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VISION OF THE OPTIMAL ARRANGEMENTS FOR TRADE IN AGRICULTURAL PRODUCTS BETWEEN UKRAINE AND THE EU

Non-paper

SUMMARY

The Ukrainian Agribusiness Club (UCAB) urges the European Commission to initiate negotiations for a trade arrangement with Ukraine on the basis of Article 29 of the EU-Ukraine Association Agreement (AA). Once concluded, this arrangement will serve as a long-term foundation for the stabilisation and recovery of the Ukrainian economy, particularly the agricultural sector. It will also facilitate the gradual, predictable, and stable integration of the Ukrainian agricultural sector into the EU Internal Market, while taking due account of the sensitivities of the European farmers.

The UCAB's vision of a liberalised trade regime for agri-food products between Ukraine and the EU, in line with fundamental principles of non-discrimination and a level playing field, encompasses the following elements:

1. **Complete liberalisation of trade in non-sensitive goods of the agricultural segment of the Combined Nomenclature**

2. **Controlled and predictable liberalisation of trade in sensitive goods, considering the experience of applying the protective mechanism within the framework of the EU autonomous trade measures (ATMs)**

3. **Refrain from applying additional requirements for market access to products that will have quantitative restrictions**

4. **Bilateral mode of ad-hoc coordination of trade in sensitive goods**

5. **Termination of national embargoes on the import of Ukrainian products**

6. **Exceptional prolongation of the EU ATMs until arrangements are reached on the basis of AA Article 29 and the entry into force of the relevant Decision of the EU-Ukraine Association Committee in trade configuration**

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Ukraine and the Ukrainian economic operators are going through perhaps the most challenging period in their recent history. External aggression and occupation of territories, loss of a significant part of resources and production potential, and disruption of logistics and production chains resulted in a sharp drop of Ukraine's GDP by 29.1% in 2022, emigration of more than 6 million Ukrainian citizens, and internal displacement of about 10 million Ukrainians. The continuation of high-intensity military actions makes the prospects for sustainable recovery of the country's economy uncertain, maintaining the need for the continued support of Ukraine's allies, at least in the medium term.

Given the high export orientation of the Ukrainian economy (28.9% of GDP in 2023) and its growing integration into the Western community, such support will be most effective in the form of trade preferences for key export-oriented industries of Ukraine. The agricultural sector remains one of the last sectors of Ukraine's economy capable of generating foreign exchange earnings (63% of foreign exchange revenues from the export of goods from Ukraine is the export of agri-food products) to support Ukraine's macroeconomic stability. In 2023, the European Union's market consumed about 57% of Ukraine's total agricultural exports.

The introduction of the EU ATMs in 2022 provided tangible support to Ukraine's agricultural sector and, consequently, to the Ukrainian economy as a whole. In the conditions of the war, it became a resuscitation tool that ensured the survival of the agricultural industry in 2022-2023 and gave impetus and hope for a gradual recovery.

In June 2024, with the entry into force of the EU Regulation on the extension of the ATMs, the European Commission publicly announced its readiness to start negotiations for further trade liberalisation with Ukraine under the Art. 29 of the AA. UCAB welcomes this decision of the European Commission since it believes that unlike with the temporary nature of ATMs, a bilateral arrangement will create a long-term basis for the stabilisation and recovery of the Ukrainian economy, including the agricultural sector.

UCAB believes the key parameters of the future arrangement based on Article 29 of the AA should be based on the following principles:

1. Complete liberalisation of trade in non-sensitive goods of the agricultural segment of the Combined Nomenclature

Except for goods of the agricultural group, for which tariff rate quotas (TRQs) or minimal entry prices apply, all other goods are currently traded with zero duty rates due to the expiry of the transitional periods. Therefore, in order to attain the objective of Article 29 of the AA, the negotiations should focus exclusively on goods of the agricultural group where the trade regime remains only partially liberalised. In the opinion of UCAB, the parties should agree on the complete abolition of TRQs for the goods of Appendices A and B (Annex I-A) of the UA, with the exception of a particular category of "sensitive" products. The parties should proceed from the fact that during the two years of operation of the ATMs, the import of these goods to the EU did not create additional pressure on the European market and did not cause concern among the European farmers.

2. **Controlled and predictable liberalisation of trade in sensitive goods, considering the experience of applying the protective mechanism within the framework of EU ATMs**

UCAB is aware that the EU's room for manoeuvre to offer deeper trade liberalisation is limited for "sensitive" products within the scope of safeguard measures that were introduced under the third edition of the EU's ATMs in June 2024, given their high political sensitivity for the European farming community. According to UCAB, the safeguard measures under the ATMs represent a workable compromise solution and may be relied upon in the long term.

Therefore, UCAB proposes introducing annual TRQs for sensitive goods based on the experience with the safeguard measures currently in force (eggs, poultry, sugar, oats, maize, groats, and honey). The basis for such quotas can be the import volumes of Ukrainian products to the EU in 2023 according to Eurostat data, or the existing levels of duty-free imports of the said products under the ATMs. A pre-agreed gradual yearly increase of such quotas or volumes should also be envisaged.

The exact parameters of such TRQs must be determined jointly by the parties, on the basis of the assessment of the impact of importing these goods on the balance of supply and demand on the EU market, prices, and the risk of injury of to the European producers.

3. **Refrain from applying additional requirements for market access to products that will have quantitative restrictions**

In view of the ongoing pre-accession negotiations of Ukraine, a comprehensive legislative approximation process to the EU legislation relevant to the agricultural sector will underpin the liberalised trade arrangements under Article 29, supporting with the principle of 'gradual economic integration' declared in the 2024 Commission Communication on pre-enlargement reforms and policy reviews[1]. In this way, improved access to the EU market for the Ukrainian agri-food producers and exporters will go hand-in-hand with adapting to the EU food safety and production standards.

However, in line with the fundamental economic principles of non-discrimination and a level playing field, given the economic and social challenges facing Ukrainian economic operators in view of the Russian aggression, the implementation of the relevant EU acquis for agriculture must be accompanied by needs-based transitional periods as well as effective access to the relevant EU pre-accession assistance and structural funds for modernisation and transition to European standards modelled after the experience of previous rounds of enlargement. In the same manner, safeguards and other *ad hoc* quantitative restrictions for Ukrainian imports must be phased out to ensure a genuine level playing field.

4. **Bilateral mechanism of coordination of trade in sensitive goods**

It is important to ensure a regime of constant mutual monitoring and coordination of trade in "sensitive" goods to respond in time to sudden market fluctuations. UCAB proposes to draw upon successful cases of export licensing tools by Ukraine employed in the bilateral trade negotiations with individual EU Member States.

[1] Brussels, 20.3.2024 COM(2024) 146 final

Such a mechanism could function in an ad-hoc mode within the framework of the contact points established in accordance with Article 284 of the Association Agreement.

5. **Termination of national embargoes on imports**

Flexible management of TRQs for "sensitive" goods with the help of a bilateral coordination regime will make redundant the case for continued national import embargoes on imports of Ukrainian agricultural products by the EU Member States neighbouring Ukraine. These embargoes constitute a violation of the provisions of the Association Agreement and contradict the fundamental principles of the EU Internal Market.

6. **Exceptional prolongation of the EU ATMs until arrangements are reached on the basis of AA Article 29 and the entry into force of the relevant Decision of the EU-Ukraine Association Committee in trade configuration**

If, in April 2025, the parties come to realize that Article 29 – based trade arrangement is not within reach, the European Commission must take urgent measures to submit a legislative proposal to the European Parliament and the Council of the EU on the exceptional extension of the current ATMs regime for the additional period necessary for the completion of the negotiations. This will allow Ukrainian economic operators, primarily in the agricultural sector, to avoid sharp deterioration of EU market access conditions caused by automatic regression to the pre-ATMs trade conditions.

UCAB is convinced that the presented proposals will ensure the gradual, predictable, and stable integration of the Ukrainian agricultural sector into the EU Internal Market and its sustainable recovery, including imports of products considered "sensitive" for European farmers.