

The Law of Ukraine

ON FOREIGN ECONOMIC ACTIVITY

Chapter I. GENERAL PROVISIONS

Article 1. Determination of terms

In this Law the following terms shall be use Ukraine as of M

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.182-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.692, 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:

Business activity is any activity, including production and exchange of material values and nonmaterial benefits standing as commodities;

Dumping is import of commodities to the custom 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 22, 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) 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

x currency in cash, currency (banknotes, state treasury notes, coins) in circulation, which are lawful

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

Article 2. Principles of foreign economic activity
Economic entities of Ukraine and foreign eco-

x export and import of commodities, capitals and labor;

x 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;

x scientific, technical, scientific and productive, manufacturing, educational co-operation with foreign economic entities; education and training of specialists on commercial basis;

x international financial transactions and transactions with securities in cases provided for by laws of Ukraine;

x 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;

x 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;

x 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;

x 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;

x barter transactions and other activity, based on forms of countertrade between economic entities engaged in foreign economic activity and foreign economic entities;

x lease operations between economic entities engaged in foreign economic activity and foreign economic entities;

x operations on purchase, sell and exchange of currency at currency auctions, currency exchanges and at the interbank currency market;

x 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;

x 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.

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:

- x to provide balance of the economy and equilibrium of the market of Ukraine;

- x to encourage progressive structural changes in the economy, including foreign economic relations of the economic entities of Ukraine engaged in foreign economic activity;

- x 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:

- x Ukraine as a state represented by its organs within their powers;

- x 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;

- x 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:

- x laws of Ukraine;

- x acts of tariff and non-tariff regulation (financial and currency, credit and other regulation) within laws of Ukraine;

- x decrees of non-governmental organs of economy administration made under their constituent documents within laws of Ukraine;

- x 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:

- x 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;

- x 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;

- x 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 ter-

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

x 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.

x 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:

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

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

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

x 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;

x 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)

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

x 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:

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

x coordinate the activity of ministries, state committees and departments of Ukraine on regulation of foreign economic activity; coordinate the work

x provide the pursuit of a single foreign economic policy when economic entities engaged in

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:

x export of which exceeds import (net-exporters) for a financial year;

x volume of export of which comprises not less than 5 per cent of the total volume of the commodities sold for the financial year;

x 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:

x norms of accelerated amortization of basic production assets used to produce export commodities;

x concessionary norms of amortisation of basic production assets, set up by investments and used to produce export commodities;

x 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 aforeign966.9(c)lf peo6le's

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:

x 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;

x 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

and sale of such products, including quantitative, is

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, and acts in accordance with them.

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

An organ that is a disposer of the State Monetary

x 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