



EUROPEAN UNION

DELEGATION TO UKRAINE

№ 005/2019

Note Verbale

The Delegation of the European Union presents its compliments to the Ministry of Foreign Affairs of Ukraine and has the honour to request, on behalf of the European Union, consultations for dispute settlement with regard to certain Ukrainian export restrictions on wood pursuant to Article 305 of the Association Agreement of 21 March 2014 between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (“Association Agreement”).

I. Export Prohibition for Wood

Ukraine applies an export prohibition on a number of wood species in the form of unprocessed wood and sawn wood. The product scope of this export prohibition was extended in 2015, and this for a period of 10 years, to cover the export of all unprocessed wood other than pine wood species. As of 2017, the temporary export prohibition for unprocessed wood was also extended to pine wood.

The goods concerned by the measures are unprocessed timber under Code 4403 (Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared and sawn wood) and Code 4407 (Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm).

The legal instruments through which Ukraine imposes and administers that export prohibition include but are not limited to:

- The Law of Ukraine № 2860-IV of 8 September 2005 on Elements of the State Regulation of Business Operators’ Activities Related to the Sale and Export of Timber,
- The Law of Ukraine № 325-VIII of 9. July 2015 amending the “Law of Ukraine on Elements of the State Regulation of Business Operators’ Activities Related to the Sale and Export of Timber” on a Temporary Export Ban for Unprocessed Timber, and
- Any other measures applicable to the subject matter, amendments, supplements, extensions, replacement measures, renewal measures, related measures and implementing measures.

Department of State Protocol

Ministry of Foreign Affairs of Ukraine

The export restrictions applied by Ukraine appear to be incompatible with Article 35 of the Association Agreement that sets out a prohibition of export restrictions and measures having an equivalent effect.

The restrictions on the export of wood enforced by Ukraine have led to a substantial reduction of trade between the European Union and Ukraine with regard to the covered products.

Ukraine's measures appear to nullify or impair the benefits accruing to the European Union directly or indirectly under the cited agreement.

II. Proposed Replacement Measures

The European Union is also concerned about possible replacement measures. It appears that additional restrictions affecting exports of wood are under consideration in the Parliament of Ukraine including the possible introduction of an export duty of 15% on the export value with a fixed minimum duty per cubic meter applied to certain wood categories.

The legal instrument under consideration of the Parliament of Ukraine that would impose and administer these export duties includes but is not limited to:

- The Draft Law 6035 Amending Certain Laws of Ukraine to Regulate Certain Economic Policy Issues introduced on 6 February 2017.

The export restrictions proposed by this instrument appear to be incompatible with Articles 31 and 35 of the Association Agreement which set out a prohibition of export duties and export restrictions including measures having an equivalent effect.

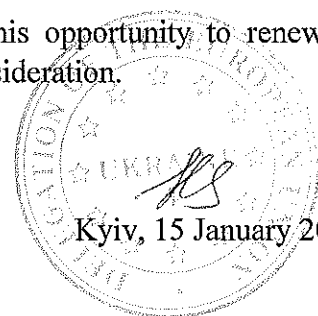
III. Procedural Aspects

The European Union reserves the right to address additional measures and claims regarding the above matters in the course of the consultations.

The European Union looks forward to receiving Ukraine's reply to this request for consultations in due course and is ready to consider with Ukraine mutually convenient dates for consultations in Kyiv or any other location agreeable to the Parties.

The European Union proposes to hold consultations in English and to agree to use English as common working language for the proceedings in accordance with Rule 41 of the Rules of Procedure for Dispute Settlement in Annex XXIV to the Association Agreement.

The Delegation of the European Union avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.



Kyiv, 15 January 2019