

## FACT SHEET

### Graduation of Ukraine to Market Economy Status

On February 17, the Department of Commerce's Import Administration announced its determination in the inquiry into the status of Ukraine as a non-market economy (NME) country under the U.S. antidumping and countervailing duty law. The Department found that Ukraine is operating as a market-economy country and that this finding will apply to all future administrative proceedings covering periods of investigation or review that fall after the effective date of this decision, February 1, 2006.

**Background:** U.S. law affords foreign parties the opportunity to petition for a change in a non-market economy country's status to a market economy country for purposes of the trade remedy laws. In response to such a request, Import Administration is obligated to conduct a legal proceeding to evaluate the request.

- In April 2005, the government of Ukraine requested a review of Ukraine's status under the trade remedy laws.
- On April 20, 2005, the U.S. Department of Commerce initiated a review as provided for under U.S. law.
- During the course of the last nine months, the Department has, pursuant to the statutory criteria noted below, conducted a review Ukraine's non-market economy status. That review offered interested parties the opportunity to participate and provide their views with respect to the application of the statutory criteria to the Ukrainian economy. The review involved the following procedural steps:
  - On April 26, 2005, the Department published a Federal Register notice inviting public comments on the Ukrainian request for a change in Ukraine's status under the trade remedy laws.
  - The Department established a deadline for the first round of comments of July 11, 2005. The Department made those comments a part of the public record of the proceeding and offered interested parties an opportunity to provide rebuttal comments, which were due August 31, 2005.
  - To allow interested parties a final opportunity to comment on the status of economic and institutional reforms in Ukraine, the Department extended the deadline for completion of the proceeding until February 16, 2006. Final comments were due on February 1, 2006.

- In the course of its review, the Department obtained information from a number of other sources including the European Bank for Reconstruction and Development, the International Monetary Fund, and the World Bank. The Department also received extensive comments from all interested parties, including U.S. industries supporting and opposing any change in Ukraine's status under the trade remedy laws, as well as from representatives of Ukrainian industry and the Ukrainian government.

**Statutory Criteria:** The U.S. trade remedy laws provide a process by which the government of a non-market economy country, or a foreign exporter in that non-market economy with the support of its government, can petition the Commerce Department for a change in its status.

- By law, the Commerce Department must consider six criteria in determining whether to change Ukraine's status to that of a market economy. Those criteria are –
  - currency convertibility
  - free bargaining for wages
  - foreign investment
  - government ownership or control of production
  - government control over the allocation of resources
  - other appropriate factors
- In arriving at its decision regarding Ukraine, the Department based its determination on extensive information and data developed from publicly available sources such as the European Bank for Reconstruction and Development, the International Monetary Fund, and the World Bank. Although the Department identified some areas of the Ukrainian economy where specific problems remain, particularly the difficulty of its business environment, it concluded that Ukraine clearly has met the statutory requirements overall.
- With respect to the last factor, commentators raised a variety of issues for the Department to consider, particularly corruption. The Department found that these issues did not alter the fact that the Ukrainian economy is generally operating under market principles.
- The Department has addressed the six criteria at length in its Decision Memorandum, which may be found on Import Administration's website: [www.ia.ita.doc.gov](http://www.ia.ita.doc.gov).