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Ukraine



Ukrainian Cabinet of Ministers has revoked an additional 13% extra charge to the current import duties of Ukraine

The Ukrainian Cabinet of Ministers has revoked an additional 13% extra charge to the import duties of Ukraine. Automobiles and refrigerators are the only goods that will remain subject to an extra charge, according to the Chairman of Businessmen Council under the Cabinet of Ministers Oksana Prodan.

The Prime Minister of Ukraine Yulia Tymoshenko initiated cancellation of the 13% duty increase pointing out that the introduction of this Law will lead to deterioration of the relations with member-countries of the World Trade Organization. Yulia Tymoshenko is convinced that Ukraine has no right to violate WTO rules and to implement such one-sided measures. She is sure that in this case other countries can also implement similar extra charges for goods imported from Ukraine.

Also according to the expert of *Dragon Capital* V.Vavrischuk, the preservation of the 13% extra charge on imported foodstuffs, clothes and household appliances would have lead to an additional annual inflation of 1%; moreover, in his and many other experts opinions illegal imports would have had increased several times as a consequence of the introduction.

In his turn the Vice Minister of Economy Mr. Pyatnitsky informed that even the cancellation of all increases of the current duties on many goods imported to Ukraine will not affect the WTO plans to consider possible violations of the norms and rules of the organization by Ukraine. "A meeting on this issue is likely to be held in May, 2009", - Pyatnitsky added.

According to the Minister of Economy Bogdan Danilishin, the resolution on revoking the 13% import duty increase will come into force 10 days after it is published.

The Law #923-VI "On making changes to some laws of Ukraine with the purpose of improvement of the payment balance of Ukraine in connection with world financial crisis" which implemented the 13% duty increase for some goods imported into the country came into force on March 6, 2009.

Source: Liga.Net News Agency; ProAgro News (news.liga.net; proagro.com.ua)

Translated & edited by: usapeec.kz

Ukraine started an anti-dumping investigation against US and Brazilian poultry imports

On March 5, 2009 Ukraine's Interagency Committee on Foreign Trade has started an anti-dumping investigation into poultry imports from the USA and Brazil. Ukrainian companies claim they have been greatly damaged by the rapid growth of imports from the above countries and insist on the imposition of anti-dumping duties. But the experts expect a lengthy and complicated proceeding.

The Essence of the Claim

The petition for an anti-dumping investigation into poultry imports from the USA and Brazil was filed by Myronivsky Khleboproduct Joint Stock Company (Nasha Ryaba trademark), Ruby Rose Agricole Co. Ltd. Limited Liability Company, (Gavrilovskie Kurchata trademark), and Ptahocombinat Dniprovsky Closed Joint Stock Company (Nikopol trademark), whose combined share of domestic production volume in 2007 was equal to 48.4%.

In the complaint the Ukrainian producers point to sharply rising imports of chicken leg quarters. Moreover, according to the investigation initiators' data, import prices are considerably lower than both domestic prices on the exporting countries' markets and Ukrainian producers' selling prices for a similar product.

The complaint states that Ukrainian products and similar imported products fall under the same standards and have the same field of application and the same consumers. Thus, the Ukrainian products are identical to the imported ones and accordingly constitute a "similar product" as stated in the "Law On Protection of the National Producer Against Dumping Imports".

National producers point out that the domestic Ukrainian market is "the main and practically the only distribution area of the product in question" for them. "That is why the situation in the domestic market is fundamental for the operational, financial, and economic status of the applicants," the claim states.

The Extent of the Damage

In 2008 Ukraine has produced more than 1 million MT of chicken, which is 15% more than in the best years of the Soviet Union, according to Oleksandr Bakumenko, the head of the Ukrainian Poultry Producers Union. Ukrainian producers need foreign outlets for further development, and that is why a large amount of foreign production profoundly interferes with the national producers' plans.

O. Bakumenko says that the import of American and Brazilian chicken leg quarters has caused great damage to the national producer. The producers note that the weighted average profitability of their companies has decreased almost by a factor of 5 in the first half of 2007 compared to the first half of 2005, and in the 2nd half of 2007 reached a negative value.

However, the justifiability of domestic prices nevertheless has raised the Ukrainian government's doubts.

In July, 2008 the Prime Minister, Yulia Tymoshenko, authorized a chicken leg quarter intervention from Goscomrezerv (Ukrainian State Material Reserve Committee) in order to lower the retail price to 13.5 UAH per kilogram. "It is 10 UAH cheaper than today's retail price" said Y. Tymoshenko at that time, adding that the profitability of chicken meat producers "exceeds all reasonable bounds."

At the same time, according to the producers' own data, their profitability has rapidly decreased almost by a factor of 44 in 2007 compared to 2005.

Besides they state that the amount of surplus production in storage has increased by a factor of 44 from the beginning of 2005 to the end of 2007. Thus surplus as a share of aggregate production has increased 2.8 times.

Import Price

According to the Ukrainian producers, the price of chicken leg quarter imports from 2005 to 2007 has been decreasing steadily and totals 24% overall. In 2005 the price of imports from the USA was \$0.62 per kilo (3.2 UAH per kilo), then in 2007 it dropped to \$0.46 per kilo (2.33 UAH per kilo); from Brazil it was \$0.48 per kilo (2.45 UAH per kilo) in 2005 and \$0.46 per kilo (2.33 UAH per kilo) in 2007.

The complaint states that the price policy on imported products has led to a situation where the Ukrainian producers "have had to lower the sale prices on the domestic market to the cost of production, and moreover the price of the imported product was much lower than the sale price of the national producers." So, the average weighted sale price of Ukrainian companies in 2007 compared to 2005 has dropped by 5.25%.

According to the customs statistics given in the document, the volume of chicken leg quarter imports in 2007 compared to 2005 increased by 75% from the USA and by 637% from Brazil, or by 88,672 MT and 10,271 MT respectively.

The total volume of imports from the USA and Brazil in 2005-2007 increased by 90% while imports from other countries have been dropping. As a result, the share of chicken leg quarter imports from those countries in Ukraine's domestic market increased between 2005-2007 from 18.5% to 20.4%.

According to Elizaveta Sviatkivska, an expert from the Ukrainian Agribusiness Club (UAC) Association, in the last two years the importation of poultry to Ukraine was also rather extensive owing to illegal deliveries. "Ukraine's Accession to the WTO allowed importing poultry legally," the UAC expert added.

According to Oleksandr Bakumenko, after Ukraine's accession to the WTO the volume of chicken imports increased by 2.5 times compared to 2007. Thus, Ukraine imported 207,000 MT of meat in 2007 and 520,000 MT of meat in 2008, including 250,000 MT of chicken. Before Ukraine's accession to the WTO the import duty on chicken was no less than 0.4 euro for 1 kilo, and after the accession it amounted to 8-18% of customs value (depending on the goods category).

USA and Brazil: Can We Avoid a Penalty?

According to Maria Kolesnik, the Manager of the Analytics Department of the "AAA" Consulting Agency, an anti-dumping investigation can last for a very long time. The Director of the Poultry Association O. Bakumenko has the same opinion. According to him the investigation is expected to be lengthy and complicated. "It is a very difficult road, this work will take a year", he says.

The analyst from "AAA" Consulting Agency thinks that after Ukraine's accession to WTO the unilateral imposition of any baseless customs restrictions will doubtless set off a negative reaction; it would be the wrong way out. "Anti-dumping investigations can be allowed and are the most appropriate way in trade relationships," M. Kolesnik says.

In the event of a positive decision on the complaint, the USA can be fined and import restrictions can be imposed. "It probably will not take the form of customs limitations like an interest rate," M. Kolesnik added.

Ukrainian chicken producers insist on imposing anti-dumping measures in the form of import restrictions on chicken leg quarters at the rate of 110% for imports from the USA and 189% for imports from Brazil. Today we cannot tell yet whether the Foreign Trade Interagency Committee will impose anti-dumping duties on chicken imported from the stated countries, O. Bakumenko added.

Will Chicken Meat From Europe Take the Place of "Bush's Legs"?

E. Sviatkivska thinks that, if Ukraine imposes anti-dumping duties for US and Brazilian chicken imports, European producers can take their place and offer chicken at about the same price.

At the same time the analyst from "AAA" Consulting Agency M. Kolesnik believes that European production is unlikely to substitute for chicken from the USA and Brazil as the prices in Ukraine and the EC on this product are approximately the same. Besides European countries are concerned with supplying their own markets. "Europe is in short supply of chicken, and is importing this product itself," notes M. Kolesnik.

O. Bakumenko is sure that Ukraine absolutely does not need imported chicken, because domestic companies are entirely able to supply the market demand for this product and to export as well.

According to him the annual consumption of chicken in Ukraine today is about 22 kilos per capita, and in Europe it is 24 kilos, taking into consideration that the buying capacity of Ukrainian and European citizens differs widely.

"We already have a surplus of poultry and we should enter the export market," the head of the Poultry Producers Union says.

- Source: *Meatinfo (meatinfo.ru)*

The following member alert was sent out by USA Poultry & Egg Export Council President James H. Sumner to all USAPEEC members on the issue of anti-dumping investigation started by Ukraine:

**AN IMPORTANT MESSAGE FOR USAPEEC MEMBERS
FROM USAPEEC PRESIDENT JIM SUMNER
MARCH 27, 2009**

Last week we officially learned that the Ukrainian government is starting an anti-dumping investigation on both the U.S. and Brazilian poultry industries. The Ukrainians are alleging that our industry and the Brazilian industry have brought about huge damage to their industry by selling chicken leg quarters below U.S. domestic prices and/or our cost. The suit claims poultry was dumped during the period of 2005-2007, although it's not fully known what the actual period of investigation will be.

We find these allegations concerning because not only can such charges affect our future exports to the Ukraine, but we are also concerned that their success might encourage other trading partners to follow suit.

The Ukrainian government has officially named 40 U.S. chicken producers in the suit, which includes virtually every chicken-producing company in the United States. Some, if not all of these companies, will be receiving formal notification from the Ukrainian government of the pending investigation. It will be up to those companies to determine if they want to register as "interested parties." However, companies that do not receive such notification still may want to register as interested parties. Those that do not register run the risk being determined as "uncooperative" by the Ukrainian government, and thus become subject to the highest possible margins if the case is realized. **In fact, if your company has received such a notification, it would be helpful if you could notify USAPEEC.**

USAPEEC encourages all companies that have been exporting to Ukraine – or may wish to consider doing so in the future – to take the minimal first step of registering as an interested party. This will put your company under no further obligation, but will at least give the company the option of taking the next steps, which would likely consist of completion of a detailed questionnaire that will be issued by the Interagency Commission on Foreign Trade of the Ukraine.

Although not specifically named, trading companies doing business in Ukraine should also consider registering. It is believed that most, if not all, U.S. exports to Ukraine were handled through trading companies, so it is important that traders not only register as interested parties, but should consider participating in the investigation by completing and submitting the questionnaire.

The deadline for registering with the Ukrainian government is April 17, 2009.

USAPEEC has engaged counsel and is currently considering the possibility of also obtaining counsel in Ukraine, both for the purpose of assisting USAPEEC if we decide to provide input on behalf of the industry, and to recommend for the use of individual companies with their submissions. This information will be made available to interested parties, along with the Ukrainian companies upon completion of requested information from these companies.

As a member of the WTO, Ukraine is required to follow WTO anti-dumping provisions and procedures. The U.S. government – the Department of Commerce, Department of Agriculture and the U.S. Trade Representative’s Office – is currently reviewing Ukraine’s initiation procedures and could intervene in some manner. The U.S. government will complete its review after USAPEEC has completed translation of the various documents, which is expected to be completed by the end of today. It is traditionally up to the industry, however, to offer its own defense to such charges. USAPEEC will be pleased to refer any companies to these U.S. government representatives for their input.

The actual investigation can last up to 18 months, but the Ukrainian government may impose provisional damages in the form of dumping margins for a portion of this period. We were advised that the Ukraine cannot suspend imports from the named countries during this period.

Traditionally, companies that complete the questionnaire will, based on their submitted data, be granted a lower anti-dumping margin if the investigation and determination of injury is conclusive. Those companies that submit data that is less favorable will likely be imposed higher dumping margins. Those companies that do not participate will be judged as “uncooperative,” and will be assigned duties in the “all other” category, which will be at the very highest and likely prohibitive level.

Companies seeking further information from the Ukrainian government or that would like to register, should contact the following:

The Department of Trade Protection Measure of the Ministry of Economy
(01008, Kiev-8, 12/2 Hrushevsky Str.
Phone 272-55-29
Phone/fax 272-55-57; 226-3181
E-mail: a-dump@me.gov.ua (For confirmation of mail received, phone 253-93-94).

According to the Ukrainian government, this information will be taken into consideration during the investigation if this information is “well grounded and could be verified by the Department of Trade Protection Measure of the Ministry of Economy and also if it is submitted in the Ukrainian language and during the time period established by the Law, Commission or by the Ministry of Economy.” USAPEEC will look into the possibility of providing translations services for those companies.

For those companies that identify themselves as interested parties, we will keep you informed of further developments on this issue, rather than flooding the entire membership with this information. I will remain personally involved on this issue and have asked Dr. Renan Zhuang, our agricultural economist, to also be involved in this project. We will, of course, provide periodic updates of this situation in *MondayLine*.

Again, we would encourage all trading companies and all U.S. producers that have done business or expect to do business with in the Ukraine to take the first step by registering to the above address as an interested party.

Best regards,
Jim Sumner,
President USAPEEC