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## Modern Threatening Tendencies in the Field of Providing the Food Security of State and Possible Ways to Address Them

*The National Security Strategy of Ukraine among the topical threats to the national security of Ukraine identifies economic crisis, depletion of state financial resources, and decline in living standards. One of the reasons for the emergence of such threats is the high level of «shadowing» and the criminalization of the national economy. Under these conditions, the problem of food security is directly linked to the insufficient level of food security provided by the state at the expense of its own resources. The author emphasizes that organizational and legal and socio-economic mechanisms for ensuring food security in many countries of the world are established in the relevant regulatory and legal acts, integrated programs, concepts and strategies, the position of which is determined by the conditions for the functioning of the economy of the country and its individual industries, including and food industry. At the same time, on a permanent basis Ukraine continues to reform the national law enforcement system. According to the abovementioned, the author points out that the functional task of protecting the economic potential of the country, and in particular ensuring economic security, an important component of which is food security, is assigned to the authorities and units of the Security Service of Ukraine. As we found out during the research, the Security Service of Ukraine, in particular, takes measures to counter economic crimes in the agro-industrial sector, primarily at agricultural production facilities, the grain market and its products, to counter offenses in storing grain of the Agrarian Fund and theft budgetary funds in the implementation of programs to support the development of agricultural enterprises. Work also continues in the direction of developing effective mechanisms for the protection of the domestic grain market, the identification of offenses in the alcohol and alcoholic beverage industries, as well as the consumer market of the country. The author highlights the problems of state and challenges that law enforcement agencies facing during the investigation and provides possible ways to overcome obstacles.*

**Keywords:** food security; threatening tendencies; agro-industrial complex; foreign investments; production.

**Problem statement.** The main priorities for the development of the agrarian sector at the legislative level are determined to expand Ukraine's participation in providing the world market with agricultural products; ensuring food security of the state; prevent the irrational structure of exports, prevent the excessive export of raw materials; preventing the state's grain market from destabilization by powerful grain traders through anti-competitive concerted actions and discriminatory policies with respect to small and medium businesses [1].

However, in modern conditions, there is a threatening trend of monopolization of the domestic grain market by foreign companies whose goal is to prevent Ukraine from entering external agricultural markets and gradually turning it into an exporting country of raw materials, not finished products. Against the background of these processes, there is an intensification of activities of foreign structures and foreign companies that use their capabilities to undermine the food independence of the state and destabilize the grain market by introducing measures to the detriment of national interests in the agri-food sector, including preventing the development of our export potential of the state.

**Purpose of the article** is to consider negative factors and tendencies in the sphere of providing food security of Ukraine to determine effective ways to overcome them, taking into account the features of the export potential of the domestic agro-industrial complex (hereinafter – AIC).

**State of the research.** Food security is a system of stable food supply of all social groups of the population, households, regions and the state, which contributes to solving the food problem at the local, regional and national levels. Achieving an adequate level of food security involves the implementation of the following strategic priorities: maintaining food supply at a level sufficient for healthy and adequate nutrition of the population; rejection of food imported food dependency; guaranteed support of domestic agricultural producers; creation of proper economic conditions for the development of the domestic AIC; carrying out effective measures of agrarian policy; ensuring adequate food supplies through predominantly own production; promoting the use of advanced new technologies and production programs; processing and storage of food raw materials and food products; processing and storage of food raw materials and food products; improvement of the state mechanism for responding to emergency food situations and potential risks in the organized agricultural market.

**Presenting main material.** Unfortunately, today in the domestic AIC there are a number of trends and factors that adversely affect the development of the state food sector and its important components. In recent years there has been a revival of interest of foreign organizations and institutions to the AIC of Ukraine, primarily in the processes of reforming land and property relations in our country, where objects of processing industry, elevators and bread-processing enterprises cause the greatest interest of foreign structures.

The main activity of foreign missions and organizations in Ukraine remains the collection and compilation of data on financial and

economic indicators of the activities of various branches of Ukraine's agriculture to influence the agricultural market in order to further realize their own commercial interests. Consequently, Ukraine has become a «hostage» of the situation when some states seek to implement in the country a scenario of undermining the agrarian potential of our state by presenting the «best» credit offers on preferential terms.

Thus, in accordance with the provisions of the Resolution of the Cabinet of Ministers of Ukraine as of August 13, 2012 No. 857 «Issues of providing state guarantees in 2012 for financing projects in agriculture field» [2], state guarantees were provided to ensure the fulfillment of obligations for borrowing in the amount of 3 million USD to finance projects in the field of agriculture in the framework of meeting the requirements of the Memorandum of Understanding on cooperation in the realization of priority projects in the field of agriculture between Ukraine and the People's Republic of China (hereinafter – the PRC). That is why in 2012 in Beijing between the Ministry of Agrarian Policy and Food of Ukraine and the Export-Import Bank of the PRC a Memorandum of Cooperation was signed to support the priority agricultural projects of Ukraine. This document gave Ukraine the opportunity to attract funds in the amount of 3 billion UAH under state guarantees to finance projects in the agricultural sector. For the further implementation of the framework agreement initiated by the Ministry of Agrarian Policy and Food of Ukraine, a General Agreement on cooperation in the field of agriculture was concluded between the China Machinery Engineering Corporation (hereinafter – the CMEC) and the PAT «State Food and Grain Corporation of Ukraine» (hereinafter – PAT «SFGCU») [3, p. 123].

The agreements reached in accordance with the Memorandum stipulated that Ukraine would receive international investment. However, foreign investors set other goals. Thus, the PRC uses its own methods of undermining the agrarian economy of the state through the implementation of a project to provide a loan of 3 billion UAH at an overvalued interest rate, but in fact, simply seeks to eliminate Ukraine from the world grain market, since our country remains a powerful competitor in the agrarian sphere.

Another vivid example of the PRC's intervention in Ukraine's food security was the signing on October 24, 2012 of the General Agreement of Understanding on the implementation of priority agricultural projects for a period of 15 years under the guarantees of the Government of Ukraine between the CMEC and the PAT «SFGCU», under which the Export-Import Bank of China has

provided this enterprise with a loan in the amount of \$1,5 billion USD for the purchase of grain and industrial crops in Ukrainian agricultural producers for the further sale of these crops to the Chinese importer. This contract was concluded with the aim of attracting credit from PRC, increasing the volume of agricultural products and foodstuffs, facilitating Chinese investment in the agricultural sector and improving the financial capacity of agricultural producers, their technical re-equipment and development of transport logistics.

However, examining the contract in practical action, we understand that the main problem tendencies and factors were the systematic non-fulfillment of the conditions of the general contract for the supply of Ukrainian grain to the CMEC in specified volumes and the conclusion of contracts for the supply of grain to third countries without the agreement of the CMEC. These circumstances further led to repeated requests from the CMEC management in PAT «SFGCU» and holding negotiations with the Ministry of Agrarian Policy of Ukraine and the Cabinet of Ministers of Ukraine about breaking credit agreements and returning part of borrowed funds. In turn, this situation may lead to a complete halt of the economic activities of the state corporation and the emergence in Ukraine in the short term of actual obligations to repay the loan in the amount of 1,5 billion USD as a result of non-compliance with international obligations.

In the course of the study, a number of negative factors were identified that pose a threat to the implementation of the agreements reached and may lead to economic disbenefit to our country. In particular, the China CMEC is not an operator (trader) for the supply of grain to the Chinese market, since it does not provide quotas for their imports. So, the options for the volume and prices of agricultural products in the total amount of 4,2 million tons for the CMEC proposed by PAT «SFGCU» were not accepted by its leadership, which refused, under various pretexts, from direct grain exports to the PRC. The only legitimate option in this case could be the export of Ukrainian grain to other countries with the search for the end user among third countries, as well as attracting an investor, who would pay a 100 % prepayment to CMEC, but it is only PAT «SFGCU» that can engage in such a plan of exploration, while the SSSES can receive only 5% of the profits. The current situation with the forced absence of actual deliveries of Ukrainian grain to PRC, may further lead to a break in the acquired contractual relations, as well as cause other negative consequences, namely: suspension of the provision of credit funds; declaration to the PAT «SFGCU» of the principal amount with interest; enforcement of the CMEC requirements for state guarantees.

It should also be noted that the Resolution of the Cabinet of Ministers of Ukraine No. 432 of June 19, 2013 «On Amendments to Clause 3 of the Procedure and Conditions for Providing State Guarantees in 2012 to Finance Agricultural Projects» [4] allowed the Export-Import Bank of China (Eximbank) to write off funds from PAT «SFGCU» in the amount of 3 billion USD by the banking institution in case of non-fulfillment of credit obligations.

A variation of «solving» this situation should be the introduction of amendments to the Loan Agreement between Eximbank of China and PAT «SFGCU» as of December 26, 2012, No. BLA201201, on the possibility to sell (export) cereals to other leading Chinese grain trading companies that have corresponding import quotas. Also within the framework of the fulfillment of the commodity part of the contract, the management of the CMEC in 2013–2014 tried to impose on PAT «SFGCU» the import of Chinese plant protection products at a price 20–30 % more expensive than market prices in the PRC (including the cost of VAT – 17 % if purchasing goods through CMEC, and also 5 % profit of CMEC). Another problem arose in the unresolved issues between the CMEC and PAT «SFGCU» on the acquisition of corporate rights to the port elevator with credit funds, purchases of railway grain cars and the creation of a joint company.

In order to address these issues, at the expert level, meetings of the Subcommission on Agriculture Cooperation of the Government of Ukraine and the Government of the People's Republic of China under the auspices of the Ministry of Agrarian Policy of Ukraine are held annually. As part of the agreement, a preliminary decision was taken by Eximbank of China to initiate a reduction in the interest rate on a Chinese loan that serves PAT «SFGCU», as well as an agreement on comprehensive problem solving in matters of effective use of the loan and expanding the range of its application, in particular and production capacity of PAT «SFGCU» [5].

Thus, in November 2017, the delegation of PAT «SFGCU» made a working visit to the PRC and took part in the Subcommission on Trade and Economic Cooperation of the Commission for Cooperation between the Governments of Ukraine and the PRC and the Working Group on Investment in its composition, and also held a number of negotiations representatives of the Eximbank of China and the CMEC. During the visit, representatives of PAT «SFGCU» together with the leadership of the Debt Policy Department of the Ministry of Finance of Ukraine attended a meeting with the leadership of the Corporate Banking Department of Eximbank China, during which they worked out options for more efficient use of credit funds and possible means of alleviating the financial burden on PAT

«SFGCU». It should also be noted that on June 7, 2018, Ukraine and the PRC, as part of expanding cooperation, signed a Memorandum of Cooperation and the promotion of mutual trade in poultry meat.

In modern conditions PAT «SFGCU» remains a participant in the state program in the field of agriculture – the Memorandum of Understanding on cooperation in the implementation of priority projects in the field of agriculture, signed on June 28, 2012 by the Ministry of Agrarian Policy and Food of Ukraine with the Export-Import Bank of China. As part of the requirements of this Memorandum, a credit in the amount of UAH 24 billion is being spent (equivalent to 3 billion USD) under state guarantees. According to the terms of credit agreement, concluded by PAT «SFGCU» with the Eximbank of China, PAT «SFGCU» undertakes during the term of this agreement and for as long as the loan amount or any other amount remains unpaid, or any total amount of the obligation remains in effect, or any total amount of the obligation remains in force, PAT «SFGCU» will not reduce its share capital in any way.

It should be noted that during 2015–2017, economic courts reviewed 17 claims of prosecution authorities in the interests of the state (represented by the Cabinet of Ministers of Ukraine and/or the Ministry of Agrarian Policy) on the revocation of the certificate of ownership of property transferred to the authorized capital of PAT «SFGCU» and recognition of state ownership of the property. Along with this, the decisions of economic courts indicated the claims of the Prosecutor's Office satisfied and revoked certificates of ownership of PAT «SFGCU» for 17 property complexes (the value of non-current assets of which at the time of the audit amounted to about UAH 900 million). Today, PAT «SFGCU» appeals against these decisions in courts of various instances, including in the Supreme Court of Ukraine. Changing the legal regime of property transferred to the authorized capital of PAT «SFGCU» from ownership of economic management provides for a reduction in the authorized capital of PAT «SFGCU», which will lead to non-fulfillment of its obligations under the credit agreement. In the event of a default by PAT «SFGCU» of its obligations, the Lender, in accordance with the terms of this agreement, has the right to withdraw credit funds attracted by PAT «SFGCU» and appeal to the enforcement of its rights under the guarantee. In addition, today PAT «SFGCU» does not have enough assets to pay off the credit debt and accrued interest in the amount of UAH 40.3 billion.

Considering the above, according to the Guarantee Agreement as of December 27, 2012, concluded by the Cabinet of Ministers of Ukraine (Guarantor) with the Eximbank of the PRC, PAT «SFGCU»

unconditionally guarantees the Eximbank the timely fulfillment of its obligations under the credit. And if PAT «SFGCU» does not repay the credit debt, the Guarantor must pay the amount of the debt within 20 business days after receiving a written request from the Eximbank of China, and this amount is equal to UAH 40.3 billion. Unfortunately, such a development of events may lead to significant economic damage to the state and the subsequent bankruptcy of PAT «SFGCU».

**Conclusions.** Summarizing the above, it can be stated that the criminal power in Ukraine during 2012–2013, based on its own vested interests, offered our country unprofitable conditions for obtaining credit funds under state guarantees in favor of the Government of the PRC. The situation in this format remains rather critical, and its solution is possible in such variants.

The first option – since the state guarantee is provided for this credit, the state can repay the debt of PAT «SFGCU» to the CMEC, but then the exclusive conditions of the contract are lost, and the company must be sold. After all, if the company is not sold, it will need to be put up for privatization, but in this situation, the Chinese will be the first bidders for it, since from 2018 comes the annual repayment of the loan body in the amount of 150 million USD, and the company is not worth it even with all its assets and liabilities. Selling such a major player as PAT «SFGCU» for debts can have unpredictable consequences for the industry and damage the national interests in the agricultural sector.

The second option – acceleration of privatization of PAT «SFGCU» by 100 %. Thus, in May 2018, the Cabinet of Ministers of Ukraine approved the list of privatization objects for 2018, which included 26 enterprises, as well as PAT «SFGCU». But given the threatening nature of the development of the current situation with credit obligations to the PRC, the state canceled the privatization of PAT «SFGCU». In particular, on August 20, 2018, the State Property Fund of Ukraine canceled the decision on the privatization of the state-owned stake in the public joint-stock company State Food and Grain Corporation of Ukraine (PAT «SFGCU»).

Thus, it can be stated that there are prerequisites for causing harm to the international image of Ukraine and significant economic losses to the state due to inadequate implementation by the Ukrainian side of the General Agreement of Understanding in the implementation of priority projects in agriculture. In addition, the China Investment Fund is concentrating large amounts of money for further investment in the agricultural sector of Ukraine, since China is

interested in gaining some control over significant areas of Ukrainian agricultural land. In this connection, the Chinese side, especially in the conditions of creating an organized agricultural land market, is trying to create dominant positions that will allow monitoring of land resources in the state and predicting Ukraine's role participation in the international market of agricultural products in the world.

Factors listed above only confirm the presence of threatening tendencies and destructive factors in the agrarian sector of the economy of Ukraine. So, there is every reason to state that the «Chinese credit» is sacrificial and unprofitable for Ukraine, which again clearly demonstrates the criminal activities of the Yanukovich regime and his team, who are mired in this fraud with credit loans guaranteed by the Government to the detriment of state interests, pursuing only the goal of their own enrichment.

The external negative factors should also include the activities of grain traders, which aim to:

- the creation of artificial obstacles in order to prevent domestic commodity producers from entering the world agrarian market, which is expressed in blocking export potential and discriminatory policies with regard to domestic agricultural producers;
- since the latter are potential competitors in the production and sale of grain crops to world food markets;
- agricultural holdings acquired by foreign business entities with the aim of obtaining for operational management significant amounts of agricultural land and a granary and processing enterprises;
- direction of the foreign organizations and the Chinese institutions to introduce in our country unprofitable project for Ukraine and the provision of credits on unfavorable terms, contributes to the direct harm to the food security of the state.

As a conclusion, the foreign presence in Ukraine is enhanced by the introduction of unfavorable Ukrainian-Chinese long-term projects in the agricultural sector, the implementation of which leads to harm the domestic economy and leads to financial dependence of the country from foreign investors, which contradicts the interests of domestic producers.

In order to increase the effectiveness of countering real and potential threats to food security, the following measures are proposed:

- law enforcement agencies to use all possibilities to prevent interference in internal affairs of Ukraine by foreign states and organizations, and especially the PRC, in the implementation of international projects and programs in the field of AIC;



- find out the facts of the theft of the «Chinese credit» by officials of PAT «SFGCU» for the possibility of paying off debts to the Chinese side;
- intensify the activities of the state in the direction of detection, prevention and suppression of misuse and theft of credit funds allocated under government guarantees for the implementation of projects in the agrarian sector;
- identify and localize illegal mechanisms leading to the theft and inefficient use of budget funds allocated for the development of the main branches of the agro-industrial sector, especially those allocated by the state for the maintenance of PAT «SFGCU».

#### REFERENCES

1. Stratehiia rozvytku ahrarnoho sektoru ekonomiky na period do 2020 roku [The development strategy of the agricultural sector of the economy until 2020]. (2013). *Uriadovyi kurier, Governmental Courier*, 215 [in Ukrainian].
2. Postanova Kabinetu Ministriv Ukrainy "Pytannia nadannia u 2012 rotsi derzhavnykh harantii dlia finansuvannia proektiv u sferi silskoho hospodarstva": vid 13 serp. 2012. No. 857 [Resolution of the Cabinet of Ministers of Ukrain "Issues of the provision in 2012 of state guarantees to finance projects in the field of agriculture" from August 13, 2012, No. 857]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/857-2012-%D0%BF> [in Ukrainian].
3. Obushna, N.I. (2013). Osoblyvosti formuvannia zernoproduktovoho klastera v Ukraini v ramkakh realizatsii mizhnarodnoho investytsiinoho proektu [Features of the formation of grain products of the cluster in Ukraine as part of an international investment project]. *Formuvannia rynkovykh vidnosyn v Ukraini, Formation of market relations in Ukraine*, 4, 196-201 [in Ukrainian].
4. Postanova Kabinetu Ministriv Ukrainy "Pro vnesennia zmin do punktu 3 Poriadku ta umov nadannia u 2012 rotsi derzhavnykh harantii dlia finansuvannia proektiv u sferi silskoho hospodarstva": vid 19 lyp. 2013 r. No. 432 [Resolution of the Cabinet of Ministers of Ukraine "On Amendments to Clause 3 of the Procedure and Conditions for Granting State Guarantees for the Financing of Agricultural Projects in 2012 from June 19, 2013, No. 432]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/432-2013-%D0%BF> [in Ukrainian].
5. Eksimbank Kytau rozhliane pytannia pro znyzhennia vidsotkovoi stavky za kytaiskym kredytom dlia PAT "Derzhavna prodovolcho-zernova korporaciia Ukrainy" (PAT "SFGCU"): vid 18 serp. 2017 r. [Eximbank of China will consider the issue of lowering the interest rate on Chinese loans for PJSC "State Food and Grain Corporation of Ukraine" (PAT "SFGCU") from August 18, 2017]. (n.d.). *agravery.com*. Retrieved from <http://agravery.com/uk/posts/show/eksimbank-kitau-rozgliane-pitanna-pro-znizenna-vidsotkovoi-stavky-za-kredytom-dla-dpzk> [in Ukrainian].

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## **Сучасні загрозливі тенденції у сфері забезпечення продовольчої безпеки держави та шляхи їх подолання**

*Стратегія національної безпеки України серед актуальних загроз національній безпеці України визначає економічну кризу, виснаження державних фінансових ресурсів та зниження рівня життя населення. Однією з причин виникнення таких загроз є високий рівень «мінізації» та криміналізація національної економіки. У цих умовах проблема продовольчої безпеки безпосередньо пов'язана з недостатнім рівнем продовольчої безпеки, що забезпечується державою за рахунок власних ресурсів. Підкреслюється, що організаційні та правові та соціально-економічні механізми забезпечення продовольчої безпеки у багатьох країнах світу встановлені у відповідних нормативно-правових актах, інтегрованих програмах, концепціях і стратегіях, положення яких визначається умовами для функціонування економіки країни та окремих її галузей, у тому числі і харчової промисловості. Водночас, на постійній основі Україна продовжує реформувати національну правоохоронну систему. Згідно з вищенаведеним, автор зазначає, що функціональне завдання захисту економічного потенціалу країни, зокрема забезпечення економічної безпеки, важливою складовою якої є продовольча безпека, покладається на органи влади та підрозділи Служби безпеки України. Україна. Як ми дізналися в ході дослідження, Служба безпеки України, зокрема, вживає заходів щодо протидії економічним злочинам в агропромисловому секторі, насамперед на аграрному виробництві, ринку зерна та його продукції, для протидії злочинам у зберіганні зерна. Аграрний фонд і крадіжки бюджетних коштів у реалізації програм підтримки розвитку сільськогосподарських підприємств. Продовжується також робота в напрямку розробки ефективних механізмів захисту вітчизняного зернового ринку, виявлення правопорушень в алкогольній та алкогольній промисловості, а також споживчого ринку країни. Автор висвітлює проблеми держави та виклики, з якими стикаються правоохоронні органи під час розслідування, та надає можливі шляхи подолання перешкод.*

**Ключові слова:** продовольча безпека; загрозливі тенденції; агропромисловий комплекс; іноземні інвестиції; виробництво.