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LEGAL FRAMEWORK OF STATE SUPPORT OF AGRICULTURE AS A MEANS OF ENSURING FOOD SECURITY

It is stated, that after joining to the Trade Organization (hereinafter referred to as the WTO) Ukraine is assumed a number of obligations, among them this is bringing of the internal state support of agricultural producers in accordance with the requirements of the Agreement of agriculture, that involves the gradual restriction measures, which have a direct impact on the trade and production (measures of a «yellow box»). But for the purpose of obtaining an efficient production of agricultural products and ensuring food security, an important role is played by the analysis of the domestic legislation in the sphere of the state support of agricultural producers, the identification of the ways in order to improving it in accord with international standards.

One of the main priorities of the state of agrarian policy are the state support of subject of agrarian sector by focusing the state resources on a priority directions of development, the establishment

of an acceptable target, financial credit, insurance, tax and fiscal policy, the ensuring of rational internally and externally branches of the economic relations.

The domestic legislation doesn't provide for certain state support of agricultural producers, it's important for its implementation. I. P. Safonov analyzing the existing agrarian legislation and the present state of agriculture, he defines the government support as a multidimensional purposeful activity: firstly, the establishment and functioning of agricultural producers; secondly, the adoption of relevant laws and regulations; third, the creation of a system and the definition of tasks, functions, competences of the bodies that should carry out the state support of agriculture.¹

However, under current conditions, the state supports domestic agricultural

¹ Сафонов І. Правові проблеми державної підтримки сільськогосподарських виробників // Право України. – 2005. – № 6. – С. 56.

producers to identify conditions to help them function effectively, production of quality agricultural products and raw materials, stimulating the manufacture of agricultural products, motivating agricultural workers, reform of pricing, finance and credit relations, regulating agricultural land use, market relations between the agro-industrial complex and villages etc.¹

The legal regulation of the state support to the domestic agricultural producers has for objective the implementation of two basic functions. Firstly, it is food security. It means to provision of population with foodstuff at the expense of the own resources. Secondly, it is creation of safeguards for those who work in agriculture taking into account its specificity, which associates with seasonality, depending on the weather conditions, the high of the necessary production infrastructure and the process support of the land (as a means of production) in comparison with the cost of the final product.

It should be stress that the main principles of the state support are: a) the recognition, observance and protection of rights of agricultural producers and rural population; b) professionalism in the implementation of the state support of agricultural producers; c) sustainable development of agricultural production; d) the relationship of state bodies, local self-government, public associations, citizens; e) legality etc.

The possible measures of the state support for the domestic agricultural

producers are the subject of a separate study. Here it is appropriate to focus only on the certain types of such support in the aspect of the completeness and efficiency of its legal regulation. It is necessary to assume that forms of state support of the agricultural producers can and should be filled with the different content depending on the needs of the particular type of such support.² The state support provides by both the state and the local budgets.

An important form of the state support is the proper pricing for agricultural products. In relation to the method of formation in the economic theory prices are divided into competitive, monopolistic and regulated. The adjustable rates constitute a system of the state regulation of prices, consisting of economic and administrative means. The economic tools provide for the implementation of the system of support prices, they have wide application in national economy, it took some time for the price reacted to the implementation of systems indicative (regulated prices, formulated on the basis of the agreement of the parties, they cannot exceed or be below a certain level determined by the competent state authority) and imperative (fixed prices are the final price level and neither the seller nor the buyer isn't entitled to deviate from them) price regulation, their use is limited, in their application a change in the price level occurs immediately.

¹ Сафонов І. Правові проблеми державної підтримки сільськогосподарських виробників // Право України. – 2005. – №6. – С. 54–55.

² Козырь М. И. Аграрное право России: состояние, проблемы и тенденции развития (М. И. Козырь. – 2-е изд., перераб и доп. – М.: Норма, 2008. – С. 140.

The economic means of the state regulation of prices for the agricultural products include interventional operations, compensation, application of the mechanism of subsidies and concessional lending. Administrative tools, provided for in article 191 of the Civil code of Ukraine,¹ include the establishment of state and utility fixed prices, the boundary levels of prices, limits of trade allowances, limit norms of profitability or by introducing the mandatory declaration of price changes.

In the legislation of Ukraine the state regulation of pricing for agricultural products is economic and administrative ways, is provided in a mixed form, because there is no clear distinction between them and independent order of application.

According to article 3 of the Law of Ukraine «On state support of agriculture of Ukraine» the main provisions of the state price regulation are as follows: 1. The state regulation shall be subject only to wholesale prices, it is performed in the sphere of retail trade; 2. The mechanisms of the regulation is to establish minimum and maximum intervention prices, the application of other measures envisaged by legislation; 3. The condition of realization is compliance with the Antimonopoly legislation; 4. The boundaries of the implementation of state price regulation is an organized market of agricultural products, the market exchange trading; 5. Objects of state regulation are clearly defined in legislation types of

agricultural products – hard wheat, soft wheat, grain mixture of wheat and rye (meslin), corn, barley, winter rye, spring rye, peas, buckwheat, millet, oats, soybeans, sunflower seeds, rape seeds, flax seeds, hop cones, sugar (beet), flour of wheat, rye flour, meat and offal of slaughter animals and poultry, milk powder, butter and sunflower oil.

The Law of Ukraine «On state support of agriculture of Ukraine» defines a complex mechanism of the state regulation of prices for the agricultural products through consistent implementation of such regulations: setting minimum and maximum intervention prices; to use of the commodity and financial interventions; to establishment of a temporary administrative regulation of prices; to use of the budgetary subsidies. The minimum and maximum purchase prices isn't an independent means of regulation, it is a tool application intervention operations, a temporary administrative regulation, the temporary budget subsidies. These elements constitute a single mechanism and must be used only in the sequence specified in the Law.

The substantial state support of the agricultural producers is a subsidy. The grant (from lat. – a gift, a donation) is non-repayable cash assistance that is provided from the state budget organizations, enterprises, local authorities, private entities to cover losses, compensation of losses, balancing local budget and others targets.²

¹ Господарський кодекс України: від 16 січня 2003 року // [Електронний ресурс]. – Режим доступу: <http://zakon4.rada.gov.ua/laws/show/436-15>.

² Райзбер Б. А., Лозовський Л. Ш., Стародубцева Е. Б. Современный экономический словарь. – 2-е изд., исправ. – М.: ИНФА – М. – 1999. – 495с.

In Ukraine are subsidized, generally inefficient productions, which are important for the national economy. The concept of «subsidies for agricultural production» there is in the legislation. Subsidies to agricultural producers in Ukraine are regulated by Laws «On state budget of Ukraine» and «On state support of agriculture of Ukraine». The law on State budget determines only the amount of funds that will be allocated to finance the industry, and the utilization of budgetary funds is established by the Cabinet of Ministers.

In article 15 of the Law of Ukraine «On state support of agriculture of Ukraine»¹ states the following: the Cabinet of Ministers of Ukraine, when planning the expenditures of the state budget for the next year, provides for expenditure on the provision of subsidies to livestock producers (hereinafter referred to as – budgetary subsidies). Budgetary subsidies are given in order to support the level of effective demand of the Ukrainian consumers of animal products and preventing loss of the Ukrainian manufacturers such products.

The objects of the budget grants according to this article there are cattle; pigs; sheep; horses; poultry; rabbits; whole milk extra, premium, the first and second grades (aren't subjected to any handling, processing or packaging for

the requirements of further sale); shorn wool; the cocoons of the silkworm; honey natural. The objects of the special budget grants there are cattle large horned dairy, the large horned cattle of meat, the young cattle of different ages; the horses; the sheep; the pigs.

The objects of the special budget grants are also bee family defined as such in accordance with the Law of Ukraine «On beekeeping» of February 22, 2000 and the products of sericulture. A direct manufacturer of the object of such grant is either the subject (recipient) budget grants or special budget grants.

Special budgetary subsidy is available only upon animals that have passed registration and identification in accordance with the Law, subject to full implementation of the system of subsequent control over target use of budgetary funds provided for these needs. The Cabinet of Ministers of Ukraine annually adopts the resolution on regulations for the provision of budget grants and special budget grants, based on the standards of this article; upon submission of the central executive body on agrarian policy sets minimum acceptable level of prices for livestock products, which is used as the basis for calculation of subsidies, as well as for pricing, when purchasing animal products directly from the manufacturer.

That is, agricultural producers in Ukraine can receive budgetary livestock subsidies (hereinafter referred to as – subsidy budget). It is at the expense of the State budget of Ukraine only for domestic livestock producers and aims

¹ Про державну підтримку сільського господарства України: Закон України від 24 червня 2004 р. № 1877-IV [Електронний ресурс]. – Режим доступу: <http://zakon4.rada.gov.ua/laws/show/1877-15>.

are:¹ keeping the level of solvent demand of Ukrainian consumers of animal products; preventing an average loss of Ukrainian producers of livestock products.

The Law contains provisions regarding the objects and subjects of the budgetary cattle-breeding subsidy. The objects like grants are distributed for two types. The Law also defined the objects of budgetary livestock subsidies and special budgetary livestock subsidies. The subject (recipient of budgetary subsidies (including special) is a direct manufacturer of animal products, which is related to such grants. The entity, what providing the subsidy budget, there is the Agrarian Fund. Like the subsidy is provided to the last in order defined by the Cabinet of Ministry of Ukraine.

The same for the budget and specifically the budget subsidies is that, their size is set at fixed amounts per head of object subsidies (farm animal), which were in the ownership of the subject grants at the beginning of the next fiscal year. Additionally, the size of budgetary subsidies established by the Cabinet of Ministers of Ukraine in fixed amounts based on: a metric unit of live weight sold (realized) object subsidies or metric unit of weight the sale of milk and wool; one family breeding a bee, that was in the ownership of the subject of subsidies at the beginning of the next fiscal year;

based on the increase in the number of heads purebred (thoroughbred) breeding animals and breeding of bee colonies, which were owned by the subject of budgetary subsidies at the end of the next fiscal year. The increase is relative to their number at the beginning of the respective fiscal year.

The budgetary livestock subsidies and special budgetary livestock subsidies differ (in animal products). The special budgetary subsidies in article 15, paragraph 15.9 of the Act stipulates, that it is only available on animals, that have passed registration and identification in accordance with the law. The legal regime of the special budgetary grant is also characterized by the presence of a system of subsequent control over target use of budgetary funds, are provided as subsidies.

The mode of use of budget grant and special budget grant for the relevant fiscal year is determined by the Cabinet of Ministers of Ukraine. The calculation of the amount of subsidy for the relevant year must be provided as an addition to the draft Law of Ukraine on State budget of Ukraine for the next year.

In Ukraine there is also plant granting along side with cattle-breeding granting. According to the legislation there are the following characteristics subsidies in agricultural production: the grant is non-repayable cash assistance; the grant is from the state budget; the amount of subsidy is set in fixed amounts; the grant is in the order determined by the Cabinet of Ministers of Ukraine; subject (recipient) budgetary subsidies (including special) is a direct

¹ Науково-практичний коментар до Закону України «Про державну підтримку сільського господарства України / За заг. ред. А. М. Статівки // Бюлетень законодавства і юридичної практики України. – 2005. – № 10. – С. 115–121.

manufacturer of animal products, which refers to objects such grants, namely, it is provided in accordance with the legislation of processing enterprises of all ownership forms, which have their own or rented processing facilities, agricultural producers, regardless of the form of ownership and management, including maintaining a personal country economy; the entity, that providing the subsidy budget, there is Agrarian Fund; the purpose of providing subsidies is to maintain the level of solvent demand of Ukrainian consumers of animal products and prevent the average unprofitability of Ukrainian producers of agricultural products.

Based on the characteristic, a subsidies in agricultural production is a non refundable cash assistance from the state budget, in the order determined by the Cabinet of Ministers of Ukraine, the processing enterprises of all forms of ownership and management, including maintaining the personal peasant economy, in the cases provided by law, to support the level of effective demand of Ukrainian consumers of animal products and prevent the average unprofitability of Ukrainian producers of agricultural products.

The problems of food security in different countries have both common features and significant differences, that related to the mentality of the inhabitants, national traditions, level of development of productive forces and production relations, the place occupied by the country in world politics. The reliable food supply of population at the expense of own production is of strategic impor-

tance and is the main function of the state, because it affects not only food, but also the national security of the country.¹

It should be noted, that it is true P. F. Kulinich, that the regulation of the economy, the policy of resource provision of agriculture has certain disadvantages. First of all it is related to the problems subsidiaries industries.² So there are two alternatives: either to subsidize the production of resources for agriculture or to raise prices for agricultural products.

From the perspective of society, subsidizing of production resources for agriculture is more appropriate than the maintenance of prices for agricultural products. This subsidy makes it possible to reduce production costs of agricultural enterprises and not to raise the prices of agricultural commodities in terms of increasing its production. This would benefit all society, not only manufacturers and industry resources for agriculture. The subsidies for the production of resources for agriculture have several disadvantages, like any effect in the economy regarding the regulation of market mechanism.

First, the difference between low domestic prices of resources due to subsidies and high world prices for such resources is not efficient from the point of

¹ Верзун А. А. Основні напрями державної фінансової підтримки сільського господарства // Науковий вісник Національного аграрного університету. – № 44. – С. 237.

² Кулинич П. Ф. Організаційно-правове засади розвитку аграрного і земельного ринків в Україні. – К.: Юрид. думка, 2006. – С. 215.

view of the whole economy. Consequently, there is inefficient allocation of resources between different sectors within the country, as producers use distorted price information, resulting in financial and material resources flow into less efficient industries, which loses all society.

Secondly, it is a problem of control over the use of subsidies and rising production costs. This refers to the trend of growth of production costs in the conditions of the grant. This applies to any sector of the economy. In terms of subsidy, the manufacturer disappear stimuli to rational use of resources and, consequently, to the reduction of production costs.

Thirdly, there is the problem of compensation of expenses on subsidies from the state budget.

And, fourthly, it is a problem of inefficient use of cheap resources in agriculture.

Thus, directions of state regulation of agro-industrial market in many countries of the world, despite the level of their development, are aimed at supporting farmers' incomes. Developed states use various instruments of state support of the industry (government assistance program for agricultural producers, export subsidies, quotas, tariffs etc.). All of them are members of the WTO. Therefore, membership in this organization puts Ukraine in front of the problem of development and realization of such directions of an agrarian policy, which wouldn't only provide the necessary level of food security, but also conform to the requirements of the trade, carry out in the framework of the WTO.

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