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Agricultural Aspects of Ukrainian Membership in the WTO

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1 Introduction

Agriculture and agricultural trade play a significant role in the Ukrainian economy. The Ukrainian Government considers agriculture to be a strategic sector which needs strong state support. But nine years of mostly Soviet-style intervention in agricultural have resulted in huge welfare losses for farms and society as a whole. Self-sufficiency policy, significant barriers to foreign and domestic trade in agricultural products and inputs, combined with Government intervention in agribusiness and an absence of market institutions has led to the stagnation of the sector.

A country's trade policy determines the transmission of price signals from the world market to domestic markets and, thus, has a vital influence on domestic resource allocation and a country's ability to exploit its comparative advantage. To ensure that domestic markets receive appropriate price signals, a country must be fully integrated into the world trade system. To this end, membership in the World Trade Organisation (WTO) is a sufficient and perhaps even a necessary condition.

Ukraine submitted an official application for WTO accession in November 1993. The first meeting of the Working Party on Ukraine's WTO accession was held in February 1995. In early 2000, after six meetings of the Working Party, it appears that Ukraine is still a long way from membership.

The purpose of this paper is to test the compatibility of current agricultural policies in Ukraine with the letter and spirit of the WTO's requirements, as well as to propose policy recommendations that would guide Ukrainian agricultural policy towards a market-oriented, liberal framework. The paper is organised as follows. We begin with a short introduction to the WTO, an analysis of the benefits of WTO membership for Ukraine, and an update of the status of Ukraine's efforts to join the WTO. In section 2 we outline major elements of the Uruguay Round Agreements on Agriculture and on Sanitary and Phytosanitary Measures, as well as shortcomings of these Agreements and changes that might emerge from the coming Millennium Round. Section 3 presents an analysis of current agricultural policies in Ukraine and their compatibility with WTO requirements. In section 3 we also analyse special issues associated with WTO accession for transition economies and Ukraine's preparation for the Millennium Round. Section 4 concludes with policy recommendations designed to ease Ukraine's accession to the WTO.

2 The World Trade Organisation (WTO)

2.1 What is the WTO?

The WTO emerged out of the General Agreement on Tariffs and Trade (GATT) in 1993. Like the GATT, the WTO deals with the rules governing trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible.[1]

The result is assurance. Consumers and producers know that they can enjoy secure supplies and a larger selection of the finished products, components, raw materials and services they require. Producers and exporters know that foreign markets for their products will remain open. The result is also a more prosperous, peaceful and accountable economic world. Decisions in the WTO are typically taken by consensus among all member countries and they are ratified by members' parliaments. Trade friction is channelled into the WTO's dispute settlement process, where the focus is on interpreting agreements and commitments and ensuring that countries' trade policies conform with them. This reduces the risk of disputes spilling over into political or military conflict. By lowering trade barriers, the WTO's system can also contribute to breaking down other barriers between peoples and nations.

At the heart of the system — known as the multilateral trading system — are the WTO's agreements, negotiated and signed by a large majority of the world's trading nations, and ratified in their parliaments. These agreements are the legal ground-rules for international commerce. Essentially, the agreements are contracts, in which member countries reciprocally guarantee important trade rights. They also bind Governments to keep their trade policies within agreed limits to everybody's benefit. The agreements are negotiated and signed by Governments. But their purpose is to help producers of goods and services, exporters, and importers conduct their business. *The goal* is to improve the welfare of the peoples of the member countries.

2.2 The importance of WTO-membership for Ukraine

For a small country[2] such as Ukraine, which has much less international 'clout' than the USA or the EU, it is important to be a member of a 'club' with transparent and non-discriminatory rules. The benefits from WTO membership for Ukraine's agriculture and economy as a whole fall into three main categories:

a) before WTO accession can occur, and in order to make accession possible, Ukraine will have to strengthen its agricultural policies and institutions;

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1 See the WTO web site presentation "The WTO in Brief..." – http://www.wto.org.

2 Economically speaking, a country's size depends on its share in international trade.

b) WTO membership will improve the ease and security of Ukraine's access to major export markets; and

c) WTO membership will provide Ukraine with access to a trade dispute settlement mechanism (Zdenek and Laird, 1997).

In the following, we will consider these issues in turn.

Domestic Policies and Institutions. Under central planning the Government controlled trade flows via state trade enterprises. Other institutions governing the international exchange of goods and services, such as standards, phytosanitary provisions, and state purchasing, did not conform to internationally accepted norms, or were non-existent. Moreover, Government administered production processes provided little or no role for private property, private initiatives and price signals for resource allocation.

In the area of agriculture, WTO membership requires that policy conform to the rules established in the Agreement on Agriculture and the Agreement on Sanitary and Phytosanitary Measures, both of which are part of the Uruguay Round Agreement (URA). To become a WTO member, Ukraine would have to adjust its policies to conform with *all* WTO Agreements. The WTO is an all-or-nothing organisation and not a menu from which one can pick and choose (Satchit, 1999). Hence, Ukraine must be prepared to make comprehensive economic and institutional reforms. Beyond agriculture, WTO membership would also require that Ukraine's policies and institutions be brought into line with the provisions governing trade in goods in general as well as trade in services related aspects of intellectual property rights (TRIPS).

Therefore, pursuing the goal of WTO membership will strengthen Ukraine's transition to a market economy by requiring comprehensive economic reform and the creation of market-oriented institutions in agriculture and other sectors. Ukraine will not secure WTO membership unless it demonstrates that its trade and domestic policies are fundamentally market-oriented.

In this regard, it is important to note that the WTO does not dictate a Government’s policy; in fact it is the member Governments who dictate to the WTO. Furthermore, the WTO agreements make no explicit requirement that a member have a market economy.[3] The Ukrainian Government would remain free to choose its agricultural and trade policies. However, the WTO does encourage market-oriented good policies. Under WTO rules, once a country has decided to liberalise a sector of trade, it becomes difficult (expensive) to reverse this decision. Moreover, WTO rules discourage a range of especially distortive policies such as export taxes or non-tariff barriers. For Governments the result is discipline and the resolve to withstand domestic protectionist pressures that might arise. Quite often, Governments use the WTO as a welcome external constraint on their policies: “We can-

[3] The only explicit provision regarding this matter is GATT Article XVII which calls for notification of enterprises engaging in state trading practices. However, Article XVII was not intended to address problems that arise when the bulk of external trade is controlled by the state. Indeed, the old GATT accommodated under special protocol several centrally planned economies such as Romania and Czechoslovakia. Moreover, Cuba was a member of the GATT and became a founding member of the WTO.

not do this because it would violate our WTO commitments".[4] By requiring that trade policies be applied to all trading partners equally (so called 'non-discrimination'), and by providing transparency and clear criteria for regulations dealing with safety and standards of products, WTO membership can also reduce the scope and incentives for corruption.

While WTO membership can foster the reform process, the Ukrainian Government would be ill-advised to argue that reforms must be carried out to make membership possible. As Rodrik (1997) argues, reforms are good for the economy as a whole and should be adopted for this reason, not because they are dictated by the demands of international economic integration. Membership in the WTO could help Ukraine chose the right reforms and avoid the temptation to back-step at later stages in the reform process, but reform is necessary first and foremost to improve the standard of living in Ukraine and not to please an anonymous multilateral institution. Hence, it is the former and not the latter that the Government of Ukraine should stress when 'selling' its reforms to the public.

Finally, Ukrainian Government officials will learn important skills as they engage in trade and policy analysis and monitoring for WTO accession and as a WTO member.[5] Training in the newest policy analysis techniques is an important part of the so-called 'technical assistance' provided to WTO members.

Market Access. Two major dimensions of market access are of importance to Ukraine. First is the extension of permanent and unconditional Most Favoured Nation (MFN) status that accompanies WTO membership. At present, Ukraine has been granted MFN treatment voluntary by major trading partners such as the EU and the USA. But nothing guarantees that these partners will continue to grant such treatment.

Second, WTO membership can help terminate the designation of Ukraine as a "non-market economy" by major trade partners. This designation allows these partners to apply different, less transparent and potentially discriminatory practices in the determination of anti-dumping and safeguard measures against Ukraine. As the WTO does not require that a member must be a market economy, WTO membership would not automatically terminate the designation of Ukraine as a non-market economy. But WTO accession would help to convince trading partners that Ukraine is committed to becoming a market economy.

Dispute Settlement. Access to an impartial and binding dispute settlement mechanism whose decisions have a significant chance of being enforced is a very important potential benefit for all small countries participating in international trade. The WTO's dispute settlement mechanism has, in the short time since its establishment, succeeded in enabling members, large and small, to get satisfaction on grievances stemming from the trade practices of other members that cause material injury (Michalopoulos, 1998). While the WTO cannot make all countries equal, it can reduce inequalities by giving smaller countries such as Ukraine more voice, and by freeing the

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4 See "10 benefits of the WTO trading system" – http://www.wto.org.

5 Surveillance of national trade policies is a fundamentally important activity running throughout the work of the WTO. At the centre of this work is the Trade Policy Review Mechanism (TPRM).

major powers from the complexity of having to negotiate trade agreements with each of their numerous trading partners.

2.3 The status of Ukraine's efforts to join the WTO

The odyssey of Ukraine's accession to GATT/WTO began almost ten years ago, when the Soviet Union partly liberalised its foreign trade (Kavass and Skrynka, 1999). After the break-up of the Soviet Union and Council for Mutual Economic Co-operation (CMEA),[6] Ukraine began to look for new international markets. As it was not a GATT member, other countries often imposed high import duties and non-tariff restrictions such as quotas on Ukrainian goods.

In the light of this treatment, Ukraine became aware of the benefits of joining the GATT (Kavass and Skrynka, 1999). On November 20, 1993, Ukraine submitted an official application for GATT accession and on July 26, 1994, Ukraine submitted a Memorandum on Foreign Trade to the GATT Working Party (WP). Since 1995, there have been six meetings of the WP.[7] The establishment of the WTO as the successor to the GATT added many new requirements for prospective members. Judging by the documents it submitted to the WTO, Ukraine was clearly not prepared for this new challenge (Kavass and Skrynka, 1999).

Today Ukraine remains a long away from joining the WTO. Ukraine's application for the WTO membership is effectively stalled, as the Working Party has not met since June 1998 (Kalinova, 1999). Many fundamental aspects of Ukrainian trade in agricultural products are not clear to the WP. First, Ukraine's Memorandum on Foreign Trade only provides general information on Ukraine's agricultural sector and provides little definite information on Ukraine's agricultural policies. Many issues that are covered by the Uruguay Round Agreement on Agriculture (URAA), are not dealt with in Ukraine's Memorandum. Specifically, the WP has requested that Ukraine supply more detailed explanation of the system of Government regulations and import restrictions in the area of agricultural products.[8] In addition, it has repeatedly asked for a comprehensive description of the system of state support for agricultural producers.[9] Furthermore, many aspects of Ukraine's sanitary and phytosanitary policies have not been clearly presented to the WP.

Of course, it is not surprising that Ukraine has not been able to provide the required information to the WP; its agricultural policy is poorly defined and has been in a constant state of flux. Hence, a necessary condition for

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6 The CMEA was formally dissolved in June 1991.

7 First meeting – Feb. 27-28, 1995; second meeting – Dec. 11-12, 1995; third meeting – June 24-25, 1996; fourth meeting – May 6-7, 1997; fifth meeting – Nov. 24-25, 1997; sixth meeting – June 10, 1998. See WTO documents WT/ACC/UKR/1, 3, 4, 5, 6, 7, 25, 41 and 50, as well as WT/ACC/UKR/22/Add.2, WT/ACC/UKR/23/Add.1, WT/ACC/UKR/24/Add.1.

8 WTO document WT/ACC/UKR/50. See also Law No 468/97, of July 17, 1997 "On the State Regulation of Import of Agricultural Produce".

9 See WT/ACC/UKR/4 , 5, 6 and 7.

Ukrainian membership in the WTO is that the Government of Ukraine design and implement a consistent agricultural policy.

3 Agriculture and the GATT / WTO

3.1 Agriculture prior to the Uruguay Round

Formally, agricultural trade has been covered by GATT rules since it was founded in 1948. However, prior to the URAA the actual conduct of policies in agriculture was significantly less disciplined by the GATT than in most other sectors. Without this discipline, agriculture and agricultural trade in the GATT members was characterised by highly distortive and protectionist policies (McCalla and Josling, 1985). Non-tariff measures (quantitative restrictions, restrictive state trading, variable levies, minimum import prices, etc.) were especially prevalent in agriculture. Many of these measures were not in conformity with the spirit of the GATT, but in most cases the letter of the General Agreement did not provide the means to sanction them (Tangermann, 1994). The text of the GATT contained some special provisions for agriculture such as the exemption of agriculture from the general prohibition of export subsidies in Article XVI:3. The result was a situation in which large shares of world exports of major temperate zone agricultural products occurred with the help of export subsidies (Josling, Tangermann and Warley, 1996).

3.2 Agriculture in the Uruguay Round

The Uruguay Round of trade negotiations was launched in September 1986 with the adoption of the Punta del Este Declaration. It ended seven and a half years later with the signing of the Final Act in Marrakesh in April 1994.

A major achievement of the Uruguay Round was to bring more rules-based GATT discipline to agricultural trade and trade-related policies. The URAA requires all (other than quarantine) non-tariff barriers to agricultural imports to be converted into bound tariffs; for those bound tariffs to be scheduled for phased reductions; and for farm production and export subsidies to be reduced. Industrial countries must implement these reforms between 1995 and 2000, while developing countries have until 2004. Together, the URAA, the Agreement on Sanitary and Phytosanitary Measures (the ASP, which limits the use of quarantine import restrictions to cases that can be justified scientifically), the new policy notification and review requirements, and the Dispute Settlement Understanding, ensure that agricultural trade will be less chaotic in future (Anderson, 1998).

Important detail on the implementation of the URAA is contained in the commitments entered into by each individual country and codified in Schedules that form part of the overall Agreement. The real power of the Agreement lies in the binding nature of these country-specific commitments (Tangermann, 1994). With few exceptions these bindings cover all border measures, on both the import and the export side. They also apply to most domestic subsidies, to the extent that these have a noticeable effect on international trade. Altogether, the URAA specifies three broad agricultural policy areas that are subject to new WTO disciplines: market access, export competition and domestic support. These three areas are discussed below and summarised in Table 1.

Table 1
The Structure of the Agreement on Agriculture

Type of Rule	**Market Access Base period: 1986 – 1988**	**Export Competition Base period: 1986 – 1990**	**Domestic Support Base period: 1986 – 1988**
Value	- Tariffication of non-tariff barriers - Reduction of new tariffs by 36% on average (minimum of 15%)	- Reduction of outlays on export subsidies by 36% (product specific) - New export subsidies forbidden	- Reduction of Total Aggregate Measure of Support (AMS) by 20%, except for "green box" and "blue box" measures
Quantity	- Minimum access commitments: 3% of domestic consumption, growing to 5% - Current access maintained	- Reduction of subsidised export by 20%	- *De minimis* provision
Other	Safeguard provision	Peace Clause	

Source: Tangermann (1994).

The most far-reaching element in the URAA is a change in the rules regarding *market access*. All non-tariff barriers must be converted into bounded import tariffs. The new tariffs are subject to the gradual reduction of 36% on average (minimum 15%). Moreover, countries must maintain their current access to domestic markets. If the current access is less than 3%, it has to be gradually raised to minimum 5% by 2000.

In the area of *export subsidies*, members fix the base levels of subsidised exports and of outlays on export subsidies in their Schedules, implicitly agreeing that the figures contained in the Schedules are an accurate representation of their past export subsidisation. More important, based on these past level of export subsidisation, members accept legally binding commitments regarding the maximum permissible use of export subsidies in the future (Tangermann, 1994). Specifically, members agree to reduce expenditures on export subsidies by 36%, and quantities of subsidised export by 21% over the six year implementation period. Members also agree not to extend export subsidies to commodities which were not subsidised in the base period.

Under the *domestic support* provisions of the UAAR member have agreed to reduce farm support and switch to instruments that are less production and trade distorting. Generally, farm support is divided into two categories: support which is exempted from reduction commitments and support which is subject to reduction. Policy instruments in the first category fall into either the 'green' or the 'blue' box, or they fall under a *de minimis* clause. The fundamental requirement for inclusion on this list is that the policy in question have no, or at most minimal trade-distorting effects or effects on production.[10] The ‘green box’ includes the following measures: 1) general services such as research, pest and disease control, training, extension, inspection, marketing and promotion services, and infrastructure services; 2) direct payments to producers such as decoupled income support, income insurance and safety-net programmes, disaster relief, producer or resource retirement schemes, investment aids, environmental programmes and regional assistance programmes; 3) food security stocks; and 4) domestic food aid. ‘Blue box’ measures are comprised of direct payments under production-limiting programmes,[11] while the *de minimis* clause covers product and non-product specific measures, each of which amounts to a small percentage of the total value of transfers to producers (less than 5% of the value of farm gate production in developed countries and less than 10% in developing countries). In developing countries, certain investment subsidies, agricultural input subsidies for poor producers, and support to producers to encourage alternatives to narcotic crop production are also exempted from reduction.

The measures in the second category are subject to reduction commitments. The basis for these commitments is the Total Aggregate Measurement of Support (AMS), which is the sum of expenditures on non-exempted domestic support, aggregated across all commodities and policies. By the year 2000, each member must reduce its AMS by a total of 20% (13.3% by 2005 in developing countries).

Several specific provisions for the interaction between AMS commitments and both inflation and exchange rates can be made. AMS reduction commitments are determined in nominal terms, and reference prices for calculating market price support and non-exempt direct payments are 1986-1988 nominal, national currency prices. These provisions place considerable pressure on countries with high inflation, where the real value of support ceilings denominated in national currency prices can erode considerably over time. In retrospect, therefore, Poland was wise to negotiate its AMS reduction commitments in foreign currency (USD) terms. Other countries, such as Hungary, negotiated in national currency terms and have found that inflation has greatly reduced their ability to provide real support.

The Uruguay Round also lead to the signing of an Agreement on Sanitary and Phytosanitary Measures (SPS). The SPS is based on the principles of harmonisation and equivalence. While the policies dealt with under the SPS are not very amenable to multilateral negotiation on commitments (Tangermann, 1994), the SPS has led to two main achievements. First, if a country wishes to implement higher standards of protection to human, animal and plant life or health, this country is required to show that these standards are based on sound scientific principles and supported by sufficient scientific evidence. Second, the SPS included a number of detailed provisions on appropriate risk assessment.

[10] In particular, for a measure to be exempt, the support must be provided through a publicly funded government programme not involving transfers from consumers, and it must not have the effect of providing price support to producers.

[11] For example, the EU’s set-aside payments and deficiency payments in the US.

3.3 Shortcomings of the Agreement

3.3.1 Market access

It was expected that countries would interpret the market access provisions in ways which would benefit their domestic interests. If, during the implementation of the URAA, one country should feel that another country has made an error in calculating, for example, a given base period tariff equivalent and, hence, is applying an a tariff that is too high, there is no way in which the former country can challenge the latter. This has led to several shortcomings which are summarised by Tangermann (1994) as follows:

1. It appears in a number of cases that the tariffs which countries established are rather high, both relative to the gap between actual domestic and world market prices in the base period, and relative to the prices prevailing under current policies. Thus, even after 15% reduction, so little scope for the transmission of world price signals to domestic markets was left that it is difficult to argue that trade has been liberalised significantly. This has lead to the use of the term ‘dirty tariffication’.

2. The wide scope left to the Governments regarding tariff reductions for individual commodities. The Government still have the considerable scope to protect ‘sensitive’ products, further distorting trade flows. Indeed, most Governments have not significantly reduced tariffs for such products (Tangermann, 1994; Josling, Tangermann and Warley, 1996).

3. The minimum access rules are far from perfect. The URAA does not explicitly spell out what constitutes ‘access’. Moreover, the management of the tariff rate quotas (allocation of licenses, for example) remains very sensitive and unregulated.

3.3.2 Export subsidies

As mentioned above, export subsidies were one of the most contentious issues in the agricultural negotiations of the Uruguay Round. Although the URAA does restrict the use of export subsidies, several questions remain.

First, Governments may use accounting procedures which make it difficult to measure actual budget expenditure on export subsidies. Second, production quotas combined with high domestic support prices (the EU’s sugar market regime, for example), can result in an implicit subsidisation of exports that is not registered under the URAA. Rents that accrue on within-quota production can be used to cross-subsidise exports of above-quota production (Tangermann, 1994). Third, the export subsidy provisions in the URAA relate only to the aggregate volume of exports and aggregate outlays on export subsidies. There are no specific provisions which relate to export sales on individual markets. Hence, it is conceivable that a country might concentrate its permitted export subsidies for a given product (e.g. cereals) on a few specific products (e.g. malting barley) and/or markets (e.g. China). Finally, the URAA does not preclude or only partially limits the use of several forms of export assistance, such as market promotion, credit schemes, barter transactions, certain types of food aid, etc. In many cases these can act as indirect export subsidies.

3.3.3 Domestic support

The domestic support provisions of the URAA call for policy adjustments that can be expected to reduce distortions in agricultural trade. However, given domestic resistance, Governments may not always find it easy to implement these policy adjustments and may seek ways to avoid them.

First, the reduction commitments apply to the aggregate AMS. This leaves much scope for the maintenance of support policies. As is the case with import protection (see above), domestic support can easily be reallocated to so-called ‘sensitive’ products. Second, given the interaction between border measures and domestic policies, the constraint on domestic policies in the narrow sense may not be very effective. A relatively large set of domestic subsidies is exempted from the reduction commitments, which again leaves Governments with considerable leeway in choosing policy instruments. Third, the ‘green box’ of domestic support measures that are not subject to reduction commitments has been defined rather generously. In general, green box policies have two characteristics: (1) they are much less distorting than traditional forms of agricultural support; (2) it is difficult to imagine that Governments would be prepared to give up these relatively innocent policies in trade negotiations. However, it is very difficult for the Agricultural Committee of the WTO to monitor the behaviour of all WTO members with respect to the green box. Fourth, the exemptions granted for the EU’s acreage and headage payments and US deficiency payments means that some of the most important domestic support policies in world agriculture are not subject to reduction requirements. This may provide a bad example for agricultural policy makers in other countries (Tangermann, 1994) and it marks a departure from the aim of moving in the direction of less distorted markets. Contrary to the definition of decoupled income support in Annex 2 of the URAA, these payments do not meet the condition that “…no production shall be required in order to receive…” them.

3.4 The Millennium Round: expectations

One of the potentially important aspects of the URAA is the resolution to continue the reform process in agriculture in the future (Josling and Tangermann, 1999).

In the area of market access, another round of tariff reduction is needed to correct cases of ‘dirty’ tariffication. High tariffs for ‘sensitive’ goods should be reduced more than low tariffs. Hence, dairy products and sugar are likely to be at the heart of the next Round. Another area for future negotiations is the tariff rate quota. While intended to open up previously closed markets, TRQs have become a major problem in agriculture. They have created a new wave of Government interference with agricultural trade through licensing procedures. Thus they provide a playground for rent-seeking traders who have a strong incentive to lobby for the maintenance of high above-quota tariffs. The question is how to prevent the TRQs from interfering more than necessary with the competitive development of trade. Therefore, the Millennium Round will probably focus on developing a more uniform system for the administration of TRQs, or at least eliminating some obvious absurdities in current procedures for allocating TRQ licenses (Josling and Tangermann, 1999).

While much effort was made to define export subsidies as precisely as possible in the URAA, further improvement can be made. It is expected that some countries – such as the members of the Cairns-Group[12] – will try to negotiate a complete elimination of export subsidies. Finally, discussions on the subject of export credits have been ongoing between members of the OECD, and it is possible that the treatment of agricultural export credits will eventually be brought into conformity with that prevailing in other areas of trade (Josling and Tangermann, 1999).

In the area of domestic support, there will likely be much focus on the definition of 'green box' policies. Many countries – such as the members of the Cairns-Group – insist that 'blue box' measures be subject to reduction commitments. Of particular interest will be negotiations on a stricter definition of decoupled payments (Wehrheim, 1999).

Finally, it is expected that the Millennium Round will direct special attention to the interests of developing countries. Better access to markets in industrialised countries, as well as a reduction of agricultural protection in these countries would help developing countries increase export volumes and, via higher world market prices, revenues.

4 Ukrainian agricultural policy and the WTO

In the following we analyse Ukraine's market access, export subsidies, domestic support, and sanitary and phytosanitary policies with regard to the requirements of the WTO. We also focus on special issues associated with WTO accession for transition economies.

4.1 Market access

4.1.1 Import tariffs

Any country that wishes to become a WTO member must have relatively liberal trade and domestic policies. The confidence and trust of its major trading partners are also very important preconditions. The Law of Ukraine "On state regulation of import of agricultural products", dated July 17, 1997, does not encourage free trade or provide for a transparent regulation of import procedures. This Law regulates tariff and non-tariff barriers to imports of agricultural products and food.

The average import tariff is approximately 30% (Table 2). This is not high in comparison to the import tariffs applied by the US or the EU. Moreover, according to the Conception of Transformation of Import Tariff,[13] the aver-

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[12] The Cairns Group includes 'small' agricultural exporters such as Canada, New Zealand, Australia, Argentina, Brazil, etc. Ukraine shares many of the interests and characteristics common to the members of this Group and would make an ideal Cairns group member.

[13] See Presidential Decree No. 255/96 dated April 6, 1996.

age import tariff for agricultural products will be reduced from 30% in 1996 to 19.4% in 2005.

Table 2
Import tariff rates for major agricultural products in Ukraine at the end of 1999

Product	Import tariff rate (%)	
	Privileged*	Standard
Wheat	30	30
Barley	30	30
Sunflower seeds	50	50
Sugar	50	50
Vegetable oil	50	50
Wheat flour	30	30
Live animals	30	60
Beef	30	60
Pork	30	60
Poultry	30	60
Concentrated milk and cream	20	40
Butter	50	100
Cheese	30	60

Source: FAS-USDA, Annual Dairy Report, 1999; Law of Ukraine No. 468, July 17, 1997; Law of Ukraine No. 32, January 16, 1998; CM Resolution No. 1935, December 9, 1998.

Note: * Privileged (MFN) tariffs apply to countries with which Ukraine has signed trade agreements and, hence, apply to most trade partners.

Higher import tariffs are applied to imports of so-called 'sensitive' products which are produced in Ukraine. Furthermore, the above-mentioned law establishes import quotas for livestock products at the rate of 10% of domestic production. The URAA requires that import quotas be based on domestic consumption, not production.

In May 1998, the Government introduced a system of seasonal tariffs for imports of key agricultural commodities at rates equal to double the existing tariffs. The seasonal duties were designed to be in effect during local harvest periods of the products, typically a three-month period.

Ukraine could use the same strategy that many WTO members have in the past of 'padding' its import tariffs for several important products today, with a view to making it easier to make 'concessions' in future WTO negotiations. However, this would reduce the gains from trade that Ukraine would realise as a result of WTO membership. It would also make it difficult to convince trading partners that Ukraine is committed to a liberal trade regime. High import tariffs do make it easier for Ukraine to avoid significant increases in its current market access. Table 3 shows that with the exception of fish, the share of the imports in the consumption of agricultural products does not exceed 9%.

Table 3
Current Market Access in Ukraine, 1998

Product	Import, thnd. Tons	Export, thnd. tons	Balance, thnd. tons	Consumption, thnd. tons	Share of imports in consumption (%)
Meat products	58	99	41	1668	3
Milk products	9	47	39	10697	0
Eggs, mln. pieces	54	5	-49	7737	1
Fish	216	95	-120	296	73
Potatoes	4	1	-3	6502	0
Vegetables	5	162	157	4723	0
Fruits	88	16	-72	117	6
Bread products	6	12	6	6331	0
Sunflower oil	20	198	178	412	5
Sugar	139	107	-31	1583	9

Source: Statistical Yearbook Agriculture of Ukraine (consumption), 1999.

4.1.2 Non-Tariff Barriers

Many non-tariff barriers are applied in Ukraine, but most of them apply to imports of all products and not specifically agriculture. Import procedures are very prohibitive and non-transparent due to frequent and retroactive changes. The most prohibitive non-tariff barriers are minimum customs values as well as standardisation and certification procedures.

Although a Cabinet of Ministers Resolution dated July 29, 1999 represents an important step towards the cancellation of minimum customs values,[14] many traders argued that this Resolution is either ignored or subject to heavy administrative abuse. Government Resolution No. 575 dated March 29, 2000, has abolished the minimum customs value for all products. This is a very positive decision that moves Ukraine closer to the more liberal trade and WTO membership.

Ukraine's regulatory environment is chaotic and its standardisation procedures are one of the most serious obstacles to trade, investment and ongoing business. Ukraine's standardisation and certification procedures are characterised by: (1) a lack of stable clearly defined standards and regulations; (2) registration schemes that severely hamper trade; (3) a lack of procedural flexibility; (4) complex and expensive certification requirements; and (5) uneven enforcement of requirements (U.S. Department of State, 1999).

[14] The Resolution "On Amending Certain Resolutions of the Cabinet of Ministers of Ukraine on Setting the Minimum Customs Value for Light Industry and Agricultural Products" eliminates minimum customs values for grains, flour, meat, butter, cheese, margarine, vegetables, fruits, nuts, jams and juices.

4.2 Export subsidies

Ukraine employs no export subsidies for agricultural products and food today, and did not employ them in the applicable base period 1994-1996. (It should be noted that Ukraine has agreed with the WTO Working Party to use 1994-1996 as the base period for all WTO commitments. The Working Party may insist on shifting *base period* to more reasonable term, for example, 1997-1999. The main reason is the absence of any reliable statistics for 1994-1996, when hyperinflation together with the exchange rate uncertainties combined to make the available data even less reliable that it already is). In some instances, 'Khlib Ukrainy' has sold grain at prices below its purchase prices on the Ukrainian market, but the contracts in question were commercial and did not involve the state (Kobuta, 1999). Hence, these cases cannot be considered examples of export subsidisation.

Since a WTO member cannot increase the use of export subsidies over the level prevailing in the base period, Ukraine, with a base level of zero would not be free to use export subsidies at all. This has the interesting implication that Ukraine would presumably be barred from introducing price support policies for all products for which it is a net exporter. This is because policies that increased domestic prices above world market levels for export products would automatically create a need for export subsidies that Ukraine would not be able to use.

Even without the use of export subsidies, Ukraine's export regime for agricultural products is quite illiberal. Indeed, continuous Government intervention in agricultural trade has played a major role in arresting agricultural development in Ukraine. Von Cramon-Taubadel and Striewe (1999) estimate that the farmers in Ukraine receive only 40% of the FOB export price, while the German farmers receive 70%.

In Ukraine, minimum export (so-called indicative) prices for hides and animal skins, sugar and oil seeds continue to be applied (at least in practice, even if officials insist that this is not the case). The use of indicative prices is banned under Article VII of GATT. Moreover, Ukrainian customs officers often apply 'recommended prices' to limit certain exports; there are many reports of customs officials refusing to permit exports when the export contracts specify prices that are below the 'recommended' level.

Government officials often claim that there are no barriers to agricultural exports in Ukraine. Reality is often quite different, as attested by reports of restrictions on grain exports in 1999 and 2000. In both years, traders were – at least temporarily – unable to obtain necessary certificates due to uncertainty regarding the status of official grain inspection requirements. Agricultural traders with international experience report that Ukraine's trade regime is much less liberal in practice than in theory. This could hamper Ukraine's WTO accession procedures, and once Ukraine became a member of the WTO, such reports could lead to Ukraine being subject to numerous, debilitating disputes.

WTO rules do not prohibit the use of export duties. However, the Millennium Round is expected to deal with export taxes on agricultural products. Should this result in restrictions on the use of export taxes, measures such as Ukraine's tax on oil seeds and live cattle & skins might no longer be possible.

4.3 Domestic support

Before analysing current domestic farm policy in Ukraine, it is worthwhile reviewing Soviet-era farm support policies. For 70 years prior to Independence in 1991, central planning determined the structure of Ukraine's agricultural sector. Today, it continues to influence the perspectives and opinions of many agricultural policy makers.

Following a precedent set by the Provisional Government in 1917, the Soviet regime procured agricultural products by force. In the 1920s, forced procurement was replaced by a so-called 'tax-in-kind'. Even during the relatively liberal New Economic Policy years of the late 1920s, however, the state controlled the major input producers, and manipulated the terms of trade between industry and agriculture to depress farm-gate prices (Van Atta, Zorya, Betliy and Shanin, 1998).

Throughout the Soviet period, managerial performance was judged above all by success in achieving planned gross output and sales to the state. Through its state order system, the state controlled both physical and capital input supply as well as output marketing. The 'first commandment' for the Soviet farm manager was fulfilment of the delivery plan. The resulting desire to fulfil targets at all costs engendered a disregard for production costs and efficiency that remains prevalent today. Delivery plans were set so high that most farms had no hope of fulfilling them and remained chronically in debt to the state. These debts were periodically forgiven by the state (most recently in 1982, 1985, and in 1991 in the USSR, and in 2000 in Ukraine), a practice which is the foundation of today's poor payment discipline and the lax attitude toward debt that is common in Ukrainian agriculture.

In the first years of Independence, agricultural and food prices in Ukraine were determined centrally and without reference to international price levels or ratios. The resulting conflicts between domestic price signals, international price signals and state production targets (state orders) led to rampant inefficiency and resource waste. Furthermore, since consumer prices did not necessarily cover producer prices plus processing and marketing costs, a complex and costly system of implicit and explicit subsidies was required (World Bank, 1994).

Until recently, there was little indication that the Government's approach to farm support in Ukraine had changed significantly from Soviet times. Farm support instruments remained highly distortive. Specifically, the main policy instruments included zero-interest rate budget loans to farms, tax exemptions, debt write-offs and restructuring, agricultural machinery supply through a State Leasing Fund and via state sovereign guarantees, and budget subsidies.

If Ukraine was a WTO member, most of these farm support instruments would likely be included in the 'amber' box of measures in AMS calculations and subject to reduction commitments. In the following, we analyse farm domestic support policy in Ukraine in 1998 and 1999. Domestic support policy in early 2000 is also analysed to test how recent policy changes are compatible with WTO requirements. We will not consider the AMS commitments that Ukraine has submitted to the WTO's Working Party because reliable data on these commitments is not available and because it seems that the Working Party is not satisfied by the accompanying information that Ukraine has provided. Instead, we attempt to estimate Ukraine's actual AMS by studying its agricultural polices in 1998 and 1999 and their compatibility with WTO requirements. As most farm support instruments in Ukraine – with the exception of milk and meat subsidies – are not product specific, we deal with Ukraine's total AMS rather than product-specific estimates.

The estimation we attempt is only approximate because many Government programmes in Ukraine are not transparent, being based on barter transactions and/or regulated by a multitude of legislative acts that are often unpublished, sometimes unimplemented and rarely fulfilled. Moreover, official statistics are not reliable. Most of our data is taken from the mass media, reports of the State Statistics Committee of Ukraine, the Ministry of Agro-Industrial Policy, and international organisations.

In calculating domestic support, we faced serious problems with treating zero-interest budget loans and other policy instruments such as non-collection of taxes (see below) that led to the accumulation of farm debt *vis a vis* the state. In March 2000, the Verkhovna Rada approved a Law which wrote off 6.8 bln. UAH of farm debts to the state. Prior to this debt write-off there were two ways of treating the loans and tax arrears in question in AMS calculations. One option was to consider them in entirety as subsidies, on the assumption that they would never be repaid – and perhaps were never intended to be repaid – and would inevitably be written off at some future date. The other option was to roll them over as outstanding debt at the end of each year. In this case only the difference between market and loan interest rates would be included in AMS calculations. With hindsight (i.e. after the write-off) we have opted for the former option. This issue could arise again and be a factor in future negotiations between Ukraine and the WTO. This is because since the write-off came into effect, many farms have begun to receive new state loans and accumulate new tax arrears, and there is little reason to expect that the corresponding repayments will be timely or complete.

4.3.1 Zero-interest budget loans

Fuel and Fertilisers: The most important instrument of Ukrainian farm support policy prior to 2000 was zero-interest budget loans in the form of input supply advances to collective agricultural enterprises (CAEs).[15] Funds were transferred exclusively to suppliers who in turn supplied farms with inputs. Regional (Oblast) governors were responsible for collecting repayment from farms in the form of agricultural commodities in the fall. In practice, this meant that if farms in an Oblast failed to deliver commodities to repay state debts, the corresponding governor could be fired. Thus, regional governors often introduced bans on the shipment of grains and sunflower seeds from their Oblasts until farms repaid their debts. Of course, in this way the Government discriminated against other market operators.

In 1998, the Government provided 1.8 bln. UAH worth of inputs to the farms. In 1998, farms supplied approximately 2 mln. t of grain to the state

15 CAEs and state farms benefited from these government programs while private farmers were effectively ineligible.

reserve. This was equivalent to roughly 1/3 of the value of the supplied inputs.[16] The remaining farm debt to the Government thus amounted to 4 mln. t of class III wheat or 1,176 mln. UAH (based on an average state purchasing price of 294 UAH/t). In 1999, farms also received inputs worth 1.8 bln. UAH.[17] By November 1999, however, farms had repaid only 41% of the these loans, leaving estimated farm debts of 1,062 mln. UAH.

Feed Grain: In addition to fuel and fertilisers, the Government supplied feed grain to livestock and poultry farms. In 1998, the state provided farms with 521 thnd. t of feed grain valued at 70 mln. UAH[18]. In 1999, farms received grain valued at 21 mln. UAH. As of December 1, 1999, 84 mln. UAH of these amounts had not been repaid. Based on the shares of the subsidies provided in 1998 and 1999, respectively, 64.6 mln. UAH of this is attributed to 1998, and 19.4 mln. UAH to 1999.

Agricultural Chemicals: Farms have only settled for 19% or 4 of the 21 mln. UAH worth of herbicides (505 tons) received from the Government in 1999.[19] The resulting farm debt was 17 mln. UAH in 1999.

4.3.2 Direct subsidies to milk and meat producers

The law of Ukraine “On Value Added Tax” (VAT) regulates the subsidy mechanism for milk and meat producers. Farms sell their milk and meat at a VAT rate of zero. 70% of the VAT received by processing plants from the sales of processed dairy and meat products is returned to the farms and the other 30% are submitted to a special account managed by the Ministry of Agro-Industrial Complex of Ukraine for support of the livestock development. Farms received 168 mln. UAH[20] and 150 mln. UAH[21] in 1998 and 1999, respectively.

4.3.3 Debt write-offs and restructuring

In 1998, on the basis of the Cabinet of Ministers Resolution No. 1461 from September 18, 1998 (“On Measures to Stabilise Agricultural Production”), 70 mln. UAH of farm tax debts were cancelled and a further 698 mln. UAH were deferred.[22] According to the Law "On Writing Off and Restructuring the Debts of Farms and Procurement Organisations on State Budget Loans" dated September 24, 1999, 41 mln. UAH of loans were written off and 533.4 mln. UAH were restructured. Since the debts referred to in these various legislative acts are not clearly identified and reliable information is unavailable, we run the danger of double-counting restructured debt and, thus, artificially inflating the AMS. Hence in calculating Ukraine’s AMS we

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16 See Ukrainian News Agency. Business Week’33. August 16-24, 1999.

17 See Ukrainian News. November 2, 1999.

18 See Agromonitor No. 44-45, November 18, 1999.

19 See Ukrainian News. January 05, 2000.

20 See Annual Accounting Report of Farms in the Public Sector: 1998. Min. AIC of Ukraine.

21 Annual Accounting Report of Farms in the Public Sector: 1999. Min. AIC of Ukraine.

22 See Ukrainian News Agency/Business Week’50. December 14-20, 1998.

consider only debt write-offs. In 1998 (1999), the state wrote off 70 (41) mln. UAH.

4.3.4 Tax privileges

Value-Added Tax: All farms are exempted from paying VAT tax in the years 1999 to 2004.[23] The VAT rate is 20% of revenue. According to the Farm Annual Accounting Report (1999), the VAT subsidy is 651 mln. UAH.

Fixed Agricultural Tax: Since 1999, farms can elect to pay a so-called fixed agricultural tax that replaces all previously collected taxes, except VAT and excise tax.[24] However, farms were exempted from paying 30% of this tax in 1999 and 2000. This is equivalent to a subsidy of approximately 208 mln. UAH[25] in 1999.

Tax Arrears: In recent years, Ukrainian farms have not paid many taxes. These tax arrears should be included in AMS calculations. In 1998, the farm tax arrears were 915 mln. UAH.[26] As of January 31, 1999, farms had paid only 52% of their tax commitments due. Therefore, estimated farm tax debts in 1999 are 599 mln. UAH[27].

4.3.5 Agricultural machinery supply

State Leasing Fund: The supply of agricultural machinery to farms through the State Leasing Fund also represents a subsidy.[28] Machinery and equipment is supplied to farms under 5 year leasing contracts at 5.8% annual interest. Since 1998, the Fund has provided agricultural machinery worth 390 mln. UAH (65 mln. UAH in 1998 and 325 mln. UAH in 1999[29]). Farmers have not repaid the debts for this machinery on time. For example, on December 1, 1999, repayments of 22.5 mln. UAH were due, of which only 15.1% (3.4 mln. UAH) were repaid.[30] Total farm debts to the Fund during 1998-1999 are estimate to be 19.1 mln. UAH. Based on the shares of the supplied machinery during observed period, farms debts are 4.1 mln. UAH and 15 mln. UAH in 1998 and 1999. Moreover, the difference between

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23 See Presidential Decree „On Support of Farms“ dated December 12, 1998.

24 See Law of Ukraine „On Fixed Agricultural Tax“ No. 320, dated December, 1998.

25 According to the Ministry of AIC, farms have to pay 486.1 mln. UAH of the fixed tax (70% of the total tax) in 1999 (Agromonitor No. 48, December 6, 1999). Therefore, farms receive a subsidy of 208 mln. UAH (30% of the tax).

26 See Annual Accounting Report of Farms in the Public Sector: 1998. Min. AIC of Ukraine.

27 See Annual Accounting Report of Farms in the Public Sector: 1999. Min. AIC of Ukraine.

28 The State Leasing Fund was established on the basis of Cabinet of Minister Resolution No. 1031 dated September 19, 1997.

29 See Ukrainian News Agency – BW’41, October 11-17, 1999.

30 See Ukragroconsult. No. 212, December 3, 1999.

market and Fund interest rates is estimated to be 35 mln. UAH[31] in 1998 and 144 mln. UAH[32] in 1999.

Foreign Agricultural Machinery purchased under Government Guarantees: In addition to the supply of the agricultural machinery through the State Leasing Fund, agricultural machinery produced by John Deere, Case and other foreign manufacturers was supplied under Government sovereign guarantees. According to Viktor Tymchenko, president of the Ukragro-prombirzha corporation, farms owe 86 mln. USD to the state budget in 1999 for John Deere combines.[33] Of this, 49 mln. USD (202 mln. UAH[34]) represent loan payments for the combines for 1999 and 37 mln. USD (90 mln. UAH[35]) is debt from 1998. Farms made only some 15-20% of the payments for foreign machinery in 1998. So, the farm debts for machinery in 1998 amounted to 90 mln. UAH. We assume that farms repaid only 20% of the debts or 9.8 mln. USD in 1999. Therefore, farm debt for 1999 is estimated to be 162 mln. UAH.

4.3.6 Other subsidies

In addition to those listed above, the Ukrainian Government provides other subsidies, most of which belong in the green box. In 1998 (1999), farms received 106 (70) mln. UAH in state capital investments, 2 (2) mln. UAH for research and development, 42 (35) mln. UAH for social security, 37 (41) mln. UAH from the Chernobyl Fund, 427 (192) mln. UAH for production and social development, and 190 (793) mln. UAH for other financing.[36]

4.3.7 Results

Total domestic support and the AMS calculations in 1998 and 1999 in Ukraine are summarised in Table 4. Note that as of May 1, 2000, all farms debts to the state (a total of 6.8 bln. UAH accumulated between 1994 and 1999) were written off. Therefore, all budget loans disbursed and tax arrears accumulated in 1998 and 1999 must, with hindsight, be considered direct subsidies.

The ratio of a country's AMS to its agricultural GDP is commonly used as a basis for international comparisons of domestic support. However, agricultural GDP data are not available in Ukrainian statistics. According to the IMF (1999), the share of the agricultural GDP in the total GDP was 12% or 12,464 mln. UAH in 1998. Assuming the same share in 1999, nominal agricultural GDP was 15,255 mln. UAH.

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31 65 mln. UAH x (60%-5.8%), where 60% is the NBU average refinance rate for 1998.

32 325 mln. UAH x (50%-5.8%), where 50% is NBU average refinance rate for 1999.

33 See UNIAN-AGRO, No. 16(154), April 19-25, 1999.

34 Based on an official exchange rate of 4.13 UAH/USD in 1999.

35 Based on an official exchange rate of 2.44 UAH/USD in 1998.

36 See Annual Accounting Reports of Farms in the Public Sector: 1998 and 1999. Min. AIC of Ukraine.

Table 4
Domestic Support and Current AMS in 1998-1999 (mln. UAH)

Type of domestic Support	1998	1999
'Amber box' measures		
Budget loans in the form of fuel and fertilisers	1176	1062
Budget loans in the form of feed grain	64.6	19.4
Budget loans in the form of herbicides	-	17
Direct subsidies to meat and milk producers	168	150
Farm debt write-offs	70	41
Tax privileges: Fixed agricultural tax	-	208
VAT	-	651
Farm tax arrears	915	599
State Leasing Fund: Farm debt for machinery supplied	4.1	15
Interest rate subsidy	35	144
Farm debt for machinery supplied with state sovereign guarantees	90	162
Production and social development payments	427	789
Other subsidies	190	793
Current AMS including unpaid farm debts to the state	3140	4650
'Green box' measures		
State Capital Investments	106	70
Research and Development Financing	2	2
Payments to Increase Social Guarantees of Population	42	35
Payments from Chernobyl Fund	37	41
Total 'Green box' measures	187	148
Total domestic support	3327	4798

Source: own calculations (see text for discussion).

On the base of the TACIS-UEPLAC statistical data, we make a rough calculation of agricultural GDP on CAEs in Ukraine. Agricultural gross output in 1998 (1999) was 32.8 (37.2) bln. UAH (in current prices), of which 13.7 (14.9) bln. UAH or 42 (40)% are attributed to the CAEs. In 1998 (1999) CAEs used variable inputs worth 11.7 (12.2) bln. UAH or 61 (60)% of total production costs.[37] Therefore, the estimated agricultural GDP of the CAEs is 1,988 mln. UAH in 1998 (2713 mln. UAH in 1999). Table 5 summarises the resulting domestic support ratios. We see that domestic support for farms is substantial and that the use of the different agricultural GDP ratios (total *versus* CAEs) significantly influences the estimates of total domestic support and AMS levels.

Table 5
Total AMS and Agricultural GDP in Ukraine

	GDP of Collective Agricultural Enterprises		**Total Agricultural GDP**	
	1998	**1999**	**1998**	**1999**
Total domestic support to ag. GDP, in %	167.3	176.9	26.7	31.5
Current AMS to agricultural GDP, in %	157.9	171.4	25.2	30.5
Green box to total domestic support, in %	5.6	3.1	5.6	3.1
Green box policies to ag. GDP, in %	9.4	5.5	1.5	1.0

Source: Own calculations (see text for discussion).

All of the non-green box policies discussed above would be subject to reduction commitments if Ukraine became a WTO member. Ukraine should

[37] See Annual Accounting Reports of Farms in the Public Sector (Structure of the Production Costs): 1998 and 1999, Min. AIC of Ukraine.

adjust its domestic support to meet WTO requirements, not only in the interest of becoming a WTO member, but also to increase the efficiency of its agricultural policy. By providing large subsidies, the Government had hoped to support Ukrainian agriculture. However, the results of this policy have been quite the opposite: production has plummeted and in 1998, 93% (in 1999, 85%) of the CAEs (that is, the main beneficiaries of the spending summarised in Tables 4 and 5) were technically bankrupt. At the same time, Tables 4 and 5 underline that very little has been invested in agricultural education and research, rural infrastructure development and other rural services – the most important sources of medium and long term agricultural growth and competitiveness.

4.4 Sanitary and phytosanitary measures

Sanitary and phytosanitary measures are regulated by the Uruguay Agreement on SPS. In Ukraine these measures are regulated by the Law of Ukraine “On State Regulation of Import of Agricultural Products” and the Law of Ukraine “On Quality and Security of Food and Agricultural Products” from January 23, 1997 No. 771/97. Importers have to provide quarantine[38] and veterinary[39] certificates and pass through ecological controls.[40] Traders and investors often state that Ukraine applies a range of measures which are not based on science or supported by risk assessment, and which differ substantially from international standards (U.S. Department of state, 1999). The certification and approval process is lengthy, duplicative, and expensive. At the same time, related regulations that do conform to international standards are missing. Specifically, foreign firms allege that Ukrainian regulation and enforcement of measures to protect intellectual property is lax. In the plant protection industry, for example, it is amply documented that Ukrainian firms copy Western products in breach of patent restrictions.

Ukraine has not signed agreements with any of the three international organisations which are identified in the WTO Sanitary and Phytosanitary Agreement: the International Plant Protection Convention – FAO; the Codex Alimentarius – a joint FAO and WHO Commission; and the Office International des Epizooties – independent organisation. Therefore, Ukraine has not yet taken the right steps to move to more transparent and scientifically based certification processes that are harmonised and conform to international standards. The tendency to use technical barriers to provide continued domestic support is obvious.

4.5 Special issues for transition economies which have to be addressed for accession to the WTO

In addition to the general WTO requirements, transition countries such as Ukraine are required to make fundamental economic and institutional re-

38 See Law of Ukraine “On Crop Quarantine” No. 3348-XII from June 30, 1993.

39 See Law of Ukraine “On Veterinary Medicine” No. 2498-XII from June 25, 1992.

40 See Cabinet of Ministers of Ukraine’s Resolution „On Ecological Control in the Customs“ No. 198 from March 20, 1995.

forms to join the WTO. WTO members want to ensure that Ukraine will be able to fulfil its commitments and liberalise its domestic and trade policy. Indeed, WTO members have been placing greater demands on acceding countries than are placed on existing members (Michalopoulos, 1998):

First, there is a general concern on the part of WTO members that the laws and regulations of the acceding country are in conformity with WTO provisions. A second concern is the degree of privatisation of the economy. The Ukrainian Government states that almost all collective and state farms are privatised and have been transformed into private agricultural enterprises. This may convince public opinion in Ukraine, but it is not enough to convince trading partners – they require 'real' farm privatisation including, for example, guarantees that local authorities will not interfere in farms' production and marketing decisions. The degree of privatisation of the major state input suppliers is also very low.

A third, related, concern is the extent to which Government agencies involved in the regulation of economic activity do so on the basis of transparent rules and criteria as opposed to administrative discretion (Michalopoulos, 1998). The Ukrainian Government continues to use agricultural policy instruments which can hardly be considered as transparent, predictable or non-administrative. For example, although the law of Ukraine "On State Regulation of Import of Agricultural Products" (Article 5) stipulates that "...local governments are forbidden to ban the movement of goods among Rayons and Oblasts, to prescribe to farms concrete food processors and purchasers of agricultural products, as well as to set minimum farm gate and wholesale prices", embargoes on free movement of goods among Oblasts, food margin controls (especially for bread), export and import restrictions, and minimum price for staple food have been widely implemented.

Finally, WTO members are concerned about governance and the capacity of national agencies to actually implement policies necessary changes. Executive and legislative authority is widely distributed in Ukraine. Many authorities and agencies have the right to issue decrees, resolutions, rules, and instructions. Moreover, many agencies are at present free to make independent judgements on how to target production and social assistance programs. The current diffusion of authority weakens the system of governance in Ukraine by placing a heavy burden of co-ordination on a relatively weak civil service (Sundakov, 1996). The commitments made by national authorities in the context of WTO accession negotiations will have to be implemented thoroughly, but it is not clear that all local authorities will be willing or able to co-operate accordingly.

4.6 Ukrainian preparations for Millennium Round negotiations

It is not easy to predict the decisions and new rules that will prevail from the Millennium Round of WTO negotiations, but it is clear that if Ukraine really wants to join the WTO, its agricultural and trade policy will have to be changed dramatically.

As can be seen from the analysis above, Ukraine does not meet most WTO requirements. Import regulations are prohibitive, non-transparent and nonpredictable. The export regime discriminates against private market agents and subjects them to long administration procedures. Domestic support is based completely on “amber” box policies that are subject to reduction commitments. Sanitary and phytosanitary measure regulations are not transparent, complex and do not harmonise with international standards.

In recent months, some important progress has been made. For example, in 2000 the Ukrainian Government claimed that input supply to farms would be the prerogative of private firms and not of the state. Nevertheless, several state programmes and budget support are still available. In December 1999 the Government announced that it would supply 2 mln. t of petroleum to farms at 115 USD/t.[41] Later it announced that the fuel would be sold *via* auctions at market prices.[42] Farms could purchase this fuel by taking credits from commercial banks and the Government would reimburse 50% of the NBU discount rate applicable on the date that the loan agreement was signed. In March 2000, the Government earmarked 85 mln. UAH for these interest rates subsidies (250 mln. UAH is foreseen in the budget). In this case, (1) any difference between the market and the program price of the fuel in question and (2) the interest rate compensation would be included in the AMS calculations.

In addition, 300,000 t of fertilisers were to be supplied to farms as a commodity credit for 9 months at a rate of one ton of fertiliser for one ton of wheat, or UAH 380 per ton.[43] The state was to deliver subsidised gas and electricity to the fertiliser plants to reduce the cost of fertiliser for this state program. Under the WTO rules, Ukraine’s AMS would include (1) any difference between market and program fertiliser prices, and (2) the difference between market and program interest rates. As mentioned above, any credits that are not repaid this year could be considered outright subsidies, on the assumption that they will be written off eventually.

Farms will continue to receive meat and milk subsidies in the form of VAT exemptions and the reimbursement of VAT from processing plants. In addition, farms remain exempted from 30% of the fixed agricultural tax. Although the Government has indicated that it aims to cancel these tax breaks, Parliament has not agreed to these steps. Moreover, the Government also plans to provide 13 mln. UAH for breeding work in the crop and livestock sectors.[44]

Positive signs are the Government’s efforts to abolish export taxes for oilseeds, live cattle and raw leather. The cancellation of indicative and recommended prices would also make an important contribution to trade liberalisation. In the area of exports, it should be emphasised that the next WTO negotiations will probably consider production quotas and either take them under stricter control or even prohibit their use. Thus, the sugar quota in Ukraine may have to be reconsidered.

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41 The procedure of fuel supply to farms is determined in CM Resolution No. 2307 dated December 17, 1999.

42 According to Business (No. 12, March 25, 2000), farmers will save around 1 bUAH due to fuel price differences.

43 See The Week in Ukrainian Agriculture: Central and Regional Economies and Legislative News and Commentary, No. 7, February 14-20, 2000.

44 See UNIAIN AGRO-DAY, No. 109, March 24, 2000.

5 Policy recommendations

To be fully integrated into the world trade system and gain from exploiting its comparative advantage, membership in the World Trade Organisation (WTO) is essential for Ukraine. The advantages of WTO membership would outweigh the disadvantages. WTO membership would strengthen domestic policies and institutions, improve market access for Ukrainian exports, and helps to resolve disputes with trading partners. Therefore, all of the Ukrainian Government's agricultural policy decisions must take WTO rules and requirements into consideration.

1. In the area of *market access*, the following points are important:

- The Law on State Regulation of Agricultural Imports does not meet WTO requirements. It does not encourage free trade and does not provide for transparent regulation of imports. Import quotas for livestock products should be based on domestic consumption, not production. Seasonal duties should be eliminated or reduced.
- Non-tariff barriers are the most important impediments to free trade in Ukraine. Certification and standardisation procedures should be made more transparent.
- Import protection reduces economic growth. Consumers have to pay more for food and consume less than in the case of free trade. Import protection causes real exchange rate appreciation, thus making all of Ukraine's exports less competitive on world markets. Ukraine will be pressed by WTO members to decrease its import protection, but it should take these steps of its own accord as soon as possible.

2. Ukraine meets WTO requirements in the area of *export subsidies*, in the sense that it simply does not use them. But Ukraine's export policy is nevertheless a matter of concern. Export taxes on oilseeds and livestock, as well as effective export bans for grain reduce agricultural growth. Moreover, they signal that Ukraine has not yet liberalised its foreign trade.

3. In the area of *domestic support*, Ukraine has a number of the immediate tasks which must be fulfilled for successful WTO accession:

- Ukraine has a very high level of the collective farm support. Total domestic support in 1998 (1999) amounted to 167 (177)% of the agricultural GDP of the CAEs. This level is one of the highest in the world, but Ukrainian farms remain unprofitable and inefficient. It is a crucial task for the Ukrainian Government to reduce and redesign its domestic support.
- The share of "green box" measures is very small in Ukraine, amounting to only 5.6 (3.1)% of the total domestic support in 1998 (1999). While much has been spent to support input suppliers and bankrupt farms, almost nothing has been spent on the foundations of future competitiveness such as rural infrastructure and human capital. Technological progress is the main source of the agricultural growth (Mundlak, 1989; Lele and Mellor, 1989). But new technologies cannot be adopted in the absence of far-reaching changes in infrastructure, human capital, and rural institutions.

- Agricultural policy making (both the process and the results) in Ukraine should become more transparent. Public information about farm subsidies and other support measures, as well as regular calculations of protection measures such as protection rates and the AMS would speed Ukraine's WTO accession.

4. In the area of *sanitary and phytosanitary measures*, Ukraine has not signed agreements with any of the three international organisations which are identified in the WTO Sanitary and Phytosanitary Agreement. To enter the WTO, Ukraine will have to adjust its sanitary and phytosanitary legislation to the international standards and join the above-mentioned organisations.

5. As Ukraine is a country with relatively high rates of inflation, it would be well-advised to bind any WTO commitments in US dollars rather than Hryvnia. The Polish example provides a precedent that could be used to convince the WTO Working Party.

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