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June 17, 2002

Honorable Donald Evans
Secretary of Commerce
 c/o Central Records Unit, Room 1870
 US Department of Commerce
 Pennsylvania Ave. & 14th Street, NW
 Washington D.C. 20230

A-823-812
 Investigation
 Total pages: 35

PUBLIC DOCUMENT

Re.: Investigation of Carbon and Certain Alloy Steel Wire Rod from Ukraine: Opportunity to Comment on the Status of Ukraine as a Non-Market Economy Country

Dear Mr. Secretary:

Please find enclosed the letter dated June 14, 2002 and addressed to you by His Excellency Oleksandr Shlapak, Minister of Economy and for European Integration Issues of Ukraine, containing the additional comments of the Government of Ukraine in connection with the opportunity to comment on the status of Ukraine as a non-market economy country.

I certify that the information submitted is accurate and complete to the best of my knowledge.

Respectfully submitted,

Yaroslav V. Voitko,
Chief, Trade and
Economic Mission of Ukraine

Enclosure: as stated, on 33 p.

I, Yaroslav V. Voitko, hereby certify that a copy of the foregoing document was served on the following parties by first class mail on this 17th day of June, 2002.

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_____ Yaroslav V. Voitko

LOGO
**MINISTRY OF ECONOMY
AND FOR EUROPEAN INTEGRATION ISSUES OF UKRAINE**

#52-26-27/647

June 14, 2002

**Honorable Donald Evans
Secretary
United States Department of Commerce**

Dear Secretary Evans,

Availing myself of this opportunity I would like to assure you of my highest consideration and inform of the following.

In accordance with the official notice dated April 19, 2002 within the antidumping investigation A-823-812 on imports of Steel Wire Rod *inter alia* from Ukraine, the United States Department of Commerce has initiated a public discussion of the issue of Ukraine's market economy status.

On May 29, 2002 the official materials were published at the US Department of Commerce official website by companies Co-Steel Raritan, Inc., Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. stating that Ukraine's economy did not correspond to market criteria.

In addition to its letter of May 27, 2002 No.52-26-13(5)/534, the Ministry of Economy and for European Issues of Ukraine has prepared comments with regard to the market status of Ukraine containing the rebuttal arguments to the claims of the above companies.

I hope that the comments prepared by the Ukrainian Side will assist the United States Department of Commerce in making its decision about the existence of market economy in Ukraine.

Again, I would like to assure you personally, and the United States Department of Commerce of my highest consideration.

Sincerely,

**O. Shlapak,
Minister of Economy and for
European Integration Issues of Ukraine**
(signed)

Enclosure: Additional comments of the Ministry of Economy and for European Integration Issues of Ukraine with regard to Ukraine's compliance with the market economy criteria set by 771(18)(b) of the US Tariff Act

**Additional Comments
of the Ministry of Economy and for European Integration Issues of Ukraine
with regard to Ukraine's Compliance with the Market Economy Criteria
Set by 771(18)(b) of the US Tariff Act**

Over 1991 – 2001 Ukraine, practically from scratch, has created the attributes that, in their entirety, define the economic structure of an independent market economy, namely, the financial, budget, banking, customs and other systems.

During these years Ukraine has effectively dismantled the basic principles of administrative-and-command system of economic relations and introduced new market mechanisms.

Property relations have undergone the most radical changes. As of now, more than 75 per cent of industrial goods are produced by enterprises that are not owned by the Government. Denationalization of construction business, transport sector has been effected, and commerce enterprises work based on private ownership.

Cardinal changes have occurred in agriculture where the goals of agricultural reform initiated back in 1994 are being implemented. Over the period of its implementation, 6.4 million agricultural workers have, free of charge, received 26.5 million hectares of agricultural lands as their property. Additional 6.2 million hectares of lands have been transferred as private property for use as private farms, personal plots and plots of lands attached to house. Practically all the agricultural products are now produced by private entities. This step, perhaps the most difficult one in a series of market transformations, has dramatically changed the system of economic relations not only in agriculture but also in the economy at large.

During 1990s, the framework of market-based infrastructure and market institutions was formed, and the relevant legislative base approved. Important steps have been taken to liberalize economic relations, in particular, the pricing mechanism, monetary and currency markets, goods and capitals markets.

Economic functions of the State have changed dramatically. Instead of the former system based on government directives, the new leverages and instruments of macroeconomic regulation are in place today.

Ukraine now has the stable convertible national currency as well as laws governing the foreign economic activities.

These changes have opened the real prospects for dynamic growth and new quality of domestic economy that allow to increase the population well-being. A new ideology has formed in the society based on the deep confidence that there is no alternative to the chosen way of market transformations. A new and market-oriented generation of businessmen, entrepreneurs and government officials has formed in Ukraine. The United States has played a significant role in this transformation being itself a vivid example of advantages that can be gained from the market-based economy, as well as providing real technical assistance to Ukraine in its market transformations. It is noteworthy that for a number of years Ukraine has been the third largest recipient of US technical aid (after Israel and Egypt).

Judging by the pace of its economic growth in 2000-2001, Ukraine has entered the group of countries with the greatest rates of economic growth. This information testifies to the fact that market mechanisms introduced in Ukraine over the last decade have proven their practical effectiveness.

In accordance with 771(18)(B) of the US Tariff Act, the information is provided below in favor of the existence of market economy in Ukraine and refuting the arguments of Co-Steel Raritan, Inc., Keystone Consolidated Industries, Inc. and North Star Steel Texas, Inc. (hereinafter referred to as Petitioners)¹.

¹ It must be noted that the Embassy of Ukraine has never received a hard copy of Petitioners' May 29th 2002 comments, and had to use the version posted on the Import Administration website.

1. The Extent to Which the Currency of Ukraine is Convertible into the Currency of Other Countries

As of today, all the rules of currency regulation in Ukraine correspond to the requirements of Article VIII of the IMF Statute.

The Petitioners claim that “the Ukrainian Government requires from exporters in Ukraine to surrender 50 per cent of their hard currency earnings”

In effect, there is a requirement in Ukraine to sell 50 per cent of currency proceeds that is aimed at maintaining stability on the Ukrainian currency market. The sale of currency is effected under market rules, and currency price is established based on demand as well as bids of the exchange market participants. The requirement to sell 50 per cent of hard currency earnings was introduced during the 1998 world financial crisis; it was and remains an instrument of providing for economic security of the State in the post-crisis period which is characteristic of other countries including those recognized to be market economies. Thus, in its opinion on the similar mechanism in Russia, the US Department of Commerce has noted that the mechanism of sales of 50 per cent of currency proceeds, as well as other currency control mechanisms, are separate instruments of currency control aimed at limiting the capital outflow and are similar, in essence, to mechanisms existing in other market economies:

“Limited currency controls remain to combat capital flight and are similar in nature to those maintained by other market economy countries”².

In their review of the issue of certain mechanisms of currency control, the Petitioners have compared Ukraine with other market economies (Latvia, Slovakia, and the Czech Republic) by which, perhaps, they tried to impose a specific comparison model for the US DOC judgment. As can be seen from the US DOC determination in consideration of the Kazakhstan application, while considering the factors one should not compare the country to any models because of the existence of many market economy models³. Proceeding from this, the requirement for the existence (or absence) of these specific conditions in Ukraine must be taken into consideration only in the context of analysis of principal market economy criteria for the purposes of the US trade law, namely, the mechanisms of price and cost formation.

In Ukraine, the currency convertibility during trade in goods or services has no restrictions except for those that may be connected with control effected by the State within the framework of its fight against corruption and money laundering. The absence of restrictions is also observed during investments of money, as the law of Ukraine and investment practices provide for no restrictions as to currency convertibility during investment or as a result of investment. Therefore, given the high extent of currency convertibility, in trade and investment activities there forms a tight connection between demand and supply tying Ukraine’s domestic prices with world prices.

The Petitioners note an “active intervention of the National Bank of Ukraine in the foreign exchange market activities”

² See Memorandum on Inquiry for the Revocation of Russia’s Non-Market Economy Status dated June 6, 2002, Criterion 1.

³ See Memorandum on Inquiry for the Revocation of Kazakhstan’s Non-Market Economy Status dated March 25, 2002, “Analytical Approach”: “This test, however, does not require that countries be judged against a theoretical model or a perfectly competitive laissez-faire economy... The Department’s determination is based on comparing economic reforms in the country to how other market economies operate, recognizing that market economies around the world have many different forms and features”.

In this connection it must be stated that all the subjects of the currency market in Ukraine have equal access to the Ukrainian currency market. Being an equal currency market participant, the National Bank of Ukraine does not exert administrative pressure on the exchange rate formation, and only indirectly influences demand and supply of foreign exchange on the Ukrainian currency market by means of effecting market instruments that are generally accepted in the world practice. The National Bank of Ukraine activities are aimed at maintaining stability on the currency market as well as neutralization of destabilizing influence of adverse world financial crisis phenomena.

Besides, in accordance with Article 4 of the Law of Ukraine “On the National Bank of Ukraine” of May 20, 1999 #679-XIV,

“the National Bank of Ukraine is an economically independent body...

... the National Bank of Ukraine shall not be responsible for the obligations of the bodies of State power...”

“Interference of the bodies of legislative and executive power, or their officials, with the performance of functions and authority of the Council of the National Bank of Ukraine or the National Bank of Ukraine Board is not allowed, except for the cases stipulated by this Law” (Article 53 of the Law of Ukraine “On the National Bank of Ukraine”).

It must be noted separately that in 2001 the inflation index was the lowest during the entire period of Ukraine’s independence having amounted to 6.1 per cent (compared to 25.8 per cent in 2000). In 2001 the revaluation of hryvnia occurred at the level of 2.5 per cent.

The above facts prove convincingly the strengthening of hryvnia’s positions on the domestic market, and constitute an additional argument confirming the Ukrainian national currency convertibility.

2. The Extent to Which Wage Rates In Ukraine Are Determined By Free Bargaining Between Labor and Management

The Petitioners allege that the Ukrainian Government interferes actively with free wages and employment negotiation by establishing the tariff system of labor remuneration and, specifically, in the process of wages and salaries determination through the tariff schedule.

In this regard it must be noted that, according to Article 6 of the Law of Ukraine “On Labor Remuneration” dated March 1995 #108/95-BP, the tariff schedule shall be set in the amount not less than that one established by the general (branch) agreements:

“The tariff schedule (the schedule of functional salaries) shall be established on the basis of the first rank employee tariff rate which has to be established in the amount not less than the one established by the general (branch) agreement...”

Taking into account the above, **it must be stressed that both the tariff schedule and the tariff rate are established on the basis of general (branch) agreement, i.e., by the bargaining between employees and employers, thus providing the evidence of absence of state interference with the process of wages and salaries determination.**

Ukraine does not have the laws that would allow to allege that the Government of the country administers the determination of wages (except for those of budget enterprises and establishment of the minimum countrywide wage/ salary level).

Contractual regulation is the main component of the labor remuneration system. It provides for the system of agreements, i.e. general, branch, territorial, and collective agreements.

The branch agreement is the principal agreement for a certain economy sector because it takes into account the characteristics of each sector or sub-sector. The collective agreement is the basic agreement for a specific enterprise. The state regulation only consists in the establishment of the countrywide minimum level of labor remuneration below which the labor is not allowed to be remunerated.

The Petitioners allege there exist restrictions for labor force mobility in Ukraine referring to Articles 23 and 24 of the Law of Ukraine “On Labor Remuneration” defining the forms, terms, periodicity and place of wages and salaries payment

It must be noted that Articles 23 and 24 of the Law of Ukraine “On Labor Remuneration” are consistent with the provisions of Convention 95 of the International Labor Organization (Convention on Wages Protection) ratified by Ukraine. These articles are incorporated into Section IV “The Rights of Employees To Labor Remuneration and Its Protection” and, as such, constitute the State guarantees of social security for employees in Ukraine. According to the Article 19 of the Law of Ukraine “On Enterprises in Ukraine” of March 27, 1991 #887-XII, the “enterprise shall independently determine the forms, systems and amounts of labor remuneration as well as the other types of employees’ income in accordance with the legislation”.

The Decision of the Constitutional Court of Ukraine dated November 14, 2001 #15-??/2001 in case #1-31/2001 is a persuasive evidence of absence of any kind of state control over the mobility of labor. In accordance with the Decision, “propiska” (i.e. obligatory registration of citizens residing in certain vicinity) requirement was cancelled. Based on this decision, the citizens of Ukraine can freely change the place of residence that undoubtedly encourages increased labor force mobility.

The cancellation of the “propiska” requirement at the time of employment (and annulment of this Soviet vestige as a whole) distinguishes Ukraine from other market economy countries, for example Russia, where such a requirement is still in place.

The Petitioners note that the Government bodies in Ukraine and the management of companies support the employment level that does not meet the criteria of effective production. In their view, it results in distortion of labor market when the employees and employers are not able to negotiate wages that are economically appropriate

These allegations do not correspond to reality, as “all enterprises (except for state-owned ones) shall plan their activities independently and determine the prospects of their development taking into account the demand for goods, works, and services produced, as well as the necessity of securing the production and social development of the enterprise, increase of incomes”⁴.

The encouragement of employment by the State is characteristic of all market economy countries and does not contradict to the terms of effective labor market organization.

Article 26 of the Law of Ukraine “On Enterprises in Ukraine” also stipulates that

“Social development issues, including the improvement of labor, life and health conditions, guarantees for mandatory medical insurance of labor collective members and their families shall be decided by the labor collective with the participation from the owner or the body authorized by him in accordance with the enterprise charter, collective agreement and legislative acts of Ukraine”.

The Petitioners make an allegation that there are bad conditions of work, high level of wage arrears, low levels of minimum wage and intensification of control over movement of labor force that prevents the labor market from normal functioning

As for the level of arrears, it must be noted that the US Department of Commerce, in its memoranda on inquiries of Kazakhstan and Russia market status, has determined the high levels of wage arrears in these countries and recognized that the mere fact of arrears existence is not the indicator of non-market economy.

At the same time, it is noteworthy that the wage arrears in Ukraine decreased by 43.9% in 2001 while real wages increased by 19.3% in 2001 compared to 2000.

The labor market reacted to the production growth by decreased unemployment level (3.7% as of January 1, 2002 against 4.2% as of January 1, 2001). The economic recovery, increase in labor-earned pensions and wages both in budget and non-budget sectors, coupled with small inflation rates and stable national currency rates, had positive influence on the growth of real money incomes of population. In 2001, the real incomes increased by 9% compared to 2000.

⁴ See Article 20 of the Law of Ukraine “On Enterprises in Ukraine”

3. The Extent to Which Joint Ventures or Other Investments By Firms of Other Foreign Countries are Permitted in Ukraine

The Petitioners allege that the court system and law enforcement practices in Ukraine are “burdensome and unpredictable”.

The judiciary problems in Ukraine are inherent to all post-Soviet countries including those that have been already granted the market economy status. To improve the situation, Ukraine initiated the court reform in 2001. As a result, the court system of a European model was established, with the Supreme Court of Ukraine being the highest judiciary body of the country, and the Constitutional Court being the highest judiciary body determining the correspondence of laws and regulations to the Constitution (Principal Law) of Ukraine.

The Petitioners allege that foreign ownership of land is prohibited in Ukraine and that “private land ownership which is fundamental to the existence of any market economy remains very much unsettled”.

It must be noted that natural persons and legal entities of Ukraine, as well as foreign citizens and legal entities have the right to purchase land as their property according to Articles 81 and 82 of the newly adopted Land Code of Ukraine dated October 25, 2001 #2768-III.⁵ According to the Constitution of Ukraine, the law, that is the Land Code, has priority over any other regulation.

To encourage foreign investment inflow to the Ukrainian economy, Ukraine has done a lot to bring its tax regime in correspondence with the generally accepted world practices. In this regard it is noteworthy that, as of 2001, there were 47 treaties in effect on avoidance of double taxation between Ukraine and other countries, including the one with the United States.

The Ukrainian industry is open to the competition with raw material suppliers, sellers of goods and services from foreign countries that come to Ukraine in the form of foreign investment. The volume of foreign direct investment (FDI) that came to Ukraine in 2001 amounted to USD813.7 million which is 2.7% more than in 2000. The total volume of FDI amounted to USD4,406.2 million as of January 1, 2002.

It is the American enterprises that are the biggest foreign investors in Ukraine. By volume of its FDI in Ukraine, the United States occupies the first place among foreign investors. As of January 1, 2002 this volume came to USD730.869 million, or 16.6% of the total FDI amount in Ukraine. Compared to other countries, the USA enjoys the leading position as to the number of joint ventures in Ukraine: thus, as of January 1, 2002, out of 1,122 US enterprises active in Ukraine, 699 were the joint ventures.

It is also true that about 10 US companies have experienced problems in their investment activities in Ukraine. These business cases are in the focus of attention of the US and Ukrainian Governments, and the solutions are sought within the judiciary system of Ukraine, international courts as well as within the framework of the US-Ukraine Committee on Economic Cooperation. Given the high level of US investment and large numbers of US firms working in Ukraine it must be noted that the number of enterprises having business disputes amounts to less than 1 per cent.

Today, the following Ukrainian industries are the most attractive from the investment viewpoint: food industry and processing of agricultural products, 18,1% of the total volumes of

⁵ See Exhibit 1

investment; wholesale and trade mediation operations, 14,7%; financial operations, 8,2%; machine-building, 7,8%; transport, 7%; chemical and petrochemical industry, 5,3%; production of coke, oil processing products and nuclear fuel, 4,1%; real estate operations, 4%; metallurgy and metal-working, 3,9%.

As a separate point, it is noteworthy that on January 8, 2002 the well-known international investment bank *JP Morgan* recognized Ukraine as the country which is most attractive for investment because in 2001 the overall return rate of profits from investments to Ukraine amounted to 57.1%.

Taking into account the above facts, it must be noted that the terms and conditions for operations of joint ventures as well as all other forms of foreign investment are based in Ukraine on the principles of market economy and free trade.

4. The Extent of Government Ownership or Control Of the Means of Production in Ukraine

Petitioners claim that in Ukraine “the prohibition of direct participation in privatization exists for foreign investors”.

The above allegation is groundless because of the fact that in Ukraine the right of foreign investors to take part in the privatization is stipulated by the law. According to Article 8 of the Law of Ukraine “On State Property Privatization” of March 4, 1992, N 2163-XII:

“ Buyers of privatization objects shall be: citizens of Ukraine, foreign citizens, person without citizenship; legal entities registered in the territory of Ukraine...; legal entities of other states...”

Petitioners claim that the Government of Ukraine retains the considerable part of property or controls means of production and, therefore, the privatization is effected slowly and remains incomplete.

Petitioners’ arguments are unconvincing because the scale and size of privatization in Ukraine proves quite the contrary.

As of May 1, 2002 81,339 objects have been privatized in Ukraine, out of which 28.0% are state property units, and 72.0% are municipal property units, among which:

- small privatization objects amount to 79.5% ;
- medium and large privatization units amount to 14.1%.

In accordance with the data of the State Property Fund of Ukraine, 6,031 units were privatized in 2001, 27.5% of which (in 2000, 32.4%) were state property units and 72.5% (in 2000, 67.6%), municipal property units. The number of privatized units in 2001 grew by 13.5% compared to 2000. Over 2001, the State budget received more than UAH2.1 billion from the privatization of state property units and other earnings connected with the privatization process.

As a result of the implementation of the “State Program for Privatization and Private Sector Development”, the share of goods produced by non-governmental sector of economy has increased substantially. It is necessary to note that in 2000, 85.3% industrial enterprises in Ukraine were non-governmental, and they accounted for 75.7 % of all industrial output. In particular, 92.7% Ukrainian plants of ferrous metallurgy worked in non-governmental sector and accounted for 85.5% of all output of this industry. The share of private enterprises in the light industry came to 95.4%, and they accounted for 97.8% of all output of the industry.

The above testifies to the active development of the non-governmental sector of Ukraine that has currently become a principal basis for producing goods and services in Ukraine, and this corresponds fully to market principles of economy operation.

Moreover, while analyzing conditions of Kazakhstan economy, the US Department of Commerce has stated that it’s not enough to recognize the fact that the country economy has not been already under the government control; “the Department must evaluate the totality of facts in determining whether a country has met the standard of a market economy whether the country’s economy is functioning by market principles”. So, the fact that some enterprises are in the partial or full state ownership doesn’t indicate under what conditions they operate, in other words, how they buy raw materials, pay for services, and as a result, in what way such producers form the price for their products. The Petitioners have not presented any information on this issue.

Thus, it is necessary to state that enterprises in Ukraine work under market conditions, and private companies which have equal opportunities with the state sector enterprises, are the owners of the majority of means of production in the country.

5. The Extent Of Government Control Over Allocation of Resources, and Over the Price and Output Decisions of Enterprises

The main indicator to assess this factor is the existence of producers' right and ability to make independent and decentralized decisions regarding prices, investments, manufacturing, etc.

In Ukraine equal legal conditions for activity of enterprises, irrespective of the type of ownership and organizational structure, are stipulated by Law (See Law of Ukraine "On Enterprises in Ukraine" on March 27, 1991 N 887-XII).

In compliance with Article 27 of the Law of Ukraine "On Enterprises in Ukraine", any interference with commercial or other activities of enterprises by government entities is prohibited (with some exception stipulated by laws of Ukraine).

The Petitioners claim that state-owned enterprises in Ukraine as well as monopolists (both state and private) must fulfill state orders.

In Ukraine there is no law by which the Government could impose the fulfillment of state orders on enterprises contrary to their own business development plans. All companies in Ukraine work independently on the basis of the current legislation. In this connection, attention must be drawn to the fact that the Government of Ukraine is able to govern only state companies called "state-owned enterprises". As a rule, these companies belong to such kind of companies whose activities, in one way or another, are connected to the strategic state interests and are not subject to privatization.

It is necessary to stress that, in accordance with Article 20 of Law of Ukraine "On Enterprises in Ukraine", enterprises (except for those that are state-owned) plan their activities and determine their development prospects independently. Works and shipments for state needs are procured by enterprises on the contractual basis stipulated by legislative acts of Ukraine.

It must also be noted that the system of state orders has been used effectively by some market economy countries, the USA in particular, to stimulate the development of nuclear, space and other industries.

The petitioners contend that it is typical for Ukraine to use "nontransparent system of barter payments".

It is appropriate to point out that, while analyzing the Kazakhstan' case, the US Department of Commerce stated that the barter shouldn't be considered as a separate factor in the analysis of market economy. The barter as a phenomenon in Ukraine was caused by commercial non-payments. Over the last years, the share of barter payments has decreased to such extent that there now exist all grounds to declare that it has disappeared from the economic activity in Ukraine.

The share of barter operations in the accounting structure of industrial output decreased by 2,2 times during 2001 compared to 2000. In January 2002 Ukrainian industrial enterprises shipped their products for UAH12.9 billion, including UAH0.5 billion (4.2%) on the barter basis.

During 2001, the volume of exports in the foreign economic activity that was based on barter came to USD55.9 million accounting for 0.3% (compared to 1.5% in 2000) of the total exports from Ukraine. The barter volumes in import operations in 2001 came to USD53.4 million, or 0.3% out of total imports into Ukraine (1.4% in 2000).

The above facts indicate that enterprises in Ukraine have practically discontinued the use of barter-based transactions in the foreign economic activity and, to a considerable extent, have abandoned such operations on the domestic market.

The European Bank for Reconstruction and Development experts have noted the success of Ukraine in the sphere of market-based price formation. According to the EBRD 2001 Report, price liberalization index for Ukraine and other countries, which were recognized by the US DOC as market economy countries, came to the value of 3 (maximum is 4+) that demonstrates the significant progress in the price liberalization and abandonment of the non-market price formation.

Because of foreign trade liberalization, Ukraine now maintains trade relations with 180 countries all over the world. Ukraine uses standard internationally recognized practices of tariff and non-tariff regulation corresponding to the market economy principles.

Hence, Ukrainian enterprises are independent economic entities that independently define the price and marketing policy under the conditions of freedom of foreign economic activity and absence of direct intervention by the government authorities.

6. Other Important Factors

Petitioners allege that corruption obstructs the development of efficient market mechanisms in Ukraine.

It is necessary to note that corruption and other related phenomena are not the indicators which characterize existence or absence of the market economy in any country. The US Department of Commerce came to such a conclusion in its analysis of inquiry for revocation of non-market economy status of Kazakhstan and the Russian Federation.

“Although reports indicate that the level of corruption in Russia is substantial, this does not alter the fact that prices and costs in Russia are market-based or indicate state control of the economy.”⁸

Moreover, the US DOC noted that corruption is also characteristic of the countries with the market economy.

“While the level of corruption in Russia is high, it is no higher than levels in some other market economies.”⁹

Similar conclusion was made by the US DOC in the Kazakhstan case.

“...Moreover, we note that even in market economies, there exist varying degrees of corruption”¹⁰

Corruption is not a factor that defines conditions of products’ prices and cost formation. Investors’ confidence depends on economic development indicators rather than psychological feelings in their decisions to invest money in Ukraine or any other country. Thus, corruption is not a factor which determines the existence or absence of market in Ukraine.

Rather than that, it is much more important to draw attention to the fact that **Ukraine has been recognized as a market economy in antidumping investigations conducted in other countries of the world.**

Within the framework of antidumping legislation of the European Union, Ukraine was granted the special market status which was stated in the EC Council Regulation dated October 9, 2000 (? 2238/2000¹¹) by which changes to the basic Regulations of EU Council (? 348/96 dated December 22, 1995) were introduced.

Within the framework of the anti-dumping investigation on imports of Ukrainian steel concrete rebars to Canada, the Canadian Customs and Revenues Agency (CCRA) on May 2, 2001 recognized the market status of Ukrainian metallurgical industry¹². “Krivorozhstal” was a

⁸ See the Memorandum on inquiry of the Russian Federation on revocation of non-market economy status dated June 6, 2002, criteria 16 «Other factors”.

⁹ See the Memorandum on inquiry of the Russian Federation on revocation of non-market economy status dated June 6, 2002, criteria 16 «Other factors”.

¹⁰ See the Memorandum on inquiry of the Kazakhstan on revocation of non-market economy status dated March 25, 2002, criteria 16 «Other factors”.

¹¹ See Annex 4

¹² See Annex 5

respondent in that case, and it is also a respondent in the current investigation on imports to the USA of steel wire and rod. The relevant Canadian authorities accomplished a detailed verification of this plant, and the results of this verification have shown that functioning conditions of “Krivorozhstal” correspond to the market criteria.

7. CONCLUSION

Recent positive trends in the Ukrainian economic development have come about as a result of implementation of the market reforms in Ukraine.

Over the last two years Ukraine has retained positive dynamics of GDP, growth of industrial output and personal income. The real growth of the GDP was 9.1% in 2001. In this regard, the UN Economic Commission on Europe experts noted in their May 2, 2002 press release on the countries with the transitional economy that economic growth of Ukraine among other countries with the transitional economy is a result of successful implementation of market reforms.

The main factor of GDP real growth became the increase in domestic and external aggregate demand. The evidence of demand growth is a real growth of personal incomes by 9%, and growth of retail trade turnover by 11.7% in 2001. During 2001, the most intensive growth of gross value added was noted in the leading economic activities such as manufacturing industry, retail and wholesale trade, agriculture, hunting and forestry, construction industry.

The growth of industrial output amounted to 14.2% in 2001 (13.2% in 2000) including 17.2%, in manufacturing industry; 3.3%, in mining industry; 2.6% in electricity, gas and water production and distribution industries. At the same time, the volume of manufacturing industry production came to 72.1% of the total industrial output of the country.

The retail trade turnover increased by 11.7% in 2001 compared to 2000.

The positive dynamics of the foreign trade emerged in 2000 and continues in 2001. The foreign commodity trade turnover increased by 12,3% in 2001 compared to the previous year. At the same time, exports increased by 11.6% and imports grew by 13%. The positive balance of trade amounted to USD489.6 million). The above data indicate that Ukrainian economy is open for foreign trade and investment, and has become more integrated into the world economy as a market-based country.

List of Annexes

1. Extract from the Land Code of Ukraine dated October 25, 2001 (? 2768-III), on 2 p.
2. Extract from the Law of Ukraine "On Enterprises" dated March 27, 1991 (? 887-XII), on 2 p.
3. Extract from the EBRD 2001 report, on 2 p.
4. Council Regulation (EC) No 2238/2000 dated October 9, 2000, on 2 p.
5. CCRA Statement of Reasons on Ukraine dated May 2, 2001, on 2 p.
6. Press release of the UN Economic Commission on Europe dated May 2, 2002, on 5 p.