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Ministry of Economy of Ukraine
Department of Foreign Economic Activity and
Trade Protection 01008,
Kyiv, str. Hrushevsky, 12/2

**Complaint about the violation and conduct of an anti-dumping investigation regarding
the import of fresh cucumbers and fresh tomatoes from Turkey into Ukraine**

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I. INFORMATION ABOUT THE APPLICANT

1.1. This *Complaint about the initiation and conduct of an anti-dumping investigation regarding the import of fresh cucumbers and fresh tomatoes from Turkey into Ukraine ("Complaint")* is filed in accordance with the provisions of the Law of Ukraine "On the Protection of National Product Producers from Dumping Imports" No. 330-XIV of December 22, 1998 ("**Law**") by the following companies:

Producers of fresh cucumbers:

(1) Agroconcern LLC:

EDRPOU code: 32168276

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Sych Antonina Oleksandrivna

Address: 35314, Rivne region, Rivne district, Zorya village, Poleva street, building 1

Official website: none.

In **Appendix 1.1**, copies of the founding documents of Agroconcern LLC are attached to this *Complaint*

Annex 1.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of Agroconcern LLC, the disclosure of which to third parties would harm the interests of the National Vegetable Producers.

(2) PJSC "Zmiyivska Vegetable Factory":

EDRPOU code: 31834736

Type of activity: Cultivation of vegetables and melon crops, roots and tubers

Head: Ihor Ivanovych Sysenko

Address: 63460, Kharkiv region, Chuguyivskyi district, Slobozhanske urban-type village, Balakliiske highway, building 17-A

Official website: none.

In **Appendix 2.1**, Copies of the founding documents of PJSC "Zmiyivska Vegetable Factory" are attached to this *Complaint* .

Appendix 2.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of PJSC "Zmiyivska Ovocheva Fabryka", the disclosure of which to third parties would harm the interests of the National Commodity Producers of Vegetables.

(3) PrJSC "Kombinat "Teplichny":

EDRPOU code: 05528361

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Chernyshenko Yevhenii Volodymyrovych

Address: 07443, Kyiv region, Brovarsky district, Kalynivka urban-type village, str. Greenhouse, building 2

Official website: <http://teplichny.pat.ua/>

In **Appendix 3.1**, copies of the founding documents of PJSC "Kombinat "Teplichny"" are attached to this *Complaint* .

Appendix 3.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of Teplichnyi Kombinat PrJSC, the disclosure of which to third parties would harm the interests of the National Commodity Producers of Vegetables.

(4) Krasnograd Vegetable Factory LLC:

EDRPOU code: 02779364

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Andriy Mykhailovych Ruban

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Address: 63343, Kharkiv region, Krasnogradsky district, Nataline village, Sviato-Troitska street, building 39-A
Official website: none.

In **Appendix 4.1**, copies of the founding documents of "Krasnogradsk Vegetable Factory" LLC are attached to this *Complaint*.

Annex 4.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of Krasnograd Vegetable Factory LLC, the disclosure of which to third parties would harm the interests of the National Vegetable Producers.

(5) **"Kremenchuk Vegetable Factory" LLC:**

EDRPOU code: 35538833

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Shevchenko Serhii Oleksandrovykh

Address: 39713, Poltava Region, Kremenchutsky District, Omelynk Village, Kozatska Street, Building 7

Official website: none.

In **Appendix 5.1**, copies of the founding documents of "Kremenchutska Vegetable Factory" LLC are attached to this *Complaint*.

Annex 5.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of Kremenchuk Vegetable Factory LLC, the disclosure of which to third parties would harm the interests of the National Vegetable Producers.

(6) **LLC "Vegetable Plant Stanyshivka":**

EDRPOU code: 32576923

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Tymoshchuk Vasyl Volodymyrovych

Address: 12430, Zhytomyr Region, Zhytomyr District, Stanyshivka Village, Parnikova Street, 3

Official website: none.

In **Appendix 6.1**, copies of the founding documents of "Vegetable Plant Stanyshivka" LLC are attached to this *Complaint*.

Annex 6.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of Stanyshivka Vegetable Plant LLC, the disclosure of which to third parties would harm the interests of the National Vegetable Producers.

(7) **"Perspektiva" LLC:**

EDRPOU code: 25118903

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Khlyakin Denys Volodymyrovych

Address: 85113, Donetsk region, Kramatorsk district, Illinivka village, Dorozhna street, building 45

Official website: none.

In **Appendix 7.1**, copies of the founding documents of Perspektiva LLC are attached to this *Complaint*.

Annex 7.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of LLC "Perspektiva", the disclosure of which to third parties would harm the interests of the National Vegetable Producers.

(8) **Dniprovsky Greenhouse Plant LLC:**

EDRPOU code: 30420987

Type of activity: Cultivation of vegetables and melon crops, roots and tubers

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Head: Serhii Volodymyrovych Zadorozhnyi
Address: 51831, Dnipropetrovsk region, Petrikivsky district, Elizavetivka village, Teplychna street, building 1
Official website: none.

In **Appendix 8.1**. Copies of the founding documents of OJSC "Dniprovsky Greenhouse Plant" are attached to this *Complaint* .

Annex 8.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of Dniprovsky Greenhouse Plant LLC, the disclosure of which to third parties would harm the interests of the National Vegetable Producers.

(9) POPS "Uman Greenhouse Plant":

EDRPOU code: 02779234

Type of activity: Cultivation of vegetables and melon crops, roots and tubers

Head: Gordiy Mykola Vasyliovych
Address: 20300, Cherkasy region, Uman city, Derevyanka street, building 26
Official website: <http://www.utk.org.ua/>

In **Appendix 9.1**. Copies of the founding documents of the Uman Greenhouse Combine are attached to this *Complaint* .

Annex 9.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of the Uman Greenhouse Plant, the disclosure of which to third parties would harm the interests of the National Commodity Producers of Vegetables.

(hereinafter jointly - "**National producer of cucumbers**")

Producers of fresh tomatoes:

(1) Agroconcern LLC:

EDRPOU code: 32168276

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Sych Antonina Oleksandrivna
Address: 35314, Rivne region, Rivne district, Zorya village, Poleva street, building 1

Official website: none.

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Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Chernyshenko Yevhenii Volodymyrovych
Address: 07443, Kyiv region, Brovarsky district, Kalynyvka urban-type village, str. Greenhouse, building 2
Official website: <http://teplichny.pat.ua/>

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(3) **Krasnograd Vegetable Factory LLC:**

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Type of activity: Cultivation of vegetables and melon crops, roots and tubers

Head: Andriy Mykhailovych Ruban

Address: 63343, Kharkiv region, Krasnogradsky district, Nataline village, Sviato-Troitska street, building 39-A

Official website: none.

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(4) **"Kremenchuk Vegetable Factory" LLC:**

EDRPOU code: 35538833

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Shevchenko Serhii Oleksandrovych

Address: 39713, Poltava Region, Kremenchutsky District, Omelnyk Village, Kozatska Street, Building 7

Official website: none.

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(5) **Stanyshivka Vegetable Plant LLC:**

EDRPOU code: 32576923

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Tymoshchuk Vasyl Volodymyrovych

Address: 12430, Zhytomyr Region, Zhytomyr District, Stanyshivka Village, Parnikova Street, 3

Official website: none.

In **Appendix 6.1**, copies of the founding documents of "Vegetable Plant Stanyshivka" LLC are attached to this *Complaint*.

Annex 6.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of Stanyshivka Vegetable Plant LLC, the disclosure of which to third parties would harm the interests of the National Vegetable Producers.

(6) **Dniprovsky Greenhouse Plant LLC:**

EDRPOU code: 30420987

Type of activity: Cultivation of vegetables and melons, roots and tubers

Head: Serhii Volodymyrovych Zadorozhnyi

Address: 51831, Dnipropetrovsk region, Petrikivsky district, Elizavetivka village, Teplychna street, building 1

Official website: none.

In **Appendix 8.1**, copies of the founding documents of JSC "Dniprovsky Greenhouse Plant" are attached to this *Complaint*.

Annex 8.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of Dniprovsky Greenhouse Plant LLC, the disclosure of which to third parties would harm the interests of the National Vegetable Producers.

(7) **POPS "Uman Greenhouse Plant":**

EDRPOU code: 02779234

Type of activity: Cultivation of vegetables and melon crops, roots and tubers

Head: Gordiy Mykola Vasyliovych

Address: 20300, Cherkasy region, Uman city, Derevyanka street, building 26

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Annex 9.1 is not attached to this non-confidential version of the Complaint, as it contains confidential information of the Uman Greenhouse Plant, the disclosure of which to third parties would harm the interests of the National Commodity Producers of Vegetables.

(hereinafter jointly - "**National Commodity Producer of Tomatoes**", National Commodity Producer of Cucumbers and National Commodity Producer of Tomatoes hereinafter jointly - "**National Commodity Producer vegetables**").

1.2. For all matters related to this *Complaint*, it is necessary to contact the representatives of the National Commodity Producers of Vegetables by power of attorney (provided in **Appendix 10** to this *Complaints*):

Anzhela Mykhaylovna Makhinova;

Address: prov. 10 Muzeynyi St., 5th floor, Kyiv, 01001, Ukraine;

Phone: + 38 044 499 6000;

Mobile: +38 050 410 29 15;

AMakhinova@sk.ua

Oleksandra Maksimivna Sandul;

Address: prov. 10 Muzeynyi str., 5th floor, Kyiv, 01001, Ukraine;

Phone: + 38 044 499 6000;

Mobile: +38 098 822 18 55;

OSA@sk.ua

Annex 10 is not attached to this non-confidential version of the Complaint, as it contains personal data of representatives of the National Vegetable Producers.

II. DESCRIPTION OF THE GOOD IN WHICH THE INVESTIGATION IS INITIATED

Product similarity

- 2.1 In accordance with Part 1 of Art. 2 of the Law, its provisions are applied to the import of a product that is the object of dumping, if such import causes damage to the national producer of a similar product. In addition, a good is considered an object of dumping if its export price in the country of import is lower than the comparable price of a similar good in the country of export in normal trade operations.
- 2.2 Thus, during the anti-dumping investigation, it is necessary to determine the similarity of the product produced by the national producer and the product, the import of which is dumped and causes damage to the national producer.
- 2.3 According to Part 24 of Art. 1 of the Law, a similar product is an identical product, that is, similar in all characteristics to the product that is the object of the investigation, or, in the absence of this product, another product that is not similar in all characteristics, but has indicative signs that are very similar to the characteristic features of the product that is the object of the investigation.
- 2.4 Neither the Act nor the Agreement implementing Article VI of the General Agreement on Tariffs and Trade 1994 (**the "Anti-Dumping Agreement"**) sets out the criteria by which product similarity must be established for the purposes of an anti-dumping investigation. However, such criteria are established in the practice
- 2.5 of dispute resolution in the WTO. In particular, according to the case *Japan - Alcoholic Beverages II*, the similarity of the goods can be established on the basis of such criteria as: (a) physical characteristics of the goods; (b) consumer habits and preferences regarding goods; (c) final consumption of goods; (d) international tariff classification of goods etc.

Goods subject to this investigation

- 2.6 The object of the investigation is fresh vegetables, namely:
- (i) fresh cucumbers, suitable for consumption, which are classified under UCT code ZED 0707 00 ("**Cucumbers**");
 - (ii) fresh tomatoes, fit for consumption, which are classified according to the UCT code of the ZED 0702 00 ("**Tomatoes**").

Cucumbers

Description of cucumbers produced by the National Producer of Cucumbers

- 2.7 In Ukraine, there are no single approved universally binding standards regarding the physical and quality characteristics of fresh cucumbers. Accordingly, the physical characteristics of cucumbers are necessary determine by external signs: integrity, freshness, color, damage by pests or diseases.
- 2.8 Main characteristics of cucumbers:
- depending on the time of ripening: there are early-ripening varieties, medium-ripening varieties, late-ripening varieties;
 - according to the size of the fruits, short-fruited, medium-fruited and long-fruited varieties are distinguished;
 - the fruits are shallow tuberous and large tuberous;
 - depending on the type of pollination: parthenocarpic and self-pollinated;
 - units of measurement: cucumbers sold on the Ukrainian market are measured in kg (can be translated into tones);
 - storage conditions in stores or at the factory: store fresh cucumber in refrigerating chambers at a temperature of +4- +10°C;
 - packaging for transportation: fresh cucumbers are packed in cardboard boxes tightly enough, flush with the edges of the container, to prevent damage during transportation. Each package must contain cucumbers of the same size group.
 - shelf life: fresh cucumber can be stored for no more than 20-30 days at a temperature of +10°ÿ - +14°ÿ and relative humidity of 90-95%;

- ~~transportation conditions:~~ fresh cucumbers are transported in special trucks, which equipped with automatic cooling systems, capable both in winter and summer maintain a temperature of +5°C to +10°C;
- ~~scope of use:~~ for sale in fresh form and for industrial use processing

2.9 Cucumbers can be divided into different types depending on different criteria:

(i) ~~depending on the ripening time:~~ _____

- early ripening varieties (characterized by the interval between seedlings and the first fruit collection from 32 to 44 days),
- medium-ripening varieties (characterized by the interval between seedlings and the first fruit collection from 45 to 50 days),
- late-ripening varieties (characterized by the interval between seedlings and the first fruit collection of more than 50 days);

(ii) ~~by fruit size:~~ _____

- cucumbers of short-fruited varieties (divided into two more groups: the first group includes those whose greens do not exceed 11 cm in length, the second group green leaf should not exceed 14 cm);
- cucumbers of medium-fruited varieties (the length of the greens is no more than 25 cm);
- cucumbers of long-fruited varieties (the length of the greens is more than 25 cm);

(iii) ~~depending on the type of pollination:~~

- parthenocarpic - varieties and hybrids that absolutely do not need pollination for the formation of fruits, their characteristic feature is the absence of seeds in mature cucumbers. Such varieties are suitable for growing in a greenhouse and cold climate (Arctic F1; Ilonara F1; Bjorn F1; Director F1; Tchaikovsky F1; Mirabell F1; Amur F1; Ecole F1; Solyut F1; Mimino F1; Nibori F1, etc.).
- self-pollinated are able to form ovaries without insects. One flower contains both stamens and pistils, so pollination occurs without the participation of external factors (Cibria; Arctic; Romana; Thackery; Betina; Satina; Picas; Crispina, etc.).

2.10 Description of the production process:

- sowing;
- growing seedlings; - plant care:
- formation of plants;
- microclimate support;
- watering and feeding plants;
- protection against diseases and pests;
- harvest;
- sorting and packing;
- storage.

Cucumbers imported to Ukraine from Turkey and their comparison with Cucumbers produced in Ukraine

2.11 The national producer of Cucumbers believes that Cucumbers produced in Ukraine and Cucumbers imported to Ukraine from Turkey are similar.

Table 1. Comparison of Cucumbers produced by the National Producer of Cucumbers and Cucumbers originating from Turkey

Criterion	Product of Ukrainian production In	The product is imported from Turkey ¹	Conclusion
Physical characteristics	<p>Ukraine, there are no approved standards regarding the physical and quality characteristics of fresh cucumbers. Therefore, the physical characteristics of cucumbers are determined by</p> <ul style="list-style-type: none"> - external signs: integrity, freshness, color, damage by pests or diseases. - depending on the time of ripening, there are early-ripening varieties (characterized by the interval between seedlings and the first fruit collection of 32 to 44 days), medium-ripening varieties (characterized by the interval between seedlings and the first fruit collection of 45 to 50 days), late-ripening varieties (characterized by the interval between seedlings and the first fruit collection is more than 50 days). - the fruits are shallow tuberous and large tuberous; - short-fruited, medium-fruited and long-fruited varieties are distinguished according to the size of the fruits. Short-fruited cucumbers are divided into two more groups (the first group of short-fruited cucumbers includes those whose greens do not exceed 11 cm in length, in the second group it should not be longer than 14 cm). In medium-fruited cucumbers, the length of the green leaf is no more than 25 cm, in long-fruited cucumbers - more than 25 cm - depending on the type of pollination: <ul style="list-style-type: none"> • parthenocarpic - varieties and hybrids that absolutely do not need pollination for fruit formation. A characteristic feature is the absence of seeds in mature cucumbers. Such varieties are suitable for growing in a greenhouse and cold climate; • self-pollinated are able to form ovaries without insects. One flower contains both stamens and pistils, so pollination occurs without the participation of external factors. 	<p>In the Republic of Turkey, in general, there are no approved standards regarding the physical and quality characteristics of fresh cucumbers. Therefore, the physical characteristics of cucumbers are determined by external signs: integrity, freshness, color, damage by pests or diseases.</p>	similar

¹ http://www.adameytarim.com/urun_detay.php?urunid=50 ; <https://www.akpafruits.com/sebzeler.html> ; <http://www.akcantarim.com/salatalik.html> ; <https://akdemsebze.com/cucumber/>

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Expiration date	A fresh cucumber can be stored for 20-30 days at a temperature of +10 - +14°C and a relative humidity of 90-95%.	A fresh cucumber can be stored for 20-30 days at a temperature of +10 - +14°C and a relative humidity of 90-95%.	similar
Units of measurement	kg, which can be converted into tons.	kg, which can be converted into tons. They are eaten	similar
Scope of use	They are eaten fresh and canned. Classification according to UKTZED	fresh and canned. 0707 00	similar
UKTZED	0707 00		similar
The production process	Cucumber production consists of the following stages: <ul style="list-style-type: none"> - sowing; - growing seedlings; - plant care: - formation of plants; - microclimate support; - watering and feeding plants; - protection against diseases and pests; - harvest; - sorting and packing; - storage. 	Production of cucumbers, according to information from the sites, consists of the following stages: <ul style="list-style-type: none"> - sowing; - growing seedlings; - plant care: - formation of plants; - microclimate support; - watering and feeding plants; - protection against diseases and pests; - harvest; - sorting and packing; - storage. 	similar
Packaging	Fresh cucumbers are packed in cardboard boxes tightly enough, flush with the edges of the container, to prevent damage during transportation. Each package must contain cucumbers of the same size group	Fresh cucumbers are packed in cardboard or plastic boxes	similar
Transportation	Fresh cucumbers are transported in special trucks equipped with automatic cooling systems capable of maintaining a temperature of +5°ÿ to +10°ÿ both in winter and in summer	Fresh cucumbers are transported in special trucks equipped with automatic cooling systems capable of maintaining temperatures from +5°C to +10°C both in winter and in summer	similar
Storage conditions in stores or on production	In refrigerating chambers at a temperature of +4 - +10°C and a relative humidity of 90-95%	In refrigerating chambers at a temperature of +4 - +10°C and a relative humidity of 90-95%	similar

2.12 In view of the above, the National Producer of Cucumbers considers that Cucumbers originating from Turkey, which are imported into Ukraine and in respect of which the National Producer of Cucumbers requests to initiate an anti-dumping investigation, and Cucumbers of the National Producer of Cucumbers are similar within the meaning of Art. 1 of the Law and the Agreement on Anti-Dumping Measures. The similarity of Cucumbers is directly confirmed by the fact that imported Cucumbers and Cucumbers of the National producer of cucumbers are sold in the same retail chains, on the same shelves.

Tomatoes

Description of tomatoes produced by the National Tomato Producer

2.13 In Ukraine, there are no approved universally binding standards regarding the physical and quality characteristics of fresh tomatoes. Accordingly, the physical characteristics of tomatoes must be determined by external signs: integrity, freshness, color, damage by pests or diseases.

2.14 Main characteristics of Tomatoes:

- according to the terms of ripening, the following are distinguished: early; medium ripe; late;
- according to the size of the bush: tall; medium height; undersized; headquarters;
- by color: ripe fruits have a variety of colors: from yellow, orange-red to red, there are green, purple and even black. - units of measurement: tomatoes sold on the Ukrainian market are measured in kg _____
(can be translated into tones);
- storage conditions in stores or at the factory: fresh tomatoes are kept in closed containers in clean, ventilated rooms at temperatures up to +15°.
- packaging for transportation: fresh tomatoes are packed in many wooden boxes board or wooden in dense rows flush with the edges of the container.
- storage period: the storage period of red (yellow, orange), pink tomatoes at a temperature of 0-2°C is no more than 1-1.5 months; brown degree of maturity at a temperature of 4-6°C, milk degree of maturity at a temperature of 8-10°C, green degree of maturity at a temperature of 12-14°C - no more than 1 month.;
- conditions of transportation: fresh tomatoes are transported by all modes of transport in accordance with the rules for the transportation of perishable goods in force for this type transport Fresh tomatoes of the milk stage of maturity, fully formed, are allowed to be transported without cooling in the summer only over long distances (in interregional transportation). Fresh red ripe tomatoes are allowed to be transported by auto-refrigerators and cars for local delivery. When transporting fresh tomatoes in refrigerated wagons, the stacking height of the boxes should be at least 1.6 m and not more than 2.4 m. The temperature regime of transportation should be up to +15 degrees.
- scope of use: for sale in fresh form and for industrial use processing

2.15 Tomatoes can be divided into different types:

- (i) according to maturity:
 - early (bearing fruit 80-90 days after sowing),
 - medium ripe (tomatoes ripen in 100-120 days),
 - late (vegetation period reaches 120-140 days after planting seeds);
- (ii) by fruit size:
 - tall (grow over 1.5 m);
 - medium-sized (grow from 1 to 1.5 m);
 - low-growing (dwarf tomatoes, the height of which bush does not exceed 0.5-0.6 m);
 - stem (low (up to 0.5 m) tomatoes with thick stems, with limited branching);
- (iii) by color:
 - red (tomatoes have this color thanks to the pigment lycopene. It is thanks to this pigment that the fruits have a beneficial effect on the heart and are a good preventive measure against various diseases (Rio Fuego, Tarasenko Hybrid, Bull's forehead);
 - yellow-orange (fruits contain a large percentage of beta-carotene and alpha-carotene. They also contain a large amount of vitamin C, which positively affects the condition of the skin. With regular consumption of such fruits,

the risk of diseases of the stomach, respiratory tract, and inflammatory processes decreases (Klondike, Lemon-Liana, Golden Heart);

- pink (fruits of this color are much more tender and sweeter than red ones. Pink ones contain a large amount of trace elements, carotene and lycopene, vitamin C. Tomatoes help strengthen immunity, improve brain function, prevent various diseases, etc. (Raspberry Bell, De Barao Tsarsky, Pink Rose, Tarasenko pink hybrid, etc.);
- purple (this color of tomatoes is given by phenol and anthocyanin. Eating fruits with this color helps prevent memory loss, has a positive effect on the body (Blue tomato, Blueberry, Lilac Lake);
- green (this color is not an indicator of the "immaturity" of the fruit, but a new miracle of selection. These tomatoes were developed specifically for allergy sufferers who have contraindications to anthocyanins/lycopene. This is an excellent remedy against harmful UV radiation. Prevention of diseases, cataracts, etc. (Malachite Box and Swamp);
- black (the fruits contain a large percentage of anthocyanins. (Black Prince, De Barao Black, Sacher).

2.16 Description of the production process:

- sowing seeds;
- growing seedlings;
- diving;
- boarding;
- plant care:
- formation of plants;
- microclimate support;
- watering and feeding plants;
- protection against diseases and pests;
- harvest;
- sorting and packing;
- storage.

Tomatoes imported to Ukraine from Turkey and their comparison with tomatoes produced in Ukraine

2.17 The national producer of tomatoes believes that Tomatoes produced in Ukraine and Tomatoes imported to Ukraine from Turkey are similar.

Table 2. Comparison of Tomatoes of the National producer of tomatoes and Tomatoes originating from Turkey.

Criterion	Tomatoes of Ukrainian production In	Tomatoes imported from Turkey ² In	Conclusion
Physical characteristics	<p>Ukraine, there are no approved universally binding standards regarding the physical and quality characteristics of fresh tomatoes. Therefore, the physical characteristics of tomatoes are determined by external signs: shape, freshness, color, damage by pests or diseases.</p> <p>Main characteristics of Tomatoes:</p> <ul style="list-style-type: none"> - according to the terms of ripening, the following are distinguished: early — bear fruit 80-90 days after sowing; medium-ripe - tomatoes ripen in 100-120 days; late — the growing season reaches 120-140 days after planting seeds. - according to the size of the bush: tall - grow over 1.5 m; medium-sized - grow from 1 to 1.5 m; low-growing - dwarf tomatoes, the height of which bush does not exceed 0.5-0.6 m; stem - low (up to 0.5 m) tomatoes with thick stems, with limited branching. - by color: ripe fruits have a variety of colors - from yellow, orange-red to red, there are green, purple and even black. 	<p>general, there are no approved universally binding standards for physical and quality characteristics in Turkey, so the physical characteristics of tomatoes determined by external signs: shape, freshness, color, damage by pests or diseases.</p> <p>Main characteristics of Tomatoes:</p> <ul style="list-style-type: none"> - according to the terms of ripening, the following are distinguished: early — bear fruit 80-90 days after sowing; medium-ripe - tomatoes ripen in 100-120 days; late — the growing season reaches 120-140 days after planting seeds. - according to the size of the bush: tall - grow over 1.5 m; medium-sized - grow from 1 to 1.5 m; low-growing - dwarf tomatoes, the height of the bush of which does not exceed 0.5-0.6 m; stem - low (up to 0.5 m) tomatoes with thick stems, with limited branching. - by color: ripe fruits have a variety of colors - from yellow, orange-red to red, there are green, purple and even black. 	similar
Expiration date	The term of storage of tomatoes of red (yellow, orange), pink stage of maturity at a temperature of 0-2°C is no more than 1-1.5 months; brown degree of maturity at a temperature of 4-6°C, milk degree of maturity at a temperature of 8-10°C, green degree of maturity at a temperature of 12-14°C - no more than 1 month	The term of storage of red (yellow, orange), pink tomatoes with a temperature of 0-2°C is no more than 1-1.5 months; brown degree of maturity at a temperature of 4-6°C, milk degree of maturity at a temperature of 8-10°C, green degree of maturity at a temperature of 12-14°C - no more than 1 month	similar
Units of measurement	kg, which can be converted into tons.	kg, which can be converted into tons. They are eaten	similar
Scope of use according to UKTZED	They are eaten fresh and canned. Classification 0702 00	fresh and canned. 0702 00	similar
			similar

² <https://www.akpafruits.com/sebzeler.html>; <http://www.akcantarim.com/tomates.html>; <https://akdemsebze.com/tomato/>

The production process	<p>Tomato production consists of the following stages:</p> <ul style="list-style-type: none"> - sowing seeds; - growing seedlings; - diving; - landing; - plant care: - formation of plants; - microclimate support; - watering and feeding plants; - protection against diseases and pests; - harvest; - sorting and packing; - storage. 	<p>Tomato production, according to information from the sites, consists of the following stages:</p> <ul style="list-style-type: none"> - sowing seeds; - growing seedlings; - diving; - landing; - plant care: - formation of plants; - microclimate support; - watering and feeding plants; - protection against diseases and pests; - harvest; - sorting and packing; - storage. 	similar
Packaging	Fresh tomatoes are packed in wooden or wooden boxes in dense rows flush with the edges of the container.	Fresh tomatoes are packed in cardboard or plastic boxes	similar
Transportation	Fresh tomatoes are transported by all modes of transport in accordance with the rules for the transportation of perishable goods in force on this mode of transport. Fresh tomatoes of a milky degree of maturity, fully formed, are allowed to be transported without cooling in the summer only over long distances (during interregional transportation). Fresh red ripe tomatoes are allowed to be transported by auto-refrigerators and cars for local delivery. When transporting fresh tomatoes in refrigerated wagons, the stacking height of the boxes should be at least 1.6 m and not more than 2.4 m. The temperature regime of transportation should be up to +15 degrees.	Fresh tomatoes are transported in special trucks, which are equipped with automatic cooling systems capable of maintaining the temperature up to +15°C.	similar
Storage conditions in stores or on production	Store fresh tomatoes in closed, clean, ventilated rooms at a temperature of up to +15°C	Store fresh tomatoes in closed, clean, ventilated rooms at a temperature of up to +15°C	similar

2.18 In view of the above, the National Producer of Tomatoes considers that the Tomatoes originating in Turkey, which are imported into Ukraine and in respect of which the National Producer of Tomatoes requests to initiate an anti-dumping investigation, and the Tomatoes of the National Producer of Tomatoes are similar within the meaning of Art. 1 of the Law and the Agreement on Anti-Dumping Measures. Similarity

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imported Tomatoes and Tomatoes of the National producer of tomatoes is directly confirmed by the fact that these Tomatoes are sold in the same networks, on the same shelves.

III. NATIONAL MANUFACTURER

- 3.1. According to the preamble of *the Law*, anti-dumping investigations are initiated with the aim of introducing mechanisms to protect the national producer from dumping imports from other countries, customs unions or economic groups.
- 3.2. Within the meaning of Clause 16 of Art. 1, item 1 of Art. 11 of *the Law*, a set of producers of a similar product or those of them whose combined production constitutes the main part of the total volume of production in the country of import of this product is considered a national producer.
- 3.3. According to Clause 6 of Art. 12 of *the Law*, a complaint is considered filed by a national producer or on his behalf, if it is supported by Ukrainian producers, the combined production of which is more than 50% of the total volume of production of a similar product produced by that part of the enterprises of the national producer that supports the complaint or expresses an objection.
- 3.4. As stated in *the Report of SE "Ukrpromzovshekspertiza" "Ukrainian indoor market of tomatoes and cucumbers in 2019-2022." ("Report") (Appendix 11 to this Complaint)*, during 2019-2022, the production of tomatoes and cucumbers in Ukraine had the following structure. The main part of indoor tomatoes and cucumbers in Ukraine is grown in households, mainly for own consumption. Commercial products are grown by agricultural enterprises. 3

Annex 11 is not attached to this non-confidential version of the Complaint, as it was received on a paid basis and is not subject to disclosure due to relevant contractual obligations.

- 3.5. Since only fresh vegetables from closed soil produced by agricultural enterprises are commodity products that have a wide market and can really compete with imported fresh vegetables imported from Turkey, according to the National Vegetable Producers, when calculating the share of the national producer, take into account only volumes of national production by agricultural enterprises should be taken. Such a position is confirmed by the following arguments.

- 3.6. **First**, [CONFIDENTIAL]
- 3.7. **Second**, [CONFIDENTIAL]
- 3.8. **Third**, [CONFIDENTIAL]
- 3.9. **Fourth**, [CONFIDENTIAL]
- 3.10. **Fifth**, [CONFIDENTIAL]
- 3.11. **Sixth**, [CONFIDENTIAL]
- 3.12. **Seventh**, [CONFIDENTIAL]

This non-confidential version of the Complaint does not provide reasoning that confirms the specifics of the calculation of the status of the national commodity producer in the greenhouse industry, since such reasoning was taken from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

- 3.13. Thus, the National Commodity Producers of Vegetables believe that when calculating the share of the National Commodity Producer of Cucumbers and the National Commodity Producer of Tomatoes, it is necessary to take into account the volumes of production by agricultural enterprises.
- 3.14. According to *the Report*⁴ and the data of the National Cucumber Commodity Producer, the share of the National Cucumber Commodity Producer in the total production volumes of Cucumbers is calculated as follows.

Table 3. Cucumber production volumes in 2019 - 2022.

Indicator	2019	2020	2021	2022
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³ Report, p.

⁴ 4 Table 1.1 of the Report

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Total production volume of cucumbers in Ukraine, tons	100	106	109	58
Production volume of the National producer of cucumbers, tons	100	110	110	56
The share of the National producer of cucumbers in the total volume of production of cucumbers, %	100	104	101	97

This non-confidential version of the Complaint does not provide absolute figures for the total production volumes and production volumes of the National Cucumber Commodity Producer, as they were obtained from the Report, which was obtained on a paid basis and is not subject to disclosure due to the relevant contractual obligations.

3.15. According to the Report⁵ and the

data of the National Producer of Tomatoes, the share of the National Producer of Tomatoes in the total production of Tomatoes is calculated as follows.

Table 4. Tomato production volumes in 2019 - 2022.

Indicator	2019	2020	2021	2022
Total production volume of tomatoes in Ukraine, tons	100	98	95	43
Production volume of the National producer of tomatoes, tons	100	102	98	36
The share of the National producer of tomatoes in the total volume of tomato production, %	100	104	102	85

This non-confidential version of the Complaint does not provide absolute figures for the total production volumes and production volumes of the National Tomato Producer, as they were obtained from the Report, which was obtained on a paid basis and is not subject to disclosure due to the relevant contractual obligations. 3.16. During 2019-2022, national commodity

producers of vegetables had a predominant share in national production. Thus, the share of the National Producer of Cucumbers in national production was [more than 50%]. The share of the National Producer of Tomatoes in the total volume of production was [more than 50%].

In this non-confidential version of the Complaint, the shares of the National Commodity Producer are not provided, as the relevant information is not publicly available and its disclosure may harm the National Commodity Producer.

3.17. In view of the above, the National Commodity Producers of Vegetables is a national producer within the meaning of Clause 16 of Art. 1 and Art. 11 of the Law, and the Complaint is the one submitted by the national manufacturer within the meaning of Clause 6 of Art. 12 of the Law and Art. 4 Agreements on anti-dumping measures.

⁵ Table 1.1 of the Report

IV. INFORMATION ON PRODUCERS AND EXPORTERS OF CUCUMBERS AND TOMATOES FROM TURKEY

4.1. According to *the Report*, the following foreign producers and importers supplied Cucumbers and Tomatoes to Ukraine.

Table 5. Main foreign suppliers of indoor tomatoes and cucumbers to Ukraine in 2019-2022⁶

The	Provider
country is Turkey	[]

Table 6. Main Ukrainian importers of cucumbers and tomatoes⁷

EDRPOU	Importer company name	Address
code []	[]	[]

This non-confidential version of the Complaint does not provide a list of foreign manufacturers/exporters and importers, as the relevant information was taken from the Report, which was obtained on a paid basis and which is not subject to disclosure to third parties due to relevant contractual obligations.

⁶ Table 2.8 of the report

⁷ Table 2.9 of the report

V. DUMPING IMPORTS

5.1. According to Art. VI:1 of the 1994 General Agreement on Tariffs and Trade ("**GATT 1994**"), Art. 9 of the Agreement on Anti-Dumping Measures and Part 5 of Art. 16 of the Law, the presence of dumping is one of the mandatory prerequisites for the application of anti-dumping measures.

5.2. The Agreement and the Law provide that the determination of the fact of dumping must be based on a comparison of the normal value and the export price, detailed rules for determining which provided for in Art. 2.1-2.7 Agreements on anti-dumping measures and Art. 7-9 of the Law.

Normal value

5.3. According to Art. 2.1 Agreements on anti-dumping measures and Part 1 of Art. 7 of the Law normal value is a comparable price established in the ordinary course of trade for a similar product intended for consumption in the exporting country.

5.4. In accordance with footnote 2 of the Agreement on Anti-Dumping Measures and Part 4 of Art. 7 of the Law, the sales volume of a similar product intended for consumption in the domestic market of the exporting country is usually used to determine the normal value, if the volume of such sales is at least 5% of the sales volume in the country of import of the specified product.

Export price

5.5. According to Part 1 of Art. 8 of the Law, the export price of a good is considered to be the price at which the good is actually paid or payable, which is sold to the country of import from the country of export.

5.6. According to Art. 2.3 Agreements on anti-dumping measures and part 2 of Art. 8 of the Law, if the export price has not been established or is considered to be unreasonable, the export price may be constructed:

(1) based on the price at which the imported goods are first resold to an independent person to the buyer;

(2) or on another reasonable and reasonable basis, unless the goods are resold to an independent buyer or are not resold in the condition in which they were imported.

Dumping margin

5.7. According to Art. 2.4.2 Agreements on anti-dumping measures and Part 5 of Art. 9 of the Law, the dumping margin is determined as a result of comparing the normal value and the export price, its value is the difference by which the normal value exceeds the export price.

5.8. Art. 2.4 Agreements on anti-dumping measures and Art. 9 of the Law provide that the comparison of the export price and the normal value must be made (1) on the basis of the same basic terms of delivery for sale; (2) made on the nearest date. In addition, both the Law and the Agreement on Anti-Dumping Measures oblige investigating authorities to make adjustments to the export price and normal value⁸.

5.9. According to Art. 2.4.2 Agreements on anti-dumping measures and Part 7 of Art. 9 of the Law on definition the dumping margin is made by comparing: (1) the weighted

average value of the normal value with the weighted average value of prices of all export operations in the country of import; or

⁸ According to Art. 2.4 Agreements on anti-dumping measures and Art. 9 of the Law, the normal value and the export price must be adjusted taking into account the following factors: (a) physical characteristics of the goods; (b) taxes and fees (mandatory payments) payable upon importation; (c) discounts and sales volumes; (d) basic terms of delivery; (e) costs of transportation, insurance, loading (unloading) and additional costs; (f) packaging costs; (g) loan expenses; (h) post-sale costs; (i) expenses for commission fees; (j) expenses related to currency conversion; (k) amounts of adjustments.

(2) individual normal value with individual export prices in the country import for each operation.

5.10. Additionally, Part 8 of Art. 9 of the Law and Art. 2.4.2 Agreements on anti-dumping measures provide that the weighted average value of the normal value can be compared with the prices of all individual export operations in the importing country. However, this method of determining the dumping margin is used in exceptional cases in the presence of the following conditions:

- (i) the structure of export prices varies significantly between buyers, in different regions or during a certain period(s);
- (ii) it is impossible to determine the actual by the methods specified above in clause 5.15 of this Complaint the amount of the dumping margin.

5.11. According to the Methodological Guide for the preparation of a complaint regarding the initiation of an anti-dumping investigation⁹, the dumping margin should be calculated as follows as follows:

Table 7: Indicators used to calculate the dumping margin

Index A B (1)	Indicator
B	The average selling price of the product by the manufacturer in the exporting country
(2) S	Average costs for the delivery of goods in the exporting country
	Average costs for delivery of goods to Ukraine
	The average price declared when importing goods to Ukraine

Table 8: Formula for calculating the dumping margin

Indicator	Indicator	Calculation formula
F	Value of the normal value in the country of export Value	AB (1)
G	of the export price Dumping	CB (2)
H	margin	$((FG)/C)*100\%$

Calculation of the dumping margin for the import of cucumbers

Calculation of normal value for the purposes of initiating an investigation

5.12. According to the Report, in the domestic market of Turkey, producers sell Cucumbers for following prices.

Table 9: Average sales prices of Cucumbers in the domestic market of Turkey, excluding VAT, delivery terms EXW-warehouse/factory¹⁰

Indicator	2019	2020	2021	2022
Average prices for Cucumbers in the domestic market of Turkey, USD USA/Vol	100	99	105	112

In this non-confidential version of the Complaint, the National Cucumber Commodity Producer does not provide absolute price figures, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

5.13. As noted in the Report, such sales by Turkish manufacturers are carried out on EXW delivery terms.

According to the interpretation of Incoterms 2010, EXW delivery terms mean that the seller is considered to have fulfilled his obligations regarding delivery when he has placed the goods at the disposal of the buyer at his place of business or at another named place (eg: factory, factory, warehouse etc). The seller is not responsible for loading the goods on the vehicle, as well as for customs clearance of the goods for export. Because

⁹ Posted on the official website of the Ministry of Economic Development, Trade and Agriculture of Ukraine // <http://www.me.gov.ua/Documents/Download?id=4548737c-a835-4f2b-a28e-bd79bbe7ebce>

¹⁰ Table 3.12 of the Report

delivery may be made, including, at the seller's premises (warehouse/factory), which is the case, the National Cucumber Commodity Producer believes that the prices listed in Table 9 of this *Complaint* should be used to calculate the normal value without any further adjustments.

Calculation of the export price for the purposes of initiating an investigation

5.14. According to *the Report*, the import prices of cucumbers from Turkey in the period 2019 - 2022 were as follows.

Table 10: Dynamics of import prices of cucumbers originating in Turkey, USD USA/ tons¹¹.

Indicator	2019	2020	2021	2022
The price of Ukrainian imports of cucumbers originating from Turkey (delivery conditions - DAF/CIF), USD USA/ton	100	108	108	127

In this non-confidential version of the Complaint, the National Cucumber Commodity Producer does not provide absolute price figures, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

5.15. Given that the import price of Cucumbers is indicated on the terms of delivery CIF-port and DAF-border of Ukraine, for the purposes of calculating the export price, it is necessary to adjust the import price for transport costs to the border of Ukraine.

5.16. As stated in *the Report*, transportation of fresh vegetables from Turkey to Ukraine is carried out by road vehicles in auto-refrigerators. *The report* predicts the following average transport costs of Turkish manufacturers to the border with Ukraine.

Table 11: Transport costs of Turkish manufacturers for delivery to the border with Ukraine, USD USA/ton ¹²

Indicator	2019	2020	2021	2022
Transportation costs for delivery to the border with Ukraine from Turkey, USD US/ton	100	100	100	170

In this non-confidential version of the Complaint, the National Cucumber Commodity Producer does not provide absolute figures for transportation costs, as they were obtained from a Report that was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

5.17. According to the National Producer of Cucumbers, the adjusted export price is:

Table 12: Adjusted export price, USD USA/ton ¹³

Indicator	2019	2020	2021	2022
Export price of cucumbers originating in Turkey (adjusted), USD USA/ton	100	112	113	102

In this non-confidential version of the Complaint, the National Cucumber Commodity Producer does not provide absolute export price figures, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

¹¹ Tables 2.1, 2.5 and 2.7 of the Report

¹² Report, paragraph

¹³ 3.6 Based on Tables 2.5 and 2.7, as well as paragraph 3.6 of the Report

Calculation of the dumping margin for the purposes of the initiation of the investigation

5.18. The national producer of cucumbers believes that the dumping margin should be calculated as follows: _____

Table 13: Calculation of the dumping margin for Cucumbers originating in Turkey

Indicator	2019	2020	2021	2022
The average selling price of Cucumbers by the producer in the exporting country, USD	100	99	105	112
USA/ton Average costs for delivery of Cucumbers in the exporting country, USD USA/ton	0	0	0	0
Average costs for delivery of cucumbers to Ukraine, USD USA/ton Average price	100	100	100	170
declared when importing cucumbers to Ukraine, USD USA/ton Value of the normal value in	100	108	108	127
the country of export, USD USA/ton Value of the export price, USD USA/	100	99	105	112
ton	100	112	113	102
Dumping margin, %	21%	12%	15%	23%

In this non-confidential version of the Complaint, the National Cucumber Commodity Producer does not provide absolute indicators of export price, normal value, import price, transportation costs, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

5.19. Thus, in 2019-2022, there was a dumping import of cucumbers originating from Turkey. At the same time, the dumping margin in different years was from 12% to 23%. At the same time, this size of the dumping margin significantly exceeds the minimum size of the dumping margin of 2%.

Calculation of the dumping margin for the import of Tomatoes

Calculation of normal value for the purposes of initiating an investigation _____

5.20. According to the Report, in the domestic market of Turkey, producers sell Tomatoes for following prices.

Table 14: Average sales prices of Tomatoes in the domestic market of Turkey, excluding VAT, terms of delivery EXW-warehouse/factory, USD USA/ton

Indicator	2019	2020	2021	2022
Average prices for tomatoes in the domestic market of Turkey, USD USA/ton	100	102	106	112

In this non-confidential version of the Complaint, the National Tomato Commodity Producer does not provide absolute price figures, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

5.21. As noted in the Report, such sales by Turkish manufacturers are carried out on EXW delivery terms. According to the interpretation of Incoterms 2010, EXW delivery terms mean that the seller is considered to have fulfilled his obligations regarding delivery when he has placed the goods at the disposal of the buyer at his place of business or at another named place (eg: factory, factory, warehouse etc). The seller is not responsible for loading the goods on the vehicle, as well as for customs clearance of the goods for export. Because

¹⁴ Table 3.12 of the report

delivery may be made, including, at the seller's premises (warehouse/factory), which is the case, the National Tomato Commodity Producer believes that the prices listed in Table 14 of this *Complaint* should be used to calculate the normal value without any additional adjustments.

Calculation of the export price for the purposes of initiating an investigation

5.22. According to *the Report*, the import prices of tomatoes originating in Turkey in the period 2019-2022 were as follows.

Table 15: Dynamics of import prices for Tomatoes originating in Turkey, USD USA/ tons 15

Indicator	2019	2020	2021	2022
The price of Ukrainian imports of tomatoes from Turkey (delivery conditions - DAF/CIF), USD USA/ton	100	132	91	136

In this non-confidential version of the Complaint, the National Tomato Commodity Producer does not provide absolute price figures, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

5.23. Considering the fact that the import price of Tomatoes is indicated on the terms of delivery CIF-port and DAF-border of Ukraine, for the purposes of calculating the export price, it is necessary to adjust the import price for transport costs to the border of Ukraine.

5.24. As stated in *the Report*, transportation of fresh vegetables from Turkey to Ukraine is carried out by road vehicles in auto-refrigerators. *The report* predicts the following average transport costs of Turkish manufacturers to the border with Ukraine.

Table 16: Transport costs for delivery of Turkish manufacturers to the border with Ukraine, USD USA/ton16

Indicator	2019	2020	2021	2022
Transportation costs for delivery to the border with Ukraine from Turkey, USD US/ton	100	100	100	170

In this non-confidential version of the Complaint, the National Tomato Commodity Producer does not provide absolute figures for transportation costs, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

5.25. According to the National Producer of Tomatoes, the export price has been adjusted is:

Table 17: Adjusted export price, USD USA/ ton17

Indicator	2019	2020	2021	2022
Export price of tomatoes from Turkey (adjusted), USD USA/ton	100	156	84	111

In this non-confidential version of the Complaint, the National Tomato Commodity Producer does not provide absolute figures for export prices, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

¹⁵ Tables 2,3, 2.6 and 2.7 of the Report

¹⁶ Report, paragraph

¹⁷ 3.6 Based on the data of Tables 2,3, 2.6 and 2.7, as well as paragraph 3.6 of the Report

Calculation of the dumping margin for the purposes of initiating an investigation

5.26. The national producer of tomatoes believes that the dumping margin should be calculated as follows: _____

Table 18: Calculation of the dumping margin for Tomatoes originating in Turkey

Indicator	2019	2020	2021	2022
The average selling price of tomatoes by the producer in the exporting country, USD USA/ton	100	102	106	112
Average costs for the delivery of Tomatoes in the exporting country, USD USA/ton	0	0	0	0
Average costs for the delivery of tomatoes to Ukraine, USD USA/ton The average price	100	100	100	170
declared when importing tomatoes to Ukraine, USD USA/ton Value of the normal value in the country of	100	132	91	136
export, USD. USA/ton Value of export USA/ton Dumping margin, %	100	102	106	112
prices, dollars	100	156	84	111
	46%	12%	67%	38%

In this non-confidential version of the Complaint, the National Tomato Commodity Producer does not provide absolute figures for prices, transport costs, export price and normal value, as these were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

5.27. Thus, in 2019-2022, there was a dumping import of Tomatoes originating from Turkey. At the same time, the dumping margin in different years ranged from 12% to 67%. At the same time, this size of the dumping margin significantly exceeds the minimum size of the dumping margin of 2%.

Calculation of the dumping margin for third export markets

5.28. Additional confirmation that import deliveries at dumping prices are a constant practice of Turkish producers of Cucumbers and Tomatoes on the main export markets is the calculation of the dumping margin for the import of Cucumbers and Tomatoes from Turkey on the main export markets.

5.29. As a normal value, the National vegetable producers consider it appropriate to use the average prices for Cucumbers and Tomatoes in the domestic market of Turkey. To calculate the export price, the National Vegetable Producers suggest using the export prices of Turkish Cucumbers and Tomatoes according to Turkish export statistics, making adjustments for the cost of transporting vegetables¹⁸. Thus, carrying out approximate calculations of the dumping margin shows that the dumped imports from Turkey went to the vast majority of the main export markets of Turkish Cucumbers and Tomatoes.

Table 19: Calculation of the dumping margin for Cucumbers originating in Turkey in third export markets¹⁹

Indicator	2019	2020	2021	2022
Average prices for Cucumbers in the domestic market of Turkey, USD US/ton, without VAT, EXW warehouse	100	99	105	112
[CONFIDENTIALLY]				
The value of the export price, dollars. US/ton	100	105	105	90

¹⁸ In the absence of information on the cost of transportation, costs were assumed to be zero. The calculations

¹⁹ were made on the basis of the data in tables 3.7, 3.12 and item 3.6 of the Report

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Average transport costs for transportation, USD US / t Adjusted export price, US / ton	100	100	100	100	
Dumping margin, %	dollars	100	109	109	82
		100	72	90	205
[CONFIDENTIAL]					
The value of the export price, dollars. USD/ton	100	105	115	113	
Average transport costs for transportation, USD US / t Adjusted export price, US / ton	100	100	100	100	
Dumping margin, %	dollars	100	106	116	114
		100	62	42	90
[CONFIDENTIALLY]					
The value of the export price, dollars. USD/ton	100	150	76	65	
Average transport costs for transportation, USD US / t Adjusted export price, US / ton	0	0	0	0	
Dumping margin, %	dollars	100	150	76	65
		100	51	154	202
[CONFIDENTIALLY]					
The value of the export price, dollars. USD/ton	100	100	133	140	
Average transport costs for transportation, USD US / t Adjusted export price, US / ton	100	100	100	100	
Dumping margin, %	dollars	100	101	161	174
		100	97	49	49
[CONFIDENTIALLY]					
The value of the export price, dollars. USD/ton	100	196	255	75	
Average transport costs for transportation, USD US / t Adjusted export price, US / ton	0	0	0	0	
Dumping margin, %	dollars	100	196	255	75
		100	38	26	161

Table 20: Calculation of the dumping margin for Tomatoes originating in Turkey in third export markets²⁰

Indicator	2019	2020	2021	2022	
Average prices for tomatoes in the domestic market of Turkey, USD US/ton, without VAT, EXW warehouse	100	102	106	112	
[CONFIDENTIALLY]					
The value of the export price, dollars. US/ton	100	151	152	43	
Average transport costs for transportation, USD USA / t	0	0	0	0	
Adjusted export price, US/ton Dumping margin, %	dollars	100	151	152	43
		100	59	61	301

²⁰ The calculations were made on the basis of the data in tables 3.6, 3.12 and point 3.6 of the Report

[CONFIDENTIALLY]				
The value of the export price, dollars. US/ton	100	98	103	126
Average transport costs for transportation, USD USA / t	100	100	100	100
Adjusted export price, US/ton Dumping margin, %	100	96	105	140
	100	114	103	57
[CONFIDENTIALLY]				
The value of the export price, dollars. US/ton	100	102	98	105
Average transport costs for transportation, USD USA / t	100	100	100	100
Adjusted export price, USD USA/ton Dumping margin, %	100	103	97	107
	100	97	152	128
[CONFIDENTIALLY]				
The value of the export price, dollars. US/ton	100	137	60	57
Average transport costs for transportation, USD USA / t	0	0	0	0
Adjusted export price, USD USA/ton Dumping margin, %	100	137	60	57
	100	58	225	260

In this non-confidential version of the Complaint, the National Vegetable Producers do not provide absolute indicators of export prices, export destinations, transport costs, export price, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

5.30. Thus, the practice of sales of Turkish products on third export markets demonstrates that the sale of Cucumbers and Tomatoes at dumping prices is a common practice of Turkish producers.

5.31. At the same time, the National Producers of Vegetables draw the attention of the Ministry to the fact that even despite the generally dumping prices of sales of Cucumbers and Tomatoes by Turkish producers on export markets, the prices of the export of Cucumbers and Tomatoes from Turkey to Ukraine were lower than the average prices of Turkish exports of Cucumbers and Tomatoes.

Diagram 1: Comparison of the export of cucumbers from Turkey to Ukraine and the average prices of Turkish export of cucumbers, USD USA/ton21

Index of	2019	2020	2021	2022
Cucumber export prices from Turkey to Ukraine, USD USA/ton	[]	[]	[]	[]
Rate of growth/ decline compared to the base. % 100%		109%	111%	123%
Average prices of Turkish exports of Cucumbers, USD USA/ton	[]	[]	[]	[]

²¹ Table 3.7 of the report

<i>Growth/decline rates compared to baseline, % 100%</i>		107%	108%	99%
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Chart 2: Comparison of Tomato exports from Turkey to Ukraine and average prices of Turkish export Tomatoes, USD USA/ton

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Indicator	2019	2020	2021	2022
Tomato export prices from Turkey to Ukraine, USD USA/ton <i>Rate of</i>	[]	[]	[]	[]
<i>growth/decline compared to the base, % 100% Average</i>		114%	92%	138%
prices of Turkish exports of Tomatoes, USD US/ton <i>Growth/decline</i>	[]	[]	[]	[]
<i>rates compared to baseline, % 100%</i>		106%	103%	127%

5.32. Thus, in 2019-2022, there was a dumping import of Cucumbers and Tomatoes originating from Turkey. At the same time, the dumping margin in different years was for Cucumbers - from 12% to 23%, and for Tomatoes - from 12% to 67%. At the same time, this size of the dumping margin significantly exceeds the minimum size of the dumping margin of 2%.

Moreover, the practice of sales of Turkish products on third export markets demonstrates that the sale of Cucumbers and Tomatoes at dumping prices is a common practice of Turkish producers. At the same time, the export prices of Cucumbers and Tomatoes from Turkey to Ukraine were lower than the average export prices of Turkish Cucumbers and Tomatoes.

²² Table 3.6 of the report

VI. CAUSE OF DAMAGE

Damage

- 6.1. According to Art. VI:6 (a) *GATT 1994, Agreement on Anti-Dumping Measures* and Part 1 of Art. 10 of the Law anti-dumping measures may be applied only in the presence of damage caused by dumped imports. Detailed rules for establishing significant damage or the threat of causing significant damage are provided in Art. 3 *Agreements on anti-dumping measures*.
- 6.2. According to footnote 9 of the *Agreement on Anti-Dumping Measures* and part 1 of Art. 10 of the Law, harm can be caused to the national producer of goods in one of the following forms: (a) significant damage caused to the national producer of goods; (b) the threat of significant damage to the national producer; (c) significant impediment to the creation or expansion of the production of a similar product by the national producer, which is the object of consideration.
- 6.3. According to Art. 3.1 *Agreements on anti-dumping measures* and part 2 of Art. 10 of the Law, in order to properly substantiate the damage, it is necessary to investigate the following:
- (1) volume of dumped imports;
 - (2) the impact of dumped imports on the prices of similar goods in the domestic market; (3) the impact of dumped imports on domestic producers of goods.

Volumes of dumped imports

- 6.4. According to Art. 3.2 *Agreements on anti-dumping measures* and part 3 of Art. 10 of the Law on the volume of dumped imports, it is considered whether there has been a significant increase in dumped imports, either in absolute terms or in relation to the production or consumption of the relevant goods in Ukraine.
- 6.5. According to Art. 5.8 *Agreements on anti-dumping measures* and Part 9 of Art. 12 of the Law, the actual or potential amount of dumped imports from the country of export is generally considered insignificant if it is less than three percent of the import of the product under investigation into the country of import.
- 6.6. The national producers of vegetables draw attention to the fact that, based on the evidence presented in Section V of this *Complaint*, in the period 2019-2022, dumping of imports of Cucumbers and Tomatoes originating from Turkey took place.
- 6.7. The shares of imports of both Cucumbers and Tomatoes from Turkey in the total volume of imports of Cucumbers and Tomatoes to Ukraine, respectively, are very significant. Thus, during 2019-2022, the share of Cucumber import from Turkey in the total structure of Cucumber import was from [CONFIDENTIAL], which exceeds the threshold of 3%.²³ Regarding Tomatoes, the share of Tomato imports from Turkey in 2019-2022 was from [CONFIDENTIAL], which is also well above the 3% threshold.²⁴

In this non-confidential version of the Complaint, National Vegetable Producers does not provide the share of imports from Turkey, as it was obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

Volumes of dumped imports of cucumbers

- 6.8. The volumes of dumped imports of cucumbers from Turkey had a clear upward trend during the period 2019-2022. Thus, in 2022, the volume of imports increased by 71% compared to the volume of 2019.

Diagram 3: The volume of import of cucumbers from Turkey by year, tons²⁵

Indicator	2019	2020	2021	2022
The volume of import of cucumbers from Turkey, tons	[]	[]	[]	[]

²³ Table 2.1 of the report

²⁴ Table 2.3 of the report

²⁵ Table 2.1 of the report

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<i>Growth/decline rates compared to baseline, %</i>	100%	116%	139%	171%
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In this non-confidential version of the Complaint, the National Vegetable Producers do not provide absolute figures for the volume of imports from Turkey, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

6.9. During 2019-2022, there was also a significant increase in the volume of dumped imports Cucumbers from Turkey relative to production, which reached its peak in 2022.

Chart 4: Specific weight of dumped imports of Cucumbers from Turkey in relation to production volumes by year, %²⁶

Indicator	2019	2020	2021	2022
The volume of production of cucumbers by rural enterprises, tons	100	106	109	58
Import volume of Cucumbers from Turkey, tons	100	116	139	171
Specific weight of deliveries of Cucumbers from Turkey, %	[]	[]	[]	[]
% Rate of growth/decline compared to the base, %	100%	109%	128%	296%

In this non-confidential version of the Complaint, the National Vegetable Commodity Producers do not provide absolute figures for the volume of imports from Turkey, the volume of production and the share of imports, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

6.10. Also, the volume of dumped imports of cucumbers from Turkey increased relatively consumption in 2019 - 2022

Chart 5: Specific weight of dumped imports of Cucumbers from Turkey in relation to consumption volumes by year, %²⁷

Indicator	2019	2020	2021	2022
The volume of consumption of Cucumbers, tons	100	110	118	117
The volume of imports of Cucumbers from Turkey, tons	100	116	139	171
Specific weight of deliveries of Cucumbers from Turkey, %	[]	[]	[]	[]
Growth/decline rates compared to the base, %	100%	105%	118%	146%

In this non-confidential version of the Complaint, the National Vegetable Producers do not provide absolute figures for Turkish import volumes, consumption volumes and import shares, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations.

6.11. Therefore, during the period 2019-2022, there was a significant increase in the volume of dumped imports of cucumbers both in absolute terms and in relation to production and consumption, which corresponds to clause 3 of Art. 10 of the Law and Art. 3.2 Agreements on anti-dumping measures, according to which for purposes of determining injury, import growth is considered either in absolute terms or relative to the production or consumption of the relevant goods in the country of import.

²⁸

6.12. In addition, the National producer of cucumbers points out that the latest import trends also show an upward trend. Thus, having calculated the trends of imports from Turkey in the section of constructed periods, which is the usual practice of the Ministry, the National Producer of Cucumbers saw that the volumes of imports of Cucumbers from Turkey in

²⁶ Table 1.1 and 2.1 of the

²⁷ Report Table 1.5 and

²⁸ 2.1 of the Report Additionally, as determined in the Thailand - H-Beams case, the increase in imports may be absolute or relative, and the investigating authority is not required to establish that the increase in imports was significant ["significant"] (Report of the expert group Thailand - H-Beams [Thailand - H-Beams], item 7.161)

in the last constructed period of the 2nd half of 2022 - the 1st half of 2023 increased by 57% compared to the first constructed period of the 2nd half of 2019 - the 1st half of 2020.

Diagram 6: The volume of import of cucumbers from Turkey by year, tons²⁹

Indicator	2 and a half years 2019 – 1 and a half years 2020	2 and a half years 2020 – 1 and a half years 2021	2 and a half years 2021 – 1 and a half years 2022	2 and a half years 2022 – 1 and a half years 2023
	Import volume of Tomatoes from Turkey, tons [] Rates of growth/ decline compared to the base, % 100%	[]	[]	[]
		115%	153%	157%

In this non-confidential version of the Complaint, the National Vegetable Producers do not provide absolute figures for the volume of imports from Turkey, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

6.13. The national producer of cucumbers emphasizes that the increase in imports occurred even in conditions where a 10% import duty is applied to Turkish products. Obviously, after the entry into force of the Free Trade Agreement with Turkey, which provides for the complete elimination of tariffs, imports from Turkey will increase even more.

Volumes of dumped imports of Tomatoes

6.14. Import volumes of Tomatoes from Turkey also had a clear upward trend during the period 2019-2022. So, in 2022, import volumes increased by 6% compared to the volume of 2019.

Diagram 7: The volume of imports of tomatoes from Turkey by year, tons³⁰

Indicator	2019	2020	2021	2022
The volume of imports of tomatoes from Turkey, tons	[]	[]	[]	[]
Growth/decline rates compared to the base, %	100%	106%	143%	106%

In this non-confidential version of the Complaint, the National Vegetable Producers do not provide absolute figures for the volume of imports from Turkey, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

6.15. Although the absolute volumes of Tomato imports have undergone a certain reduction in 2022 relative to the level of 2021, the relative volume of imports of Tomatoes from Turkey in relation to the volume of production of Tomatoes in Ukraine increased rapidly throughout the period.

Chart 8: Specific weight of dumped imports of Tomatoes from Turkey in relation to production volumes by year, %³¹

Indicator	2019	2020	2021	2022
The volume of production of Tomatoes by agricultural enterprises, tons	100	98	95	43
The volume of imports of tomatoes from Turkey, tons	100	106	143	106
Specific weight of deliveries of tomatoes from Turkey, % Growth/ decline rates compared to the base, %	[]	[]	[]	[]
	100%	108%	150%	249%

²⁹ Based on Figure 2.2 of the Report

³⁰ Table 2.3 of the Report

³¹ Table 1.1 and 2.3 of the Report

In this non-confidential version of the Complaint, the National Vegetable Commodity Producers do not provide absolute figures for the volume of imports from Turkey, the volume of production and the share of imports in consumption, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations .

6.16. Therefore, during the period 2019-2022, there was an increase in the volume of dumped imports of Tomatoes in absolute terms. In addition, there was also a significant increase in the volume of imports of tomatoes in relation to production, which corresponds to clause 3 of Art. 10 of the Law and Art. 3.2 Agreements on anti-dumping measures, according to which, for the purpose of determining injury, the growth of imports is considered either in absolute terms or in relation to the production or consumption of the relevant goods in the importing country.

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6.17. In addition, the National Producer of Tomatoes points out that the latest import trends also show an upward trend. Thus, after calculating the trends of imports from Turkey in the section of constructed periods, which is the usual practice of the Ministry, the National Producer of Tomatoes saw that the volume of imports of Tomatoes from Turkey in the last constructed period of the 2nd half of 2022 - the 1st half of 2023 increased by 14% compared to the first constructed period of the 2nd half of 2019 - the 1st half of 2020

Diagram 9: The volume of imports of tomatoes from Turkey by year, tons³³

Indicator	2 and a half years 2019 – 1 and a half years 2020	2 and a half years 2020 – 1 and a half years 2021	2 and a half years 2021 – 1 and a half years 2022	2 and a half years 2022 – 1 and a half years 2023
	Import volume of Tomatoes from Turkey, tons [] Rate of growth/ decline compared to the base, % 100%		[] 124%	[] 95%

In this non-confidential version of the Complaint, the National Vegetable Producers do not provide absolute figures for the volume of imports from Turkey, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

6.18. **The national producer of tomatoes emphasizes that the increase in imports took place even in conditions where a 10% import duty is applied to Turkish products. Obviously, after the entry into force of the Free Trade Agreement with Turkey, which provides for the complete elimination of tariffs, imports from Turkey will increase even more.**

The impact of dumping imports on the prices of national producers

6.19. According to Part 3 of Art. 10 of the Law and Art. 3.2 Agreements on anti-dumping measures on impact of dumped imports at the prices of similar goods is considered:

- (1) whether the prices of the product subject to the dumped imports were significantly lower than the prices of similar goods;
- (2) whether the dumped imports resulted in a significant reduction in the prices of the like product;
- (3) whether the dumped imports have prevented a significant increase in the prices of the like product, which would take place in the absence of dumped imports.

In accordance with Part 3 of Art. 10 of the Law when investigating the issue of damage, more than one of the specified factors is considered.

³² Additionally, as determined in the Thailand - H-Beams case, the increase in imports may be absolute or relative, and the investigating authority is not required to establish that the increase in imports was significant (Thailand - Dvotavrov Panel Report beam [Thailand — H-Beams], item 7.161) Based on figure 2.4 of the Report

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Diagram 10: Comparison of the price of the National Producer of Cucumbers for Cucumbers in the domestic market of Ukraine and its cost price with import prices from Turkey, USD

USA/ton³⁴

Indicator	2019	2020	2021	2022
Price of the National producer of cucumbers, USD USA/ton	[]	[]	[]	[]
Rates of growth/decline compared to the base, % Cost	100%	86%	97%	121%
price, USD/ton Rates of growth/	[]	[]	[]	[]
decline compared to the base, % Prices of imports from	100 %	87%	100%	130%
Turkey, USD US/tonne Growth/decline rates compared	[]	[]	[]	[]
to baseline, %\	100%	108%	108%	127%

Diagram 11: Comparison of the price of the National Producer of Tomatoes for Tomatoes in the domestic market of Ukraine and its cost price with import prices from Turkey, USD

USA/ton

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Indicator	2019	2020	2021	2022
The price of the National producer of tomatoes, USD USA/ton	[]	[]	[]	[]
Rates of growth/decline compared to the base, % Cost,	100%	98%	108%	134%
USD US/ton Growth/decline rates	[]	[]	[]	[]
compared to the base, % Prices of imports from Turkey,	100 %	93%	109%	151%
USD US/ton Growth/decline rates compared to baseline,	[]	[]	[]	[]
%\	100%	132%	91%	136%

In this non-confidential version of the Complaint, the National Vegetable Producers do not provide absolute figures for import prices from Turkey, as they were obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations. In addition, the National Commodity Producers of Vegetables do not provide the cost price and their own prices, as this is a commercial secret, the disclosure of which may harm the National Commodity Producer.

6.20. The above analysis confirms that throughout the period 2019-2022 import prices

Cucumbers and tomatoes from Turkey were lower than the prices of national producers vegetables. In addition, in all periods import prices of Cucumbers and Tomatoes were significantly lower than the cost price of Cucumbers and Tomatoes of the National Vegetable Producers. As a result, as can be seen from the above diagrams, the National producer of cucumbers was forced to sell its products at a loss during the entire period. Similarly, for the National Commodity Producer of Tomatoes, over time, it was forced to start selling its products at a loss.

Economic indicators of national commodity producers

6.21. Articles 3.1 (b) and 3.4 of the Agreement on Anti-Dumping Measures and Part 5 of Art. 10 of the Law foresee the need to study the impact of dumping imports on the economic situation of the national producer.

National producer of cucumbers

In this non-confidential version of the Complaint, the National Cucumber Producer does not provide absolute values of its economic indicators, including, but not limited to, production volumes, production capacity volumes and their utilization, sales volumes, employee employment, market share, wages, profitability, financial result

etc., as well as an explanation of individual economic indicators, since it is a commercial one

³⁴ Tables 2.1 Report and data of the National producer of

³⁵ cucumbers Table 2.3 Report and data of the National producer of tomatoes

the secret and its disclosure to competitors will harm the National producer of cucumbers.

6.22. The National Cucumber Commodity Producer emphasizes that due to dumping imports of Cucumbers from Turkey during 2019-2022, the National Cucumber Commodity Producer was harmed, as evidenced by the analysis of economic indicators below.

6.23. Production volumes of the National producer of cucumbers during 2019-2022. demonstrated unstable dynamics with a significant reduction in production volumes at the end of the period. The national producer of cucumbers emphasizes that individual enterprises, unable to withstand the conditions of competition with dumped imports from Turkey, were forced to temporarily stop the production of cucumbers as early as 2021.

Diagram 12: Volumes of production by the National producer of cucumbers by year, ton³⁶

Indicator 2019 Production volume, tons [] Rates of growth/decline	2020	2021	2022
compared to the base, % 100%	[]	[]	[]
	110%	110%	56%

6.24. In addition, the National Commodity Producer of Cucumbers emphasizes that despite the stagnation and subsequent reduction in the production of Cucumbers by the National Commodity Producer of Cucumbers, the consumption of Cucumbers on the Ukrainian market has been growing. This fact shows that it was the dumping imports that prevented the National Producer of Cucumbers from increasing production volumes, since it was the dumping imports that began to meet the needs of domestic consumers of Cucumbers.

Diagram 13: Comparison of the dynamics of production volumes by the National Producer of Cucumbers and consumption volumes of Cucumbers by year, ton³⁷

Indicator	2019	2020	2021	2022
Consumption volumes of Cucumbers, tons	[]	[]	[]	[]
Growth/decline rates of Cucumber consumption compared to the baseline, % Production	100%	110%	118%	117%
volume, tons [] Growth/decline rates compared to the baseline, %	[]	[]	[]	[]
100%		110%	110%	56%

6.25. The above is additionally confirmed by the dynamics of comparing the share of dumped imports of Cucumbers from Turkey in consumption with the share of production volumes of the National Cucumber producer. Thus, the relative indicators of imports have increased significantly, while the relative indicators of production have halved in 2019-2022.

Chart 14: Comparison of the dynamics of the share of dumped imports in consumption and the share production of the National producer of cucumbers in consumption by year, %³⁸

Indicator	2019	2020	2021	2022
Share of import of cucumbers from Turkey in consumption, %	100	105	118	146
Share of production volumes of cucumbers by the national producer of cucumbers in consumption, %	100	100	93	48

6.26. Production capacity for Cucumbers is defined as [CONFIDENTIAL].

6.27. Sales volumes of cucumbers on the domestic market, although they showed a slight increase in 2019-2021, significantly decreased during 2022.

³⁶ Data of the National Producer of Cucumbers Data

³⁷ of the National Producer of Cucumbers and Table 1.5 of the Report

³⁸ Data of the National Producer of Cucumbers and Tables 1.5 and 2.1 of the Report

Diagram 16: Sales volumes of the National producer of cucumbers on the domestic market of Ukraine by year, tons³⁹

Indicator of	2019	2020	2021	2022
the volume of sales in the domestic market, tons	[]	[]	[]	[]
<i>Growth/decline rates compared to baseline, % 100%</i>			112%	116%
				59%

6.28. During the entire period from 2019-2022, the national producer of cucumbers was unprofitable. At the same time, in 2021-2022, losses increased by more than 4.5 times compared to losses in 2019. It is significant that the financial result of the National Commodity Producer significantly worsened in 2021 (the pre-war year), since it was in this year that there was an extremely strong increase in the volume of dumped imports from Turkey.

Diagram 17: Financial result of the National Producer of Cucumbers from the sale of Cucumbers on the domestic market of Ukraine by year, thousands of dollars. USA⁴⁰

Indicator	2019	2020	2021	2022
Financial result from activities on the domestic market, thousands of dollars. USA <i>Rate of growth/decline compared to baseline, %</i>	[]	[]	[]	[]
	100%	60%	453%	462%

Diagram 18: Financial result of the National producer of cucumbers from the sale of cucumbers on the domestic market of Ukraine by year, hryvnias⁴¹

Indicator	2019	2020	2021	2022
Financial result from activities on the domestic market, hryvnias <i>Growth/decline rates compared to the baseline, %</i>	[]	[]	[]	[]
	100%	62%	479%	578%

6.29. During 2019-2022, the profitability of the National producer of cucumbers was negative. Again, a significant deterioration in profitability occurred in 2021 (the pre-war year), when there was a very significant increase in the volume of imports from Turkey.

Diagram 19: Profitability of the National producer of cucumbers from activities on the domestic market by year, %⁴²

Indicator	2019	2020	2021	2022
Profitability from activities in the domestic market, % <i>Growth/decline rates compared to the base, %</i>	[]	[]	[]	[]
	100%	62%	405%	654%

6.30. During 2019-2022, the number of employees of the National producer of cucumbers decreased by 23%.

Diagram 20: The average number of employees of the National producer of cucumbers by year, man⁴³

Indicator	2019	2020	2021	2022
Employment, people	[]	[]	[]	[]
<i>Growth/decline rates compared to baseline, %</i>	100%	108%	109%	77%

6.31. From 2019 to 2022, the level of wages of employees of the National Producer of Cucumbers in hryvnia increased by only 15%, which was solely due to the devaluation of the national

³⁹ Data of the National Producer of Cucumbers

⁴⁰ Data of the National Producer of Cucumbers

⁴¹ Data of the National Producer of Cucumbers

⁴² Data of the National Producer of Cucumbers

⁴³ Data of the National Producer of Cucumbers

currency and compliance with the requirements of current legislation, as well as due to a reduction in the number of employees of the National Cucumber Producer.

Diagram 21: Average monthly salary of employees of the National Commodity Producer of Tomatoes by year, hryvnias/person 44

Indicator	2019	2020	2021	2022
Average monthly salary, UAH Rates of growth/	[]	[]	[]	[]
decline compared to the base rate (%)	100%	96%	107%	115%

6.32. During 2019-2022, the liquidity of the National Producer of Cucumbers decreased.
[CONFIDENTIALLY]

Chart 22: Current liquidity ratio of the National producer of cucumbers by year, %45

Indicator	2019	2020	2021	2022
Ratio of current liquidity Rate of growth/	[]	[]	[]	[]
decline compared to the base, %	100%	103%	70%	57%

6.33. During 2019-2022, the productivity of the National Producer of Cucumbers fell by 27% in 2022 compared to 2019.

Diagram 23: Productivity of the National producer of cucumbers by year, ton/person 46

Indicator	2019	2020	2021	2022
Labor productivity, tons/person. Growth/	[]	[]	[]	[]
decline rates compared to baseline, %	100%	102%	101%	73%

6.34. During 2019-2022, the share of the National Producer of Cucumbers in the domestic market was halved.

Diagram 24: The share of the National producer of cucumbers in the domestic market in terms of years, %47

Indicator	2019	2020	2021	2022
Market share, % Rate of	[]	[]	[]	[]
growth/decline compared to the base, %	100%	102%	98%	50%

National producer of tomatoes

In this non-confidential version of the Complaint, the National Tomato Producer does not provide absolute values of its economic indicators, including, but not limited to, production volumes, production capacity volumes and their utilization, sales volumes, employee employment, market share, wages, profitability, financial result, etc., as well as an explanation of individual economic indicators, as this is a trade secret and its disclosure to competitors will harm the National Tomato Producer.

6.35. The National Commodity Producer of Tomatoes emphasizes that due to dumping imports of Tomatoes from Turkey during 2019-2022, the National Commodity Producer of Tomatoes damage was caused, as evidenced by the analysis of economic indicators below.

6.36. Production volumes of the National Commodity Producer of Tomatoes during 2019-2022 had a declining trend, decreasing by 64% in 2022 compared to 2019.

⁴⁴ Data of the National producer of cucumbers

⁴⁵ Data of the National producer of cucumbers

⁴⁶ Data of the National producer of cucumbers

⁴⁷ Data of the National producer of cucumbers and table 1.5 of the Report.

Diagram 25: Volumes of production by the National producer of tomatoes by year, ton⁴⁸

Indicator	2019	2020	2021	2022
Production volume, tons [] Rates of growth/decline compared to the base, % 100%		102%	98%	36%

6.37. The National Commodity Producer of Tomatoes also emphasizes that despite the reduction in the volume of production of Tomatoes by the National Commodity Producer of Tomatoes, the volume of consumption of Tomatoes on the market of Ukraine has been constantly growing. This fact confirms that it was dumping imports that prevented the National Producer of Tomatoes from increasing production volumes, since it was dumping imports that began to meet the needs of domestic consumers of Tomatoes.

Diagram 26: Comparison of the dynamics of production volumes by the National Commodity Producer of Tomatoes and the volume of Tomato consumption by year, ton⁴⁹

Indicator	2019	2020	2021	2022
Tomato consumption volumes, tons Rate of growth/decline in tomato consumption compared to the baseline, % Production volumes, tons Growth rate/decline in tomato production of the National Tomato Producer compared to the baseline, %	100%	112%	130%	105%
	100%	102%	98%	36%

6.38. Additional confirmation of this fact is a comparison of the share of imports in the consumption of Tomatoes in the domestic market of Ukraine with the share of production of the National Producer of Tomatoes during 2019-2022. Thus, the share of imports from Turkey in consumption showed an upward trend and generally did not decline, while the share of production of the National Producer of Tomatoes tomatoes almost tripled in 2019

2022

Diagram 27: Comparison of the dynamics of the share of dumped imports in consumption and the share of production of the National producer of tomatoes in consumption by year, %⁵⁰

Indicator	2019	2020	2021	2022
The share of the import of tomatoes from Turkey in consumption, %	100	95	110	100
The share of the volume of production of tomatoes by the national producer of tomatoes in consumption, %	100	91	75	34

6.39. Similarly to Cucumbers, production capacity for Tomatoes is defined as [CONFIDENTIAL]

6.40. Sales volumes of tomatoes on the domestic market by the National producer of tomatoes showed a decreasing trend and fell significantly in 2022 (by 63%).

Diagram 29: Sales volumes of the National producer of tomatoes on the domestic market of Ukraine by year, tons⁵¹

Indicator	2019	2020	2021	2022
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⁴⁸ Data of the National Commodity Producer of Tomatoes

⁴⁹ Data of the National Commodity Producer of Tomatoes and Table 1.4 of the

⁵⁰ Report Data of the National Commodity Producer of

⁵¹ Tomatoes Data of the National Commodity Producer of Tomatoes

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Sales volumes in the domestic market, tons	[]	[]	[]	[]
Growth/decline rates compared to baseline, %	100%	105%	98%	37%

6.41. During the period from 2019-2022, there was a significant deterioration in the financial results of the National Producer of Cucumbers. Thus, starting from 2021, the activity of the National Producer of Tomatoes on the domestic market has become unprofitable.

Diagram 30: Financial result of the National producer of tomatoes from the sale of tomatoes on the domestic market of Ukraine by year, thousands of dollars. USA⁵²

Indicator	2019	2020	2021	2022
Financial result from activities on the domestic market, thousands of dollars. USA	[]	[]	[]	[]
Growth/decline rates compared to baseline, %	100%	247%	-2%	-346%

Diagram 31: Financial result of the National Producer of Tomatoes from the sale of Tomatoes on the domestic market of Ukraine by year, hryvnias⁵³

Indicator	2019	2020	2021	2022
Financial result from activities on the domestic market, hryvnias	[]	[]	[]	[]
Growth/decline rates compared to baseline, % 100%		258%	-2%	-433%

6.42. During 2019-2022, the profitability of the National Producer of Tomatoes significantly fell and became negative.

Diagram 32: Profitability of the National producer of tomatoes from activities on the domestic market by year, %⁵⁴

Indicator	2019	2020	2021	2022
Profitability from activities in the domestic market, %	[]	[]	[]	[]
Growth/decline rates compared to baseline, % 100%		238%	-1%	-697%

6.43. During 2019-2022, the number of employees of the National Producer of Tomatoes decreased by 16%.

Diagram 33: The average number of employees of the National producer of cucumbers by year, man⁵⁵

Indicator	2019	2020	2021	2022
Employment, people [] Rates of growth/decline compared to baseline, % 100%		103%	104%	84%

6.44. From 2019 to 2022, the level of wages of employees of the National Producer of Tomatoes in hryvnia decreased by 19%. This happened despite a significant devaluation of the national currency and reducing the number of employees of the National Tomato Producer.

⁵² Data of the National Commodity Producer of Tomatoes

⁵³ Data of the National Commodity Producer of Tomatoes

⁵⁴ Data of the National Commodity Producer of Tomatoes

⁵⁵ Data of the National Commodity Producer of Tomatoes

Diagram 34: Average monthly salary of employees of the National Tomato Producer by year, hryvnias/person 56

Indicator	2019	2020	2021	2022
Average monthly salary, UAH [] Rates of growth/decline compared to the base (%) 100%		96%	101%	81%

6.45. During 2019-2022, the liquidity of the National Producer of Tomatoes was decreasing [CONFIDENTIALLY]

Chart 35: Current liquidity ratio of the National Tomato Producer by year, %57

Indicator	2019	2020	2021	2022
Ratio of current liquidity Rate of growth/decline compared to the base, %	100%	103%	70%	57%

6.46. During 2019-2022, the productivity of the National Commodity Producer of Tomatoes fell by 57% in 2022 compared to 2019.

Diagram 36: Productivity of the National producer of tomatoes in section

years, ton/person

58

Indicator	2019	2020	2021	2022
Labor productivity, tons/person. Growth/decline rates compared to baseline, %	100%	99%	94%	43%

6.47. During 2019-2022, the share of the National Producer of Tomatoes in the domestic market decreased by almost three times.

Chart 37: The share of the National producer of cucumbers in the domestic market by year, %59

Indicator	2019	2020	2021	2022
Market share, % Rate of growth/decline compared to the base, %	100%	94%	75%	35%

6.48. The above financial and economic indicators of the National Commodity Producers are confirmed by accounting reporting documents, copies of which are provided in **Appendix 1.2-1.5, 2.2-2.5, 3.2-3.5, 4.2-4.5, 5.2-5.5, 6.2-6.5, 7.2-7.5, 8.2-8.5, 9.2-9.5** to this *Complaint*.

National's financial statements are not attached to this non-confidential version of the Complaint commodity producers of vegetables, as it is confidential and its disclosure may harm the interests of the National commodity producers of vegetables.

6.49. **So, the indicators for 2019-2022, in particular (a) growth in the volume of dumped imports of Cucumbers and Tomatoes originating from Turkey; (b) the negative impact of dumping imports on the prices of the national commodity producers of vegetables; (c) economic indicators of the National Commodity Producers, demonstrate that dumping imports of Cucumbers and**

⁵⁶ Data of the National Commodity Producer of Tomatoes

⁵⁷ Data of the National Commodity Producer of Tomatoes

⁵⁸ Data of the National Commodity Producer of Tomatoes

⁵⁹ Data of the National Commodity Producer of Tomatoes and Table 1.4 of the Report.

Tomatoes from Turkey cause significant damage to national producers vegetables and can even lead to a complete stop of production.

Export potential of Turkey

6.50. Additional factors that confirm that imports from Turkey to Ukraine will only grow are, firstly, the general trend towards a stable increase in the production of Cucumbers and Tomatoes in Turkey.

Chart 38: Production volume of Cucumbers in Turkey, tons

60

Indicator	2019	2020	2021	2022
The production volume of Cucumbers in Turkey, tons	[]	[]	[]	[]
<i>Growth/decline rates compared to baseline, % 100%</i>		107%	108%	109%

Chart 39: Tomato production volume in Turkey, tons

61

Indicator	2019	2020	2021	2022
Tomato production volume in Turkey, tons	[]	[]	[]	[]
<i>Growth/decline rates compared to baseline, % 100%</i>		103%	105%	105%

This non-confidential version of the Complaint does not provide absolute indicators of production volumes in Turkey, as the specified information was taken from the Report, which was obtained on a paid basis and which is not subject to disclosure to third parties due to relevant contractual obligations.

6.51. Secondly, according to the information from *the Report*, Turkey's export potential is also confirmed by the fact that Turkish vegetable producers are currently actively resorting to [CONFIDENTIAL].

This non-confidential version of the Complaint does not provide detailed explanations of Turkey's export potential, as the relevant information is taken from the Report, which was obtained on a paid basis and which is not subject to disclosure due to relevant contractual obligations. 6.52. In addition, Ukraine agreed on a Free Trade

Agreement with Turkey⁶². After its ratification and entry into force, Turkish producers of Cucumbers and Tomatoes will receive additional preferences on the Ukrainian market, because in accordance with the said Free Trade Agreement, the 10% customs duty on Cucumbers and Tomatoes will be completely canceled immediately.

6.53. Thirdly, another confirmation of the threat of a significant increase in the volume of imports of tomatoes from Turkey to Ukraine is the restriction of the supply of Turkish tomatoes to the market of the Russian Federation due to the introduction of import quotas. Thus, the Russian Federation, which for a long time was the main consumer of Turkish Tomatoes, significantly reduced its import volumes in 2022 (almost three times). As a result, all goods not sold on the Russian market can be sent to the Ukrainian market.

Table 22: Tomato export volumes from Turkey to the Russian Federation by year, tons⁶³

Indicator	2019	2020	2021	2022
Export of Tomatoes from Turkey to the Russian Federation, tons	[]	[]	[]	[]
<i>Rate of growth/decline in consumption of Cucumbers compared to the baseline, %</i>	100%	71%	81%	37%

⁶⁰ Table 3.1 of the Report

⁶¹ Table 3.1 of the Report

⁶² <https://www.me.gov.ua/Documents/List?lang=uk-UA&id=a584be2b-268e-4c61-b0fa-489b49dbb9fd&tag=UqodaProVilnuTorgivliuMizhUriadomUkrainiTaUriadomTuretskoiRespubliki>

⁶³ Based on table 3.6 of the Report

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In this non-confidential version of the Complaint, absolute indicators of the volume of exports to Russia are not provided, since the specified information was taken from the Report, which was obtained on a paid basis and which is not subject to disclosure to third parties due to the relevant contractual obligations.

6.54. Thus, the export potential of Turkey is significant, which additionally confirms the threat of an ever-increasing increase in the volume of imports of Cucumbers and Tomatoes from Turkey to Ukraine.

VII. CAUSAL AND CONSEQUENTIAL RELATIONSHIP

7.1. Articles 3.5 (b) and 3.4 of the *Agreement on Anti-Dumping Measures* and Part 6 of Art. 10 of the *Law* provides that the damage must be caused by dumped imports. Proving a causal link between dumped imports and injury to a domestic producer is based on an examination of all the evidence related to the product.

Cucumbers

7.2. National Commodity Producers believe that there is a causal relationship between the dumped imports of Cucumbers (Chapter V of this *Complaint*) and the injury caused to National Cucumber Commodity Producer by such imports (Chapter VI of this *Complaint*), as evidenced by the following.

7.3. The volume of dumped imports of Cucumbers from Turkey increased during 2019-2022:

- (i) in absolute terms;
- (ii) regarding the production of cucumbers in Ukraine;
- (iii) regarding the consumption of cucumbers in the domestic market of Ukraine.

7.4. Study of the impact of dumped imports of Cucumbers from Turkey on prices of Cucumbers of the National Producer of Cucumbers during 2019-2022 showed that import prices of Cucumbers from Turkey had a negative impact on the prices of the National Producer of Cucumbers.

7.5. Due to the dumping import of cucumbers from Turkey during 2019-2022, there was a significant deterioration of the financial and economic indicators of the National producer of cucumbers. The strongest deterioration of the socio-economic indicators of the National Producer of Cucumbers coincides with the peak growth of the import volume of Cucumbers from Turkey. At the same time, a certain deterioration of some economic indicators and "stagnation" of the progress of others began to be observed already in 2021 (the pre-war year).

Table 23: Comparison of the rates of growth/decline in import volumes of Cucumbers from Turkey and the financial and economic indicators of the National producer of cucumbers by year

Indicator	2019	2020	2021	2022
The volume of import of cucumbers from Turkey, tons	[]	[]	[]	[]
<i>Rates of growth/decline compared to the baseline, %</i>	100%	116%	139%	171%
The volume of imports of cucumbers from Turkey, tons	100	116	139	171
The volume of production of cucumbers in Ukraine, tons	100	106	109	58
Specific weight of deliveries from Turkey in production volumes, %	[]	[]	[]	[]
<i>Rates of growth/decline compared to the baseline, %</i>	100%	109%	128%	296%
The volume of imports of cucumbers from Turkey, tons	100	116	139	171
The volume of consumption of cucumbers in Ukraine, tons	100	110	118	117
Specific weight of deliveries from Turkey in consumption volumes, %	[]	[]	[]	[]
<i>Growth/decline rates compared to the baseline,</i>	100%	105%	118%	146%
% Production volume, tons	[]	[]	[]	[]
<i>Growth/decline rates compared to the baseline, %</i>	100%	110%	110%	56%

Domestic	2019	2020	2021	2022
sales volume indicator market, tons	[]	[]	[]	[]
<i>Rates of growth/decline compared to the base, %</i>	100%	112%	116%	59%
Profit/loss from activities on the domestic market, hryvnias	[]	[]	[]	[]
<i>Rates of growth/decline compared to the baseline,</i>	100%	62%	479%	578%
% Profit/loss from activities in the domestic market, thousands of dollars, USA	[]	[]	[]	[]
<i>Rates of growth/decline compared to the base, %</i>	100%	60%	453%	462%
Profitability from activities in the domestic market, %	[]	[]	[]	[]
<i>Growth/decline rates compared to the baseline, %</i>	100%	62%	405%	654%
Employment,	[]	[]	[]	[]
people <i>Growth/decline rates compared to the</i>	100%	108%	109%	77%
<i>baseline, % Current liquidity ratio</i>	[]	[]	[]	[]
<i>Growth/decline rates compared to the baseline, %</i>	100%	103%	70%	57%
Labor productivity, tons/person. <i>Growth/</i>	[]	[]	[]	[]
<i>decline rates compared to baseline, %</i>	100%	102%	101%	73%
Market share,	[]	[]	[]	[]
<i>% Growth/decline rates</i>	[]	[]	[]	[]
<i>compared to baseline, %</i>	100%	102%	98%	50%

In this non-confidential version of the Complaint, the National Cucumber Producer does not provide absolute values of its economic indicators, including, but not limited to, production volumes, production capacity volumes and their utilization, sales volumes, employee employment, market share, wages, profitability, financial results, etc., as well as an explanation of individual economic indicators, as this is a trade secret and its disclosure to competitors will harm the National Cucumber Producer.

Tomatoes

7.6. National Vegetable Commodity Producers believes that a causal relationship also exists between the dumped imports of Tomatoes (Chapter V of this *Complaint*) and the injury caused to National Tomato Commodity Producer by such imports (Chapter VI of this *Complaint*), as evidenced by the following.

7.7. The volume of dumped imports of tomatoes from Turkey during 2019-2022 grew:

- (i) in absolute terms;
- (ii) regarding the production of Tomatoes in Ukraine.

7.8. The study of the impact of dumped imports of Tomatoes from Turkey on the prices of Tomatoes of the National Commodity Producer of Tomatoes during 2019-2022 showed that the prices of imports of Tomatoes from Turkey had a negative impact on the prices of the National Commodity Producer of Tomatoes.

7.9. Due to dumping imports of tomatoes from Turkey during 2019-2022, there was a significant deterioration in the financial and economic indicators of the National Tomato Producer.

Table 24: Comparison of the rates of growth/decline in the volume of imports of tomatoes from Turkey and the financial and economic indicators of the National Producer of Tomatoes by year

Indicator	2019	2020	2021	2022
The volume of imports of tomatoes from Turkey, tons	[]	[]	[]	[]
<i>Rates of growth/ decline compared to the baseline, %</i>	100%	106%	143%	106%
The volume of imports of tomatoes from Turkey, tons	100	106	143	106
Production volume of tomatoes in Ukraine, tons	100	98	95	43
Specific weight of Tomato deliveries from Turkey in relation to production, %	[]	[]	[]	[]
<i>Rates of growth/ decline compared to the baseline, %</i>	100%	108%	150%	249%
The volume of imports of tomatoes from Turkey, tons	100	106	143	106
The volume of consumption of tomatoes in Ukraine, tons	100	112	130	105
Specific weight of Tomato deliveries from Turkey relative to consumption, %	[]	[]	[]	[]
<i>Growth/ decline rates compared to the baseline, %</i>	100%	95%	110%	101%
Production volume, tons <i>Growth/ decline rates compared to the baseline, %</i>	[]	[]	[]	[]
Sales volumes on the domestic market, tons	100%	102%	98%	36%
<i>Rates of growth/ decline compared to the base, % Profit/</i>	[]	[]	[]	[]
loss from activities on the domestic market, hryvnias	100%	105%	98%	37%
<i>Rates of growth/ decline compared to the baseline, %</i>	[]	[]	[]	[]
Profit/loss from activities in the domestic market, thousands of dollars. USA	100%	258%	-2%	-433%
<i>Rates of growth/ decline compared to the base, %</i>	[]	[]	[]	[]
Profitability from activities in the domestic market, %	100%	247%	-2%	-346%
<i>Growth/ decline rates compared to the baseline, %</i>	[]	[]	[]	[]
Current liquidity ratio <i>Growth/ decline rates compared to the baseline, %</i>	100%	103%	70%	57%
Labor productivity, tons/person. <i>Growth/ decline rates compared to baseline, %</i>	[]	[]	[]	[]
Market share, % <i>Growth/ decline rates compared to baseline, %</i>	100%	99%	94%	43%
<i>decline rates compared to baseline, %</i>	[]	[]	[]	[]
	100%	94%	75%	35%

In this non-confidential version of the Complaint, the National Tomato Commodity Producer does not provide absolute values of its economic indicators, including, but not limited to, volumes

production, volumes of production capacities and their use, volumes of sales, employment of employees, market share, wages, profitability, financial results, etc., as well as an explanation of individual economic indicators, since this is a trade secret and its disclosure to competitors will cause damage to the National Tomato Producer.

Third factors that can cause harm

7.10. National vegetable producers draw attention to the fact that the Ministry has not yet conducted anti-dumping or special investigations under martial law conditions after the full-scale invasion of the Russian Federation. Accordingly, the Department will, for the first time, be faced with the need to separate third-party injury related to full-scale invasion from injury caused by dumped imports.

7.11. In this regard, the National Producers of Vegetables emphasize that even after delimiting the injury caused by third factors, the National Producers of Vegetables feel the consequences of the injury caused by the dumped imports from Turkey. This is confirmed by the following.

7.12. *First*, the deterioration of the economic indicators of the National Vegetable Commodity Producers began as early as 2021, a year before the full-scale invasion. Thus, the level of losses of the National Producer of Cucumbers increased significantly in 2021. And in 2021, the National Producer of Tomatoes ended the year with a loss of financial results for the first time during the period under review.

Diagram 40: Comparison of the dynamics of the financial result of the National producer of cucumbers in hryvnias with the dynamics of import volumes of cucumbers from Turkey⁶⁴

Indicator	2019	2020	2021	2022
Profit/loss from activities on the domestic market, hryvnias	[]	[]	[]	[]
Rates of growth/decline compared to the base, % 100% Import volume of Cucumbers from Turkey, tons [] Rates of growth/decline compared to the base, % 100%		62%	479%	578%
		[]	[]	[]
		116%	139%	171%

Diagram 41: Comparison of the dynamics of the financial result of the National Producer of Cucumbers in thousands of US dollars with the dynamics of import volumes of Cucumbers from Turkey⁶⁵

Indicator	2019	2020	2021	2022
Profit/loss from activities in the domestic market, thousands of dollars. USA	[]	[]	[]	[]
Growth/decline rates compared to baseline, %	100%	60%	453%	462%
Import volume of Cucumbers from Turkey, tons Rate of growth/decline compared to the base, %	[]	[]	[]	[]
	100%	116%	139%	171%

Diagram 42: Comparison of the dynamics of the financial result of the National Producer of Tomatoes in hryvnias with the dynamics of relative volumes of imports of tomatoes from Turkey⁶⁶

Indicator	2019	2020	2021	2022
Profit/loss from activities on the domestic market, hryvnias	[]	[]	[]	[]

⁶⁴ Based on tables 1.5 and 2.1 of the Report and data of the National Producer of Cucumbers

⁶⁵ Based on Tables 1.5 and 2.1 of the Report and data of the National Producer of Cucumbers

⁶⁶ Based on Tables 1.4 and 2.3 of the Report and data of the National Producer of Tomatoes

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<i>Rates of growth/ decline compared to the baseline, % 100%</i> Specific		258%	-2%	-433%
weight of Tomato deliveries from Turkey [] relative to production, %		[]	[]	[]
<i>Growth/ decline rates compared to baseline, %</i>	100%	108%	150%	249%

Diagram 43: Comparison of the dynamics of the financial result of the National Producer of Tomatoes in thousands of US dollars with the dynamics of relative volumes of imports of tomatoes from Turkey⁶⁷

Indicator	2019	2020	2021	2022
Profit/loss from activities in the domestic market, thousands of dollars. USA	[]	[]	[]	[]
<i>Rates of growth/ decline compared to the baseline, % 100%</i> Specific		247%	-2%	-346%
weight of Tomato deliveries from Turkey [] relative to production, %		[]	[]	[]
<i>Growth/ decline rates compared to baseline, % 100%</i>		108%	150%	249%

In this non-confidential version of the Complaint, the National Vegetable Commodity Producers do not provide absolute figures for import prices, as this information was obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations. In addition, the National Vegetable Producers do not provide absolute profit/loss figures, as this is a trade secret and cannot be disclosed to third parties.

7.13. Secondly, although the volume of imports of Cucumbers and Tomatoes from certain countries increased slightly in 2022, such imports could not harm the National Commodity Producers of Vegetables, since (i) such an increase is temporary in nature and primarily caused by logistical complications; (ii) the prices of such imports are significantly higher than the prices of imports from Turkey and mostly higher than the prices and cost of the National Vegetable Producers.

Diagram 44: Comparison of Cucumber import prices with prices and cost of the National producer of cucumbers in US dollars⁶⁸

Indicator	2019	2020	2021	2022
Price of import of cucumbers from Turkey, USD USA/Vol	[]	[]	[]	[]
<i>Rates of growth/ decline compared to the baseline, % 100%</i> Price of import		108%	108%	127%
of cucumbers from the country [] [CONFIDENTIAL], dollars. USA/Vol		[]	[]	[]
<i>Rates of growth/ decline compared to the baseline, %</i> Price	0%	0%	0%	100%
of import of cucumbers from the country [CONFIDENTIAL], USD. USA/Vol	[]	[]	[]	[]
<i>Rates of growth/ decline compared to the baseline, % 100%</i> Price of import		97%	118%	130%
of cucumbers from the country [] [CONFIDENTIAL], dollars. USA/Vol		[]	[]	[]
<i>Rates of growth/ decline compared to the baseline, % 100%</i> Price of import		111%	128%	176%
of cucumbers from the country [] [CONFIDENTIAL], dollars. USA/Vol		[]	[]	[]
<i>Rates of growth/ decline compared to the baseline, % 100%</i> Price of the		132%	142%	148%
National Commodity Producer [] Cucumbers, USD USA/ton		[]	[]	[]
<i>Rates of growth/ decline compared to the baseline, % 100%</i> Cost price of		86%	97%	121%
the National producer of [] Cucumbers, USD USA/ton		[]	[]	[]
<i>Growth/ decline rates compared to baseline, % 100%</i>		87%	100%	130%

⁶⁷ Based on Tables 1.4 and 2.3 of the Report and data of the National Producer of Tomatoes

⁶⁸ Based on Table 2.5 of the Report and data of the National Producer of Cucumbers

Chart 45: Comparison of Cucumber import prices with prices and cost of the National producer of cucumbers in US dollars⁶⁹

Indicator	2019	2020	2021	2022
Price of import of tomatoes from Turkey, USD USA/Vol	[]	[]	[]	[]
<i>Rates of growth/decline compared to the baseline, %</i>	100%	132%	91%	136%
The price of tomato imports from the country [CONFIDENTIAL], tons	[]	[]	[]	[]
<i>Rates of growth/decline compared to the baseline, %</i>	100%	105%	91%	106%
The price of tomato imports from the country [CONFIDENTIAL], dollars. USA/Vol	[]	[]	[]	[]
<i>Rates of growth/decline compared to the baseline, %</i>	100%	93%	118%	105%
The price of tomato imports from the country [CONFIDENTIAL], dollars. USA/Vol	[]	[]	[]	[]
<i>Rates of growth/decline compared to the baseline, %</i>	100%	121%	127%	132%
The price of tomato imports from the country [CONFIDENTIAL], dollars. USA/Vol	[]	[]	[]	[]
<i>Rates of growth/decline compared to the baseline, %</i>	0%	0%	0%	100%
Price of the National Producer of Tomatoes, USD USA/ton	[]	[]	[]	[]
<i>Rates of growth/decline compared to the baseline, %</i>	100%	98%	108%	134%
Cost price of the National Producer of Tomatoes, USD USA/ton	[]	[]	[]	[]
<i>Growth/decline rates compared to baseline, %</i>	100%	93%	109%	151%

In this non-confidential version of the Complaint, the National Vegetable Producers do not provide absolute import price figures and the name of the importing countries, as this information was obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations. In addition, the National Vegetable Producers do not provide absolute price and cost figures, as this is a commercial secret and cannot be disclosed to third parties.

7.14. *Third*, to distinguish between injury caused by third parties and injury caused by dumped imports from Turkey, the Ministry may also refer to the injury margin calculation. Thus, the injury margin calculation will demonstrate that the level of total injury caused to the National Vegetable Producers by all factors, including the dumped imports from Turkey and third factors, is higher than the level of injury caused solely by the dumped imports. Accordingly, the introduction of dumping measures at the level of the dumping margin will be a fully justified way of overcoming the injury caused by the dumped imports of Cucumbers and Tomatoes from Turkey, and not by any third factors.

7.15. In order to calculate the margin of damage, it is necessary to carry out calculations based on the selling price of Cucumbers and Tomatoes, at which the national producers of vegetables are not harmed, as well as the import price. To calculate the price at which Cucumbers and Tomatoes are sold

⁶⁹Based on Table 2.6 of the Report and data of the National Tomato Producer

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damage is caused, the National Commodity Producers propose to use the production cost of Cucumbers and Tomatoes of the National Commodity Producers of Vegetables, calculated as a weighted average indicator of the cost of production of individual enterprises of the National Commodity Producers of Vegetables and the level of profitability of operating activities for cultivation of vegetables and melons, root crops and tubers, determined by the State Statistics Service of Ukraine.

Table 25: Calculation of the average selling price of cucumbers on the market of Ukraine, when no damage is caused

Indexes	2019	2020	2021	2022
Cost, USD US/ton Profitability	100	87	100	130
indicator for operational activity,% Selling price of goods on the	100	80	96	96
market of Ukraine, when no damage is caused, USD USA/ton	100	85	100	129

Table 26: Calculation of the average sale price of Tomatoes on the market of Ukraine, when no damage is caused

Indexes	2019	2020	2021	2022
Cost, USD US/ton Profitability	100	93	109	151
indicator for operational activity,% Selling price of goods on the	100	80	96	96
market of Ukraine, when no damage is caused, USD USA/ton	100	91	109	151

In this non-confidential version of the Complaint, the National Vegetable Producers do not provide absolute price and cost figures, as this is a trade secret and cannot be disclosed to third parties.

7.16. As an indicator of the average price declared when importing goods to Ukraine, National vegetable producers use import prices in accordance with *the Report*.

Table 27: The average price declared when importing cucumbers to Ukraine

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Indexes	2019	2020	2021	2022
The average price declared when importing goods to Ukraine, USD USA/ton	100	108	108	127

Table 28: The average price declared when importing tomatoes to Ukraine

71

Indexes	2019	2020	2021	2022
The average price declared when importing goods to Ukraine, USD USA/ton	100	132	91	136

In this non-confidential version of the Complaint, the National Vegetable Commodity Producers do not provide absolute figures for import prices, as this information was obtained from the Report, which was obtained on a paid basis and which is not subject to disclosure due to the relevant contractual obligations.

7.17. Accordingly, the injury margin calculation demonstrates that the level of total injury caused to the domestic vegetable producers is higher than the level of injury caused solely by the dumped imports from Turkey. At the same time, the biggest difference between the level of the dumping margin and the injury margin is observed precisely in 2022, when the factor of a full-scale invasion was added. Thus, the application of dumping measures at the level of the dumping margin will allow to overcome the injury caused by the dumped imports from Turkey without taking into account the third factors.

⁷⁰ According to table 2.1 of the Report.

⁷¹ According to table 2.4 of the Report.

Table 29: Calculation of the margin of damage for the National producer of cucumbers

Indexes	2019	2020	2021	2022
Damage margin, % ⁷²	100	26	72	108
Dumping margin, % ⁷³	20.9%	11.5%	15.3%	23.4%

Table 30: Calculation of the margin of damage for the National producer of tomatoes

Indexes	2019	2020	2021	2022
Damage margin, % ⁷⁴	100	19	151	128
Dumping margin, % ⁷⁵	45.8%	12.3%	67.2%	37.8%

In this non-confidential version of the Complaint, the National Manufacturer does not provide an absolute figure for the margin of injury, because it will allow competitors to calculate the cost price of the National Product Manufacturer, which is a trade secret and not subject to disclosure to third parties.

7.18. Therefore, there is a causal relationship between the dumped imports of Cucumbers and Tomatoes from Turkey and the injury caused to the National Producers during 2019-2022

⁷² The damage margin was calculated according to the formula: **the selling price of the Goods on the market of Ukraine, when no damage is caused - the price of import)/import price*100**

⁷³ Dumping margin calculations were provided in Section V of this *Complaint*. The

⁷⁴ damage margin was calculated according to the formula: **the selling price of the Goods on the market of Ukraine, when no damage is caused - the price of import)/import price*100**

⁷⁵ Dumping margin calculations were provided in Section V of this *Complaint*.

VIII. NATIONAL INTERESTS

8.1. According to Art. 36 of the Law, the application of anti-dumping measures must correspond to national interests. The conclusion on compliance with the national interests should be based on an assessment of all interests, including the interests of the national producer and consumers, the impact of the import, which is the object of the investigation, on the employment of the population, investments of the national producer and consumers, as well as on the international economic interests of the importing country.

International economic interests of Ukraine

8.2. According to the National Vegetable Producers, the introduction of anti-dumping measures against the import of Cucumbers and Tomatoes from Turkey corresponds to Ukraine's international economic interests.

8.3. *First*, in light of the armed aggression of the Russian Federation, Ukraine is developing a policy of limiting cooperation with companies that continue their activities in the Russian Federation and/or continue to do business with Russian companies, and also tries to encourage its international partners to introduce the corresponding restrictions. Thus, Ukraine actively updates its sanctions lists, and the National Agency for the Prevention of Corruption ("**NAPC**") regularly updates the lists of persons on whom sanctions must be imposed. In addition, NAZK also developed a list of international sponsors of the war.

8.4. At the same time, Turkish producers of fresh vegetables and fruits continue to actively trade with Russia. Thus, in April 2023, the export of fresh vegetables and fruits from Turkey to Russia increased by 25%, as a result of which Russia became the main importer of the corresponding Turkish products. As for Cucumbers and Tomatoes, in 2022 Russia occupied the second (Ukraine first) and sixth places respectively in the structure of Turkish exports.⁷⁶ At the same time, the volume of cucumber exports from Turkey to Ukraine increased by almost 170% compared to the volume of 2021.

8.5. Moreover, as of now, Turkey generally pursues a policy of active interaction with the aggressor state of the Russian Federation. For example, negotiations are currently underway regarding the conclusion of a new grain agreement between Turkey, Russia and Qatar regarding the supply of "Russian grain".⁷⁸ At the same time, Turkish President Recep Tayyip Erdogan even made statements about Turkey's readiness to process "Russian grain" for the further transportation of flour to African countries.⁷⁹

In addition, Turkey became the main importer of coal from the territories of Ukraine temporarily occupied by Russia. According to *Reuters* with reference to the data of the Russian customs statistics, 160,400 tons of coal from the temporarily occupied territories worth more than 14.3 million US dollars were exported to Turkey.⁸⁰

Thus, in general, Turkey not only continues active political and economic interaction with the aggressor country, but also contributes to the fact that Russia and Turkey can to profit from the unleashed full-scale war against Ukraine.

8.6. Thus, strengthening cooperation between Ukrainian and Turkish enterprises, as well as increasing the presence of Turkish products on the Ukrainian market, cannot meet the international economic interests of Ukraine, especially if such presence destroys the national industry of Ukraine.

8.7. *Secondly*, within the framework of state support programs for enterprises, in particular the program "Grants for the creation or development of business", a special focus was made on the development of greenhouse farming. Thus, by Resolution No. 738 of the Cabinet of Ministers of Ukraine dated June 21, 2022, the Procedure for providing grants for creation or development was adopted

⁷⁶ Based on the data in tables 3.9 and 3.10 of

⁷⁷ the Report. Based on the data in table

⁷⁸ 3.10 of the Report. <https://nv.ua/ukr/world/geopolitics/zernova-ugoda-rf-turechchina-i-katar-gotyuyut-ugodu-z-postachannya-zerna-ostanni-novini-50347403.html> <https://nv.ua/ukr/world/geopolitics/zernova-ugoda-turechchina-gotova-pereroblyati-rosiyske-zerno-ta-eksportuvati-v-ramkah-zernovoji-ugodi-50343973.html>

⁷⁹ <https://www.reuters.com/markets/commodities/coal-russian-annexed-ukraine-sold-nato-member-turkey-data-sources-2023-09-19/>

⁸⁰ <https://www.reuters.com/markets/commodities/coal-russian-annexed-ukraine-sold-nato-member-turkey-data-sources-2023-09-19/>

greenhouse economy⁸¹. To implement the relevant procedure, the Ministry of Agrarian Policy and Food of Ukraine ("**Ministry of Agrarian Policy**") approved *the Procedure for adopting a decision of the Ministry of Agrarian Policy on granting a grant for the creation or development of a greenhouse economy; The form of the contract on the provision of a grant for the creation or development of a greenhouse economy; Information form regarding the list of grant recipients for the creation or development of a greenhouse economy; Application form for cancellation of the decision to grant a grant for the creation or development of a greenhouse.*

⁸² Also, the Ministry of Agrarian Policy approved *the Model Project of a modular greenhouse*. Thus, the rule-making activity of Ukraine after the start of the full-scale invasion demonstrates that the support of the greenhouse business in Ukraine is currently one of the priority areas of support for the Ukrainian business.

- 8.8. Accordingly, in the existing conditions, in order to support the economy of Ukraine, the introduction of all possible ways of supporting national greenhouse enterprises corresponds to the international economic interests of Ukraine.

Interests of the national producer and consumers

- 8.9. Enterprises of the National Commodity Producers of Vegetables form the basis of the national industrial production of indoor cucumbers and tomatoes. The total area of the greenhouses of the enterprises of the National Commodity Producers of Vegetables covers more than [CONFIDENTIAL] square meters.
- 8.10. Such production areas enable the National Vegetable Producers to provide consumers of Ukraine with fresh cucumbers and tomatoes for most of the year, regardless of weather conditions. All enterprises of the National Commodity Producers of Vegetables are more focused on meeting the needs of the domestic market, although some enterprises also carry out export activities.
- 8.11. Enterprises of the National Commodity Producers of Vegetables follow global technological progress and make active efforts to introduce advanced technologies for the production of greenhouse vegetables and purchase high-quality modern equipment that has a positive effect on the taste characteristics of products.
- 8.12. In general, the National Vegetable Producers focus on high quality standards in their activities. Products of both the National producer of cucumbers and the National producer of tomatoes meets the state standards of product quality: DSTU 3247-95 "Cucumbers are fresh. Technical conditions" and DSTU 3246-95 "Fresh tomatoes. Technical conditions" respectively, provided in **Appendix 12.1**. This is confirmed by the product test protocols provided in **Appendix 12.2**.

Test reports are not provided in this non-confidential version of the Complaint, as they contain trade secrets of National Vegetable Producers, which may not be disclosed to competitors.

- 8.13. The quality of the products manufactured by the National Commodity Producers of Vegetables is also confirmed by the fact that the products of individual enterprises received certificates from the certification body TUV HELLAS (TUV Nord) SA, which confirm the compliance of the products with the voluntary international standards of unprocessed food products GLOBALG.AP, developed on the basis of HACCP guidelines. The corresponding certificate is provided in **Appendix 12.3**.

No certifications are provided in this non-confidential version of the Complaint, as they contain a trade secret of National Commodity Manufacturer that cannot be disclosed competitors

- 8.14. At the same time, the presence of significant volumes of dumped imports from Turkey on the Ukrainian market, as demonstrated in Section VI, causes significant damage to the national vegetable commodity producers. Dumping imports from Turkey will continue

⁸¹ <https://zakon.rada.gov.ua/laws/show/738-2022-y#n347>

⁸² https://minagro.gov.ua/npa/deyaki-pitannya-realizaciyi-poryadku-nadannya-grantiv-dlya-stvorenniya-abo-rozvitku-teplichnogo-gospodarstva-zatverdzhеного-постановоу-кабінету-міністрів-україни-від-21-червня-2022-року-73?_ga=2.141578802.1299557579.1678721485-1966752012.1660667917

cause significant losses to the enterprises of the National Commodity Producers of Vegetables and may lead to their shutdown.

8.15 In this regard, the introduction of anti-dumping measures against the import of Cucumbers and Tomatoes from Turkey fully meets the interests of national producers of vegetables, as it will help not to lose production and reach a profitable level of activity. At the same time, the introduction of anti-dumping measures meets the interests of consumers, as it will help to continue to have access to high-quality cucumbers and tomatoes of domestic production.

8.16. In addition, the National Producers of Vegetables emphasize that now the issue of protecting the national production of vegetables from dumping imports from Turkey is particularly urgent. Thus, on February 3, 2022, the Free Trade Agreement between Ukraine and Turkey was concluded (**the "FTA Agreement"**). According to Annex I of the *Free Trade Agreement*, all customs duties on goods originating from the other party are canceled from the date of entry into force of the agreement. Such liberalization will also apply to Cucumbers and Tomatoes from Turkey.

At the same time, in July 2023, the Minister of Economy of Ukraine, Yulia Svyridenko, reported that Ukraine is ready to take the necessary actions for the ratification of the Free Trade Agreement.⁸³ Thus, it can be expected that in the near future the import duty on Tomatoes and Cucumbers from Turkey will be reduced from 10% to 0%. As a result, the prices of Turkish Cucumbers and Tomatoes will decrease even more, and the damage caused to the national vegetable producers will be even more significant.

Employment of the population, investments of the national producer

8.17. Enterprises of National Producers create jobs for more than [CONFIDENTIAL] workers in Rivne, Kharkiv, Kyiv, Poltava, Zhytomyr, Donetsk, Dnipropetrovsk and Cherkasy regions. So,

enterprises of the National Commodity Producers of Vegetables increase the level of employment among local population and take care of their staff, providing them with decent working conditions, appropriate the level of wages and labor protection.

8.18. Moreover, the National producers of vegetables are regular tax payers to both local and state budgets.

Table 30. Taxes and fees paid by enterprises of the National Commodity Producer to local and state budgets, UAH

	2019	2020	2021	2022
"Agroconcern" LLC:	[]	[]	[]	[]
"Zmiyivska Vegetable Factory" PJSC:	[]	[]	[]	[]
"Teplichnyi Combine" PJSC:	[]	[]	[]	[]
"Krasnogradska Vegetable Factory" LLC:	[]	[]	[]	[]
"Kremenchutska Vegetable Factory" LLC:	[]	[]	[]	[]
"Stanyshivka Vegetable Combine" LLC:	[]	[]	[]	[]
"Perspektiva" LLC:	[]	[]	[]	[]
"Dniprovsky Greenhouse Plant" LLC:	[]	[]	[]	[]
POPS "Uman Greenhouse Plant":	[]	[]	[]	[]
In general:	100	114	110	54

8.19. In addition, the National producers of vegetables pay attention to social issues responsibility. Thus, enterprises have always allocated funds for humanitarian aid, which was directed to various directions, and in recent years funds have been actively sent to help the Armed Forces of Ukraine.

⁸³ https://twitter.com/Svyrydenko_Y/status/1676515207076560896?s=20

8.20. Thus, charitable aid was directed to the educational sphere, in particular, funds were allocated to support kindergartens, schools, and educational departments of district state administrations. Charitable aid was allocated to temples and churches to meet the spiritual needs of the population. As part of the population improvement programs, assistance was provided to sports and rehabilitation centers.

8.21. Active support of the Armed Forces of Ukraine was manifested in the regular transfer of products to military units, transfer of vehicles to territorial procurement centers and specific units, transfer of household appliances and other goods.

8.22. In general, the amount of charitable assistance of enterprises of the National Commodity Producers of Vegetables is the following

Table 31. Volumes of charitable assistance of enterprises of the National Vegetable Producers, UAH

	2019	2020	2021	2022
PJSC "Zmiivska Vegetable Factory": PJSC	[]	[]	[]	[]
"Combinat "Teplichny": LLC "Perspektiva":	[]	[]	[]	[]
LLC "Teplichny Kombinat	[]	[]	[]	[]
"Dniprovsky":	[]	[]	[]	[]
POPS "Uman Greenhouse Plant":	[]	[]	[]	[]
In general:	100	111	215	506

8.23. In view of the above, the continuation of dumping imports from Turkey will lead to the accumulation of deterioration of the economic indicators of the National Commodity Producers of Vegetables and the stoppage of the production of Cucumbers and Tomatoes. Such a step will have a number of other consequences:

National Vegetable Producers, ~~NON-CONFIDENTIAL~~ lead to regional socialization in a number of regions and an increase in public spending on unemployment benefits for people who will be registered with the state employment center. We emphasize that this will take place in conditions where, due to the war, the unemployment rate in Ukraine is a record 18%⁸⁴;

- (ii) termination of all tax and social obligations of the enterprises of the National Commodity Producers of Vegetables, which directly affects the development and investment climate of the regions where the enterprises are located;
- (iii) the absolute dependence of Ukrainian consumers on the import of Cucumbers and Tomatoes from abroad, as well as the inevitable increase in prices by foreign producers for their own products.

8.24. The introduction of an anti-dumping duty on imports from Turkey will enable:

- (i) to protect the interests of Ukraine by preserving the largest active production of Cucumbers and Tomatoes;
- (ii) prevent the shutdown of an operating enterprise equipped with the latest technologies;
- (iii) to reach the level of profits for the national commodity producers of vegetables, which is sufficient for the further development of the industry;
- (iv) attract additional investments for the implementation of planned projects for the future conversion and modernization of production;
- (v) to increase the level of employment and the level of wages in the regions where enterprises are located;
- (vi) to provide the consumer with quality products of national production.

⁸⁴ <https://suspipline.media/467438-do-kinca-roku-riven-bezrobitta-v-ukraini-stanovitime-183-nbu/>

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8.25. In addition, the initiation of this investigation is directly supported by the Federation employers of Ukraine, whose position on this issue is provided in **Appendix 13**.

In this non-confidential version of the Complaint, the letter from the Federation of Employers of Ukraine is not provided, as it contains confidential information about the National Vegetable Producers, which cannot be disclosed to competitors. In addition, above in this Section National commodity producers vegetables do not provide absolute indicators of workers, taxes paid, charitable assistance, etc., because such information is a commercial secret and cannot be disclosed to competitors.

8.26. Therefore, the National producers of vegetables believe that the application of anti-dumping measures corresponds to the national interests in the sense of Art. 36 of the Law.

IX. CONCLUSIONS

The above confirms the existence during 2019-2022 of: (a) dumping imports Cucumbers and Tomatoes originating from Turkey; (b) damage to the National vegetable producers; (c) the causal relationship between the dumped imports and the damage caused; (d) that the application of anti-dumping measures is in the national interest.

Taking into account the above and guided by Art. 1, 2, 7-13, 16, 36 of *the Law* and Art. 2.1-2.7, 3.1, 3.2, 3.4, 3.5, 9 *Agreements on anti-dumping measures*, National vegetable producers request the Ministry:

- (1) consider the information and evidence provided in this *Complaint*;
- (2) to violate the anti-dumping procedure regarding the import into Ukraine of fresh cucumbers and fresh tomatoes originating in Turkey, classified according to the UCT code of ZED 0707 00 and 0702 00, respectively;
- (3) based on the results of the anti-dumping procedure, prepare a report on the need to initiate an anti-dumping investigation and submit it to the Interdepartmental Commission on International Trade for the adoption of a relevant decision.

X. LIST OF APPENDICES

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