

APPROVED

by the Order of Antimonopoly
Committee of Ukraine

dated _____ № _____

TERMS OF REFERENCE
of the Sectoral Working Group
on State aid

Sectoral Working Group on State Aid (hereinafter - the SWG on SA) is a permanent working group, the main purpose of which is to coordinate international technical assistance (hereinafter - ITA) with the sectoral priority reforms of State aid and work plans of the relevant central government authorities.

1. Tasks

The main tasks of the SWG on SA are:

- 1.1. Ensuring the prioritization of sectoral issues in the field of state aid, improvement of existing legislation, in particular the development of:
 - 1.1.1. Draft amendments to the Law of Ukraine "On State aid to undertakings".
 - 1.1.2. Assessment criteria of the compatibility of State aid to undertakings in different sectors of the economy.
 - 1.1.3. Assessment criteria of the compatibility of temporary State aid measures to support the economy in the current COVID-19 outbreak.
 - 1.1.4. amendments to the Tax and Customs Codes of Ukraine (in part of state aid).
 - 1.1.5. amendments to other legislation related to State aid provision.
- 1.2. Creation of thematic subgroups (if necessary), structuring and control of the results of their work.
- 1.3. Identification of issues for coordination at the interdepartmental level and at the level of the Cabinet of Ministers in field of State aid.
- 1.4. Ensuring proper documentation and open access to information on the functioning of the SWG on SA and thematic subgroups.
- 1.5. Involvement in the work of the SWG and its subgroups of other ministries and agencies related to sectoral issues in field of State aid.
- 1.6. Other issues of cooperation and development.

2. The composition of the SWG on SA

- 2.1. The SWG on SA includes the Chairperson, co-chairpersons, the Secretariat and participants.
- 2.2. The SWG on SA may form thematic subgroups, which, apart from the SWG members, include public officials and experts from ITA projects that are aimed at supporting the development of the sector.
- 2.3. Thematic subgroups should be coordinated by the public officials responsible for a particular topic in field of State aid. A co-coordinator from the DPs can be a representative of a specific agency or an authorized representative of a specific ITA project. The number of participants from a single organisation/project is not limited and can vary depending on the need.

3. Rights and obligations of the Chairperson of the SWG on SA

- 3.1. The Chairperson of the SWG is a Deputy Chairman of the Antimonopoly Committee of Ukraine.
- 3.2. The Chairperson (in agreement with the co-chairperson) approves the composition of the SWG and modifies it, if necessary.
- 3.3. On invitation of the Chairperson the SWG brings together the representatives of development partners (DPs), as well as other relevant governmental institutions and non-governmental organisations. The number of participants from a single organisation cannot exceed 2-3 persons.
- 3.4. The Chairperson approves the approximate work plan of the SWG on SA and an agenda of each meeting jointly with the Co-Chairperson based on a proposal from the Secretariat.
- 3.5. The Chairperson (in agreement with the co-chairperson) signs the minutes of the SWG on SA meeting.

4. Rights and obligations of the co-chairpersons of the SWG on SA

- 4.1. The co-chairperson of the SWG on SA is the Head of one of the agencies - a development partner and a representative of government authority of Ukraine at the level of the Deputy Head of such an authority.
- 4.2. The co-chairperson can be elected on a rotating basis for an annual term.
- 4.3. The co-chairperson jointly with the Chairperson coordinates the work of the SWG on SA through the Secretariat.

5. The Secretariat of the SWG on SA

- 5.1. The Secretariat is responsible for the preparation and organization of the group work, provision of technical support and effective interaction within the thematic subgroups.

- 5.2. The necessary technical assistance to the subgroups can be provided by the ITA projects (programs), on prior agreement among the DPs.
- 5.3. The Secretariat includes representatives of the relevant department of the central government authority (as nominated by the Chairperson of the SWG on SA), a representative of the DP, which is co-chairing the SWG during the current year, as well as coordinators of thematic subgroups.
- 5.4. The Secretariat prepares and submits for consideration to the Chairperson and co-chairpersons a draft agenda of the SWG on SA meeting.
- 5.5. The Secretariat conducts the preparatory, current and reporting work of the SWG on SA.
- 5.6. The Secretariat shall ensure the publication of the minutes of the SWG on SA meetings.
- 5.7. The secretariat shall provide translation, if necessary.

6. Forms and methods of work

- 6.1. The form of work of the SWG and thematic subgroups is meetings, organized at the initiative of Ukrainian side or DPs at least twice a year, or if necessary.
- 6.2. A copy of the work plan and each meeting agenda are sent to the members of SWG on SA and the ITA Directorate at the SCMU before the actual meeting.
- 6.3. The SWG on SA discussions are documented as minutes (in Ukrainian and English) that are shared with all SWG members and the ITA Directorate at the SCMU, and made publicly available on the official website of the Antimonopoly Committee of Ukraine in the relevant section.
- 6.4. The decision-making on all issues pertaining to the SWG on SA competences is made on a consensus principle.
- 6.5. The results of the SWG on SA work are considered at the Platform meetings (second tier) and the Development Partnership Forum (third tier) chaired by the Prime Minister of Ukraine.
- 6.6. The SWG on SA in line with its mandate has the right to acquire information, documents and materials needed for its work (following established order) from the ministries, other central and local government authorities and local self-government, enterprises, institutions and organizations and DPs.
- 6.7. The SWG on SA in line with its mandate has the right to engage experts, employees and representatives of relevant ministries and other government authorities, research institutions, public organizations, member of parliament of Ukraine (by consent), foreign experts (by consent) to address the issues within its competence.

- 6.8. The working languages of the SWG and thematic subgroups are English and Ukrainian, the translation services are ensured by the Secretariat on as needed basis (with support from the DPs or their projects (programs)).
-

Annex 1
to the Terms of Reference of the
SWG on SA, approved by the Order
of the Antimonopoly Committee of
Ukraine
dated _____ № _____

Framework strategies and plans that define coordination priorities

Framework strategies and plans that define coordination priorities are:

- 1) Law of Ukraine “On State aid to undertakings”;
 - 2) Assessment criteria of the compatibility of State aid to undertakings for environmental protection;
 - 3) Assessment criteria of the compatibility of State aid to undertakings for sport and multifunctional recreational infrastructures and local infrastructure
 - 4) Assessment criteria of the compatibility of State aid for the small and medium-sized undertakings;
 - 5) Assessment criteria of the compatibility of State aid to undertakings to ensure regional development;
 - 6) Assessment criteria of the compatibility of State aid to undertakings for culture and heritage conservation and for audiovisual works;
 - 7) Assessment criteria of the compatibility of State aid to undertakings in coal industry;
 - 8) Assessment criteria of the compatibility of State aid to undertakings in road transport;
 - 9) Assessment criteria of the compatibility of State aid to airports and airlines;
 - 10) Other assessment criteria of the compatibility of State aid if necessary
-

Annex 2
to the Terms of Reference of the
SWG on SA, approved by the Order
of the Antimonopoly Committee of
Ukraine
dated _____ № _____

SWG on SA structure

Co-chairpersons of the SWG from the Ukrainian side:

Deputy Antimonopoly Committee of Ukraine Chairman;

Deputy Minister of Economic Development, Trade and Agriculture of Ukraine;

Antimonopoly Committee of Ukraine State Commissioner;

Deputy Minister of Finance.

Co-chairpersons of the SWG from the development partners side:

a representative of European Union Delegation to Ukraine;

Team Leader of the Project “Support the Antimonopoly Committee of Ukraine for Enforcing State Aid rules”.

Participants:

representatives of AMCU State Aid Monitoring and Control Department;

representatives of European Integration, International Cooperation and Communication Division of Antimonopoly Committee of Ukraine;

representatives of the Ministry of Economic Development, Trade and Agriculture of Ukraine;

a representative of the Ministry of Finance of Ukraine;

a representative of the Ministry of Justice of Ukraine;

a representative of the Government Office for Coordination of European and Euro-Atlantic Integration;

representatives of other central executive bodies;

a representative of the Association of Ukrainian Cities.

Members of parliament of Ukraine (Committee on Economic Development, Committee on Integration of Ukraine with the European Union).

representatives of the EU Delegation to Ukraine;

representative of the Project “Support the Antimonopoly Committee of Ukraine for Enforcing State Aid rules”;

representatives of the European Investment Bank;

representatives of the European Bank for Reconstruction and Development;

representatives of the Nordic Environment Finance Corporation;

representatives of the International Finance Corporation.

Annex 3
 to the Terms of Reference of the
 SWG on SA, approved by the Order
 of the Antimonopoly Committee of
 Ukraine
 dated _____ № _____

Composition of the SWG on SA at the first meeting

- | | | |
|----|--------------------------|---|
| 1. | CHEREDNICHENKO
Dar'ya | Deputy Chairman of the Antimonopoly Committee of Ukraine - State Commissioner, Chairperson |
| 2. | BAUR Johannes | First Adviser, Head of Operating Unit 3 "Economic Cooperation, Energy, Transport and Environment" of the European Union Delegation to Ukraine, Co-Chairperson |
| 3. | BUROMENSKA
Natalia | Deputy Chairman of the Antimonopoly Committee of Ukraine - State Commissioner, Co-Chairperson |
| 4. | PANAIOTIDI Svitlana | Deputy Minister of Economic Development, Trade and Agriculture of Ukraine, Co- Chairperson |
| 5. | SABAU Stefan | Team Leader of the Project "Support the Antimonopoly Committee of Ukraine for Enforcing State Aid rules" |
| 6. | DIAGILIEVA Oksana | Director of the State Aid Monitoring and Control Department of the Antimonopoly Committee of Ukraine, Secretariat |
-