

## **6. CUSTOMS REGULATIONS**

### **6.1 General**

The general principles of customs procedures in Ukraine are defined, and the movement of goods across the customs border of Ukraine as well as the procedures for customs clearance, control and other related issues are regulated by, the *Customs Code of Ukraine* (the *Customs Code*), dated 11 July 2002. In addition to the *Customs Code*, the applicable Ukrainian legislation on customs also includes the *Law of Ukraine “On Customs Tariffs of Ukraine”*, dated 5 April 2001, the *Law of Ukraine “On the Unified Customs Tariff”*, dated 5 February 1992, and other relevant acts.

### **6.2 Customs Regimes**

The *Customs Code* provides that goods may be moved across the customs borders of Ukraine for the purposes of: import and export; re-import and re-export; transit through the territory of Ukraine; temporary import into the territory of Ukraine or temporary export out of the territory of Ukraine; customs warehouse; special customs zone; customs-free trade store; processing of the goods on the customs territory of Ukraine; processing of the goods outside the customs territory of Ukraine; destruction of the goods; and abandonment of the goods for the benefit of the state.

Goods moved across the customs borders of Ukraine must be supported by proper documentation and require declaring by either an importer/exporter of the goods or a licensed customs broker to the relevant customs authorities.

#### **6.2.1 Import/Export**

The *Customs Code* establishes two separate regimes, import and export.

The *Customs Code* defines the import regime as permitting goods and other products to move across the customs border of Ukraine upon their compliance with the following formalities: payment of customs duties, VAT, excise tax and customs fees (if applicable); submission of appropriate documents for the import/export of such goods; and observance of tariff and non-tariff requirements and other relevant restrictions in accordance with the applicable Ukrainian legislation. All goods imported under the auspices of the import regime may be used without any limitations on the territory of Ukraine.

## 6.2.2 Re-import/Re-export

The *Customs Code* provides that re-import and re-export are new customs regimes, whereby goods originating from Ukraine or a foreign country, which are taken out of or into the customs area of Ukraine for a period established under the applicable Ukrainian legislation, are exempt from numerous requirements which are otherwise applicable to the export and import regimes.

## 6.2.3 Transit Regime

Goods and other products may be moved across the territory of Ukraine under the transit regime, provided that all of the applicable customs fees are paid and the appropriate documents are submitted to the customs authorities. The *Customs Code* provides that the following additional mandatory conditions must be satisfied for the purposes of goods in transit:

- products (goods) under the transit regime must not be utilized on the territory of Ukraine for any purpose whatsoever;
- in certain cases, a special permit may be required to move products (goods) under the transit regime, and/or such products (goods) may be required to be moved only by a specific route; and
- products (goods) under the transit regime must be delivered to the ultimate customs within a certain pre-defined period of time.

## 6.2.4 Temporary Import/Export Regime

Under the *Customs Code*, goods that are imported to or exported from Ukraine on a temporary basis are exempt from import/export duties, provided that such goods are imported/exported for a period that does not exceed one year, and that they are exported/imported back prior to the expiration of the term of the temporary import/export in the same condition in which they were imported/exported (*e.g.*, without having been in any way processed or reconstructed) except for natural wear and tear. The maximum one-year term may be extended in certain cases by a written application of the person concerned.

### 6.2.5 Customs Warehouse

Under the customs warehouse regime, products (goods) may be stored under customs control for a specific period of time prior to their subsequent import or export without paying any import taxes and charges, providing that they comply with the relevant non-tariff measures or other restrictions.

### 6.2.6 Special Customs Zone

The special customs zone regime applies to products which are imported to or exported from the special economic zones throughout the territory of Ukraine. Under this regime, no tariff or non-tariff measures should apply unless otherwise stipulated by law.

### 6.2.7 Customs-Free Trade Store

Under the customs free trade store regime, goods and their supplements that are not intended for consumption on the customs territory of Ukraine are permitted to be sold without the payment of any import taxes or customs duties or the application of any tariff or non-tariff measures, provided that such goods are sold within special areas under customs control, such as points of admission on the customs border of Ukraine intended for international connections, and other relevant areas.

### 6.2.8 Processing on the Customs Territory of Ukraine

Under the regime of processing on the customs territory of Ukraine, goods originating from other countries may be processed on the territory of Ukraine without the application of any tariff or non-tariff measures to such goods, provided that such goods will be exported outside the customs territory of Ukraine.

### 6.2.9 Processing Outside the Customs Territory of Ukraine

Under the regime of processing outside the customs territory of Ukraine, goods which are not subject to any restrictions for circulation within Ukraine may be taken out of Ukraine without the application of any tariff or non-tariff measures to such goods, provided that such goods will be imported back into Ukraine.

### 6.2.10 Destruction

Destruction is the customs regime whereby goods brought into the customs territory of Ukraine are subject to the destruction under customs control, or must be abandoned in favor of the state, without the payment of any import taxes or the application of any tariff or non-tariff measures.

### 6.2.11 Abandonment of Goods for the Benefit of the State

Under the regime of abandonment of goods for the benefit of the state, the owner of the goods may abandon the goods in favor of the state without the payment of any import taxes or the application of any tariff or non-tariff measures. The owner cannot receive any benefit from such abandonment.

## 6.3 Customs Duties

Ukrainian customs legislation establishes three levels of rates for the payment of customs duties in respect of imported products.

A preferential rate of customs duties (as well as an exemption from the payment thereof) is applied to: products originating from countries with which Ukraine has entered into a customs union; products originating from countries with which Ukraine has created special customs zones; or upon the establishment of a special “preferential” customs regime pursuant to an international agreement of Ukraine.

Reduced rates of customs duties are applied to goods originating from countries and economic unions which have been granted most-favored nation treatment in Ukraine.

Customs duties are payable in full in respect of all other goods and products not covered in the two categories described above.

Export duties are levied only with respect to certain limited categories of products (*e.g.*, livestock, raw hides *etc.*).

## **6.4 VAT and Excise Taxes**

Please refer to Sections 4.6 and 4.10 above for a discussion of VAT and excise taxes payable in Ukraine. Currently no VAT is charged on goods exported outside Ukraine (*i.e.*, the rate is 0%).

## **6.5 Customs Fees**

In addition to customs duties, customs fees for carrying out the customs clearance of goods are currently levied on all goods, the value of which exceeds US\$100.

A customs fee of US\$5 is levied on goods valued between US\$100 and US\$1,000; for goods valued over US\$1,000 customs fees are levied at the rate of 0.2% of the customs value of such goods, but not more than US\$1,000.

## **6.6 Export Regulations**

Goods exported outside the territory of Ukraine may be subject to: licensing and quotas; export taxes (export duties, customs fees, export VAT); pricing restrictions; and/or contract registrations.

# **7. PROPERTY RIGHTS**

## **7.1 General**

In contrast to the former system of state and collective ownership of property of the Soviet era, the *Civil Code of Ukraine*, dated 16 January 2003, specifically recognized and honored private ownership and listed individuals and legal entities to own property in Ukraine.

Under Article 26 of the *Constitution*, foreign citizens enjoy the same rights and freedoms and bear the same responsibilities as Ukrainian citizens, including property rights. According to the *Civil Code of Ukraine*, foreign citizens and legal entities are entitled to own property in Ukraine, unless otherwise provided for in the international treaties of Ukraine or other Ukrainian laws. The Ukrainian courts ensure protection of property rights in accordance with the applicable Ukrainian laws.