



**NOTIFICATION UNDER PARAGRAPH 9 OF THE UNDERSTANDING
ON THE BALANCE-OF-PAYMENTS PROVISIONS OF THE
GENERAL AGREEMENT ON TARIFFS AND TRADE 1994**

COMMUNICATION FROM UKRAINE

The following communication, dated 20 January 2015, is being circulated at the request of the Delegation of Ukraine.

On the basis of Paragraph 9 of the Understanding on the Balance-of-Payments Provisions of GATT 1994 Ukraine hereby notifies introduction of import measures taken for the balance-of-payments purposes.

Temporary import surcharge is being introduced because of serious deterioration of the balance of payments of Ukraine, a significant reduction of its monetary reserves. In view of this critical situation Ukraine adopted a WTO-consistent price-based temporary measure on an MNF basis.

The objective of this measure is to address quickly the negative balance of payments of Ukraine, a significant reduction of monetary reserves of the National Bank and to restore equilibrium of the balance of payments.

In 2014 balance of payments of Ukraine was affected by a combination of extremely adverse factors such as increased barriers to Ukrainian export to traditional markets, unfavourable market prices for major export goods, anti-terrorist operation in eastern Ukraine and annexation of Crimea, dramatic devaluation of the national currency, destabilization of the banking system and outflow of investments.

Following 11 months of 2014 the balance of payments has been formed as negative at more than US\$11,046 million (while it was positive at US\$416 million during the same period of 2013). The negative result has been formed by two main aggregated items of balance of payments: current account deficit (US\$4,486 million) and account of capital and financial transactions (US\$6,560 million). As of 09.01.2015 the international reserves amounted to US\$ 7.34 billion which provided funding of future imports for 1.4 months (against US\$20.4 billion at the beginning of 2014, or 2.4 months of future imports).

The legal basis for the measure is the Law of Ukraine "On measures concerning stabilization of the balance of payments of Ukraine in compliance with Article XII of the General Agreement on Tariffs and Trade 1994" of 28 December 2014 No. 73-VIII (attached) and the Law of Ukraine "On Amending the Customs Code of Ukraine (concerning stabilization of the balance of payments)" of 28 December 2014 No. 74-VIII (attached).

Pursuant to these Laws, Ukraine introduces temporary import surcharge of 5% and 10% to the customs value of goods imported into the customs territory of Ukraine as follows:

10% for goods classified in groups 1-24 in the UKTZED (UKTZED- Ukrainian Classification of Goods for Foreign Economic Activity, based on HS2012);

5 % for goods classified in groups 25-97 in the UKTZED;

10 % for goods that are charged with import duty in accordance with Article 374 of the Customs Code of Ukraine (Terms of import (transfer) by nationals (citizens or private persons) of goods into the customs territory of Ukraine).

Import surcharge is levied on goods imported to the customs territory of Ukraine regardless of country of origin, except for essential goods, as follows:

oil classified in subheading 2709 00 90 00 of the UKTZED;

natural gas classified in subheadings 2711 11 00 00, 2711 21 00 00 of the UKTZED;

non-irradiated fuel elements (FE), classified in subheading 8401 30 00 00 of the UKTZED;

electrical energy, classified in subheading 2716 00 00 00 of the UKTZED;

coal classified in subheadings 2701 11 00 00, 2701 12 10 00, 2701 12 90 00, 2701 19 00 00, 2704 00 19 00, 2704 00 30 00, 2708 20 00 00, 2713 11 00 00, 2713 12 00 00 of the UKTZED;

gasoline, mazout (residual fuel oil) and diesel fuel classified in subheading 2710 of the UKTZED, except subheadings 2710 91 00 00 and 2710 99 00 00;

goods listed in paragraphs 2-7, 9, 10, 12, 13, 15, 18-20 of the first part of Article 282 (*exemption of duty*), first and fourth parts of Article 287 (*duties on certain products*), and subparagraph 11 of paragraph 4, paragraph 4 of Chapter XXI of the Customs Code of Ukraine (*temporary exemption from import duty of the goods under the customs regime of import*);

medical devices for hemodialysis and treatment of cancer patients according to the list established by the Cabinet of Ministers of Ukraine;

goods granted free of charge to Ukraine by other countries' governments or international organizations under the international (governmental) agreements ratified by the Verkhovna Rada of Ukraine.

The temporary import surcharge will be effected from the date of publication of the Decision of the Cabinet of Ministers of Ukraine on completion of consultations with international financial institutions.

Ukraine is ready to enter into consultations at the WTO Committee on Balance-of-Payments Restrictions under Article XII of the GATT 1994 and all applicable provisions and procedures.

ANNEX 1

LAW OF UKRAINE

**On measures concerning stabilization of the balance of payments of Ukraine
in compliance with Article XII of the General Agreement on Tariffs and Trade 1994**

Verkhovna Rada of Ukraine decides:

Article 1. Imposition of import surcharge

Temporarily for the period of 12 months to impose import surcharge in compliance with Article XII of the General Agreement on Tariffs and Trade 1994 and Understanding on the Balance-of-Payments Provisions of the GATT 1994.

Import surcharge is levied on goods imported to the customs territory of Ukraine according to the import customs regime regardless of country of origin and signed agreements (treaties) of Ukraine on free trade.

Article 2. Objects for levying

Objects for levying of import surcharge are goods defined in the first and second parts of Article 277 of the Customs Code of Ukraine except essential products in accordance with Article 5 of this Law.

Article 3. Basis for levying of import surcharge

1. The basis for levying of import surcharge is the customs value of goods imported to the customs territory of Ukraine, determined in accordance with provisions of the Customs Code of Ukraine.

Article 4. Rates of the import surcharge

The rates of the import surcharge are as follows:

10 % for goods classified in groups 1-24 of the Ukrainian Classification of Goods for Foreign Economic Activity (the UKTZED);

5 % for goods classified in groups 25-97 of the UKTZED;

10 % for goods that are levied with import duties in accordance with Article 374 of the Customs Code of Ukraine.

Article 5. Essential goods

Essential goods are:

- oil classified in subheading 2709 00 90 00 of the UKTZED;
- natural gas classified in subheading 2711 11 00 00, 2711 21 00 00 of the UKTZED;
- non-irradiated fuel elements (FE), classified in subheading 8401 30 00 00 of the UKTZED;
- electrical energy, classified in subheading 2716 00 00 00 of the UKTZED;
- coal classified in subheadings 2701 11 00 00, 2701 12 10 00, 2701 19 00 00, 2701 12 90 00, 2704 00 19 00, 2704 00 30 00, 2708 20 00 00, 2713 11 00 00, 2713 12 00 00 of the UKTZED;

- gasoline, mazout (residual fuel oil) and diesel fuel classified in subheading 2710 of the UKTZED, except subheadings 2710 91 00 00 and 2710 99 00 00;
- goods listed in paragraphs 2-7, 9, 10, 12, 13, 15, 18—20 of the first part of the Article 282, first and forth parts of the Article 287, subparagraph 11 of paragraph 4, paragraph 4 of the Chapter XXI of the Customs Code of Ukraine;
- medical devices for hemodialysis and treatment of cancer patients according to the list established by the Cabinet of Ministers of Ukraine:
- goods granted free of charge to Ukraine by other countries governments or international organizations under the international (governmental) agreements ratified by the Verkhovna Rada of Ukraine.

Article 6. This Law shall enter into force upon publication of the Decision of the Cabinet of Ministers of Ukraine on completion of consultations with international financial institutions

President of Ukraine

P. POROSHENKO

Kyiv
28 December 2014
No.73-VIII

ANNEX 2

LAW OF UKRAINE

**On amending the Customs Code of Ukraine
(concerning stabilization of the balance of payments)**

Verkhovna Rada of Ukraine decides:

I. To amend the Customs Code of Ukraine (Vidomosty (Gazette) of the Verkhovna Rada of Ukraine, 2012, No. 44—48, p. 552) as follows:

in the third part of Article 48 to replace words "countervailing or special" by words "countervailing, special or import surcharge";

to supplement first part of Article 270 with the words "particular law on imposition of import surcharge";

to supplement item 4 of the second part of Article 271 with the words "import surcharge";

in Article 275:

To supplement the first part with paragraph 4 as follows:

"4) import surcharge";

to exclude the second part;

to supplement first paragraph of the third part with the words "in accordance with Law of Ukraine "On application of special measures on import to Ukraine";

to supplement the article by part six as follows:

"6. Import surcharge is imposed by the law in compliance with Article XII of the General Agreement on Tariffs and Trade 1994 and Understanding on the Balance-of-Payments Provisions of the GATT 1994 in case of serious reduction of the balance of payments or decline of monetary reserves or reaching their minimum, in order to ensure equilibrium in the balance of payments and the increasing of monetary reserves";

in Article 282:

in second subparagraph of paragraph 19 of the first part to exclude the word "import";

to add the article after the first part by a new part as follows:

"2. Goods listed in items 6, 10, 19 of the first part of Article 282, in the first and the fourth parts of Article 287 of the Customs Code of Ukraine are exempt from charging with special types of duties".

In this end, the second and third parts should be accordingly considered as third and fourth parts;

paragraph 1 of the first part of Article 283 after the words "import duty" to be supplemented by words "import surcharge";

in the first part of Article 288 to replace words "Special duty, antidumping duty and countervailing duty" by words "Special types of duty";

in subparagraph 4 of paragraph 4 of Chapter XXI "Final and Transitional Provisions" the words and numbers "until 1 January 2015" should be replaced by the wording "until 1 January 2018".

II. This Law shall enter into force upon publication of the Decision of the Cabinet of Ministers of Ukraine on completion of consultations with international financial institutions

President of Ukraine

P. POROSHENKO

Kyiv
28 December 2014
No.74-VIII
