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Multi-Knowledge Electronic Comprehensive Journal For Education
And Science Publications (MECSJ)

Issue (37),2020

ISSN: 2617-9563

THE ESSENCE AND METHODS OF REGULATION OF FOREIGN ECONOMIC ACTIVITY (FOREIGN ECONOMIC RELATIONS BETWEEN UKRAINE AND IRAQ FOR YEARS 2006-2010).

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Abstract :

The emergence of the modern understanding of foreign economic activity is associated with the decentralization of state foreign trade and the transition from a system of intergovernmental foreign economic relations to independent implementation at the enterprise level. The study covered the research three items first the essence and methods of regulation of Ukraine's foreign economic activity: legal aspect and the second item foreign economic relations between Ukraine and Iraq the third Item Deals With Weaknesses In Foreign Trade Between Ukraine And Iraq.

Key words: foreign economy, analysis, Ukraine, Iraq

الخلاصة:

يرتبط ظهور المفهوم الحديث للنشاط الاقتصادي الأجنبي بالتجارة الخارجية للدولة واللامركزية في نظام العلاقات الاقتصادية الخارجية و إلى التنفيذ المستقل على مستوى المؤسسة. غطت الدراسة في البحث ثلاثة بنود أولاً ، جوهر وطرق تنظيم النشاط الاقتصادي الأجنبي لأوكرانيا: الجانب القانوني ، والبند الثاني العلاقات الاقتصادية الخارجية بين أوكرانيا والعراق للسنوات ٢٠٠٦-٢٠١٠ ، أما البند الثالث فيتناول نقاط الضعف في التجارة الخارجية بين أوكرانيا والعراق

الكلمات المفتاحية: الاقتصاد الاجنبي ، تحليل ، اوكرانيا ، العراق .



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Issue (37),2020

ISSN: 2617-9563

Introduction :

The development of market relations, which is accompanied by an increase in the openness of the country's economy, the emergence of a powerful non-state sector, and the commodity content of domestic markets, inevitably leads to intensification of foreign economic relations between domestic business entities and foreign partners. The foreign economic activity of the state in its evolutionary development has undergone several stages, which, using the terminology of economic science, can be characterized as: protectionism, liberalization, trans nationalization and integration. The protectionist policy is inherent in the early stage of development of foreign economic relations. For instance, since the mid-1990s, Ukraine has moved to a policy of gradual liberalization of foreign economic relations, which appeared in lowering the import duty, abolishing the export duty on most commodity positions and legislative protection of foreign investments. Since the late 1990s, transnational capital has been actively penetrating Ukraine. The most massive transnational investments were involved in the food industry and trade. A similar trend appeared in the early 90's in the countries of Central and Eastern Europe. The current stage of development of foreign trade is characterized by a number of transformational changes due to deepening integration into the World Trade Organization (the WTO), which requires further reform of the state customs policy, investment and quality policies. Each of these stages, having its own peculiarities of legislative regulation of foreign economic activity, was characterized by its quantitative and qualitative parameters, the most striking among them are the volumes and structure of foreign trade. As the state of economic development changes, the volume and structure of foreign trade is changing. Forecasting the increase of competition in the domestic and foreign markets as a consequence of state's accession to the WTO and the simultaneous need to eliminate existing commodity dis balances in the structure of exports with an increase in the share of products with a high proportion of skilled labour require the construction of such a model of foreign economic relations that would be based on innovative component of economic development, scientific, technological and investment cooperation.



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Multi-Knowledge Electronic Comprehensive Journal For Education
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Issue (37),2020

ISSN: 2617-9563

Research problem:

The problems of development of foreign economic activity of Ukraine and possible variants of their decision are considered in the article, on the basis of results of analysis of dynamics of export and import of Ukraine. Measures are certain on stimulation of export and inhibition of growth of import for stabilizing of balance of foreign trade.

Research aims :

- 1- the essence and methods of regulation of Ukraine's foreign economic activity: legal aspect
- 2- foreign economic relations between Ukraine and Iraq
- 3- deals with weaknesses in foreign trade between Ukraine and Iraq.

Captor 1. the essence and methods of regulation of Ukraine's foreign economic activity: legal aspect

Economic reforms conducted in Ukraine directed towards the creation of real market conditions of management also comprise foreign economic activity. It is obvious, though that foreign economic activity is objectively an integral part of economy of any more or less economically developed country. It is remarkable that first measures in the sphere of reorganization of Ukraine's economy were taken, first of all, in the sphere of foreign economic activity back in the former USSR. It initiated the beginning of liberalization of foreign economic activity in Ukraine and, first of all, due to weakening of state monopoly in this sphere, the provision of direct access to foreign markets of industrial enterprises, associations and other economic organizations.

Many problems arise in the sphere of formation of the system of management of economic and foreign economic activity. A complex system of managing social and economic processes in modern Ukraine has still not been developed, scientifically based conception of management in this difficult period has not been worked out, in particular, long-term governmental measures of foreign economic activity regulation have not been defined on the basis of which its participants could plan and calculate their actions. Regarding foreign economic interests, they are, as a rule, fulfilled mostly by means of political actions of a government on an international level. In this sense it is important to invent an optimal condition when choosing necessary combination of using political and economic means to achieve the goals set by this or that country in the process of formation of international economic relations, on a bilateral as well as multilateral level.



The policy conducted by this or that government can encourage the development of national economy, become its brake or favour the development of certain branches and hinder others. Foreign policy of any government and, first of all, foreign economic policy must undoubtedly defend the interest of social economic development of its own country and requires constant analysis and research (Prokushev Ye. F. (2006) *Vneshneekonomicheskaya deyatel'nost': ucheb'nik* [Foreign Economic Activity: Textbook], Dashkov and Co, Moscow).

There are a lot of books, monographs and dissertations dedicated to foreign economic activity and its management published, among which works by L. Abalkin, Yu. Alekseyev, A. Alisov, G. Anisimova, S. Borisova, L. Vardomsky, N. Glazyrin, S. Glazyev, A. Granberg, I. Doronin, E. Kochetov, L. Maksimova, P. Maksimov, T. Morozova, A. Nekipelov, N. Nekrasov, V. Obolensky, V. Oreshkin, M. Safranov, S. Sitaryan, Ye. Stroyev, I. Faminsky, G. Shagalov and others should be noted.

But the problems of foreign economic activity improvement require permanent monitoring of not only economic but normative legal literature. Thereupon, the aim of the given article is the review of the essence and methods of government regulation of Ukraine's foreign economic activity. Foreign economic activity is entrepreneurial activity conducted between the residents and non-residents of Ukraine connected with legal transfer of material assets across the borders in the form of money, goods, work and services including property rights and personal non-property rights. (About Foreign Economic Activity: the Law of Ukrainian Soviet Socialist Republic from April, 16, 1991, N 960-XII (1991) // *Vedomosti Verkhovnogo Soveta Ukrainskoi SSR* [Bulletin of the Ukrainian SSR Supreme Soviet], no 29).

The notions of "resident" and "non-resident" are special terms which are applied in foreign economic relations and relate to the subjects of activity having certain relation to a certain country. In certain cases countries can be subjects of foreign economic activity if represented by planning authorities. Legitimacy supposes not only the fact that a transaction has a legal nature basing on the object and objectives of a deal but also the fact that the subjects of the deal are individuals properly registered by the authorized general state bodies, as well as specialized, taking into account export-import transactions. Foreign economic deals, conducted without their registration or by uncertified subjects, are performed as a rule in the shadow sphere, in cash, and have received the name of the "shuttle" deals on the territory of the CIS and "invisible" in international lexicon.



Taking into consideration utter spread of transactions connected with goods transportation across the border by individuals who are not entrepreneurs, Ukrainian law contains a considerable quantity of regulations, specially regulating this type of transactions. Cross-border transportation means that a foreign economic transaction starts on the territory of one country and finishes on the territory of another. Such transactions are called import, export and transit. Material assets in form of money, goods, work and services, including property rights and personal non-property rights can all be subject to foreign economic deals. Any branch of law can be applied, as a rule, in relation to a certain legal relationship and along with general principles of legal regulation has its specific peculiarities or, as lawyers say, its own subject and method.

The subject of legal regulation of foreign economic activity is relations connected with the performance of foreign economic transactions of various kinds (Official website of Goskomstat (National Statistics Committee) [e-resource] : <http://www.ukrstat.gov.ua>).

Article 4 of the Law of Ukraine “About Foreign Economic Activity” states that the types of foreign economic activity performed in Ukraine by the subjects of this activity are:

- export and import of goods, capitals and work force;
- offering services to foreign subjects of economic activity by Ukrainian subjects of foreign economic activity, including industrial, transport-expediting , insurance, consultant, intermediary, auditory, legal, tourist and others, directly and exceptionally those not forbidden by the Ukrainian laws;
- offering the above-mentioned services by the foreign subjects of economic activity to the subjects of foreign economic activity in Ukraine;
- scientific, scientific and technical, scientific and industrial, industrial, academic and other cooperation with foreign subjects of economic activity;
- training and specialist preparation on the commercial basis;
- international financial transactions and transactions with securities in the cases stipulated by the Ukrainian laws;
- credit and payment transactions between the subjects of foreign economic activity and foreign subjects of economic activity; establishment of banks, credit and insurance organisations by the subjects of foreign economic activity abroad;
- establishment of the above-mentioned organizations by the foreign subjects of economic activity on the territory of Ukraine in the cases stipulated by the Ukrainian laws;



- joint entrepreneur activity between the subjects of foreign economic activity which includes establishment of joint enterprises of various types and forms, conduct of joint economic transactions and joint property possession on the territory of Ukraine as well as abroad;
- entrepreneurial activity on the territory of Ukraine connected with the concession of licenses, patents, know-hows, trademarks and other intangible property objects from foreign subjects of economic activity; analogous activity of the subjects of foreign economic activity outside Ukraine;
- organizing and performing activity in the sphere of exhibition, auctions, haggling, conferences, symposia, seminars and other similar events which are conducted on the commercial basis with the participation of the subjects of foreign economic activity;
- organisation and performance of wholesaling, consignment sale and retailing on the territory of Ukraine using foreign currency in the cases stipulated by the Ukrainian laws;
- counter purchase (barter) deals and other activity built on the forms of counter trade between the subjects of foreign economic activity and foreign subjects of economic activity;
- rental as well as leasing transactions between the subjects of foreign economic activity and foreign subjects of economic activity;
- transactions on buying, selling currency and its exchange on currency auctions, currency markets and interbank currency market;
- work of Ukrainian individuals with foreign subjects of economic activity on the contractual basis on the territory of Ukraine as well as abroad;
- other kinds of foreign economic activity which are not forbidden directly and exceptionally by the Ukrainian laws. Such verbose enumeration of types of foreign economic activity, which is not an exhaustive list, is not accidental. All of them represent separate institutions of foreign economic activity and are regulated by special legislation. The method of legal regulation of foreign economic activity is based on the combination of imperative instructions (legal requirements obligatory to discharge) and facultative permissions (statutory references concerning the measures of authorized behavior within which subjects can act individually), in other words, includes methods of administrative and civil law.

The imperative component includes requirements concerning subjects and objects of foreign economic activity which are divided into tariff regulation based on economic principles and non-tariff regulation based on qualitative, quantitative and other administrative principles. Breach of imperative norms leads to the application of administrative and criminal sanctions.



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Multi-Knowledge Electronic Comprehensive Journal For Education
And Science Publications (MECSJ)

Issue (37),2020

ISSN: 2617-9563

Tariff regulation is performed by means of setting customs payments, i.e. payments charged in the process of crossing the Ukrainian border by the tangible property including price regulation by means of fixing minimal customs cost of goods; introducing indicative prices for certain groups of imported or exported goods etc. Non-tariff regulation is performed by imposing bans, limitations (incl. quota system, licensing), benefits (preferences), immunities and privileges for separate subjects and objects of foreign economic activity, registration legalisation of subjects, objects, contracts, certification, performing currency regulation, application of anti-monopoly laws, limitation of unfair competition etc.

Imperative norms regard also certain parties of contractual activity and consist, in particular, of: keeping to an obligatory written form when performing contractual and pre-contractual activity, in general instructions, according to which an agreement can contain only clauses which do not contradict the law, in application of conflict rules, comprising the basis of international private law, when dispute resolution between counteragents which arise from contractual activity and unregulated agreements. Conflict rule contains volume, indicating regulated legal relationship, and connecting factor, indicating national legal system, subject to corresponding legal relationship. Breach of imperative norms applied to contractual activity breach does not lead, as a rule, to administrative or criminal responsibility. Facultative component relates to contractual activity, i.e. subjects' autonomy when signing and performing foreign economic agreements. Legal regulation of contractual activity consists in certain recommendations concerning formal aspect of certain agreement clauses in accordance with the norms of international commercial law incorporated in national law. Legal regulation of foreign economic activity is performed according to certain principles stated in the Law of Ukraine "About Foreign Economic Activity".

The principle of sovereignty means that Ukraine as an independent state possesses personal freedom to solve all legal issues connected with foreign economic activity on its territory by means of internal legislation; Ukraine as a member of the international community of the states, acknowledges international law regarding foreign economic activity and applies it on its territory, including those signed and (or) ratified.

The principle of the rule of supremacy of law consists in the fact that regulation of foreign economic activity in Ukraine is performed according to laws and other normative acts directed towards their execution, which cannot create conditions less favourable for subjects of foreign economic activity than it is stated by the laws. The only legal power in Ukraine is Verkhovna Rada of Ukraine which:



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- a) passes, changes and cancels all the laws regarding foreign economic activity including those resulting from conclusion of international agreements by Ukraine;
- b) establishes specific conditions of foreign economic activity on the territory of Ukraine according to the articles 24, 25 of the Law “About Foreign Economic Activity”;
- c) determines lists of goods, export and import to be limited or banned according to the articles 16, 17 of the Law “About Foreign Economic Activity”.

Operating regulation of foreign economic activity is performed by means of normative acts issued by the authorized bodies and officials. The principle of legal equality and nondiscrimination lies in the fact that all subjects of foreign economic activity irrespective of their nationality, form of property, form of economic activity and other circumstances have equal right on the territory of Ukraine and bear equal responsibility apart from the cases specified by the law by means of privileges, benefits, limitations, prohibitions and immunities.

The principle of freedom of foreign economic entrepreneurship suggests that conducting such kind of activity in any forms not prohibited by the law with any counteragents and objects does not require any special permits; a subject of entrepreneurship is the exclusive property owner of the results achieved as a consequence of this activity (Official website of Goskomstat (National Statistics Committee) [e-resource] : <http://www.ukrstat.gov.ua>).

The principle of interest defiance of the subjects of foreign economic activity supposes that Ukraine as a state guarantees the defiance on its territory as well as abroad by all available means stated by the internal legislation and norms of international law. In particular, in case of application of limitations concerning legal rights and interests of the subjects of Ukraine’s foreign economic activity by other countries, customs unions or economic blocs on their territory, the authorized bodies of governmental regulation of foreign economic activity can apply proper measures in response to these actions including reparation of damages.

The principle of equivalent exchange supposes that foreign economic deals must be conducted with the observance of barter transactions rules and anti-dumping legislation. Thus, the Law of Ukraine “About Foreign Economic Activity” was passed in 1991 and contains definitions of the essence of foreign economic activity, its subject and methods of legal regulation, principles in accordance with which Ukraine’s foreign economic activity is conducted.



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Captor 2. Foreign economic relations between Ukraine and Iraq

At present Iraq is one of the perspective foreign markets for Ukraine, and development and support of the long-term programs of collaboration with Iraq is one of the primary tasks of Ukraine. Foreign economic relations between Ukraine and Iraq began as early as 60-ies 20th century, when Iraq was a large strategic partner of the USSR in The Middle East. A large number of workers and organizations from Soviet republics, in particular from Ukraine, took part in the technical equipping and maintenance of Iraq industrial objects (Irak :novyie perspektivy starogo rynka (in Russian) Iraq: new prospects of the old market [Electronic resource] / Mezhdunarodnoye partnerstvo (International partnership). – Mode of access: http://www.kuztpp.ru/ru_tpp/download/ib/iraq.htm.) It should be noted that about 95% volume of Soviet supplies (delivery) was the products of machine-building industry , which remains a topical direction of collaboration between countries even today.

Ukraine aims at establishing long-term foreign economic relationships with Iraq, as a perspective market for realization of its products. In 2000 an Agreement between Government of Ukraine and Government of Republic Iraq about trade, economic, scientific and technical collaboration was signed. Pattern of foreign trade in commodities between Ukraine with Iraq is presented at table 1.(Statystychna informatsiia (in Ukrainian) (Statistical information) [Electronic resource] / Derzhavnyi komitet statystyky Ukrayiny (State committee of statistics in Ukraine). – Mode of access: <http://ukrstat.gov.ua/>) . Thus, in 2009 export of Ukrainian commodities to Iraq was equal to 236513,0 thousands USD, which is 165,4% to 2008, and import of commodities was 46,2 thousands USD, which is almost three times less than in 2008. It should be noted that in 2008 export of commodities of Ukraine to Iraq was 4 times more than in 2007, and the import of commodities considerably exceeded the volume of import in 2007. (Statystychna informatsiia (in Ukrainian) (Statistical information) [Electronic resource] / Derzhavnyi komitet statystyky Ukrayiny (State committee of statistics in Ukraine). – Mode of access: <http://ukrstat.gov.ua/>) . In particular, it is possible to draw the conclusion that the export volume of Ukrainian commodities to Iraq increases, while the import volume changes with every year, which indicates the existence of demand for the Ukrainian commodities.



Table 1 - A pattern of foreign trade in commodities
between Ukraine with Iraq.

	1 quarter of 2010	2009	2008	2007	2006
Export, Thousand USD	41678,50	236513,00	142965,20	29345,80	42218,00
Growth rate, %	-	165,43	487,17	69,51	54,40
Import, Thousand USD	0,10	46,20	127517,40	227,90	310,30
Growth rate, %	-	0,04	55953,23	73,45	148,40

Considerable growth of export in the last few years took place due to the increase of delivery volumes of such groups of commodities, as black metals, edible fruits and nuts, and grain-crops (Torgovelnno-ekonomichni vidnosyny Ukrayiny ta Iraku (in Ukrainian) (Trade and economic relations of Ukraine and Iraq) [Electronic resource] / Derzhavna pidtrymka ukrayinskogo eksportu. Ministerstvo ekonomiky Ukrayiny (State support of Ukrainian export. Ministry of economics of Ukraine). – Mode of access: http://ukrexport.gov.ua/ukr/tovaroobig_za_kab_stat/irq/1839.html). It should be noted that at the same time supply of seeds and fruits of vegetable oil plants, electric machines and equipment decreased . Among the imported goods the primary is crude oil, and from 2008 such insignificant commodities, as polymeric materials, plastics, cotton, textile goods appeared in the pattern of import .(Torgovelnno-ekonomichni vidnosyny Ukrayiny ta Iraku (in Ukrainian) (Trade and economic relations of Ukraine and Iraq) [Electronic resource] / Derzhavna pidtrymka ukrayinskogo eksportu. Ministerstvo ekonomiky Ukrayiny (State support of Ukrainian export. Ministry of economics of Ukraine). – Mode of access: http://ukrexport.gov.ua/ukr/tovaroobig_za_kab_stat/irq/1839.html). In addition, the two countries conduct trade of services, among which services in the field of education prevail in Ukrainian export. In addition, it is possible to mention services of transport and communication, hotels and restaurants among export services.



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The imported services are almost not carried out, and consist of services, related to state administration .(Torgovelno-ekonomichni vidnosyny Ukrayiny ta Iraku (in Ukrainian) (Trade and economic relations of Ukraine and Iraq) [Electronic resource] / Derzhavna pidtrymka ukrayinskogo eksportu. Ministerstvo ekonomiky Ukrayiny (State support of Ukrainian export. Ministry of economics of Ukraine). – Mode of access: http://ukrexport.gov.ua/ukr/tovaroobig_za_kab_stat/irq/1839.html).

Captor 3 weaknesses in foreign trade between Ukraine and Iraq:

It should be noted that in spite of the increase of trade turnover between the countries, there is a set of problems which interfere the establishment of unimpeded intercommunications between them. Among the main problems which influence the development of foreign economic relations between Ukraine and Iraq should be noted the following [Irak:novyie perspektivy starogo rynka (in Russian) Iraq: new prospects of the old market [Electronic resource] / Mezhdunarodnoye partnerstvo (International partnership). – Mode of access: http://www.kuztpp.ru/ru_tpp/download/ib/iraq.htm, Torgovelno-ekonomichni vidnosyny Ukrayiny ta Iraku (in Ukrainian) (Trade and economic relations of Ukraine and Iraq) [Electronic resource] / Derzhavna pidtrymka ukrayinskogo eksportu. Ministerstvo ekonomiky Ukrayiny (State support of Ukrainian export. Ministry of economics of Ukraine). – Mode of access: http://ukrexport.gov.ua/ukr/tovaroobig_za_kab_stat/irq/1839.html]:

- absence of state support of foreign economic relations between countries;
- absence of legislative base which regulates realization of the general Ukrainian-Iraqi projects;
- absence of information on possible projects or tenders concerning fulfillment of orders by both sides;
- absence of the proper system of bank calculations between the countries;
- absence of adjusted connections between the enterprises of the countries.

Thus, it is possible to note that activation of foreign economic activity of the countries is urgent. However, despite the importance and significance of economic connections and trade for Ukraine and Iraq, foreign economic relations between these countries are developing at slow rates.



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There are a lot of factors which negatively influence the establishment of bilateral connections between Ukraine and Iraq, overcoming of which will promote the efficiency of collaboration of the countries.

Results :

The types of foreign economic activity in accordance with the current legislation of Ukraine are considered. It is proved that the principles of foreign economic activity include 3 groups: general, specific and national. General ones are common truths which are shared by all participants in international business operations, that include scientific, systematic and mutually beneficial. It is determined that specific principles are enshrined in relevant international instruments and are binding on all signatory states. The list of specific principles of foreign economic activity is given. It is noted that the «White Paper» of the European Union is the source of specific principles. National principles of foreign economic activity are enshrined in the relevant normative documents of Ukraine. The principles of foreign economic activity of the national level are grouped: legal equality and non-discrimination, the rule of law, freedom of foreign economic enterprise, sovereignty of the people of Ukraine in carrying out foreign economic activity, equivalence of exchange, inadmissibility of dumping during import and export of goods, protection of interests of subjects of foreign economic activity. The functions of foreign economic activity have been summarized and determined to be universal for all countries and specific for each country. At the enterprise level functions groups of the subject of foreign economic activity are distinguished: production-economic, organizational-economic, commercial. It is determined that the exchange of goods and services of foreign economic activity is due to the implementation of the corresponding operations, which are the structural units of this activity.

Conclusions :

The analysis shows that geographical and commodity structural changes in Ukraine's foreign trade reflect the reorientation of exports and imports to the markets Arabs, Especially Iraq which, while increasing foreign trade turnover, are positive but, on the other hand, relatively weak competitive positions of domestic exporters in most commodity segments finished products and intense competition in foreign markets significantly inhibit domestic exports. The main external causes that make Ukraine an active presence on the world stage are: strengthening international competition in commodity markets, low competitiveness of Ukrainian products; con-



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sumer demands on the quality of goods, in which price factors became secondary, and the factors of the latest technologies and product quality guarantees are primary; the application by competition countries of forms of protectionism and discrimination of Ukrainian exporters, in particular, the complication of the certification procedure for products; the complexity of entering into international cooperation due to noncompliance with international standards for the protection of intellectual property rights, etc.

The research of the commodity structure of foreign trade of Ukraine makes it possible to state the existence of a high dependence of the national economy on a limited range of trading partners, which creates a number of risks and threats to the economic security of the state. In this regard, after studying the views of the researchers on the identified issues, the authors conclude that the strategic instrument for ensuring the stability of the domestic economy is the diversification of Ukrainian foreign trade flows, while simultaneously increasing the share of high value added goods in the export basket, with this orientation, first of all, required to those countries that, like Ukraine, are interested in mutual trade.

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