

The Law of Ukraine

ON FOREIGN ECONOMIC ACTIVITY

As amended by **Laws of Ukraine** as of February 19, 1992 No.2139-XII, as of February 1, 1994 No.3898-XII, as of February 28, 1995 No.75/95 VR, as of March 2, 1995 No.82/95 VR, as of March 14, 1995 No.90/95 VR, as of December 22, 1998 No.335-XII, as of October 21, 1999 No.1182-XIV, by the **Regulations** of the Verkhovna Rada of Ukraine as of May 12, 1992 No.2330-XII, as of June 23, 1992 No.2489-XII, by the **Decrees** of the Cabinet of Ministers of Ukraine as of December 9, 1992 No.6-92, as of January 11, 1993 No.4-93, as of January 12, 1993 No.6-93, as of February 19, 1993 No.15-93, as of March 17, 1993 No.25-93.

Words "the Ukrainian Soviet Socialist Republic", "Ukrainian SSR", "the Council of Ministers of Ukrainian SSR", "the Ministry of foreign economic Relations of Ukrainian SSR", "the State Department of Customs Control of Ukrainian SSR" and "judicial or arbitral" in all cases were respectively changed for the words "Ukraine", "the Cabinet of Ministers of Ukraine", "the Ministry of Economy of Ukraine", "the State Customs Administration of Ukraine" and "judicial" in respective cases according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

(According to the Law of Ukraine No.1595-III of March 23, 2000, in the text of the Law, words "Ministry of Foreign Economic Relations and Trade" in all cases replace with the words "Ministry of Economy" in a relevant grammatical case.)

The Verkhovna Rada of Ukraine on the basis of provisions of the Constitution (the Fundamental Law) of Ukraine, of the Declaration on state sovereignty of Ukraine, of the Law of Ukrainian SSR "On economic Independence of Ukrainian SSR" and generally recognized international norms and rules, given that its independence in effectuation and regulation of foreign economic relations is one of the grounds of realization of state sovereignty of Ukraine, considering commitments undertaken by Ukraine within the framework of international treaties, agreements with the republics of the USSR and other treaties within the USSR, willing a comprehensive development of economic relations with other states on mutually beneficial basis, purposing to implement jural regulation of all kinds of foreign economic activity in Ukraine, including foreign trade, economic, scientific and technical collaboration, specialization and co-operation in the domain of production, science and technique, economic ties in the field of building, transport, forwarding, insurance, settlement, credit and other banking operations, rendering various services, passed the Law on given below:

Chapter I. GENERAL PROVISIONS

Article 1. Determination of terms

In this Law the following terms shall be used in such meaning:

Audit – is a check of public reporting, accounting, basic documents and other information in terms of financial and economic activity of economic entities to find out adequacy of their reports, accounting, its completeness and conformity to the current legislation of Ukraine and standards set.

(the second paragraph of Article 1 as amended in accordance with the Law of Ukraine as of March 14, 1995 No.90/95-VR)

Currency funds – currency values:

- foreign currency in cash,
- payment documents (cheques, bills, drafts, deposit certificates, letters of credit, etc.) in foreign currency,
- securities (stocks, obligations, coupons to them, bonds, bills, etc.) in foreign currency,
- gold and other precious metals in ingots, bars and coins as well as certificates, obligations, warrants, and other securities denominated in gold, precious stones;

Economic activity – is any activity, including business activity related to production and exchange of material values and nonmaterial benefits standing as commodities;

Dumping – is import of commodities to the customs territory of a country at a price lower than comparative prices for the like commodities in a country of export, damaging national producer of the like commodities;

(the ninth paragraph of Article 1 as amended in accordance with the Law of Ukraine as of December 12, 1998 No.335-XIV)

Export (export of commodities) – is sale of commodities by Ukrainian economic entities engaged in foreign economic activity to foreign economic entities (including payment in non-monetary form) with export or without export of these commodities through the customs border of Ukraine, including re-export of commodities. The term re-export (re-export of commodities) means a sell of commodities, which were imported to the territory of Ukraine before, to foreign economic entities and exporting beyond Ukraine.

(the tenth paragraph of Article 1 as amended in accordance with the Law of Ukraine as of December 12, 1998 No.335-XIV)

Export (import) of capital – is export (import from beyond Ukraine) of capital in any form (curren-

cy funds, produce, services, work, intellectual property rights and other incorporeal rights) beyond Ukraine to make profit of productive activity and other forms of economic activity;

Foreign economic activity – is an activity of economic entities of Ukraine and foreign economic entities based upon mutual relations between them, which takes place both within or beyond the territory of Ukraine;

Foreign economic agreement (contract) – is a materially executed contract of two or more economic entities engaged in foreign economic activity and their foreign contractors, aimed to establish, change or terminate reciprocal rights and obligations in foreign economic activity;

Import (import of commodities) – is purchase (including payment in non-monetary form) of commodities by Ukrainian economic entities engaged in foreign economic activity from foreign economic entities with or without import of these commodities to the territory of Ukraine, including purchase of commodities for own consumption by establishments and organizations of Ukraine, located beyond it;

(the fourteenth paragraph of Article 1 as amended in accordance with the Law of Ukraine as of December 12, 1998 No.335-XIV)

Foreign currency

- currency in cash, currency (banknotes, state treasury notes, coins) in circulation, which are lawful money in the territory of a respective foreign state, as well as recalled or being recalled from circulation, but liable to exchange for currency in circulation,

- payment documents in monetary units of foreign states and international settlement units,

- funds in monetary units of foreign states, international settlement units and in freely convertible currency operating in the territory of Ukraine that are on accounts and deposits in banking and credit establishments in the territory of Ukraine and beyond it.

Foreign investments – are all kinds of property and intellectual values, invested by foreign economic entities in Ukraine, resulting in making profit (income) or achievement of social effect;

Foreign economic entities – are economic entities located permanently or residing permanently beyond Ukraine and republics of the USSR;

Global quotas (contingents) – are quotas set upon a commodity (commodities) without indication of particular countries (groups of countries), to which the commodity is (commodities are) exported or from which it is (they are) imported;

Group quotas (contingents) – are quotas set upon a commodity (commodities) with indication of groups of countries, in which the commodity is (commodities are) exported or from which it is (they are) imported;

Export (import) quota – is boundary quantity of particular category of commodities allowed to export from the territory of Ukraine (import to the territory of Ukraine) within the term set and specified in physical or value units;

Individual quotas (contingents) – are quotas set upon a commodity (commodities) with indication of a particular country, to which the commodity (commodities) may be exported or from which it (they) may be imported;

Antidumping quota – is a boundary quantity of import to Ukraine of a particular commodity (commodities), subject to an antidumping investigation and/or antidumping measures, allowed to import to Ukraine within the term set and specified in physical and/or value units;

(Article 1 was amended with twenty-fifth paragraph according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

Compensatory quota – is a boundary quantity of import to Ukraine of a particular commodity (commodities), subject to an anti-subsidy investigation and/or compensatory measures, allowed to import to Ukraine within the term set and specified in physical and/or value units;

(Article 1 was amended with twenty-sixth paragraph according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

Special quota – is a boundary quantity of import to Ukraine of a particular commodity (commodities), subject to a special investigation and/or compensatory measures, allowed to import to Ukraine within the term set and specified in physical and/or value units;

(Article 1 was amended with twenty-seventh paragraph according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

Antidumping license – is a properly implemented right to import to Ukraine a particular commodity (commodities) subject to an antidumping investigation and/or antidumping measures within a term set.

(Article 1 was amended with twenty-eighth paragraph according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

Compensatory license – is a properly implemented right to import to Ukraine a particular commodity (commodities) subject to an anti-subsidy investigation and/or compensatory measures within a term set.

(Article 1 was amended with twenty-ninth paragraph according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

Special license – is a properly implemented right to import in Ukraine a particular commodity (commodities) subject to a special investigation and/or special measures within a term set.

(Article 1 was amended with thirtieth paragraph according to the Law of Ukraine as of December 22,

1998 No.335-XIV, thereby paragraphs 25-46 shall be considered paragraphs 31-52)

Open license (individual) – is a permit to export (import) commodities within a particular time term (but not less than one month) with indication of its total amount.

General license – is an open permit for export (import) transactions with a particular commodity (commodities) and/or with a particular country (group of countries) during a validity term of a special regime of licensing of the transactions with this commodity (commodities);

Export (import) license – is a properly implemented right to export to (import from) Ukraine particular commodities or foreign currency funds with investment and credit purposes;

Customs regulation – is regulation of questions related to determination of duties and customs fees by mechanisms of customs control, organization of activity of customs control bodies of Ukraine;

International co-operation – is interaction of two or more economic entities among which at least one is a foreign economic entity, under which conjoint elaboration or conjoint production, conjoint realization of end products and other commodities are effected on the basis of specialization in production of higher order commodities (parts, units, materials, and equipment used in complex deliveries) or specialization on particular technological stages (functions) of research-and-development activities, production and realization with coordination of appropriate programs of economic activity.

Moment of export (import) contract execution – is a moment to which all obligations under the above mentioned contract have been performed, including execution of bills (drafts) or conclusion of credit contracts;

Moment of export (import) – is a moment of passing of customs border of Ukraine or borders of other republics of the USSR or a moment of transfer of proprietary right to the above mentioned exported or imported commodities from a seller to a buyer;

Moral damage – is a damage inflicted to individual non-property rights of economic entities engaged in foreign economic activity, which has resulted or may result in damages which have material terms;

Limiting business practice – is implementation of individual or collective measures aimed at limitation of competition and monopolization of production, allocation, exchange, consumption of commodities and making profit;

Transfer of currency funds beyond Ukraine – is a transfer of funds (in foreign currency) for benefit (to an account) of a foreign economic entity or to a banking credit establishment that is not an economic entity of Ukraine;

Preliminary import deposits – placing of funds in contract (agreement) currency in the sum determined in percentage to a value of the respective

contract (agreement) on interest-free accounts by economic entities engaged in foreign economic activity to banks servicing them in the territory of Ukraine for the period from the moment of entering of the agreements (contracts) made by them into force to the moment of passing of customs border of Ukraine and republics of the USSR by commodities supplied under the above mentioned contracts or delivering the commodities by foreign economic entities in the territory of Ukraine;

Permanent location – is a location of an officially registered main governing body (office) of an economic entity (engaged in foreign economic activity);

Permanent residence – is a residence in the territory of any state for a term not less than one year of a physical person, which has no permanent residence in the territory of other states and intends to live in the territory of this state for an indefinite term, not restricting such residence to particular aim and under a condition that such a residence is not a consequence of a course of his duty or obligations under an agreement;

Representation of a foreign economic entity – is an establishment or a person which represents interests of a foreign economic entity in Ukraine and is duly empowered to this.

Special economic zone – is a territory within which a special legal regime of economic activity and special order of enactment and operation of the legislation of Ukraine are implemented by the respective law of Ukraine;

Common business (economic) activity – is an activity based on co-operation between economic entities of Ukraine and foreign economic entities, and common distribution of results and risks from its performance;

Joint ventures – are enterprises, based on common capital of economic entities of Ukraine and economic entities of other republics of the USSR or foreign economic entities or foreign economic entities, on common management and common distribution of results and risks.

Commodity – is any kind of product, services, work, intellectual property rights and other incorporeal rights allotted for sale (pay transfer);

Commodity group – is a group of homogeneous commodities according to the harmonized system of goods coding and description;

Transit of commodities – handling of commodities, produced beyond Ukraine through the territory of Ukraine without their utilization of any kind in the above-mentioned territory.

Lost profit – is an income or profit which might have been realized by an economic entity engaged in foreign economic activity, if performing foreign economic operations, and which it has not realized in consequence of circumstances beyond its control, if the volume of his foreseeable income or profit can be substantiated;

Article 2. Principles of foreign economic activity

Economic entities of Ukraine and foreign economic entities, when prosecuting foreign economic activity shall obey the following principles:

The principle of sovereignty of Ukrainian people in performing foreign economic activity, which is in:

- an exclusive right of people of Ukraine to carry on independent foreign economic activity in the territory of Ukraine obeying to laws operating in the territory of Ukraine;
- an obligation of Ukraine to implement all treaties and to meet commitments of Ukraine in the domain of foreign economic relations inviolately;

The principle of freedom of foreign economic entrepreneurship, which is in:

- a right of economic entities engaged in foreign economic activity to foreign economic contacts;
- a right of economic entities engaged in foreign economic activity to perform foreign economic activity in any forms not forbidden directly by current laws of Ukraine;
- an obligation to keep to the order set by laws of Ukraine, when prosecuting foreign economic activity;
- an exclusive proprietary right of economic entities engaged in foreign economic activity to all results of foreign economic activity obtained by them;

The principle of legal equality and nondiscrimination, which are in:

- equality before the law of all economic entities engaged in foreign economic activity regardless of patterns of ownership, including the state, when carrying on foreign economic activity;
- prohibition of any state acts, except for those provided for by this Law, resulting in any restrictions of rights and discrimination of economic entities engaged in foreign economic activity and foreign economic entities by the patterns of ownership, location and other features;
- impermissibility of restricting activity from the side of any of its entities, except for the cases, provided for by this Law;

The principle of the rule of law, which is in:

- regulation of foreign economic activity only by laws of Ukraine;
- prohibition of application of bylaws and administrative acts of local authorities, which in any way create less favorable conditions for economic entities engaged in foreign economic activity than those, set by laws of Ukraine;

The principle of protection of interests of economic entities engaged in foreign economic activity, which is in that Ukraine as a state:

- provides equal protection of interests of all economic entities engaged in foreign economic ac-

tivity and foreign economic entities in its territory according to laws of Ukraine;

- performs equal protection of all economic entities of Ukraine engaged in foreign economic activity beyond Ukraine according to the norms of international law;
- performs protection of state interests of Ukraine both within its territory and beyond it only according to laws of Ukraine, terms and conditions of international treaties and rules of international law;

The principle of exchange equivalence, inadmissibility of dumping, when importing and exporting commodities.

Article 3. Economic entities engaged in foreign economic activity

To economic entities engaged in foreign economic activity belong:

- physical persons – nationals of Ukraine, nationals of other republics of the USSR other nationals and stateless persons, which have civil capacity according to laws of Ukraine and reside permanently in the territory of Ukraine;
- legal entities registered as those in Ukraine and which have permanent location in the territory of Ukraine (enterprises, organizations and consociations of all kinds, including joint-stock companies and other kinds of economic partnerships, associations, unions, concerns, consortiums, trading houses, intermediary and consulting firms, cooperatives, financial credit establishments, international consociations, organizations and others), including legal entities, property and/or capital of which are totally owned by foreign economic entities;
- structural units of economic entities of republics of the USSR, foreign economic entities, which are not legal entities according to laws of Ukraine, but which have permanent location in the territory of Ukraine and which are not prohibited to prosecute economic activity by civil laws of Ukraine;
- joint ventures with participation of economic entities of Ukraine and foreign economic entities, which are registered as those in Ukraine and have permanent location in the territory of Ukraine;
- other economic entities provided for by laws of Ukraine.

Ukraine represented by its organs, local authorities represented by foreign economic organizations established by them, which participate in foreign economic activity as well as other states taking part in economic activity in the territory of Ukraine shall operate as legal entities according to the fourth part of Article 2 of this Law and laws of Ukraine.

Article 4. Foreign economic activity categories

To foreign economic activity categories, prosecuted in Ukraine by entities engaged in this activity, belong:

- export and import of commodities, capitals and labor;
- rendering of services by economic entities of Ukraine engaged in foreign economic activity to foreign economic entities including: manufacturing, transport and expeditionary, insurance, consultative, marketing, export, intermediary, brokerage, agency, consignment, management, accounting, auditing, legal, tourism and other services not prohibited by laws of Ukraine directly or indirectly; rendering of the above-mentioned services by foreign economic entities to economic entities of Ukraine engaged in foreign economic activity;
- scientific, technical, scientific and productive, manufacturing, educational co-operation with foreign economic entities; education and training of specialists on commercial basis;
- international financial transactions and transactions with securities in cases provided for by laws of Ukraine;
- credit and settlement transactions between economic entities engaged in foreign economic activity and foreign economic entities; foundation of banking, credit and insurance establishments beyond Ukraine by economic entities engaged in foreign economic activity; foundation of the above-mentioned establishments in the territory of Ukraine by foreign economic entities in cases provided for by laws of Ukraine;
- common business activity between economic entities engaged in foreign economic activity and foreign economic entities, which includes foundation of joint ventures of different kinds and forms, carrying out of conjoint economic transactions and holding property in common both in the territory of Ukraine and beyond it;
- business activity in the territory of Ukraine connected with granting licenses, patents, know-how, trade marks, and other incorporeal property from the side of foreign economic entities; analogous activity of economic entities engaged in foreign economic activity beyond Ukraine;
- organization and prosecution of activity in the domain of conduction of exhibitions, auctions, tenders, conferences, symposiums, seminars, and other similar activities performed on commercial grounds with participation of economic entities engaged in foreign economic activity; organization and prosecution of wholesale, consignment trade and retail business in the territory of Ukraine for foreign currency in cases provided for by laws of Ukraine;
- barter transactions and other activity, based on forms of countertrade between economic entities engaged in foreign economic activity and foreign economic entities;
- lease operations between economic entities engaged in foreign economic activity and foreign economic entities;

- operations on purchase, sell and exchange of currency at currency auctions, currency exchanges and at the interbank currency market;
- work of physical persons of Ukraine on contract basis with foreign economic entities both in the territory of Ukraine and beyond it; work of foreign physical persons on contract basis with economic entities of Ukraine engaged in foreign economic activity both in the territory of Ukraine and beyond it;
- other kinds of foreign economic activities, which are not forbidden directly and exclusively by laws of Ukraine;

Intermediary transactions, when conducting which a proprietary right to commodities doesn't pass to an intermediary (under commission, brokerage contracts, contracts of agency and other contracts), shall be performed without restrictions.

Article 5. A right to prosecute foreign economic activity

All economic entities engaged in foreign economic activity have equal right to carry on economic activity from the moment of obtaining civil capacity by them according to laws of Ukraine. Physical persons which have permanent residence in the territory of Ukraine shall have the above mentioned right, if they are registered as entrepreneurs in compliance with the Law of Ukraine "On Entrepreneurship".

Physical persons which do not have permanent residence in the territory of Ukraine shall have the above mentioned right, if they are registered as economic entities according to laws of the country, in which they have permanent residence or nationals of which they are. Legal entities have a right to prosecute foreign economic activity according to their constituent documents from the moment they have obtained a status of legal entity.

Economic entities engaged in foreign economic activity shall enjoy the above mentioned right after their state registration as participants of foreign economic activity. The registration is effected by the Ministry of Economy of Ukraine under filing an application in a free form, notarized copies of constituent documents or notarized documents of a physical person about his registration as an entrepreneur. The Ministry of Economy of Ukraine may not reject a registration to an applicant, if the applicant meets all the requirements set forth in this Article.

(operation of the third part of Article 5 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

Registration shall be effected within 25 working days from the moment of filing of the above mentioned documents.

(operation of the fourth part of Article 5 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

It is forbidden to limit the right to carry on foreign economic activity during registration or after it, in-

cluding institution of procedures which require from an economic entity engaged in foreign economic activity any confirmation or approval that it/he has the right to prosecute such an activity or complicate the order of this right realization.

(operation of the fifth part of Article 5 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

A fee, set by the Cabinet of Ministers of Ukraine, which shall not exceed the size of actual state expenses appertained to this registration, shall be charged for state registration of economic entities engaged in foreign economic activity.

(operation of the sixth part of Article 5 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

Registered economic entities engaged in foreign economic activity shall inform the Ministry of Economy of Ukraine about all the changes in the documents which have been filed for the registration within 14 days from the moment when such amendments took place.

(operation of the seventh part of Article 5 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

It is forbidden to demand a repeated registration (re-registration) from a registered economic entity engaged in foreign economic activity.

(operation of the eighth part of Article 5 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

In the event of denial of registration of an economic entity engaged in foreign economic activity by the Ministry of Economy of Ukraine or non-rendering a decision on this matter within the terms set by this Article, the economic entity engaged in foreign economic activity may contest such a denial of registration in courts of justice of Ukraine.

(operation of the ninth part of Article 5 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

Interference of state organs in foreign economic activity of its entities in cases, not provided for by this Law, including through issuing by-laws, which create conditions for its prosecution that are worse than those determined by this Law, is a restriction of right to prosecute foreign economic activity and shall be forbidden as such.

According to Article 37 of this Law a sanction in suspension of a right to carry on such an activity in cases of violation of current laws of Ukraine anent this activity may be imposed upon economic entities engaged in foreign economic activity.

None of the provisions of this Article may be read as a prohibition to physical persons and legal entities and other economic entities engaged in foreign economic activity to exercise any relations between

themselves, which fall beyond the definition of foreign economic activity.

An economic entity engaged in foreign economic activity which obtained from that activity funds, property, non-property and property rights and other results in ownership has a right to own, use and to command them on its own account.

It is forbidden to subtract results of foreign economic activity from an owner in any form, whether for value or for free, without his consent, with the exception of the cases provided for by laws of Ukraine.

Prosecution of foreign economic activities set forth in Article 4 beyond Ukraine shall as well be regulated by laws of the respective states.

All economic entities of Ukraine engaged in foreign economic activity have a right to open their representative offices in the territory of other states in accordance with laws of these states.

All economic entities of Ukraine engaged in foreign economic activity have a right to participate in international non-governmental economic organizations.

Foreign economic entities prosecuting foreign economic activity in the territory of Ukraine have a right to open their representative offices in the territory of Ukraine. The Ministry of Economy of Ukraine shall register the above representative offices within sixty working days from the day of filing of documents for registration by an economic entity engaged in foreign economic activity. To register a representation of an economic entity engaged in foreign economic activity in the territory of Ukraine it is necessary to file:

- an application with a request to register a representation, which shall be drafted in a free form;
- an extract from a trade (bank) register of the country, where the economic entity engaged in foreign economic activity has the officially registered office;
- a certificate from a bank in which an account of the applicant is officially opened;
- letter of procuration to execute representative functions, drafted in compliance with the law of the country, where the office of the foreign economic entity is officially registered.

The above mentioned documents shall be notarized in the place of their issuing and properly legalized in consular establishments which represent Ukraine, unless otherwise provided by international treaties of Ukraine. A fee set by the Cabinet of Ministers of Ukraine, which shall not exceed the size of actual state expenses appertained to this registration, shall be charged for registration of representative offices of economic entities engaged in foreign economic activity.

In the event of denial to register a representation office of an economic entity engaged in foreign economic activity by the Ministry of Economy of

Ukraine or non-rendering of a decision on this matter within the sixty-day term set, the economic entity engaged in foreign economic activity may contest such a denial in courts of justice of Ukraine.

It is forbidden to require from an economic entity engaged in foreign economic activity a repeated registration (re-registration) of a representation previously registered in the territory of Ukraine.

If the name, legal position, legal address of an economic entity engaged in foreign economic activity are changed or it is declared insolvent or bankrupt, its representation in the territory of Ukraine shall inform the Ministry of Economy of Ukraine about this within seven-day term.

Economic activity, including foreign economic activity of foreign economic entities, shall be regulated by laws of Ukraine in terms of prosecution of economic activity by foreign economic entities in the territory of Ukraine. In the event, when the above mentioned activity is connected with foreign investments, it shall be regulated by the respective laws of Ukraine.

Article 6. Agreements (contracts) of economic entities engaged in foreign economic activity and the law applied to them

Entities, which are parties of foreign economic agreement (contract), shall be capable to contract under this Law and other laws of Ukraine and/or *lex loci contractus*. An foreign economic agreement (contract) shall be drawn up in conformity to this and other laws of Ukraine given international treaties of Ukraine. Economic entities engaged in foreign economic activity, when drawing up the text of an foreign economic agreement (contract), have a right to use established international customs, recommendations of international agencies and organizations, if it is not forbidden in a direct and exclusive fashion by this law and other laws of Ukraine.

An foreign economic agreement (contract) shall be made by an economic entity engaged in foreign economic activity or by his/its representative in written, unless otherwise provided by international treaties of Ukraine or the law. Powers of the representative to make an foreign economic agreement (contract) may derive from a commitment, statutory documents, agreements and other grounds, which are not contrary to this Law. Acts performed on behalf of a foreign economic entity engaged in foreign economic activity by economic entity of Ukraine engaged in foreign economic activity shall be considered as acts of the foreign economic entity engaged in foreign economic activity. (Part two of Article 6 in the wording of the Law No.1182-XIV (1182-14) as of October 21, 1999).

An economic entity engaged in foreign economic activity does not need an assent of any state authority or a superior body to enter into foreign economic contract, except for the cases provided by laws of Ukraine.

Economic entities engaged in foreign economic activity have a right to make any kinds of foreign economic agreements (contracts), except for those directly and exclusively forbidden by laws of Ukraine.

An foreign economic agreement (contract) may be invalidated judicially, if it does not comply to the requirements of laws of Ukraine or international treaties of Ukraine.

A form of an foreign economic contract shall be determined by the law of the place it was signed at. An agreement made abroad, may not be invalidated in consequence of failure to keep to the form, if the requirements of laws of Ukraine were met.

A form of agreements anent buildings and other immovables located in the territory of Ukraine shall be determined by laws of Ukraine.

Rights and obligations of parties of an foreign economic agreement shall be determined by *lex loci contractus*, unless otherwise provided by the parties. The place of contract conclusion shall be determined by laws of Ukraine.

Rights and obligations of parties of foreign economic agreements (contracts) shall be determined by the law of the country chosen by the parties, when making the agreement (contract) or as a result of further co-ordination.

In case of failure by the parties to negotiate the law which shall be applied to foreign economic agreements (contracts), the law of the country, where the party, which is:

- a seller – in a contract of purchase and sale;
 - a lessor – in a contract of tenancy;
 - a licensor – in a licensing agreement on use of exclusive or analogous rights;
 - a depositary – in an agreement of deposit;
 - a consignor – in a commission (consignment) agreement;
 - a principal – in a contract of agency;
 - a carrier – in a contract of carriage;
 - a forwarder – in a forwarding contract;
 - an insurer – in a contract of insurance;
 - a creditor – in a loan agreement;
 - a grantor – in a deed of gift;
 - a guarantor – in a contract of guarantee;
 - a pledger – in a contract of pledge,
- was founded, has its residence or place of performance, shall be applied.

To foreign economic agreements (contracts) on industrial collaboration, specialization and co-operation, on performance of construction and erection work the law of the country, where such an activity is performed or where the results provided for by the agreement are created, shall be applied, unless otherwise agreed by the parties.

To an foreign economic agreement (contract) on foundation of a joint venture the law of the country, in the territory of which the joint venture is founded and officially registered, shall be applied.

To an foreign economic agreement (contract) made at the auction in consequence of a bid or at the exchange the law of the country, in the territory of which the auction, bidding are held or the exchange is located, shall be applied.

To the rights and obligations under foreign economic agreements (contracts) not set forth in this Article the law of the country where one of the parties executing the agreement (contract) was founded, resides or has a main place of performance shall be applied. It is decisive for its content.

When accepting the execution under an foreign economic agreement (contract) the law of the place of such an acceptance shall be taken into account, as the parties have not agreed otherwise.

Barter transactions of economic entities engaged in foreign economic activity performed without settlement via banks shall be licensed by the Ministry of Economy of Ukraine in the order set by Article 16 of this Law.

(operation of the last part of Article 6 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of December 09, 1992 No.6-92)

(operation of the last part of Article 6 was restored as the Decree of the Cabinet of Ministers of Ukraine as of December 09, 1992 No.6-92 expired by virtue of the Law of Ukraine as of February 01, 1994 No. 3898-XII)

Chapter II. REGULATION OF FOREIGN ECONOMIC ACTIVITY

Article 7. Grounds of foreign economic activity regulation

Foreign economic activity in Ukraine shall be regulated in compliance with the principles set forth in Article 2 of this Law:

- to provide balance of the economy and equilibrium of the market of Ukraine;
- to encourage progressive structural changes in the economy, including foreign economic relations of the economic entities of Ukraine engaged in foreign economic activity;
- to create the most favorable conditions to involve the economy of Ukraine into the international division of labor and approximate to the market structures of developed countries.

Foreign economic activity shall be regulated by:

- Ukraine as a state represented by its organs within their powers;
- non-governmental organs of economy administration (commodity, currency exchanges, chambers of commerce, associations, unions and other coordinating organizations) acting by virtue of their constituent documents;

- by economic entities engaged in foreign economic activity themselves by virtue of appropriate coordinating agreements, made between them.

Foreign economic activity shall be regulated by dint of:

- laws of Ukraine;
- acts of tariff and non-tariff regulation (financial and currency, credit and other regulation) within laws of Ukraine;
- decrees of non-governmental organs of economy administration made under their constituent documents within laws of Ukraine;
- agreements made between economic entities engaged in foreign economic activity, which are not contrary to laws of Ukraine.

Regulation of foreign economic activity by acts and actions of governmental or non-governmental organs, not provided for in this part, shall be prohibited.

The following regimes for economic entities engaged in foreign economic activity shall be introduced in the territory of Ukraine by this Law:

- national treatment, which means that foreign economic entities have the measure of rights not less than economic entities of Ukraine do. National treatment shall be applied to all activities of foreign economic entities related to their investments in the territory of as well as to export and import operations of foreign economic entities of the countries, which adhere to economic unions with Ukraine;
- the most favored nation treatment, which means that foreign economic entities have the measure of rights, preferences and exemptions in terms of duties, taxes and levies which are enjoyed or will be enjoyed by a foreign economic entity of any state that has been granted the above mentioned treatment, excluding the cases, when the above duties, taxes, levies and exemptions on them are set within special treatment, defined below. The most favored nation treatment shall be granted on the basis of mutual agreement to economic entities of other states in compliance with the respective treaties of Ukraine and shall be applied in the domain of foreign trade;

- special treatment, applied to the territories of special economic zones under Article 24 of this Law, as well as to the territories of customs unions, adhered by Ukraine, and in the event of institution of any special treatment under international treaties with participation of Ukraine according to Article 25 of this Law.

Article 8. State regulation of foreign economic activity

Ukraine itself forms a system and a structure of state regulation of foreign economic activity in its territory. State regulation of foreign economic activity shall ensure:

- protection of economic interests of Ukraine and legal interests of economic entities engaged in foreign economic activity;

- creation of equal opportunities for economic entities engaged in foreign economic activity to develop all kinds of business activities, regardless of a patterns of ownership, as well as all ways of income use, and investment.

- promotion of competition and liquidation of monopoly in the domain of foreign economic activity.

The state and its organs have no right to interfere in foreign economic activity of entities engaged in this activity, except for the cases, when such interference is effected in accordance with this Law and other laws of Ukraine.

Article 9. Organs of state regulation of foreign economic activity

The Verkhovna Rada of Ukraine is the top organ, executing state regulation of foreign economic activity. To the powers of the Verkhovna Rada of Ukraine belong:

- adoption, alteration and repeal of laws in respect of foreign economic activity;

- approval of main trends of foreign economic policy of Ukraine;

- consideration, approval and change of a composition of organs of state regulation of foreign economic activity;

- conclusion of international treaties of Ukraine according to laws of Ukraine on international treaties of Ukraine and approximation of the legislation of Ukraine in force to the rules set by this agreements;

- approval of rates of compulsory allotment of revenue in foreign currency to the state and local Councils of people's deputies of Ukraine, rates and terms of taxation, customs duties, customs fees and customs formalities of Ukraine when prosecuting foreign economic activity;

(operation of the sixth paragraph of the first part of Article 9 was terminated in the part on approval of rates of compulsory allotment of revenue in foreign currency to the state and local Councils of people's deputies of Ukraine according to the Decree of the Cabinet of Ministers of Ukraine as of February 19, 1993 No.15-93)

- introduction of special regimes of foreign economic activity in the territory of Ukraine according to Articles 24, 25 of this Law;

- approval of lists of commodities, export and import of which shall be licensed or is prohibited according to Articles 16, 17 of this Law.

The Cabinet of Ministers of Ukraine shall:

- implement measures to pursue foreign economic policy in conformity to laws of Ukraine;

- coordinate the activity of ministries, state committees and departments of Ukraine on regulation of foreign economic activity; coordinate the work of trade missions of Ukraine in foreign countries.

- adopt statutory acts on foreign economic activity administration in cases provided for by laws of Ukraine;

- negotiate and sign inter-governmental treaties of Ukraine on foreign economic activity matters in cases provided for by laws of Ukraine, provide execution of international treaties of Ukraine on foreign economic activity by all state authorities subject to the Cabinet of Ministers of Ukraine, and involve other economic entities engaged in foreign economic activity in their execution on a contract basis;

- within its powers determined by laws of Ukraine pass on proposals to the Verkhovna Rada of Ukraine in terms of a system of ministries, state committees and departments – organs of operative state foreign economic activity administration, powers of which may not be larger than the powers of the Cabinet of Ministers of Ukraine, which it has according to laws of Ukraine;

- provide drafting of balance of payments and consolidated foreign currency plan of Ukraine;

- implements measures to provide rational use of funds of the State Monetary Fund of Ukraine;

The National Bank of Ukraine shall:

- keep and use gold-exchange reserve of Ukraine and other state valuables which ensure solvency of Ukraine;

- represent Ukraine's interests in relations with central banks of other states, international banks and other financial and credit institutions and conclude appropriate inter-bank agreements;

- regulate exchange rate of the national currency to monetary units of other states;

- keeps records and effect settlements on state credits and loans, granted and obtained, effect transactions with centralized foreign currency resources, allotted from the State Monetary Fund of Ukraine to the command of the National Bank of Ukraine;

- guarantee credits, granted to economic entities engaged in foreign economic activity by foreign banks, financial and other international institutions on collateral of the State Monetary Fund of Ukraine and other state property of Ukraine;

(the third part of Article 9 was amended with the sixth paragraph according to the law of Ukraine as of February 19, 1992 No.2139-XII)

(operation of paragraph six of the third part of Article 9 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of March 17, 1993 No.25-93)

- perform other functions according to the Law of Ukraine "On Banks and banking activity" and other laws of Ukraine. The National Bank of Ukraine may delegate execution of functions of a bank for foreign economic activity of Ukraine;

The Ministry of Economy of Ukraine shall:

- provide the pursuit of a single foreign economic policy when economic entities engaged in foreign economic activity penetrate foreign market, coordinate their foreign economic activity, including coordination with international treaties of Ukraine;

- control keeping of economic entities engaged in foreign economic activity to the current laws of Ukraine and international treaties of Ukraine;

- execute measures of non-tariff regulation of foreign economic activity, in particular, registration of participants of foreign economic activity, registration of particular kinds of contracts in compliance with this Law;

(operation of the fourth paragraph of the fourth part of Article 9 was terminated in the part on state registration of foreign economic activity participants according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

- conduct antidumping, anti-subsidy and special inquiries in the order determined by laws of Ukraine;

(part four of Article 9 was amended with the fifth paragraph in accordance with the Law of Ukraine as of December 22, 1998 No. 335-XIV, thereby the fifth paragraph shall be considered as the sixth one)

- execute other functions in conformity to laws of Ukraine and the Regulation on the Ministry of foreign economic Relations and Trade.

The State Customs Service of Ukraine shall:

- perform customs control in Ukraine in accordance to the legislation of Ukraine;

The Antimonopoly Committee of Ukraine shall:

- execute control for keeping to the antimonopoly legislation by economic entities engaged in foreign economic activity;

(Article 9 was amended with the sixth part according to the Law of Ukraine as of March 2, 1995 No.82/95-VR)

The Interdepartmental International Trade Commission shall:

- execute operational state regulation of foreign economic activity in Ukraine in conformity to the legislation of Ukraine;

- make decisions to initiate antidumping, anti-subsidy or special investigations and to apply antidumping, anti-subsidy or special measures respectively;

(Article 9 was amended with the seventh part according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

Article 10. Organs of local administration of foreign economic activity

To organs of local administration of foreign economic activity belong:

- local Councils of people's deputies of Ukraine and their executive and administrative bodies;

- local subdivisions (branches) of organs of state regulation of foreign economic activity;

The powers of Councils of people's deputies of Ukraine and their executive and administrative organs are determined by this Law and the Law of Ukrainian SSR "On Local Councils of People's Deputies of Ukrainian SSR and Local Government". Statutory acts of local Councils of people's deputies and their subordinate executive bodies in respect of foreign economic activity regulation shall be adopted only in cases directly provided for by laws of Ukraine. Local Councils of people's deputies of Ukraine and their executive bodies act as economic entities engaged in foreign economic activity only through establishments of an foreign economic commercial organizations, ranked as a legal entities of Ukraine.

Organs of state regulation of foreign economic activity of Ukraine may found their own local subdivisions (branches), if it results from their powers determined by laws of Ukraine and Regulations on these organs;

The above mentioned organs of local regulation of foreign economic activity of Ukraine shall be established under an approval of the appropriate local Councils of people's deputies of Ukraine and within the overall limit of budget funds, allotted to keep the respective organs of state regulation of Ukraine. Acts of the above mentioned subdivisions (branches) shall not be contrary to statutory acts of local Councils of people's deputies of Ukraine excluding cases, when such acts are provided for in or result from laws of Ukraine.

Article 11. Taxation principles, when prosecuting foreign economic activity

Taxation of economic entities of Ukraine engaged in foreign economic activity shall be effected under the following principles:

- Ukraine shall independently set and cancel taxes and exempts for economic entities of Ukraine engaged in foreign economic activity;

- tax rates shall be set and cancelled by the Verkhovna Rada of Ukraine under a solicitation of the Cabinet of Ministers of Ukraine;

- taxation rate shall be set on grounds of necessity to achieve and to maintain self-sufficiency and self-financing of economic entities engaged in foreign economic activity and to provide non-deficit balance of payments of Ukraine;

- stability of a quantity and rates of taxes shall be guaranteed by the state for the term not less than 5 years;

- it is prohibited to set other taxes, except for those approved by the Verkhovna Rada of Ukraine;

- tax rates shall be the same for all economic entities engaged in foreign economic activity and shall be determined under commodity indication: a single tax rate shall be applied to the same commodity;

- promotion of end products export.

Tax exempts in conformity to laws of Ukraine shall be granted to economic entities engaged in foreign economic activity conforming to the requirements given below:

- export of which exceeds import (net-exporters) for a financial year;
- volume of export of which comprises not less than 5 per cent of the total volume of the commodities sold for the financial year;
- which steadily export science, knowledge-intensive commodities, as well as commodities added value in which comprises not less than 30 per cent;

Exempts as of the terms of amortization of basic production assets to the above economic entities engaged in foreign economic activity shall be granted as:

- norms of accelerated amortization of basic production assets used to produce export commodities;
- concessionary norms of amortisation of basic production assets, set up by investments and used to produce export commodities;
- norms of amortisation on import equipment used to produce export commodities not less than those, set in the country of origin of such equipment.

The above mentioned exempts shall be applied by the Ministry of Economy of Ukraine under a solicitation of economic entities engaged in foreign economic activity. The Ministry of Economy of Ukraine shall render an appropriate decision compulsory for state financial and tax authorities of Ukraine.

Simultaneous application of export and import tax, and regime of export licensing and quotas is prohibited according to Article 16 of this Law, except for the cases, when the regime of export licensing and quotas is applied as a countermeasure to discriminatory acts of other states according to Article 16 of this Law and in case of sanctions imposition according to Article 37 of this Law, when an economic entity engaged in foreign economic activity violates set rules of this activity.

Article 12. Compulsory allotment of revenue in foreign currency from foreign economic activity

Compulsory allotment of revenue in foreign currency from foreign economic activity between foreign currency funds of entities engaged in this activity, State Monetary Fund of Ukraine and foreign currency funds of local Councils of people's deputies of Ukraine shall be introduced in the territory of Ukraine.

(operation of the first part of Article 12 was suspended for year 1992 according to the Regulation of the Verkhovna Rada of Ukraine as of June 23, 1992 No. 2489-XII)

Revenue in foreign currency from foreign economic activity of all economic entities engaged in foreign economic activity, which have a permanent

location or permanent residence in the territory of Ukraine, shall be compulsorily allotted.

(operation of the second part of Article 12 was suspended for year 1992 according to the Regulation of the Verkhovna Rada of Ukraine as of June 23, 1992 No. 2489-XII)

Economic entities engaged in foreign economic activity set forth in this Article shall transfer a part of total revenue in foreign currency, got as a result foreign economic activity at a stable five-year rates set by the Verkhovna Rada of Ukraine at the suggestion of the Cabinet of Ministers of Ukraine depending upon a kind of exported commodity and shall be the same for all economic entities engaged in foreign economic activity irrespective of the patterns of ownership and economy organization.

(operation of the third part of Article 12 was suspended for year 1992 according to the Regulation of the Verkhovna Rada of Ukraine as of June 23, 1992 No. 2489-XII)

In case, when the territory, where an economic entity engaged in foreign economic activity has a permanent location or permanent residence is subject to several local Councils of people's deputies, the economic entity engaged in foreign economic activity shall transfer 2/3 of the allotted sum to the foreign currency fund of a local Council of people's deputies of the basic level, and 1/3 – to the foreign currency fund of an overhead local Council of people's deputies.

For transferred to the State monetary Fund of Ukraine, foreign currency funds of local Councils of people's deputies of Ukraine economic entities engaged in foreign economic activity shall obtain a compensation from a respective budget in currency used in the territory of Ukraine at the exchange rate specially set by the National Bank of Ukraine, operating at the date, when the funds in foreign currency are transferred to an account of an economic entity engaged in foreign economic activity.

(operation of the fifth part of Article 12 was suspended for year 1992 according to the Regulation of the Verkhovna Rada of Ukraine as of June 23, 1992 No. 2489-XII)

Compulsory allotment of revenue in foreign currency shall be effected by banking establishments in which economic entities engaged in foreign economic activity have accounts in foreign currency, through a respective transfer of sums set forth in the third part of this Article from the foreign currency account of an economic entity engaged in foreign economic activity with simultaneous transfer of sums to the settlement account of the economic entity engaged in foreign economic activity in currency operating in the territory of Ukraine, equivalent to the sum of the transferred foreign currency. The date indicated in a payment document on transfer of sums in foreign currency to the National Bank of Ukraine or (in case of its commission) to the bank for foreign economic activity of Ukraine, or to a bank, in which a foreign

currency account of a local Council of people's deputies is opened, is the moment of allocation.

(operation of the sixth part of Article 12 was suspended for year 1992 according to the Regulation of the Verkhovna Rada of Ukraine as of June 23, 1992 No. 2489-XII)

Compulsory allotment of revenue in foreign currency shall be effected within 30 working days from the moment of coming funds in foreign currency to the respective banking establishment. In the event of non-transfer of the equivalent in currency operating in the territory of Ukraine from the National Bank of Ukraine or (in case of its commission) from the bank for foreign economic activity of Ukraine, or from a bank, in which an account in foreign currency of a local Council of people's deputies is opened, within set terms to a bank servicing the economic entity engaged in foreign economic activity, compulsory allotment of revenue in foreign currency shall not be effected, and the state or a respective local Council of people's deputies shall fall from a right to obtain respective sums in foreign currency.

(operation of the seventh part of Article 12 was suspended for year 1992 according to the Regulation of the Verkhovna Rada of Ukraine as of June 23, 1992 No. 2489-XII)

The order of effectation of operations on compulsory allotment of revenue in foreign currency shall be determined by the Regulation approved by the National Bank of Ukraine.

Economic entities engaged in foreign economic activity shall transfer a part of revenue liable to transfer under compulsory allotment only to the State Monetary Fund of Ukraine. Other states may not introduce in the territory of Ukraine a transfer of a part of revenue in foreign currency and/or allocations in foreign currency to the budgets or foreign currency funds of this states, which are compulsory for economic entities engaged in foreign economic activity, set forth in this Article.

Economic entities engaged in foreign economic activity, stipulated in this Article, are entitled to sell foreign currency to other states only under appropriate civil agreements (contracts) made in conformity to laws of Ukraine, in which the above mentioned states operate as economic entities engaged in foreign economic activity. Economic entities engaged in foreign economic activity, set forth in this Article, have no right to effect compulsory allotment or allocations in foreign currency under acts of legislation of other states.

Establishment of other foreign currency funds in the territory of Ukraine, except for the State Monetary Fund of Ukraine and foreign currency funds of local councils of people's deputies of Ukraine, to which economic entities engaged in foreign economic activity shall transfer a part of revenue in foreign currency, without their appropriately documented consent is forbidden. Ukraine effects settlements in foreign currency with the USSR and with other states under appropriate treaties of Ukraine through

the National Bank of Ukraine or (in case of its commission) through the bank for foreign economic activity of Ukraine within the State Monetary Fund of Ukraine. Other economic entities engaged in foreign economic activity from Ukraine shall not be liable for the above mentioned settlements.

(operation of Article 12 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of February 19, 1993 No.15-93)

Article 13. Principles of customs regulation when prosecuting foreign economic activity

Ukraine independently executes customs regulation of foreign economic activity in its territory. Customs policy of Ukraine shall be determined by the Verkhovna Rada of Ukraine.

Customs regulation of foreign economic activity shall be effected in compliance with this Law, laws of Ukraine on customs regulation, the Single customs tariff of Ukraine and treaties of Ukraine.

The territory of Ukraine comprises a solid customs area, in which customs rules of Ukraine operate, with observance of obligations resulted from Ukraine's participation in customs union with USSR republics and other customs unions.

The Single customs tariff shall be determined in conformity to appropriate Law of Ukraine and inter-republic treaties of Ukraine. The Single customs tariff of Ukraine sets in the solid customs territory of Ukraine taxation of articles, imported to the customs territory of Ukraine or exported from it, or transited through its territory. Rates of the Single customs tariff of Ukraine shall be the same for all economic entities engaged in foreign economic activity irrespectively of patterns of ownership, economy organization and territorial location, except for the cases, provided for by laws of Ukraine and its international treaties.

(operation of the fourth part of Article 13 was terminated in the part on setting entry duty by the Single customs tariff of Ukraine according to the Decree of the Cabinet of Ministers of Ukraine of Ukraine as of January 11, 1993 No.4-93)

Customs control and customs taxation in the territory of special economic zones shall be regulated by special laws of Ukraine and international treaties, which set a special legal regime of this zones in every particular case.

Customs measures, provided for by Articles 29, 31 and 37 of this Law shall be imposed on economic entities engaged in foreign economic activity (foreign economic entities), carrying out dumping, as well as upon the states applying discriminatory acts to Ukraine.

Customs rules of Ukraine, which include the order of commodities declaration, duties and customs fees payment, tax exempts granting and other terms of passing customs control, shall be set by laws of Ukraine on customs regulation. The single customs tariff of Ukraine and customs rules of Ukraine shall be officially published in public mass media not later

than 45 days before the date of bringing them into force. In the event when the above mentioned documents are not published officially, they fail to enter into force. If the above documents are published later than 45 days before bringing them into force, the 46 day from the moment of official publication shall be considered the date of entering into force. Publication in the official edition of Verkhovna Rada of Ukraine or of the Cabinet of Ministers of Ukraine shall be considered an official publication. The date of actual appearance of the respective issue of this edition shall be considered an official date of publication.

(operation of the seventh part of Article 13 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of January 11, 1993 No.4-93)

Ukraine as the state is responsible for acts of its customs bodies according to Article 34 of this Law.

Article 14. Introduction of settlements and crediting of economic entities engaged in foreign economic activity

All economic entities engaged in foreign economic activity are entitled:

- independently to determine a form of settlement on an foreign economic operation among those not contrary to laws of Ukraine and complying with international rules;
- directly to take and to give commercial credits for the account of their own funds in currency operating on the territory of Ukraine and foreign currency both within and beyond Ukraine, independently to render decisions in the above questions;
- freely to chose banking and credit establishments, which will operate their foreign currency accounts and effect settlements with foreign economic entities, use their services, with keeping to the requirements of current laws of Ukraine.

Settlement and credit servicing of economic entities engaged in foreign economic activity shall be performed in the territory of Ukraine by the bank for foreign economic activity of Ukraine and by authorized banking and credit establishments, as well as by foreign and international banks, registered in the territory of Ukraine in the order set.

Crediting of foreign economic operations in currency operating in the territory of Ukraine and in foreign currency shall be effected under mutual agreement and under terms and conditions, agreed between a creditor and an accommodated party in credit agreements (contracts).

Settlement credits of banks, granted to economic entities engaged in foreign economic activity under a special (loan) account in currency operating in the territory of Ukraine to cover funds temporarily withdrawn from circulation, shall be secured by inventories, settlement, transport and/or commodity transmittal documents. All other credits, except for settlement ones, shall be secured by the commodities owned by a borrower, or by his non-property rights.

State crediting of economic entities engaged in foreign economic activity and securing of commercial credits, granted to these economic entities by the state in Ukraine shall be performed through the bank for foreign economic activity of Ukraine and other authorized banks.

Terms and conditions of state crediting and securing of commercial credits by the state shall be determined by credit agreements (contracts) concluded between respective economic entities engaged in foreign economic activity and the bank for foreign economic activity of Ukraine.

Decision to grant state credits and securities shall be rendered by the bank for foreign economic activity of Ukraine within the limits of state crediting of foreign economic activity in currency operating in the territory of Ukraine and foreign currency under application and under expert judgement of feasibility study of object of crediting, and credit payback terms. The bank for foreign economic activity of Ukraine shall inform an applicant for a state credit (state securing of a commercial credit) about its decision within one-month term from the day of filing of the above mentioned application. In case, when there is no expert judgement of the object of crediting, it is not allowed to refuse in state crediting (state securing of a commercial credit) of economic entity engaged in foreign economic activity on the ground of inexpediency.

A size of a state credit (state security of a commercial credit) granted in currency operating in the territory of Ukraine and/or foreign currency to an economic entity engaged in foreign economic activity annually term shall not exceed 5 per cent of the respective annual limits of state crediting of foreign economic transactions.

All economic entities engaged in foreign economic activity, which grant credits to foreign economic entities or obtain credits from them, shall within three days send information on the above mentioned credits (total sum, a currency and term of a credit) to the National Bank of Ukraine in conformity with the form set by the National Bank of Ukraine. The National Bank of Ukraine may introduce licensing on obtaining of credits in foreign currency by economic entities engaged in foreign economic activity from foreign economic entities, if the circumstances set forth in Article 16 of this Law arise, and licensing of giving credits in foreign currency by economic entities engaged in foreign economic activity to foreign economic entities, if the circumstances set forth in Article 16 of this Law arise.

(operation of the last part of Article 14 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of February 19, 1993 No.15-93)

Article 15. Insurance of foreign economic transactions

Insurance of foreign economic transactions in Ukraine shall be performed by commercial insurance companies (state, joint-stock, foreign, cooperative and other) as well as by other economic entities en-

gaged in foreign economic activity, the constituent activity of which comprise insurance operations (insurance). An insurance company (an insurer) shall be selected by economic entity engaged in foreign economic activity independently.

Insurance of foreign economic transactions from the side of economic entities engaged in foreign economic activity shall be made in Ukraine on contract basis and is voluntary, unless otherwise provided by laws of Ukraine.

Insurance of foreign economic transactions is performed in Ukraine against risks, existing in the world practice.

Insurance of export credits, loans and some contracts on machinery and equipment supply, investments both in the territory of Ukraine and beyond shall be made by a specialized joint stock company, controlling block of stock of which is held by the Cabinet of Ministers of Ukraine.

Article 16. Foreign economic transactions licensing and quotas

Foreign economic transactions licensing and quotas shall be introduced by Ukraine independently by its state bodies in the following cases:

- in the event of a sharp deformation of the settlement balance of Ukraine, if its credit balance exceeds at the respective date 25% of the total sum of claims to Ukraine in foreign currency;
- if external liabilities run up to the level determined by the Verkhovna Rada of Ukraine;
- in case of a significant disbalance on some commodities in the internal market of Ukraine, in particular in agricultural commodities, fishery products, food processing industry products and large-scale essential commodities;
- if necessity arises to provide particular proportion between import and domestic raw materials in manufacturing;
- if necessity arises to implement measures in response to discriminatory acts of other states;
- if an economic entity engaged in foreign economic activity violates rules of this activity set by this Law (licensing shall be introduced as a sanction);
- in conformity to international commodity agreements, concluded or acceded by Ukraine (quotas regime shall be introduced).

Barter transactions of economic entities engaged in foreign economic activity performed without settlements through banks shall be licensed by the Ministry of Economy of Ukraine in the event of a credit balance of settlements of an economic entity engaged in foreign economic activity for the previous financial year. The above mentioned economic entity engaged in foreign economic activity shall file a bank certificate of the condition of settlements in addition to the application for the license. The Ministry of Economy of Ukraine has no right to refuse to grant a license on barter transactions, if the entity has a debit settlement balance. The license shall be granted

in accordance to the procedure, set by this Article.

(operation of the second part of Article 16 was suspended till December 31, 1992 in compliance with the Regulation of the Cabinet of Ministers of Ukraine as of May 12, 1992 No.2330-XII)

(operation of the second part of Article 16 was terminated from January 1, 1993 in compliance with the Decree of the Cabinet of Ministers of Ukraine as of December 9, 1992 No.6-92)

The following kinds of export (import) licenses shall be introduced in Ukraine:

- a general license;
- a onetime (individual) license;
- an open (individual) license;
- an antidumping (individual) license;
- a compensatory (individual) license;
- a special (individual) license.

(the third part of Article 16 was amended with paragraphs according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

Only one kind of license shall be set on each commodity item;

Quotas shall be set through introduction of a regime of granting individual licenses according to this Article, and the total export (import) extend under this licenses shall not exceed the extend of the quota set. The following kinds of export (import) quotas (contingents) shall be introduced in Ukraine:

- a global quota;
- a group quota;
- an individual quota;
- an antidumping quota;
- a compensatory quota;
- a special quota.

(the fifth part of Article 16 was amended with paragraphs according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

Only one kind of license may be set on each commodity item;

A decision on introduction of export (import) licensing and quotas regime shall be made by Verkhovna Rada of Ukraine under a proposal of the Cabinet of Ministers of Ukraine with determination of a list of certain commodities, covered by the licensing and quotas regime, and terms of this regime operation on each commodity.

(operation of the seventh Article 16 was terminated under the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

The regime of licensing and quota application does not cover export and sale of compensatory and profitable products, obtained by the investors into ownership in line with the Production Sharing Agreement. Introduction of any restrictions on export

and sale of such products, including quantitative, is not allowed, if other is not provided by the Production Sharing Agreement.

(Article 16 is supplemented with a new Part 8, according to the Law of Ukraine No.1807-III of June 8, 2000. In this connection, Parts 8-25 are to be considered as Parts 9-26.)

Licenses, mentioned in Article 1 of this Law, shall be issued by the Ministry of Economy of Ukraine, as well as by the authorised Republican agency of the Autonomous Republic of the Crimea (within its competence), by the structural sub-agencies of the district, Kyiv and Sebastopol city administrations.

(Part 8 of the Article 16 in the reading of the Law of Ukraine No.1595-III of March 23, 2000)

Operations on transfer of currency funds between economic entities engaged in foreign economic activity to invest or to grant (obtain) a credit shall be licensed by the National Bank of Ukraine.

Simultaneous imposition of a licensing and quotas regime, export (import) taxation regime on the same commodities shall be prohibited, except for the cases provided for by the legislation of Ukraine, and the regime of advance import deposits according to Article 19 of this Law.

(part ten of Article 16 as amended under the Law of Ukraine as of December 22, 1998 No.335-XIV)

Information on the list of commodities and/or countries which fall under licensing and quotas regime with indication of a kind of license or of quota on each commodity (or on each commodity group) shall be furnished to economic entities engaged in foreign economic activity not later than 60 days before the date of licensing (quotas) regime imposition by publishing it in official public mass media of Ukraine. The information shall also be immediately furnished to the bodies of state customs control of Ukraine.

(operation of the eleventh part of Article 16 was terminated in conformity with the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

Licenses shall be issued under applications of economic entities engaged in foreign economic activity drawn in conformity with the form, approved and published by the Ministry of Economy of Ukraine.

(Part 13 of the Article 16 with changes introduced according to the Law of Ukraine No.1595-III of March 23, 2000).

An application for a license shall contain the following requisites: a number of an application, the official name of economic entity engaged in foreign economic activity and a number of a certificate of the foreign economic activity participant, the name and the code of the commodity (commodities), a producer and consumer of the commodity, the code and

name of a country to which the commodity is exported, or from which it is imported, operation term, a quantity or cost of the commodity (in the event of export or import quotas and granting of an individual license), customs house, the full name and the address of a seller and a buyer, a kind of the agreement, payment currency, unit of the commodity, price of the commodity, an approval, the name of the head of the applicant, the body, which has granted a license, special license terms.

(operation of the fourteenth part of Article 16 was terminated in the part on inclusion of a number of a certificate of the foreign economic activity participant according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

If the decision is made to grant the license, a number and a kind of a license, a signature of an official, who granted the license, and a seal of the appropriate institution shall be put on an application blank. An application blank, bearing the above mentioned requisites is a document, certifying the existence of a license.

An existence of a contract, concluded before the decision on granting the license was made, with an applicant, shall not be the ground to grant it.

The decision to grant the license or to refuse to grant it shall be exhibited to an applicant not later than within 30-day term from the registration day of the filed application in a special register within two days from the moment of its arrival. A decision on a license application shall be registered in the State register of export and import licenses, the content of which shall be opened to economic entities engaged in foreign economic activity. A decision to refuse to grant a license shall be motivated and shall be sent (filed) to an applicant in writing.

(operation of the seventeenth part of Article 16 was terminated in the part on the term of making decision on granting the license or on refuse in its granting according to the Decree of the Cabinet of Ministers of Ukraine as of January 12, 1993 No.6-93)

If there is no registered decision in terms of a license application within the term set by the law or in the event of causeless refuse of granting of the license, an applicant may move the arbitral or judicial authorities of Ukraine to protect his rights. A state fee shall be levied for granting of a license, the sum of which shall be set by the Cabinet of Ministers of Ukraine and shall conform to real expenditures of the state on execution of operations on license granting.

The Ministry of Economy of Ukraine has no right to demand additional information from an applicant, except for the information included in the application.

If quotas regime is introduced, applications on individual licenses shall be considered by the Ministry of Economy of Ukraine in the order of their incoming which shall be determined according to the dates of their registration.

If at the moment of an application coming the set quota was depleted, applications shall not be accepted. An economic entity engaged in foreign economic activity, which filed an application, shall be officially informed about of quota depletion within seven days from the moment of its depletion.

A copy of a license obtained by an economic entity engaged in foreign economic activity shall be added to a cargo customs declaration and is a ground to pass cargo falling under licensing and quotas regime through the customs. Bodies of state customs control of Ukraine shall within three working days send a notification about passage of commodities which fall under a licensing and quotas regime through the customs border of Ukraine to the Ministry of Economy of Ukraine .

If transfer of funds in foreign currency to invest them or to grant (obtain) credits is licensed, banking and credit establishments effecting operations of money transfer shall sent the respective information to the National Bank of Ukraine within three working days.

(operation of the next-to-last part of Article 16 was terminated according to the Decree of the Cabinet of Ministers of Ukraine as of February 19, 1993 No.15-93)

The order of licenses granting, when licensing operations of foreign currency funds transfer to invest or to grant (obtain) credits, shall be determined by the National Bank of Ukraine given the procedure of licenses granting, set by this Article. The above mentioned 60-day term between the date of official notification about licensing regime introduction and the date of this regime entering into force, in case of licensing of foreign currency funds transfer to invest or credit, is not compulsory.

(operation of the last part of Article 16 was terminated under the Decree of the Cabinet of Ministers of Ukraine as of February 19, 1993 No.15-93)

Article 17. Prohibition of some kinds of export and import

In Ukraine it is prohibited:

- to export from the territory of Ukraine items of national, historical or cultural inheritance of Ukrainian people, that shall be determined under laws of Ukraine;
- to import or transit any commodities about which it is known beforehand that they might injure health or threaten people's and animal's lives or cause environment cataclysm;
- to import production and services, bearing propaganda of war, racism, race discrimination, genocide, etc. , which are contrary to the appropriate provisions of the Constitution of Ukraine (the Basic Law);
- to export and to import commodities, with violation of intellectual property rights.

(the fifth paragraph of the first part of Article 17 as amended under the Law of Ukraine as of February 28, 1995 No.75/95-VR)

A certain list of commodities, which fall under the operation of this Article, shall be approved by the Verkhovna Rada of Ukraine under the proposal of the Cabinet of Ministers of Ukraine.

Control for fulfillment of the requirements, contained in this Article, shall be put upon the Customs authorities of Ukraine and the Ministry of Economy of Ukraine .

Article 18. The order of implementation and use of technical, pharmacological, sanitary, phytosanitary, veterinary and ecological standards and requirements

Only import of those commodities, which by their technical, pharmacological, sanitary, phytosanitary, veterinary and ecological characteristics do not contravene the minimum terms of appropriate standards and requirements operating in the territory of Ukraine, shall be allowed to the territory of Ukraine.

If there are no national standards and requirements of Ukraine for a certain commodity, the appropriate international standards and requirements operating in the prominent countries exporting the above mentioned commodities shall be applied.

Technical, pharmacological, sanitary, phytosanitary, veterinary and ecological standards and requirements and the procedures of their use may not be applied to establish non-tariff barriers for prosecution of foreign economic activity by the entities engaged in this activity.

Organs of Government of Ukraine authorized under laws of Ukraine to work out and to implement standards and requirements set forth in this Article, shall officially publish these standards and requirements in public mass media of Ukraine not later than 60 days before their entering into force, and in case of emergency, which threaten people's lives and health, animal and plant life, in the event of ecological catastrophe the above mentioned standards shall enter into force from the moment of their publishing.

If the requirement set forth in this clause is not fulfilled, the appropriate organs of Government of Ukraine shall be liable before economic entities engaged in foreign economic activity for the damages inflicted by ill-timed publication of information on introduction of new standards and requirements.

Commodities imported to the territory of Ukraine, shall be subject to compulsory certification of their compliance with pharmacological, sanitary, phytosanitary, veterinary and ecological norms, if the respective requirements are applicable to analogous commodities of national manufacturing in conformity to laws of Ukraine. The national treatment of commodities certification shall be applied to the commodities imported to the territory of Ukraine.

In the event of exporting of commodities which do not have analogues in Ukraine an economic entity

engaged in foreign economic activity prosecuting import, or a foreign economic entity prosecuting export, shall exhibit a certificate, attesting conformity of technical, pharmacological, sanitary, phytosanitary, veterinary and ecological characteristics of the commodities to the current international standards and requirements or national standards and requirements of the country which is prominent exporter of this commodity.

According to this Article foreign economic entities may exhibit certificates, attesting conformity of the commodity to the standards and requirements set forth in this Article and operating in the country of foreign exporter, if Ukraine has concluded a treaty on mutual recognition of commodity certification results with the respective country.

The refuse to issue the certificates, set forth in this Article, shall be grounded and filed to an applicant in writing within the terms set for certification. In case of disaccord with the refuse, an applicant may judicially contest the above mentioned refuse.

Article 19. Special import procedures

To special import procedures used in Ukraine belong:

- use of international bidding procedure or analogous to them procedures;
- a regime of advanced import deposits, placed in banks.

Public purchases on import of complex equipment or mass consignment stocks of other commodities with use of funds of the State Monetary Fund of Ukraine shall be compulsorily held with use of international bidding procedure.

The regime of advanced import deposits shall be introduced by the National Bank of Ukraine to regulate balance of payments of Ukraine. The National Bank of Ukraine sets the order of transactions effecting with advanced import deposits and the relative sum of deposit in per cent to an agreement (contract) value, which may not exceed 50 per cent.

An advanced import deposit shall be opened not later than within three working days from the moment of the agreement (contract) entering into operation. If the above mentioned term or other conditions of advanced import deposits opening are violated, sanctions, determined by the order, approved by the National Bank of Ukraine shall be imposed upon economic entities engaged in foreign economic activity.

Funds incoming to the accounts of advanced import deposits shall be showed in the consolidated special account which shall be opened by each commercial bank, effecting transactions with advanced import deposits in the favor of the National Bank of Ukraine.

An appropriate bank shall give an economic entity engaged in foreign economic activity that opened an advanced import deposit a certificate of the set form, which shall be a ground for passing of com-

modities through the border of Ukraine and republics of the USSR. If economic entities engaged in foreign economic activity transfer commodities through banking and credit establishments of Ukraine and there is no passage through the customs border of Ukraine and republics of the USSR the above mentioned certificate shall be a ground to effect settlements with a foreign economic entity through banking and credit establishments of Ukraine or pass the respective sum in cash through the customs.

It is prohibited to use advanced import deposits regime in terms of commodities to which licensing and quotas regime shall be applied.

Article 20. Antimonopoly measures in the domain of foreign economic activity

Economic entities engaged in foreign economic activity shall prosecute foreign economic activity with keeping to the requirements of antimonopoly legislation of Ukraine, except as provided by this Article.

(the first part of Article 20 as amended according to the Law of Ukraine as of March 2, 1995 No.82/95-VR)

Export and import of weapons, ammunition, defense technology and special component items for their production (including materials as radiant assemblies), technologies, equipment, plants, special non-nuclear materials and services related to them, sources of ionizing-radiation and other kinds of products, technologies and services currently used when producing weapons and defense technologies or compose a state secret, defined by laws of Ukraine; export and import of precious metals and alloys, precious stones; export and import of narcotic and psychotropic drugs; export of objet d'art and antique pieces from museum funds of Ukraine shall be prosecuted exclusively by economic entities engaged in foreign economic activity authorized by Ukraine as a state.

Appointment of authorized economic entities engaged in foreign economic activity, which may prosecute the above mentioned export and import, and regulation of the respective import and export operations belong to the powers of the Cabinet of Ministers of Ukraine, which shall coordinate its decisions with the appropriate Commissions of the Verkhovna Rada of Ukraine.

Institution of state monopoly in any form on export and import of other commodity items not indicated in this Article shall not be allowed and may be contested judicially. Any organizations, including state ones, have no right to execute functions which directly or indirectly deter other economic entities engaged in foreign economic activity from free prosecution of such an activity or in any other way, except for the cases directly set forth in this Law.

The fifth part of Article 20 was excluded.

(according to the Law of Ukraine as of March 2, 1995 No.82/95-VR)

The sixth part of Article 20 was excluded.

(according to the Law of Ukraine as of March 2, 1995 No.82/95-VR)

The seventh part of Article 20 was excluded.

(according to the Law of Ukraine as of March 2, 1995 No.82/95-VR)

The eighth part of Article 20 was excluded.

(according to the Law of Ukraine as of March 2, 1995 No.82/95-VR)

Article 21. Government order

Organs of government of Ukraine and local Councils of people's deputies of Ukraine are entitled to dispose government orders on manufacturing, export and import of commodities, as a rule, on tender basis among economic entities engaged in foreign economic activity.

Economic entities engaged in foreign economic activity take government orders exclusively on unconstrained basis under terms and conditions and in extent determined by civil agreements (contracts) concluded between these entities and a public customer.

Foreign economic entities shall enjoy equal rights and shall undertake equal obligations with economic entities of Ukraine engaged in foreign economic activity, if holding a tender on disposing of government orders.

Article 22. Keeping of records of foreign economic transactions and audit of economic entities engaged in foreign economic activity

(the title of Article 22 as amended in conformity with the Law of Ukraine as of March 14, 1995 No.90/95-VR)

Economic entities engaged in foreign economic activity keep accounting and administrative recording of foreign economic transactions and statistical reports that shall be sent to organs of the State statistics of Ukraine.

In the domain of accounting and reporting, and commercial secrecy economic entities engaged in foreign economic activity shall be ruled by the Law of Ukraine "On enterprises in Ukraine".

For accounting of foreign economic transactions economic entities engaged in foreign economic activity use a chart of accounts and the instruction on its usage operating in the territory of Ukraine, and appropriate alterations and amendments, reflecting the particularity of foreign economic activity.

Economic entities engaged in foreign economic activity independently determine the order of analytical accounting of foreign economic activity, introduce appropriate control accounts.

Economic entities engaged in foreign economic activity shall show this activity and its performance in their annual financial reporting separately by the following figures:

- funds (assets) in the foreign economic circulation – commodities, documents, securities and their

sources (liabilities) – credits, debts, realized profit, etc. shall be segregated in a balance sheet;

- incomes from foreign economic operations and respective expenditures shall be shown in an income statement separately.

Besides an annual financial statement an information about sums of paid import and export taxes shall be monthly presented to the state taxation authorities – not later than on the 10th day of the month following the accounting one. Information about sums on compulsory allotment of a part of revenue in foreign currency shall be exhibited to the National Bank of Ukraine (or under its commission – to the bank for foreign economic activity of Ukraine) four times a year, not later than on the 15th day of the month following the accounting period.

Banking and credit establishments crediting economic entities engaged in foreign economic activity are entitled to obtain all necessary information about financial position of these economic entities engaged in foreign economic activity and their solvency in conformity to the agreements on crediting in writing.

It is prohibited to require exhibition of statistical statements with violation of the order determined by this Law. Information not provided for by state statistical statements may be exhibited by economic entities engaged in foreign economic activity on contract basis to organs of government or to law-enforcement authorities at their request in the order determined by laws of Ukraine.

Audit of foreign economic activity reflected in annual financial statements of economic entities engaged in foreign economic activity shall be effected by independent auditing organizations authorized for this according to current statutory acts regulating audit activity in the territory of Ukraine.

(the ninth part of Article 22 as amended in accordance to the Law of Ukraine as of March 14, 1995 No.90/95-VR)

Tax audit of economic entities engaged in foreign economic activity shall be carried out by state taxation authorities as per their powers not more than once a year.

Article 23. Information support of foreign economic activity

Each economic entity engaged in foreign economic activity has a right to obtain any information necessary to prosecute this activity that does not compose state or commercial secret. An extent of information composing state secret shall be determined in accordance with laws of Ukraine.

Composition and volume of commercial secret shall be determined in compliance with the Law of Ukraine "On enterprises in Ukraine".

Each economic entity engaged in foreign economic activity has a right to acquaint itself with official texts of laws and other statutory acts, regulating relations and directly or indirectly related to foreign

economic activity with further information about amendments to them. State organs, departments and institutions issuing statutory acts shall officially publish them in public mass media of Ukraine, and the above mentioned acts may not enter into operation before their official publication. Each economic entity engaged in foreign economic activity has a right to obtain information directly from state authorities, which at the request of economic entities engaged in foreign economic activity shall for charge quickly provide them with full official texts of statutory acts.

Consolidation of data on foreign economic activity shall be effected by the State Statistics Committee (Derzhkomstat) of Ukraine on the basis of data sent compulsorily by bodies regulating foreign economic activity (financial bodies, organs of state customs control, the National Bank of Ukraine and others).

By results of each year the Derzhkomstat of Ukraine shall draw up and publish statistical statements in domestic and world prices (foreign-trade prices) about the position and the structure of foreign economic relations of Ukraine.

The Ministry of Finance of Ukraine draws up statements of the position and the structure of foreign-trade balance and balance of payments, settlement balance, foreign debt balance and of gold-exchange reserves of Ukraine.

Besides publishing of statistical books on foreign economic activity the Derzhkomstat of Ukraine under this Article shall acquaint entities engaged in this activity with information at its disposal.

Organs of government, legal entities, physical persons and other economic entities provided with information composing commercial secret of economic entities engaged in foreign economic activity have no right to master such information without permit of respective economic entities engaged in foreign economic activity and shall be liable under this Law and other laws of Ukraine.

Chapter III. SPECIAL LEGAL REGIMES OF FOREIGN ECONOMIC ACTIVITY

Article 24. Special economic zones

Special economic zones of various types may be established in the territory of Ukraine. The status and the territory of the above mentioned zones shall be set by the Verkhovna Rada of Ukraine in conformity to laws of Ukraine on special economic zones through adoption of a separate law of Ukraine for each of those zones.

Article 25. Other special legal regimes of foreign economic activity

Ukraine may conclude bilateral and/or multilateral agreements with states which have common maritime and/or land boundaries with Ukraine, which introduce special legal regimes of trade, commodity turnover (frontier, coastal trade and others) and provides soft terms for economic entities of Ukraine engaged in foreign economic activity and economic entities of this states in relations with them.

Chapter IV. ECONOMIC RELATIONS OF UKRAINE WITH OTHER STATES AND INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

Article 26. Economic relations of Ukraine with other states

Economic relations of Ukraine with other states shall be regulated by the respective international treaties and rules of international law.

Ukraine concludes, executes and renounces international treaties on the matters of foreign economic activity, as well as treaties concerning such matters according to the Constitution (the Basic Law) of Ukraine and laws of Ukraine.

Legal status of economic entities of other states in the territory of Ukraine shall be determined by the legislation of Ukraine in force and the above mentioned treaties.

Article 27. Relations of Ukraine with international intergovernmental economic organizations

Ukraine independently obtains membership in international intergovernmental economic organizations, constituent acts of which are not contrary to the goals and principles of the Constitution (the Basic Law) of Ukraine.

Ukraine may treat with international intergovernmental economic organizations by virtue of respective international treaties and or constituent acts of the above mentioned organizations.

Chapter V. PROTECTION OF RIGHTS AND LEGAL INTERESTS OF THE STATE AND OTHER ECONOMIC ENTITIES OF UKRAINE INCLUDING ECONOMIC ENTITIES ENGAGED IN FOREIGN ECONOMIC ACTIVITY

Article 28. Protection of rights and legal interests of economic entities of Ukraine engaged in foreign economic activity beyond Ukraine

Ukraine shall protect rights and legal interests of economic entities of Ukraine engaged in foreign economic activity beyond Ukraine in accordance with the rules of international law. Such a protection shall be performed at the appeal of the above-mentioned economic entities engaged in foreign economic activity via diplomatic and consular offices, state trade representative offices, representing interests of Ukraine.

Article 29. Measures of Ukraine in response to discriminatory and/or unfriendly acts of other states, customs unions or economic alignments

In the event, when there is information that other states, customs unions or economic alignments restrict realization of legal rights and interests of economic entities of Ukraine engaged in foreign economic activity, organs of state regulation of foreign economic activity within their powers are entitled im-

plement adequate measures in response to those acts. In the event when such acts cause injure or invite danger of its cause to the state or to economic entities engaged in foreign economic activity the above mentioned measures may provide for its recovery.

Measures in response to discriminatory and/or unfriendly acts of other states, customs unions or economic alignments are:

- application of absolute prohibition (absolute embargo) of trade;
- application of partial prohibition (partial embargo) of trade;
- deprivation of the most favored nation treatment or promotional special treatment;
- introduction of a special duty;
- introduction of licensing and/or quotas regime of foreign economic transactions;
- initiation of quotas (contingencies);
- introduction of a combined regime of quotas and contingencies;
- introduction of indicative prices in terms of commodities import and/or export;
- other measures provided for by laws and international treaties of Ukraine.

A decision on application of measures in response to discriminatory and/ or unfriendly acts of other states, customs unions and economic alignments shall be made:

by the Verkhovna Rada of Ukraine about:

- deprivation of the most favored nation treatment or promotional special treatment;
- application of absolute prohibition (absolute embargo) of trade;

by the Cabinet of Ministers of Ukraine about:

- application of partial prohibition (partial embargo) of trade;
- implementation of measures of tariff regulation in terms of commodities import and/or export;
- introduction of licensing and/or quotas regime of foreign economic transactions;

by the Ministry of Economy about:

- implementation of measures of non-tariff regulation in terms of commodities import and/or export;
- licensing and registration of some kinds of contracts;
- application of other measures in response to discriminatory and/or unfriendly acts of other states, customs unions and economic alignments.

To reveal facts of discriminatory and/or unfriendly acts of other states, customs unions or economic alignments the Ministry of Economy of Ukraine shall

conduct appropriate examination in the order determined by the Cabinet of Ministers of Ukraine.

The materials of such investigation shall be considered by the Interdepartmental Commission on international trade, which gives recommendations to the appropriate state organs in terms of appropriate measures to implement.

Under the materials of investigation the Ministry of Economy of Ukraine along with The Ministry of Foreign Affairs of Ukraine addresses the respective public and/or competent authorities of other states or customs unions, or economic alignments with a proposal to reconcile controversial situations.

In case of receiving an affirmative answer of the above mentioned organs the Ministry of Economy of Ukraine forms a delegation to conduct the respective negotiations and to prepare respective international treaties of interdepartmental character.

In case, when the respective public and/or competent authorities of other states or customs unions, or economic alignments have not given official agreement to apply international legal means of international controversies reconciliation, and /or when discriminatory and/or unfriendly acts of these organs directly or indirectly violate international treaties of Ukraine with these states, customs unions and economic alignments, the Ministry of Economy of Ukraine within its powers under the recommendation of the Interdepartmental Commission on foreign trade independently applies the respective measures or transfers materials to the Cabinet of Ministers of Ukraine to make appropriate decisions on necessary measures application.

Application of measures in respond to discriminatory and/or unfriendly acts of other states, customs unions or economic alignments shall be terminated in the event of termination of such acts towards Ukraine by the respective states, customs unions or economic alignments, signing of the respective treaty and/or damages recovery.

Acts of the Ministry of Economy of Ukraine on controversies settlement and application of measures in response to discriminatory and/or unfriendly acts of other states, customs unions or economic alignments shall be compulsory for execution by executive bodies in Ukraine, economic entities engaged in foreign economic activity and foreign economic entities.

A decision on application of respective measures, set forth in this Article, may be contested judicially within one-month term from the date of such measures implementation in the order set by laws of Ukraine.

(Article 29 in the wording of the Law of Ukraine as of December 22, 1998 No.335-XIV)

Article 30. Re-export restriction

Re-export of commodities imported for the account of the State Monetary Fund of Ukraine or foreign currency fund of a local Council of people's deputies of Ukraine is prohibited.

An organ that is a disposer of the State Monetary Fund of Ukraine or foreign currency fund of local Council of people's deputies of Ukraine may allow re-export of commodities if it is impossible to use imported commodities for its designated purpose in the territory of Ukraine.

Article 31. Measures against unfair competition and increasing import when prosecuting foreign economic activity

Unfair competition when prosecuting foreign economic activity is:

- dumping import to which antidumping measures are applied;
- subsidized import to which compensatory measures are applied;
- execution of other acts admitted as unfair competition by laws of Ukraine;

Increasing import is import in the volumes and/or under terms and conditions causing substantial injury or invite danger of causing substantial injury to Ukrainian producers of the respective commodities.

By results of an antidumping, anti-subsidy or special investigation according to laws of Ukraine a decision shall be rendered to apply antidumping, compensatory or special measures, which may be contested judicially within one month term from the date of the respective measures introduction in the order set by laws of Ukraine.

Application of regimes of free trade, regime of preferences, special preferred treatments (frontier (coastal) trade, special (free) economic zones and others, provided for by laws of Ukraine) as well as tax, customs and other exempts operating when importing commodities to Ukraine, in terms of which antidumping, compensatory or special measures are applied, shall be suspended for the term up to the completion of application of the above mentioned measures.

(Article 31 as amended in accordance with laws of Ukraine as of February 28, 1995 No.75/95-VR, as of March 2, 1995 No.82/95-VR, as of December 22, 1998 No.335-XIV)

Chapter VI. RESPONSIBILITY IN FOREIGN ECONOMIC ACTIVITY

Article 32. General grounds of responsibility of economic entities engaged in foreign economic activity

Ukraine as a state, all economic entities engaged in foreign economic activity, and foreign economic entities shall be responsible for violation of this Law or laws of Ukraine related to it and/or their responsibilities, resulting from agreements (contracts), only under conditions and in the order determined by laws of Ukraine.

Ukraine as a state shall bear no responsibility for acts of economic entities engaged in foreign economic activity.

Economic entities engaged in foreign economic activity shall bear no responsibility for acts of Ukraine as a state.

If Ukraine takes part in foreign economic activity as an entity engaged in such activity according to Article 3 of this Law, it bears responsibility on general and equal grounds with other economic entities engaged in foreign economic activity.

All matters and questions in terms of determination of responsibility arising when applying this Law and other laws of Ukraine connected with it, fall under the cognizance of judicial authorities of Ukraine. Economic entities engaged in foreign economic activity and foreign economic entities have a right to have the above mentioned matters and questions considered judicially.

Article 33. Kinds and forms of responsibilities in foreign economic activity

In the domain of foreign economic activity, defined by this law and other laws of Ukraine related to it, the following kinds of responsibility may be applied:

- property accountability;
- criminal accountability.

Property accountability shall be applied in a form of property compensation of direct, collateral damages, lost profit, property compensation of moral damage, and property sanctions.

If violation of this Law or of laws of Ukraine connected with it by economic entities engaged in foreign economic activity results in damages, loss of profit and/or moral damage of other economic entities or the state, the entities which violate the law, shall bear full-scale property accountability.

Criminal accountability in foreign economic activity shall be introduced only in cases, provided for by the criminal legislation of Ukraine.

Article 34. Responsibility of Ukraine as a state

Ukraine as a state bears full-scale property accountability to economic entities engaged in foreign economic activity and foreign economic entities for its acts which are contrary to current laws of Ukraine and cause injures (direct, collateral), moral damage to these entities and result in loss of profit by them, as well as for its other acts, including those regulating foreign economic activity and directly not provided in this Law, which cause the above mentioned injures (damage) and result in loss of profit, except for the cases, when such acts are begotten by illegal acts of the above mentioned economic entities engaged in foreign economic activity and foreign economic entities.

Ukraine as a state shall be responsible for the acts set forth in this Article by the entire of its property.

Acts of state authorities and officials of these authorities shall be considered as acts of Ukraine as a

state in its entirety. The state bears responsibility for them in conformity to this Article.

Any economic entity engaged in foreign economic activity or foreign economic entity have a right to lodge a lawsuit against Ukraine as a state. The above mentioned lawsuits fall under the cognizance of judicial authorities of Ukraine according to Article 39 of this Law.

The above mentioned lawsuit shall be lodged by economic entities engaged in foreign economic activity in the place of their permanent location or residence, by foreign economic entities – in the place of location of the state authority and/or an official who have done acts set forth in this Article.

A lawsuit shall be lodged in the order determined by the civil legislation of Ukraine. A state authority and/or an official, specified in a lawsuit, and/or one of the prosecutors of Ukraine appear in the trial on behalf of Ukraine as a state.

Ukraine as a state has a right of regressive recovery of damages, which arose as result of sustaining a lawsuit from the side of state authorities and/or officials for the account of their property (balance and private respectively).

Article 35. Responsibility of economic entities engaged in foreign economic activity

Economic entities engaged in foreign economic activity bear responsibility in kinds and forms provided by Articles 33 and 37 of this law, other laws of Ukraine and/or foreign economic treaties (contracts).

Article 36. The order of responsibility implementation

The order of bringing to responsibility, responsibility execution and responsibility disembarassing shall be determined by procedural laws of Ukraine.

The order of bringing to civil responsibility, implementation of such responsibility and disembarassing of it may be determined by foreign economic treaties (contracts), if this does not contradict with operating laws of Ukraine.

Article 37. Special sanctions for violation of this Law or laws of Ukraine connected with it

For violation of this Law or laws of Ukraine connected with it the following special sanctions may be imposed upon economic entities engaged in foreign economic activity or foreign economic entities:

- imposition of a fine in the event of ill-timed execution or non-execution of obligations by economic entities engaged in foreign economic activity and foreign economic entities according to this Law or laws of Ukraine related to it. A size of those fines shall be determined by the respective provisions of laws of Ukraine and/or by decisions of judicial authorities of Ukraine.

Paragraph three of the first part of Article 37 was excluded.

(according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

- application of the individual licensing regime to certain economic entities engaged in foreign economic activity and foreign economic entities in cases of violation by those entities of provisions of this law in regard to the provisions, stipulated in it, which set some prohibitions, restrictions or regimes of foreign economic activity prosecution upon authorization of the state.

(paragraph four of the first part of Article 37 as amended in conformity to the Law of Ukraine as of December 22, 1998 No.335-XIV)

- suspension of foreign economic activity in cases of violation of this Law or laws Ukraine related to it, in cases of doing acts which may cause injure to the interests of national economic security.

- sanctions, set forth in this Article shall be imposed by the Ministry of Economy of Ukraine under a decision of judicial authorities of Ukraine, or under the motion of state taxation and auditing services, customs, law enforcement authorities, commission on return of currency values that are illegally beyond Ukraine, to Ukraine. Sanctions set forth in this Article imposed by the Ministry of Economy of Ukraine shall operate to the moment of application of practical measures which guarantee execution of this Law.

(the second part of Article 37 as amended under the Law of Ukraine as of December 22, 1998 No.335-XIV)

Imposition of the above mentioned sanctions may be contested judicially.

The fourth part of Article 37 was excluded.

(according to the Law of Ukraine as of December 22, 1998 No.335-XIV)

Chapter VII. THE ORDER OF DISPUTES CONSIDERATION IN FOREIGN ECONOMIC ACTIVITY

Article 38. Consideration of disputes arising in the process of foreign economic activity

Disputes arising between economic entities engaged in foreign economic activity, foreign economic entities in the process of such activity may be considered by courts of justice and courts of arbitration of Ukraine, as well as the International Commercial Arbitration Court and Maritime Arbitral Commission at the Chamber of Commerce and Industry of Ukraine and other bodies of disputes settlement at the consent of parties, if this does not conflict with laws of Ukraine or is provided by international treaties of Ukraine.

(Article 38 as amended in conformity to laws of Ukraine as of February 15, 1995 No.68/95-VR)

Article 39. Disputes arising when applying this Law

Any disputes in terms of application of provision of this Law and laws, adopted to execute this Law, may be a subject of consideration:

- in courts of justice of Ukraine, if one of the parties in a case is a physical person and/or a state;

- in courts of arbitration, if the parties of a case are legal entities. International disputes that may arise as a result of Ukraine's acts when applying this Law, shall be settled in the order agreed by the parties in conformity to the rules of international law.

The Head of the Verkhovna Rada of Ukraine

L. Kravchuk

city of Kyiv, April 16, 1991 No. 959-XII