

The Law of Ukraine

On Amendments to the Law of Ukraine "On Operations With Give-and-Take Raw Materials in Foreign Economic Relations"

The Verkhovna Rada of Ukraine shall establish:

1. To make amendments to the Law of Ukraine "On Foreign Operations with Give-and-Take Raw Materials" (Vidomosti Verkhovnoyi Rady Ukrayiny N 32, art. 255, 1995; N 21, art. 156, N 51, art. 307, 1997; N 38, art. 344, 1999; as amended by the Law of Ukraine N 2555-III dd. June 21, 2001) and put it in the following wording:

"The Law of Ukraine

On Operations With Give-and-Take Raw Materials in Foreign Economic Relations

Article 1. Terms Definition

Terms in this Law shall be used the following meaning:

performer – subject of economic activity performing operations with give-and-take raw materials;

finished products – products (goods) made with the use of give-and-take raw materials (except those raw materials used as a form of payment for their processing) and determined as end product by the contract between the customer and the performer. Finished products may be forwarded back into the native country of the customer or sold by the customer (or by the performer on errand of the customer) in the country of the performer or other country. In case of need, the Cabinet of Ministers of Ukraine shall specify the types of products (goods), which may not be classified as finished products;

give-and-take raw materials - raw materials, materials, semi finished products, component parts, energy carriers imported into the customs territory of Ukraine by a foreign customer (or purchased by a foreign customer for foreign currency in Ukraine), or exported from the customs territory of Ukraine by a Ukrainian customer, for use thereof in the manufacturing of finished product. The foreign customer may not purchase the give-and-take raw materials at the customs territory of Ukraine for the national currency of Ukraine or obtain them in the result of other operations, including barter operations. The customer shall enjoy the rights of ownership to give-and-take raw materials at each stage of their processing, as well as to the products manufactured thereof;

customer – subject of economic activity which supplies give-and-take raw materials for manufacturing of finished products;

operation with give-and-take raw materials - operation on preliminary supply of raw materials for their further processing (treatment, enrichment or use) into the finished products for the corresponding remuneration regardless of the number of performers, as well as stages of processing of these raw materials under condition that the value of give-and-take raw materials at each stage of processing is not less than 20 per cent from the total value of the finished products. Transactions, which do not provide for preliminary supply of raw materials for receiving finished products, or if the value of raw materials is lower than the specified 20 per cent, shall not be considered as operations with give-and-take raw materials;

foreign operation with give-and-take raw materials – operations on processing (treatment, enrichment or use) of the give-and-take raw materials as the result of technological process with changing of code in the Product Nomenclature of Foreign Economic Activity, regardless of the number of performers, as well as stages of processing these raw materials with the goal of receiving finished products for the corresponding remuneration. Foreign operations with give-and-take raw materials include operations in which the raw materials of the customer at particular stage of processing, as well as at the final stage, is the basic material and its value is not less than 20 per cent from the total value of finished products. Preliminary supplies of give-and-take raw materials to the performer are mandatory with respect to delivery to the customer the finished products made thereof. Value of all imported (exported) give-and-take raw materials, as well as costs, related to delivery of these materials to the performer shall be observed when calculating the value of the give-and-take raw materials from the total value of finished products;

circumstances of force-majeure – unpredictable and compelling events, which occur irrespective of the customer's or performer's will (war, blockade, strike, fire, disaster, flood, freezing of the sea, close of sea channels on the usual sea lanes between the ports of shipments, other calamities, prohibition on export (import), currency restrictions or other restrictions on rights of ownership to raw materials or finished products including their transportation, established by the State or authorized state body, etc.) and cause violation of terms specified by the contracts, this Law and other legislative acts.

Article 2. Procedure of Import of Give-and-Take Raw Materials of Foreign Customer into the Customs Territory of Ukraine and Export of Finished Products Manufactured thereof.

1. Import duty at the rates of the unified customs tariff of Ukraine, as well as other taxes and fees, charged in accordance with the legislation, shall be imposed on give-and-take raw materials when imported into the customs territory of Ukraine by a foreign customer.
2. Ukrainian performer shall carry out the payment of import duty, taxes and fees (except for customs fees) through issuance of an ordinary bill to the body of state tax administration at performer's location. The term of payment shall be equivalent to the period of performance of operation with give-and-take raw materials, but not longer than 90 calendar days from the day of legalization of the import cargo customs declaration. The amount specified in the bill shall be paid in the currency defined in the contract on performance of operation with the give-and-take raw materials.
3. Depending on technological peculiarities of the manufacturing process, the Cabinet of Ministers of Ukraine at request of the corresponding ministry or other central executive body may establish other terms for performing of certain types of operations with give-and-take raw materials.
4. In case of exporting the whole volume of finished products determined by the contract from the customs territory of Ukraine within the period specified in clauses two, three and eight of this Article, the bill shall be canceled, and import duty, taxes and fees (except for customs fees) shall not be paid. The bill shall be canceled as well in case of partial export of finished products, determined by the contract, from the customs territory of Ukraine, provided the Ukrainian performer documentary confirms the payment of import duty, taxes and fees which had to be paid when importing into Ukraine the part of raw materials, used for manufacturing the finished products not exported from Ukraine. In order to determine the amount of import duty, taxes and fees, the value of give-and-take raw materials shall be converted into the national currency of Ukraine at the rate of the National Bank of Ukraine as of the day of payment the bill.
5. State tax body shall carry out record of bills at performer's location.
6. In case of importing of give-and-take raw materials not subject to import duty, taxes and fees the Ukrainian performer shall submit a written commitment to the local state tax administration to export the finished products within the period specified in clauses two and three of this Article.
7. Provided the finished products are exported in the volume determined by the written commitment within the period specified in parts two, three and eight of this Article, the commitment letter shall be canceled.
8. The authorized bodies of the state tax service may permit delays in payment of bills or cancellation of written commitments to certain subjects of entrepreneurial activity, which perform foreign operations with give-and-take raw materials on terms of the tax loans, before the term of actual shipment of the finished products for the foreign customer. The subject of entrepreneurial activity shall make monthly payments for enjoying the loans to the budget whereto he pays taxes on income of enterprises. These payments shall be calculated proceeding from the rate of the National Bank of Ukraine from the sum specified in the bill. Size of the rate is determined by the last day of the period for which the aforementioned payment is made.
9. Customs legalization of give-and-take raw materials which are imported into the customs territory of Ukraine may be carried out on the grounds of a copy of the bill (commitment letter) submitted by Ukrainian performer to the customs body, which is advised (taken into accounting) by the body of state tax service at performer's location and a copy of the foreign economic contract on processing of the give-and-take raw materials.
10. Customs legalization of the finished products, manufactured of the give-and-take raw materials imported from the customs territory of Ukraine and which are exported from the territory of Ukraine can be performed on the grounds of the copy of the bill (written commitment) submitted by Ukrainian performer to the customs body, as well as copy of the import cargo customs declaration and, in case of need, conclusion of the Chamber of Commerce and Industry of Ukraine or that of regional chambers of commerce and industry, certifying that the relevant finished products have been

manufactured through processing of the give-and-take raw materials, value of which is not less than 20 % from the total value of the finished products.

11. The bill (written commitment) can be cancelled on the basis of a copy of the export cargo customs declaration, submitted by Ukrainian performer to the local state tax service office, with the record made by the customs, which legalized the finished products, on actual crossing of the finished products the border of Ukraine.

12. The State Tax Administration of Ukraine by consent of the Ministry of Finance of Ukraine shall establish the procedure of issuance, accounting, delays in payment (cancellation) of the bills (written commitments).

13. During the procedure of legalization of the cargo customs declaration a mark "Give-and-take raw materials" and the code according to the classifier of agreements shall be recorded into this declaration.

14. The finished products manufactured of the give-and-take raw materials imported by a foreign customer into the customs territory of Ukraine, observing the requirements of this Law, and are exported from the customs territory of Ukraine shall not be subject to export duty and other taxes and fees (except customs fees) charged for exports of goods, and shall not fall under licensing and quoting treatment. The finished products manufactured with the use of the give-and-take raw materials imported into the customs territory of Ukraine by a foreign customer, and owned by the foreign customer shall not be subject to the special export treatment, except for the target use products, the list of which is determined by the Cabinet of Ministers of Ukraine.

15. Export of those types of finished products, towards which the international agreements of Ukraine, obligation of which has been recognized by the Verkhovna Rada of Ukraine, envisage voluntary export restrictions, shall be carried out in accordance with the procedure established by the Ministry of Economy and Integration of Ukraine into European Community.

16. For that part of the give-and-take raw materials or finished products, which was received as a payment for the work performed, the Ukrainian performer shall pay import duty, taxes and fees charged for imports of goods (work, services).

17. In case of loss or complete spoilage of the give-and-take raw materials or finished products due to the circumstances of force-majeure, emerging of which is certified by the Chamber of Commerce and Industry of Ukraine or regional chambers of commerce and industry, the bill (written commitment) shall be cancelled and import duty, taxes and fees (except customs duties) shall not be paid. In case of need, the Chamber of Commerce and Industry of Ukraine or regional chambers of commerce and industry shall assess the spoilage degree of the give-and-take raw materials or finished products and possibility of their utilization.

Realization of waste products or scrap remaining after spoiling of give-and-take raw materials or finished products or after processing of the give-and-take raw materials at the customs territory of Ukraine shall be levied by import duty and other taxes and fees, charged for imports of similar wastes and scrap in accordance with the legislation.

The buyer of waste products or scrap, which legalizes the import cargo customs declaration (without actual importing of products into Ukraine), shall pay the specified taxes and fees.

18. The give-and-take raw materials imported by foreign customer and not processed in the customs territory of Ukraine or wastes or scrap, which remained after complete spoilage of the give-and-take raw materials due to the circumstances of force-majeure, as well as after processing of the give-and-take raw materials may be exported at the written application of foreign customer in accordance with the procedure established by the State customs service of Ukraine.

19. The Cabinet of Ministers of Ukraine may impose temporary restrictions or prohibition on imports of certain types of give-and-take raw materials into the customs territory of Ukraine or performing operations on their processing at the territory of Ukraine, provided such operations may cause damages to economy of the country.

Article 3. The Procedure of Sales of Finished Products Manufactured of the Give-and-Take Raw Materials Imported by a Foreign Customer, at the Customs Territory of Ukraine

1. The finished products manufactured of the give-and-take raw materials imported by a foreign customer in accordance with the procedure and conditions determined by Article 2 of this Law may be sold within the customs territory of Ukraine only through a registered permanent representative office in Ukraine that shall legalize the import cargo customs declaration for finished products (without its actual importing into the customs territory of Ukraine) and pay import duty, other taxes and fees, stipulated by the legislation for similar import products. The import duty shall be paid

at beneficial rates of the unified customs tariff of Ukraine. Oil products, manufactured of the give-and-take crude oil shall be exempted from import duty.

2. The bill (written commitment) issued under the procedure, stipulated in Article 2 of this Law, may be cancelled on the grounds of a copy of import cargo customs declaration for the finished products (without their actual importing into Ukraine) submitted by Ukrainian performer to the body of local state tax service, as well as copy of the contract between the foreign customer and buyer of the finished products, the finished products acceptance report of the permanent representative office of the buyer and certificate confirming the payment of import duty, other taxes and fees, issued by the state tax service at the location of the permanent representative office of the customer.

The permanent representative office of foreign customer shall hand over the above documents to the Ukrainian performer within ten workdays after drawing up of the finished products acceptance report.

3. Terms, stipulated in clauses seventeen and eighteen of Article 2 of this Law shall be applied under circumstances of force-majeure.

4. Payments between Ukrainian buyer of finished products and the permanent representative office of the foreign customer shall be conducted in the Ukrainian currency through accounts of the permanent representative offices at Ukrainian banking institutions according to the procedure, established by the National Bank of Ukraine.

4. The Cabinet of Ministers of Ukraine may impose temporary restrictions or prohibition on selling of certain types of finished products within the customs territory of Ukraine, manufactured of give-and-take raw materials of the foreign customer, provided this may cause damages to economy of the country.

Article 4. Procedure of Purchase of Give-and-Take Raw Materials at the Customs Territory of Ukraine by a Foreign Customer, and Procedure of Sales or Exports of Finished Products Manufactured of These Materials

1. Foreign customer may purchase give-and-take raw materials on the customs territory of Ukraine at the Ukrainian subject of entrepreneurial activity only for foreign currency.

2. Legalization of the finished products manufactured with the use of the give-and-take raw materials purchased in Ukraine for the foreign currency and exported from the customs territory of Ukraine may be fulfilled on the grounds of a copy of the contract on purchasing the give-and-take raw materials in Ukraine by the foreign customer, submitted by Ukrainian performer to the customs body, as well as certificate issued by Ukrainian bank on receipt of foreign currency to the account of Ukrainian supplier of raw materials.

3. Foreign customer is entitled to sell the finished products in the customs territory of Ukraine, which have been manufactured of the give-and-take raw materials, purchased in the customs territory of Ukraine only through permanent representative office, registered in Ukraine, which pays taxes and fees stipulated by the Law for selling goods at the customs territory of Ukraine. Payments between Ukrainian buyer of the finished product and the permanent representative office of the foreign customer shall be fulfilled in the national currency of Ukraine through accounts of the permanent representative office in Ukrainian banks in accordance with the procedure established by the National Bank of Ukraine.

Fine for violation of the specified procedure of payment shall be imposed on performer, which shipped the finished products immediately to the buyer-non-resident within the territory of Ukraine without payment through the permanent representative office of foreign customer, in the amount established by the tax laws of Ukraine for the relevant taxes and fees (obligatory payments) and officials which allowed the specified violation shall be called to account for deliberate evading of taxation in compliance with the Law.

4. Exports of excisable goods, manufactured from the give-and-take raw materials, from the customs territory of Ukraine shall be exempted from excise duty. The procedure of exemption from the specified duty shall be established by laws of Ukraine.

5. Exports of finished products, manufactured from the give-and-take raw materials purchased by foreign customer in the customs territory of Ukraine and is owned by him, shall not be subject to export duty, other taxes and fees (except customs fees), charged in accordance with the laws of Ukraine and shall be exempted from licensing and quoting, except for target use goods, the list of which shall be established by the Cabinet of Ministers of Ukraine.

6. Terms stipulated in clauses seventeen and eighteen of Article 2 of this Law shall be applied in case of emerging the circumstances of force-majeure.

7. The Cabinet of Ministers of Ukraine may impose temporary restrictions or prohibition on purchase of certain types of give-and-take raw materials by foreign customers or sales of finished products manufactured of give-and-take raw materials within the customs territory of Ukraine, provided it may cause damages to the economy of the country.

Article 5. Procedure of Exports of Give-and-Take Raw Materials by Ukrainian Customer from the Customs Territory of Ukraine, and Re-Exportation of Finished Products into the Territory of Ukraine

1. Give-and-take raw materials, not subject to export duty, taxes and fees, shall be exported from the customs territory of Ukraine on the grounds of submission by the Ukrainian customer, of a written commitment to the relevant customs authority to re-export the finished products manufactured of these raw materials into Ukraine (or to return into Ukraine the funds obtained from sales of finished products, except those, manufactured of give-and-take raw materials and prohibited for exporting) not later than 90 calendar days from the moment of legalization the export cargo customs declaration.

2. Depending on technical peculiarities of the manufacturing process, the Cabinet of Ministers of Ukraine at request of the corresponding ministry or other central executive body may extend terms for performing operations with certain types of give-and-take raw materials.

3. The contract value of finished products subject to importing into the customs territory of Ukraine shall be not less than customs value of exported give-and-take raw materials and the sum of costs paid (subject to payment) for processing (treatment, enrichment, and use) of these raw materials.

In case of need, the Chamber of Commerce and Industry of Ukraine or regional chambers of commerce and industry on the grounds of the documents, submitted by Ukrainian customer, shall certify the volume of yield of finished products (percentage wise) in the result of certain operations with give-and-take raw materials.

4. The written commitment shall be cancelled in case of importing the finished products or returning funds obtained from sales of finished products beyond the territory of Ukraine in full volume within the period specified in clauses one, two, and seven of this Law.

5. Where the give-and-take raw materials exported from the customs territory of Ukraine by a Ukrainian customer are subject to export duty, taxes and fees, payment thereof (except for customs fees) shall be made by Ukrainian customer through issuance of an ordinary bill on delay in payment for the term of fulfillment of operation with the give-and-take raw materials, but not more than for 90 calendar days from the moment of legalization of export cargo customs declaration.

6. Provided finished products are exported in full volume in the period of payment delay, the bill shall be cancelled and export duty, taxes and fees (except customs fees) shall not be paid.

In case finished products are not imported within the terms stipulated in this Law and in the volume specified by the contract, or funds obtained from sales of the finished products are returned into Ukraine, Ukrainian performer shall pay the bill.

In order to determine the amount of import duty, taxes and fees, the value of give-and-take raw materials shall be converted into the national currency of Ukraine at the rate of the National Bank of Ukraine as of the day the of payment.

In case the foreign economic contract envisages that the finished products shall not be re-exported into Ukraine, the customs duty, taxes and fees shall be paid at the moment of customs legalization of the give-and-take raw materials, exported from the territory of Ukraine.

7. Bodies of State tax service at performer's location may permit delays in payment of bills or cancellation of written commitments by certain subjects of entrepreneurial activity, which fulfill foreign operations with give-and-take raw materials on the terms of tax loans. The subject of entrepreneurial activity shall make monthly payments for enjoying the loans to the budget whereto he pays taxes on income of enterprises. These payments shall be calculated proceeding from the rate of the National Bank of Ukraine from the sum specified in the bill. Size of the rate shall be determined by the last day of the period for which the aforementioned payment is made.

8. Finished products (funds) shall be imported in the volume determined by the foreign economic contract within the period, specified in clauses one, two, five and seven of this Article.

9. Customs legalization of give-and-take raw materials, exported from the customs territory of Ukraine shall be fulfilled on the grounds of submission by Ukrainian performer to the customs body a copy of the bill (written commitment), advised (taken into accounting) by the body of state tax service at performer's location, and copy of the foreign economic contract on processing the raw materials.

10. Customs legalization of the finished products manufactured with the use of give-and-take raw materials of the Ukrainian customer and which is imported into the customs territory of Ukraine, shall be carried out on the grounds of submission by a Ukrainian customer to the customs body a copy of the specified bill (written commitment) and copy of export cargo customs declaration and - in case of need - conclusion of the Chamber of Commerce and Industry of Ukraine or that of regional chambers of commerce and industry, certifying that finished products have been manufactured through processing the give-and-take raw materials, value of which is not less than 20 per cent from the total value of finished products.

During customs legalization of finished products customs bodies shall use certificates of origin of goods for identification of finished products.

11. The bill shall be cancelled on the grounds of submission by a Ukrainian customer to the local body of state tax service a copy of import customs cargo declaration for finished products. Returning into Ukraine the funds obtained from sales of the finished products beyond the territory of Ukraine shall not exempt the Ukrainian customer from export duty, taxes and fees, the bill on payment of which has been issued. The written commitment shall be cancelled on the grounds of submission by Ukrainian customer to the local body of state tax service a copy of import cargo customs declaration for finished products or certificate from the authorized bank of Ukraine on remittance of funds.

12. Exports of the give-and-take raw materials (except part thereof used by the Ukrainian customer as payment to the foreign performer) from the customs territory of Ukraine shall not be subject to quoting and licensing. Where goods, exported as give-and-take raw materials are covered by the treatment of quoting and licensing, special export treatment or in case the contract envisages exporting of the give-and-take raw materials as goods, export of which is subject to accounting (registration) under condition of sales of finished products in the country of the performer or other country, the give-and-take raw materials shall be exported on condition of registration of foreign economic contract at the Ministry of Economy and Integration of Ukraine into European Community. Exporting of precious metals and jewels as a form of give-and-take raw materials from the customs territory of Ukraine, their wastes and scrap shall be carried out by consent of the Ministry of Finance of Ukraine.

13. The Cabinet of Ministers of Ukraine may impose temporary restrictions or prohibition on exports of certain types of the give-and-take raw materials, as well as selling of certain kinds of finished products, manufactured with the use of give-and-take raw materials of the Ukrainian performer, beyond the territory of Ukraine, or importing of certain types of finished products, manufactured with the use of these raw materials, provided the above operations may cause damages to the economy of the country.

14. Ukrainian customer shall pay export duty taxes and fees charged when exporting goods (work, services) for the part of the give-and-take raw materials or finished products used as a form of payment for the work performed.

15. Import duty, taxes and fees, charged for imports of goods shall be levied on finished products, manufactured of give-and-take raw materials of Ukrainian customer with observance of requirements of this Law, which are imported into the customs territory of Ukraine, with application of non-tariff regulation in accordance with the legislation.

16. The State tax administration of Ukraine by consent of the Ministry of Finance of Ukraine shall establish the procedure of issuance, accounting and payment (cancellation) of bills (written commitments).

17. In case of loss or complete spoilage of the give-and-take raw materials or finished products due to the circumstances of force-majeure, emerging of which is certified by the Chamber of Commerce and Industry of Ukraine or the chamber of commerce and industry of the country, where the loss or complete spoilage of give-and-take raw materials or finished products took place, the bill (written commitment) shall be cancelled and export duty, taxes and fees (except customs fees) shall not be charged and punitive measures shall not be applied.

Funds obtained from sales of waste products or scrap, which remained after loss or complete spoilage of give-and-take raw materials or finished products or after processing of give-and-take raw materials at the customs territory of the

country of performer or other country, shall be remitted to account of the customer in the authorized bank of Ukraine not later than 90 calendar days from the date of legalization of export cargo customs declaration for give-and-take raw materials.

18. Give-and-take raw materials of the customer, exported by him from the customs territory of Ukraine and which have not been processed, as well as waste products and scrap remaining after loss or complete spoilage of give-and-take raw materials due to the circumstances of force-majeure, or after processing of give-and-take raw materials, may be re-imported into the customs territory of Ukraine at the written request of Ukrainian performer in accordance with the procedure, established by the state customs service of Ukraine.

Article 6. Procedure of Payment for Processing, Treatment, Enrichment or Use of Give-and-take Raw Materials

1. Payment for processing, treatment, enrichment or use of give-and-take raw materials may be fulfilled in monetary form or by part of give-and-take raw materials or finished products, except those, prohibited for exports, or by combination of the above as agreed between the customer and the performer.

2. Exporting by Ukrainian performer of part of give-and-take raw materials or finished products, received as payment for processing, or products manufactured of the specified raw materials, shall be subject to taxes and fees (obligatory payments) according to the procedure established by the legislation.

3. In case the payment for processing, treatment, enrichment or use of give-and-take raw materials is performed in foreign currency, this currency shall be remitted to account of the Ukrainian performer in the authorized bank of Ukraine within 90 days from the moment of customs legalization of finished products or cancellation of the bill (written commitment) depending upon which of these operation has been carried out first.

Article 7. Definition of Foreign Operations with Give-and-take Raw Materials

1. When necessary, at request of customs authorities or state tax bodies the Ministry of Economy and Integration of Ukraine into European Community or authorized bodies on the grounds of examination report, issued by the Chamber of Commerce and Industry of Ukraine or that of regional chambers of commerce and industry, shall specify transactions, which shall be considered as operations with give-and-take raw materials determined in paragraph six of Article 1 of this Law.

2. The Cabinet of Ministers of Ukraine at request of central executive bodies may establish other value indexes of give-and-take raw materials in the total value of finished products in certain foreign operations with the give-and-take raw materials, which are different from those stipulated in clause six of Article 1 of this Law.

Article 8. Accounting and Statistic Information on Foreign Operations with Give-and-Take Raw Materials.

1. Bodies of the state customs service and state tax authorities of Ukraine shall provide for accounting of current foreign operations with give-and-take raw materials and shall monthly submit this information to the local state statistical agencies of Ukraine.

2. The State Committee of Statistics of Ukraine shall provide for accounting and publication of statistical information on foreign operations with give-and-take raw materials.

3. Contracts, on the grounds of which foreign operations with the give-and-take raw materials are conducted, shall not be subject to accounting (registration) at the Ministry of Economy and Integration of Ukraine into European Community, except for contracts, which envisage exports of give-and-take raw materials by Ukrainian customer, covered by the special export treatment, or in case the contract provides for sales of the finished products manufactured of these give-and-take raw materials in the country of performer or exports thereof to another country.

Article 9. Responsibilities for Violation of Performing Operations with Give-And-Take Raw Materials.

1. Violation of the terms of this Law and other legislative acts when performing foreign operations with give-and-take raw materials shall involve responsibility in compliance with this Law and other Laws of Ukraine.

2. Violation by performer (customer) of the terms stipulated in parts seven and eight of Article 2, parts eight and sixteen of Article 5 and part 3 of Article 6 of this Law shall involve a fine in the amount of 0.3 per cent from non-received payment (value of non-supplied finished products) in foreign currency, converted into the national currency of Ukraine

at the rate of the National Bank of Ukraine as of the day of imposing the fine or in hryvnyas equivalent, if payment is performed in the national currency of Ukraine. Total amount of the fine shall not exceed the amount of the debt.

3. Provided the court, commercial court, International commercial arbitration court, or Naval arbitration commission at the Chamber of Commerce and Industry of Ukraine accepts the claim of the Ukrainian performer (customer) on recovering the debt of foreign performer (customer), caused by his failure to observe the terms, determined by the contract, validity of terms stipulated in parts eight and sixteen of Article 5 and part three of Article 6 of this Law shall be suspended and fine for violation of those in his period shall not be charged.

In case the court or commercial court takes decision to reject the claim totally or partially or terminate (close) the case or leave it without hearing the terms stipulated in parts eight and sixteen of Article 5 and part three of Article 6 of this Law shall be resumed and fine for their violation shall be charged for each outstanding day including the period, for which these terms were suspended.

In case the decision is made by court or commercial court to answer the claim on violation the terms specified in parts eight and sixteen of Article 5 and part three of Article 6 of this Law, the fine shall not be charged from the date of reception the claim till the date it is considered by the court, commercial court.

4. The fine determined by clauses two and three of this Article shall be imposed and recovered by authorized bodies of state tax service and shall be directed to the State budget of Ukraine in accordance with legislation.

5. In case of sales of finished products, manufactured from give-and-take raw materials in the country of performer or other country without accounting (registration) at the Ministry of Economy and Integration of Ukraine into European Community, bodies of tax service of Ukraine shall impose a fine in the amount of 20 per cent from the value of finished products on the subject of entrepreneurial activity, which exported the give-and-take raw materials. The foreign currency shall be converted into the national currency of Ukraine at the rate of Ukrainian hryvna to the foreign currency, established by the National Bank of Ukraine as of the day of charging the fine.

Article 10. State Guarantees in Performance of Operations with Give-and-take Raw Materials

1. The State shall guarantee observance of rights and legal interests of customers and performers of operations with give-and-take raw materials including the right to use the give-and-take raw materials and finished products, manufactured thereof, at their own discretion.

2. Officials of the government authorities shall exercise responsibility to the customers and performers of operations with give-and-take raw materials for activities, which are in conflict with the legislation and cause losses to customers and performers, under terms and in compliance with the procedure, established by the laws of Ukraine.

Article 11. Legislation on Foreign Operations with Give-and-Take Raw Materials

Relations connected with regulation of foreign operations with give-and-take raw materials shall be governed by this Law, other legal and normative acts, and international agreements of Ukraine, obligation of which has been recognized by the Verkhovna Rada of Ukraine.

Article 12. Restrictions on Utilization of Natural Resources During Fulfillment of Operations with the Give-And-Take Raw Materials

The Cabinet of Ministers of Ukraine shall impose restrictions or prohibition on utilization of natural resources, as well as establish the list of these resources when performing operations with give-and-take raw materials.

II. Final Provisions

1. This Law shall enter into force on January 1, 2002.

2. It is prohibited to export from the customs territory of Ukraine sunflower seeds under Code 120600900 in the Product Nomenclature of Foreign Economic Activity, used in foreign operations with give-and-take raw materials.

3. Before Ukrainian legislation is brought in line with this Law, normative and legal acts shall be applied in the part, which is not in conflict with this Law.

4. Within a month period after entry this Law into force the Cabinet of Ministers of Ukraine shall:

bring its normative and legal acts into line with this Law;

provide for bringing legal and normative acts of ministries and other central executive bodies into line with this Law.

5. The Decree of the Verkhovna Rada of Ukraine “On Putting into Force the Law of Ukraine ‘On Foreign Operations with Give-And-Take Raw Materials’” (Vidomosti Verkhovnoyi Rady Ukrayiny, N 32, art. 256, 1995; N 27, art.130, 1996) shall be recognized invalid from the date of coming this Law into force.

President of Ukraine

L. KUCHMA

Kyiv

October 4, 2001

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