologies of tests effectuation applied in the field of state metrology surveillance shall be introduced; and
- sphere of state metrology surveillance shall be determined more precisely (state metrology surveillance shall cover works related to control of quality of medicines and works on ensuring of technical protection of information).

In relation to monitoring of activities and objectivity of accreditation authorities established in Ukraine, please note that pursuant to Article 7 of the Law of Ukraine "On Accreditation of Authorities on Assessment Conformity", the Council on Accreditation was created. This Council is a consultative and supervisory body of the national authority on accreditation. Carrying out the said monitoring is among the main functions of the said Council.

87. Some members of the Working Party requested that Ukraine undertake the commitment to be, upon accession, in full conformity with all the provisions of the Agreement on Technical Barriers to Trade. The representative of Ukraine said that Ukraine was cognizant with the obligations of WTO membership and would deal with the issue of commitments in the context of the preparation of the Report of the Working Party.

Sanitary and Phyto-Sanitary Measures

88. Some members of the Working Party requested that Ukraine provide detailed information on veterinary or sanitary verification and the fee structure involved, and the implementation of the Agreement on Sanitary and Phyto-Sanitary Measures. Ukraine's Action Plan on the implementation of the SPS Agreement is reproduced in Annex 8 of WT/ACC/UKR/110/Add.1. In document

WT/ACC/UKR/110/Add.3, the representative of Ukraine submitted a comprehensive report on the steps and measures that would be taken with a view to the early implementation of the SPS Agreement. Annex 6 of this Report reproduces the SPS legislation being implemented by the Ministries of Health, Ecological Resources and Agriculture.

89. The representative of Ukraine said that the sanitary and phytosanitary control system was being reformed as part of a package of measures aimed at Ukraine's WTO accession and, in particular, in pursuance of Decree No. 797 of the President of Ukraine of 5 September 2001 "On Additional Measures Towards Acceleration of Ukraine's WTO Accession". The measures accomplished to date include:

- the Law of Ukraine "On Amendments to the Law of Ukraine "On Ensuring Public Sanitary and Epidemiological Welfare"" has been approved providing for equal requirements posed to domestic and foreign goods with respect to their safety for human life and health, as well as in regard to procedures of control and expert examinations, issue of permits, adoption of sanitary and epidemiological standards and regulation;
- a list of products determined pursuant to UCC FEA subject to sanitary and phyto-sanitary control at the border has been prepared. The above mentioned list of goods is included as an attachment to Resolution No. 1569 of the Cabinet of Ministers of Ukraine "On the Procedure for Collecting the Unified Fee at Points of Crossing the State Border of Ukraine" of 24 October 2002;
- in compliance with requirements of the International Veterinary Code of the International Epizootic Bureau, amendments had been entered into the Veterinary Requirements to Import into Ukraine of Cargos and Freights Subject to Control by the State Veterinary Service;
- the Cabinet of Ministers of Ukraine had approved the Regulation "On State Sanitary and Epidemiological Service of Ukraine" (Resolution No. 1218 of the Cabinet of Ministers of Ukraine of 19 August 2002), Regulation "On State Sanitary and Epidemiological Supervision in Ukraine" (Resolution No. 1218 of the Cabinet of Ministers of Ukraine of 19 August 2002);
- the information center on sanitary measures applied in Ukraine has been opened at the official web-site of the Ministry of Health of Ukraine.

90. Resolution No. 1419 of the Cabinet of Ministers of Ukraine "On Certain Measures Towards Medical Preparations Quality Improvement" identifies the State Department for Control of Quality, Safety and Production of Medical Preparations and Medical Purpose Products as a national authority charged with certification of medical preparations production conformity with due production practice requirements. In pursuance of this Resolution, the Ministry of Health of Ukraine had passed Decree No. 369 of 14 October 2002 approving the following:

- activities with respect to creation of the national medical preparations standardization system harmonized with international standardization system requirements;
- activities to the end of accession to the Pharmaceutical Inspections Cooperation System to ensure involvement in activities of European and international organizations related to pharmaceuticals quality management; and
- lists of legal and regulatory acts governing certification of pharmaceuticals production and standardization system.

91. Seeking to ensure further harmonization of Ukrainian laws regulating pharmaceuticals distribution with international standards and requirements, the Draft Law of Ukraine "On Amendment of the Law of Ukraine "On Pharmaceuticals"" had been prepared and approved in the first reading by the Supreme Rada of Ukraine. The Draft Law provides for the introduction of globally recognized quality assurance system and determines the requirements to due practices: manufacturing (GMP), laboratory (GLP), clinical (GCP), distribution (GDP). One of the main functions of the State Sanitary

Epidemiologic Service of Ukraine is the supervision over adherence of the sanitary legislation requirements. Sanitary legislation establishes medical (sanitary-epidemiological) requirements to the safety of environmental factors affecting human life and health. Requirements of safety for health and life of the population are mandated by the State standards and other normative-technical documents for products, raw materials, technologies and other factors affecting the human environment. When the relevant types of control are conducted by different organizations and bodies, in particular - Derzhspozhyvstandart, ecological inspection and veterinary service, the control is carried out on adherence to the requirements of state standards and other normative-legal documents, including the requirements of safety of products for human life and health, which lead to duplication of functions of the State Sanitary Epidemiological service by these bodies. In order to eliminate duplication of functions of the State Sanitary Epidemiological Service by other controlling bodies, the Law of Ukraine "On Sanitary and Epidemic Safety of the Population" No. 4004-XII, of 24 February 1994 provides as follows:

- Article 1 of the Law establishes that "control and supervision over adherence to medical requirements on safety for human health and life lie solely within the competence of the medical profession";
- Article 14 of the Law determines that "supervision over adherence to sanitary norms in the standards and other normative-technical documents, conformity of products with the requirements of safety for health and life of the population are undertaken by the bodies, institutions and establishments of the State sanitary epidemiologic service,
- Article 16 of the Law establishes that the same life and safety requirements apply to products, procedures of inspections, assessment, issue of permissions, establishment of sanitary and epidemic norms and regulations both to imported and domestic goods and raw materials,
- Article 51 of the law provides that if an international agreement that Ukraine participates in establishes rules different from those envisaged in the sanitary legislation of Ukraine, the rules of the international agreement shall apply.

92. The representative of Ukraine described the organisations and competencies with respect to SPS issues as follows:

- Institute of Ecological Hygiene and Toxicology: founded in 1963 it is responsible for sanitary-epidemiological investigation for all the country, elaboration of laboratory methods (not always the same as suggested by International Organisations, especially for infant food, pesticides and additives), elaboration of standard for production and import of foods, issuing of expertise at national level.
- To issue an expertise for imported food, the Ministry of Health does not require any documents from the Official Administration of the exporting county, just submission of documentation from the producer or the trader. In case the producer asks for expertise, an inspection in loco could be arranged, for a large amount of product to be imported for a long time. Expertises are issued by specialised Sanitary Epidemiological Commissions, 25 at regional level plus 15 in national Institutes of research. Different commissions can cover the same product (overlapping of competencies). The Commission can approve or ask for additional expertise, then takes the final decision. A register with all the results issued by the Commission is available at national level. The average time to complete an expertise is about 30 days (20 for the Commission's work plus six for the approval process). The product to be imported has to be accompanied by a copy of the results of the expertise, which has a validity of up to five years maximum. At the border, only documents are checked by Ministry of Health personnel. At retail level the product is checked at random. The standards were the same for national and imported products, and cover: raw materials, hygiene, finished product, quality/safety, transportation, storage, medical control of workers, animal welfare, and premises.

- Medical Quarantine Station and Veterinary Border Points: in both of these staff are present 24h/24. The first one is responsible for document checks, only in the case where documents are not available, samples are taken and the costs are covered by the owner of goods.
- All Veterinary Border Points are authorised to check all kinds of goods, there is no specialisation.
- OIE documentation available. In case of outbreaks of animal disease in other countries, veterinary measures are reported to be taken in conformity with OIE rules and information. These measures are notified at the Embassy of the exporting country both when they are introduced and when they are removed.

Reference legislation:

- Veterinary requirements concerning import into Ukraine of the shipment subject to veterinary control (1999);
- Mandatory minimum list of the analysis of raw materials, product of animal and non animal origin, feed, raw feed, vitamins which are subject for analysis in the State Laboratories of Veterinary Services and according to which results the veterinary certificates have to be issued (1998); and
- Law on Veterinary Service (for the list of products to be checked at border points).

Checks: Certificate checks (100 per cent); Identity checks (10 per cent); and Laboratory tests (100 per cent).

Veterinary Service and Central Veterinary Laboratory: in December 2001 the new Law on Veterinary Services was signed. The pyramidal structure includes laboratories at regional and local level, all accredited according to Ukrainian rules. A veterinary officer is present full or part time as necessary in all factories processing foods of animal origin. In the markets the veterinary service is present full time, while sanitary service makes only surveillance. Here the veterinary service checks documents (form 2) and makes particular laboratory analysis (trichinellosis, biochemical tests, radionuclides).

The Central Veterinary Laboratory has the following tasks: development of new methodologies, evaluation of new equipment, analysis of revision, training, data collection and elaboration, dissemination of information. The Central Veterinary Laboratory is accredited according to former Soviet standards, while ISO accreditation is expected in the near future. Translation into Ukrainian of ISO methods is considered a priority, as well as training of personnel on western methods.

Sanitary Stations: responsible for sanitary surveillance according to the Law on human safety and welfare of population. Surveillance is articulated into three areas: preventive control, on-going control, plan of action for epidemic. Ad hoc surveillance is envisaged for at-risk products.

The representative of Ukraine said that the Ukrainian authorities had begun a programme of reform, which aims to bring Ukrainian regulation of sanitary and phytosanitary measures in line with WTO, in the first instance, and eventually also with European Union standards. This includes the following regulatory measures:

- Amendments to the Law of Ukraine "On ensuring the sanitary and epidemiological safety of the population"(the fundamental law for SPS);
- Amendments to the Law of Ukraine "On quality and safety of food products and raw agricultural materials"; and
- Amendments to the Law of Ukraine "On amendments to various laws of Ukraine on questions of Veterinary Medicine".

In addition, the Cabinet of Ministers is preparing the following resolutions:

- Resolution "On confirming the Statute of the State Sanitary-Epidemiological Service of Ukraine";
- Resolution "On confirming the Statute of the State Sanitary-Epidemiological Inspectorate of Ukraine"; and
- Resolution "On the procedure for confirming the list of food additives allowed for use in Ukraine".

The Ministry of Health had confirmed, through its Order No. 247 of October 2000, a new procedure for carrying out sanitary controls. This is now being supplemented with additional procedural documents, which will include important elements such as a definition of exactly which products are subject to sanitary controls.

93. Some members of the Working Party requested that Ukraine undertake the commitment to be, upon accession, in full conformity with all the provisions of the Agreement on Sanitary and Phytosanitary Measures. The representative of Ukraine said that Ukraine was cognizant with the obligations of WTO membership and would deal with the issue of commitments in the context of the preparation of the Report of the Working Party.

TRIMS

94. Some members of the Working Party referred to the law of October 1997 "on the stimulation of automobile production in Ukraine" accompanying legislation, and regulations regarding the second hand car markets which provided a set of discriminatory advantages to one company contrary to WTO rules. These Members requested Ukraine to remove the following elements of the 1997 regulation: Provisions regarding the local content requirement; Discriminatory exemptions of indirect taxes (VAT exemption for import of materials and parts and sales of new cars, exemption of excise duties on sales of new cars, exemption of land tax, reduction of the tax base for the corporate profit; tax, exemption of payment to the state innovation fund; Discriminatory exemptions of import duties; Ban on import of second hand cars older than five years, and minimum customs value of US\$5,000 on cars less than five years old. On 15 November 2001, amended legislation governing the regulation of the automobile sector was passed by the Rada, which removed the local content requirements but did not address the exemptions on VAT and excise on sales of new vehicles produced by privileged enterprises). The new legislation had widened the scope of the discrimination as it affects not only to cars but also to parts and components of cars. Progress had been with the easing of the ban on import of second hand cars, from five to eight years, the removal of the local content requirements and the removal of minimum customs values for imported cars. The representative of Ukraine said that to provide for implementation of the Phased Action Plan of Ukrainian car-making industry encouraging the legislation's adaptation to the terms of the Partnership and Cooperation Agreement between Ukraine and the European Community and WTO rules, and pursuant to decisions of the fifty-fifth session of the Customs and Tariff Council of Ukraine, the following drafts had been developed and forwarded to the Cabinet of Ministers of Ukraine for consideration:

- On Changing and Amending Certain Legislative Acts of Ukraine to Adapt National Legislation on Car-making Industry Encouragement to PCA Provisions and WTO rules;
- On Changing and Amending Certain Legislative Acts of Ukraine on Import and Excise Duty Rates on Certain Types of Vehicles and Components for Such.

State Trading

95. In response to the request of some members of the Working Party, the representative of Ukraine submitted the following is the list of state trading enterprises:

- State foreign economic enterprise "Ukrkol'orprom" Dnipropetrovsk;
- State trade and production enterprise "Ukrmetalurg orgpostach" Zhytomyr;
- Ukrainian foreign economic state enterprise firm "Ukrtekhprom" Kyiv;
- State enterprise "Spetsializovana Zovnishnyotorgivel'na Firma "Ukroboronexport" Kyiv;
- State enterprise "Zovnishnyotorgivel'na Firma "Tasko-export" Kyiv;
- Ukrainian state enterprise "Ukrkhim" Kyiv;
- State foreign economic enterprise "Ukrzovnishderevprom" Kyiv;
- State enterprise "Torgposlugy" Prymorskiy;
- State pharmaceutical production and commercial enterprise "Apteka" Rubizhne;
- Technical and trade center "Kvantor" Ternopil';
- State foreign economic firm "Khersonsudnoimpeks" Kherson;
- State enterprise technical and trade center "Novator" Khmelnytskiy; and
- State commercial and production enterprise "Chernivets'listorg" Chernivtsi.

96. Some Members of the Working Party requested additional information concerning Khlib Ukrainy. The representative of Ukraine said that the State Joint Stock Company "Khlib Ukrainy" (SJSC "Khlib Ukrainy") was established in August 1996. The structure of the Company includes 81 production subsidiaries established as wholly-owned enterprises (their charter funds are not divided into shares/participation interests). The subsidiaries are located almost in all oblasts of Ukraine, have 17,000 employees, and control 18-20 per cent of the country's grain storage and flour, cereal and mixed fodder production capacities. The Decree of the Ukrainian President, Resolution No. 604-p of the Cabinet of Ministers of Ukraine, dated 25 October 2002, had approved directions of a SJSC "Khlib Ukrainy" restructuring plan which includes 12 stages, and contemplates that a report on implementation of this plan shall be submitted by 1 October 2003. Efforts continue to be taken to realize these directives.

97. The representative of Ukraine said that information confirming that the activities of the State enterprises were in conformity with Article XVII of the GATT 1994 would be submitted to the Working Party as soon as possible together with an update of the questionnaire on State trading.

Policies Affecting Foreign Trade in Agricultural Products

98. The representative of Ukraine described in document WT/ACC/UKR/96/Rev. 1, the Reforms in the Agrarian Sector of the Ukrainian Economy. The Government of Ukraine continued to undertake organizational measures to create a favorable economic environment for the functioning and development of reformed agricultural enterprises and the formation of a civilized agrarian market. As a result, positive trends in agriculture, as well as in the economy in general, could be observed. Investments in agricultural production followed the successful implementation of land reform; the abandonment of state-run input supply mechanisms, better financing of agriculture through preferential credit schemes and increases in the purchasing power of the population supported positive tendencies in agriculture. The approval of the new Land Code of Ukraine was one of the greatest achievements of land reform in 2001. The Land Code of Ukraine in its new wording resolves the issue of its compliance with the Constitution of Ukraine, and aligns the provisions of the Land Code of Ukraine with land laws and Presidential Decrees. It contains norms of direct application, as opposed to general declarations. The main achievement of the Land Code of Ukraine is the fact that it confirmed all the existing practices of privatization of land for agricultural purposes, in particular, the issuance of certificates of the right to a land shares. The Land Code of Ukraine creates grounds for further improvement and development of land relations not only in the agrarian sector but also in the field of land for non-agricultural purposes on the following principles: inviolability of the right of private ownership of land and inclusion of land into market circulation, social justice in re-distribution of lands which are in state and communal ownership, and the combination of high economic effectiveness with ecological safety in land use. Economic mechanisms for regulating land relations were implemented. The monetary evaluation of agricultural lands was conducted. The money evaluation of non-agricultural lands has been continuing. The basis for land sales and purchases was

being established. The legal establishment of ownership rights to land, i.e., ensuring the issuance to peasants of state deeds of private ownership of land is the most important in this process. As of the end of year 2001, of the 6.8 million individuals who have acquired the right to a land share, 6.6 million, or 97.6 per cent, had obtained their certificates of the right to a land share. Moreover, 2.2 million holders of certificates of the right to a land share, or 34 per cent of their total number, have exchanged certificates of the right to a land share for state deeds of private ownership of land. 37.6 thousand private farms have been using almost 2 million hectares of agricultural lands. A market for land leases is developing. Peasants have been leasing over 20.7 million hectares of land. As of the beginning of 2002, 5.3 million individuals leased their land.

99. The representative Ukraine said upon approval of the new wording of the Law of Ukraine "On Insurance" on 4 October 2001, mandatory insurance of agricultural crops and perennial plantations for state agricultural enterprises, as well as cereals and sugar beets for agricultural enterprises of all ownership types was introduced. In order to improve the situation in the consumer market, to stabilize prices for animal products and to promote the development of animal husbandry, Decree of Ukraine's President "On Measures to Stabilize the Situation in the Consumer Market and to Develop Animal Husbandry in the Years 2001-2002" No.100 of 17 February 2001 was issued which determined some corresponding measures, including the drawing up of a Program of Stabilization and Development of Animal Husbandry for the Years 2001-2004. The latter was approved by Resolution of the Cabinet of Ministers of Ukraine "On Measures to Stabilize and Develop Animal Husbandry and Poultry Farming" No. 799 of 11 July 2001. Further development of physical infrastructure related to agricultural markets had been taking place. Currently, 35 accredited commodity exchanges have been operating in all regions of Ukraine. 372 agro-trading houses and 906 wholesale markets for food and vegetables were created; 162 auctions of live animals and 1,423 fairs were held. The network of purchasing points expanded significantly. The number of such points reached more than 20 thousand. Activities to promote the creation of company shops, machinery and technologies stations and service points have been continuing. Provision of consulting services and education of agricultural producers was an important aspect of the further development of agricultural production under the new economic conditions. Advisory services, networks of which, are being created at the national and regional levels, are designated to meet these needs. The draft Law of Ukraine "On Agricultural Advisory Service" was drafted for the development of the Ukrainian advisory services.

100. The representative of Ukraine said that the privatization authorities, along with other governmental bodies, had conducted significant work on privatization of state-owned property in agriculture. Privatization of state-owned property is being undertaken pursuant to the following legislative acts of Ukraine: the Law of Ukraine "On Privatization of the State-owned Property", "On Peculiarities of Property Privatization in the Agro-Industrial Complex", "On Property", "On Joint Stock Companies" and others. Ukraine had carried out the reform of the property of agricultural enterprises, and the reform of property of processing enterprises, agrarian service enterprises and construction in the agro-industrial complex. 8,257 enterprises out of 8,964 enterprises of the agro-industrial complex (state farms, processing enterprises, agrarian service enterprises and construction) are subject to privatization, of which: 6,980 (85 per cent) enterprises have been completely privatized; 1,020 objects of the agro-industrial complex are at the stage of completion of the privatization process; and, 176 objects of the agro-industrial complex are at the stage of preparing privatization plans. As of 22 March 2002, among 2,540 state farms, eight enterprises were at the stage of preparing privatization plans, nine enterprises had effectuated registration of founding documents as well as securities and information on their issue, and 2,391 enterprises were either in the process of selling shares or had completed that process. Of this latter group, 2,316 enterprises were privatized with over 70 per cent of their property privately owned, and, within this group, 2,013 enterprises were 100 per cent privately owned.

101. The representative of Ukraine said that the following were the main priority directions of further reforms in the agrarian sector. Administrative reform: To improve the system of state management and regulation of the agro-industrial complex in the direction of ensuring the needs of

each individual for information and services, and comprehensive support to the development of private initiative; Land and property relations: To improve the regulation of land relations on the basis of the new Land Code of Ukraine; expedite and simplify the procedure for issuing state deeds of private ownership of land with the aim of creating a legal basis for development of the land market; introduce a unified system of property rights' registration for real estate; improve regulation of land and property lease relations; develop and implement a strategy on protection and rational use of land for agricultural purposes in the process of completing land privatization.

Financial and credit policy in rural areas: To introduce the system of medium and long-term low interest credits for agricultural enterprises of all types of ownership and activities; to develop alternative credit institutions, for example, credit unions and cooperative banks; develop micro-credits; to create the normative and legal basis regarding risk insurance for agricultural activities; to extend possibilities of financial leasing and transformation of leasing into an effective mechanism for the technical re-equipment of agricultural production; and, to stabilize the income of agricultural goods producers by introducing pledge purchases of agricultural produce.

Development of entrepreneurship and markets: To expedite investment and innovation processes through legislative formation of a favorable tax and investment climate and improve technologies available to agricultural producers; to create a system of agricultural advisory services and support associations of regional land owners (Agrarian chambers) with the aim of protecting their social and economic interests; to increase the concentration of the commodity exchange market and put into order the types of agreements made on commodity exchanges; and, to develop advertising and other marketing services with the aim of improving the quality of specialists' training and effectiveness of scientific research and their implementation into production practices.

Social policy in rural areas: To work out a program of social development of rural areas, which should provide for ways of resolving demographic issues, development of education, health protection, housing construction; to improve the system of social protection of the rural population; to approve programs for creating new jobs, employment and re-qualification; to develop a program of improvement of general and professional education in rural areas.

Foreign economic activity: To develop measures regarding support to export of agricultural produce, expand its infrastructure and create favorable conditions for expansion of produce sold on foreign markets; and, to harmonize the national trade law according to the EU requirements (in particular, regarding certification and standardization requirements). The laws being enacted once in force would make the process of reforming the agricultural sector of Ukraine irreversible. Among others, the following draft laws are being developed: "On State Registration of Real Estate"; "On Private Peasant Farms"; and "On Lands Protection".

103. Some Members of the Working Party noted that the law No. 468/97 of July 1997 "On State Regulation of Agricultural Imports", subsequently amended by the law No. 32/98 of January 1998, restricted the imports of live stock products through annual quotas, from 1997 until 2003. Even if quotas (limited to ten per cent of the Ukrainian production) would allegedly not be implemented, these members insisted that they must be eliminated as a threat remains to economic operators. The representative of Ukraine said that the draft Law of Ukraine on Changes to the Law of Ukraine on State Regulation of Agricultural Product Import has been considered by the Verkhovna Rada of Ukraine.

104. Some Members of the Working Party expressed concern regarding Ukraine's sugar policies, in particular its proposals for tariff quotas on raw cane sugar and the price control measures imposed in the domestic market. These policies would need to be modified to provide adequate market access on a non-discriminatory basis, and to ensure consistency with WTO provisions including Article 4 of the Agriculture Agreement, and Articles III and XI of the GATT 1994. A Member said that it was not prepared to accept Ukraine's proposals on tariff rate quotas for sugar. The representative of Ukraine

said that the draft Law of Ukraine "On the Establishment of the Tariff Quota on Imports into Ukraine of Raw Cane Sugar", in order to regulate issues of access to the Ukrainian sugar market of raw cane sugar originating from a number of countries that are members of the Working Party dealing with the consideration of Ukraine's application for accession to the WTO. The mentioned draft Law provides for the prescription of an annual volume of raw cane sugar imports in the amount of 200,000 tons, with a subsequent increase in the following years respectively: 2003 – 220,000 tons, 2004 – 240,000 tons, 2005 – 260,000 tons, with a tariff duty rate within limits of this quota being equal to 2 per cent, and with supplies of this volume taking place annually from 1 January till 1 September. In the course of the regular round of bilateral negotiations, interested countries that are members of the Working Part were provided the fourth variant of the draft Regulation on the Allocation of the Tariff Quota on Raw Can Sugar. The mechanism for the allocation of the tariff quota that is envisaged in this Regulation guarantees all countries that are traditional suppliers of raw cane sugar the receipt of amounts of the quota not less than those used for the previous year. The draft Regulation on the Allocation of the Tariff Quota on Raw Can Sugar was reproduced in Annex 10 of document WT/ACC/UKR/110/Add.1

105. Some Members of the Working Party stated that they did not consider the 1994-96 period as an appropriate basis for Ukraine's domestic support arrangements. They reiterated the request for Ukraine to submit data for the 1997-99 period and sought a commitment to continue discussions in this important area in a plurilateral meeting to be held in the margins of the next Working Party meeting. The representative of Ukraine prepared the non-paper "A Position Paper Regarding Volumes of State Support Required for Implementation of the Strategy of Agriculture Sector Development in Ukraine" which gave a fundamental explanation of the adoption of the years 1994-1996 as base years for calculation of the total scale of agriculture sector support. This document was distributed prior to multilateral negotiations on agriculture of 26 June 2002, amongst the Members of the Working Party and is reproduced in Annex 11 of document WT/ACC/UKR/110/Add.1. State support was required for the stabilization and further development of the Ukrainian agrarian sector. This necessity is caused by the objective peculiarities of the functioning of agriculture, which apply both to Ukraine and developed countries; by the lagging of domestic (national) agriculture in comparison with developed countries, by the technological level of production, the use rationalization regimes, as well as by the need to resolve particular problems of the Ukrainian agricultural sector that have accumulated over the years of the transition period. The past several years' experience has shown that the agricultural sector was incapable of resolving these problems without substantial state support for the nearest future. For Ukraine it is important to receive the right of providing support from the "amber box" above the minimal level of "de minimis", which in its turn will secure the fulfillment of strategic internal tasks in the agrarian sector and the economy as a whole. Thus, financing by the state of collateral grain purchases (in accordance with the Law of Ukraine "On Stimulation of the Development of Agriculture for the Period 2001-2004 No. 2238-III dated 18 January 2001, which fixed support for producer income through introduction of collateral prices for agricultural production) would exceed 5 per cent of the production value of seed cultures (that is the level of minimal support de minimis) and would equal roughly 10-12 per cent of the production value of particular seed cultures. In comparison with the base set in 1994-1996, this measure would not be a violation of the "standstill" rule. The substantial difference in the level of AMS for the 1997-1999 period as compared with 1994-1996 can be explained by the fact that during the 1997-1999 period the sector was financed at decreased levels for a number of reasons bearing a macroeconomic character: state budget deficit, the existence of non-transparent financing schemes, the elimination of the state grain order. Therefore Ukraine takes the position that it is the 1994-1996 period that represents the future conditions for the functioning of agriculture in Ukraine.

106. In response to questions, the representative of Ukraine said that the laws in effect in the area of agricultural support policies in Ukraine were as follows:

- "On the State Budget of Ukraine for the year 2003", dated 26 December 2002, No. 380-IV;

- "On the Value Added Tax", dated 3 April 1997, No. 168/97-VR;
- "On Stimulation of Agricultural Development for 2001-2004", No. 2238-III, dated 18 January 2001;
- "On Grain and the Grain Market in Ukraine ", dated 4 July 2002, No. 37-IV;
- "On State Regulation of Sugar Production and Sale", dated 17 June 1999, No. 758-XIV;
- "On Breeding in Livestock Husbandry", dated 15 December 1993, No. 3691-XII;
- "On Seeds and Planting Materials", dated 26 December 2002, No. 411-IV;
- "On the Fixed Agricultural Tax", dated 17 December 1998, No. 320;
- "On (Peasant) Farms", dated 20 December 1991, No. 2009; and
- "On Settlement of Debts outstanding on Budget Loans extended to State-Owned and other Agricultural Enterprises of all Ownership Forms and Forms of Business through Service, Procurement and Processing Enterprises, and Restructuring of Tax and Mandatory Payment Debts of Processing Enterprises in the Agro-industrial Sector", dated 18 January 2001, No. 2237.

Resolutions of the Cabinet of Ministers of Ukraine in effect in the area of agricultural support:

- "On the Main Areas of Technical Support for the Agro-Industrial Complex", dated 18 September 1997, No. 1030;
- "On Use of Funds of State Support for (Peasant) Farms", dated 13 April 2001, No. 357;
- "On Procedures for Calculation, Payment and Use of Funds designated for Payment of Subsidies to Agricultural Producers for Milk and Meat in Live Weight sold by them to Processing Enterprises", dated 12 May 1999, No. 805;
- "On Procedures for Accumulation and Use of Funds payable by Agricultural Producers – VAT Payers with Respect to Transactions involving Sales of Goods (Works, Services) of their own Production, including Products (except for Excisable Goods) manufactured under Tolling Arrangements with their own Agricultural Raw Materials", dated 26 February 1999, No. 271;
- "On State Regulation of Sugar Production and Sale", dated 25 December 2002, No. 1977;
- "On Provision of Assistance to Agricultural Producers that have suffered from Unfavourable Weather Conditions during the Wintering of Winter Grain Crops in 2003", dated 31 March 2003, No. 410;
- "On Measures for Development and State Support of Sheep Breeding in 2003-2010", dated 16 November 2002, No. 1760;
- "On the Conduct of Grain Pledge Transactions", dated 7 February 2003, No. 164; and
- "On Approval of the Comprehensive Program for Development of the Agrarian Market for 2003-2004", dated 1 March 2003, No. 271.

Orders of the Ministry of Agrarian Policy of Ukraine:

- "On Funding of the Hop-Growing Sector", dated 18 February 2003, No. 36;
- "On Implementation in 2003 of the Budget Program "Financial Support for Production of Animal Husbandry and Plant Cultivation Products", dated 31 January 2003, No. 26;
- "On Assurance of Implementation of the Program for Development of, and State Support for, Sheep Breeding for the years 2003 – 2010", dated 11 December 2002, No. 387;
- "On Amendments to Order No. 26/67 of the Ministry of Agrarian Policy and the Ministry of Finances of Ukraine, dated 31 January 2002 (On Approval of Procedures for Calculation and Payment of State Budgetary Funds appropriated for making Additional Payments to Agricultural Producers of all Organizational-Legal Forms of Business and Natural Persons for Young Cattle with Increased Weight Conditions sold by them for Slaughter to Processing Enterprises and Procurement (Purchase) Organizations)", dated 20 November 2002, No. 359/980; and
- "On Approval of Procedures for Use of Budget Funds for paying out State Subsidies to Agricultural Producers of all Ownership Forms for Ecologically Pure Milk sold by them

to Milk Processing Enterprises for Purposes of Production of Special Baby Food Products in 2002", dated 11 March 2002, No. 78/168.

Laws on agricultural support that must be enacted:

- "On Support of Production and Development of the Market for Agricultural Products";
- "On State Support of Gardening and Viticulture";
- "On Prices and Price Setting for Agricultural Products";
- "On Milk and Milk Products";
- "On Meat and Meat Products";
- "On Amendments to Article 9 of the Law of Ukraine "On the Fixed Agricultural Tax" (with respect to extending the term of effect of the fixed agricultural tax up to 1 January 2010";
- "On Amendments to Certain Legislative Acts of Ukraine dealing with Regulation of Activities in the Agrarian Sector of the Economy"; and
- "On Amendments to the Law of Ukraine "On the Value Added Tax" (with respect to extending the payment of subsidies for milk and meat through the use and accumulation of VAT amounts in order to acquire material-technical resources for production of agricultural products up to the end of 2009).

107. Some members of the Working Party sought a commitment that Ukraine would abolish quotas on the importation of livestock products, and that Ukraine would not maintain, introduce or revert to any such quotas or any other quantitative restrictions that have no valid WTO justification after accession and that it would conform with the provisions of Article XI:1 of GATT 1994 and Article 4 of the Agriculture Agreement. The representative of Ukraine said that Article 3 of the Law of Ukraine "On State Regulation of Agricultural Product Import", whereby quotas on the importation of livestock products were introduced till 1 January 2003, had lost its effect. Ukraine was cognizant of the obligations of WTO membership and would deal with the issue of commitments in the context of preparation of the Report of the Working Party.

Trade in Civil Aircraft

108. The representative of Ukraine took note of the request by of some Members of the Working Party that Ukraine make a commitment to join the Agreement on Trade in Civil Aircraft upon accession.

Government Procurement

109. The representative of Ukraine submitted a Memorandum on the purchase of goods, works and services in document WT/ACC/UKR/74. He said that the Government's efforts had focused on developing and improving government procurement legislation; personnel training; mechanism of dissemination of information among purchasers and suppliers participating in government procurement procedure. He described the Law of Ukraine "On Procurement of Goods, Works and Services for National Needs" No.1490-III was adopted on 22 February 2000 based on the UNCITRAL model law on Government Procurement. The Provisions of the Uruguay Round Agreement on Government Procurement and EU Directives were reflected in this law. The Law defines all aspects relevant to the procurement of goods, works and services at the expense of State budget, local-government budgets, as well as at the expense of non-budget funds and credits secured by the Cabinet of Ministers of Ukraine. The law regulates the procedure for conducting tenders and reviewing complains that might appear during the tender. The Law empowers one agency of the executive branch of the government with State policy regulatory functions in government procurement. It eliminates inefficiency and duplication of activities among ministries and departments, which took place in the past. The responsibility for implementing State policy in government procurement is delegated to the Ministry of Economy, which established the

Administration for Government Procurement in 1998. The law requires the publication of announcements on the anticipated government procurements in "News on Government Procurement" issued by the Ministry of Economy since the end of 1998. Subordinate legislation have been developed in support of the application and enforcement of the Law of Ukraine "On Procurement of Goods & Services through State Expenditures" No.1490-III of February 22, 2000. It provides for the development of a single system for government procurement that conforms with rules of international trade on a transparent and competitive nature of Procurement of goods and services funded from the state budget. Subordinate legislation providing for the implementation of this Law shall be adopted within a 3-months period after the enactment of this Law. In order to disseminate information on government procurement, the Ministry of Economy launched official publication of "News on Government Procurement". Announcements on government procurement, changes in effective legislation and analytical information useful for all interested parties is published in it free of charge. The WEB page is under construction for INTERNET users, and connection to the EU information database TED (Tender Electronically Daily) was underway. With the purpose of re-enforcing control and monitoring of government procurements, State Statistical Reporting on conducting government procurement came into force in 2000. Furthermore, the following documents were developed and published:

- Order of the Ministry of Economy "On Approving Standard Procedure for the Establishment and Main Functions of Bidding Committees for Organizing and Conducting Procurement of Goods, Works and Services Funded from the State Budget" No.3 of 10 January 2000;
- Order of the Ministry of Economy "On Approving the Standard Form of Bidding Report regarding the Results of Bids" No.4 of 10 January 1999;
- Order of the Ministry of Economy "On Approving the Form of Announcements on Procurement of Goods, Works and Services Funded from the State Budget; Form of the Preliminary Qualification Announcements, and form of the Announcements of Bidding Results" No.5 of 10 January 2000;
- Order of the State Statistics Committee "On Approving the Form of State Statistic Report on No.1 Procurement Bids" of 10 October 1999; and
- Resolution of the Cabinet of Ministers of Ukraine "On Improving the System of Government Procurement" No.2113 of 21 November 1999.

110. Some Members of the Working Party urged Ukraine to initiate negotiations to join the Agreement on Government Procurement after accession to the WTO. The representative of Ukraine said that Ukraine was cognizant of the obligations of WTO membership and would deal with the issue of commitments in the context of preparation of the Report of the Working Party.

Regulation of trade in transit

111. Some Members of the Working Party requested that the Working Party Report describe Ukrainian provisions on transit to confirm whether Ukraine's policies for trade in transit are in conformity with the provisions of the WTO Agreement, in particular Article V of the GATT 1994. The representative of Ukraine said that the policies of the Ukrainian Government concerned with trade in transit were in conformity with the WTO Agreements, in particular with the provisions of Article V of GATT 1994 and provided a description of applicable Ukrainian law. The Law of Ukraine No. 1172-XIV dated 20 October 1999, "On Cargoes in Transit" provides that cargoes in transit mean shipments by transport vehicles of cargoes in transit subject to customs control through Ukrainian territory between two points of entry or within one point of entry through a State border of Ukraine. It is in conformity with the provisions of Article V:1 of GATT 1994. Ukrainian law does not provide for any restrictions on freedom of transit that would be based on flags of ships, places of origin, shipping, entry, departure or destination or any circumstances that relate to ownership of goods, a ship or other transport vehicles. It is in conformity with the provisions of Article V:2 of GATT 1994. Article 157 of the new Customs Code provides that trade in transit through Ukrainian

territory shall be carried out along routes that are determined by carriers at their discretion, proceeding from considerations of economic expediency. It is in conformity with the provisions of Article V:3 and 4 of GATT 1994. At the same time, the Cabinet of Ministers of Ukraine may set restrictions on excisable goods in transit: excisable goods (alcoholic beverages and tobacco products) shall be carried along routes and areas of transit through Ukrainian territory and through designated points of entry at a customs border as are specified by Resolution No. 484 of the Cabinet of Ministers of Ukraine, dated 6 May 1996, and Resolution No. 938 of the Cabinet of Ministers of Ukraine, dated 12 August 1996; and deadlines for transit of excisable goods as are carried by motor and railway transport through Ukrainian territory are prescribed by Resolution No. 484 of the Cabinet of Ministers of Ukraine, dated 6 May 1996. Transit carriage is not subject to duties, taxes and fees, except for the unified fee which corresponds to the cost of transit. Goods from any country are carried through Ukrainian territory on equal terms. No restrictions regarding MFN treatment in transit shipments are provided for by Ukrainian law. It is in conformity with the provisions of Article V:5 and 6 of GATT 1994. Ukrainian law does not provide for any special requirements for aircraft in transit. Goods and cargo are subject to control and clearance under regular procedures (Chapter 33 of the new Customs Code). It is in conformity with the provisions of Article V:7 of GATT 1994.

[112. The Working Party took note of these assurances.]

Free Zones and Free Economic Zones

113. The representative of Ukraine said that establishing privileged taxation regimes for free economic zones and privileged development areas was a key feature characteristic of zones created to encourage investments in the priority economic spheres and to solve social-economic issues of depressed territories whose economy suffered substantial losses and structural changes. In the first place, this relates to the mining regions, cities with high role of the military production complex, and regions whose population suffered the most from technological and environmental disasters. A special investment regime has been implemented to alleviate depression in specific territories related to:

- structural unemployment in the mining regions due to the necessity to decommission 63 mines in the Donetsk, Lugansk and Volyn Oblasts making redundant more than 23,000 employees respectively.

Technological and environmental disasters: Chornobyl NPP accident, technological impact of Sulphur DGHP Mining and Chemical Mills and catastrophic floods in the Transcarpathian Region. These have already led to situations when:

- fifteen regions and three cities in Zhytomyr and Chernihiv oblasts were added to the list of most highly radioactively contaminated areas;
- ChNPP's ahead-of-schedule decommissioning requires solving issues of living conditions maintenance in the town of Slavutysh;
- environmental problems in Yavoriv district of the L'viv oblast need to be resolved through creating conditions for rehabilitation of land resources heavily suffering from technological impact of Sulphur DGHP Mining and Chemical Mills;
- according to various estimates, liquidation of aftermaths of the disastrous flooding in the Carpathian region may take more than 20 years and will require substantial investments;
- Military production complex enterprise closure and restructuring, specifically, in Kharkiv and Shostka has led to some 24 thousand unemployed in these two towns.

The introduction of the special investment regime in the Autonomous Republic of Crimea is aimed at encouraging investments in the public health protection and recreation-tourism sectors, preservation and efficient management of available recreation resources, also at industrial production development in the peninsula.

114. In response to questions concerning the free economic zones, the representative of Ukraine said that the benefits granted within FEZ are not legally limited to specific industry sectors. Typically such benefits are associated with implementation of investment projects approved by FEZ management bodies in compliance with applicable laws. The status of being a FEZ firm is granted to business entities that are legal persons, located within the FEZ territory and duly registered as FEZ subjects. A decision on an investment project approval shall constitute sufficient grounds for entering into an agreement (contract) with respect to terms and condition of the investment project implementation and registration by an economic development and management body of a business entity as an FEZ subject. In some FEZs, business activity is permitted without forming a legal entity through subsidiaries, branches or divested units (FEZ "Donetsk", "Azov", "Yavoriv"). Some FEZs impose a requirement of a minimum level of an investment (see Table below).

Table 17

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: US\$500,000 – in food processing and agricultural produce processing industries; US\$700,000 – in construction, energy and transportation; US\$1 million – in machine building and instrument building; US\$3 million - for shipbuilding industries.
Yavoriv	At least US\$500,000 (except projects involving technological park)

In addition to that, a contract must be drawn up in line with the Model Agreement (Contract) for Investment Project Implementation in a Priority Development Area in a Special (Free) Economic Zone, as approved by Resolution No. 1199 of the Cabinet of Ministers of Ukraine of 5 July 1999, and the due registration fee paid. The review and approval of investment projects to be implemented within an FEZ shall be governed by laws of Ukraine regulating activities of respective FEZ, described in document WT/ACC/UKR/110/Add.1, Annex 9 and by applicable regulations issued by the Cabinet of Ministers of Ukraine. As a rule, while reviewing the feasibility of an investment project implementation, an FEZ management body is guided by the assessment of such project's compatibility with goals and purposes of the foundation of the FEZ in question, with socio-economic development programs or priorities of economic activity within such FEZ as well by the justification of lists and amounts of importation of equipment, hardware and parts into such zones (insofar as it is provided by the project and applicable laws). Furthermore, the investment project shall undergo an expert examination to assess capacities for prevention of negative effects of its implementation, in particular with respect to the fulfillment of state economic, scientific and technological and social development projects, amounts of budget revenues and identification of sources for potential losses recovery. Below is the list of business activities in Mykolayiv FEZ in accordance with Resolution No. 1175 of the Cabinet of Ministers of Ukraine On Certain Matters Pertaining to Investment Activity in Priority Development Areas and Special Economic Zones of 26 July 2000: Wood and timber processing and wood products manufacturing; Industrial gases production; Plastics reprocessing; Production of glass and glass products; Production of mechanical equipment; Production of other general purpose goods; Production of agricultural machinery; Production of processing machines; Production of machines for mining and construction; Production of machines for agricultural produce processing; Production of other special purpose machines; Production of electric and electronic equipment; Production of equipment for automobiles; Ship building; Production of furniture; Waste processing and treatment;

Production and distribution of gaseous fuels; Heat generation and distribution; Water collection, treatment and distribution; Construction; Communication; Activities in the field of information technologies for shipbuilding; Research and development in natural sciences and technologies; Vocational education and training; Sanitation, cleaning and waste treatment.

115. The representative of Ukraine said that the list of acts issued by the Cabinet of Ministers of Ukraine and governing the procedure of FEZ-related investment projects review and approval is as follows:

- Directive No. 212-r of 23 May 2001 On Approval of the Drafts Procedure of Review and Approval of Investment Projects Implemented in Priority Types of Business Activity in Priority Development Areas and in Special Economic Zones "Port of Crimea" in the Autonomous Republic of Crimea and the List of Priority Types of Business Activity in Priority Development Areas of the Autonomous Republic of Crimea for Which Special Investment Regime has been Established;
- Resolution No. 1175 On Certain Matters Pertaining to Investment Activity in Priority Development Areas and Special Economic Zones of 26 July 2000;
- Resolution No. 982 On Procedure of Approval and Registration of Investment Projects Implemented within Special Economic Zone "Yavoriv" of 7 June 1999;
- Resolution No. 1860 On Procedure of Approval and Registration of Investment Projects Implemented within Special Economic Zone "Slavutych" of 7 October 1999;
- Resolution No. 1065 On Procedure of Approval and Registration of Investment Projects Implemented within Special Economic Zones and Priority Development Areas of Donetsk Region of 18 June 1999;
- Resolution No. 1507 On Procedure of Approval and Registration of Investment Projects Implemented within a Tourism and Recreation Special Economic Zone "Kurortopolis Truskavets" of 4 October 2000;
- Resolution No. 1344 On Special Economic Zone Reni of 27 August 2000;
- Resolution No. 1199 On Approval of a Model Agreement (Contract) for Investment Project Implementation in Priority Development Area, in a Special (Free) Economic Zone of 5 July 1999; and
- Resolution No. 796 On Special Economic Zone "Interport Kovel" of 15 May 2000.

116. The representative of Ukraine said that the goods are deemed finished or adequately processed or reprocesses in a special economic zone insofar if they meet criteria set forth in Article 18 of the Law of Ukraine On The Single Customs Tariff. More specifically, the following goods shall be considered finished in the given country:

- natural resources extracted within the special economic zone territory;
- plantation products grown on its soil;
- live animals bred in the zone;
- products produced of such animals 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 its;
- secondary raw materials and wastes generated through production and other processes completed within this country; and
- goods manufactured in this country exclusively of the products referred to in paragraphs "a" through "g" of this Article.

Goods processing or reprocessing is deemed sufficient as long as:

- The declared goods are classified in a tariff position other than materials and products originating in third countries and having been used for their production;

- The value added to the cost of the declared goods is at least 50 per cent.
- The following technological operations may not be deemed as a sufficient goods processing:
 - Operations with respect to goods safety at the time of their transportation or storage;
 - Goods preparation for sale and transportation (batches fragmentation, shipments formation and repackaging);
 - Simple assembly operations; and
 - Goods (components) mixing without attributing to the finished product of features substantially distinguishing it from its components.

The table below presents information concerning the application of regular taxation rates to goods import from FEZ to the territory of Ukraine:

Table 18

FEZ	Importation of goods and other items from FEZ into the customs territory of Ukraine	
	Previously imported from outside of the customs territory of Ukraine	Manufactured including finished or sufficiently processed
"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	Taxable
"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	Taxable
"Porto-franco"	All taxes and duties payable as applied to goods being imported	Taxable
"Port Crimea"	All taxes and duties payable as applied to goods being imported	Taxable
"Reni"	All taxes and duties payable as applied to goods being imported	Taxable
"Slavutych"	Special customs zone regime non-applicable	
"Kurortopolis Truskavets"	Special customs zone regime non-applicable	

Customs clearance of goods and other articles, as well as their storage under customs control within special economic zones shall be subject to collection of customs fees in accordance with applicable laws of Ukraine. Import duty shall not be collected at importation into the customs territory of Ukraine from FEZ of goods and other articles produced there, including finished or sufficiently processed ones. Therefore, non-collection of import duty appears to be the only WTO problematic issue. The law of Ukraine does not link the right to an FEZ establishment any condition of export performance or balance of trade indices. As concerns the content of raw and other materials of national origin, in compliance with the Model Agreement (contract) for the Implementation of Investment Projects in Priority Development Area and a Special (Free) Economic Zone as approved by Resolution No. 1199 of the Cabinet of Ministers of Ukraine of 5 July 1999 (Paragraph 2.4), an investor may, in the course of an investment project implementation, attribute preference to products (works, services) of Ukrainian origin on equal conditions applying to price, terms of completion, quality, compliance with international standards.

[117. The representative of Ukraine confirmed that the free zones or free economic zones would be administered in compliance with WTO provisions 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.]

Trade Related Aspects Of Intellectual Property Rights

118. In response to questions concerning the implementation of the provisions of the Agreement on Trade Related Aspects of Intellectual Property Rights, the representative of Ukraine said that the Law "On Introducing Amendments to Certain Legislative Acts of Ukraine on Matters of Intellectual Property" No. 1238, of 18 June 2002, was adopted by the Supreme Rada on 22 May 2003. In document WT/ACC/UKR/112, he also submitted a revised checklist of Ukraine's implementation of TRIPS requirements and a Memorandum on the Protection of Intellectual Property Rights in Ukraine. Ukraine is a member of the following international agreements in the area of intellectual property protection:

- Berne Convention for the Protection of Literary and Artistic Works (Paris Act), 1971;
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, 1977, as modified in 1980;
- Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971;
- International Agreement on the Protection of New Plant Varieties, 1961, as amended in 1972 and 1978;
- Madrid Agreement Concerning the International Registration of Marks (Stockholm Act), 1967, as amended in 1979;
- Nairobi Treaty on the Protection of the Olympic Symbol, 1981;
- Paris Convention for the Protection of Industrial Property (Stockholm Act), 1967;
- Patent Cooperation Treaty, 1970, as amended in 1979 and modified in 1984;
- Trademark Law Treaty, 1994; and
- World Copyright Convention, 1952.

Measures would be taken on accession to:

- The Hague Agreement Concerning the International Deposit of Industrial Designs of 6 November 1952;
- Madrid Agreement Concerning the international Registration of marks of 14 April 1891;
- Strasbourg Agreement Concerning the International Patent Classification of 24 March 1971;
- Locarno Agreement Establishing an International Classification for Industrial designs Signed at Locarno on 8 October 1968; and
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks of 12 June 1973.

Ukraine was a member of international organizations on intellectual property protection as follows:

- Ukraine, as a member of the United Nations Organizations, was one of the founders of World Intellectual Property Organization (WIPO). Ukraine was a member of eleven International multilateral agreements and conventions on intellectual property rights. It also intends to join most of the agreements administered by WIPO and UNESCO.

Ukraine cooperates with a number of regional and international organizations on intellectual property protection:

- NIS Interstate Intellectual Property Protection Council;
- European Patent Organization;
- International Industrial Property Protection Association;
- International Federation of Patent Attorneys;
- Licensing Union;
- International Association of Trade Marks Owners;
- International Federation of Phonogram Producers; and
- International Federation of Authors and Composers Partnerships.

119. The representative of Ukraine said that as of 30 April 2003, Ukraine had put in place the essentials required to assure the safeguarding of rights to protection of intellectual property, and moral and material interests arising in connection with various types of intellectual activities: a modern-day normative and legal framework has been developed in the field of intellectual property; and a functional infrastructure has been created providing for the implementation of state policies in the field. Legal relations in the field of intellectual property in Ukraine are regulated by certain provisions of the Ukrainian Constitution, the norms of the Civil Code of Ukraine, the Criminal Code of Ukraine, the Commercial Procedural Code of Ukraine, the Customs Code of Ukraine, the Code of Ukraine on Administrative Violations, the procedural codes, and norms of certain individual laws. Altogether, ten special laws on intellectual property are currently in force in Ukraine. Ukraine is party to 18 current multilateral international conventions in the field. The national normative and legal framework has been undergoing steady development and improvement. The introduction of changes to current legislation is required in connection with the need for Ukraine to discharge its obligations arising from the international conventions to which Ukraine is already a party or to which it intends to accede. These days, Ukraine does its best to make possible its accession to WTO and integration into the European Union. The process implies the need to fully harmonize the national legislation with TRIPS requirements, and to introduce effective enforcement measures for intellectual property rights protection. The last two years were a period of particularly intensive improvement of the normative and legal framework. During 2001 – 2002, the Criminal Code of Ukraine was adopted, and amendments were introduced to the Code of Ukraine on Administrative Violations. Norms were added to the two Codes specifically intended to reinforce criminal and administrative liability for violations of intellectual property rights. During 2002 – 2003, the Supreme Rada of Ukraine approved the Civil Code of Ukraine containing a separate Book entitled "Intellectual Property Law", as well as the Commercial and Customs Codes of Ukraine. The norms of these codes related to legal protection of intellectual property are fully in compliance with international standards.

120. The representative of Ukraine said that to deal with the issue of "piracy" in the field of copyright and related rights, the Law of Ukraine "On the Specifics of State Regulation of the Activities of Economic Subjects Related to the Production, Export and Import of Discs Intended for Laser-Readable Systems" was adopted in 2002; amendments were introduced to the Law of Ukraine "On Copyright and Related Rights"; fourteen resolutions were adopted by the Cabinet of Ministers of Ukraine introducing effective means for the prevention of the manufacture and distribution of counterfeit products. On the whole, during the last two years Ukraine has made significant steps forward in improving its national legislation on intellectual property. During the period, six laws pertaining to intellectual property were approved, as well as five laws on accession to international conventions in the field. In April 2001, the President of Ukraine issued the decree "On Measures to Protect Intellectual Property in Ukraine". In June 2002, the Cabinet of Ministers of Ukraine approved the "Concept for the Development of the National System of Intellectual Property Protection". In addition, five important draft laws on matters of intellectual property protection are under consideration at the Supreme Rada of Ukraine, namely: "On Introducing Amendments to Certain Legislative Acts of Ukraine on Legal Protection of Intellectual Property" (to attain compliance with the provisions of TRIPS) of 18 June 2002 No. 1238, approved in first reading on 28 November 2002 and recommended for approval in second reading and as a whole by the Supreme Rada of Ukraine's Committee for Science and Education; "On Introducing Amendments to the Law of Ukraine "On Distribution of Audiovisual Works and Phonogram Samples"" of 3 July 2002 No. 1297, approved in

first reading on 6 February 2003; "On Introducing Amendments to Certain Legislative Acts of Ukraine on Intellectual Property" (pertaining to copyright and related rights) of 3 July 2002 No. 1296; "On Introducing Amendments to the Law of Ukraine "On Property" of 26 July 2002 No. 2030, approved in first reading on 6 March 2003; "On Introducing Amendments to Certain Legislative Acts of Ukraine" (pertaining to licensing and supervision over the export and import of discs intended for laser-readable systems) of 24 February 2003 No. 3155. With the adoption by the Supreme Rada of Ukraine of the draft Law "On Introducing Amendments to Certain Legislative Acts of Ukraine on Legal Protection of Intellectual Property" the national legislation in the field of intellectual property had been brought in complete compliance with TRIPS norms.

121. With reference to the legal mechanisms intended for the protection of intellectual property rights, the representative of Ukraine said that during the last two years, Ukraine had implemented effective measures aimed at assuring protection of intellectual property rights fully in line with the international requirements and standards. This is particularly true in respect to fighting violations in the field of copyright and related rights. Following the signing in May 2000 of the Ukraine-United States Joint Program of Action on Combating Illegal Production of Optical Carriers of Information, combating piracy assumed all characteristics of state policy. The speedy adoption of the relevant Ukrainian laws, the Cabinet of Ministers Resolutions, and other normative and legal acts permitted the creation of the necessary legal environment and the introduction of effective mechanisms for the implementation of legal norms imposing tougher penalties for violations of intellectual property rights and providing for the prevention of manufacture and distribution of counterfeit products. One of the significant organizational mechanisms for the implementation of such legal norms is the assurance of supervision over the compliance with legal norms in the field of intellectual property covering the entire Ukrainian territory. To achieve this, a joint "Agreement on Cooperation in the Field of Assigning SID Codes of Ukraine" has been signed by the State Department of Intellectual Property, the International Federation of Phonogram Industry (IFPI), and a manufacturing company, in accordance to which the State Department received a package of SID codes for assignment to Ukrainian manufacturers of discs for laser-readable systems. In 2002, the state control of illicit production and sale of counterfeit products in Ukrainian territory was intensified as evidenced by active check-ups of the activities of economic subjects in the field of intellectual property, the institution of criminal proceedings, and the withdrawal of illicit audio cassettes and discs for laser-readable systems. In order to assure the systematic state supervision over the compliance of economic subjects with the requirements of legislation on intellectual property, a special subdivision of state inspectors for matters of intellectual property has been formed within the State Department of Intellectual Property. State inspectors undertake measures to prevent the manufacture and distribution in the Ukrainian territory of counterfeit products, primarily of discs for laser-readable systems. They function in all Ukrainian regions undertaking both routine and surprise inspections. Based on the results of an inspection, a state inspector may draw up a report of administrative offence. The work of state inspectors for matters of intellectual property is closely concerted with the activities of law-enforcement and supervisory bodies: the Ministry of Internal Affairs, the State Tax Administration, and the State Customs Service. In 2002, the State Department closely attended to the build-up of the enforcement infrastructure. A state enterprise, the "Intelzakhyst", was created charged with performing the activities related to the improvement of protection provided for the rights to audiovisual works and phonograms in accordance with the Laws of Ukraine "On Copyright and Related Rights" and "On Distribution of Audiovisual Works and Phonogram Samples". The main purpose of the state enterprise "Intelzakhyst" has been to back up the process of issuing control marks and to maintain the Integrated Register of control mark recipients. Albeit the function is not new for the system as a whole, the advancement of specialization in the field has already yielded tangible results: radically new control marks have been introduced, and mark recipients are being registered. As of this day, over eight million marks have been issued.

122. The representative of Ukraine said that assuring effective judicial protection of intellectual property rights was a major issue. In accordance with the President of Ukraine's decree, work was going on to institute in Ukraine a specialized Patents Court. The Ukrainian Constitution and the Law

of Ukraine "On the Judiciary of Ukraine" provide the legal framework for the existence of such a court. The first important step along this path was the establishment in 2002 of a special board of justices of the Supreme Commercial Court of Ukraine charged with considering cases on protection of intellectual property rights, and of similar boards within commercial courts of the Autonomous Republic of Crimea, of oblasts, and of the cities of Kiev and Sevastopol, as well as of commercial courts of appeal. Time was ripe for the next step: to create specialized chambers for matters of intellectual property in the Supreme Commercial Court of Ukraine and the Commercial Courts of Appeal. In addition, the State Department is currently working actively on preparing the ground for the creation of a scientific-research institution to be attached to the Ministry of Justice to Ukraine that will carry out the forensic examination of intellectual property objects.

123. Having regard to the political, economic, and social significance of assuring the compliance with current legislation in the field of copyright and related rights as applied to software, the Cabinet of Ministers of Ukraine approved by its order of May 2002 a Concept for Legitimizing Software and for Combating Illicit Use of Software. The Concept provides for: Legalization of software; Combating illegal use of software; and Developing the national software industry. Active measures are being taken at present to implement the provisions of the Concept. In compliance with the norms of the Customs Code of Ukraine and in execution of the Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Regulations on the Procedure for the Registration and Transition across the Customs Border of Ukraine of Goods Containing Intellectual Property Objects", an efficient mechanism was introduced in 2002 for monitoring the transition across the customs border of Ukraine of goods covered by intellectual property rights. Check-ups are carried out in response to a right holder's submission, in conformance with TRIPS requirements. In accordance with the provisions of the Law of Ukraine "On Protection Against Unfair Competition", the administrative protection of intellectual property rights is provided by the Antimonopoly Committee of Ukraine which possesses a network of regional representative offices. Any legal entity or physical person in Ukraine which is a holder of intellectual property rights, is able to receive effective protection of those rights, either through administrative or in judicial procedures, upon addressing an appeal to the appropriate administrative bodies or to a court. The competent bodies are: The State Department of Intellectual Property; The Antimonopoly 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 for Matters of Technical Regulation and Consumer Policies; and Courts of general jurisdiction.

124. With reference to combating offences in the field of intellectual property rights, the representative of Ukraine said that the most wide-spread offences in the field of copyright and related rights are: the manufacture and distribution of counterfeit products and copies of audiovisual works and phonograms; the duplication and distribution of unlicensed computer software; and the manufacture, export, and import of discs for laser-readable systems. In the field of industrial property, the most common offences are the manufacture and distribution of counterfeit products involving illegal use of marks for goods and services and commercial (company) names of well-known national and foreign producers. During 2000 – 2002, the Ministry of Internal Affairs of Ukraine uncovered the following number of violations in the field of intellectual property: in 2000: 4,600; in 2001: 4,500; and in 2002: 4,003. Number of prosecutions: in 2000: 190; in 2001: 305; and in 2002: 421. Counterfeit products were impounded for a total amount of: in 2000: UHR 4.2 million; in 2001: UHR 10 million; and in 2002: UHR 7 million. During 2002, the Ministry of Internal Affairs' units carried out inspections at over 12,000 commercial entities operating in the field of intellectual property. Operation was terminated of 111 "underground" production facilities engaged in manufacture of counterfeit products, of which 81 manufactured counterfeit products aggravated by the illegal use of trade marks of known producers. One such "underground" entity duplicated counterfeit CDs with computer software for subsequent distribution via an extensive illegal distributor network. The law-enforcers impounded seven computers, 66 information-recording devices, 28,000 blank CDs, and seven thousand counterfeit CDs worth over UHR 350,000. A criminal case was commenced citing violation of Article 176 of the Criminal Code of Ukraine. Legal proceedings have been

instituted and investigations were underway in connection with the organization of an "underground" facility bottling counterfeit mineral water "Truskavetska". Customs bodies impounded the following numbers of discs for laser-readable systems: in 2000: 16.5 thousand units; in 2001: 36,000 units; and in 2002: about 50,000 units. Special operations were conducted ("Compact-disc", "Kordon" (Border), "Kanal" (Channel), "Kiltse" (Ring), "Potyah" (Train), "Lazerniy Dysk" (Laser disc), and "Intellekt").

125. The representative of Ukraine said that Ukraine considered that at present, a normative-legal framework had been established in Ukraine compliant with international standards in the field of intellectual property, and implementation had been assured of mechanisms for the enforcement of legal norms on protection of intellectual property rights, on a par with the economically advanced countries. A right holder is guaranteed full capability to exercise the right to administrative or judicial protection, by means of appealing to the appropriate state executive bodies or to court. Ukraine was making every effort to achieve further improvement of the relevant legislation and of mechanisms for the implementation thereof, and to steadily introduce further measures aimed at intensifying the fight against violations of intellectual property rights.

Substantive Standards of Protection

126. [to be completed]

Copyright and related rights

127. The representative of Ukraine stated that according to the Law of Ukraine "On Copyright and Related Rights" subjects of copyright and/or related rights have the right to assign administration of their property rights to collective management organizations. Their function is the collection of remuneration for the use of objects of copyright and/or related rights, as well as distribution and payment of collected remuneration to subjects of copyright and/or related rights. Presently there are three collective management organizations, set up according to legislative requirements that exercise management on a collective basis of property rights of subjects of copyright and/or related rights, particularly rights of authors of works of music, audiovisual works, works of applied or fine art, rights of manufacturers of phonograms and videograms.

128. The representative of Ukraine said that the Law on Copyright and Related Rights No. 2627 - III of 11 July 2001 and the Civil Code of Ukraine were in compliance with Articles 1 through 21 of the Berne Convention with the exception of Articles 6 bis and 9.1 Ukraine's legislation provided performers with the right for 50 years from the date of a performance to prevent unauthorised fixation of their unfixed performances and of reproductions of such fixations and to prevent the unauthorised broadcast by wireless means or communication to the public of their live performances; provide phonogram producers with the right for 50 years from the date of first authorized fixation to prohibit unauthorized reproduction of their phonograms, directly or indirectly, and to prohibit rental of copies of their phonograms once sold or otherwise distributed; provided broadcasting organizations with the exclusive rights for 20 years of fixation, reproduction of fixations, as well as re-broadcasting by wireless means, or provide to the owners of the copyright in the material broadcast the possibility of exercising such rights.

Trademarks, including service marks

129. The representative of Ukraine noted that the Law of Ukraine "On Protection of Rights to Trademarks for Goods and Services" No. 3689 - XII of 15 December 1993, the Civil Code of Ukraine and the Law Introducing Amendments to certain legislative acts on intellectual property No. 1238 of 18 June 2002, provide trademark or service mark protection for any indication or sign capable of distinguishing the goods or services on one undertaking from those of other undertakings. In pursuance of Article 6 certain names could not be registered trademarks which are identical, and hence cannot be distinguished from:

- trademarks previously registered, or applied for the registration in Ukraine on the name of other person, where they regard similar goods and services;
- trademarks of other persons, provided these trademarks are legally protected without registration on the basis of the International Agreements of Ukraine;
- firm names known in Ukraine, and belonging to other persons, who got the right on them before the date of application was submitted to the Department regarding similar goods and services;
- names of places of goods origin, except for those included into the trademark as elements, which are not protected, and registered on the name of the persons having the right to use these names;
- certificate trademarks registered in the duly order.

Geographical indications, including appellations of origin

130. The representative of Ukraine noted that Article 1 of the Law of Ukraine "On Protection of Rights to Indications of Origin of Goods" No. 752 - XIV of 16 June 1999, the Law on the protection of Rights to Trademarks and the Law No. 1238 of 18 June 2002, provide means to prevent the deceptive use of geographical indications identifying location where a given quality, reputation or other characteristic of a good is attributable to its location. The legislation states that indication of origin of goods encompasses "simple indication of origin of goods" and "qualified indication of origin of goods".

- "simple indication of origin of goods" encompasses any verbal or pictorial (graphical) indication, which points, directly or indirectly, to the geographical location of origin of goods;
- "qualified indication of origin of goods" encompasses:
 - "name of the place of origin of goods";
 - "geographical indication of origin of goods";
 - "name of the place of origin of goods" encompasses the name of a geographical location used as an indication in the name of a product originating from the specified geographical place and having specific features, which are exclusively or mainly attributed to natural conditions characteristic of this particular geographical location or to combinations of these natural conditions with the human factor characteristic of this particular geographical location; and
 - "geographical indication of origin of goods" shall mean the name of a geographical location used as an indication in the name of a product originating from the specified geographical location and having certain qualities, reputation or other characteristics, which are mainly attributed to natural conditions or the human factor characteristic of the particular geographical location, or to combinations of such natural conditions and the human factor.

Industrial designs

131. The representative of Ukraine stated that the on the Protection of Rights to Industrial Designs, the Civil Code and the Law on Copyright and Related Rights No. 2627 - III of 11 July 2001, provide, with certain exceptions, protection for new or original , independently created industrial designs.

Patents

132. The representative of Ukraine said that the Law "On the Protection of Rights to Inventions and Utility Models" No. 3687-XII, of 15 December 1993, Articles 1, 6, 7.1; the Law "On the Protection of Rights to Plant Varieties" No. 3116-XII, of 21 April 1993; the Civil Code of Ukraine, of 29 November 2001; and the Law of Ukraine No. 1238, of 18 June 2002, provide patents for any inventions, whether products or processes, in all fields of technology if they are new, involve an

inventive step and are industrially applicable. Exceptions are permitted for plants and animals, except for micro organisms and non-biological and microbiological processes. Exemptions are also permitted for reasons of public order and morality. Compulsory licenses can be issued only when enumerated conditions are met, including such things as notice, remuneration, limitations on use and transfer of the licence, etc. The legislation provides an opportunity for judicial review of decisions to revoke or forfeit a patent. The patent term was at least 20 years from the filing date.

Plant variety protection

133. The representative of Ukraine stated that protection was accorded by the Law on the Protection of Rights to Plant Varieties No. 3116 -XII of 21 April 1993.

Layout designs of integrated circuits

134. The representative of Ukraine stated that the Law "On the Protection of Rights to Integrated Circuits Design" No. 621/97, of 5 November 1997, Articles 4, 5 and 3; the Civil Code of Ukraine, of 29 November 2001; and the Law of Ukraine No. 1238, of 18 June 2002 "On Introducing Amendments to Certain Legislative Acts of Ukraine on Legal Protection of Intellectual Property" provide protection for original layout designs of integrated circuits that are registered or have been commercially exploited anywhere in the world, for a term of ten years from the filing, of an application for registration or from first commercial exploitation.

Requirements on undisclosed information, including trade secrets and test data

135. The representative of Ukraine said that the Law of Ukraine "On Information" No. 2657-XII, of 2 October 1992 Articles 30.2, 45 and 46.2; the Criminal Code, Articles 231 and 232; the Civil Code, Article 440; the Law of Ukraine "On Enterprises in Ukraine" No. 887-XII, of 27 March 1991, Article 30; Law "On Protection Against Unfair Competition" No. 236/96-VR, of 7 June 1996, Articles 16-19; the Civil Code of Ukraine, of 29 November 2001; and the Law of Ukraine No. 1238, of 18 June 2002, provide protection for undisclosed information that is secret (not generally known or readily ascertainable) and has commercial value because of its secrecy, and has been subject to reasonable steps to keep it secret. Ukraine also protects data submitted to obtain marketing approval for pharmaceutical or agricultural chemicals utilising a new chemical entity.

Measures to Control Abuse of Intellectual Property Rights

Enforcement

136. The representative of Ukraine stated that effective action against the infringement of intellectual property rights and reasonable, fair and equitable enforcement procedures were provided in the following legal texts:

- Constitution of Ukraine, Articles 41, 54, 124 through 131;
- Law "On Property" No. 697-XII, of 7 February 1991, Article 13;
- Civil Code of Ukraine;
- Civil Procedural Code;
- Criminal Code of Ukraine;
- Code of Ukraine on Administrative Violations;
- Code of Ukrainian Laws on Labour;
- Customs Code of Ukraine;
- Law of Ukraine "On the Protection of Rights to Industrial Designs" of 15 December 1993, No. 3688-XII;
- Law of Ukraine "On the Protection of Rights to Trademarks for Goods and Services" of 15 December 1993, No. 3689-XII;

- Law of Ukraine "On the Protection of Rights to Topologies of Integrated Circuits" of 5 November 1997, No. 621/97;
- Law of Ukraine "On the Protection of Rights to Varieties of Plants" of 21 April 1993, No. 3116-XII;
- Law of Ukraine "On the Protection of Rights to Indications of Geographical Origin of Goods" of 16 June 1999, No. 752-XIV;
- Law of Ukraine "On the Protection of Rights to Inventions and Utility Models" in the reading of 1 June 2000, No. 1771-III;
- Law "On Copyright and Related Rights" No. 2627-III, of 11 July 2001;
- Law "On Judiciary of Ukraine" No. 3018-III, of 7 February 2002;
- Civil Code of Ukraine, of 29 November 2001;
- Law of Ukraine No. 1238, of 18 June 2002;
- Civil Procedural Code of Ukraine, Article 6, 423 and 424;
- Law "On Antimonopoly Committee of Ukraine", No. 3659-XII, of 26 November 1993, Article 4;
- "Rules for Consideration of Cases on the Violation of Antimonopoly legislation" approved by Order of the Antimonopoly Committee No. 5, of 19 April 1994 (as amended by Order of the Antimonopoly Committee No. 169-r, of 29 June 1998), Section 2;
- Decree of the Cabinet of Ministers "On the State Duty", No. 7/93, of 21 January 1993, Article 3;
- Commercial Procedural Code, Article 69;
- Law "On Judiciary of Ukraine" No. 3018-III, of 7 February 2002; and
- Law on the Protection Against Unfair Competition N° 2396/96 -VR of 7 June 1996 Article 32.

Civil and administrative procedures and judicial remedies

137. The representative of Ukraine stated that civil and administrative procedures and judicial remedies including appeals to judicial bodies were established in the Civil Procedural Code of Ukraine; Criminal Procedural Code, Articles 4, 10, 99, 110, 137, and 138; Law "On Protection Against Unfair Competition" No. 236/96-VR, of 7 June 1996, Articles 16-19; and the Law of Ukraine No. 1238, of 18 June 2002.

Provisional measures

138. The representative of Ukraine stated authority to grant temporary restraining orders and provisional relief was provided by the Civil Procedural Code of Ukraine, Articles 218, 34, 35, 37, 151 and 152; Commercial Procedural Code of Ukraine, Article 67; Civil Code of Ukraine, of 29 November 2001; and the Law of Ukraine No. 1238, of 18 June 2002.

Special border measures

139. The representative of Ukraine stated that at the request of the right holder customs authorities were authorized to suspend the release of goods suspected of bearing a counterfeit trademark or of being a piratical copyright work as provided for in the Customs Code of Ukraine, Article 74; the "Regulation on the Procedure on Registration and Transfer Across Ukraine's Customs Border of Goods Containing IP Objects", approved by Resolution of the Cabinet of Ministers of Ukraine No. 412, of 28 April 2001, Section 14; and the "Regulation on the Procedure on Registration and Transfer Across Ukraine's Customs Border of Goods Containing the IP Objects", approved by Resolution of the Cabinet of Ministers No. 412, of 28 April 2001, Sections 6-14; and the Customs Code of Ukraine, of 20 December 2001

Criminal procedures

140. The representative of Ukraine stated that the Criminal Code of Ukraine, Articles 176, 177 and 229, provide criminal procedures and penalties, sufficient to act as a deterrent, for wilful trademark counterfeiting or copyright piracy on a commercial scale. It also authorizes the extension of criminal actions to other forms of intellectual property where infringements are wilful and on a commercial scale.

[to be completed]

[141. The representative of Ukraine stated that the Government of Ukraine would apply the provisions of the Agreement on TRIPS no later than the date of its accession to the WTO, without recourse to any transitional periods. The Working Party took note of these commitments.]

Policies Affecting Trade in Services

142. In documents WT/ACC/UKR/13, WT/ACC/UKR/19, WT/ACC/UKR/24, and WT/ACC/UKR/37/Rev.1, the representative of Ukraine submitted information on services including an outline thereof and information on the proposed schedule of specific commitments on services. The survey of legislation related to foreign trade was circulated in document WT/ACC/UKR/81/Rev.1. Additional information on services legislation is reproduced in documents WT/ACC/UKR/87 and Add.1, and WT/ACC/UKR/93/Rev.4. Amendments would be introduced with respect to the Law on Television and Radio Broadcasting, on auditing, on information agencies, on the bar and on banking.

143. With respect to financial services, the representative of Ukraine said that the regulations of financial services had changed substantially. Restriction on minimum statutory funds were eliminated for banks with foreign capital, and there were no restrictions to the foreign capital share in Ukrainian banking system. The Resolution of the National Bank "On Approval of the Regulation on the Procedure of Establishing and Registration of Commercial Banks" No.281 of 21 July 1998, establishes minimum capital for foreign banks which is higher than that for domestic banks. In accordance with the Law "On Insurance" No.85/96 of 7 March 1996, the following restrictions applied to insurance services:

- registration is required for the conduct of insurance services in Ukraine;
- maximum foreign equity stake is 49 per cent;
- insurance companies with foreign participation must have at least UAH 500,000 of capital while 100 per cent domestic insurance companies were only required to have UAH 100,000 capital. The new law "On Insurance" No. 2745-III enacted on 4 October 2001 had removed the difference between the two types of companies. All insurance companies would be required to have at least UAH 500000 capital.

Ukraine also applied restrictions in some other service sectors:

1. Professional services:

- Law: only Ukrainian nationals may represent clients in criminal cases;
- Audit: only Ukrainian nationals may be auditors.

2. Telecommunications:

- The maximum foreign equity stake was 49 per cent.
- Non-state ownership of land infrastructure of satellite systems with access to public networks was prohibited.

- Service charges and fees must comply with local government tariff requirements (Cabinet of Ministers Resolution No.1548 of 25 December 1996).
3. In transport services: maximum foreign equity share was 49 per cent.

144. Some members of the Working Party requested information on the independence of the regulatory authorities from the services suppliers. The representative of Ukraine said that in line with the legislation the function of bank regulation and supervision over the banks activity was carried out by the National Bank of Ukraine, which is a special central body of public administration responsible before the President of Ukraine and the Verkhovna Rada of Ukraine, within the scope of their constitutional authority. At the same time, the National Bank of Ukraine may not be liable for other banks' liabilities, and other banks hold no liabilities on the National Bank of Ukraine, unless otherwise provided by the legislation or the respective agreements. Therefore, the National Bank of Ukraine was independent from suppliers of banking services. Under Part 3, Art. 5 of the Law of Ukraine on Telecommunications, the Telecommunications Administration of Ukraine is the central executive authority in the sphere of telecommunications. Pursuant to the Decree of the President of Ukraine No. 601/99, as of 3 June 1999, the functions of this administration are performed by the State Committee for Telecommunications and Informatisation of Ukraine. The Committee is in charge of the regulatory management of the telecommunications sector, i.e., issuance of regulations, licensing activities, tariff regulations etc. The State Committee for Telecommunications and Informatisation of Ukraine is the central body of the executive power accountable to the Cabinet of Ministers of Ukraine and independent from telecommunications service suppliers operating within the sphere of its regulatory competence. In accordance with the Regulations of the Ministry of Transport of Ukraine, approved by the Decree of the President of Ukraine No.304/2002, as of 27 March 2002, the Ministry is the central body of the executive power managed and coordinated by the Cabinet of Ministers of Ukraine; it is also "the coordinating body in the system of the central executive bodies providing implementation of the state policy in the spheres of transport, air space use and navigational and hydrographic provision of seafaring". The Ministry "shall provide licensing of specific kinds of entrepreneurial activities in cases provisioned by the law". Being financed exclusively from the State Budget and using no sponsorships and donations either from sectoral enterprises or businesses from other sectors to finance its operations, the Ministry is independent from service suppliers.

[to be completed]

Transparency

Publication of Information on Trade

145. The representative of Ukraine said that the legislative procedure in Ukraine was transparent and democratic. According to a decision of the government of Ukraine laws and other normative acts must be published. The following periodicals publish effective normative acts:

- Uryadoviy Courier; and
- Holos Ukrayiny.

The following periodicals publish draft normative acts:

- Halitski Contracty; and
- Visnyk of the National Bank of Ukraine.

The Legislative acts of Ukraine are available to both Ukrainian nationals and foreigners. Legislative acts in Ukrainian, Russian and English are available at www.nau.kiev.ua.

Any interested person may find texts of draft laws and participate in discussion and development of draft legislation at www.zakon.com.ua.

Any normative act can be obtained free of charge at www.rada.kiev.ua. Any normative act can be obtained for a small payment at www.liga.kiev.ua.

The Law "On Foreign Economic Activity" provides that any interested person may obtain any necessary information on foreign trade regulations if it is not state or commercial secret. The Ukrainian legislation defines the information which is state secret. The Law "On Enterprises in Ukraine" defines information which is a commercial secret. Each subject of foreign economic activity has the right to access timely all the normative acts. They must be published in generally available periodicals. They may not come into effect before they are published. Every state authority must at the request of a subject of foreign economic activity supply the latter with all the relevant texts of foreign trade-related legislation. An appropriate payment is charged from the subject of foreign economic activity in the latter case. The State Committee on Statistics collects all factual information on foreign economic activity. The information must be supplied by all government authorities involved in the regulation of trade. The State Committee on Statistics must annually publish statistical data on international trade in Ukraine and supply to the interested persons all information available to it. The Ministry of Finance must collect data on foreign trade balance and payment balance, foreign debt balance and gold and currency reserves of Ukraine.

[146. The representative of Ukraine stated that, from the date of accession, Ukraine would fully implement 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

[147. 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

148. The representative of Ukraine said that Ukraine had signed trade and economic agreements providing for establishment of most favoured regimes with the following countries: Austria, Algeria, Australia, Argentina, Belgium, Bulgaria, Brazil, Great Britain, Vietnam, Guinea, Greece, Denmark, Estonia, Egypt, Israel, India, Indonesia, Iran, Ireland, Spain, Italy, Canada, Kyrgyz Republic, China, Republic of Korea, Democratic Republic of Korea, Cuba, Lebanon, Libya, Luxembourg, Former Yugoslav Republic of Macedonia, Moldova, Mongolia, the Netherlands, Norway, the United Arab Emirates, Poland, Portugal, Romania, Slovakia, Slovenia, United States, Tunisia, Turkey, Hungary, Croatia, Czech Republic, Montenegro, Switzerland, Sweden, Finland, France, Germany, and Japan. Free trade regimes (providing for exemption from customs duty) had been signed with the following newly independent states: Azerbaijan, Belarus, Armenia, Georgia, Estonia, Kazakhstan, Kyrgyz Republic, Latvia, Lithuania, Moldova, Russian Federation, Turkmenistan, and Uzbekistan. Full rates of the unified customs tariffs apply in Ukraine's trade and economic relations with other countries.

149. The representative of Ukraine said that the process of developing and improving free trade relations and production cooperation between Ukraine and other CIS countries was taking place within the context of the global process of regionalization and globalization of trade and economic relations. Trade in goods and services with individual countries (members or non-members of the WTO) may be conducted under more liberal conditions thanks to the exemption from the Most

Favoured Nation status that GATT 1994 Article XXIV provides for regional economic unions. The 15 April 1994 agreement among CIS countries on creation of free trade zones and the protocol on amending the current agreement (signed on 2 April 1999) make no provisions for exempting imports from VAT (or setting a zero rate of taxation). The 2 April 1999 protocol only introduced harmonization of member-countries' rules on levying VAT in accordance with the principle of "country of destination." The exemption from VAT applies only to bilateral trade and economic relations with Russia, from which imports into Ukraine are exempted from VAT, considering the fact that raw materials and energy resources constitute about 85 per cent of the goods exempted from VAT. Regarding the date of introduction of the privileges existing within free trade zones, the agreement among CIS countries on creation of a free trade zone was signed as part of the April 15, 1994 Agreement on Partnership and Cooperation. In accordance with Article 23 the agreement had been temporarily implemented since the date of its signing. This conforms to the provisions of Article 25 of the Vienna Convention on International Agreements regarding temporary implementation of agreements. A memorandum on the trade relations of Ukraine with CIS countries was circulated in document WT/ACC/UKR/65 and Add.1.

150. The representative of Ukraine said that the process of regional economic integration within the CIS advanced at different speeds. For the time being, Ukraine had not acceded to economic or customs unions, as well as to agreements on their gradual implementation.

Economic Union: The gradual process of economic integration in the CIS is based on the Agreement on Establishing an Economic Union, signed on 24 September 1993 by the following countries: Azerbaijan, Belarus, Kazakhstan, Moldova, Russia, Tajikistan and Uzbekistan. The Agreement provides for gradual liberalization in the movement of goods, services, capital and individuals. Ukraine and Turkmenistan joined the Economic Union as associated members. The status of Ukraine in this Union is to be determined by a separate agreement.

CIS Free Trade Zone: Free Trade Zone (FTZ) is the first step towards an economic union. On 15 April 1995 Ukraine, together with other CIS members signed an agreement on its creation and temporarily applied it, until the adoption of the Constitution in 1996, which established that international agreements become effective upon their ratification by the Parliament. For the time being, the FTZ agreement has been ratified by Moldova, Kazakhstan, Uzbekistan, Kyrgyzstan, Azerbaijan and Tajikistan. The agreement is designed to remove the obstacles to the free movement of goods and services, coordinate economic policy, promote inter-sectoral and intra-sectoral cooperation and scientific and technical development, and promote harmonization of the legislation of FTZ members. The agreement also envisions the adoption of a list of exemptions from the free trade regime, as well as methods and schedules for their step-by step removal during the transition period. It also provides for:

- Gradual harmonization of the rules for technical regulation of trade;
- Unification of customs procedures;
- Ensuring national treatment in domestic taxation;
- Regulation of customs duties and other payments;
- Compliance with the principle of free transit;
- Prevention of non-sanctioned re-export of goods;
- Promotion of production cooperation and scientific and technical cooperation on the intergovernmental (sectoral and regional) levels;
- Gradual creation of the terms for the free rendering of services;
- Exchange of information concerning internal legal regulations.

Common Agricultural Market of the CTS: One of the steps towards a FTZ and a customs union in CIS was the signing on 6 March 1998 of the Agreement on Single Agricultural Market (SAM). This agreement promotes liberalization of trade in agricultural products and food products, but to scientific and technical products, technologies, and production means and-services for the

Agro-Industrial Complex (AIC). The parties agreed to coordinate their pricing policies and harmonize the SPS implementation system, create a single information system, remove unfair competition and formulate a Regulation on the Terms of SAM's Creation and Operation, and an Action Plan for 1998-2000.

151. The representative of Ukraine said that to restore and promote mutually beneficial industrial cooperation between enterprises and industries of CIS countries, all CIS members signed on 23 December 1993 in Ashkhabad an Agreement on General Conditions and Mechanism of Support of Industrial Cooperation of Entities and Industries of CIS Members. The agreement applies to raw materials, spare parts and other intermediate products. The agreement applies to engineering, repair services, technical maintenance, and technological operations. The agreement does not apply to end products. The preferences are given to certain enterprises located in CIS countries. The rationale for the preferences is that in the former Soviet Union the enterprises constituted a single technological line of production of end products. The agreement promotes mutual cooperation by excluding the relevant products from export and import duties, taxes, excise duties, and quantitative restrictions. In accordance with the Ashkhabad agreement and the Procedure on the Application of VAT and the Excise to Products (Services) Falling Under Production Cooperation Privileges Circulated Between Entities from Countries of the Commonwealth of Independent States, Ukraine exempts imports from VAT and the excise and applies zero VAT to the products. It must be taken into consideration that the status of enterprises of CIS members engaged in mutual supply of raw materials and spare parts is the same as the status of related international (transnational) corporations. In other countries the import of products of such corporations is subject to tax privileges, including permission to use customs credit documents. Importers of products subject to Ashkhabad exemptions may pay duties by submitting such credit documents at the moment of import as provided for in the "Procedure of Issue of Tax Bills On Products Falling Under Production Cooperation Privileges and Repayment Thereof" approved by the Resolution of the Cabinet of Ministers No. 1303, of 24 November 1997. All end products including those falling under Ashkhabad privileges are subject to VAT and the excise in accordance with the current legislation of Ukraine. So the Ashkhabad privileges in fact do not exempt the relevant products from VAT and the excise. They just make it possible to pay the tax later. According to the information provided by State Committee on Statistics, imports and exports falling within the Ashkhabad privileges constitute as little as US\$36.1 million or 0.44 per cent of the total trade turnover between Ukraine and other CIS countries.

[152. 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 is a Member were met from the date of accession. The Working Party took note of this commitment.]

[to be completed]

ANNEX 1

The List of Goods, the Prices (Tariffs) of which are Subject to State Regulation

Codes of Goods	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
01.11.51.100	Sugar beets	Approval of minimum 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.
15.83.12	Sugar	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
22.08 30 - 22.08 90190	Whiskey, rum and tafia, gin and yalivtseva nastoyka (liqueur), other	Approval of minimum prices	The Cabinet of Ministers of Ukraine	The Law of Ukraine "On State Regulation of Production and Turnover of Ethyl, Cognac and Fruit Spirits, Alcoholic Beverages and Tobacco Goods," No.481/95-VR, dated 19 December 1995, and the Resolution of the CMU "On Introduction of Minimum Prices on Domestic and Imported Vodka and Distillery Goods," No. 700, dated 21 June 2001.
22.08 10100	Bitter aromatic beverages with content of spirits in volume from 44,2 to 49,2%	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
22.08 20	Spirits (including cognac and brandy) obtained by distilling grape wine or grape mark	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
22.08 90310 - 22.08 90390	Vodka; plum, pear or cherry nastoyka (excluding liqueurs)	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
22.08 90510 - 22.08 90790	Other spirits beverages, liqueurs and other alcoholic beverages	Approval of minimum prices	The Cabinet of Ministers of Ukraine	
70.10 ex 7010.1000 7010.2000	Deposit prices on glass tare	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	

Codes of Goods	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
7101-7118	Prices of precious metals in articles and scrap and precious stones purchased from population	Establishment (approval) of prices	The Ministry of Finance of Ukraine in agreement with the Ministry of Economy of Ukraine and National Bank 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 Finance of Ukraine "On Approval of Prices on Precious Metals Purchased from Population in Articles and Scrap," No. 999, dated 26 November 2002, and the Order of the Ministry of Finance of Ukraine "On Approval of Prices on Precious Metals and Precious Stones Purchased from Population," No. 228, dated 6 November 1998.
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, Derzhkomteletaradio (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.
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.

Codes of Goods	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
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.
2711	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.
9021	Prices on prosthetic and orthopedic appliances and technical means for preventive measures as to disablement and rehabilitation	Establishment of price	The Ministry of Labor 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 December 25, 1996.
	Prices on products of hunting, including wild fowl supplied for export	Establishment of price	Derzhkomlisgosp (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.

Codes of Goods	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
	Prices on hunting trophies obtained by foreign citizens	Establishment of price caps	Derzhkomiisgosp 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.
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
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

ANNEX 2

The List of Services, Prices (Tariffs) of which are Subject to State Regulation

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	The Ministry of Transport 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 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	The Ministry of Transport 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	The Ministry of Transport 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.

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 passengers and luggage by buses on inter-city and inter-oblast routes	Establishment of tariff caps	The Ministry of Transport 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 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	The Ministry of Transport 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 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	The Ministry of Transport 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 18 orders of the Ministry of Transport of Ukraine (as to each airport separately).
Tariffs for basic services of telecommunications provided in the territory of Ukraine, and services of international communication	Establishment of tariff caps	Derzhkomzvyazok (State Committee for Communications 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 State Committee for Communications of Ukraine "On the Approval of Tariff Caps on the Basic Services of Telecommunication and Tariffs on Payment of State Pensions and Pecuniary Aid," No. 120, dated 7 June 2002.

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 universal services of mail communication	Establishment of tariffs	Derzhkomzvyazok 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 Communications of Ukraine "On the Approval of Tariffs on Universal Services of Mail Communication," No. 166, dated 18 October 2001.
Tariffs for acceptance and delivery of domestic periodicals under the subscription	Establishment of tariffs	Derzhkomzvyazok 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 Communications of Ukraine "On the Approval of Tariffs on Subscription and Delivery of Periodicals," No. 142, dated 21 September 2001.
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	Derzhkomzvyazok in agreement with the Ministry of Economy of Ukraine and the Pension 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.

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
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.

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 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.
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	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.
Prices of licenses for hunting wild hoofed hunting animals and bear	Establishment of prices	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 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.

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
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 ritual services required for burial	Approval of tariffs 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 Prices (Tariffs) Regulation," 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 Ministry of Transport of Ukraine 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, 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.
Tariffs for transportation of cargo by railway spurs, on loading-unloading works and other services provided by enterprises of the industrial railway transport	Approval of tariffs	Ukrpromzaliztrans	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 Ukrainian Association of the State-owned Inter-branch Enterprises of the Industrial Railway Transport "Ukrpromzaliztrans" of the Ministry of Transport of Ukraine "On the Approval of Tariffs on Transportation of Cargo by Railway Spurs, on Loading-Unloading Works and other Services Provided by Enterprises of the Industrial Railway Transport," No. 194, dated 5 November 2002.

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 water supply and drainage systems provided by agents of entrepreneurial activity regardless of ownership types for all consumers, and complex of works related to supply of water to such agents and purification of the said water	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 production of heat energy, as well as services related to heat supply provided by agents of entrepreneurial activity regardless of ownership types for all consumers	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 services on cleaning, removing and destroying of hard domestic wastes and liquid sewage provided by agents of entrepreneurial activity regardless of ownership types for all consumers	Approval of tariffs or profitability cap	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
The limit amounts of payment for residence in hostels of individuals, foreigners and stateless persons who stay in Ukraine on legal grounds	Approval of amounts of payment and payment caps or profitability cap	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 of cable television	Establishment 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 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 normative documents of local authorities
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

ANNEX 3

Methods to Calculate Retail Tariffs for Electric Energy Deliveries

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:

Цр-2С3факт=	$\text{Цр-2OPфакт} * \text{Ep-2OPфакт} + \text{Цр-2H} * \text{Ep-2Hфакт} + \sum \text{Др2}$	(UAH/Megawatt per year)

	$\text{Ep-2OPфакт} + \text{Ep-2Hфакт}$	

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:

Цр-2С3=	$\text{Цр-2OP} * \text{Ep-2OP} + \text{Цр-2H} * \text{Ep-2H}$	(UAH/Megawatt per year)

	$\text{Ep-2OP} + \text{Ep2H}$	

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.

$$Cp-2=(Цp-2C3факт-Цp2C3)*(Ep-2Opфакт+Ep2Hфакт)+Cp-2кор \text{ (UAH)},$$

Цp-2C3факт 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.

Цp-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-2Hфакт 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.

ЦpC3=	Цp-OP* Ep-OP+ЦpH* EpH+Cp-2	(UAH/Megawatt per year
	EpOP+EpH	

Π_{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).

Π_{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).

D_{CP-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:

	Π_{pc3}	
$T_{ij} =$	-----	+ $T_{jM} + T_{i\Pi}$
	$\Pi (1-k_l) (=)$	

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;

Π_{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).

k_l = economic coefficient of the standard technologic spending of the electric energy at the 1st 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 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			
1 st class	%	7.41	7.19
2 nd class	%	13.02	12.85
Tariff for electric energy transfer by local power networks			
1 st class	UAH/Megawatt per year	5.55	5.55
2 nd class	UAH/Megawatt per year	29.06	29.06
Tariff for supply of electric power			
1 st 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 license fees of the users.

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

	$78.15 \times 217292 + 24.7 \times 720 + 3514647$	
Ц _{р-2С3} факт =	-----	94.09 UAH/ Megawatt per year
	$217292 + 720$	

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

	$99.5 \times 216180 + 24.7 \times 690$	
Ц _{р-2С3} =	-----	99.26 UAH/ Megawatt per year
	$216180 + 690$	

Calculation of payment deviation in July.

$$\Delta C_{p-2} = (94.09 - 99.26) \times (217292 + 720) = -\text{UAH } 1127122.04$$

Calculation of average purchase price for August.

	$100 \times 246990 + 24.7 \times 594 - 1127122.04$	
Цп-С3 =	-----	95.27 UAH/
	$246990 + 594$	Megawatt per year

Calculation of retail tariffs for August.

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

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

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

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

ANNEX 4

Minimal Indicative Prices

The Ministry of Economy and European Integration of Ukraine Order No.112 Of 30 April 2003 "On Approval of the List of Minimal Indicative Price for Some Products, Exported from Ukraine in May 2003"

To implement Decrees of the President of Ukraine "On Measures to Improve Market and Pricing Policy in Foreign Economic Activity" No. 124/96 of 10 February 1996 and "On Changes in the Structure of Central Executive Authorities" No. 1573/99 of 15 December 1999, I hereby order to:

Approve of the list of minimal levels of indicative prices for some type of products, exported from Ukraine in May 2003 (attached).

Grounds: minutes of market meetings in the Ministry of Economy and European Integration of Ukraine No. 4 of 24 April 2003, No. 9 of 22 April 2003, No. 5 of 22 April 2003, No. 27 of 24 April 2003.

Minister

V. Khoroshkovsky

APPROVED by

the Order of the Ministry of Economy and European Integration of Ukraine

No. 112 of 30 April 2003

The List of minimal levels of indicative prices for some types of products, exported from Ukraine in May 2003

(USD/t, FOB ports of Ukraine)¹

Products	Prices
1. Armature ² :	
if supplied to the Middle East:	
product position 7214 according to the UCP FEA:	
diameter up to 10 mm	225
diameter over 10 mm	215
product position 7213 according to the UCP FEA:	217
code 7228 20 19 00 according to the UCP FEA:	
diameter up to 10 mm	225
diameter over 10 mm	215
if supplied to the USA:	
product positions 7213, 7214, 7228 according to the UCP FEA:	225
2. Rolled wire ² if supplied to the USA:	
diameter 5.5 mm	235
diameter over 5.5 mm	235
3. Billet ³	190

¹ Unless otherwise specified² Ports of the Azov Sea, Zaporizhya, Dnipropetrovsk - US\$5/MT discount.

Products	Prices
if supplied to Egypt:	200
4. Hot-rolled coil (1-3 кп, сп, пс, 08 кп, пс) ^{2 and [3]}	215
if supplied to Mexico, Canada, Argentina, India and Egypt	225
if supplied to the USA	240
5. Hot-rolled sheet, thickness 8 - 50 mm (3 сп/пс, А36) ^{3 and 4}	210
if supplied to Latin America and India	220
if supplied to the USA:	
A36	280.49
A572	302.35
A516	304.69
API-2H	414.08
A283	278.34
ABC A/B	282.24
A515	302.38
6. Seamless pipes of ferrous metals (except foundry iron) if supplied to EU countries:	
for oil and gas pipelines, external diameter up to 168,3 mm (code 7304 10 10 00 according to the UCP FEA)	278
for oil and gas pipelines, external diameter over 168,3 mm, but not exceeding 406,4 mm (code 7304 10 30 00 according to the UCP FEA)	296
other circular pipes of iron and plain steel, external diameter up to 168,3 mm (code 7304 39 91 00 according to the UCP FEA)	296
other circular pipes of iron and plain steel, external diameter over 168,3 mm, but not exceeding 406,4 mm (code 7304 39 93 00 according to the UCP FEA)	282
7. Ferrosilicon-65	345
Ferrosilicon-75	430
8. Ferromanganese silicon	
P – 0.35 %	385
P – 0.50 %	375
P – 0.35 % BT ⁵	355
P – 0.50 % BT ⁵	335
P – 0.60 % BT ⁵	330
if supplied to EU countries, CIF ^[5]	
C > 0.5 %	EURO492
C < 0.5 %	EURO630
C < 0.05 %	EURO750
9. Carbamide	108 - 114
10. Ammonia	140 - 150
if supplied to the USA:	145 - 155
11. Live cattle ⁶	
weight up to 350 kg/head	1,200 – 1,300
weight over 350 kg/head	1,000 – 1,100
12. Live rams and sheep ⁶	
weight up to 30 kg/head	1,050 – 1,200
weight over 30 kg/head	1,000 – 1,100

³ Ports of the Azov Sea, Zaporizhya, Dnipropetrovsk - US\$5/MT discount.

⁴ In case of supplies of metal products with a chemical composition of higher quality the price may be higher.

⁵ BT – basic ton of ungraded alloy.

⁶ On FOB terms – Black Sea ports or DAF – Ukrainian border.

Products	Prices
13. Cattle skins wet-salted and otherwise preserved (group 4101 according to the UCP FEA), non-circumscribed, automatic takeoff ^{7 and 8}	
1 st class	1,450 – 1,650
2 nd class	1,300 – 1,500
3 rd class	1,200 – 1,350
4 th class	1,100 – 1,250
Weight up to 10 kg, 1 st class	2,350 – 2,850
14. Sheep skins, wet-salted (US\$/piece.) ⁹	
1 st class	5.0 - 6.0
2 nd class	4.0 - 5.0
3 rd class	3.0 - 4.0
4 th class	1.7 - 3.0
15. Flax seed, grinded or non-grinded ⁷	270
16. Sunflower seed, grinded or non-grinded ⁷	258
17. Red flax seed ⁷	150
18. Electric power (USD/kWt/h) if supplied to Bulgaria, Moldova, Poland, Romania, Slovakia, Czech Republic and Hungary. ¹⁰	0.02 - 0.021

Chair of Foreign Economic Policy
Administration
S. Kutsenko

⁷ On FOB terms – Black Sea ports or DAF – Ukrainian border.

⁸ For wet-salted skins, non-circumscribed, manual takeoff, prices according to the class are reduced to 10 per cent respectively

⁹ On FOB terms – Black Sea ports or DAF – Ukrainian border.

¹⁰ On DAF terms – Ukrainian border

ANNEX 5

Legislation

[to be completed]

ANNEX 6

SPS LEGISLATION

Provisional List of Legislation Relevant to SPS Issues Collected by Different Ministries

Ministry of Ecological Resources			
Name of legal act	Type of legal act	No. and year	Last amendment
1. Comprehensive programme of development of the State Border of Ukraine	President's edict	No. 596 of 16 December 1993	--
2. Programme of organisation of the ecological control at the State border	Programme	2 March 1994	--
3. On ecological control at the border points	Cabinet of the Ministries decree	No. 198 of 20 March 1995	--
4. Rules on production, storage, transportation, use rendering of poisonous wastes, inclusive of toxic industrial waste	CM decree	No. 440 of 20 June 1995	--
5. Amendment to decree no. 198/95	CM decree	No. 704 of 28 June 1997	--
6. On approval of the rules of ecological control of export of waste of iron and colour metals by ecological inspection of the Ministry of Environment	CM decree	No. 999 of 2 July 1998	--
7. On fees at the border points	CM decree	No. 1034 of 15.06.99	--
8. Instruction on co-ordination & delineation of functions of control at the state border	Instruction	11 June 1994	--
9. On fees and control of the big lots of coal	CM order	No. 686 of 16 July 1999	--
10. On ecological control at border points & in regional customs	Provision	No. 204 of 8 September 1999, No. 787/4080 of 15 October 1999	--
11. Rules on taking out from Ukraine or eradication of perished goods of human aid	CM decree	No. 728 of 28 April 2000	--
12. On carrying out radiological control of means of transportation & cargoes at border points	Instruction	No. 27 of 15 May 2000	--
13. Rules on control over trans-border transportation of hazardous waste and their rendering, eradication and yellow and green list of waste	CM decree	No. 1120 of 13 July 2000	--

Ministry of Ecological Resources - Phytosanitary Control Quarantine Service			
Name of legal act	Type of legal act	No. and year	Last amendment
1. On Quarantine of the plants	Law	No. 3348 of 30 June 1993	No. 367 of 18 June 1997 No. 783 of 30 June 1999
2. On amendments to the other laws in connection to the adoption of the law of Quarantine	Law	No. 4044-XII of 25 February 1994	No. 2341 of 5 April 2001
3. On measures concerning prevention of the spread of the sunflower fomopsis	CM decree	No. 124 of 1 March 1994	No. 451 of 5 July 1994
4. On measures to prevent entry in Ukraine of the corn pests	CM decree	No. 745 of 18 September 1995	--
5. On accession of Ukraine to the Convention on Establishing of the European & Mediterranean Plant Protection Organisation	CM decree	No. 38 of 27 January 1994	--
6. On prices for inspection of panel paid materials subject to quarantine services	CM decree	No. 953 of 24 November 1993	No. 441 of 2 March 2000
7. On Statute of the State Quarantine Service of Ukraine	CM decree	No. 892 of 28 October 1993	--
8. On approval of the rules on phytosanitary control at the State Border of Ukraine	Order of Chief State Inspection on Plant Quarantine	No. 72 of 25 September 1996 No. 754/1779 of 27 December 1996	--

Ministry of Ecological Resources - Phytosanitary Control Quarantine Service			
Name of legal act	Type of legal act	No. and year	Last amendment
9. On approval of rules concerning fees and penalties on citizens & public officers who violated rules of combat with quarantine pests and diseases of plants and weeds and transportation of materials. Which have not been treated or checked at quarantine	Order of Chief State Inspection on Plant Quarantine	No. 36 of 15 May 1996 No. 249/1274 of 25 May 1996	--
10. Instructions on finding localisation and eradication of the quarantine weeds	Order of Chief State Inspection on Plant Quarantine	No. 56 of 29 September 1997 No. 474/2278 of 14 October 1997	--
11. On amendments to the Law of Ukraine on plant quarantine	Law	No. 704 of 25 June 2001	

The Phytosanitary Control Quarantine Service also provided:

- a list of the Subdivisions and Units of the Executive Power which co-ordinate or exercise phytosanitary control at the border points (in Ukrainian); and
- a list of territorial and regional enterprises and organisations which do phytosanitary control at the State border within the area of customs operation and within free circulation in the internal market (in Ukrainian)

Ministry of Health			
Name of legal act	Type of legal act	No. and year	Last amendment
1. Law on sanitary and epidemic safety of the population	Law	No. 4004 of 24 February 1994	No. 1288 of 14 December 1999
2. On quality and safety of foodstuffs	Law	No. 771 of 23 December 1997	--
3. Protection of population from infectious diseases	Law	No. 1645 of 6 April 2000	--
4. On unified fees at the entry points	Law	No. 2659-III of 12 July 2001	--
5. Rules for sanitary protection of the territory of Ukraine	CM decree	No. 696 of 24 April 1999	No. 5 of 12 January 2001
6. Rules on border points	CM decree	No. 1203 of 3 August 2000	--
7. Rules on state sanitary epidemiological surveillance	CM decree	No. 1109 of 22 June 1999	--
8. Rules on state tests, state registrations, list of pesticides and agricultural chemicals permitted for use in Ukraine	CM decree	No. 295 of 4 March 1996	No. 1794 of 7 December 2000
9. Rules on special sanitary quarantine division	Order M.H.	No. 31 of 23 February 2000	--
10. Rules of State Sanitary Epidemiological Service	Order M.H.	No. 78 of 18 April 2000	--
11. Rules on expertise	Order M.H.	No. 247 of 9 October 2000	--
12. Rules on medical sanitary inspection of cargoes in border inspection points	Order M.H.	Draft	

The Ministry of Health also provided:

- a list of the Subdivisions and Units of the Executive Power which co-ordinate or exercise sanitary control at the border points (in Ukrainian); and
- a list of territorial and regional enterprises and organisations which do sanitary control at the State border within the area of customs operation & within free circulation in the internal market (in Ukrainian).

Ministry of Agrarian Policy – Department of Veterinary Medicine			
Name of legal act	Type of legal act	No. and year	Last amendment
1. Law on Veterinary Medicine	Law	No. 2498-XII of 25 June 1992	21 December 2000

Ministry of Agrarian Policy – Department of Veterinary Medicine			
Name of legal act	Type of legal act	No. and year	Last amendment
2. On responsibility of enterprises for violation on the law on veterinary medicine	Law	No. 568/96 of 5 December 1996	--
3. Some issue of the State Department of Veterinary Medicine	CM decree	No. 641 of 8 June 2001	--
4. Rules on Regional Services of veterinary control at the State border and transportation subordinated to the Department of Veterinary Medicine	CM decree	No. 264 of 2 March 1998	--
5. Rules on the veterinary points at the state border	Order of the State Dept of Veterinary Medicine	No. 18 of 19 July 1999 No. 520/3813 of 3 August 1999	--
6. On approval of veterinary requirements concerning import in Ukraine of cargoes subject to veterinary control	?	No. 39 of 20 October 1999 No. 777/4070 of 11 November 1999	24 January 2001
7. Rules on entry of cargoes subject to veterinary control at the border	?	No. 49 of 27 December 1999 No. 9/4230 of 10 January 2000	--
8. Rules on issuing veterinary documents to cargoes subject to mandatory veterinary control	?	No. 27 of 7 August 1997 No. 326/2130 of 20 August 1997	19 October 1999
9. Mandatory minimal list of parameters of raw materials for products of animal origin e non animal origin feeds, visits, etc. to issue certificates	Order of the State Department of Veterinary Medicine	No. 16 of 3 November 1998 No. 761/3201 of 30 November 1998	--
10. Rules of entry points at the State border	CM decree	No. 1203 of 3 August 2000	--
11. On urgent measures concerning ensuring stable epizootic situation in Ukraine	?	No. 192/2001 of 22 March 2001	--
12. On urgent measures to prevent and eradicate the incidence of BSE and other prionic diseases in bovines	?	No. 23 of 12 March 2001 No. 356/5547 of 18 March 2001	5 September 2001
13. Typical technological scheme of crossing of the border by humans, means of transportation, etc.	Order	No. 152/165/130 of 5 March 2001 No. 248/5439 of 19 March 2001	--
14. Co-ordination of activity at the border, of executive power bodies and bodies of the local self governments	CM decree	No. 48 of 18 January 1999	--
15. On quality and safety of foodstuffs	Law	No. 771/97 of 23 December 1997	13 September 2000

The Ministry of Agricultural Policy also provided:

- a list of the Subdivisions and Units of the Executive Power which co-ordinate or exercise veterinary control at the border points (in Ukrainian); and
- a list of territorial and regional enterprises and organisations which do veterinary control at the State border within the area of customs operation & within free circulation in the internal market (in Ukrainian)

The State Custom Service and the State Standard Committee provided further information, available in Ukrainian.