

ACCESSION OF UKRAINE

Communication from Ukraine

The following information has been received from the Governmental Commission on Ukraine's Accession to GATT/WTO in answer to Question No.35 of the Consolidated List of Questions and is available for consultations at the Secretariat (Accession Division, Room 1126):

- Resolution of the Cabinet of Ministers of Ukraine "On the Procedure for Using the Funds of the Governmental Leasing Fund to Purchase Domestic Agricultural Machinery", No. 25, of January 15, 1998.

Resolution of the Cabinet of Ministers of Ukraine

On the Procedure for Using the Funds of the Governmental Leasing Fund to Purchase Domestic Agricultural Machinery

No. 25,

January 15, 1998

In order to regulate using the funds of the governmental leasing fund to purchase domestic agricultural machinery, the Cabinet of Ministers of Ukraine hereby DECREES the following:

1. To approve the Procedure of using the funds of the governmental leasing fund to purchase domestic agricultural machinery (enclosed).

2. The Council of Ministers of Autonomous Republic of the Crimea, oblasts' state administrations shall provide the Directorate of the governmental leasing fund with necessary support in organizing the provision of agricultural goods producers with domestic machinery on the conditions of leasing.

3. To take into account that the Ministry of Agro-Industrial Complex of Ukraine shall establish the Department on organizing and control over leasing operations of the governmental leasing fund to purchase domestic agricultural machinery within the approved ceiling number and remuneration fund for the Ministry's head office employees.

4. To ask the National Bank of Ukraine to open a special account for the Ministry of Agro-Industrial Complex of Ukraine for the governmental leasing fund to purchase domestic agricultural machinery.

5. First Vice-Prime Minister of Ukraine, Mr. A. K. Golubchenko, shall be responsible for implementing this Resolution.

Prime Minister of Ukraine V. PUSTOVOITENKO

APPROVED
by the Resolution of the Cabinet of Ministers of
Ukraine No.25, of January 15, 1998,

PROCEDURE
for Using the Funds of the Governmental Leasing Fund to Purchase Domestic
Agricultural Machinery

1. Providing of agricultural goods producers with necessary machinery at the expense of the governmental leasing fund to purchase domestic agricultural machinery (hereinafter referred to as the “Governmental Leasing Fund”) shall be carried out on the conditions of the financial leasing.

2. The Ministry of Agro-Industrial Complex of Ukraine along with the Ministry of Industrial Policy of Ukraine pursuant to the requests of agricultural goods producers shall approve annually the balance of necessary production of domestic agricultural machinery in the part of its financing at the expense of the Governmental Leasing Fund; and before December 1, shall inform manufacturing plants of agricultural machinery on the volumes of machinery’s purchase.

3. The Governmental Leasing Fund shall be formed at the expense of the following:

- a portion of the funds that are obtained as a repayment of the budgetary loans lent to the former Ministry of Agriculture and Food of Ukraine, the State Committee for Food Industry of Ukraine, as well as to procuring and other enterprises and goods producers in 1994 – 1997 to purchase agricultural products under the state order (contract);

- the funds that are obtained from the privatization of property of the state-owned enterprises within volumes provided by the State Privatization Program for such purposes;

- the funds that are obtained as returned leasing payments;

- the funds that are obtained from non-residents and residents of Ukraine and international financial organizations; and,

- other sources.

The funds are transferred to a special account of the Ministry of Agro-industrial Complex of Ukraine for the Governmental Leasing Fund.

4. The Directorate of the Governmental Leasing Fund shall be the manager of the above said funds. Decisions on the directions and structure of using the funds shall be made by the appropriate minutes and shall be adopted by a simple majority of votes of the Directorate’s members. The Head of the Directorate of the Governmental Leasing Fund shall sign agreements with lessors.

5. The funds of the Governmental Leasing Fund shall be used exclusively for purchases of domestic agricultural machinery including those manufactured by joint ventures that are residents of Ukraine.

Using the funds of the Governmental Leasing Fund for purchases of agricultural machinery manufactured by joint ventures that are residents of Ukraine shall be undertaken on the basis of maximum percent of production on domestic manufacturing plants of component parts for such machinery. The Interdepartmental Expert Council on the Issues of Determining Priorities in Production of New Machinery and Equipment for Agricultural Goods Producers shall approve the above said maximum percent annually.

6. The Directorate of the Governmental Leasing Fund shall determine lessors on the competitive basis among agent of entrepreneurial activity regardless of ownership types.

7. Using the funds of the Governmental Leasing Fund and providing agricultural machinery into leasing shall be effectuated in the following ways:

a) entering into agreements between the Directorate of the Governmental Leasing Fund and lessors on the conditions of providing and repayment of the funds;

b) entering into agreements between lessors and lessees on the conditions of agricultural machinery leasing, its supply, repayment of the funds for agricultural machinery provided into leasing and conducting of other payments; and,

c) entering into agreements between lessors and agricultural machinery manufacturing plants on the conditions of machinery sale-purchase, its warranty and post-warranty servicing.

Transfer of the funds to manufacturing plants for the supplied agricultural machinery shall be effectuated upon permission of the Directorate of the Governmental Leasing Fund in two stages, in particular:

1) up to fifty (50) percent of agricultural machinery price shall be paid on the basis of the following agreements submitted to the Directorate of the Governmental Leasing Fund:

between the Directorate of the Governmental Leasing Fund and lessors;

between lessors and lessees; and,

between lessors and manufacturing plants of agricultural machinery;

2) the rest of the funds for agricultural machinery supplied by lessors shall be paid on the basis of agricultural machinery transfer-acceptance certificate made and entered between lessors, lessees and manufacturing plants.

8. The leasing agreement with lessees of agricultural machinery shall be made for the period up to five (5) years and shall contain the following in the compulsory way:

the requirements mentioned in Article 7 of the Law of Ukraine “On Leasing”; and,

the procedure of organizing technical maintenance and repair of agricultural machinery provided into leasing within warranty and post-warranty periods.

9. Lessees shall make the payment to lessors in the form of leasing payments for agricultural machinery provided into leasing. The aforesaid payment shall include an amount by which a portion of the price of agricultural machinery that is depreciated shall be compensated; and an amount that is paid for the provided funds for purchases of agricultural machinery under the leasing agreement and shall be calculated in the amount of up to fifty (50) percent of the discount rate of the National Bank of Ukraine as of the date of entering into the agreement.

Lessees shall be obliged to send copies of payment orders on the funds' payment to lessors for their further accounting.

Supplying and selling expenses of lessors provided by the appropriate agreements, insurance payments under insurance agreements for agricultural machinery provided into leasing if such machinery has been insured by lessors and other payments shall be transferred by agricultural machinery lessees directly to current accounts of lessors.

10. Lessees shall be obliged to effectuate the payments to lessors provided by the leasing agreements in a timely fashion. In case of lessees' delay in effectuating leasing payments, a penalty on the amount of the payment shall be levied pursuant to contractual obligations.

11. Lessors shall be obliged to pay the funds provided by the leasing agreements to the Directorate of the Governmental Leasing Fund in a timely fashion. In case of lessors' delay in the payment of the funds, a penalty on the amount of the payment shall be levied pursuant to contractual obligations.

12. Lessees shall cover the expenses for maintenance of agricultural machinery provided into leasing that are related to its exploitation, technical maintenance and repair and insurance, unless otherwise is provided by the appropriate agreements.

13. Lessees shall include machinery obtained in leasing into their books, mentioning that such machinery has been obtained in financial leasing. Machinery that has been obtained into leasing up to the expiration of the leasing agreement shall be lessors' property.

Depreciation payments for machinery provided into leasing shall be calculated pursuant to applicable legislation.

The conditions of revaluation of agricultural machinery price for calculation of leasing payments shall be effectuated pursuant to applicable legislation.

14. Taxation of the operations on providing of agricultural machinery into leasing shall be effectuated pursuant to applicable legislation.

15. Accounting and reporting concerning leasing operations shall be effectuated pursuant to normative documents on conducting of accounting.

16. Disputes arising within the validity of the leasing agreements shall be considered pursuant to applicable legislation.

17. Lessors shall be responsible for the designated use and repayment of the budgetary funds of the Governmental Leasing Fund.

18. The Directorate of the Governmental Leasing Fund shall exercise control over using the funds of the Governmental Leasing Fund and their repayment.

19. Lessors and manufacturing plants shall be responsible for the quality and timely supply of agricultural machinery under entered agreements, as well as for carrying out its repair within warranty and post-warranty period of exploitation.