

# **LAW OF UKRAINE**

## **On State Support of Agriculture of Ukraine**

### **Chapter I. GENERAL PROVISIONS**

#### **Article 1. The Law's objectives and sphere of application**

1.1. The present Law defines the fundamentals of state support in budgetary, credit, price, insurance, regulatory and other spheres of state administration in respect of stimulation of agricultural production and development of the agricultural market, as well as ensuring the population's food security.

1.2. The present Law does not regulate issues determined by the Land Code of Ukraine.

#### **Article 2. Definition of terms**

For the purposes of the present Law, the following terms will be used with the following meanings:

2.1. Agricultural exchange is a legal entity established pursuant to the Law of Ukraine "On Commodity Exchange", which is subject to regulation by the norms of this law and articles 279-282 of the Commercial Code of Ukraine (taking into account the specific features determined by the present Law) and renders services to economic entities on conclusion of exchange contracts for agricultural produce, commodity derivatives whose basic asset is agricultural produce, mortgage certificates, mortgage deeds, as well as services on related computation and clearing activities.

2.2. Agricultural market is the aggregate of legal relations connected with conclusion and performance of civil contracts on agricultural produce.

2.3. Basic asset is value determination of the right for purchase or sale of a certain object of state price regulation on futures terms.

2.4. Exchange account is an account of liabilities and assets, which is open within the exchange's computation-and-clearing system.

2.5. State agricultural intervention is a sale or purchase of agricultural produce at an organized agricultural market with the purpose of maintaining stability of prices.

The state agricultural interventions are subdivided into commodity and financial interventions.

Commodity intervention is a sale of agricultural produce during a price growth at an organized agricultural market above the maximal levels (including sale of commodity derivatives), which is done with the purpose of achievement of equilibrium levels.

Financial intervention is a purchase of agricultural produce during a decline in spot prices at an organized agricultural market below the minimal levels (including sale of commodity derivatives), which is done with the purpose of achievement of equilibrium levels.

2.6. Pledge purchase is a transfer of an object of state price regulation (the pledged object) to the state food reserve in the event that the budgetary loan and/or charge for its usage have not been paid within the time period set in the contract.

2.7. Marketing period is a period beginning with the month, in which a certain type of crop produce of respective harvest starts to be supplied (sold), and ending on the last day of the month preceding the month, in which the same type of crop produce of the next harvest starts to be supplied (sold). For other types of agricultural produce, the marketing year is equal to one budgetary (financial) year.

With the purposes of financial and budgetary planning, a marketing period should be divisible by a full calendar month.

2.8. Local needs - territorial community's needs in agricultural produce for consumption by state-financed institutions and organizations maintained at the expense of the local budgetary funds within such a territorial community's own or delegated authorities.

2.9. Monitoring of the agricultural market is a system that comprises observation, collection, processing, transfer, storage, and analysis of information about demand for and supply of certain types of agricultural produce on the market during the marketing period.

2.10. Immediate delivery (hereinafter referred to as spot) is a delivery of a commodity on the organized agricultural market on the conditions that provide for transfer of this commodity into ownership or disposal of the corresponding counterparty within five working days following the day of conclusion of a corresponding civil contract on the condition that such a counterparty has fulfilled the conditions of this contract.

2.11. Force majeure circumstances are the circumstances that have emerged as a result of legislative, normative, or legal decisions, which are binding for agricultural market entities according to legislation, or the circumstances that have emerged as a result of a natural disaster, including fire, flood, drought, night frost, hail, earthquake, military actions or civil commotions, as well as other circumstances that were beyond control of a party to an agreement (contract), including a loss of the harvest or its part caused by unfavorable weather conditions or sudden cessation of supply of water, heat, electric energy, oil products, or gas, which was not connected with non-payment for these resources.

2.12. Organized agricultural market is an aggregate of legal relations connected with conclusion and fulfillment of civil legal agreements on supply of agricultural produce according to standardized conditions, details of exchange contracts, and rules of the agricultural exchange.

2.13. Food security is the protection of the people's vital interests in the form of the state guarantee for a person's unimpeded economic access to foodstuffs with the purpose of supporting his/her usual vital activity.

2.14. Risks of the organized agricultural market are the risks of non-fulfillment of exchange contracts' conditions. These risks are subdivided into system and standard risks:

a) system agricultural risk is a risk of widespread non-fulfillment of exchange contracts caused by the effect of force-majeure circumstances, which could not be covered by either exchange guarantees or state price regulation measures, as determined by the present Law;

b) standard agricultural risk is a risk, which is not a system risk and can be covered by the exchange guarantee system and/or state price regulation measures.

The indicated risk classification shall only be used for the purposes of the present Law.

2.15. Agricultural produce is made up of the commodities that fall under description of groups 1-24 of the Ukrainian Foreign Economic Activity Commodity Classification. Provisions of the present Law shall not be applied to the commodities subject to excise duty.

2.16. Commodity derivative is a standard document, which corresponds to the definition of sub-clause "c" of sub-clause 1.5.4 of clause 1.5 of article 1 of the Law of Ukraine "On Taxation of Enterprises' Profits".

2.17. Trading (exchange) session is a time period between opening of exchange trading and its close.

2.18. Trading section is the part of agricultural exchange, in which the objects of exchange trade are made up of commodity derivatives (except for forward contracts) and state price regulation objects for their exports.

2.19. Conditions of supply are the conditions that are determined in accordance with requirements of the current version of International Rules for interpretation of commercial terms "Incoterms".

If goods are sold or purchased at the agricultural exchange, the conventional basis of supply of these goods for the purposes of determination of their price is ex-works at the address of the main building of the Central Post Office of Ukraine.

2.20. Forward, futures, and option are varieties of commodity derivatives, in which the contract parties' rights and obligations are determined in accordance with clause 1.5 of article 1 of the Law of Ukraine "On Taxation of Enterprises' Profits".

2.21. Deductible (insurance deductible) is a portion of a loss, which is to be paid (covered) by the insured at his own account in the event that the insured accident occurs.

2.22. Supply price is the price that has officially been declared by the seller and results in an irrevocable offer to sell the declared goods on spot, forward, or futures conditions.

2.23. Demand price is the price that has officially been declared by the buyer and results in an irrevocable offer to buy the declared goods on spot, forward, or futures conditions.

2.24. Equilibrium price (fixing) is the price that is established as a result of achievement of balance between the supply price and the demand price and is set in a registered exchange contract.

## **Chapter II. STATE REGULATION OF PRICES FOR CERTAIN TYPES OF AGRICULTURAL PRODUCE AND THE AGRICULTURAL FUND**

### **Article 3. Rules of price regulation and its object**

3.1. The state regulates wholesale prices for certain types of agricultural produce (hereinafter referred to as state price regulation) by setting minimal and maximal purchase prices and taking other measures determined by the present Law with adherence to the rules of antimonopoly

legislation and fair competition. Minimal and maximal purchase prices should be applied to exports or imports of such produce, according to the procedure set forth in article 8 of the present Law.

3.2. The substance of price regulation is the Agricultural Fund's state interventions in the quantities that provide for settlement of the equilibrium price (fixing) at a level, which is not below the minimal purchase price and not higher than the maximal purchase price.

The state shall not exercise price regulation beyond the organized agricultural market of Ukraine except for the instances of temporary administrative price regulation set forth in article 8 of the present Law.

### 3.3. Objects of the state price regulation

3.3.1 The following commodities are objects of state price regulation:

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

3.3.2. Minimal or maximal purchase prices shall be set for the commodities, which are classified as separate entries or sub-entries within the UFEACC commodity groups enumerated in this clause.

According to the current market situation, the Cabinet of Ministers of Ukraine has the right to introduce state price regulation for all or some of the objects determined by the present clause (classified by commodity entries or sub-entries).

The complete list of objects of state price regulation shall be published by the Cabinet of Ministers of Ukraine no later than 30 calendar days prior to the beginning of a marketing period. If such a list has not been formed or has not been officially published, the list which was set for the previous marketing period shall be effective for the next period.

3.3.3. For the purposes of the present chapter, the period of state price regulation is a time period, which cannot be shorter than one calendar month and cannot be longer than one marketing period set for a certain type of agricultural produce. The periods of state price regulation shall be set within the time limits and according to the procedure provided for by the present clause for determination of the list of state price regulation objects.

#### **Article 4. Minimal purchase price**

##### 4.1. Determination of the period of effect for the minimal purchase price

4.1.1. The minimal purchase price for a metric unit of a certain object of state price regulation is a price indicator, which:

- a) is the basis for taking decisions about a financial interventions;
- b) is used for planning of profits of sellers of such an object in Ukraine, as well as for other purposes determined by the present Law.

4.1.2. The minimal purchase price for a certain object of state price regulation shall be set for a fixed period of price regulation by the central executive authority on formation and pursuance of the state agricultural policy.

##### 4.2. Setting of the minimal purchase price

4.2.1. The minimal purchase price for a certain object of state price regulation shall be set at a level which provides average statistical profitability of production of such a metric unit in Ukraine.

4.2.2. The level of the minimal purchase price for a certain object of state price regulation cannot be changed during the set period of state price regulation in respect of such an object.

4.2.3. The minimal purchase price for a certain object of state price regulation shall be uniform on all of Ukraine's territory, including the territory of any of the special (free) economic zones, territories with special regimes of investment activities and technological parks. These also include territories of priority economic development, other similar territories, within which the economic or migration regime differs from the general one, and the territory of Ukraine, which includes the territory of the Autonomous Republic of Crimea.

4.3. The minimal purchase price for a certain object of state price regulation shall be set proceeding from the average statistic prices, at which such an object has been sold in the previous 5 marketing periods (in comparable prices), taking into account the forecast annual consumer price index for the year, in which prices are to be regulated by the state, calculated according to the methods worked out by the Cabinet of Ministers of Ukraine.

4.4. For the purposes of this clause:

- a) average statistical unprofitableness is considered as a negative difference between the average statistical expenditures on production of a certain object of state price regulation (including the total amount of depreciation charges, which have already been accounted or are to be accounted during the marketing period) and the average statistical receipts from sale (delivery) of such an object of state price regulation (including the granted subsidies and grants-in-aid);

b) average statistical expenditures (receipts) are considered as expenditures (receipts) that were incurred (received) in connection with production or sale (delivery) of a certain object of state price regulation on the territory of Ukraine, irrespective of the regions of such production (sale, delivery).

The procedure for calculation of average statistical unprofitableness or expenditures (receipts) shall be set by the central executive authority on formation and pursuance of the state agricultural policy, proceeding from the rules of the national standards for accounting and reporting.

## **Article 5. Maximal purchase price**

### 5.1. Determination of the period of effect for the maximal purchase price

5.1.1. The maximal purchase price for a metric unit of a certain object of state price regulation is a price indication, which:

- a) is the basis for taking decisions about financial interventions;
- b) is used for planning of expenditures of consumers of such an object in Ukraine, as well as for other purposes determined by the present Law.

5.1.2. The maximal purchase price for a certain object of state price regulation shall be set for a fixed period of price regulation by a central executive authority on formation and pursuance of the state agricultural policy.

### 5.2. Setting of the maximal purchase price

5.2.1. The maximal purchase price for a certain object of state price regulation shall be set at a level which makes it impossible for the price index reported by producers of such a state price regulation object to exceed the general consumer price index (for all goods and services) in a respective period of state price regulation.

5.2.2. The level of the maximal purchase price for a certain object of state price regulation cannot be changed during the set period of state price regulation in respect of such an object.

5.2.3. The maximal purchase price for a certain object of state price regulation shall be uniform on all of Ukraine's territory, including the territory of any of the special (free) economic zones, territories with special regimes of investment activities and technological parks. These also include territories of priority economic development, other similar territories, within which the economic or migration regime differs from the general one, and the territory of Ukraine, which includes the territory of the Autonomous Republic of Crimea.

## **Article 6. Commodity interventions**

6.1. Commodity interventions shall be carried out by the Agricultural Fund through sale (supply) of certain object of state price regulation on the organized agricultural market on spot or forward conditions with the purpose of settlement of the equilibrium price (fixing) at a level, which is not above the maximal purchase price.

6.2. Commodity interventions shall be carried out according to the following procedure:

a) if the demand price for a specific object of state price regulation on spot or forward conditions does not exceed the set maximal purchase price level or exceeds such a maximal price by no more than 5% of its level during one trading session, a commodity intervention, as a rule, is not carried out;

b) if the demand price for a specific object of state price regulation on spot or forward conditions exceeds the set maximal purchase price by 5% to 20% of its level, the Agricultural Fund shall carry out the commodity intervention in the quantities that are sufficient for setting of the equilibrium price (fixing) at a level that does not exceed the maximal purchase price level;

c) if the demand price for a specific object of state price regulation on spot or forward conditions exceeds the set maximal purchase price by over 20% of its level, the Agricultural Fund shall suspend trade in such a commodity for the current exchange session and hold consultations with the exchange market participants, according to the procedure set forth in clause 6.4 of the present article;

d) In exceptional cases, the Agricultural Fund can carry out a commodity intervention if a threat emerges during one trading session that the equilibrium price may settle at a level that exceeds the maximal purchase price level or when the Cabinet of Ministers of Ukraine issues a regulation in respect of sale of such objects of state price regulation, which is not connected with state price regulation (including sale from the state reserve).

### 6.3. Limitation of the sphere of application

6.3.1. Commodity interventions shall not be used for purchase of the following objects at separate trading sections:

a) any commodity derivatives (except for forward contracts) whose basic asset is an object of state price regulation – until 1 January 2007;

b) objects of state price regulation with the purpose of their further exports – until 1 January 2009.

### 6.4. Consultations

6.4.11. Consultation of the Agricultural Fund in respect of commodity interventions shall be held in accordance with the following procedure:

a) if the Agricultural Fund suspends exchange trade in a certain object of state price regulation, authorized representatives of the Agricultural Fund shall hold consultations with participants of exchange trade who are willing to purchase such an object at a price exceeding the set maximal purchase price;

b) if the consultations result in agreement with exchange market participants in favor of reduction of the demand price to a level that does not exceed the maximal purchase price level, the Agricultural Fund issues permission for recommencement of exchange trade, including the current exchange session;

c) if the consultations fail to result in agreement as to reduction of the demand price to a level that does not exceed the maximal purchase price, the Agricultural Fund shall address the Cabinet of Ministers of Ukraine with a proposal about advisability of introduction of temporary administrative regulation of prices for such an object of state price regulation;

d) if the consultations reveal signs of collusion among exchange market participants aimed at coordinated overpricing for a certain object of state price regulation, the Agricultural Fund shall suspend exchange trade in this commodity and a respective proposal shall immediately be directed to the authorities of the Antimonopoly Committee of Ukraine.

## **Article 7. Financial intervention**

7.1. Financial interventions shall be carried out by the Agricultural Fund through purchase of certain object of state price regulation on the organized agricultural market on spot or forward conditions with the purpose of settlement of the equilibrium price (fixing) at a level, which is not below the minimal purchase price.

7.2. Financial interventions shall be carried out according to the following procedure:

a) if the supply price for a specific object of state price regulation on spot or forward conditions is not below the set minimal purchase price level or is below such a minimal price by no more than 5% during one trading session, a financial intervention, as a rule, is not carried out;

b) if the supply price for a specific object of state price regulation on spot or forward conditions is below the set minimal purchase price by 5% to 20% of its level, the Agricultural Fund shall carry out the financial intervention in the quantities that are sufficient for settlement of the equilibrium price (fixing) at a level that is not below the minimal purchase price level;

c) if the supply price for a specific object of state price regulation on spot or forward conditions is below the set minimal purchase price by over 20% of its level, the Agricultural Fund shall suspend trade in such a commodity for the current exchange session and hold consultations with the exchange market participants, according to the procedure set forth in clause 7.4 of the present article;

d) In exceptional cases, the Agricultural Fund can carry out a financial intervention if a threat emerges during one trading session that the equilibrium price may settle at a level that is below the minimal purchase price level or when the Cabinet of Ministers of Ukraine issues a regulation in respect of purchase of such objects of state price regulation, which is not connected with state price regulation (including purchase for the state reserve's needs).

7.3. Limitation of the sphere of application

7.3.1. Financial interventions shall not be used for purchase of the following objects:

a) any commodity derivatives (except for forward contracts) whose basic asset is an object of state price regulation – until 1 January 2007;

b) objects of state price regulation that had previously been imported to Ukraine – until 1 January 2009.

7.4. Consultations

7.4.1. Consultation of the Agricultural Fund in respect of financial interventions shall be held in accordance with the following procedure:

a). if the Agricultural Fund suspends exchange trade in a certain object of state price regulation, authorized representatives of the Agricultural Fund shall hold consultations with participants of exchange trade who are willing to sell such an object at a price below the set minimal purchase price;

b) if the consultations result in agreement with exchange market participants in favor of raising of the supply price to a level that is not below the minimal purchase price level the Agricultural Fund issues permission for recommencement of exchange trade, including the current exchange session;

c) if the consultations fail to result in agreement as to raising of the supply price to a level that is not below the minimal purchase price, the Agricultural Fund shall address the Cabinet of Ministers of Ukraine with a proposal about advisability of introduction of temporary administrative regulation of prices for such an object of state price regulation;

d) if the consultations reveal signs of collusion among exchange market participants aimed at coordinated underpricing for a certain object of state price regulation, the Agricultural Fund shall suspend exchange trade in this commodity and a respective proposal shall immediately be directed to the authorities of the Antimonopoly Committee of Ukraine.

### **Article 8. Temporary administrative price regulation and temporary budgetary subsidies**

8.1. Temporary administrative regulation of prices (hereinafter referred to as “administrative regulation”) is a set of administrative measures aimed at prevention or cessation of speculative or coordinated setting of prices by sellers and/or buyers of objects of state price regulation at an organized agricultural market, which cannot be corrected through standard state intervention procedures.

8.2. Administrative regulation shall be applied only in the cases listed in sub-clause “c” of clause 6.4 of article 6 and sub-clause “c” of clause 7.4 of article 7 of the present Law.

8.3. The decision about introduction of the administrative regulation regime for a certain object of state price regulation shall be made by the Cabinet of Ministers of Ukraine upon proposal of the Agricultural Fund.

8.4. The term of effect of the administrative regulation regime may not exceed six consecutive months, including the month, in which the decision about its introduction was made.

8.5. The administrative regulation regime shall be applied to legal relations that arise on both organized and unorganized markets of Ukraine with a specific object of the state price regulation.

8.6. The Cabinet of Ministers of Ukraine can introduce any of the following types of administrative regulation or any combination of them:

a) limitation of the trade markup (discount) on the wholesale or retail market for a specific object of price regulation;

b) setting of boundary levels of profitability on expenditures for the following groups: processors of goods if such processing results in production of an object of state price regulation; entities rendering services on storage (keeping) of objects of state price regulation;

c) setting of boundary sale prices for the object of state price regulation at the level of the maximal purchase price or purchase of such an object at the level of the minimal purchase price (only for the period from the date of submission of a proposal to the authorities of the

Antimonopoly Committee of Ukraine until the date of their conclusion as to the presence of coordinated actions by market participants and/or decision aimed at protection of economic competition);

d) setting of non-tariff limitations (quotas) as to import or export of a specific object of state price regulation;

e) setting of the following mandatory precondition: in order for a certain object of state price regulation to be customs-cleared for export, it should have already been purchased at an export session of the agricultural exchange.

8.7. The administrative regulation regime is cancelled in the following instances:

a) the term of the administrative regulation regime's effect has ended;

b) upon proposal of the Agricultural Fund, the Cabinet of Ministers of Ukraine declares the decision as to introduction of the administrative regulation regime null and void.

8.8. During the period of effect of any type of administrative regulation introduced by the Cabinet of Ministers of Ukraine, the following rules shall be applied to export and import transactions with an object of state price regulation (hereinafter referred to as "the object"):

8.8.1. if the administrative regulation regime is introduced in connection with a reduction of demand price for such an object below the set minimal purchase price level, then:

a) the customs value of such an imported object shall be determined in accordance with the rules of customs legislation, taking into account the fact that for the purposes of determination of the taxation basis for levy of value-added tax and import duty, this value cannot be lower than the set maximal purchase price (taking into consideration the import-related expenses). During this transaction, importers of such an object may not issue promissory notes for payment of the value-added tax, irrespective of the status of such importers and the corresponding legislative provisions;

b) the customs value of such an exported object shall be determined in accordance with the rules of customs legislation, taking into account the fact that for the purposes of budgetary (export) value-added tax refund, this value cannot be lower than the set maximal purchase price (when the object is purchased at the agricultural exchange's export session, the customs value may not exceed the maximal purchase price taking into account the export-related expenses);

c) the requirement for mandatory sale of a portion of hard-currency receipts from exports of an object purchased at the agricultural exchange's export session shall not be applied to exporters of such an object;

8.8.2. if the administrative regulation regime is introduced in connection with a growth of demand price for such an object above the set maximal purchase price level, then:

a) the customs value of such an object that is imported shall be determined in accordance with the rules of customs legislation, taking into account the fact that for the purposes of determination of the taxation basis for levy of value-added tax and import duty, this value cannot exceed the set maximal purchase price. During this transaction, importers of such an object have the right to issue promissory notes for payment of the value-added tax, irrespective of the status of such importers and the corresponding legislative provisions until the end of such a regime's effect, but, in any case, for no longer than 180 calendar days;

b) the customs value of such an object that is exported shall be determined in accordance with the rules of customs legislation, taking into account the fact that for the purposes of budgetary (export) value-added tax refund, this value cannot exceed the set minimal purchase price.

8.9. If the measures on temporary administrative regulation of prices do not result in the purchase prices' reaching the minimal price level and/or reduction of the actual purchase prices to the maximal purchase price level, the Cabinet of Ministers of Ukraine shall immediately submit a draft law as to Verkhovna Rada of Ukraine in respect of granting of temporary budgetary subsidies to producers of a certain object of state price regulation, based on the metric unit of sown area.

The indicated draft law shall be submitted along with the draft law on respective changes in distribution of state budget expenditures.

## **Article 9. Agricultural Fund**

### 9.1. Definition

9.1.1. The Agricultural Fund is a specialized state institution, which is authorized by the Cabinet of Ministers of Ukraine to carry out the price policy in the agroindustrial branch of the Ukrainian economy.

9.1.2. The Agricultural Fund is a budgetary organization, which has its own balance and accounts and is engaged in non-profit activities within the limits set forth by the present Law.

The Agricultural Fund is subordinate to, accountable to, and under control of the central executive body on formation and pursuance of the state agricultural policy.

The Agricultural Fund is not a state administration body and cannot issue normative or legal acts.

Regulation on the Agricultural Fund shall be approved by the Cabinet of Ministers of Ukraine upon proposal of the central executive body on formation and pursuance of the state agricultural policy.

### 9.2. Functions

9.2.1. The Agricultural Fund carries out commodity or financial interventions at the organized agricultural market of Ukraine by making use of the best situation on the exchange market during the period of state price regulation.

The Agricultural Fund also sells or buys objects of state price regulation at the agricultural exchange from or to the state food reserve.

9.2.2. The Agricultural Fund has the exclusive right for purchase and sale of state price regulation objects for the state reserve's needs, as well as the right for sale of the state price regulation objects, which have been confiscated or are subject to be sold in accordance with the law.

9.2.3. The Agricultural Fund may not get engaged in speculative operation, purchase and sale of commodity derivatives (except for forward contracts), as well as purchase and sale of objects of state price regulation beyond the organized agricultural market.

9.2.4. The Agricultural Fund makes independent decisions in respect of carrying-out financial or commodity interventions proceeding from the present chapter's provisions. When necessary, it also acts as a party to exchange contracts.

9.2.5. For the purposes of the present clause, speculative operations are considered as those aimed at purchase of a commodity (commodity derivative) in order to make a subsequent sale of the same commodity (commodity derivative) with any purpose different from support of the minimal or maximal purchase price levels.

### 9.3. Interrelations between the Agricultural Fund and the State Budget of Ukraine

9.3.1. In order to maintain the due level of food security, the Agricultural Fund shall form the state food reserve, which, in terms of certain objects of state price regulation, may not be less than the following figures (expressed in percentage of their annual domestic consumption):

in 2006 – 10 percent;

in 2007 – 12 percent;

in 2008 – 14 percent;

in 2009 – 16 percent;

in 2010 and the subsequent years – 20 percent.

The total annual domestic consumption of a certain object of state price regulation is calculated as the aggregate sales of the state price regulation objects imported to and produced in Ukraine decreased by the total exports of these objects in a respective year.

The state food reserve shall be formed only for the purposes of commodity interventions at the organized agricultural market of Ukraine and for fulfillment of provisions contained in sub-clause 9.2.2 of clause 9.2. of the present article.

In 2005, the state food reserve shall be formed in accordance with the rules set forth in the Final Provisions of the present Law.

9.3.2. The state budget for the upcoming year shall provide for expenses on financial interventions, in order for the state food reserve to achieve figures set in sub-clause 9.3.1 of the present clause. The amount of such expenditures shall be calculated taking into account the funds received by the Agricultural Fund as a result of commodity interventions.

9.3.3. If the state food reserve stock has been formed in full, according to the figures set in sub-clause 9.3.1. of the present clause, the remaining funds that have not been used by the Agricultural Fund as of the end of the report budget year are subject to be accounted for as the state budgetary revenues.

9.3.4. The Agricultural Fund shall be maintained at the expense of the state budgetary funds within the cost estimate, which is approved by the central executive authority on formation and pursuance of the state agricultural policy.

9.3.5. For the period of effect of the pledge purchase regime for certain objects of state price regulation, the Agricultural Fund shall discharge the creditor's functions in the name of the state.

9.3.6. The procedure for fulfillment of this provision shall be set forth by the Cabinet of Ministers of Ukraine.

### **Part III. STATE REGULATION OF THE MARKET FOR INSURANCE OF AGRICULTURAL PRODUCE (CAPITAL ASSETS) AND THE AGRICULTURAL INSURANCE SUBSIDIES FUND**

#### **Article 10. Insurance of agricultural produce (capital assets)**

##### 10.1 Insurance objects and subjects

10.1.1. A person has to insure the risks of loss of agricultural produce (its part) and capital assets (in the instances defined in sub-clauses “c” - “d” of the present sub-clause) if such a person:

- a) sells any type of commodity derivative, whose basic asset is agricultural produce, at an organized agricultural market;
- b) is a recipient of a budgetary grant-in-aid or subsidy connected with production of agricultural commodities or reduction of their prices;
- c) is a recipient of a bank credit (loan) for agricultural production or purchase of capital assets if the interest incurred on such a credit (loan) is fully or partially compensated (refunded) from the budget;
- d) is a recipient of a budgetary credit (loan) or a bank credit (loan) guaranteed by the state or local government for agricultural production or purchase of capital assets.

10.1.2. In order to fulfill the requirements of sub-clause 10.1.1 of the present clause, the person has to insure the risks of a loss of agricultural produce or its part in accordance with the rules of complex or index insurance. A capital asset is to be insured against the risk of its destruction, demolition, theft, and damage, which makes it unsuitable for usage or substantially deteriorates its utilization properties, for the time period that does not exceed the time limit for obligations of the insured, which have arisen in the instances determined by sub-clause 10.1.1 of the present clause.

10.1.3 If the person participates in the legal relations described in sub-clauses “b”-“d” of the present clause, insurance of the risks of a loss of products of animal husbandry, forestry, and fishery is not a mandatory precondition for participation in such legal relations.

##### 10.2. Complex insurance

10.2.1 Complex insurance is insurance against all of the below-mentioned risks for a loss of agricultural produce or its part, as a result of:

- a) night frost, ice crust, winterkill;
- b) hail or lightning;
- c) earthquake;
- d) avalanche, landslide, mudflow or mudrock flow;
- e) fire, except for forest fire;
- f) storm, hurricane, blizzard;
- g) heavy showers, flood, high water;
- h) drought or de-watering on lands that are subject to forced irrigation or watering;
- i) epiphytotic spread of diseases, propagation of pests peculiar to Ukraine, as well as diseases, which have become a consequence of occurrence of any of the risks listed in sub-clauses “a”-“j” of the present clause;
- j) individuals’ illegal actions, such as thefts, hooligan actions in respect of plantations, destruction of covers (carcasses) of hothouses, hotbeds, and greenhouses.

10.2.2. The object of complex insurance can be any of the following objects (or their combination):

- a) the total of all expenses incurred in respect of production of a certain type of agricultural produce;
- b) the expected value of the produced agricultural commodity;
- c) the expected revenues (or profit) from sale of the produced agricultural commodity.

### 10.3. Index insurance

10.3.1. Index insurance is insurance against the risk of a loss of a certain agricultural crop's harvest in respect of the averaged natural indicators of its yield within a specific territory in the previous five marketing periods.

10.3.2. The rules of index insurance, which are approved by the insurer, are to be registered with the control executive authority in the sphere of regulation of financial services.

10.3.3. The spot price for a metric unit of the insured agricultural produce that was effective on the organized agricultural market as of the moment of occurrence of the insured accident shall be used for the purposes of calculation of index insurance fees.

### 10.4. Voluntary insurance

10.4.1. A producer of an agricultural commodity or a seller (buyer) of such a commodity has the right to voluntarily insure it against any risks of its loss if they have not been insured pursuant to requirements of clauses 10.2-10.3 of the present article.

## **Article 11. Agricultural Insurance Subsidies Fund**

### 11.1. Definition

11.1.1. The Agricultural Insurance Subsidies Fund (hereinafter referred to as the AISF) is a specialized state institution, which is established for granting of insurance subsidies to agricultural producers.

11.1.2. The AISF is a budgetary organization, which has its own balance and accounts and is engaged in non-profit activities within the limits set forth by the present Law.

11.1.3. The AISF is subordinate to, accountable to, and under control of the central executive body on formation and pursuance of the state agricultural policy.

11.1.4. Regulation on the AISF shall be approved by the Cabinet of Ministers of Ukraine upon proposal of the central executive body on formation and pursuance of the state agricultural policy.

11.1.5. The AISF is a non-banking financial institution and is subject to supervision, proceeding from the provisions of a corresponding law.

11.2. The AISF's revenues shall be formed at the expense of:

- 11.2.1. mandatory deductions by insurers from insurance premiums received by them in connection with mandatory or voluntary insurance of certain types of agricultural produce;
- 11.2.2. primary contribution from the state budget;
- 11.2.3. state budgetary credits.

### 11.3. Mandatory deductions to the AISF

11.3.1. Mandatory deductions to the AISF make up a mandatory payment, which is included in the taxation system of Ukraine. Such a mandatory deduction shall be calculated and paid by the insurer within the time period and according to the procedure set forth by the Law of Ukraine “On Taxation of Enterprises’ Profits”.

11.3.2. The amount of mandatory deductions to the AISF is equal to 2 percent of the amount of insurance premiums (insurance fees), which are mentioned in sub-clause 11.2.1, are transferred by the insured or by a third person acting in its name, and are to be increased by the amounts of any other payments or compensations made to the insurer in connection with this insurance.

11.3.3. The procedure for repayment of the insurer’s liabilities for mandatory deductions to the AISF, financial sanctions, reporting, the rules for collecting, and the procedure for appeal against collection authorities’ actions shall be determined by the Law of Ukraine “On procedure for repayment of taxpayers’ liabilities to the budget and state target funds”.

11.3.4. The insurer who makes deductions to the AISF shall submit a calculation drawn on the form, which is made up according to the law, to the controlling body and the AISF once a quarter.

11.3.5. The State Treasury of Ukraine shall transfer the amount, which has been paid by the insurers in accordance with the rules of the present chapter, to the AISF’s budgetary account.

#### 11.4. AISF’s expenses

11.4.1. AISF shall make expenses for the following purposes:

a) granting of an insurance subsidy in the amount of 50% of the cost of insurance premiums (contributions), which have actually been paid by the agricultural market subjects during complex and index insurance of agricultural produce, as well as during insurance of capital assets in accordance with the rules set forth by the present article;

b) granting of an insurance subsidy in the amount of 50% of the insurance deductible in the event of occurrence of the accident, which was insured according to complex and index insurance of agricultural produce, as well as according to insurance of capital assets in compliance with the rules set forth by the present article;

c) settlement of accounts with the state budget pursuant to sub-clause 11.5.3 of clause 11.5 of the present article.

11.4.2. The refunds determined in sub-clauses “a”-“b” of sub-clause 11.4.1 of the present clause shall be made within the limits of insurance premium (contribution), which does not exceed 5 percent of the amount of the insured risk. This amount is calculated proceeding from the minimal purchase price for a specific object of state price regulation and the insurance deductible, the amount of which does not exceed 30 percent of the amount of the indicated insured risk.

11.4.3. The types of refund, which are mentioned in this clause, shall be made by the AISF within one month following the quarter, in which the right for such a refund has arisen.

#### 11.5. Interrelations between the AISF and the State Budget of Ukraine

11.5.1. In order to form the AISF, the state shall transfer the first contribution of UAH 20 mln. to its budgetary account within one month after the present Law enters into force.

11.5.2. If the AISF's liabilities (as of the moment of payment of insurance subsidies) exceed the amount of funds on its budgetary account, such a difference shall be covered at the expense of the credit for respective amount issued by the state budget.

The budgetary credit shall be issued to the AISF at no interest for a term that does not exceed 12 calendar months.

The procedure for conclusion of the credit agreement between the AISF and the Finance Ministry of Ukraine shall be determined by the Cabinet of Ministers of Ukraine.

11.5.3. If the balance of the AISF's budgetary account exceeds the doubled average annual amount of the actually issued insurance subsidies in the past three years (including the report year) at the end of the report budget year, the excessive amount shall be transferred to the budget as the state budgetary revenues. Under any circumstances, the remaining account balance after such a transfer may not be less than the state budget's first contribution.

11.5.4. The AISF shall be maintained at the expense of the state budgetary funds in accordance with the cost estimate, which is approved by the central executive authority on formation and pursuance of the state agricultural policy.

## **Chapter IV. OTHER TYPES OF SUPPORT TO AGRICULTURAL PRODUCERS AND AGRICULTURAL MARKET**

### **Article 12. State pledge grain purchases**

12.1. For the period before the state forward grain purchases are introduced, the state pledge grain purchase regime shall be used.

12.2. According to the regime of state pledge purchases:

12.2.1. The Agricultural Fund (hereinafter referred to as "the creditor") issues a budgetary loan to a producer of grain (hereinafter referred to as "the borrower"), which is an object of state price regulation. This object serves as the collateral for the loan, which is confirmed by transfer of a simple or double warehouse certificate or warehouse receipt to the creditor.

The standard form of credit agreement shall be worked out by the Agricultural Fund and approved by the central executive authority on formation and pursuance of the state agricultural policy.

12.2.2. The amount of the budgetary loan may not exceed 80 percent of the value of the pledged object, which is calculated proceeding from the amount of the set minimal purchase price.

12.2.3. The budgetary loan can be issued for a term, which is agreed by the parties but cannot exceed the duration of one marketing period. Loan prolongation and discounting (writing off) of the principal and interest are not acceptable.

12.2.4. The principal of the budgetary loan and the loan charges shall be repaid in one payment within the time period set forth in the credit agreement. It is allowed to repay the budgetary loan ahead of schedule and make the proportional payment of loan charges or their portions.

12.2.5. When the principal of the budgetary loan and the loan charges have been repaid in full, including repayment before the due date, the simple or double warehouse certificate (warehouse receipt) shall be returned to the borrower, and the grain shall be released from the pledge regime.

12.2.6. If the principal of the budgetary loan and/or the loan charges have not been repaid within the time period set forth in the credit agreement, then from this moment:

a) the pledged object is considered the state property and is transferred to the state food reserve at the prices that were effective on the date of valuation of this pledged object;

b) the obligations between the parties to the agreement are considered as fully accomplished (including obligations in respect of repayment of the principal and loan charges);

c) the liabilities in respect of payment for the further storage of the former pledged object are transferred to the creditor;

d) the creditor acquires the right to be the beneficiary on the insurance contract in respect of the former pledged object.

12.2.7. The borrower shall be liable for the expenses on certification, transportation, storage, shipping, finishing, processing, and insurance of the pledged object, as well as its registration in the state pledge register. After the pledged object has been transferred to the state food reserve, expenses on its further storage shall be paid for by the Agricultural Fund.

12.3. A budgetary loan may not be issued within the state pledge purchase regime to a person who:

a) has unpaid tax debts on general state taxes, duties (mandatory payments), including contributions to the Pension Fund of Ukraine or deductions to the general mandatory social insurance funds (except for the debts that have been spread over a period of time or deferred pursuant to the legislation);

b) has overdue indebtedness on any other types of budgetary loans or other credits (loans) guaranteed by the state;

c) is in the process of readjustment, bankruptcy, or liquidation;

d) has overdue indebtedness on rent payment to individual owners of land parcels;

e) is not an agricultural enterprise, as defined in article 81 of the Law of Ukraine “On the Value-Added Tax”.

12.4. Issuance of a budgetary loan within the pledge purchase regime is a paid service. The budgetary loan charges shall be set at the level of 50 percent of the average weighted interest rate on bank credits issued for the terms of up to 12 calendar months and fully secured by collateral, which was actually in effect as of 1 June of the current budget year. The procedure for calculation of this average weighted interest rate shall be set forth by a regulation of the Cabinet of Ministers of Ukraine on the basis of proposal submitted by the National Bank of Ukraine. The amount of budgetary loan charges shall be made public no later than 15 calendar days prior to the beginning of the annual period of pledge purchases.

12.5. Budgetary loans within the pledge purchase regime shall be granted every year in the period from 1 July of the current budgetary year until 1 April of the next budgetary year.

12.6. The Cabinet of Ministers of Ukraine shall approve a regulation on the regime of pledge purchases, proceeding from the provisions of this article.

### **Article 13. Credit support of agricultural producers (credit subsidy)**

13.1. Credit subsidy regime

13.1.1. The sense of the credit subsidy regime is subsidizing of a portion of charge (interest) for short-term and medium-term credits issued by banks in the national currency.

### 13.2. Subjects and objects of credit subsidies

13.2.1. Credit subsidies are issued to entities that are agricultural enterprises producing objects of state price regulation.

13.2.2. Subsidies may be issued for a portion of the interest incurred on a credit, the principal amount of which is used for the needs of production of a certain object of state price regulation.

13.2.3. The credit subsidy may not be issued to a person, which is a party to the pledge grain purchase contract (in respect of the object of such a purchase).

### 13.3. The credit subsidy's amount

13.3.1. The credit subsidies shall be granted in the amount of up to 50 percent of the interest on the principal amounts of credits but no more than 50 percent of the average weighted interest rate on bank credits issued in the national currency and fully secured by collateral, which was actually in effect as of 1 February of the current budget year. The subsidies shall be issued for the following time periods:

- a) for short-term credits – for the terms up to 12 calendar months;
- b) for medium-term credits- for the terms up to 36 calendar months.

The procedure for calculation of such an average weighted interest rate shall be set forth by a regulation of the Cabinet of Ministers of Ukraine on the basis of a proposal submitted by the National Bank of Ukraine. The amount of the credit subsidy shall be made public by the Cabinet of Ministers of Ukraine no later than 1 March of the current budget year.

13.2.2. The credit subsidy shall be issued to the borrower once a quarter, proceeding from the amount of the actually paid interest in the respective period.

13.3.3. Any payments made by the borrower or by a third person in the borrower's name for benefit of the creditor other than payments for the interest incurred on the credit issued by the latter are not eligible for subsidizing, including interests on credits issued in a foreign currency.

### 13.4. Purposeful disposal of the funds received through a subsidized credit

13.4.1. A credit, the interest on which is subsidized, shall have the following specific purposes:

a) short-term credits shall be used only for purchase of goods (reserves) for the needs of production of a certain object of state price regulation. The list of such goods (reserves) shall be determined by the Cabinet of Ministers of Ukraine;

b) medium-term credits shall only be used for:  
purchase or construction of group I fixed assets of agricultural purposes or their capital improvements;  
purchase of group III fixed assets of agricultural purposes, including purchase on financial leasing terms, or their capital improvements;

The rules for classification of fixed assets as fixed assets of agricultural purposes shall be set forth by a regulation of the Cabinet of Ministers of Ukraine.

13.4.2. The borrower shall submit a report on disposal of the funds issued on the subsidized credit to the Agricultural Fund within the time period set forth by the legislation for submission of monthly reports. The form for such a report shall be approved by the Cabinet of Ministers of Ukraine.

13.4.3. If the report mentioned in sub-clause 13.4.2. of the present clause is not submitted on time, or data contained in it indicate that the funds released on the subsidized credit have not been used for the due purposes, or a check-up reveals a fact of such undue disposal of credit funds, then:

a) issuance of the credit subsidy shall be suspended until the moment of the Agricultural Fund's actual receipt of such a report;

b) if the fact of undue disposal of funds released on the subsidized credit (or its portion) has been revealed, the borrower shall return the amount of the actually received credit subsidy on this credit (its corresponding portion) to the Agricultural Fund's budgetary account within the next 30 calendar days, as well as the penalty calculated for the period of usage of this credit subsidy in the amount of the double discount rate of the National Bank of Ukraine, which will be effective as of the moment of such return.

### 13.5. Control and collection

13.5.1. Control over purposeful disposal of the subsidized credit funds shall be exercised by respective departments of control-and-audit service.

13.5.2. If the borrower fails to return the amount of the credit subsidy and/or fails to pay the penalty in the instances determined in sub-clause "b" of sub-clause 13.4.3 of clause 13.4 of the present article, such an amount and/or penalty is subject to be collected to the Agricultural Fund's budgetary account in accordance with the procedure set forth by the law on collection of tax debts (financial sanctions).

13.5.3. The procedure for exchange of information and other interrelations between departments of control-and-audit service and tax authorities shall be set forth by a corresponding regulation of the Cabinet of Ministers of Ukraine.

### 13.6. Normative support

13.6.1. The Cabinet of Ministers of Ukraine approves annual regulations on the regime of granting of credit subsidies based on provisions contained in the present article.

13.6.2. Upon the Agricultural Fund's proposal, the central executive authority on formation and pursuance of the state agricultural policy shall approve a typical form of the credit agreement, which is to provide for credit subsidizing.

## **Article 14. Deregulation of the Ukrainian market for agricultural products and prohibition of discrimination of their owners' rights**

### 14.1. Deregulation of the market for agricultural produce

14.1.1. With the purpose of avoiding an artificial shortage of agricultural produce in the regions that consume agricultural produce and a speculative raise of prices for the essential products on their territories, it is prohibited to introduce any administrative, quantitative, or qualitative

limitations on movement of agricultural commodities and their products on all of Ukraine's territory.

Decisions of the Cabinet of Ministers of Ukraine, other central state executive authorities, and local governments shall be considered null and void and not subject to fulfillment if they have been made in respect of:

- a) limitation of lawful rights of owners of agricultural produce for free possession, utilization, or disposal of such produce;
- b) introduction of any administrative quantitative, or qualitative limitations on unimpeded movement of agricultural commodities on all of Ukraine's territory and for exports, except for the instances specifically determined in the present Law;
- c) obstruction of specific buyers (intermediaries, processors) or suppliers of raw materials, inputs or other goods (works, services) to an owner of agricultural produce;
- d) introduction of any types of administrative regulation of prices for agricultural produce (including regulation in certain regions of Ukraine), which is not connected with fulfillment of the present Law's provisions.

14.1.2. Authorized functionaries and public officers who make or sign decisions described in sub-clause 14.1.1 of the present article or directly carry out such decisions shall be considered as impeding the lawful business activity of an owner of agricultural produce and deliberately exceeding their authorities, which shall lead to their corresponding record, administrative, or criminal responsibility.

14.1.3. Losses that may be incurred by the owners of agricultural produce as a result of decisions described in sub-clause 14.1.1 of the present article shall be subject to refund at the expense of the maintenance cost estimate of the authority that has made such a decision with a subsequent regress refund of such losses at the expense of the authorized functionary or public officer mentioned in sub-clause 14.1.2 of the present article.

14.1.4. If the authority that has approved one of the decisions described in sub-clause 14.1.1 of the present article charges the authorities protecting law and order with execution or control over execution of such an unlawful decision, such authorities shall have to refuse from these orders and immediately inform the corresponding department of the Office of Public Prosecutor about that.

## 14.2. Prohibition of discrimination of agricultural produce owners' rights

14.2.1. The cost of electric and heat energy, natural gas, coal, and water, which are supplied (sold) to agricultural producers and the cost of services (tariffs) on transportation of agricultural produce by railway, air, and automotive means of transportation, as well as on storage, loading, transloading, transshipment, and other services rendered by transport organizations (including rent or other payments for usage of vehicles and rolling stock) shall be set at a level that does not exceed the respective costs of such goods when they are supplied (sold) to other entities or the level of costs of such services (tariffs) for products other than agricultural produce.

14.2.2. Tariffs (payments) for transportation of objects of state price regulation for export by railway, air, water (river- or sea-going), and automotive means of transportation, as well as the cost of services on storage, loading, transloading, transshipment, and other services rendered by transport organizations (including rent or other payments for usage of vehicles and rolling stock), harbor, port, or storage organizations (including elevators, grain warehouses, and granaries) shall be set at the level of tariffs used for rendering of such services in respect of Ukrainian products, which are to be consumed on the Ukrainian territory, or are transported in transit (based on the

least of the two). Introduction of any markups, surcharges, and other payments that are additional to this lowest tariff (payment) is not acceptable.

14.2.3. Carriers of the objects of state price regulation do not have the right to condition rendering of their services (works) with requirements as to insurance of any kinds of risks connected with such transportation. In the event of violation of this rule, the respective insurance agreement shall be declared null and void, whereas the carrier and insurer and/or their authorized functionaries (officers) shall bear responsibility in accordance with the effective legislation, including the responsibility for impeding of a lawful business activity.

14.2.4. If an elevator (grain warehouse, granary) stores the goods that are classified as an object of state price regulation in accordance with the present Law, the tariff (price) for such storage services may not exceed 0.5 percent of the minimal purchase price for the respective object of state price regulation (for a calendar month of such storage) if a lower level has not been set by a regulation of the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine shall annually set price regulation regimes for the costs of the following services:

- a) veterinary medicine (laboratory research and issuance of veterinary certificates);
- b) grain inspection (examination and issuance of certificates);
- c) quarantine inspection (examination, issuance of certificates, and fumigation).

The costs of such services may not exceed the price calculated according to a 20-percent profitability rate in respect of incurred expenses.

The decision of the Cabinet of Ministers of Ukraine as to setting of the regulation regime in respect of the costs of certain services shall be made public no later than 30 days prior to introduction of such a regulation regime.

## **Chapter V. STATE SUPPORT OF ANIMAL HUSBANDRY PRODUCERS**

### **Article 15. Animal husbandry budgetary subsidy**

15.1. When planning the state budgetary expenses for the next year, the Cabinet of Ministers of Ukraine shall provide for an expense item for granting of subsidies to animal husbandry producers (hereinafter referred to as “the budgetary subsidy”).

The budgetary subsidy is granted with the purpose of support of Ukrainian consumers’ solvent demand for animal products and prevention of average statistical unprofitableness of Ukrainian producers of such commodities.

15.2. Objects of the budgetary subsidy are as follows:

Ukrainian Foreign Economic

Activity Commodity  
Classification Code

Commodity

0101 11 00 00	Live horses (thoroughbred pedigree animals)
0101 19 10 00	those for slaughtering
0102 10	Live cattle (thoroughbred pedigree animals)
0102 90 21 00	Live cattle (other animals for slaughtering)

0102 90 41 00	
0102 90 51 00	
0102 90 61 00	
0102 90 71 00	
0103 10 00 00	Live pigs (thoroughbred pedigree animals)
0103 92 11 00	Live pigs weighed 50 kg or more (only domestic varieties)
0103 92 19 00	
0104 10 10 00	Live sheep (thoroughbred pedigree animals)
0104 20 10 00	Live goats (thoroughbred pedigree animals)
0105 11	Live domestic poultry
0105 92 00	
0105 93 00 00	
0105 99	
0106 00 10 00	Live domestic rabbits
0401	Only whole milk of grades 1 or 2 (which has not been treated in any way, processed, or packed for the needs of subsequent sale) or non-condensed cream
5101 11 00 00	Only sheared wool (unwashed, including the wool washed before shearing or taking off from hides)

Pedigree bee swarms are also objects of the budgetary subsidies, as defined in accordance with the Law of Ukraine “On Bee-Farming”.

15.3. Objects of the special budgetary subsidy are as follows:

Ukrainian Foreign Economic Activity Commodity Classification Code	Commodity
	Horses
0101 19 10 00	those for slaughtering
0101 19 90 00	others (mares)
01 02 90 69 00	Live cattle:

01 02 90 79 00	cows weighed over 300 kg;
01 02 90 90 00	others, for slaughtering, weighed over 300 kg; others (calving cows); heifers, over 300 kg.
01 03 92 11 00	Live sows that have farrowed at least once and weighed 160 kg at the minimum  Live sheep or goats:  sheep
0104 10 80 00	others  goats
0104 20 90 00	others

15.4. Subjects (recipients) of the budgetary subsidy or the special budgetary subsidy shall be direct producers of the object of such a subsidy.

15.5. The budgetary subsidy or the special budgetary subsidy shall be paid by the Agricultural Fund in accordance with the procedure determined by the Cabinet of Ministers of Ukraine.

15.6. The amount of the budgetary subsidy for the next budget year shall be set by the Cabinet of Ministers of Ukraine in flat amounts, which are calculated as follows:

- a) per metric unit of the live weight of a sold object of the subsidy or metric weight unit of sold milk and wool;
- b) per one head of a thoroughbred pedigree animal, which was owned by the subject of the subsidy as of the beginning of the report budget year;
- c) per one pedigree bee swarm, which was owned by the subject of the subsidy as of the beginning of the report budget year;
- d) proceeding from the growth of the number of head of thoroughbred pedigree animals and pedigree bee swarms, which were owned by the subject of the subsidy as of the end of the report budget year, in comparison with their number at the beginning of the same budget year.

15.7. The amount of the special budgetary subsidy for the next budget year shall be determined by the Cabinet of Ministers of Ukraine in flat amounts calculated per one head of the object of the subsidy, which was owned by the subject of the subsidy as of the beginning of the report budget year.

15.8. Calculations of the amounts of the budgetary subsidy and the special budgetary subsidy (by their objects and sums) shall be made available in a supplement to the draft Law of Ukraine on the State Budget of Ukraine for the next year.

15.9 The special budgetary subsidy shall be granted only for the animals that have been identified and registered pursuant to the law and on the condition that introduction of a system of subsequent control over purposeful disposal of budgetary funds appropriated for the indicated needs has been completed.

15.10. The Cabinet of Ministers of Ukraine:

annually approves a regulation on the regime of granting of the budgetary subsidy and the special budgetary subsidy, proceeding from the provisions contained in this article;

upon proposal of the central executive authority on formation and pursuance of the state agricultural policy, sets the minimal acceptable levels of prices for the animal products to be used as the basis for calculation of subsidies, as well as for calculation of direct purchase prices to be offered to producers.

### **Article 16. Certification of objects of the budgetary (special budgetary) subsidies for export**

16.1. The mandatory certification of objects of the budgetary subsidy or special budgetary subsidy shall not be applied to their exports.

16.2. Exporters of objects of the budgetary subsidy or special budgetary subsidy have the right to request for such certification at their own will or pursuant to the terms and conditions of their international agreements (contracts).

## **Chapter VI. OTHER PROVISIONS**

### **Article 17. Agricultural exchange**

17.1. The agricultural exchange shall be formed in accordance with the Law of Ukraine “On Commodity Exchange”, taking into account that the following exceptions shall be made to provisions of this law:

- a) the agricultural exchange is a non-profit (non-business) enterprise;
- b) the agricultural exchange’s statute shall be approved by the Cabinet of Ministers of Ukraine, upon proposal of the central executive authority on formation and pursuance of the state agricultural policy;
- c) the founder of the agricultural exchange is the Cabinet of Ministers of Ukraine in the person of the Agricultural Fund. The Cabinet of Ministers of Ukraine makes the founder’s contribution to the authorized fund (capital) of such an agricultural exchange in the amount equal to the minimal required authorized fund of a resident bank, which has a license for rendering of a full range of banking services, at the expense of its reserve fund;
- d) only residents can be members of the agricultural exchange;
- e) agricultural exchange members other than the Agricultural Fund do not have the right for making decisions in respect of:

appointment or change of the agricultural exchange management;

introduction of payment for any operations conducted by the Agricultural Fund connected with the state price regulation pursuant to the present law;  
any limitations in respect of trading in objects of state price regulation at the agricultural exchange;

introduction of any reservation as to limitation of the Agricultural Fund's right to suspend or stop the trading in objects of state price regulation in the instances determined by the present Law;

making changes to regulations contained in the agricultural exchange's statutory documents, which narrow or limit the Agricultural Fund's jurisdiction or that of the Supervisory Board of the agricultural exchange;

making changes to the set rules of clearing-and-computation services rendered to the agricultural exchange members;

liquidation or reorganization of the agricultural exchange;

other decisions, which are within the exclusive jurisdiction of the Agricultural Fund or the Cabinet of Ministers of Ukraine, pursuant to provisions of the present Law.

17.2. In order to make calculations on the concluded exchange contracts (agreements) and issue (account for, pay out) exchange guarantees, the agricultural exchange shall establish a computation-and-clearing center and a system for guaranteeing of performance of the registered exchange contracts (agreements). During establishment of such a system, services of one of the largest banks of Ukraine (in terms of their total assets) may be used.

17.3. Joint control over activity of the agricultural exchange shall be exercised by the Supervisory Board, the members of which are appointed for 5 calendar years and cannot be removed ahead of schedule, except for the instances when such a member of the Supervisory Board:

submits an application for dismissal from the post of a Supervisory Board member;

dies;

acquires the non-resident status or departs for permanent residence beyond Ukraine;

is deprived of liberty pursuant to a court ruling, which has entered into force.

Members of the Supervisory Board elect the chairman of the Supervisory Board by a simple majority of its members for one year. The chairman of the Supervisory Board may be re-elected for the next term. The chairman of the Supervisory Board signs all the documents issued by the Supervisory Board and presides at its meetings. When the chairman of the Supervisory Board is absent at its meeting, one of the members is elected as the chairman of meeting by a simple majority of the board members.

17.4. The right for recommendation of candidates for members of the Supervisory Board of the agricultural exchange is exercised by its founders (participants, members). Based on information submitted in respect of these candidates, the Cabinet of Ministers of Ukraine takes a decision on formation of the list of members of the Supervisory Board of the agricultural exchange.

17.5. A member of the Supervisory Board of the agricultural exchange shall discharge his/her functions on the voluntary basis. There shall be no compensations, refunds, or any other types of property or monetary incomes as a result of discharge of a Supervisory Board member's functions.

17.6. The agricultural exchange can transfer the right for conclusion of exchange contracts (agreements) or grant the right for participation in exchange trade or participation in organization of exchange trade to other commodity exchanges that have been formed pursuant to the Law of Ukraine "On Commodity Exchange" on the condition that these exchanges have previously been

certified in respect of standards of sale or delivery of exchange commodities (in the name and on behalf of the agricultural exchange), according to the rules set by the agricultural exchange.

17.7. Control over the agricultural exchange's activity shall be exercised by the following entities:

- a) in the sphere of regulation of and supervision over sale of commodities on the spot and forward conditions, correctness of conclusion and performance of obligations on other types of commodity derivatives, and granting of insurance subsidies – the central executive authority in the sphere of regulation of financial service markets;
- b) in the sphere of granting of credit and animal husbandry subsidies – the central executive authority on formation and pursuance of the state agricultural policy and the State Treasury of Ukraine;
- c) in the sphere of general management and supervision – the Supervisory Board of the agricultural exchange.

### **Article 18. Final provisions**

1. The present Law enters into force on 1 January 2005, taking into account provisions of clauses 2-9 of the present article.

2. Annually, when the draft state budget is being worked out for the next year, the Cabinet of Ministers of Ukraine:

- a) determines the amount of expenses on carrying-out of the measures provided for by the present Law and advisability of introduction of certain types of subsidy regimes and amounts of subsidies;
- b) sets up forms of statistical and financial reports sufficient for determination of the amounts of the minimal or maximal prices and subsidies and works out a program for price monitoring on the Ukrainian agricultural market.

3. The agricultural exchange is subject to registration before 1 October 2004. The primary contribution to the authorized capital of the agricultural exchange shall be made by the Agricultural Fund within the time limits set forth by the present Law.

4. Payments of insurance subsidies shall be made at the expense of the AISF for the insurance contracts, on which insurance fees will be paid after the present Law's provisions start to be applied.

5. Provisions of the Law of Ukraine "On operations with give-and-take raw materials in foreign economic relations" shall not be applied to the goods, which fall under the definition of groups 1-24 of the Ukrainian Foreign Economic Activity Commodity Classification.

6. For the first marketing period after the present Law enters into force, the maximal purchase price shall be set by a regulation of the Cabinet of Ministers of Ukraine as a percentage ratio to the set level of the minimal purchase price (for specific objects of state price regulation).

7. In 2005, the state food reserve shall be formed in the following quantities:

- a) wheat, mixture of wheat and rye (meslin), and rye (Ukrainian Foreign Economic Activity Commodity Classification codes 1001, 1002 00 00 00) – 1.5 mln. tonnes aggregately;
- b) sugar made of sugar beets only (Ukrainian Foreign Economic Activity Commodity Classification code 1701 12) – 180 ths. tonnes.

8. Provisions of the other normative and legal acts shall be effective in the parts that do not contradict to the present Law's provisions.

9. The Cabinet of Ministers shall:

- a) bring its normative and legal acts in compliance with the present Law, provide that the normative and legal acts issued by central executive authorities be brought in compliance with the present Law, and issue respective normative and legal acts for fulfillment of the present Law's provisions within two months after the present Law enters into force;
- b) submit a draft law on changes to laws and other legislative acts, which results from the present Law, to Verkhovna Rada of Ukraine before 1 October 2004.

**Chairman of Verkhovna Rada of  
Ukraine**

**the city of Kyiv  
24 June 2004  
No. 1877-IV**

**V. LYTVYN**