

## RECOMMENDATIONS

### **of the Interagency Working Group on trade facilitation and logistics in Ukraine following the results of the joint seminar with the United Nations Economic Commission for Europe (UNECE) on Ukraine's readiness to implement the WTO Trade Facilitation Agreement**

*(Kiev, 28 April 2015)*

The Interagency Working Group on trade facilitation and logistics in Ukraine (hereinafter IWG), in collaboration with the United Nations Economic Commission for Europe (UNECE), continuing its efforts to establish a national trade facilitation body in compliance with UNECE recommendation No. 4;

maintaining its work on developing a national strategic plan on trade facilitation and logistics in Ukraine,

examined the findings of the study on the level of readiness of Ukraine to implement the WTO Trade Facilitation Agreement, TFA (Bali, 2013), carried out by independent experts, under the guidance and using the methodology of UNECE and UNCTAD, under the auspices of the IWG, and with the support of the Ukrainian National Committee of the International Chamber of Commerce (ICC Ukraine), in its function as the secretariat of the IWG.

#### I. The analysis of the findings of the study demonstrated the following:

It did not confirm the readiness of Ukraine to implement the Agreement in its entirety. Only with reference to a limited number of measures contained in the Agreement (such as art.6, para 6.2; art.9; and art.10, paras 10.5, 10.6, and 10.9) the country is ready. On certain measures (e.g. art.1, paras 1.1 and 1.2; as well as art.7, paras 7.1, 7.7, and 7.9), which have been notified as measures of category A (i.e. measures that should be implemented prior to the entry into force of the WTO Agreement), the results of the study did not reveal unequivocal confirmation of the country's readiness for their implementation.

Nevertheless, this report, once finalized, may become a useful source for the Ukrainian Government in: the analysis of the current state of affairs in trade procedures; the improvement of its domestic and international policies in these areas, and the procedure of notification to the WTO Secretariat on the level of readiness of the country to implement the measures in the WTO TFA.

The government agencies regulating foreign trade in Ukraine do not have clear understanding of the importance of trade facilitation nor a vision of their role in this area. Moreover, there is no body in Ukraine that clearly undertakes a coordinating role in trade facilitation in the country.

In this regard, the work of the IWG on consolidating a national trade facilitation body in Ukraine acquires a particularly importance, with the clear objective of developing and implementing a national strategic plan and programmes on trade facilitation and logistics in Ukraine.

#### II. The development and contents of the discussions at the seminar allowed for the following conclusions:

It is very important to understand that aligning foreign trade procedures and practices in Ukraine to the provisions of the WTO Agreement will increase the attractiveness of Ukraine to international investors. This will result in attracting new technologies and will encourage modernization and economic development. The lack of trade facilitation would have negative consequences for the image and economy of the country.

The IWG platform, as a focal point for the collection and dissemination of information on trade facilitation and logistics in Ukraine, was successfully utilized for ensuring transparency and

sustainable application of the findings of the study. It will be appropriate that the finalization of the report and the monitoring of the implementation of its recommendations will also be carried out under the auspices of the IWG.

The relevant regulatory agencies should intensify their efforts to assess the real level of readiness to implement the measures referred to in the WTO Agreement, but also to identify existing obstacles, and determine the needs and priorities of the country.

A priority for Ukraine should become those measures, which were defined in its notification to the WTO secretariat on 1 August 2015 as "category A" (measures to be implemented prior to the entry into force of the WTO Agreement), but which received different assessment by the survey respondents with regard to the readiness of the country to implement them (in particular, these are the measures in art.1, paras 1.1 and 1.2, as well as art.7, paras 7.1, 7.7 and 7.9 of the Agreement)

All regulatory bodies are expected to contribute to the finalization and subsequent monitoring of the readiness report; to help in the classifications of the readiness to implement the measures in the WTO Agreement, to be defined as "category B" (measures that the country will implement itself, but it will need more time) and "category C" (measures, which will need more time and additional external resources); and to develop plans for the implementation of these measures, including time frames and budgets for work on their implementation.

III. The Ukrainian business community, expressing a strong interest in the implementation of trade facilitation, actively supported the study and the drafting of the report.

For the implementation of the measures and activities identified in the readiness study, carried out under the auspices of UNECE, taking into account the views expressed by the participants in the seminar on 28 April 2015, the IWG recommends:

- to the public authorities regulating international trade in Ukraine to take note of the information on the level of readiness of Ukraine to implement the measures of the WTO agreement;
- to the Ministry of Economic Development and Trade to take the lead, working closely with the IWG, notably in guiding the analysis and amendment of legislation, in order to align it with the requirements regarding all the measures in the WTO Agreement;
- to draw the attention of legislators to the need to accelerate the procedure for ratification of the WTO Trade Facilitation Agreement;
- to UNECE to continue its work with international and national experts to finalize the readiness report using further analysis of the proposals and comments made at the seminar and elsewhere. It will be useful to undertake a more in-depth survey of the public and private sectors, as the business community is most interested in implementing trade facilitation;
- to initiate the development of a mechanism for further periodic monitoring of the status of implementation of the WTO Trade Facilitation Agreement as reflected in the readiness report;
- to identify a coordinating centre among the government agencies to work on the completion of the study and on the preparation of the relevant notification to the WTO.
- to use the results of the survey to improve trade facilitation and logistics in Ukraine, in the preparation of the Ukrainian notification in accordance with the procedures of the WTO, and in the development of a national strategic plan and programs on trade facilitation and logistics.
- to request the IWG participants to elaborate further the national strategic plan and programs on trade facilitation and logistics in cooperation with the business community,

as well as with trade regulatory authorities, which will be responsible for the implementation of this plan and programmes;

- to Ministries and other government agencies to link the recommended measures on the facilitation of international trade and logistics to the deregulation process in Ukraine.
- to heads of ministries and other governmental regulatory bodies to appoint persons responsible for the implementation of each measure in the WTO Agreement, which falls within the sphere of competence of their agencies.
- to instruct the competent authorities of Ukraine to conduct checks at seaports to prevent undue delays in the implementation of Decree 451 of the Cabinet of Ministers of Ukraine from 21.05.2012, Order 348 of the Ministry of Infrastructure of Ukraine from 5.06.2013 and other legislative acts regarding electronic document exchange and the implementation of a unified information systems of port community systems, as defined in UNECE's Recommendations 33, 34 and 35.
- to amend para. 40 of the regulations of the Cabinet of Ministers of Ukraine, adopted by decree no. 950 from 18.07.2007, in order to abolish the requirement to re-endorse previously agreed bills of the Cabinet of Ministers of Ukraine, in the case of change of the head of the agency that has prepared or negotiated such acts;
- To draw the attention of the Government of Ukraine to the non-compliance with the requirements of paragraph 10 of section XXI of the Customs Code of Ukraine with regard to the development of a draft law on the procedure for compensation for damage caused by unlawful decisions, actions or omissions committed by public officials, because such a law is the basis to ensure the transparency and fairness of international trade procedures in Ukraine
- to the heads of ministries and government bodies to take part in the fifth international seminar on trade facilitation "From Local Solutions to National Strategies", organized by UNECE in collaboration with the Government of Ukraine, and scheduled to take place on 2 June 2015 in Odessa, Ukraine;
- to the Government of Ukraine to establish a clear public position on the legal status of electronic documents and digital signatures in international trade;
- to express gratitude to the Ukrainian and international experts, all seminar participants and development partners for their cooperation and support; and
- to express special appreciation to Mr. Christian Friis Bach, UN Under-Secretary-General and Executive Secretary of the UNECE, for his personal participation in the meeting of the IWG and the seminar, as well as the support expressed for the programme on facilitating trade and logistics in Ukraine.