

Storage and transportation of agricultural products in Ukraine

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1. Storage

In Ukraine, grain is stored in grain warehouses. Grain owners may store grain in their own grain warehouses. Grain warehouses have to accept grain for storage from any person. On accepting grain for storage, grain warehouses are obliged to analyze its quality.

The grain storage is based on the contract of bailment, which is public, under a form approved by the Cabinet of Ministers of Ukraine. The contract conclusion is accompanied by the issuance of a storage document.

According to Ukrainian legislation, there are several types of warehouse documents. They have different purposes, still, all of them confirm the acceptance of grain by the warehouse.

Types of warehouse documents:

- a double warehouse certificate;
- a simple warehouse certificate;
- a warehouse receipt.

A double warehouse certificate consists of two parts, such as a warehouse certificate and a pledge warrant, which can be separated from each other. The double warehouse certificate is mainly used in the event of grain lending. The holder of a pledge warrant has the right to demand repayment from the person who has obtained a credit, as well as a pledge on the grain for an amount corresponding to the amount owed.

A warehouse certificate and a pledge warrant can be transferred together or separately by endorsements.

A simple warehouse certificate shall be issued to a bearer. A holder of a warehouse

deposit certificate has the right to dispose of the grain stored at the grain warehouse. The grain transfer shall be equivalent to the transfer of the simple warehouse certificate.

If a grain warehouse accepts grain for storage without issuing a simple or double warehouse certificate, it shall issue a warehouse receipt to confirm the acceptance of the grain for storage.

The grain warehouses shall keep a special register of grain warehouse documents and also enter information into the register of grain obtained for storage.

Damage caused to a bailor by loss, shortage, or damage to grain shall be compensated by the grain store for the following:

- for the loss and shortage of grain in the amount of the value of the lost or missing grain;
- for damage to the grain in the amount by which its value has been reduced.

2. Overseas transportation

Overseas transportation in Ukraine is regulated by the special legislation, i.e., the Merchant Shipping Code, as well as the legislation governing transport and commercial relations in general.

Besides, international overseas transportation of agricultural products from Ukraine is regulated by rules of several multilateral international treaties such as the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading (The Hague Rules of 1924), the Protocol to Amend the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading of 1924 (The Visby Rules), the United Nations Convention on the Carriage of Goods by Sea of 1978.

Disputes relating to overseas shipping are heard by the Maritime Arbitration Commission at the Ukrainian Chamber of Commerce and Industry (Maritime Arbitration Commission). If a foreign legal entity or a physical person is involved in the dispute, such dispute may be referred to a foreign court or arbitrage.

The basic document regulating relations on the overseas transportation of goods is a contract of carriage by sea. Such a contract must be concluded in writing.

The documents confirming the existence and a subject matter of the contract of carriage by sea include the voyage charter (if the contract provides for the provision of the whole vessel, a part of it, or an individual ship's premises for carriage) and the bill of lading.

Ukrainian legislation does not clearly distinguish between the regulation of the charter of a ship and cargo transportation. Therefore, to avoid disputes it is important to formulate the subject of the contract when concluding the contract.

Loading and unloading operations in Ukrainian seaports are carried out by port and terminal operators. Their activity is regulated by separate rules for services in Ukrainian seaports.

The following operations to be carried out by port operators are referred to by Ukrainian legislation as the loading and unloading operations:

- loading and unloading cargo;
- cleaning the holds of ships, wagons after unloading cargo;
- cargo movement;
- fastening of cargo, special fastening of cargo;
- stowage;
- weighing, marking, and sorting (breaking of bulk);
- bringing cargo to transportable condition;
- other works and services.

To receive or dispatch cargo, the port facilities customer shall prove their authority with a transport document or a shipper's/consignee's power of attorney, depending on the terms of cargo delivery.

On transporting grain by sea, the parties to the agreement are usually governed by GAFTA proformas. The forms of transportation (freight or carriage) are established depending on the provisions of the chosen GAFTA contract.

In the case of grain sales on CIF or derivative terms, a seller shall conclude a charter party. Such contracts are mostly concluded based on standard proformas, which depend both on the export and the type of cargo transported. Synacomex (Continent Grain Charter Party) is the most popular proforma for shipments from Ukraine.

A grain carrying vessel shall have an authorization document following the International Grain Code. At the same time, for grain transportation, the shipowner is obliged to ensure that the hold is clean, dry, and ready for loading and that the grain is maintained at an appropriate temperature and a moisture level.

Grain fumigation is a prerequisite for grain supply contracts. When grain is shipped under GAFTA contracts, fumigation is carried out by an accredited company under GAFTA 132 fumigation regulations.

In addition, the state sanitary rules for Ukrainian maritime vessels stipulate several requirements for vessels transporting grain cargo related to the safety of fumigation.

3. Cargo transportation by rail

In Ukraine, the grain is mostly transported in bulk in specially equipped wagons. In some cases, an owner of the grain must obtain special permission to transport it by rail before handing it over.

Legislation, in particular, the Charter of the JSC "Ukrainian Railways", and several specialized rules of law establish separate requirements for transportation, depending on the type of grain being transported and its characteristics.

For example, rye, wheat, oats, barley, buckwheat, millet, corn in grain, oilseeds and pulse crops, unhulled rice bran and grain by-products, sharp, compound feed, dried

pulp, oil cake, protein meal, are transported in bulk in specialized grain wagons (hereinafter, grain wagons), as well as in the covered wagons with door barriers (shields). In this case, grain with moisture content exceeding 16% and millet with moisture content exceeding 15% can be transported only on special terms under separate contracts with Ukrzaliznytsia.

In case of grain contamination by pests, plant diseases, or weeds, disinfestation of the wagons after transportation of the contaminated grain is performed by the means and at the expense of the recipients.

International rail transportation is carried out following the Agreement on the Use of Freight Wagons in International Traffic and the Regulations annexed thereto. These rules of law, in particular, regulate the procedures for moving wagons from the wider tracks of Ukrainian railways to narrower tracks of EU railways, define a list of shifting points and other rules to be considered, in particular when exporting Ukrainian agricultural products by railways.

4. Road transportation

Road transportation of agricultural products in Ukraine is regulated by special rules and it varies depending on the type of transported agricultural products.

Grain auto transportation

Grain in Ukraine can be auto transported in containers or unretained. At the same time, it is prohibited to transport grain in a container with a moisture content exceeding 15%, in a state of self-heating, infected by pests, waterlogged, the grain without proper shipping marks on the sacks, in a non-standard or a defective container, the grain without quality certificates.

The main container for grain cargo may be close texture, dry, not moldy bags, not infected by pests, and without foreign odors.

Grain is received and transferred by the shipping carriers due to weight.

Auto transportation of vegetables and potato

When transporting potatoes and vegetables, the carriers, consignors, and consignees are obliged to take measures to protect them from mechanical damage as well as from precipitation and exposure to low and high temperatures.

Receipt from a consignor and delivery of potatoes and vegetables to a consignee is performed by shipping carriers due to weight by consignment notes.

Auto transportation of sugar beet

Contracts for the carriage of sugar beet by road shall provide for the possibility of using the vehicles in the reverse direction for the carriage of pulp.

Road transportation of sugar beet is carried out on an hourly schedule.

Sugar beet is transported by flat cars and dump trucks without loading it into bags or other containers.

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Shipping carriers accept sugar beet from growers and transfer it to pick-up sections due to weight.

Auto transportation of fresh fruit

Fruit, berries, grapes, and cucurbits are transported in refrigerated trucks, isothermal vehicles, vans, or flat cars (truck trains).

Auto transportation of cattle, poultry, bees

Carriers, consignors, and consignees shall comply with applicable veterinary and sanitary regulations when transporting cattle and poultry.

Shipping carriers shall provide vehicles specially equipped for the transportation of cattle and poultry. It is prohibited to transport cattle and poultry by dump trucks, as well as by vehicles used for transportation of toxic substances and chemicals without prior sanitary treatment of the rolling stock.

When transporting cattle and poultry, a consignor shall issue a veterinary certificate of the established form to a Carrier (a shipping agent), and, if necessary, a permit from a quarantine authority. A consignor shall appoint a shipping agent to accompany cattle and poultry. A driver may act as a shipping agent.

If the deadline of cattle and poultry transportation exceeds 6 hours, a consignor is obliged to provide them with fodder.

A carrier is not liable for the mortality of cattle and poultry during its transportation due to disease, improper placement, or inadequate air temperature for transportation of certain types of cattle and poultry.

Bees can only be transported during the summer or transitional periods.