



No. 386

To: Clients and Friends

May 16, 2008

Ukraine Joins WTO; Offers Extensive Market-Access Commitments

Ukraine is joining the WTO today as its 152nd Member after concluding fourteen years of negotiations. Ukraine has offered extensive market-access liberalization and non-discriminatory treatment in areas including agriculture and industrial goods, services, intellectual property rights, and other reforms. Highlights of Ukraine's accession agreement include:

- **Agriculture and biotechnology:** Reduction of its average bound tariffs on agriculture goods to 11.1 percent; expand tariff rate quotas (TRQs) including for sugar; relax export restrictions on wheat, oilseeds and other products; and phase out export subsidies and many forms of domestic support. Moreover, Ukraine will adhere to international standards in accordance with the Agreement on Sanitary and Phytosanitary Measures (SPS) including for imports of beef, pork, poultry and biotechnology products.
- **Industrial goods:** Reduction of its average bound tariffs on industrial goods to 4.6 percent, and most by 2010. Moreover, Ukraine joined most of the zero-tariff agreements including the Information Technology Agreement (ITA), and also for civil aircraft, distilled spirits, chemicals, pharmaceuticals, furniture, non-ferrous metals, paper, toys and other goods. It will also reduce export duties on non-ferrous metals and steel scrap.
- **Services:** Wide-sweeping access to most of its service sectors with very few limitations on foreign equity, including 100-percent foreign ownership in banking and financial services (with a five-year phase out for insurance branching), professional, telecommunications, audio-visual, transport, distribution, environment, energy, and most other services.
- **Intellectual property rights, other rules:** Agreement to implement most WTO rules upon accession including on intellectual property rights enforcement, customs valuation, technical barriers to trade, trade remedies, trade-related investment measures, and other disciplines.

Ukraine will become one of the most open economies in the WTO based on its commitments. In doing so, Ukraine is taking a gamble that its openness will attract significant foreign investment and expand trade, and expedite its transition to a market-driven economy.

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UKRAINIAN-BRITISH CITY CLUB

"Ukraine's Accession to the WTO:
Opportunities & Challenges"

John Cooke

Chairman, Liberalisation of Trade in Services
(LOTIS) Committee

International Financial Services, London (IFSL)

International Financial Services London

- Private sector, member-based, not-for-profit
- Works for removal of trade barriers for financial and related professional and business services.
- Plays a leading part in international private sector alliances, e.g. Financial Leaders Working Group
- Has consistently looked forward to Ukrainian accession to the WTO

Ukrainian Accession to the WTO

Key Dates

- 1993 Application for Membership
- 2008 (25 January) End of Negotiations
- 2008 (5 February) Signature of Protocol
- 2008 (10 April) Ratification
- 2008 (16 May) Accession

Accession Terms

Ukraine market-opening in sectors including agriculture, manufactured goods, services trade, intellectual property protection and overall reform of its commercial environment.

Texts agreed 5 February include:

- Commitments on Goods: 890 pages
- Commitments on Services: 40-pages
- Working Party Report: 240 pages on Ukraine's legal and institutional set up for trade, & details of commitments in many areas covered by Report

Ukraine's Services Commitments

Ukraine's vibrant services trade (2006):

- Commercial services exports: US\$ 10.671 billion
- Commercial services imports: US\$ 8.484 billion

Ukrainian services commitments include:

- all 11 “core” service sectors
- including business services, communication services, construction and related engineering services, distribution, education and environmental services, financial services (insurance and banking), health and social services, tourism and travel, recreational, cultural and sporting services, and transport services; and
- certain others

Financial Services Commitments

Section VII of Schedule:

- (1) all insurance services and insurance-related services;
- (2) banking and other financial services (excluding insurance).

Broadly follows, or improves on, WTO
Understanding on Financial Services
Some remaining restrictions under GATS Modes 1
and Mode 4

Other Services Commitments

- Range of commitments under Section I (Business Services) covering such professions as the law and accountancy.
- Commitments on communications services and telecommunications.
- Information technology goes hand in hand with financial services, so commitments on communications important

Effect of Commitments

Foreign banks can now open branches in Ukraine with no equity limitations and offer all types of lending (e.g., consumer credit, mortgage, financing), foreign exchange, securities, asset management and other services.

Non-resident insurers are now permitted to establish wholly-owned operations that can provide life, non-life, reinsurance, insurance intermediation and other services. They are still required to have permanent representative offices in Ukraine, be registered as tax-payers in Ukraine and be included in the State Register of Insurance and Reinsurance Brokers.

Insurance

Market access for foreign insurers for:

- Marine, Aviation and Transport risks
- re-insurance
- insurance mediation for MAT and reinsurance
- ancillary insurance services

Five years after accession, foreign insurance companies to be granted full access to the Ukrainian market on national treatment terms.

Banking

Foreign banks can open branches in Ukraine, and carry out banking activities, provided that:

- foreign bank is incorporated in a state meeting money laundering requirements and working with FATF
- home state supervision meets Basel Committee standards
- there is agreement on supervisory cooperation between home state and Ukraine
- local capital not less than €10m; and
- unconditional performance guarantee from foreign bank on the performance of obligations arising from branch's activity in Ukraine

Commercial Implications

Potentially very significant:

- Example of other recent WTO accessions (e.g., Estonia, Bulgaria) suggest doubling of FDI
- Increased penetration of foreign institutions should increase financial sector consolidation, efficiency, capitalisation and management

PLUS: "new Enhanced Agreement" with the EU

Thank You





“Ukraine WTO Accession: Opportunities and Challenges”

“An Ambitious Start, Starting Tomorrow”

Mark D. Nguyen

Ukrainian-British City Club, London

May 14, 2008



A world of insight.SM

Overview

- **Highlights of Ukraine's Market-Access Offers in Agriculture, Industrial Goods, Services and Rules**
- **WTO Implementation/Compliance**
- **WTO Doha Round**
- **Opportunities and Challenges**



GATT to WTO: Global Trade Club

- **GATT 1947-1993:** A framework agreement facilitating market access for agriculture and goods, with limited enforcement.
- **WTO 1994-2000:** Conclusion of Uruguay Round in 1993 created a rules-based institution with new disciplines on services and IPR rights, and stronger dispute settlement.
- **WTO since 2001:** Launch of “Doha Round” negotiations in 2001 aims to strengthen rules and expand liberalization.
- **WTO accessions:** Since China and Chinese Taipei joined in 2001; accessions have accelerated with most major trading nations joining the WTO (Russia 2008?)



Key Dates of Ukraine Accession

- **Working Party established 17 December 1993**
- **EU concluded bilateral on 17 March 2003**
- **U.S. concluded bilateral on 6 March 2006**
- **WTO General Council approves accession package on 5 February 2008**
- **Formal accession on 16 May 2008**



Key Elements of WTO Accession

- **Working Party Report**
- **Protocol of Accession**
- **Goods (Tariffs) Schedule of Commitments**
- **Services (GATS) Schedule of Commitments; List of MFN Exemptions**



Overview of WTO Commitments

	<u>Upon accession</u>	<u>Transition</u>	<u>Comment</u>
Agriculture	11.1% average bound tariff	Full phase-out of export subsidies	Improved import quotas; relaxed export controls on grains, sugar
Goods	4.6% average bound tariff	Transition periods for sensitive goods including steel, metals	Many zero tariff agreements; fewer minimum export prices
Services	Most 12 core sectors	Very limited for insurance, distribution	100% equity in most sectors
Rules	Most trade-related agreements	Flexibility provisions (e.g., subsidies)	Government procurement negotiations

Agricultural Market Access

- Average bound tariff of 11.1 percent
- Relax minimum export prices
- Reform tariff rate quota allocation for grains, sugar, other products
- Lift restrictions/export quotas on grains including wheat and rye
- Adhere to Codex Alimentarius/OIE/IPCC international standards in accordance with the SPS Agreement for imports of beef, pork, poultry, fish and biotech products

Industrial Goods Market Access

	<u>Upon accession</u>	<u>Transition</u>
Hi-tech goods, Aircraft	Many parts, accessories, finished goods; join ITA	Rest by January 2010
Chemicals	Harmonization of rates on 1300 products	By 2010 or later
Distilled spirits, pharmaceuticals, furniture, non-ferrous metals, paper and toys	Zero-for-zero tariff agreements	Limited
Steel	Export duties on non-ferrous and steel scrap; 90% reduction on tariffs	By 2010 or later
Agriculture, construction, and scientific equipment	90% reduction on tariffs	By 2010 or later

Commitments on Trade Rules

- Full implementation upon accession
 - Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs)
 - Agreement on Trade-related Investment Measures (TRIMs)
 - Agreement on Technical Barriers to Trade (TBT)
 - Agreement on Sanitary and Phytosanitary Measures (SPS)
 - Customs Valuation Agreement (CVA)
- Transition
 - Negotiations to start on Government Procurement Agreement (GPA)

Services Sectors/Issues

12 Main Sectors: Business/Professional, Communications/Telecoms; Construction; Distribution; Education; Environment; Financial; Health; Tourism; Recreation/Cultural; Transport/Maritime; Other (e.g. beauty/spa)

Other Sectors: Energy, Express Delivery, Logistics, etc.

Horizontal: Labor mobility (“Mode 4”), Land ownership, Establishment requirements, etc.

Safeguards/ESM: Under negotiation and debate

Services: General Comparison

	<u>Open upon accession</u>	<u>Transition</u>	<u>Comment</u>
Ukraine (2008)	Most 12 core sectors with very few limitations	Insurance branches permitted within 5 years	No acquisition of agricultural lands
China (2001)	Most sectors, but with limitations	Many 3-5 year transitions periods	Economic needs limitations common
Saudi Arabia (2005)	Most sectors, but with limitations	Many 3-year transitions periods	Not open to audiovisual or broadcast services
Vietnam (2007)	Most sectors, but with limitations	Many 1-5 year transition periods	Limitations in financial, transport, entertainment; no "Other" category

GATS (Services) Schedule

Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons

II. SECTOR SPECIFIC COMMITMENTS

I. BUSINESS SERVICES

1. Professional Services

(a) Legal Services

Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
Consultancy on home country law and international law and third country law (part of CPC 861)	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	

Professional services

	<u>Open upon accession</u>	<u>Transition</u>	<u>Comment</u>
Ukraine	Accounting, engineering, legal, medical, dental, nursing	Only professional qualifications; Ukrainian language	Subject to horizontal commitments
China	Accounting, engineering, legal, medical, dental, taxation	Gradual transition, up to 5-6 years	Subject to economic needs limitations “in line with China’s needs”
Saudi Arabia	Accounting, engineering, legal (home country), medical, dental	Equity limited to 75% most professions	More limited in scope of services
Vietnam	Accounting, engineering, legal, medical, dental, nursing	2 years from accession, 100% foreign-invested enterprises may only provide services to other foreign-invested enterprises.	Subject to horizontal commitments

Financial services

	<u>Open upon accession</u>	<u>Transition</u>	<u>Comment</u>
Ukraine	Banking, securities, payment, asset management	Insurance branches after 5 years (2013)	Very open in most sectors
Russia (reported)	Banking, insurance (limited)	50% equity restrictions	Not yet finalized
China	Limited equity participation in banking, insurance, securities; new category for automotive financing	50-51% equity restrictions in insurance, banking from accession to 5 years; 49% in securities after 3 years	Regulatory environment problematic, especially insurance licensing and asset requirements
Saudi Arabia	Banking, insurance (limited)	Up to 60% upon accession	None for pension, settlement services
Vietnam	Banking, insurance, securities	Banking limitations lifted 4 months after accession; non-life branches and securities permitted after 5 years (from 49%).	More open in banking than insurance and securities.

Telecoms services

	<u>Open upon accession</u>	<u>Transition</u>	<u>Comment</u>
Ukraine	Most basic and value-added services	None	Adopts Reference Paper
China	Basic and value-added services	50% equity after 2 years, and no geographic limits; 49% for mobile after 3 years, and for domestic after 6 years	Adopts Reference Paper
Saudi Arabia	Most basic and value-added services; public or private, facilities-based or non-facilities based	Foreign equity limited to 49% upon accession, 51% by the end of 2007 and 60% by the end of 2008	Restricts broadcast services; adopts Reference Paper
Vietnam	Most basic and value-added services	Varies depending on facilities (50%), non-facilities based (65% after 3 years)	Adopts Reference Paper

Computer-related services

	<u>Open upon accession</u>	<u>Transition</u>	<u>Comment</u>
Ukraine	Consultancy, software, data processing, maintenance	None	Fully open
China	Similar to Ukraine	Foreign majority ownership, or none	Limitations in software, systems and data processing services
Saudi Arabia	Similar to Ukraine	None	Fully open
Vietnam	Similar to Ukraine	For 2 years from accession, 100% foreign-invested enterprises may only provide services to foreign-invested enterprises.	After 3 years from accession, branching is allowed.

Distribution services

	<u>Open upon accession</u>	<u>Transition</u>	<u>Comment</u>
Ukraine	Wholesale, retailing and franchising	Wholesale trade service of books (30% for 5 years)	Mostly open
China	Wholesale, retailing, franchising and direct sales	Majority ownership after 2 years; no limitations after 3 years	Exceptions for types of products (tobacco, oil); regulations delayed by 2 years
Saudi Arabia	Wholesale, retailing and franchising	50% upon accession; 75% after 3 years	Minimum amount, size of investment and 15% Saudi employees to be trained each year.
Vietnam	Wholesale, retailing and franchising	49% upon accession; 100% starting 2009	Branching allowed after 3 years

Implementation/Review

- **Participation in review bodies:** Council on Goods, Services and TRIPs and their subsidiary bodies routinely review Ukraine and other Members' implementation of market-access commitments and consistency with WTO rules. Also, comprehensive Trade Policy Review within 3-5 years.
- **Flexibility:** Ministerial Conference or General Council can extend flexibility or exemptions from rules (e.g., transition periods for subsidies, market-access).
- **Secretariat/technical assistance:** Staff and other bodies offer resources to assist with implementation of commitments.



Compliance/Disputes

- **WTO Dispute Settlement Mechanism:** Binding Dispute Settlement Understanding (DSU); nearly 400 complaints since 1994; more than triple the number during 1947-1993 GATT era.
- **Bilateral mechanisms/consultations:** Members can opt to settle disputes outside the WTO mechanism, and through FTA mechanisms.
- **WTO obligations:** Private entities, while not parties, can pressure Members to comply and refrain from inconsistent measures in light of WTO obligations



WTO Doha Round

- **Market access:** Seek improved commitments on agriculture, industrial (NAMA) goods and services.
- **Rules:** Revise disciplines on antidumping, subsidies, regional trade agreements, trade facilitation, development flexibilities, etc.
- **Timing:** “Modalities” texts forthcoming; possible Ministerial in July 2008
- **Ukraine’s benefits:** Deeper market-access commitments from other WTO Members; less pressure on newly-acceded countries



Challenges and Opportunities

<u>Issue</u>	<u>Recommendations</u>	<u>Outlook</u>
Improve market access	<ul style="list-style-type: none"> • Implement market-access commitments in a timely manner 	<ul style="list-style-type: none"> • Adjustments to tariff schedules easier than access for service providers
Reform of commercial regime	<ul style="list-style-type: none"> • Implement laws, regulations and improve transparency 	<ul style="list-style-type: none"> • Many laws revised and enacted prior to accession; effective implementation critical (e.g., independent regulators)
Attract investment	<ul style="list-style-type: none"> • Ensure liberalization and reform of state-owned enterprises • WTO+ reforms in investment protection, competition policy 	<ul style="list-style-type: none"> • Most service sectors in Ukraine open to 100% equity participation; Opportunities from privatization; promote market potential in various industries
Expand trade	<ul style="list-style-type: none"> • Promote exports and benefits of lower cost of imports to consumers, businesses 	<ul style="list-style-type: none"> • Reduced subsidies may impact some industries, but improve competition • Social safety nets might be necessary
Regional, global integration	<ul style="list-style-type: none"> • Accelerate regional integration including with EU through the enhanced partnership agreement • More diversified economy and trading relationships 	<ul style="list-style-type: none"> • Greater efficiencies in global supply chains as a result of lower barriers • EU, other integration efforts could promote growth

Congratulations, Ukraine!

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Ukraine WTO Accession: What Now?

Valeriy Pyatnytskiy

Deputy Minister of Economy of Ukraine

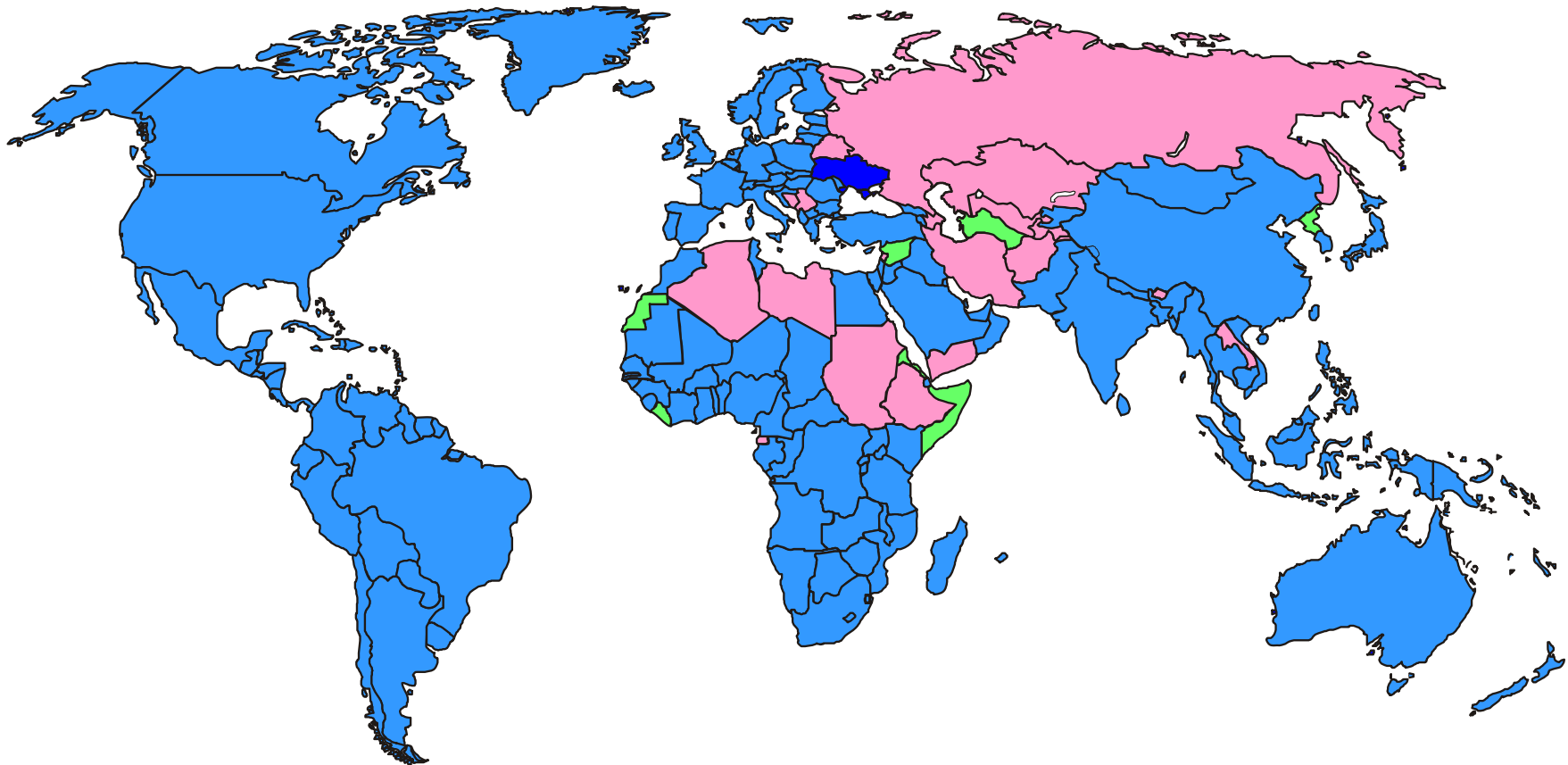
Svitlana Zaitseva



Head of WTO Enquiry Point and Information Processing
Centre of Ukraine


Ministry of Economy Ukraine



WTO Members



 WTO Members
 Acceding countries

 Non-members



Ukraine in the WTO:

- ✦ Ukraine is planning to join 29 Working Parties on Accession of candidate countries
- ✦ Participation in Doha negotiations
- ✦ FTA with the European Union
- ✦ Other FTAs (Turkey, EFTA, etc)



In reforming its trade regime to comply with the WTO rules Ukraine focused its efforts on:

- cutting down a list of those activities which need licensing or different permits
- minimization of interference of state into economic activities of businesses
- distinct legislative definition of function of controlling bodies
- regulated procedure for making checks at enterprises and businesses
- elimination of duplicating control functions of different bodies

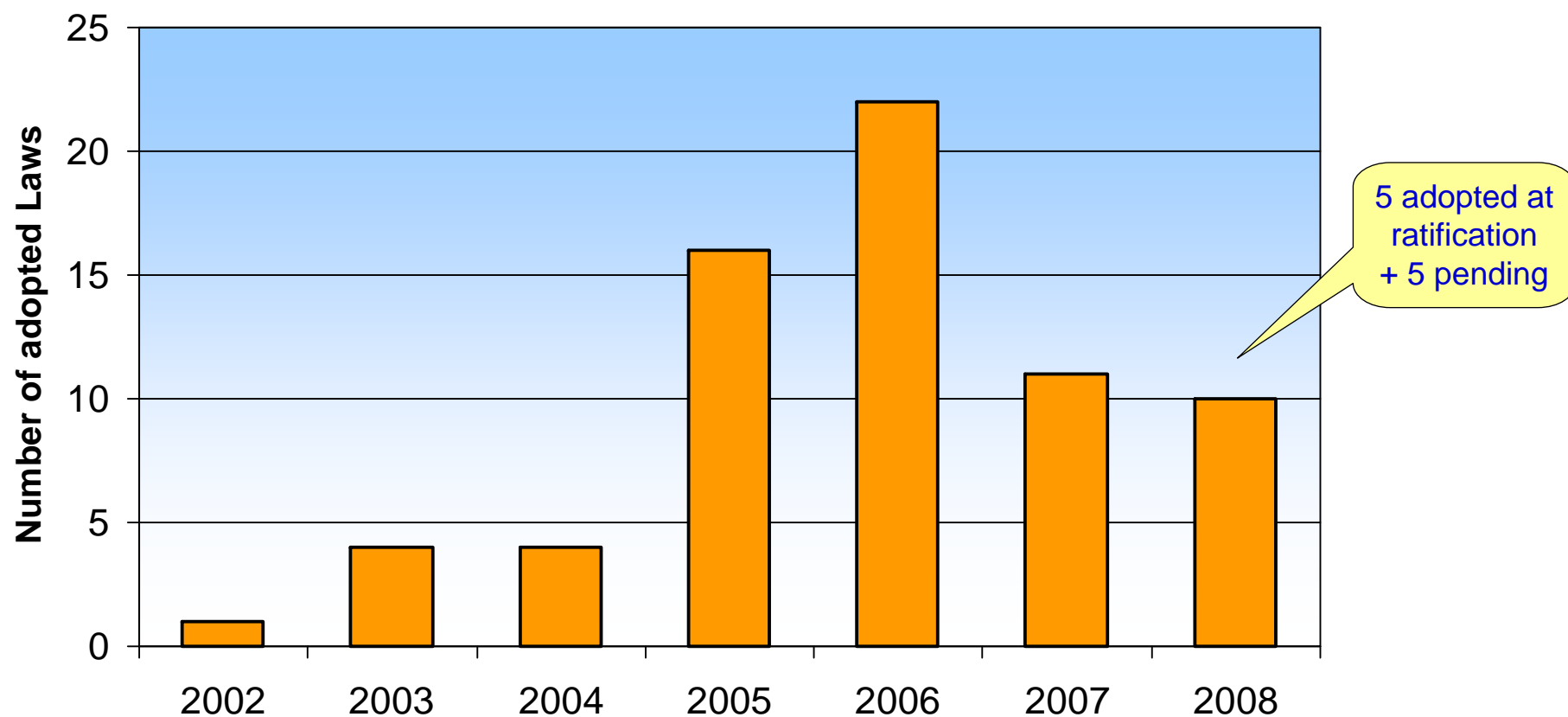


Protocol on Accession includes agreed positions laid down in the following documents:

- Report of the Working Party on Ukraine's Accession (document – *WT/ACC/UKR/152 DD 25.01.2008*);
- Schedule of Concessions and its Annexes (document – *WT/ACC/UKR/152/Add.1 DD 25.01.2008*);
- Schedule of Specific Commitments on Services (document – *WT/ACC/UKR/152/Add.2 DD 25.01.2008*);
- Commitments on Domestic Support and Export Subsidies in Agricultural Sector (document *WT/ACC/SPEC/UKR/1/Rev.12 DD 26.11.2007*);
- Specific Commitments containing additional agreed positions between Ukraine and some WTO members.

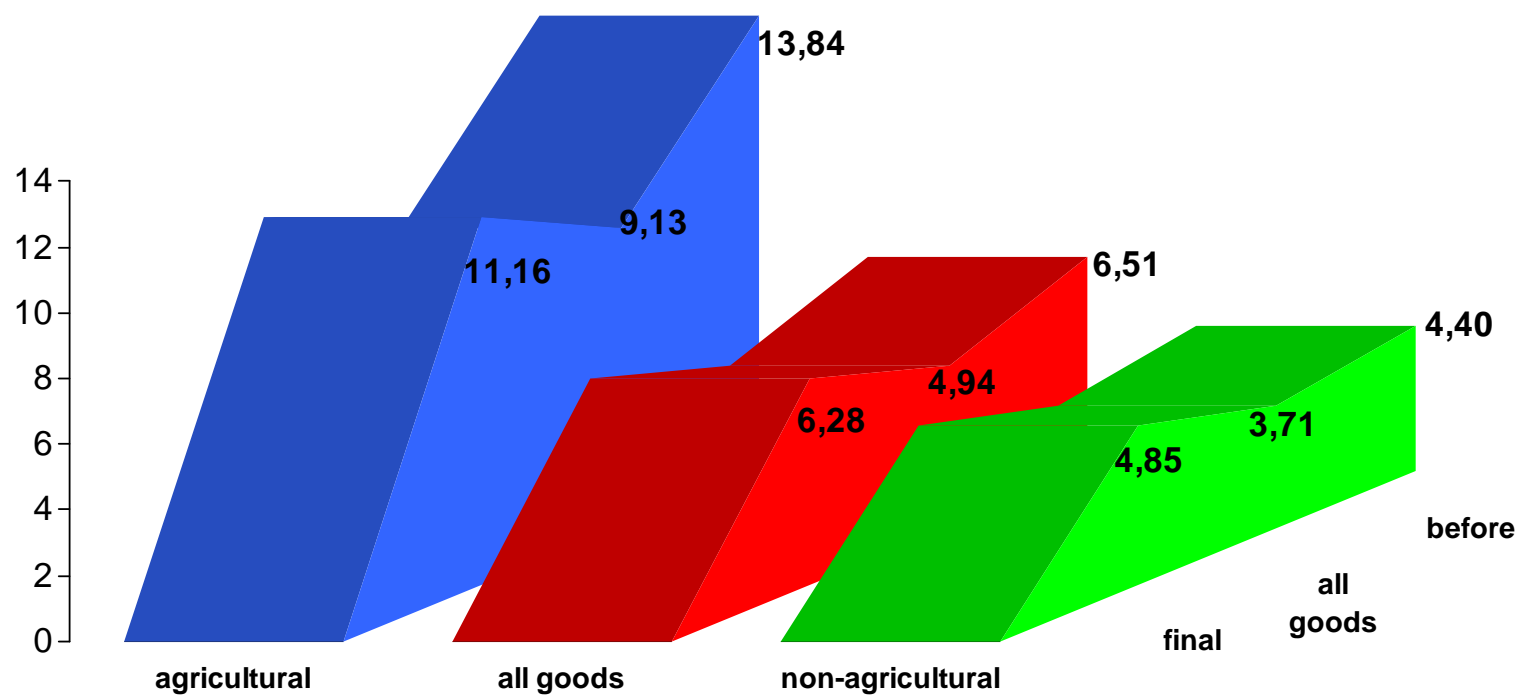


Number of laws aimed at Ukraine's WTO accession and adopted by the parliament



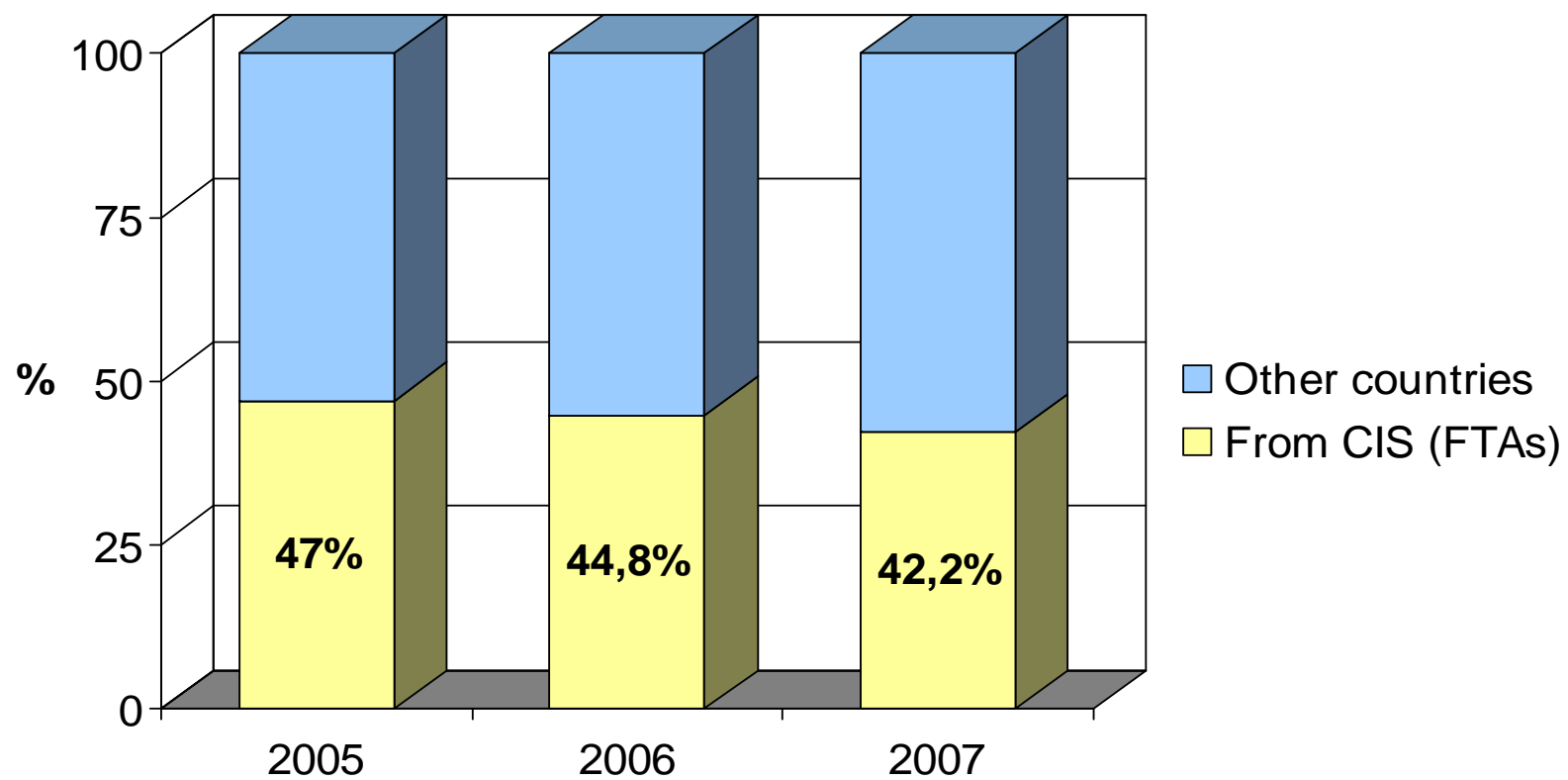


Average tariff before/after amendment to the Customs Tariff





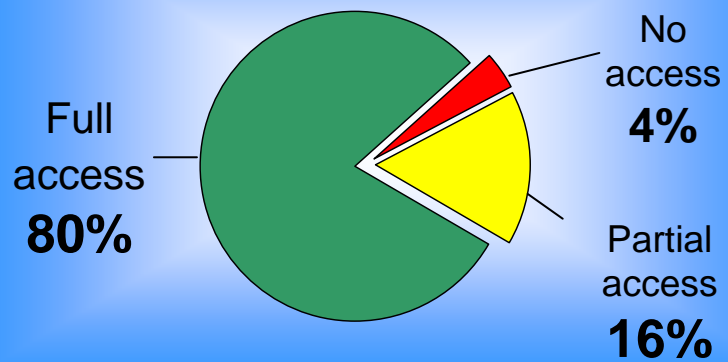
Structure of Ukrainian imports in goods



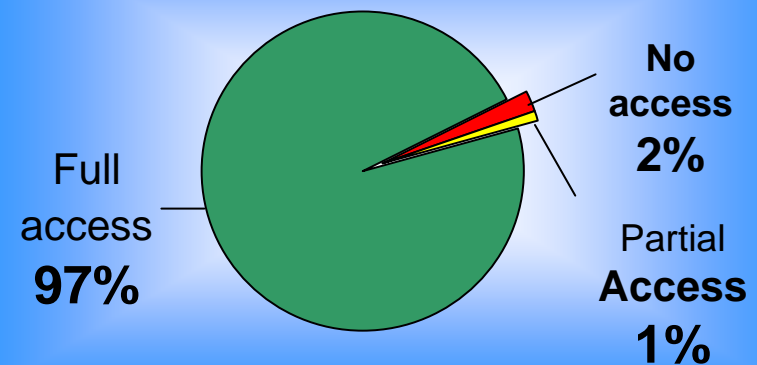


Commitments in modes of supply of services

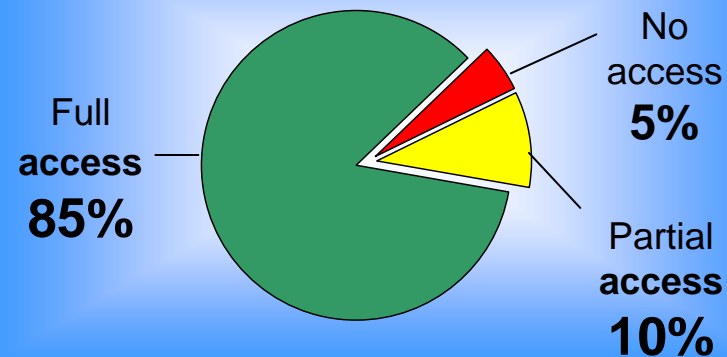
Cross-border supply



Consumption abroad



Commercial presence





Transition Periods and Special Conditions of Market Access for Services

- **Branches of foreign insurance companies** – in 5 years from WTO accession date
- **Insurance intermediation** with foreign companies – in 5 years from WTO accession date
- **Distribution of printed editions** – in 5 years from accession to eliminate limitation of 30% for foreign investment
- **Internal waterways transport** – 8 years of gradual elimination of limitations in the framework of bilateral agreements (access and freight rights)
- **Railway transport services** – bilateral agreements preserved
- **Exclusive right of a national operator** to handle addressed written communication less than 50 gr



Transition Periods and Special Conditions of Market Access for Services

- Mandatory requirement to have Ukrainian citizenship for managers of educational institutions
- Professional qualification certificate and Ukrainian language proficiency for medical services sector
- Limitation of foreign capital to 35% for agencies providing information services
- Unbound as regards access to subsidies and other forms of state support in order to protect national culture
- The right to get subsidies or other forms of state support including access to financial and other material resources of the state is granted only to the citizens/legal entities of Ukraine

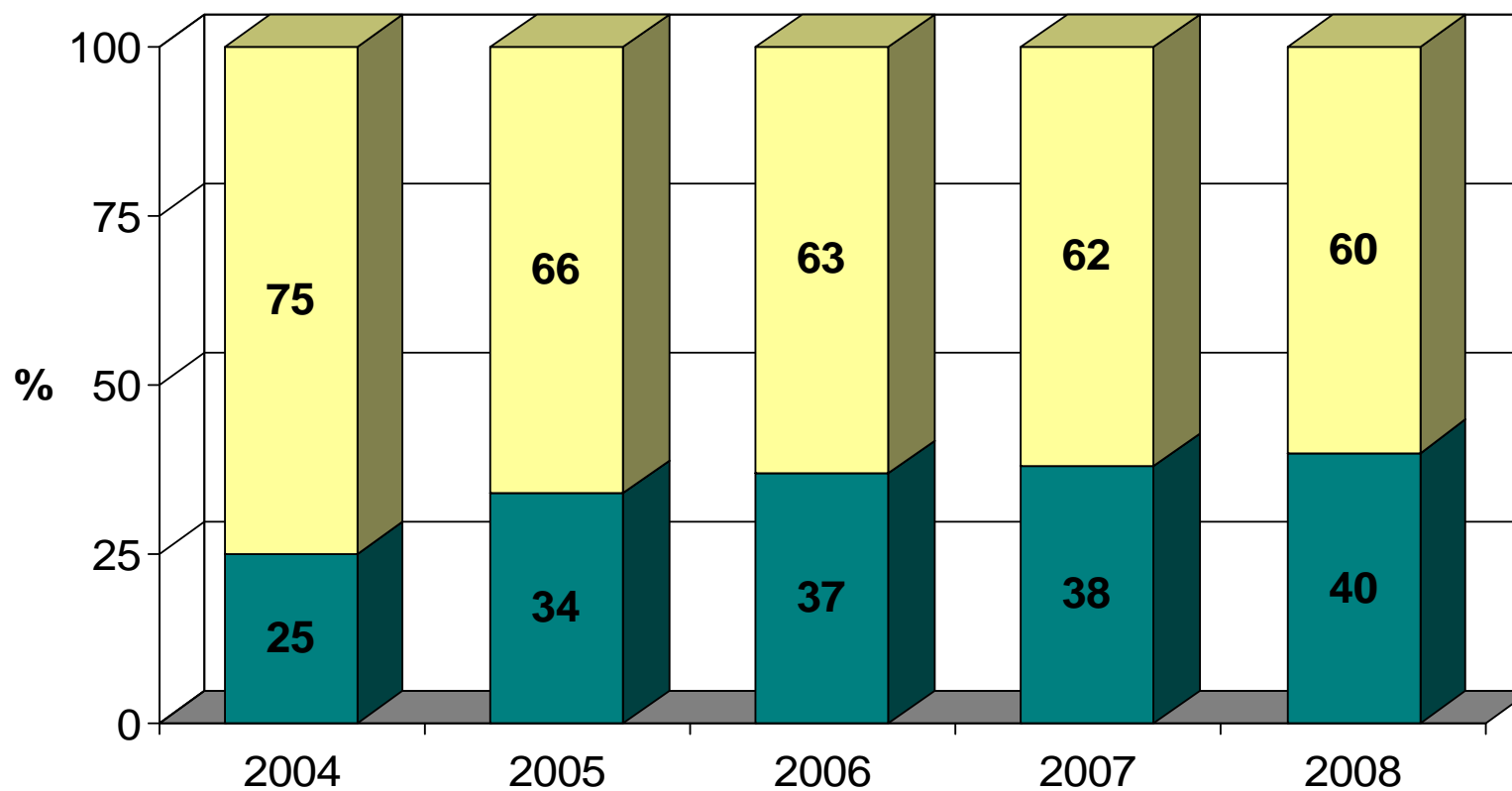


Domestic Support to agriculture of Ukraine (base period 2004-2006)

Description	Average 2004–2006, million UAH
1. Aggregated Measurement Support (AMS) for “yellow box” commitments	3 043,4
2. Food aid , not exceeding 5% of total value of agricultural production not taken into account in AMS	613,4
3. Non-food support , not exceeding 5% of total value of agricultural production and not taken into account in AMS	3 051,3
4. “Green box” programs (no reduction commitments, the level may be increased)	2 424,1
Total amount of support	9 132,2



WTO “Green/Yellow Box” in domestic support of agriculture in Ukraine





Commitments of Ukraine in the Working Party Report

- Foreign exchange and payments;
- Investment regime;
- privatization;
- Pricing policies;
- Competition policy;
- Framework for making and enforcing policies;
- Fees and charges for imports;
- Customs valuation;
- Rules of origin;
- Other customs formalities;
- State-owned, state controlled and other enterprises granted exclusive or special privileges;
- Policies affecting trade in goods;
- Trading rights;
- Tariff rate quotas, tariff exemptions;
- Fees and charges for services rendered;
- Internal taxes on imports (VAT);
- Quantitative import restriction;
- Import licensing;
- Anti-dumping, countervailing duties and safeguards;
- Export regulation (tariffs, fess and charges, internal taxes for exports);
- Technical barriers to trade;
- Sanitary, phyto-sanitary measures;
- Government procurement;
- Transit;
- Export restrictions;
- Export subsidies;
- Industrial policy and subsidies;
- TRIMS;
- Free and special economic zones ;
- Counter-trade and barter;
- Trade in civil aircraft;
- Agricultural policies;
- TRIPS, and policies affecting trade in services
- Transparency;
- Trade agreements



WTO Enquiry Point and Information Processing Centre of Ukraine

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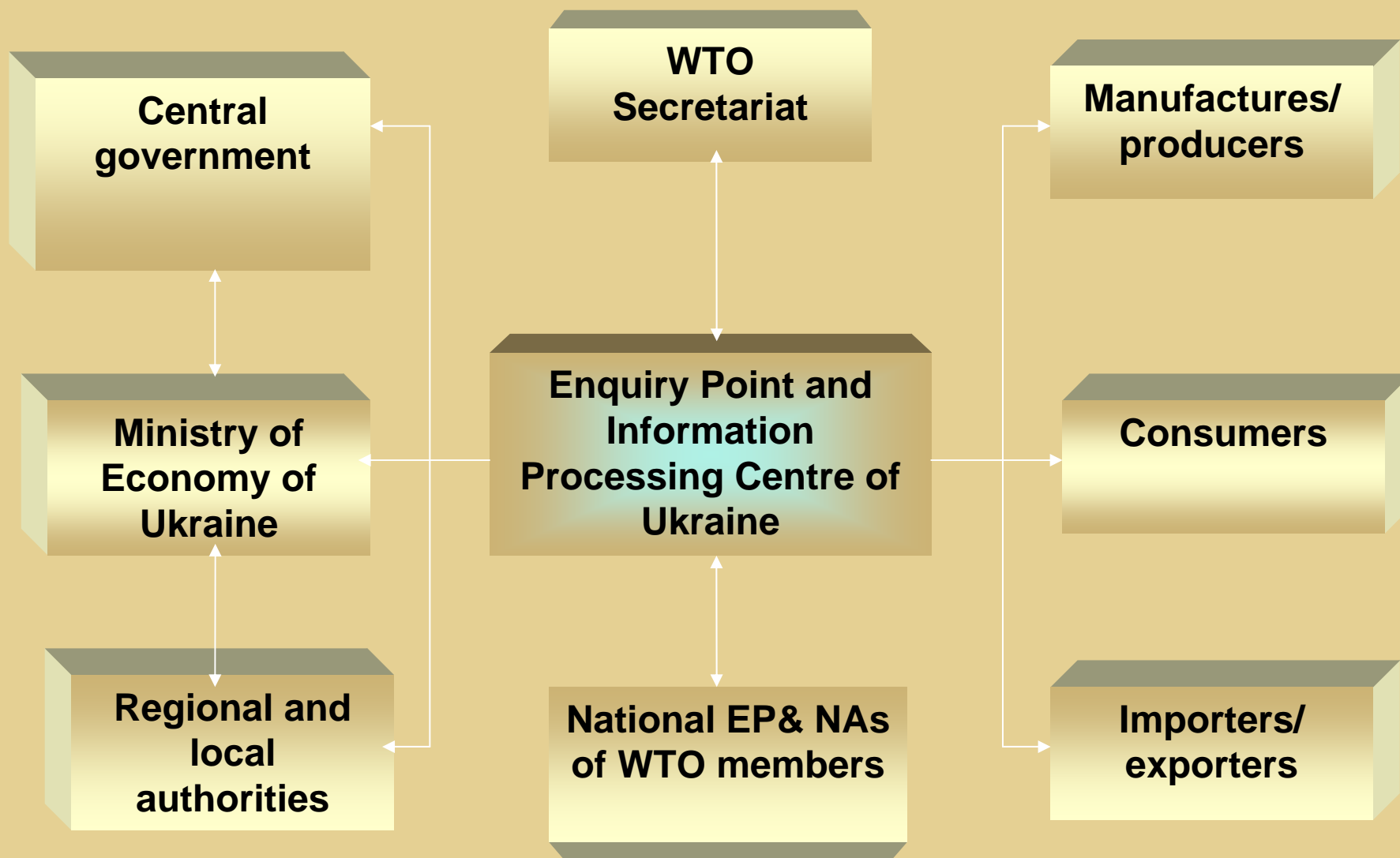


WTO Enquiry Point and Information Processing Centre of Ukraine

- ⊕ Complex approach: Ukrainian Centre is to undertake notification obligations **under practically all agreements**
- ⊕ Ukraine is ready to submit first big package of documents – notifications – to the WTO
- ⊕ Regular procedures and schedule to be followed



Coordination





WTO Enquiry Point and Information Processing Centre of Ukraine for clients:

- regulatory documents upon request or accessible resources, analytical materials
- information from other trade partners of Ukraine (non-members of the WTO)
- recommendations how to make an enquiry to the Centre

available on the web site of the Ministry of Economy:

<http://me.kmu.gov.ua/>

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Ukraine's Upcoming Accession to WTO: Challenges and Opportunities

Wednesday 14 May 2008

London

**Whether the Ukrainian legislation is ready for
operation in post-WTO accession environment**

By

OLEG Y. ALYOSHIN

Partner

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- Banking & Finance
- Chemicals
- Commodities and Raw Materials
- Hotels & Leisure
- Insurance
- Media
- Oil & Gas
- Pharmaceuticals
- Real Estate & Construction
- Shipbuilding
- Steel
- Telecommunications
- Transport

UKRAINE :

15 Years-Long Way to WTO

- **Brief Accession History**
- **Legislative Reforms – General Overview**
- **Domestic Impact of WTO Law**

IMPORT POLICIES: Overview and Practical Aspects

- **Customs / Import Tariffs**
 - **Non-tariff barriers**
 - **Import Licenses**
- **Standards, Testing, Labeling, and Certifications**

PROTECTION AGAINST “GRAY IMPORT”

- **Why it is important for foreign producers and importers**
 - **Legislative and practical overview**
- **Remedies available for foreign producers / importers**

TRADE IN SERVICES

- **General Overview**
- **Financial Market - overview of legislative changes and practical aspects:**
 - **Banking Sector**
 - **Insurance Market**
 - **Legal Services**

TRADE REMEDIES

- **General Overview, History and Statistics**
 - **Recent Legislative Changes**
- **Trade Investigations: Specific Features of Ukrainian Regulations in Comparison to WTO Regulations**

OTHER IMPORTANT ISSUES

- **Government Procurement**
- **Intellectual Property Rights Protection**

Thank you for your attention!

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