

Ukraine

Overview

U.S. and other foreign companies have long regarded Ukraine's system of technical regulations as a significant obstacle to trade and investment. Ukraine has passed several new laws and governmental decrees in recent years aimed at bringing Ukrainian practices in this area into line with the WTO Agreement on Technical Barriers to Trade (TBT), but significant problems remain. Based on the old Soviet system, the Ukrainian technical regulations system is characterized by burdensome, *ex ante* control and widespread compulsory standards, and it differs markedly from systems in Europe and OECD countries.

Standards Organizations

The State Service of Technical Regulation (<http://www.dssu.gov.ua/control/en/index>)

On December 9, 2010 the standardization and certification body in Ukraine, was reorganized into the State Service of Technical Regulation (by Presidential Decree #1085 of the State Committee for Technical Regulation and Consumer Policy (DerzhSpozhyvStandard). Prior to the reorganization DerzhSpozhyvStandard was responsible for developing and approving standards, issuing certificates, conducting inspections of producers, and ensuring market surveillance and protection of consumer rights. This confusion of functions, including the bundling together of commercial certification functions with state supervision functions, combined with the fact that the same organization provided certification services and appointed other certification bodies, meant that there were considerable conflicts of interest and excessive discretionary powers. Appropriate resources, such as modern analytical equipment and reactants, were not available in most DerzhSpozhyvStandard laboratories. Depending on the type of product, testing, and applicable certification scheme, the certification process could take from 3 days to 1 month. So far, there is very little info about functions and responsibilities of the newly established State Service of Technical Regulation.

NIST Notify U.S. Service

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries. **Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at URL: <http://www.nist.gov/notifyus/>

Conformity Assessment

Contrary to accepted international practice, standardization in Ukraine is not a voluntary procedure through which manufacturers can ensure specific properties of a process or product, but rather a part of the state regulatory system. Standards are compulsory for virtually all goods, and many services. Mandatory certification is required in Ukraine for over 300 types of goods and services and remains applicable *de facto* for an even larger number of goods and services (DerzhSpozhyvStandard Order #28 of February 1, 2005 with amendments). Mandatory certification is often required without regard to the products' actual level of risk to the public, or to other types of regulation already applicable. Mandatory certification in Ukraine is applicable both to domestic products and to imported goods in most cases, generally irrespective of whether they already have proof of conformity with applicable international technical regulations.

In addition, mandatory certification applies to produced goods rather than to the production process, thus forcing manufacturers to complete certification procedures repeatedly or to submit proof of conformity assessment for each batch of products.

Most current standards were created during the Soviet era do not correspond to international standards, and are typically far more restrictive and prescriptive than necessary. Although Ukraine belongs to several international standardization bodies, such as the International Organization for Standardization (ISO), it generally has not recognized foreign product certificates, even if they are issued in line with international standards, unless recognition is mandated through an international treaty signed by Ukraine.

Website of the State Service of Technical Regulation of Ukraine (DerzhSpozhyvStandard):

http://www.dssu.gov.ua/control/en/publish/article/main?art_id=87434&cat_id=87301

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Product Certification

Importers can apply for three types of technical standard certificates:

- A certificate for a single batch of goods;

- A certificate for one year, which is valid for all imported goods during that year with one or two additional selective tests (this type of certification is the most common in Ukraine, covering 70% of issued certificates); and

- A certificate for 5 years, for which mandates inspection of production facilities.

In addition, Ukraine applies a range of sanitary and phytosanitary (SPS) measures, many of which do not appear to be consistent with an international, science-based approach to regulation. The certification and approval process is lengthy, duplicative, and expensive, with politics and corruption still often behind arbitrary application of regulations. Amendments to the laws "On Quality and Safety of Food Products and Food Raw Materials," "On Veterinary Medicine," "On Plant Quarantine," and others were passed to bring Ukrainian legislation into compliance with requirements of the WTO Agreement On Sanitary and Phytosanitary Measures (passed in 2005 and 2006).

To apply for certification, the following documents issued outside Ukraine confirming a product's conformity to specific requirements are to be submitted to the DerzhSpozhyvStandard:

- An application stating that the company wishes to certify imported products;

- A certificate of conformity;

- Standards (technical conditions) of production and the procedures for certification;

- A certificate of accreditation from the testing laboratory;

- A protocol/summary of test results;

- A certificate of quality control; and

- A certificate of origin (manufacturing).

Because the list of documents issued outside Ukraine confirming a product's conformity changes frequently, businesses should contact DerzhSpozhyvStandard for the most up-to-date list. http://www.dssu.gov.ua/control/en/publish/article/main?art_id=87434&cat_id=87301

DerzhSpozhyvStandard has adopted ISO-9000 for production systems certification. Based on these standards, Ukrainian certification bodies can evaluate the quality of a production system

rather than the quality of a single product. The procedure for issuing ISO certificates requires a visit from Ukrainian standards specialists to the importer's production facilities to inspect the system's quality. Adoption of the ISO-9000 series should facilitate the process of certifying goods as system quality certificates are issued for a three-year period. According to DerzhSpozhyvStandard, the ISO-9000 standard certificate doesn't prevent the importer from certifying individual products. An April 2008 amendment to the law "On Standards, Technical Regulations, and Conformity Assessment Procedures" helped to ensure that Ukraine's authorities will accept the results of alternative methods of conformity assessment, including those performed in the United States.

During WTO accession negotiations, Ukraine pledged to continually review the list of products subject to mandatory certification and to reduce the number of products on this list, if the legitimate objectives could be met in a less trade-restrictive manner. In a positive move in September of 2010, DerzhSpozhyvStandard removed almost all items from the food certification list with the exception of baby food, tobacco, and alcoholic beverages. An April 2008 amendment to the law "On Standards, Technical Regulations, and Conformity Assessment Procedures" helped to ensure that Ukraine's authorities would accept the results of alternative methods of conformity assessment, including those performed in the United States. Ukraine's National Accreditation Agency is an affiliated member of the International Laboratory Accreditation Cooperation (ILAC), and in 2009 it made a first step on the way to full membership – signing an Agreement with European Cooperation for Accreditation (EA) about personnel accreditation. Once it becomes an ILAC member, Ukraine should significantly increase the acceptance of test results of laboratories accredited with, and notified by, ILAC member bodies.

Accreditation

On August 1, 2002, a National Accreditation Body was established to ensure the use of standards and procedures consistent with the European Cooperation for Accreditation policy. Ukraine's National Accreditation Agency is affiliated member of the International Laboratory Accreditation Cooperation (ILAC), and in 2009 it made a first step on the way to the full membership – signing an Agreement with European Cooperation for Accreditation (EA) about personnel accreditation. After becoming ILAC member, Ukraine should significantly increase the acceptance of test results of laboratories accredited with, and notified by, ILAC member bodies.

Publication of Technical Regulations

Publication of Technical Regulations can be found at official website of the State Committee of Ukraine for technical regulation and consumer policy: <http://www.dssu.gov.ua/control/en/index>. Please note that most of the documents are available in the Ukrainian language only.

Labeling and Marking

All imported food products must carry labels in the Ukrainian language. The labels should include information about the manufacturer, product ingredients, and expiration dates. In addition, some specific products require special standards, including labels for hazardous materials, labels indicating the contents and expiration date of foodstuffs, and markings indicating the voltage and frequency of electrical appliances. In addition, as of December 2009 Ukraine introduced the mandatory requirement that goods containing Genetically Modified Organisms (GMOs) and GMO-free goods must be labeled accordingly, with importers facing a liability for incorrect information.

Contacts

Website of the State Service of Technical Regulation of Ukraine (DerzhSpozhyvStandard): http://www.dssu.gov.ua/control/en/publish/article/main?art_id=87434&cat_id=87301

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Trade Agreements

The United States and Ukraine signed a new Trade and Investment Cooperation Agreement (TICA) on April 1, 2008. The TICA establishes a joint U.S.-Ukraine Council on Trade and Investment, which will address a wide range of trade and investment issues including market access, intellectual property, labor, and environmental issues. Little more than a month later, Ukraine became the 152nd member of the World Trade Organization (WTO) on May 16, 2008.

Ukraine has signed free trade agreements with all of the former Soviet republics except Tajikistan. Ukraine has a Partnership and Co-operation Agreement with the European Union (PCA). Under the terms of the agreement, Ukraine enjoys most favored nation status with the EU, but is not required to bind its own tariffs. Ukraine and the EU started negotiations on a free trade agreement in February 2008. Ukraine is also a party to the 1995 CIS free trade agreement. This agreement has never been effectively implemented, however. Ukraine participates in the Black Sea Cooperation Council, along with Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, the Russian Federation, Macedonia, and Turkey. It is envisaged that the organization will be developed into a free trade area. Ukraine has concluded trade agreements with 12 countries (Austria, Argentina, Armenia, Bulgaria, Canada, Estonia, Finland, Kyrgyz Stan, Latvia, Moldova, Russia, and Switzerland). These agreements grant, on a reciprocal basis, most favored nation status to export-import operations with the countries concerned. As in the case of the PCA, Ukraine benefits via these agreements from the tariff concessions made by its partner countries who are WTO members without binding its own tariffs.

Web Resources

Ministry of Economic Development and Trade of Ukraine: <http://www.me.gov.ua/>

State Customs Service of Ukraine: <http://www.customs.gov.ua/>

State Committee of Ukraine for technical regulation and consumer policy:

<http://www.dssu.gov.ua/control/en/index>

Ukrainian Scientific-Research and Training Center for Standardization, Certification and Quality Assessment (UkrNDNC): <http://www.ukrndnc.org.ua/eng/>

National Scientific Center "Institute of Metrology" (based in Kharkiv):

<http://www.metrology.kharkov.ua/eng/index.shtml>

List of 27 regional consumer rights protection centers:

http://www.dssu.gov.ua/control/uk/publish/article/main?art_id=36043&cat_id=36042