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TRADE POLICY PROJECT (TPP)

FY15 Quarterly Report (October 1, 2015 – December 31, 2015)

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DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the U.S. Agency for International Development or the United States Government.

LIST OF ACRONYMS

AEO	Authorized Economic Operators
CIS	Commonwealth of Independent States
EIF	Economic Integrated Forum
GVC	Global Value Chains
M&E	Monitor and Evaluation
MEDT	Ministry of Economic Development and Trade
OECD	Organization for Economic Cooperation and Development
SFS	Ukraine State Fiscal Service
SME	Small and Medium Size Businesses
SPS	Sanitary and Phytosanitary
TBT	Technical Barriers to Trade
TFA	Trade Facilitation Agreement
TPP	Trade Policy Program
USAID	United States Agency for International Development
WTO	World Trade Organization

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PROJECT OVERVIEW

During the third quarter, the UTPP continued engaging counterparts at MEDT and the State Fiscal Service as well private sector representatives and academia. With the support of UTPP:

1. The WTO Trade Facilitation Agreement was ratified in November 2015 and the Instrument of Ratification notified to the WTO in December 2015.
2. MEDT participated in Trade Defense WTO Committee meetings at the WTO in Geneva on October 25-26, 2015.
3. MEDT launched drafting of a new law and materials on countervailing investigations.
4. Completed draft WTO compliance assessment concerning tariff and non-tariff barriers, sanitary and phytosanitary measures, technical barriers to trade, and customs.
5. Over ten training seminars on dispute settlement were held.
6. MEDT completed a first draft of Trade Policy Review.
7. Odessa customs completed preparation of three major pieces of legislation for supporting the proposed Customs Clearance Zone (CCZ).
8. Odessa customs prepared and adopted three orders for simplifying customs procedures and signed MOU with enforcement to reduce the number of inspections.
9. Odessa Customs launched effort toward acquisition of ASYCUDA.
10. Odessa Customs developed a new organizational structure and recruitment mechanism for new customs officers.
11. Events were held with the private sector in Odessa and Kyiv in support of CCZ and to address customs clearance issues facing traders.

The TPP did not encounter any significant problems in performing technical activities in Ukraine.

PROJECT ACTIVITIES AND ACCOMPLISHMENTS Q3 FY2015

Component I: Expanded capacity to effectively utilize WTO tools

(1) Result: Overall engagement within the WTO developed

During the third quarter of 2015, UTPP supported Ukraine in greater engagement in the WTO system:

1. UTPP has been tracking key activities at the WTO of relevance to Ukraine and facilitated participation of MEDT in the Trade Defense WTO Committee meetings in Geneva on October 26-30, 2015.
2. UTPP continued work in compiling an e-library concerning disputes comprising forms and templates, questionnaires, case law and useful links.
3. Provided limited support to the MEDT Delegation during the WTO Tenth Ministerial Conference held in Nairobi, Kenya on December 15-18, 2015. This included input for Ukraine's statement during the plenary session and reviewing the Ministerial Declaration.

(2) Result: Appropriate utilization of the WTO dispute settlement (DS) and trade remedies system expanded

WTO Dispute Settlement

During this quarter, UTTP continued assisting MEDT in building capacity in the WTO Dispute Settlement area. The UTTP specifically conducted the following activities during the last quarter of 2015:

1. UTTP reviewed visualization materials and a brochure developed by the MEDT on the EU experience in using the WTO dispute settlement mechanism. UTTP supported the printing and distribution of these materials at the Dispute Settlement Seminar on November 20, 2015.
2. UTTP effectively contributed to the capacity building of MEDT's DS Unit through learning-by-doing/on-the-job training. UTTP helped improve the Unit's capacity to draft formal documents and prepare for consultations as well as *inter alia* analyze international agreements and legal precedent.
3. On November 20, 2015, UTTP's short-term expert Gary Horlick presented a half-day seminar on dispute settlement for the private sector. Mr. Horlick covered *inter alia* all WTO DS stages. He addressed the multiple questions posed by the floor. More than 70 people attended the event.
4. UTTP supported MEDT's efforts to strengthen cooperation with the private sector. Visibility of the DS Unit improved with UTTP's support by presenting its work in the Dispute Settlement Seminar for the private sector and finalizing documents for publication on MEDT's website. UTTP continued to facilitate cooperation between the Unit and other parts of the Ministry and Government.

Trade Remedies

During this quarter, UTTP dedicated considerable resources to assist the MEDT Department for Trade Protection. UTTP conducted the following activities during this quarter:

1. UTTP supported the drafting of a new CVD law. Meetings were held regularly with MEDT officials to discuss the existing law, comparing it with the WTO Agreement on Subsidies and Countervailing Measures, the EU anti-subsidy basic regulation, other international good practices. The draft CVD law will constitute the base for preparing the draft AD law.
2. UTTP assisted MEDT by drafting documents to support CVD investigations. The Application Form, its related guideline, and the Initiation Report were translated and, in November, submitted to the MEDT for comments/finalization. A fourth document, the internal guideline on the assessment of anti-subsidy applications, was finalized and ready for translation.
3. UTTP has contributed to the capacity building of the Unit through the discussion of technical questions in several *ad hoc* meetings as well as through the provision of written advice. Questions covered included procedural matters, dumping calculation, and injury assessment. Mr. Horlick also held two consultation sessions covering aspects such as the change-of-circumstances review procedure in the US.
4. UTTP has continued to monitor the activities of the WTO Rules Division and Committees covering trade defense matters, keeping MEDT informed of any developments of interest to Ukraine. UTTP arranged a meeting between the Director of the Rules Division and MEDT's Deputy-Minister Mrs. Mykolska for exchange of common interest issues.

5. On November 20, 2015, Mr. Horlick presented a half-day seminar on trade defense for the private sector, covering both substantive and procedural requirements. 70 people attended the activity. UTTP contributed to the increased visibility of MEDT by inviting officials from the Unit to present in the seminar of November 20, 2015.

Component II: Improved external and internal coordination on WTO issues

(1) Result: Cohesive and efficient coordination among relevant ministries and other governmental units established

During this reporting period, the UTTP:

1. Followed up on a proposal for an inter-ministerial commission to improve inter-ministerial cooperation and coordination on trade related issues and reforms and increase stakeholders' participation in trade policy formulation and implementation.
2. Started work with the Department for Market Access and Cooperation with WTO and the Department for Trade Protection to support improving MEDT web-site to achieve greater inter-ministerial cooperation and coordination.
3. Supported and participated in the relaunch of the Export Promotion Council (with participation of private and public sector as well as donors) on October 15, 2015.

(2) Result: Methods and quality of communication/consultation/coordination with external stakeholders and experts improved

During this reporting period, the UTTP engaged in the following activities:

1. On November 16 - 19, 2015, Mr. Horlick conducted training on WTO dispute settlement for University instructors and two private practicing lawyers at the premises of UTTP. Four lecturers participated and discussed course materials for use in an academic course at the National Taras Shevchenko University of Kyiv.
2. A draft syllabus was prepared and distributed among participants for comments. By the end of January 2016, the syllabus is expected to be finalized, and in February 2016 the course will be implemented within the curricula of the National Taras Shevchenko University of Kyiv for a Master's program.
3. UTTP Resident Attorney Advisor, Marius Bordalba, delivered four lectures for Master's students at the Institute of International Relations of the National Taras Shevchenko University of Kyiv. Mr. Bordalba outlined the mechanism of WTO dispute settlement, particularly, holding of consultations, composition of the panel, adoption and implementation of reports. Mr. Bordalba also discussed the application of trade remedies, particularly antidumping, anti-subsidy, and safeguard measures.
4. Continued work on assisting MEDT in identifying materials for the new version of the MEDT website to improve access to information on WTO/trade issues by the private sector. This included preparation of two brochures: "Explaining Dispute Settlement Mechanisms to Private Sector" and "Guide for Business on DSB".

5. MEDT and UTPP updated the database of external resources/stakeholders interested in trade policy, WTO, disputes, and trade defense instruments that now accounts for more than 35 organizations and companies and 70 individuals.
6. UTPP jointly prepared a proposal sent to USAID that will support facilitation of several trainings via video conferences regarding issues related to Trade Defense Instruments and application of WTO rules in this respect.
7. UTPP engaged in coordination activities with donors, private sector, government authorities, NGOs, and civil society. In late December 2015, TPP participated in the USAID Partners' Meeting at the US Embassy to coordinate and network with other USAID-funded projects.

Component III: Expert Assessment and Improvement of Ukraine's WTO compliance

(1) Result: Implementation of Ukraine's extensive WTO legislative reforms assessed and strengthened

1. Completed draft assessment on the implementation of over 20 legislative, regulatory, and policy reforms adopted to achieve and maintain compliance within the WTO regime covering the following areas: 1) Tariff and Non-Tariff Barriers; 2) Customs; 3) Sanitary-Phytosanitary Measures; 4) and Technical Barriers to Trade.
2. The UTPP conducted a review of the Ukraine Customs Code provisions on Authorized Economic Operators (AEO) and provided specific recommendations for alignment with EU provisions on AEO.
3. Assisted the Department for Market Access and Cooperation with WTO in preparing preliminary draft of the Trade Policy Review (TPR) Report for Ukraine and examining the TPR report prepared by the WTO Secretariat.

(2) Result: Compliance with the WTO Trade Facilitation Agreement (TFA) assessed and improved

1. On November 3, 2015, the Parliamentary Committee on Foreign Affairs unanimously approved the Draft Law on the Ratification of the WTO Trade Facilitation Agreement (WTO TFA). UTPP legal advisors attended the Committee meeting, distributed the TFA Assessment and booklets on TFA Reform and advised Deputy Minister Natalia Mykolska on answering various questions raised by Members of Parliament.
2. On December 17, 2015, the Ministry of Economic Development and Trade deposited TFA instrument to the WTO Secretariat during the WTO Tenth Ministerial Conference in Nairobi, Kenya.
3. UTPP assisted in preparing an action plan for 2016 on the TFA implementation and commented on the Draft Cabinet of Ministers Resolution on National Committee on Trade Facilitation.

Trade Facilitation support at the Odessa Port – Customs Clearance Zone

Support to the establishment of the Customs Clearance Zone (CCZ) at the Odessa Port included activities related to legislative and institutional mechanisms, customs procedure, organization development, automation, facilities, capacity building as well as practical day-to-day advice and guidance to Odessa Customs:

1. The UTPP team helped draft several pieces of legislation that: 1) called for the removal of unnecessary “controlling” institutions from process of goods clearance; 2) enabled weighting, inspecting, and scanning of goods on the operators’ terminal and at the port territory with Customs’ consent; 3) eliminated need for traders to rent at additional costs operators’ technical transport for moving cargo within the port territory; 4) introduced transparent and fair mechanism for determining prices of goods and customs auctions; and 5) simplified customs clearance for traders with a status of large taxpayer, those involved in economic activities for the last three years, and those who have a positive reputation with Customs.
2. The UTPP team assisted Odessa Customs in implementing customs clearance procedure in Port of Odessa “BMO-3”¹. Based on the new system, traders have already started clearing goods in “BMO-3” without leaving port’s boundaries. Traders report that this new scheme has resulted in significant savings of time and money for clearance.
3. The UTPP supported the Odessa Customs in drafting a new organizational structure for Odessa Customs Headquarter and CCZ, developed a new HR framework, assisted in drafting job descriptions, and put a new recruitment mechanism in place. This new organizational structure will ensure that reporting relationships, coordination, and lines of authority always feed back to the Head of Odessa Customs.
4. UTPP supported the process of moving toward Integrated Customs Information System – ASYCUDA World, developed by UNCTAD. One of the main aspects for streamlining customs procedures within the CCZ is moving from the current outdated Customs IT System to fully Integrated Customs Information System. UTPP estimated the potential increase of traffic to assist in defining ASYCUDA system requirements.
5. The UTPP team oversaw the process of preparing Tender Documentation for construction work on the CCZ. The team identified types, amount and specifications of equipment required for operating the CCZ based on the functions and delivery requirements of each division. The team also guided and coordinated the process of preparing architectural design for CCZ construction, prepared all requested documents for state expertise, and obtained the authorization for starting construction work.

Internship Program

During the previous quarter, the UTPP launched an internship program engaging interns with excellent command of English and basic knowledge of international trade law to support program activities. Applicants submitted CVs and produced a written assignment assessed by the UTPP team. Four students were selected and have been actively supporting MEDT and UTPP. The duration of the internship is expected to be at least six months and renewed according to the work plan. Interns are expected to provide legal research and preliminary analysis of identified tasks.

¹ Odessa Port Customs Posts

KEY TECHNICAL ACTIVITIES PLANNED FOR NEXT QUARTER

Component I: Expanded Capacity to effectively utilize WTO tools

1. Planning to support Ukraine in participating in one WTO meeting.
2. Continue development of e-library concerning disputes.
3. Continue building capacity of MEDT on disputes and trade remedies through learning by doing.
4. Continued support in the development of draft law on countervailing duties.

Component II: Expanded Capacity to effectively utilize WTO tools Improved external and internal coordination on WTO issues

1. Continue promoting the formation of inter-ministerial commission to facilitate inter-ministerial cooperation and coordination.
2. Continue support in updating of METD new web-site.
3. Continue updating stakeholder's database.
4. Introduce Dispute Settlement course at the National Taras Shevchenko University of Kyiv.
5. Design and deliver training modules with focus on gender participation in trade matters.

Component III: Expert Assessment and Improvement of Ukraine's WTO compliance

1. Launch support for establishing AEO and risk profiling.
2. Continue support in establishing the CCZ at the Odessa Port and related legislation.

ISSUES/CONSTRAINTS

The State Treasury rejected transfer of amount to UNCTAD account for acquisition of ASYCUDA World. Donor funding of around US \$1 million may be required.