EXHIBIT 1

UKRAINE

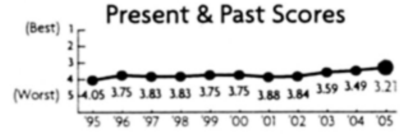
UKRAINE

Rank: 88

Score: 3.21

Category: Mostly Unfree

Present & Past Scores



QUICK STUDY

SCORES

Trade Policy	3
Fiscal Burden	2.6
Government Intervention	2.5
Monetary Policy	2
Foreign Investment	4
Banking and Finance	3
Wages and Prices	3
Property Rights	4
Regulation	4
Informal Market	4

Population: 48,717,000

Total area: 603,700 sq. km

GDP: $49.9 billion

GDP growth rate: 4.8%

GDP per capita: $1,023

Major exports: metals, minerals, electronics, chemicals, vegetables

Exports of goods and services: $28.1 billion

Major export trading partners: Russia 17.1%, Italy 6.6%, Turkey 4.4%, Germany 4.0%, China 2.8%

Major imports: minerals, electronics, transport equipment, metals

Imports of goods and services: $25.8 billion

Major import trading partners: Russia 35.2%, Turkmenistan 10.5%, Germany 9.2%, Poland 3.0%, US 2.6%

Foreign direct investment (net): $618 million

2002 Data (in constant 1995 US dollars)

Ukraine's political system was gripped last fall by the struggle to succeed President Leonid Kuchma, who has ruled since 1995. Kuchma's term expired in October 2004, and instead of standing for re-election, he was expected to try to secure constitutional amendments leaving his parliamentary supporters with a greater share of governing power than they previously possessed. The result would have been to undermine the moderate progress that Ukraine has made in economic reform and further aggravate pervasive government corruption and mismanagement. This would affect a number of important sectors, including energy and telecommunications, scheduled for privatization in 2004. Ukraine depends almost entirely on energy imports from Russia. High oil prices and delays in the completion of the Odessa–Brody oil pipeline could hurt the economic expansion Ukraine has been experiencing in recent years. Tax rates have been cut, flat rates have been adopted, and wages are growing. Steel, which accounts for 30 percent of export revenue, has benefited from the rising world price and aids further economic expansion. Ukraine's fiscal burden of government score is 1.3 point better this year; in addition, its government intervention score is 0.5 point better, and its monetary policy score is 1 point better. As a result, Ukraine's overall score is 0.28 point better this year.

TRADE POLICY

Score: **3–Stable** (moderate level of protectionism)

According to the World Bank, Ukraine's weighted average tariff rate in 2002 (the most recent year for which World Bank data are available) was 4.4 percent. Non-tariff barriers include non-transparent standards, cumbersome procedures for phytosanitary certification, and import licenses.

FISCAL BURDEN OF GOVERNMENT

Score—Income Taxation: **1.5–Better** (low tax rates)

Score—Corporate Taxation: **3–Better** (moderate tax rates)

Score—Change in Government Expenditures: **3–Better** (very low decrease)

Final Score: **2.6–Better** (moderate cost of government)

Ukraine is cutting taxes, replacing its progressive tax system with a flat tax. The top income tax rate is 13 percent, down from the 40 percent reported in the 2004 *Index*. The top corporate tax rate is 25 percent, down from the 30 percent reported in the 2004 *Index*. In 2002, based on data from the Economist Intelligence Unit, government expenditures as a share of GDP decreased by 0.4 percentage point to 26.8 percent, compared to a 0.2 percentage point increase in 2001. On net, Ukraine's fiscal burden of government score is 1.3 point better this year.

GOVERNMENT INTERVENTION IN THE ECONOMY

Score: **2.5–Better** (moderate level)

The World Bank reports that the government consumed 20.4 percent of GDP in 2002. In the same year, according to the International Monetary Fund, Ukraine received 4.07 percent of its total revenues from state-owned enterprises and government ownership of property, down from the 9.62 percent reported in the 2004 *Index*. As a result, Ukraine's government intervention score is 0.5 point better this year.

MONETARY POLICY
Score: 2–Better (low level of inflation)

From 1994 to 2003, Ukraine's weighted average annual rate of inflation was 5.91 percent, down from 7.52 percent from 1993 to 2002. As a result, Ukraine's monetary policy score is 1 point better this year.

CAPITAL FLOWS AND FOREIGN INVESTMENT
Score: 4–Stable (high barriers)

Although foreign investment in most types of businesses is permitted, it is impeded by a number of formal and informal barriers. According to the U.S. Department of Commerce, legislation passed in October 2001 "places a 20-year moratorium on land sales to foreigners, although foreigners are permitted to own land plots on which company facilities have been built." Apart from the general lack of transparency in Ukraine's privatization program, foreign investors may participate only in the privatization of "strategic" sectors, which include radio, television, and insurance. Foreign equity shares in television, radio, and publishing companies are restricted to 30 percent. According to the Economist Intelligence Unit, "The major stumbling blocks to greater investment have been Ukraine's high levels of corruption and contradictory regulatory and legal regimes...." The International Monetary Fund reports that resident and non-resident foreign exchange accounts are subject to restrictions. Payments and transfers are subject to various licensing requirements and quantitative limits. Some capital transactions, including credit operations, are subject to controls and licenses.

BANKING AND FINANCE
Score: 3–Stable (moderate level of restrictions)

Ukraine's banking sector is weak and undeveloped. According to the Economist Intelligence Unit, "All parts of the sector—including banks, non-bank financial institutions and the securities market—are still largely underdeveloped and suffer from insufficient capital, an unsatisfactory legal infrastructure and limited investment opportunities." A January 2002 law "On Banks and Banking Activity" ended discrimination against foreign banks. "Foreign licensed banks may carry out all the same activities as domestic banks," reports the U.S. Department of Commerce, "and there is no ceiling on their participation in the banking system." The government owns two banks and subsidizes loans to the agricultural sector. The Financial Action Task Force, an anti–money-laundering watchdog organization, has kept Ukraine on its list of countries that are not doing enough to combat money laundering.

WAGES AND PRICES
Score: 3–Stable (moderate level of intervention)

The government controls some prices. According to the U.S. Department of Commerce, "The cabinet of Ministers of Ukraine has price-setting authority with products, goods, and services in certain sectors. These lists include basic tariffs (e.g., electricity, telecommunications, transportation, utilities), and some crucial products such as sugar, grain, gas, oil, etc. Government regulated prices and tariffs may change as a result of changes in production and sale conditions." Ukraine has a minimum wage.

PROPERTY RIGHTS
Score: 4–Stable (low level of protection)

Protection of property is weak. Ukraine's "Constitution provides for an independent judiciary," reports the U.S. Department of State; "however, in practice, the judiciary is subject to considerable political interference from the executive branch and also suffers from corruption and inefficiency." According to the U.S. Department of Commerce, "Organized crime is alleged to influence court decisions." The Economist Intelligence Unit reports that "the institutional capacity of the state and the judiciary is too weak to combat organised crime effectively. Organised crime and domestic vested interests pose a significant threat to foreign investors who become involved in those areas of the local economy that are considered to be protected."

REGULATION
Score: 4–Stable (high level)

The U.S. Department of Commerce reports that "private investment (including U.S. investment) is greatly hampered by rampant corruption, overregulation, lack of transparency, high business taxes, and inconsistent application of local law.... The bureaucratic procedures for obtaining various permits, licenses, etc., are complex and unpredictable, burdensome and duplicative; they create confusion, significantly raise the cost of doing business in Ukraine, provide opportunities for corruption, and drive much activity into the burgeoning 'shadow' economy." According to the Economist Intelligence Unit, "Corruption among public-sector officials stems from the low level of wages and the high level of bureaucracy, which has resulted in pervasive bribery...."

INFORMAL MARKET
Score: 4–Stable (high level of activity)

Transparency International's 2003 score for Ukraine is 2.3. Therefore, Ukraine's informal market score is 4 this year.

EXHIBIT 2

Nations in Transit 2004
UKRAINE*

NIT Ratings	1997	1998	1999	2001	2002	2003	2004
Electoral Process	3.25	3.50	3.50	4.00	4.50	4.00	**4.25**
Civil Society	4.00	4.25	4.00	3.75	3.75	3.50	**3.75**
Independent Media	4.50	4.75	5.00	5.25	5.50	5.50	**5.50**
Governance	4.50	4.75	4.75	4.75	5.00	5.00	**5.25**
Constitutional, Legislative, and Judicial Framework	3.75	4.00	4.50	4.50	4.75	4.50	**4.75**
Corruption	NA	NA	6.00	6.00	6.00	5.75	**5.75**

EXECUTIVE SUMMARY

After gaining independence in 1991, Ukraine became the first country in the Commonwealth of Independent States to democratically transfer power to a newly elected Parliament and president in 1994. The 1996 Constitution guaranteed basic political and civil rights and reflected a compromise between the president, Leonid Kuchma, and the Parliament. Most of the country's former command economy has been privatized, but a system of oligarchic clans dependent on Kuchma has emerged. Kuchma's tendency toward authoritarianism has only increased since his reelection in 1999, and in fall 2000 the "tapegate scandal," involving audiotapes allegedly recorded in President Kuchma's office, highlighted the regime's unlawful treatment of the opposition and the press. Since 2000, Ukraine has enjoyed considerable growth in gross domestic product (averaging about 7 percent annually), owing, to a considerable extent, to policies pursued

* *Olexiy Haran is director of the School for Policy Analysis at the University of Kyiv-Mohyla Academy. Rostyslav Pavlenko is director of programs. They were assisted in the preparation of this report by Serhiy Kyseliov.*

NOTE: Nations in Transit ratings are based on a scale of 1 to 7, with 1 representing the highest level and 7 representing the lowest level of democratic development. The 2004 ratings reflect the period January 1 through December 31, 2003. The ratings reflect the consensus of Freedom House, its academic advisors, and the author of this report. The opinions expressed in this report are those of the author.

EXHIBIT 3

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Kyiv must build investors' trust in Ukraine's pricing policy, EU says

May 18, 2005 07:49 PM

Anatoliy Kinakh, Ukraine's First Vice Prime Minister, in Brussels to discuss Ukrainian issues with EU Trade Commissioner Peter Mandelson is of the opinion that the level of confidence between the EU and Ukraine must be employed for the creation of favorable conditions for Ukraine's integration in the European economic and political space, which would require a concentration of political will and economic resources.

KYIV, May 18 (Interfax-Ukraine) - The European Union says that Ukraine must pursue her pricing policy so that investors' trust increases.

This idea was put forward during a meeting in Brussels between Ukraine's First Vice Prime Minister, President of the Ukrainian League of Industrialists and Entrepreneurs (ULIE) Anatoliy Kinakh and EU Trade Commissioner Peter Mandelson.

The participants in the meeting discussed the issue of granting Ukraine a free market economy country status. According to Kinakh, the European Union is somewhat concerned that the methods of manual economic management, including administrative methods, have strengthened in Ukraine lately, as well as the authorities' influence on price formation.

In Kinakh's opinion, the level of confidence between the EU and Ukraine must be employed for the creation of favorable conditions for Ukraine's integration in the European economic and political space, which would require a concentration of political will and economic resources.

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RATES

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EXHIBIT 4

Ukraine

Ukraine at a glance: 2005-06

OVERVIEW

Viktor Yushchenko's victory in the presidential election in late 2004 has already begun translating into greater political openness and faster economic reform. However, the transition from the old regime will not be smooth, and the 2006 parliamentary election will distract attention from the government's programme. Moreover, vested interests in parliament will try to slow the progress of reforms, and many of Mr Yushchenko's powers will pass to parliament once the recently approved constitutional amendments are implemented, which must happen by the start of 2006 at the latest. The Economist Intelligence Unit expects real GDP growth to decelerate to 7% in 2005 and to 6% in 2006. Year-end inflation is forecast to slow to 7.5% by 2006. The currency will remain broadly stable in nominal terms against the US dollar in 2005-06. The current-account surplus reached a record high in 2004, but will decline in 2005-06 as export growth diminishes.

Key changes from last month

Political outlook

- Despite lingering rivalries among key Yushchenko allies, which will on occasion distract attention from key policy tasks, the new government is still expected to achieve an acceleration in political and economic reforms.

Economic policy outlook

- Recent amendments to the 2005 budget have increased expenditure even more than expected, but have reduced the deficit target through an even sharper increase in planned revenue. We expect the government to meet its HRN7.1bn (US$1.3bn) deficit target, but the optimistic revenue assumptions represent a significant risk.

Economic forecast

- Following a stronger than expected slowdown in January-February, we have lowered our full-year real GDP growth forecast for 2005 from 7.5% to 7%. The hryvnya is still expected to remain broadly stable against the US currency, despite the April 1st decision to abolish a requirement that 50% of export earnings be converted.

April 2005

The Economist Intelligence Unit
15 Regent St, London SW1Y 4LR
United Kingdom

Although the National Bank of Ukraine (NBU, the central bank) has itself experienced significant personnel changes, most of these merely brought back managers who had occupied similar positions at the bank in the past. The NBU's new governor, Volodymyr Stelmakh, had already occupied the same position up until 2002, and has brought back some of his former colleagues. These include the new deputy governor, Serhy Yaremenko, who had headed the bank's currency regulation department for much of the previous ten years before resigning in mid-2004.

Mr Yaremenko plays a key role in setting the NBU's foreign-exchange policies, and recent government statements have fuelled speculation about a possible revaluation of the hryvnya. Although the NBU is officially still committed to the goal of maintaining currency stability against the US dollar, Mr Stelmakh has acknowledged that the NBU's foreign-exchange policy might increasingly need to be subordinated to the task of containing inflation. He has also suggested that the bank might focus less than in the past on the need to limit the currency's real strengthening. Finally, Mr Stelmakh has recently publicly dismissed the argument that further strengthening of the hryvnya will weaken export competitiveness, and has indicated that the NBU's inflationary targets will be decisive in shaping the extent to which the currency will be permitted to strengthen.

Foreign currency sale requirement is abolished

The recent decision to cancel a long-standing requirement that exporters sell 50% of their foreign-currency earnings does not mean that the government is now in favour of keeping the currency weak. The decision was taken by the NBU in early April, after negotiations with the government, but is unlikely to have any significant effect on the exchange rate. The surrender requirement had been imposed at the height of the currency crisis sparked by the Russian rouble's devaluation in 1998, and had long outlived its initial function, given increasingly large inflows of export-related foreign currency.

Main economic policy indicators

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Consolidated budget revenue (HRN m)												
2003	3,386	3,854	4,202	4,452	4,640	4,052	4,490	5,459	4,856	4,570	5,271	5,845
2004	3,411	4,485	4,958	5,205	5,119	5,559	7,036	6,895	5,983	6,103	6,712	8,808
2005	5,116	6,739	-	-	-	-	-	-	-	-	-	-
Consolidated budget expenditure (HRN m)												
2003	2,180	3,272	4,647	4,175	3,775	4,845	4,311	4,771	4,990	5,027	4,908	9,300
2004	2,595	4,498	5,583	5,631	4,441	6,179	6,768	7,035	8,841	8,793	7,947	11,072
2005	4,558	6,271	-	-	-	-	-	-	-	-	-	-
Consolidated budget balance (HRN m)												
2003	1,206	583	-445	277	864	-793	180	688	-134	-457	362	-3,455
2004	816	-13	-625	-425	679	-620	268	-139	-2,858	-2,690	-1,235	-2,264
2005	558	469	-	-	-	-	-	-	-	-	-	-
Exchange rate (av; HRN:US$)												
2003	5.333	5.334	5.335	5.334	5.333	5.333	5.332	5.332	5.332	5.332	5.332	5.332
2004	5.331	5.331	5.330	5.329	5.327	5.322	5.318	5.314	5.310	5.307	5.306	5.306
2005	5.305	-	-	-	-	-	-	-	-	-	-	-
Real effective exchange-rate index (CPI-based; Dec 1997=100)												
2002	76.0	75.3	74.1	74.1	72.3	69.1	66.5	66.9	66.8	67.1	67.1	66.6
2003	65.8	65.5	65.7	66.0	63.2	62.9	64.0	63.7	63.5	62.5	63.7	62.4
2004	62.2	62.1	63.3	64.4	64.7	64.5	64.2	64.5	65.1	65.3	64.6	64.7

Balance of payments
(US$ m)

	2003					2004				
	1 Qtr	2 Qtr	3 Qtr	4 Qtr	Total	1 Qtr	2 Qtr	3 Qtr	4 Qtr	Total
Exports of goods fob	5,081	5,534	6,183	6,941	23,739	7,317	8,539	8,512	9,064	33,432
Imports of goods fob	-4,553	-5,396	-6,177	-7,095	-23,221	-6,384	-6,987	-7,738	-8,582	-29,691
Trade balance	**528**	**138**	**6**	**-154**	**518**	**933**	**1,552**	**774**	**482**	**3,741**
Exports of services	1,201	1,254	1,291	1,468	5,214	1,466	1,494	1,629	1,698	6,287
Imports of services	-1033	-1035	-1090	-1,286	-4,444	-1,134	-1,341	-1,252	-1,428	-5,155
Services balance	**168**	**219**	**201**	**182**	**770**	**332**	**153**	**377**	**270**	**1,132**
Income credit	49	55	71	79	254	96	84	112	97	389
Income debit	-169	-203	-180	-283	-835	-201	-255	-294	-284	-1,034
Income balance	**-120**	**-148**	**-109**	**-204**	**-581**	**-105**	**-171**	**-182**	**-187**	**-645**
Current transfers credit	511	544	589	626	2,270	495	778	740	658	2,671
Current transfers debit	-11	-18	-15	-42	-86	-20	-20	-20	-35	-95
Current transfers balance	**500**	**526**	**574**	**584**	**2,184**	**475**	**758**	**720**	**623**	**2,576**
Current-account balance	**1,076**	**735**	**672**	**408**	**2,891**	**1,635**	**2,292**	**1,689**	**1,188**	**6,804**
Capital account	0	-13	-1	-3	-17	1	2	4	0	7
Financial account	-1,622	-480	-337	518	-1,921	-1,616	-2,323	-1,622	-1,212	-6,773
Direct investment	238	454	390	329	1,411	333	614	420	344	1,711
Portfolio investment	-825	640	-444	-293	-922	60	-406	781	-511	-76
Other investment	-859	-159	200	453	-365	-970	-807	-383	-4022	-6,182
Reserves assets	-176	-1,415	-483	29	-2,045	-1,039	-1,724	-2,440	2,977	-2,226
Capital- & financial-account balance	**-1,622**	**-493**	**-338**	**515**	**-1,938**	**-1,615**	**-2,321**	**-1,618**	**-1,212**	**-6,766**
Errors & omissions	546	-242	-334	-923	-953	-20	29	-71	24	-38
Overall balance	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**

Source: National Bank of Ukraine.

The large current-account surplus was also helped—although to a far lesser degree—by a steady increase in the surplus on both transfers and services. Transfers are being driven up, at least in part, by the substantial remittances sent back from Ukrainians working abroad; services exports rose sharply with the help of a 10% increase in the volume of Russian gas shipments through Ukrainian pipelines, as well as an increase in earnings from rail, sea and air transport. Other services—including finance and communications—are still much less important in the Ukrainian context. Only the income balance, which remains the least significant part of Ukraine's current account, moved in the opposite direction, owing to rising debt-servicing costs.

FDI rose sharply in 2004 but is still comparatively low

Based on data from the State Committee of Statistics, net inflows of foreign direct investments (FDI) reached US$1.7bn in 2004, up from US$1.4bn the previous year. The total amount is still disappointing in comparison with most other countries in the region, and is still well below Ukraine's potential. The total FDI stock accumulated in the country since independence stood at under US$8.4bn as of January 2005, equal to only US$175 per head. This is up from US$140 one year earlier, but is still one of the lowest levels of FDI per head in the transition region.

The NBU's international reserves are recovering

After dipping sharply at the time of the presidential election crisis in late 2004—from over US$12bn to US$9.5bn between September and December 2004—the NBU's foreign reserves began to recover once the situation on the retail

EXHIBIT 5

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2005 2004 2003 2002 2001 2000 1999 1998 1997

Ukraine and the IMF

E-Mail Notification
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Public Information Notice (PIN) No. 05/7
January 24, 2005

International Monetary Fund
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Washington, D.C. 20431 USA

IMF Executive Board Concludes 2004 Article IV Consultation with Ukraine

Public Information Notices (PINs) are issued, (i) at the request of a member country, following the conclusion of the Article IV consultation for countries seeking to make known the views of the IMF to the public. This action is intended to strengthen IMF surveillance over the economic policies of member countries by increasing the transparency of the IMF's assessment of these policies; and (ii) following policy discussions in the Executive Board at the decision of the Board. The staff report (use the free Adobe Acrobat Reader to view this pdf file) for the 2004 Article IV consultation with Ukraine is also available.

On October 25, 2004, the Executive Board of the International Monetary Fund (IMF) concluded the Article IV consultation with Ukraine.[1]

Background

Six years after the 1998 financial crisis, Ukraine continues to recover strongly. In 2003 real GDP grew by 9.4 percent, despite a poor harvest and reached 13.5 percent through July 2004. Growth in 2003-04 has been prompted by favorable external demand, a competitive cost structure, and dynamic domestic demand. Export growth has averaged 25 percent (year-on-year) since end-2002, yielding a sizeable current account surplus and foreign reserve accumulation. Despite the strong growth, unemployment remains high at about 9 percent, according to International Labor Organization's definitions.

Inflation has been moderate, but strong upward pressures are emerging. From a low of -0.6 percent in December 2002, the 12-month Consumer Price Index (CPI) rate reached 8.2 percent in December 2003 and increased to 10.7 percent in September 2004. Producer Price Index (PPI) inflation was 23.2 percent in September 2004 reflecting mostly higher world prices for energy and metals. Even excluding these items, core PPI inflation exceeded 10 percent. Wages continue to grow strongly. In June 2004, the average nominal monthly wage for the entire economy was 26.3 percent above its level the previous year.

Fiscal policy remained prudent through mid-2004. The consolidated government cash deficit was 0.7 percent of GDP in 2003. Through end-June 2004, it amounted to 0.2 percent of (annual) GDP versus an end-June adjusted program ceiling of 0.9 percent. However, the outturn reflects an accumulation of VAT refund arrears; had the programmed reduction occurred, the deficit would have been one percent of GDP. Indeed, general problems with VAT administration contributed to an overall drop in the revenue/GDP ratio, and led the president to replace senior management in the State Tax Administration in June. In the run-up to the presidential elections, the government approved an increase in the minimum monthly pension from Hrv 130 ($25) to Hrv 284.6 ($54), effective retroactively, September 1, 2004. This increase—which follows two earlier sizeable increases in the year—boosts the monthly pension bill by 36 percent for the remaining four months of the year, raising government expenditure by about 1¼ and three percent of GDP in 2004 and 2005, respectively. As a result, the draft 2005 budget, which was submitted to parliament in mid-September and targeted a consolidated budget deficit of 1.8 percent of GDP, is now obsolete. Provisional data show that this year fiscal deficit has increased to 1½ percent of GDP as of end-September.

In the context of a de facto peg to the dollar, strong money growth has until very recently been consistent with single-digit inflation, amid continued remonetization and a modest monetary policy tightening. In the first part of 2004, a large build-up of government deposits helped moderate base-money growth, despite the National Bank of Ukraine's (NBU) pronounced interventions in the foreign exchange market that led to strong NIR accumulation. Starting in May, the NBU has tightened monetary policy, including by issuing Certificates of Deposit (CDs) (although in low volumes) and raising reserve requirements. The discount rate was raised again by 50 basis points to eight percent in early October.

Competitiveness remains strong. In the 12 months to June 2004, the real effective exchange rate depreciated by four percent, reflecting mainly Ukraine's low inflation vis-à-vis Russia, and the strengthening euro. Average wages remain less than half Russia's wages.

Despite the NBU's ongoing steps to strengthen prudential regulation and banking supervision, credit expansion and credit quality remain a concern. The credit-to-GDP ratio stands at 29.5 percent compared to 12.4 percent in 2000. While credit expansion has decelerated since early 2004, loans have increased to about two-thirds of bank assets. Nonperforming loans classified by past due criteria are estimated at eight percent of total loans.

There has been progress in the structural reform agenda, but tax administration should improve. Income taxes have been cut and the tax base broadened by eliminating some exemptions, the pension system reformed, and collection ratios in the energy sector have improved. However, several actions under program conditionality—concerning related-party lending, tax preferences and exemptions, and VAT refund arrears—have not been completed.

Executive Board Assessment

Directors noted that the impressive macroeconomic developments over the last few years—fast growth, declining inflation and strong external position—owed much to the prudent macroeconomic and structural reform policies followed until recently. They expressed concern, however, about the fiscal expansion underway in the context of an already rapidly growing economy, and stressed the need to return to a more prudent fiscal stance. Moreover, structural policies needed to be stepped up to raise sustainable growth over the medium term. In this context, Directors regretted that the review of the Stand-By Arrangement could not be completed as scheduled.

Directors welcomed several positive features of Ukraine's recent macroeconomic performance. Growth has been booming, the external current account surplus has reached record levels, market confidence has improved, and, accordingly, official international reserves have increased considerably. However, Directors noted that capacity bottlenecks were now emerging, strong foreign exchange inflows continued to fuel domestic liquidity, and fiscal discipline was increasingly being undermined, pushing inflation up to double digits. They stressed that the overheating pressures and the fact that current activity was largely supported by the external sector, while banks' portfolios had expanded significantly, were reminders that the economy remained vulnerable to shocks.

In this context, Directors felt that the loosening of fiscal policy in 2004 increased the risks of overheating. They noted that, although the surge in the deficit this year was largely financed through higher-than-expected privatization proceeds, the significant increases in recurrent government spending, particularly pensions, compromised the 2005 budget and placed public finances on a less firm footing. Moreover, they emphasized that resources from the sale of public assets would be better used to retire existing debt so as to build room against future contingencies and for the sizable medium-term public spending needs, including in infrastructure.

Directors, noting that fiscal discipline had served Ukraine well in the past, urged the authorities to take prompt corrective measures to restore a sound fiscal outlook and to avoid a sizable slippage with respect to the original fiscal target for 2004—a consolidated budget deficit of 1¾ percent of GDP. A large correction was also needed to achieve the consolidated budget deficit envisaged in the draft 2005 budget of 1¾ percent of GDP.

Directors encouraged expenditure prioritization through further development of a medium-term budget framework, but cautioned against hasty tax rate reductions before the tax base was broadened and tax administration strengthened. While welcoming the recent sharp reduction in VAT refund arrears, Directors remained cautious on whether the good performance will be sustained, and saw significant scope for further improving VAT administration.

Directors noted that the real exchange rate would be subject to appreciation pressures in the medium term, and, given the choice between inflation and nominal appreciation in realizing this appreciation, they considered a move toward a more flexible exchange rate regime more beneficial to Ukraine. In this respect, Directors felt that the de facto peg to the U.S. dollar was now exacerbating the challenge for the NBU to achieve its inflation objective. It also contributed to a distorted saving-investment position and provided an implicit exchange rate guarantee, with attendant risks for the financial stability of the private sector as a whole. Many Directors referred to the vulnerability of the banking system, observed the need for appropriate sequencing, and suggested that the pace of movement toward flexibility should be left to the judgment of the authorities.

While welcoming the NBU's increasing efforts to drain liquidity, Directors noted that monetary conditions remained too loose to ensure attainment of the original inflation objective in 2004 and beyond. In the face of additional government spending, mounting inflationary pressures and absent greater exchange rate flexibility, Directors felt that the NBU should tighten monetary policy further to achieve its objective of bringing inflation back to single digits.

Directors commended the NBU on the continued progress in strengthening prudential banking regulation and supervision. The various actions taken to improve the monitoring of credit growth and of the adequacy of banks' capital and risk management practices were welcome. However, they regretted that the draft amendments to the Banking Act, which would allow identification of bank owners and tighten related-party lending, had not yet been adopted by parliament. While stressing the need to continue addressing the banking sector's vulnerabilities, Directors encouraged the authorities to raise the minimum capital adequacy ratio to 12 percent, to contain risk from foreign currency loans, and to adopt tighter accounting and reporting standards for corporations. They welcomed the inclusion of collective action clauses in Ukraine's 2004 Eurobond issues.

Directors agreed that sustaining high medium-term growth required a better investment climate. In this context, Directors noted that governance problems remained widespread, ranging from tax collection and public procurement to law enforcement and divestment of public assets. They regretted that, while privatization had recently accelerated, procedures remained nontransparent. Directors welcomed the recent fall in the energy sector quasi-fiscal deficit. They also advised prompt passage of important legislation, such as the energy debt restructuring law and the joint-stock company law; a reduction in the burden of licensing and inspection regimes; and a strengthening of the judiciary and of contract enforcement.

Directors noted that, while broadly adequate for surveillance, statistical data could be improved, particularly with regard to the national accounts and the balance of payments.

Ukraine: Selected Economic Indicators

	2000	2001	2002	2003 Est.	2004 Proj. 1/	2005 Proj. 2/

	(Percent change, unless indicated otherwise)					
Production and prices						
Nominal GDP (in billions of hryvnia)	170.1	204.2	225.8	264.2	332.0	387.1
Real GDP growth	5.9	9.2	5.2	9.4	12.5	6.0
Consumer price index (period average)	28.2	12.0	0.8	5.2	8.8	9.5
Consumer price index (end of period)	25.8	6.1	-0.6	8.2	11.0	7.0
	(In percent of GDP)					
Public finance						
Consolidated government budget balance, cash basis	-1.3	-1.6	0.5	-0.7	-4.6	-1.8
Primary balance	1.8	0.4	1.8	0.3	-3.6	-0.9
Revenue	33.4	33.5	36.0	37.0	35.6	35.7
Expenditure	34.7	35.1	35.5	37.7	40.2	37.5
Public debt and arrears (in percent of GDP)	47.0	38.6	35.7	30.3	26.9	21.8
	(Percent change, unless indicated otherwise)					
Money and credit						
Base money	40.1	37.4	33.6	30.1	50.5	21.4
Broad money	45.5	41.9	41.8	46.5	45.3	27.5
Credit to nongovernment	61.3	40.5	47.3	63.4	31.3	28.4
Velocity (annual GDP divided by end of period broad money)	5.3	4.5	3.5	2.8	2.4	2.2
External sector						
Current account balance (in percent of GDP)	4.7	3.7	7.5	5.8	10.2	4.1
External public debt (in percent of GDP)	33.1	26.6	24.0	21.9	19.0	15.1
Debt service (in percent of exports of goods and services)	10.4	8.7	5.7	6.3	4.8	5.2
Terms of trade (annual change in percent)	-8.2	1.3	1.6	8.6	13.0	-6.1
Gross reserves (end of period, in months of next year's imports of goods and services)	0.9	1.7	1.9	2.4	3.8	3.9

Sources: Ukrainian authorities; and IMF Staff estimates and projections.

1/ Fiscal deficit assumes pension increase and execution of the amended budget.
2/ Assumes a fiscal deficit limited to that envisaged under the draft budget submitted to parliament in September.

[1] Under Article IV of the IMF's Articles of Agreement, the IMF holds bilateral discussions with members, usually every year. A staff team visits the country, collects economic and financial information, and discusses with officials the country's economic developments and policies. On return to headquarters, the staff prepares a report, which forms the basis for discussion by the Executive Board. At the conclusion of the discussion, the Managing Director, as Chairman of the Board, summarizes the views of Executive Directors, and this summary is transmitted to the country's authorities.

IMF EXTERNAL RELATIONS DEPARTMENT
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EXHIBIT 6

The Law of Ukraine

On Remuneration of Labor

As amended by the Laws of Ukraine
N 20/97-VR of January 23, 1997,
N 1766-III of June 1, 2000,
N 2056-III of October 19, 2000,
N 96-IV of July 11, 2002,
N 1086-IV of July 10, 2003,
N 1096-IV of July 10, 2003,
N 2103-IV of October 21, 2004
(From January 1, 2006 this Law will be amended according
to the Law of Ukraine N 2190-IV of November 18, 2004)

This Law defines economic, legal and organizational principles of remuneration of labor of the employees who are in labor relations on the basis of labor agreement with enterprises, institutions and organizations of all ownership forms and economic activity (hereinafter enterprises), as well as with separate citizens and spheres of state, as well as contractual regulation of remuneration of labor. The Law is aimed at ensuring reproductive and incentive functions of salary.

<...>

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The Law of Ukraine

On Remuneration of Labor

Date of Entry into Force:
May 1, 1995

he Law of Ukraine "On Remuneration of Labor" defines economic, legal and organizational principles of remuneration of labor. It shall apply to ıe employees who are in labor relations on the basis of labor agreement with enterprises, institutions and organizations of all ownership forms ıd economic activity (hereinafter enterprises), as well as with separate citizens.

alary is the remuneration, which, pursuant to labor agreement, is paid by the owner to the employee for performed work. As a rule, it has ıonetary form. Amount of salary depends on complexity and conditions of work, the employee's professional business skills and economic ctivity of the enterprise.

he salary structure is as follows:

asic (is set in the form of tariff rates (salary scales) and rates for employees and official salary for non-manual workers);

dditional (includes additional payments, increases, guarantee and compensation payments; premiums related to performance of production tasks nd functions);

ther incentive and compensation payments (includes payments in the form of rewards by the results of work per year, premiums according to pecial systems and provisions, compensation and other monetary and material payments, which are not envisaged by the acts of current egislation, or which are paid over the norms set by the above acts).

ıt the same time, the Law sets minimum salary - a social guarantee, which is obligatory for the enterprises of all ownership forms. It means that, f the salary calculated for the employee, who had performed monthly (hourly) labor norm, is lower than the set amount of minimum salary, the nterprise shall calculate additional payment to reach its level.

The amount of minimum salary is set by the Verkhovna Rada of Ukraine upon submission of the Cabinet of Ministers of Ukraine, as a rule, one ime per year at the time when the Law of Ukraine on the State Budget of Ukraine is being approved.

The source of funds for remuneration of labor of the employees of:

nterprises shall be part of income and other funds obtained as a result of their economic activity;

tate-financed institutions and organizations shall be the funds which are allocated from the respective budgets, as well as part of income obtained is a result of economic activity and other sources:

ıssociations of citizens shall be the funds which are formed according to their statutes.

The basis of remuneration of labor shall be tariff system which includes:

ariff scales;

ariff rates;

official salaries schemes;

tariff qualification characteristics (reference books).

Remuneration of labor norms and guarantees for the employees, as well as guarantees and compensations to the employees in case of movement to work to other locality, business trips, work in field conditions, etc. are set by the Labor Code of Ukraine and other legislative acts of Ukraine.

Remuneration of labor of the employees of enterprises shall be of primary importance. All other payments shall be conducted by the enterprise after it fulfills its duties regarding remuneration of labor.

Remuneration of labor of employees of state-financed institutions and organizations shall be conducted within the limits of budget allocations and other off-budget incomes.

Forms and systems of remuneration of labor, labor norms, tariff rates, tariff scales, schemes of official salary, conditions of introduction and amounts of additional payments, premiums, rewards and other incentive, compensation and guarantee payments shall be set by enterprises in collective agreement. In case if collective agreement on the enterprise was not concluded, the owner shall agree these questions with the trade union organization (trade union representative) and in case of his/her absence – with other authorized to representation body.

The Law also defines labor remuneration conditions for the employees, who:

perform works (render services) which are not incident to the activity of branch (sub-branch);

combine jobs;

work by contract.

Any decrease of labor remuneration rates depending on background, social and property state, race and national belonging, sex, language, political views, religious beliefs, membership in trade union or other association of citizens, type and nature of activities and place of residence shall be prohibited.

Salary shall be paid to the employees in banknotes that are legal tender within the territory of Ukraine. Payment of salary in the form of promissory notes, receipts or any other different form shall be prohibited. At the same time, as an exception collective agreement may provide for partial payment of salary in form in kind (for the prices not exceeding prime cost) in amount that does not exceed 50% of a monthly salary. The list of goods which shall not be provided instead of salary shall be set by the Cabinet of Ministers of Ukraine.

Salary shall be paid to the employees not rarer than two times per month. Payment shall be conducted on working days, but if day of payment coincides with week-end, holiday or day-off, salary shall be paid the day before.

During each payment of salary total amount of all deductions shall not exceed 20%, and in cases stipulated by legislation – 50% or 70% from the amount of salary which shall be paid to the employees.

During each payment of salary the owner shall inform the employee about:

a) total amount of salary with explanation by types of payment;

b) amounts and grounds of deductions from salary;

c) amount of salary which shall be paid.

Control over observance of legislation on remuneration of labor at the enterprises shall be conducted by:

the Ministry of Labor of Ukraine and its bodies;

financial bodies;

the State Tax Inspection bodies;

trade unions and other bodies (organizations), representing interests of hired employees.

The principal supervision over observance of legislation on remuneration of labor shall be exercised by the General Prosecutor of Ukraine and other prosecutors subordinate to him/her. The persons guilty of violation of the legislation on remuneration of labor shall be brought to responsibility.

EXHIBIT 7

Encyclopedia: Propiska

Updated 96 days 21 hours 31 minutes ago.

Other descriptions of Propiska

A **propiska** (Russian: прописка; the full term is *Прописка по месту жительства*, "The record of place of residence") was a Soviet system designed to control internal population movement by binding a person to his or her permament place of residence.

The noun derives from the Russian verb "propisat" ("to write into"). The *propiska* was to be recorded both in the internal passport of the citizens of the Soviet Union and at the local governmental office. In cities it was "Raionny otdel vnutrennikh del" (ROVD), or "District office of internal affairs", subordinated to the Ministry of Internal Affairs (MVD). In rural areas it was selsovet, or "rural soviet", a governing body of a rural territory. The *propiska* played the roles of both residency permit and residential registration of a person.

The *propiska* system was similar to the Tsarist internal passport system, which had been viewed as a tyrannical means of controlling population movements in the Russian Empire. The Bolsheviks abolished the internal passport system in 1917, but Joseph Stalin reinstated it in December 1932.

Under the Soviet regime, a valid propiska was required to apply for jobs, to get married, to receive medical treatment, and in many other situations. At the same time, it was almost impossible to get a local propiska in a major city without having a job, constituting a sort of catch 22.

Upon renewal, the MVD would do a check on the person's activities in the five years since the last renewal. Any dissent or other activity deemed "anti-Soviet" would result in the revoking of the person's *propiska*, an undesirable scenario.

Often residents of rural areas had their passports taken away (officially "for safekeeping") which prevented them from leaving.

Residency permits were extremely difficult to obtain for large cities, especially Moscow, and were a matter of prestige.

Certain "risk groups", such as dissidents, Roma and former Gulag inmates, were often barred to get permits in Moscow.

However, many people used subterfuge to get Moscow residency permits, including fake marriages and bribery. Another way of obtaining Moscow residency was to become a limitchik, i.e., to enter Moscow to take certain understaffed job positions, e.g., at strategic plants.

Propiska after 1991

Following the collapse of the Soviet Union, the *propiska* system was officially abolished. However, some of the former Soviet republics, such as Belarus, Kyrgyzstan, and Russia, chose to keep their *propiska* systems, or at least a scaled down version of them. Most, on the other hand, have done away with residence permits, but still require registration of a person's place of residence.

Georgia and Moldova have completely outlawed registration and any form of internal passport. Ukraine has tied all social benefits to a person's place of residence, meaning that a person can lose all these benefits upon moving. Russia replaced *propiska* with *registration* primarily used for economic and law enforcement reasons such as accounting social benefits, housing and utility payments, taxes, conscription, etc.

Even today, the process of obtaining the registration is usually not as simple as just notifying the authorities of one's residence. There is still much corruption and abuse related to getting a *propiska*. For instance, Moscow authorities are known to demand "fines" from anyone who does not have a passport with Moscow registration, particularly those who do not look Slavic. At some point Moscow authorities tried to demand an unreasonable fee (as high as US$5,000) for registraton. It was later repealed through court action.

See also

- Police state

EXHIBIT 8

2004 **Ukraine: Annual Survey of Violations of Trade Union Rights (2004)**

- Cases before the ILO's Committee on Freedom of Association
- ILO core conventions ratified

Population: 48,500,000 / **Capital:** Kiev / **ILO Core Conventions Ratified:** 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Many restrictions on the freedom of association and on the right to strike remained on the statute books, while, generally, trade unions were still discriminated against in practice. Many cases of anti-union harassment were reported during the year.

TRADE UNION RIGHTS IN LAW

Amendments remove some barriers

The right to join and form trade unions is guaranteed by the Constitution. The principal law governing trade union rights is the 1999 Act on Trade Unions, their Rights and Guarantees of their Activities. In April 2001, an ILO expert mission visited the country to advise the government on how to amend the law to bring it into line with ILO Conventions. An amendment to the law was then adopted on June 5 2003, which, amongst other things, removed some of the strict territorial criteria for official recognition

Registered unions with national status may participate in the national collective bargaining agreement, sit on the Social Insurance Fund Board, acquire property, open bank accounts and enter into legally binding agreements.

Collective bargaining

The Law on Collective Bargaining provides for the right to collective bargaining. Under the June 2003 amendments to the trade union law, unions are no longer required to be registered officially in order to be recognised for collective bargaining.

Problems concerning wages and working conditions are supposed to be resolved by joint worker-management committees.

Anti-union discrimination is prohibited under the collective bargaining law.

Disputes

The law on Labour Disputes Resolution establishes an arbitration service and a national mediation and reconciliation service.

Public servants denied right to strike

The right to strike is recognised in the constitution, provided it is to "defend economic and social interests." Public servants may not strike, nor may members of the judiciary, armed forces, security services or law enforcement agencies.

Draft Labour Code

During the year, the social partners and the government prepared a reform of the Labour Code with the technical assistance of the ILO. However, when the draft was

Developments in Ukraine

Ukraine: Trade Unions Allege Election Intimidation of Workers (25/11/2004)
Letter from the Confederation of Free Trade Unions of Ukraine on the current situation in Ukraine (24/11/2004)
Intimidation of trade unionists and their families persists in the Ukraine (10/3/2004)
Ukraine: Annual Survey of Violations of Trade Union Rights (2003) (6/1/2003)

presented to parliament on December 4, the government had unilaterally introduced several changes to the draft that had been originally agreed to by the social partners. The draft was accepted by parliament as the basis for future negotiations, and is open to comments by all citizens until February 1 2004. A draft based on the Russian Labour Code is reportedly also in circulation.

TRADE UNION RIGHTS IN PRACTICE

Discrimination

When the 1999 law came into force, the Confederation of Free Trade Unions of Ukraine (CFTUU) was no longer recognised as a partner at the national level. Even after sections of the 1999 law were declared unconstitutional, they continued to be applied. State authorities take discriminatory action against trade unions, reports the CFTUU, for example by refusing to enter them in the state register if they are not registered at the Ministry of Justice. Similarly, banks refuse to open bank accounts for unregistered unions, and employers and local administrations will not recognise them.

Trade union members are often subject to discrimination. They are often intimidated, put under pressure to leave trade unions, suffer wage arrears or are transferred to positions that do not correspond to their skills. Trade union leaders are often threatened and are given assignments where working conditions are dangerous. Government agencies participate in the intimidation of trade unions.

Collective bargaining

Employers often refuse to enter into collective bargaining with independent unions that have not obtained registration.

The CFTUU reports frequent attacks on independent trade unions by companies and authorities. Companies such as Promproduct, Tekhnoprom (Kharkiv) have shown anti-union behaviour for example when Promproduct fired union activists belonging to the Kharkiv Region Trade Unions Ukraine.

The free trade union Fauna (Kyiv) has reported frequent harassment against its members. Members of the Independent Trade Union of Miners in Ukraine (ITUMU) have in particular reported cases of anti-union harassment at the Molodogvardiyska, Luganskvugillya, Partyzanska and Izvestiya mines. The ITUMU also reported that the law enforcement body Spetsnaz destroyed many of the trade unions' offices, for example at the mines of Heroes of the Kosmos, Stashkova, Blagodatna, Pavlogradska, Ternovska, Zakhidno-Donbasska, Dniprovska, Samarska, Stepova and Yuvileyna. The office of the Association of Independent Trade Union of Miners of the Western Donbass region was also destroyed.

VIOLATIONS IN 2003

On November 28, thousands of Ukrainians participated in a demonstration against the government's economic policy. The privatisation process continued to benefit only a handful of wealthy entrepreneurs. Corruption remained a major problem, as did unemployment, low wage jobs, discrimination and wage arrears.

Union leaders attacked

The President of the ITUMU union at the Krasnolymanska mine, Leonid Kozhukh, was attacked on January 31 and suffered serious injuries. He was admitted to hospital suffering from concussion. According to the ITUMU, the attack was organised by the manager of the mine, Zinoviy Pasternak, who had been coordinating union-busting activities and the persecution of union members.

On July 21, Yuriy Kalyuzhny, the President of the Independent Trade Union Organisation of Metallurgists, at the Metallurgical Works of Alchevsk company was attacked. He was hit on the head with a hammer at the entrance to his house and, after falling to the ground, was kicked by his attackers and lost consciousness. He was operated on after the accident in a local hospital. The attack was believed to have been as a result of his union activities

Unionists denied access to union premises

On November 3, the day after the Kirovograd branch of the Trade Union of Teachers and Scientific Workers of Ukraine (VPONU) was formed, the city authorities of Kirovograd demanded that the President of the union, Vladimir Fundovnyy, leave his office. On November 7, he was prevented from entering his office, and the Mayor of the City of Kirovograd, Mikola Chigirin, together with the head of the Kirovograd department of education, Larissa Kostenko, ordered that the entrance to the VPONU office be boarded up.

Retaliation in the courts

The President of the newly formed free trade union at the Azovstal shareholding company was taken to court by Azovstal management as soon as he informed them of the union's registration. The company sought to have the union's founding documents declared invalid by a commercial court on the grounds that the union was illegally using the company's name. Psychological pressure was put on members to leave the union.

The Liv railway trade union had to cease its activities after a court case lasting nearly one year. The Prosecutor of the Liv province had sought to have the union's founding documents invalidated on technical grounds. A commercial court ruled in the Prosecutor's favour, and the appeal court upheld the ruling.

Anti-union dismissals

After an independent trade union Fauna was created at the Kyiv animal shelter Animals in the City on January 13, the Manager, Ms. Nina Samofalova, dismissed Fauna's Executive Bureau Secretary, Yuri Krykun, and forced new employees to sign an undated request for voluntary dismissal, allowing management to fire them at any time for any reason. On April 25, the Vice-President of Fauna, O. Sinitsyn, was fired and on May 7, the President, K. Mykhailenko. The dismissals were agreed with a management-controlled union.

The President of the Shevchenko Depot workers' free trade union in the Tscherkkasy province was dismissed after informing his employer of the legal registration of his union. The dismissal was supposedly because he had absented himself from work, although it was his day off. Other members of the union were put under psychological pressure by management, and half of them left the union.

Non-registration and non-recognition of independent unions

The CFTUU reported many cases during the year in which the employer refused to recognise a union or a union was denied registration. As a result, other trade union rights were denied, such as the right to collective bargaining, or union dues were not transferred.

In January, the employer at the AY-I EC Rovnoenergo company refused to recognise the All-Ukraine Trade Union Capital/Region (AUTU) branch union, preferring to conduct negotiations with a more "suitable" union. The employer also refused to provide facilities to the AUTU as required by law and exerted psychological pressure on union members. In May, the company dismissed some union members and threatened others.

Also in January, the AUTU reported that the employer at the Volynoblenergo enterprise decided who should represent the workers in negotiation, thereby ensuring a collective agreement biased in the employers favour.

The Yutist company - the Nikopol Factory of Steel Tubes - refused to recognise an independent trade union at the company and did not respect the collective agreement.

The regional Administration of Lugansk refused the Confederation of Free Trade Unions of the Lugansk Region (KSPLO) the right to participate in collective bargaining because it was not registered by the authorities.

The Director General of Luganskugol, the state-owned mining company, refused to recognise the ITUMU union at Luganskugol and therefore did not give them office space as required by law. The Director General fired the workers that were members of ITUMU, without the agreement of the union.

The management of the Krasnolimanskaya mine has refused to recognise the local branch of the ITUMU, even though it has legal recognition. It will not provide the union with office space and the President of the union is not allowed to enter the mine. The management of the Southern Railway Department has refused to recognise trade unions in the company and ignored a court ruling requiring it to apply the collective agreement.

Obstruction

Management at Kryvorizhstal, the state-owned metal works in Kryvoy Rig, refused to transfer trade union dues to ITUMU's bank account. Similarly, management at the Orzhysta Town Sugar Refinery in the Poltava province has refused to transfer membership dues to the independent trade union at the refinery, and will not allow the union President into the plant.

At the Rovno nuclear power plant in Rovno province, the President of the independent workers' union is not allowed to participate in collective bargaining or sign the collective agreement.

Wage arrears

The problem of unpaid wages continued and strikes were organized by workers at the mines of Partyzanska, Knyagynynska and Miusynska.

On March 6, 13 miners began a hunger strike underground at the mine Bendyuzka because they had not received pay for seven months.

In April, the heads of the ITUMU's regional organisation in the Western Donbass and the nine Presidents of the local ITUMU branches organised a hunger strike in the office of the manager of the State-owned company Pavlogradvugillya in the Lugansk province. They demanded the payment of wage arrears for January to February 2003 amounting to 50 million Ukranian Gryvnas.

Link: survey2004.asp?Language=EN

Back to Web version

EXHIBIT 9

Luhansk miners march on Kyiv over unpaid wages and working conditions

By Aleksandra Nenadovic / May 16, 2005 11:21 AM

To add to the government's concerns about gasoline shortages and increasing inflation, a group of disgruntled miners from Luhansk region in eastern Ukraine are on a march across the country to Kyiv to demand immediate payment of what they claim are millions of hryvnas in unpaid wages.

The miners are also asking for improvements in their working conditions.

KYIV, May 15 -- In a move that heralds more social unrest against the government of Yulia Tymoshenko, hundreds of miners from an eastern Ukrainian mine started a protest march to Kyiv on Sunday, demanding better working conditions and long-overdue salaries.

Mykola Kozyuberda, the head of the Nikanor-Novaya mine's trade union, was quoted by Ukrainian media as saying that 590 miners started their march that would last several days. "Yesterday the miners set up a tent camp alongside Kharkiv-Izyum highway.

Kozyuberda also said that the miners' demands to the Fuel and Energy Ministry were set three weeks ago, during protests that lasted from April 26 to May 5 when hundreds of miners refused to work.

"The unfulfilled demands include safer working conditions and repayment of all debts amounting 7 million hryvnas," Kozyuberda said.

He claimed that after Viktor Yushchenko's inauguration and first days of work of Tymoshenko's government the miners received 70 percent of their salaries in February and 30 percent in March.

"In April we didn't receive a single kopek," Kozyberda said.

Officials from the Fuel and Energy Ministry were not available for comment on Sunday.

The Nikanor-Novaya mine produces about 300 tons of medium-grade coal daily.

Ukrainian mines are among world's most dangerous mines. Scores of miners are killed every year. Deadly accidents are a regular occurrence and many miners complain that the government has done little to improve safety.

Many miners from Ukraine's east claim that the government has refused to improve working conditions as a silent punishment for their backing of former Prime Minister Viktor Yanukovych during the last year's presidential vote and the botched "white and blue counterrevolution" in Kyiv.

Last year dozens of miners died in the Krasnolimanskaya mine near Luhansk when a methane explosion ripped through a shaft.

May 20, 2005 **Ukrtatnafta officials accused of failure to pay profit to state budget**

more...

May 20, 2005 **Tymoshenko says fuel deficit is 40,000-50,000 tons, promises to cover it by imports**

more...

EXHIBIT 10

EIU Country Profile February 4, 2005 Friday Ukraine

EIU Country Profile

February 4, 2005 Friday

LENGTH: 701 words

COUNTRY: Ukraine

HEADLINE: The economy: Ukraine's economy

BODY:

Five years of recovery

Three main factors are responsible for the unexpectedly strong recovery that began in Ukraine in 2000. First, in early 2000 the new cabinet led by Viktor Yushchenko began to insist on cash payments for budgetary obligations and energy purchases. This proved instrumental in remonetising the economy and increasing disposable income, as it helped to unwind the pervasive barter schemes and payment arrears that distorted the economy. Second, the 40% real currency depreciation seen in 1998-99 sparked widespread import substitution and boosted the international competitiveness of otherwise uncompetitive industrial sectors. Third, the export sector began to benefit from strong import demand in leading markets such as Russia, which helped to provide the currency stability needed to raise consumer and investor confidence.

In addition, despite a long list of failed policy prescriptions, certain policy successes acted as important catalysts. In particular, the state finally began to implement key reforms in the agriculture sector. The first step came in early 2000, when it dismantled collective farms and withdrew from resource allocation. Combined with active government efforts to increase commercial lending to newly privatised farms, this contributed to grain harvests in 2001 and 2002 that were two-thirds higher than in 2000. Equally importantly, the general business environment improved, both through widespread privatisation in the mid- to late 1990s and more legislative changes designed to ease the regulatory burden.

Despite the improvements recorded over the past five years, Ukraine still faces considerable barriers to sustainable high-level growth. Progress in crucial structural reforms remains slow, and many sectors of the economy, such as energy, are in poor shape. Reforms are particularly needed in over-regulated sectors such as transport, education, healthcare and communal services, which continue to stagnate. Without these reforms, Ukraine's ageing infrastructure including the investment-starved electricity grid, ports and railroads will continue to act as a brake on growth. Even then, prospects for significant investment remain poor, with foreign direct investment (FDI) inflows expected to be among the lowest in the region, particularly with regard to non-privatisation-related inflows. Ukraine's business environment remains unattractive to foreign investors, and to entrepreneurs in general. Although recent governments have ensured incremental improvements, further substantial progress is required in terms of passing additional reforms and effecting deeper judicial reform.

Monetary-fiscal policy mix brings single-digit inflation

Since 2001 the NBU's relatively sound monetary policies have ensured single-digit annual inflation rates helped also by nominal currency stability, sound fiscal policy and increased productivity. The NBU's policies had already begun to ensure these sorts of low (by Ukrainian standards) inflation rates in the second half of the 1990s but this trend ended with a regional financial crisis that brought a steep currency decline and renewed inflationary pressures in 1998-99. The lowest price rises since independence came in 2002, when annual average inflation fell to only 0.8%. Annual average inflation has risen considerably since then, reaching 9% in 2004. This acceleration reflected rising global oil prices, further price liberalisation, grain supply shocks (in 2003) and, most recently, pre-election fiscal loosening.

Living standards have only just started to recover

Ukraine's experience with hyperinflation and sharp economic decline in the first half of the 1990s brought a rapid deterioration in living standards. By 2000 real wages had plunged to under 40% of their 1992 levels, and a large proportion of the workforce was being paid several months late or was only receiving payment in kind. The economic recovery under way since 2000 has reversed this trend, with strong growth and falling inflation bringing a significant increase in real wages (which approximately doubled in 2000-04). The average wage is nevertheless still extremely low by regional standards, at only around US$120 per month.

The official wage data are somewhat misleading, given the large percentage of household income (around 50%) that is derived from non-wage sources. Nevertheless, poverty remains widespread in Ukraine. It has particularly affected pensioners without children, as they receive minimal pensions and are often unable to tend their private agricultural plots. Unemployed (or often unpaid) workers from the industrial cities of the east, who are less likely than their central and west Ukrainian counterparts to have access to private plots on which to grow food, have also been badly affected. Although the poor are partly insulated from recession by continued subsidies on housing and utilities, these are gradually being phased out. Amid the widespread poverty, a small section (5-10%) of the population, located mainly in Kiev and other large cities, has prospered.

Unemployment is higher than the official rate of less than 4%

Helped by the economy's continued expansion, the official rate of unemployment in 2004 was at a five-year low of roughly 3.5%. However, the actual unemployment rate probably exceeds 20%, as many workers have little incentive to report their joblessness, because of low unemployment benefits. Many other workers are on unpaid leave for months, often trapped in their near-bankrupt enterprises, as leaving implies forgoing access to company housing, clinics and sanatoriums. Despite the shortcomings of the official data, they still provide a useful indication of employment trends.

LANGUAGE: ENGLISH

LOAD-DATE: February 10, 2005

Date/Time: Thursday, May 19, 2005 - 11:12 AM EDT

EXHIBIT 11

U.S. DEPARTMENT of STATE

Ukraine

Country Reports on Human Rights Practices - 2004
Released by the Bureau of Democracy, Human Rights, and Labor
February 28, 2005

The country is a mixed presidential and parliamentary republic governed by a directly elected president, a prime minister who heads a cabinet of ministers, and a unicameral parliament (Rada). The prime minister is nominated by the president and approved by the Rada. The cabinet is nominated by the prime minister and approved by the president, but generally is under the president's direction. A series of elections for national and local offices during the year revealed serious shortcomings in democratic practice. After a badly flawed campaign in which government resources were misused to support the government backed candidate and to hinder the candidacy of his opponent, a presidential election was held on October 31, with a second round runoff between opposition leader Viktor Yushchenko and Prime Minister Viktor Yanukovych on November 21. Massive fraud conducted on behalf of the government backed candidate during the runoff election triggered the largest non violent protest movement in modern Ukrainian history, known popularly as the Orange Revolution. The Supreme Court ruled the runoff to be invalid and ordered that a repeat runoff election take place on December 26. The December 26 repeat runoff election, which Yushchenko won, and the short campaign that preceded, it were substantial improvements. The Constitution provides for an independent judiciary; however, many courts were inefficient and subject to political interference and corruption.

There are two principal security agencies, which share responsibility for internal security: The Security Service of Ukraine (SBU), which is formally responsible for domestic security and law enforcement, and the Ministry of Internal Affairs, which controls the various police forces. In addition, the State Tax Administration controls the tax police. A Foreign Intelligence Service (FIS) was established as a separate government agency in October with responsibilities that include, in addition to foreign intelligence collection, combating international organized crime and terrorism and promoting the security of Ukrainian institutions and citizens abroad. The armed forces largely remained outside of politics. Government agencies interfered in the political process through criminal and tax investigations of opposition politicians, independent journalists, and businessmen. Civilian authorities generally maintained effective control of the security forces. Members of the security forces committed human rights abuses.

The economy was mixed, with the private sector accounting for 65 to 70 percent of gross domestic product. The country had a total population of approximately 47.4 million reflecting a continued downward trend. The gross domestic product grew by 12 percent during the year. The economy remains burdened by a lack of transparency, with the shadow economy accounting for a significant proportion of real income. Wage arrears, a problem in prior years, decreased, partly because of election year politics. The official rate of unemployment through August was 3.4 percent, although the International Labor Organization estimated the unemployment rate at 9 percent. Wealth was concentrated within the political elite and among directors of the state dominated and newly privatized sectors.

The Government's human rights record remained poor and worsened in a number of areas; however there were also improvements in some areas, particularly toward the end of the year. The citizens' right to change their government peacefully was restricted during most of the year by the authorities, who engaged in many forms of manipulation of parliamentary and local elections and particularly of the October 31 presidential race and the November 21 runoff. However, the repeat runoff on December 26, which followed the Supreme Court's invalidation of the first, was judged by international observers, including the OSCE, to have reflected the will of the people and to have brought Ukraine substantially closer to meeting Western standards for free and democratic elections.

Police and prison officials tortured and beat detainees and prisoners, and at least two detainees died under suspicious circumstances. Police abuse and harassment of racial minorities was a continuing problem. The beating of conscripts in the army by fellow soldiers was common and at times resulted in death. Reforms in the penal system led to some improvement in prison living conditions; however, prison conditions remained harsh. The Government rarely punished officials who committed abuses. Arbitrary searches, seizures, arrests, and detention from what appeared to be political motives were problems, as was lengthy pretrial detention in very poor conditions. Long delays in trials were a problem, and judges continued to readily grant most requests by prosecutors for residential search and wiretap warrants.

During most of the year, authorities interfered with the news media by harassing and intimidating journalists, censoring material, Ethnic Romanians continued to call for university level instruction in Romanian or the establishment of a Romanian technical college.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country, noting that they are accepted as minorities in neighboring countries. Representatives of the Rusyn community have called for Rusyn language schools, a Rusyn language department at Uzhhorod University, and for Rusyn to be recognized as one of the country's ethnic groups. According to Rusyn leaders, more than 700,000 Rusyns live in the country.

Other Societal Abuses and Discrimination

A leading NGO that works to protect the rights of gays and lesbians reported that a law called "On Protection of Morals" passed by Parliament in November 2003 was used to discriminate against homosexuals. For example, the law requires that newspapers containing gay and lesbian ads may only be sold if they are sealed in a hermetic package, and then only in specialized medical institutions that have a special license to treat individuals with sexual disorders. However, in practice, gay and lesbian ads appeared in many popular publications.

On February 12, the Ombudsman's office received a complaint from a pair of gay men in Volynska Oblast who alleged that they were harassed by local police. The case remained open at year's end. On September 8, a gay man also died in suspicious circumstances in Kryvyy Rih while in police custody (see Section 1.a.).

Persons living with HIV/AIDS faced discrimination in the workplace, job loss without legal recourse, harassment by law enforcement, prosecutorial, and judicial authorities, and social isolation and stigmatization within their communities.

Section 6
Worker Rights

a. The Right of Association

The Constitution provides for the right of most workers to join trade unions to defend "professional, social and economic interests," and this right was generally respected in practice; however, certain categories of workers, such as nuclear power plant employees, are prohibited from joining trade unions.

Under the Constitution, all trade unions have equal status, and no government permission is required to establish a trade union.

Changes adopted in 2003 to the Law on Trade Unions granted unions the status of "legal entities," requiring only that they supply a "notification of registration" as opposed to requiring approval from the MOJ to be established. After a new trade union informed the MOJ that it had been formed, the MOJ was required either to provide a letter confirming the union's legal status or request additional supporting documents from the union. The MOJ could not deny any applications; however, union representatives claim the MOJ used repeated requests for additional documents as a delaying tactic. Some of the gains in freedom of association brought by the enactment of the 2003 amendments were undone by the entry into force of a new Civil Code in January. The Civil Code reinstates the requirement that all legal entities, including trade unions, must register. The MOJ may deny registration if the union does not meet the requirements.

In order to acquire national status, which allows a union to negotiate directly and sign agreements with government ministries and to address the Cabinet of Ministers and President, a union must either have branches in more than half of the administrative regions or have branches in more than half of the administrative regions where the enterprises of this sector are located. The Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. There were both official and independent trade unions.

The courts decided in two cases to declare the registration of trade unions invalid. In March, a Donetsk court canceled the registration of the independent trade union at the firm MC Azovstal, prompting the union's director to go on a hunger strike in protest. Also in March, the Deputy General Prosecutor filed a motion with the MOJ to invalidate the registration of the national trade union "Football Players of Ukraine." After lower courts issued contradictory rulings on the matter, it was brought before the Supreme Court, but was unresolved by year's end. Claiming that the courts were deliberately delaying its registration, the union in early December appealed to the ECHR in Strasbourg.

Independent teachers unions came under severe pressure from the authorities throughout the year, especially since they were seen as unlikely to vote for the pro government candidate in the October December presidential elections. Beginning in March, local and national authorities began to assert that the teachers unions in Chernihiv province were disguised political organizations, which are banned in schools, rather than legitimate trade unions. Union organizers and members claimed they were harassed by authorities. Some teachers protested through hunger strikes, but by year's end 20 of the 79 locals of the teachers unions had disbanded. In Kirovohrad, the administration at nursery schools and daycare centers reportedly told teachers to leave the independent teachers union or lose their jobs. Despite hunger strikes, the mayor of Kirovohrad city allegedly had the union removed from its offices, and the union lost 1,000 members.

All unions affiliated with the Federation of Trade Unions (FPU), which maintained strong ties to the Government and inherited assets from the official Soviet unions, as well as several new, independent labor unions, were registered. However, some independent unions, including the Independent Miners Union of Ukraine (NPGU) whose member unions represented a wide variety of trades and professions, chose not to register because the courts declared that the registration requirement was unconstitutional, since they became legal entities under the 2003 Law on Trade Unions. Although the FPU often coordinated its activities with the Government, it continued to work independently on some labor matters and advocated the right of workers to strike. The FPU has supported the protests of some professions over unpaid wages; however, most FPU affiliates worked closely with management. Enterprise managers were free to join the FPU. The FPU leadership has a political party, the All Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. At year's end, there were 106 registered trade unions, including 42 traditional (FPU) and 64 new trade unions. According to the Confederation of Free Trade Unions of Ukraine (CFTU), 28 of the new trade unions were affiliated with the CFTU and the remaining 34 were affiliated with neither the FPU nor the CFTU. While exact membership figures were unknown, there were estimated to be fewer than 2 million non FPU members (down from 3 million in 2002) and 12 million (down from 14.5 million in 2002) members of FPU affiliated unions. The drop in union membership was attributed to general apathy and cynicism regarding the benefits of union membership, as well as the fact that membership was no longer required for certain benefits, such as sick leave.

Independent unions were denied a share of the former Soviet trade unions' huge property and financial holdings, particularly the social insurance benefit funds, a Soviet era legacy on whose boards FPU affiliated unions held the majority of seats. Independent trade union leaders complained that state representatives sought to influence union votes and pressure members to report on union activities.

Independent trade union leaders reported an increase in harassment during the year, both by security forces and tax authorities. For example, in March, Andriy Volynets, the son of CFTU leader Mykhailo Volynets, was kidnapped and beaten in Kiev, suffering a concussion and brain hemorrhaging (see Section 1.c.).

At the end of November, at the height of opposition demonstrations against the fraudulent runoff presidential election, Mykhailo Volynets and other opposition M.P.s occupied the FPU headquarters located on Independence Square and opened it to demonstrators. This occurred after FPU chief Oleksandr Stoyan (claiming to represent the views of the FPU membership) was reported to have encouraged President Kuchma to declare a state of emergency and impose martial law. An "initiative group" made up of the presidents of unions that belong to the FPU formally voted Stoyan out of office and voted to form a coordinating council including Volynets. However, in the meantime, the four FPU vice presidents allegedly sought to prevent the news of Stoyan's dismissal from reaching the membership, and Stoyan himself disputed the legitimacy of the initiative group's votes. Although Stoyan had not reported for work since being removed, at year's end there was no resolution to the leadership question.

b. The Right to Organize and Bargain Collectively

The law permits trade unions to organize and participate in collective bargaining; however, these rights were not always respected in practice. The Independent Miners Union continued to experience problems creating new branches of their organization. The authorities refused to recognize the union and continued unlawfully to require proof of registration for such functions as opening accounts, renting offices, and employing staff.

According to the law, joint worker management commissions should resolve problems concerning wages, working conditions, and the rights and duties of management at the enterprise level. The law provides the right to collective bargaining; however, overlapping spheres of responsibility frequently impeded the collective bargaining process, and the manner in which the collective bargaining law was applied prejudiced the bargaining process against independent unions and favored the official unions (affiliates of the FPU). Most workers were not informed that they were not obligated to join the official union. Renouncing membership in the official union and joining an independent union could be bureaucratically onerous and typically was discouraged by management. The law allows an independent union to be removed easily from the collective bargaining process at the enterprise level. Under the law, if several unions at an enterprise fail to agree on joint representation, the larger union that is, the FPU represents labor in the bargaining process.

The Law on Labor Disputes Resolution establishes an arbitration service and a National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, during the first 6 months of the year, the service resolved 169 labor disputes, in which 1.6 million employees from 6,649 enterprises were involved.

The Constitution provides for the right to strike "to defend one's economic and social interests," as long as strikes do not jeopardize national security, public health, or the rights and liberties of others; the Government generally respected this right. The law prohibits strikes that jeopardize life, health, or the environment or that might hinder disaster, accident, or epidemic related operations. The law does not extend the right to strike to personnel of the prosecutors' office, the judiciary, armed forces, security services, law enforcement agencies, the transportation sector, and public servants. The Law on Transportation does not allow strikes in the transport sector. Workers who strike in prohibited sectors may receive imprisonment of up to 3 years.

Approximately 90,000 workers are employed in the country's 11 export processing zones, particularly in mining and agricultural processing. Although labor laws are the same in these zones as elsewhere, the lack of new unions in the zones deprived workers of that option.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5 Trafficking and 6.d.). Human rights groups described the widespread use of army conscripts in the alternative service for refurbishing and building private houses for army and government officials as compulsory labor.

d. Prohibition of Child Labor and Minimum Age for

Employment

The minimum age for employment is 16; however, in certain non hazardous industries, enterprises may negotiate with the Government to hire employees as young as 15 with the consent of one parent. Children aged 14 can legally work on a short term basis in the social sector and agriculture with the consent of one parent. The State Department for Monitoring Enforcement of Labor Legislation within the Ministry of Labor and Social Policy is responsible for enforcing child labor laws and was generally effective; however, some children under the minimum employment age worked in the informal sector.

The Criminal Code prescribes up to 5 years in prison for involving children in criminal activities, drinking, begging, prostitution, gambling, or other exploitation. Children worked in the agricultural sector, and trafficking of children for the purpose of forced labor was a problem (see Section 5). Begging by children existed, although it was limited. During the first quarter of 2002, the latest year for which statistics were available, police identified almost 1,500 offenders for involvement in child labor, 111 of them for involvement in begging.

e. Acceptable Conditions of Work

Working conditions and pay levels improved along with the economy, but remained poor. In September, the Rada raised the minimum monthly wage from $39 to $45 (205 to 237 UAH). A new minimum wage of $49 (262 UAH) was set in the 2005 budget on December 23; however, the increase was not implemented. Minimum pensions also rose to approximately $13 (70 UAH). Pensioners also received a supplementary social benefit of less than $4 monthly (20 UAH). In August, the nominal average monthly salary (as opposed to the government declared minimum) was approximately $114 (604 UAH). The minimum wage did not provide a decent standard of living for a worker and family, as it was far lower than the legally established "subsistence level" of $80 per month (423 UAH).

While the government sector has repaid wage arrears in most areas, in some parts of the country teachers were not paid monetary benefits (back holiday pay and service bonuses) owed to them. Before the elections, the Government announced its intention to repay debts to teachers and raise their salaries. Although wage arrears decreased from $340 million (1.8 billion UAH) at the beginning of the year to $154 million (818 million UAH) as of December 31, they remained substantial. Most wage arrears accumulated in industry (57.4 percent), agriculture (12.0 percent), and construction (10.1 percent). They remained a problem in the private sector (which includes large enterprises in which the State is a shareholder) and in the Donetsk region (coal sector) whose wage arrears accounted for 29 percent of the total amount in the country. The national pension system repaid all of its arrears during 2000. Average wages were not as low as these statistics suggest, since the untaxed and unreported shadow economy was estimated to account for 50 percent of total economic activity.

The Labor Code provides for a maximum 40-hour workweek, a 24 hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries significantly reduced the workweek for some categories of workers.

The law contains occupational safety and health standards; however, these frequently were ignored in practice. In particular, illegal coalmines connected to organized crime and corrupt leaders operated in unsafe conditions, resulting in scores of deaths. Lax safety standards and aging equipment caused approximately 25,000 injuries on the job each year. During the year, 23,200 individuals were injured (1,648 fewer than in 2003), including 1,163 job related fatalities (67 fewer than in the previous year). The number of miners injured in the coal sector was 9,218 (down from 10,845 in 2003), including 200 fatalities (compared with 217 in 2003). In the coal mining sector, it was estimated that, in the first 9 months of the year, there were 2.57 deaths (down from 3.52 in 2003) for every million tons of raw coal extracted. Increased enforcement of safety regulations was a major factor in this reduction, although the numbers remain quite high.

In theory, workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment; however, independent trade unionists reported that, in practice, asserting this right would result in retaliation or perhaps dismissal by management.

EXHIBIT 12

Doing Business In Ukraine: A Country Commercial Guide for U.S. Companies

- Chapter 1: Doing Business In Ukraine
- Chapter 2: Political and Economic Environment
- Chapter 3: Selling U.S. Products and Services
- Chapter 4: Leading Sectors for U.S. Export and Investment
- Chapter 5: Trade Regulations and Standards
- Chapter 6: Investment Climate
- Chapter 7: Trade and Project Financing
- Chapter 8: Business Travel
- Chapter 9: Contacts, Market Research and Trade Events
- Chapter 10: Guide to Our Services

2/8/2005

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Chapter 3: Selling U.S. Products and Services

- Using an Agent or Distributor
- Establishing an Office
- Franchising
- Direct Marketing
- Joint Ventures/Licensing
- Selling to the Government
- Distribution and Sales Channels
- Selling Factors/Techniques
- Electronic Commerce
- Trade Promotion and Advertising
- Pricing
- Sales Service/Customer Support
- Protecting Your Intellectual Property
- Due Diligence
- Local Professional Services
- Web Resources

Using an Agent or Distributor

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One advantage of dealing with agents and distributors is that they can handle the certification and license procedures for imported products.

As in any foreign country, a local partner or representative can provide valuable insight and commercial intelligence that might otherwise be missed by the U.S. businessperson. A local representative can be especially helpful in newly emerging markets, where a strong business information network has yet to develop. However, before entering into a distributorship or agent agreement, U.S. companies are advised to keep the following points in mind:

1) While the extent of information on Ukrainian companies has improved slightly, there is still a significant dearth of background data and credit history on potential Ukrainian distributors. This presents the greatest obstacle to finding reliable, competent distributors. In order to obtain a due diligence report on a potential Ukrainian partner, a U.S. company is advised to contact either a law firm or market entry facilitator (please refer to http://www.buyusa.gov/ukraine/en/page30.html)

2) To find a potential partner, U.S. companies may also wish to use the U.S. Embassy's Commercial Service programs: the International Partner Search (IPS) and Gold Key Service (GKS).

3) The Embassy strongly advises that all U.S. companies consider legal counsel before and while doing business in Ukraine. Given the tenuous commercial environment and weak legal infrastructure, it is essential to obtain solid legal advice in structuring your company's investment. Furthermore, it is important to keep-up with the changing laws

and regulations. Legal counsel may provide general advice on fluctuations in the commercial environment in Ukraine and prevent disputes from emerging between partners in the future.

4) When drafting a contract with a Ukrainian company, a U.S. business must consider including an anti-bribery provision. According to the OECD Convention, which came into force in February 1999, "foreign public officials," including all branches of government, international organizations, state enterprises, political parties and candidates, are subject to anti-bribery prohibitions. In addition, paying unusually high commissions to a distributor, hiring a representative who is a relative of a local government official, other improper advantages and improper accounting practices are subject to criminal and civil liability under anti-bribery legislation of the United States.

5) It is typical for Ukrainian companies to seek to establish long-term business relations on consignment or on an equal investment-sharing basis. U.S. exporters are advised to start with small sales and full pre-payment or letter of credit terms. U.S. exporters should be cautious about any balance payments, due to constantly changing rules on local banking procedures.

6) Kyiv is not the only hub of trade in Ukraine. Look for distributors that have nationwide capabilities, including the cities of Lviv, Odessa, Zaporizhzhya, Dnipropetrovsk, Donetsk, and Kharkiv. These regions are considered important industrial centers of Ukraine and are densely populated.

Establishing an Office

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When a foreign company plans to start a business in Ukraine, the following legal entities are possible: a joint stock company, limited liability company, wholly-owned subsidiary, or a representative office. For regulatory and taxation purposes, with some exceptions, representative offices are treated similarly to independent legal entities. Some industries, including banks and insurance companies, are more heavily regulated, and must be established in compliance with specific requirements. A representative office can carry out marketing, promotional, and other auxiliary and preparatory functions on behalf of the company. The establishment of a wholly owned company in Ukraine would be recommended if the company intends to carry out manufacturing or other significant local commercial activities. There is no prohibition for a foreign legal entity to have both a representative office and to establish a wholly owned subsidiary at the same time.

Registration of local offices of foreign companies is handled by the Ministry of Economy and European Integration of Ukraine, and is done within 60 days of submission of all required documents and upon payment of a US$2,500 fee.

For registration of a representative office, the Ukrainian Ministry of Economy and European Integration requests the following documents:

1. Application for registration on the company letterhead signed by the chief officer of the company and with its seal affixed. The form is free.
2. Extract from the Trade Register of the country of location of an officially registered central management body (office) of a foreign business entity.

3. Certificate of a bank that services the company, containing the account number.
4. Warrant in the name of a specific individual for execution of representative functions in the territory of Ukraine, listing the authority of a representative.

Originals of documents listed in Paragraphs 1,2,3,4 must be duly legalized in consular offices, representing the interests of Ukraine. The documents must be in the Ukrainian language. A seal of an official translator must attest the translation. The documents must be submitted to the Ministry of Economy and European Integration of Ukraine no later than 6 months after issued in the country of origin. Upon acceptance of registration documents, an applicant will pay a registration fee, amounting to US$2.500. Within a month of obtaining a registration certificate, a representative office must register with the local tax inspectors.

To obtain detailed information on how to register a local office of a foreign company, please contact Mr. Alexey Maximenko, Ministry of Economy and European Integration of Ukraine at phone: 38044-272-5579 or by e-mail: ustanov@msert.com.ua
For relevant GOU regulations (Order by the Ministry of Foreign Economic Relations No. 30 dated 18.01.1996) containing detailed information and a list of required documents (in Ukrainian only) please refer to:
http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi
http://zakon.rada.gov.ua/

Please note that in addition to registering all business entities with legal entity status (resident or foreign) with the GOU, they should be officially registered with a relevant administrative body at the place of residence of the given business entity, unless otherwise provided by law.

Franchising

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Franchising is still nascent in Ukraine. McDonald's has dominated the fast-food sector in the country, but there are also other successful examples of franchising projects to be found, such as Express Personnel Services, Xerox copy centers, Kodak photo developing centers in Kyiv, Baskin Robbins, T.G.I. Friday's and others. The lack of legitimate franchising instruments is considered to be the key factor dissuading other U.S. fast food chains from doing business in Ukraine.

There are several other successful foreign and domestic franchisers:
Spar, a Netherlands-based company, is one of the world's largest retail food chains. Spar Ukraine was launched by a group of local investors who bought the exclusive license for the Spar brand. Spar Ukraine opened a distribution center in Kyiv early in 2001. That center supplies more than 1,000 retail food stores and restaurants in the Kyiv region and serves as Spar's warehouse for its stores.

Car Rent Ukraine, the Hertz Franchise in Ukraine, and First Lease Ltd. merged their operations. First Lease bought the franchising license for Hertz. Car Rent Ukraine is now responsible for car rental and First Lease for leasing.

A Lviv-based company that owns the trademarks for Pizza Celentano and The Potato House is an example of a successful local franchiser. The company has created a nation-wide chain of "make-your-own-pizza" and potato restaurants, having penetrated even small Ukrainian towns. The number of the company's franchisees in Ukraine, Russia and Poland has grown to 42.

The Ukrainian market offers many opportunities for international franchising. However, as an entrepreneurial activity, franchising encounters the same general barriers that impede the establishment of small and medium sized businesses: expensive banking loans, an undeveloped leasing system, and obscure IPR legislation.

Direct Marketing

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Marketing of consumer goods is usually done through large department stores, specialty or chain stores, and direct retailing. Promotional materials for direct mailing through mail order houses should be detailed and in the Ukrainian language. The marketing of industrial goods and commodities is done largely by distributor warehouses, exhibitions, trade shows, and mailing catalogs sent (with price lists) to the end-user. Leasing and/or the contribution of equipment to statutory funds of a joint venture can also be effective marketing techniques.

Joint Ventures/Licensing

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Joint ventures, including those between Ukrainian and Western partners, became popular in Ukraine immediately after the start of the transformation to a market economy. They were viewed as a compromise between the customary form of business, which was oriented towards national ownership, and the necessity to attract foreign investors and learn foreign business practices.
In Ukraine's legislation the term "joint venture" has two meanings:

1) Joint ventures are enterprises established primarily to pool assets of different owners and are of mixed-type ownership;
2) Joint ventures are based on the common capital of Ukrainian and foreign business entities, as well as on joint management and common distribution of results and risks.

In practice, however, the term is used for new business entities set up by Ukrainian and foreign founders. This may come about as a result of a foreign investor's interest in a Ukrainian enterprise (taking possession of stocks and part of its authorized capital).

The availability of a foreign investor is a prerequisite for the founding and functioning of a joint venture. Definite peculiarities exist with the possible participation of state- owned enterprises in creating joint ventures. According to existing laws in Ukraine, the State Property Fund of Ukraine and agencies to which this fund delegates its authority are entitled to establish joint ventures on behalf of state-owned enterprises.

In terms of formation of joint ventures, Ukrainian law sets no limitations. They are free to be established as limited corporations, stock companies, or other associations. State registration is mandatory when establishing a joint venture.

A joint venture has all the rights of a legal entity as soon as it has its state registration. Joint ventures may perform business activities of any kind, except for those prohibited by law or requiring licensing.

The many government agencies involved in the licensing process sometimes can be a barrier to foreign investment. The typical business has to secure roughly a dozen licenses. According to the law "On Licensing of Certain Kinds of Business Activity," the following Ukrainian agencies are responsible for granting licenses:

Ministry of Agricultural Policy (http://www.minagro.kiev.ua)	- Cultivation and processing of narcotic plants for industrial purposes;
Ministry of Internal Affairs (http://www.centrmia.gov.ua)	- Manufacture of and trade in firearms and tear-gas guns, munitions, knives, BB air guns with caliber of more than 4.5 millimeter and bullet speed of more than 100 meters per second; - Manufacturing of and trade in self-protection means with tear-gas or spray base; - Security and guard services;
Ministry of Ecology and Natural Resources Http://www.menr.gov.ua	- Exploration and development of natural resources; - Exploration of uranium ores and deposits - Certain kinds of waste collection and processing (listing is determined by the Cabinet of Ministers of Ukraine); - Hazardous waste handling and utilization; - Aeronautic-spray services; - Topographic, geodesic and land-survey services;
Ministry of Economy and European Integration Http://www.me.gov.ua	- Arbitration services (property tort, readjustment, liquidation, settlement); - Export and import of compact laser disks, CD-ROMs and equipment for their production;
State Department of Intellectual Property (Ministry of Education and Science) http://www.spou.kiev.ua/ http://www.spou.gov.ua http://www.education.gov.ua	- Manufacture of compact laser disks, CD-ROMs;
Ministry of Health of Ukraine http://www.moz.gov.ua	- Disinfecting, dissection and deracination services in human facilities; - Medical practice; - Human blood processing for drugs;
Ministry of Labor and Social Policy http://www.mlsp.kiev.ua	- Intermediary services for employment abroad;
Ministry of Finance http://www.minfin.gov.ua	- Production of precious metals, precious and semi-precious stone deposits;

	- Processing of precious metals, precious and semi-precious stones; - Manufacturing of and trade in articles from precious metals, precious and semi-precious stones; - Publishing of securities or other official stationery; - Precious metal scrap and stones collection and processing; - Insurance services; - Lottery issue;
State Committee on Building, Architecture and Housing Policy http://www.build.gov.ua	- Commercial and residential water supply; - Construction and architectural design
State Committee for Water Resources http://www.kmu.gov.ua	- Design, engineering, maintenance and construction of melioration systems;
State Committee for Land Resources http://www.kmu.gov.ua	- Land survey and appraisal services;
State Committee for Communication and Normalization http://www.stc.gov.ua	- Postal money transfers, shipment of parcels under 30 kg weight, simple and registered letters, postcards - Radio-frequency telecommunication services; - Telecommunication services (except internal corporate telecommunication services); - Maintenance of video-, TV-, radio-broadcast, and wire communication systems within single company territory;
Department for Tourism http://www.tourism.gov.ua	- Domestic or tourist or excursion trips;
Ministry of Industrial Policy of Ukraine http://www.industry.gov.ua	- Manufacture of hazardous chemicals (Listing is determined by the Cabinet of Ministers of Ukraine); - Exploration and development of precious metals, precious and semi-precious stone deposits; - Manufacturing of and retail trade in agricultural chemicals; - Iron and color metal scrap collection and processing;
National Space Agency http://www.nkau.gov.ua	- Development, production, testing, commercial use of missiles and space infrastructure and space satellite equipment;
State Commission on Securities and Stocks http://www.ssmsc.gov.ua	- Brokerage and trade in securities and stocks;
State Customs Service http://www.customs.gov.ua	- Customs broker services;

Selling to the Government

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Large government procurements represent export opportunities for U.S. companies. However, the Ukrainian government lacks internal resources for many large purchases. Companies are advised to track the tender announcements of the World Bank and the European Bank for Reconstruction and Development (EBRD), which have initiated numerous programs to assist Ukraine in its transition to a market economy. The presence of a Western tender organizer often makes selling to the government a more transparent practice, providing for published deadlines, proposal criteria, and more importantly, Western oversight in making final procurement decisions. Ukraine is not a signatory of the WTO Agreement on Government Procurement.

Government procurement is conducted under Ukraine's "Law on Procurement of Goods, Works and Services Using State Funds" #1490-3 dated February 22, 2000. Under this law, all government procurement of goods and services valued above EUR 40,000 must be conducted via tenders (either open, or open with pre-qualification). Open international tenders must be conducted when procurement is financed by an entity not resident in Ukraine. Information on government procurement is published in the "Visnyk Derzhavnykh Zakupivel" (State Procurement Bulletin) of the Ministry of Economy & European Integration of Ukraine. American company representatives in Ukraine can arrange subscription for this magazine (in Ukrainian or in Russian) at the Ministry of Economy & EI at the following contacts:
Tel: (380-44) 293-9415/3296/1166
Fax: (380-44) 552-4365
E-mail: vdztender@me.gov.ua
Large procurements are also announced on the Internet web page of the Ministry of Economy & EI at www.me.gov.ua.

Distribution and Sales Channels

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In exporting directly from the United States to Ukraine, the least expensive and most reliable means of transport is by sea, through 18 marine ports in Ukraine, including Odessa, Illichevsk, and Mariupol. Rail is another cheap, but less reliable, method of shipping products throughout the country. Rail traffic has fallen substantially since Ukrainian independence and minimal backups at crossing points make rail transport an interesting alternative to other forms of transport. Nearly 23,000 kilometers of railway connect Ukraine with Poland, Slovakia, and Hungary, as well as with eastern and northern points of the CIS.

The sheer geographic size of Ukraine and its relatively high level of population dispersion (only slightly over 10 percent of Ukraine's population lives in the three largest cities) make establishing a viable, reliable distribution network of great importance. While some of the larger firms use their own internal customs clearance and distribution networks, several smaller companies use freight forwarders for distributing products. Numerous domestic and international freight-forwarders and shipping companies provide service to a number of commercial and diplomatic entities in Ukraine, although price is a factor that U.S. companies should consider. The Ukrainian commercial infrastructure has matured rapidly in recent years. Western-style distribution networks are developing in the country. During the last several years, a network of chain stores, brand name stores and supermarkets has emerged. They are usually located in the downtown areas of cities and are owned by Ukrainian or foreign private entrepreneurs. Although there is some competition among newly emerged distribution outlets and old-fashioned stores, each caters to the demands of a different group of consumers.

One of the key factors influencing the marketing of U.S. products in Ukraine is the right choice of an agent or distributor. If a U.S. company intends to have a long-term relationship with its Ukrainian partner, it is wise to get to know the business partner and their business as much as possible from the onset. Coordination and agreement regarding sales policies and pricing is absolutely necessary. Local businesses are oriented towards high profitability, which can seriously affect the marketability of U.S. products. U.S. exporters should be aware that their Ukrainian partners have to deal with a number of indirect duties and commercial risks that will influence their pricing policy. Generally speaking, the sales policies of U.S. companies interested in the Ukrainian market should take into account the unique features and challenges of this developing market. Rather than try and apply sales policies used in Western and Central Europe (or even Russia), a flexible and cooperative policy, oriented towards a long-term presence in the market, is much more likely to bring desired results.

Problems have arisen for U.S. companies that sell through their euro zone subsidiaries. Unfavorable currency exchange rates and higher European taxes and/or duties decrease the price competitiveness of U.S. products. Additionally, working through European subsidiaries is perceived by Ukrainian businesses as an additional layer of bureaucracy and overhead cost. Ideally, a U.S. company interested in conducting a successful business operation in Ukraine should have an in-country representative and an established network of distributors and sellers.

Offering a flexible credit policy is important not only for small-scale Ukrainian companies, but also for multimillion-dollar local firms. Local companies' access to loans and credits is limited by high interest rates and short repayment terms demanded by local banks. Moreover, the Ukrainian tax system has a very negative impact on the working capital of resident companies, reducing their credit resources.

Selling Factors/Techniques

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Prior to considering the Ukrainian market, any U.S. company should be aware of two contradictory attitudes deeply ingrained in the minds of Ukrainian customers. The first is an enthusiasm for Western manufactured products (especially consumer electronics, household appliances, cars, and cosmetics) and the second is the belief that some Ukrainian consumer products (especially food and liquor) are of better quality. This is in part due to the flood of imported goods of dubious origin and poor quality – many of which are falsely marketed under well-known brand names, and partially due to the excellent quality of locally produced food products and beverages. An inner conservatism of Ukrainians and a predilection for familiar goods play a decisive role in consumer behavior.

Locally produced promotional advertising that targets Ukrainians is required to expose the average Ukrainian to unfamiliar brand names. TV advertising proves to be the most efficient and cost effective way to win new customers. Consumer confidence in a particular product is improved by a description, list of ingredients, warranty or maintenance guarantee. Ukrainian consumers are turned-off by products with Western brand names that are manufactured in Asia or other former socialist countries (other than Russia and Belarus), or distributed by companies located in these parts of the world. The name of a Ukrainian or Russian distributor and local address on original packaging can increase consumer confidence.

When planning their sales strategy for Ukraine US exporters should take into account a growing tendency for Ukrainians to buy quality, Western-made products. As the local economy offers very limited opportunities for long-term savings or investments, even middle class Ukrainians are ready to pay top dollar price for expensive brand name clothing, top quality household appliances, jewelry and furniture. Since US goods generally have a very good reputation but are rarely available on the local consumer market a tag "Made in USA" would definitely increase customers' enthusiasm.

Retail superstore chains just started developing in Ukraine and are available in major cities only. Thus far these chains specialize in food or consumer electronics. The other consumer goods are sold through specialized retail outlets or open markets. This creates a wide gap in the assortment of offered goods. Retailers target either rich or poor customers. The growing number of middle class customers has to choose between fashion boutiques and open markets. Discount superstores do not exist at all. Retail superstore chains (e.g. Wal-Mart, Kmart, etc.) could reshape the local market for consumer goods, increase its potential, and change selling techniques.

Selling goods on credit also will have a revolutionary impact on the market. This practice just began developing after years of inactivity. Increasing financial stability, improving transparency in personal incomes and growing purchasing capacity of the Ukrainian people enabled banks to start offering credit not only for major acquisitions (i.e. real estate or cars) but also for a wide variety of consumer goods.

Electronic Commerce

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E-commerce is hardly gaining in popularity in Ukraine. Its growth evidently lags behind the development of the banking card system. Some years ago the underdeveloped banking card system, limited number of internet users and lack of legal norms needed to regulate e-commerce (especially B2B) were viewed as the main obstacles for fast e-commerce development. There are almost 16 million MasterCard and Visa cards, and close to 6 million Internet users in Ukraine now. Basic regulations are in place. However both B2C and B2B segments of e-commerce are still in their initial development.

Most Ukrainian Internet shops are price lists or advertising sites with an option to place an order, that later could be delivered, after a cash payment, card payment or bank transfer is received. Many Internet shops accept on-line payments from clients of their partner banks only. Ukrainian Government officials, though, purporting to understand the benefits of e-commerce, are mostly indifferent to the problems of this sector. So its development, especially in its B2C segment, is motivated almost exclusively by enthusiasm of individual representatives of the IT community. B2B e-commerce has experienced a successful start, in such areas as, metals trading, IT, and transport services. However, B2B's further development fully depends on the corporate strategies of individual companies that may see a benefit in including e-commerce in their development plans. So far, both businesses and customers usually view e-commerce

more as an entertainment than a serious business opportunity. The attitude of controlling government bodies (e.g. tax inspector, customs) is more skeptical and negative. A psychological mistrust and conservatism seem to be the main obstacles for further development of e-commerce in this country. Please see the following e-commerce sites:
http://furshet.ua/ http://www.int-commerce.com/intc/index.html
http://www.bambuk.com.ua/ http://www.ukraineinternational.com/eng

Trade Promotion and Advertising

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Today, there are over 300 advertising agencies in Ukraine, many of which carry a wide range of services.

Most popular TV channels in terms of advertising are Inter, 1+1, ICTV, UT-1 (the central state channel), Channel 5, and STB. Popular commercial radio channels – Gala Radio, ERA, Music Radio, Prosto Radio, Russkoye Radio, Shanson, Renaissance. Together radio and TV make up about 64 percent of the national advertising market.

Newspaper advertising accounts for another 14 percent. The major Ukrainian newspapers/journals which may be used for advertising include: Den/Day (www.day.kiev.ua); Fakty/Facts (www.facts.kiev.ua); Segodnia (http://today.viaduk.net); Silski Visti/Countryside News (http://silskivisti.kiev.ua); Uryadovyy Kuryer/Government Courier (http://uamedia.visti.net/uk/); Delovaya Nedelia/Business Week (http://dn.kiev.ua); Biznes/Business (www.business.ua); Halytski Kontrakty/Halytski Contracts (www.gc.lviv.ua); Kompan&on (www.companion.ua); Zerkalo Nedeli/Mirror of the Week (www.mirror.kiev.ua); Telenedelia/TV Week (www.tvweek.com.ua); Express-Obyava/advertising and announcements (www.eo.kiev.ua); Aviso/advertizing and announcements (www.aviso.kiev.ua). Many international male & female magazines are published in Ukraine and are good for advertising. The major English-language newspapers/journals are: Kyiv Post (www.kyivpost.com), KyivWeekly (www.kyivweekly.com), and What'sOn (www.whatson-kiev.com).

Outdoor advertising accounts for 22 percent of advertising expenditure in Ukraine. Among the regions of Ukraine, the largest budgets for advertising are in the Kyiv, Dnipropetrovsk, Odessa, Kharkiv, Donetsk, and Lviv regions. One of the largest outdoor advertising companies in Ukraine, Bigboard (a Czech-Ukrainian joint venture formed early in 1993) was the first private company to sell outdoor space – mainly billboards - for advertising in Ukraine. Despite the entry of other competitors, Bigboard remains the largest, with a market share of about 30 percent. Outdoor advertising companies must obtain licenses from local authorities. These are issued for a period from six months to five years. There is an association of outdoor advertising companies in Ukraine that lobbies on behalf of the industry.

The demand for public relations services in Ukraine is growing. One of the most successful public relations (PR) companies is the U.S. company TWG/Burson-Marsteller (www.twgworld.com). PR agencies in Ukraine have their own industry-lobbying association.

The law that regulates advertising in Ukraine is the "Law on Advertising" #270/96 of 07.03.1996, with changes outlined in the law # 1121-IV of 07.11.2003.

Under most circumstances, advertising in Ukraine has to be in the Ukrainian language. However, advertisements in media primarily printed or broadcast in a different language are exempt from this rule. Trademarks registered in a foreign language or alphabet are also permitted.

The advertising regulatory authorities are: the State Antimonopoly Committee of Ukraine; the State Committee on Information Policy, TV and Radio Broadcasting; the National Council of Ukraine on Radio and TV Broadcasting; and the State Committee on Standardization, Metrology and Certification.

Major local trade show organizers and fair authorities include: Medvin (www.medvin.kiev.ua), PremierExpo (www.pe.com.ua), Euroindex (www.euroindex.com.ua), ACCO International (www.acco.com.ua), International Exhibition Center (www.iec-expo.com.ua), KievExpoPlaza (www.expoplaza.kiev.ua). CS Kiev actively promotes American exporters at the major local trade shows, arranging and staffing the U.S. Product Literature Centers at the shows (see http://www.buyusa.gov/ukraine/en/28.html).

On request, Commercial Service (CS) Kiev can provide an extensive list of advertising agencies, as well as print and television media operating in Ukraine (see Customized Contact List service at http://www.buyusa.gov/ukraine/en/13.html).

CS Kiev can offer your company flexible interactive promotion in Ukraine: under Business Service Providers or FUSE – BuyUSA featured U.S. exporters (see http://www.buyusa.gov/ukraine/en/29.html).

Pricing

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Prices in Ukraine typically include a 20% Value Added Tax. High import tariffs, high direct and even higher indirect taxes, combined with the small number of suppliers of Western-made products in the Ukrainian market, keep prices at a high level. Commercial risks associated with permanent fluctuations of USD/EURO exchange rate in 2003-2004 added a high overhead cost to goods imported from Europe making direct imports from U.S. more attractive. To date, the Ukrainian market has been flooded with cheap, low-quality goods from Asia and former Socialist-bloc countries, often sold under well known Western brand names and at prices comparable to a high fashion boutique in a Western European capital. However, despite the higher prices, there is a growing tendency for Ukrainians to buy quality, Western-made products. As the local economy offers very limited opportunities for long term savings or investments, Ukrainians that have lived through the crash of Soviet monetary system, tend to spend their savings (often meager by Western standards) on expensive clothing, top quality household appliances, jewelry and furniture.

Many Ukrainian customers not familiar with U.S. or Western European markets strongly believe that high prices guarantee high quality. Suppliers of products of dubious origin exploit such beliefs. U.S. exporters trying to develop a successful pricing policy should also be aware of the fact that some of their local competitors that claim to be selling exclusive Western products at "a European" price, are in fact money laundering operations.

The other factor worth been taking into consideration is the availability of after-sale services and customer support. Prices in developed countries reflect the cost of after-sale services and customer support, while in Ukraine this key element is often missing.

When establishing prices, exporters should consider the purchasing power of the average Ukrainian consumer. According to the Ministry of Economics, the average Ukrainian per capita monthly wage is between $100 and $150. However, the Ukrainian shadow economy and in kind revenues received by families that own land or other agricultural resources, increase these numbers. There is a fast-growing segment of the population whose disposable income is rising due to the increase in entrepreneurial/commercial activities not accounted for in official reports.
When developing pricing policies, U.S. suppliers should also note the regional and age differences among end-users. The demand for Western-made products is far greater among the younger generation, with the sharpest contrasts seen between the under-50 and over-50 age groups. The widest differences are in the purchase of vehicles, personal care products, candy, jewelry, household goods, and electronics. The correlation between education level and product demand is not as evident as in Western economies, because many educated consumers are part of the low-income population.

It is important to note regional variations in demand and price of Western-made consumer goods, although these differences are becoming less pronounced. While the Kyiv area is typically well supplied with various products, remote areas are not. Major Ukrainian cities (e.g. Dnipropetrovsk, Donetsk, Kharkiv, Zaporizhzhya, Odessa, Lviv) offer good potential for foreign exporters interested in expanding their operations in Ukraine.

The Cabinet of Ministers of Ukraine has price-setting authority with products, goods, and services in certain sectors. These lists include basic tariffs (e.g. electricity, telecommunications, transportation, utilities), and some crucial products such as sugar, grain, gas, oil etc. Government regulated prices and tariffs may change as a result of changes in production and sale conditions.

To see prices for different goods please refer to the following web sites:
http://price.com.ua/ http://shop.bigmir.net/ http://itc.ua/hl/

Sales Service/Customer Support Return to top

A key element to succeeding in the Ukrainian market is the establishment of a network of after-sale support centers for goods and equipment. Maintenance centers are especially important for a variety of industries, including household appliances, telecommunications equipment, consumer goods, and vehicles. In February 1999, the Cabinet of Ministers adopted a decree on after-sale service and maintenance of household appliances. According to this legislation, all products have to carry certification of origin, price, after-sale obligations of the manufacturer, rules of use, the manufacturer's address, and information on certification in Ukraine.

In 2001-2002 many local companies that were previously engaged in sales of imported goods, either opened after-sale support divisions, or moved to after-sale support and maintenance business altogether. Major importers started outsourcing after-sale services to other companies on a competitive basis. This service industry is quickly taking shape.

Ukraine still has a long way to go to approach western standards for after-sale services and customer support. Although the local market shows solid and steady growth in consumer sales, its absolute size remains too small for many international brand name manufacturers. These companies often postpone developing after-sale services and a customer support network until the market is more developed. As a result, when Ukrainian customers discover that a product labeled with a well known international brand name is not accompanied by after-sale services and customer support, he or she immediately assumes that this product is a counterfeit. On the other hand, educating local customers to western standards for after-sale services and customer support prevents counterfeiting, protects the importer's trademark and intellectual property rights (IPR), and helps to build a strong market demand for such products.

Protecting Your Intellectual Property Return to top

Ukraine's protection of intellectual property rights (IPR) remains uneven. Ukraine is a member of the World International Property Organization, is a signatory to a number of international agreements and conventions, and has passed a large number of laws aimed at strengthening the protection of intellectual property. However, the legislative framework still contains loopholes, and enforcement of existing legislation is weak. In 1999-2000, Ukraine was Europe's largest exporter of pirated CDs, and as of March 2001, the U.S. Trade Representative designated Ukraine a Priority Foreign Country under the Special 301 provisions of the U.S. Trade Act of 1974. USTR's most recent assessment in May 2004 concluded that Ukraine should remain "a Priority Foreign Country."

The USTR in 2002 imposed trade sanctions on Ukraine because of failure to pass an effective law to license and regulate the manufacture of CDs and other optical media. Ukraine has made some progress in stopping the manufacture of illegal products, but it remains a major transit country for pirated material imported from Russia and shipped elsewhere to Europe. Ukraine's CD Licensing Law still needs to be amended to create a legal base for effective licensing and enforcement. If the law is amended and the right enforcement regime put in place, the USG could review lifting sanctions. Several attempts to amend the law have failed.

Trademark piracy is a common problem for domestic and foreign companies with well-known consumer brand names. Companies cannot expect law enforcement bodies to be pro-active in combating trademark piracy. Customs procedures for the registration of goods containing intellectual property can be burdensome. In addition, state agencies have been known to resell seized products as a source of revenue.

Despite these problems, support for needed changes is gradually growing within the government, the parliament and in society at large. The U.S. Government has supported Ukraine's efforts to bring its legislation in line with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) requirements for WTO membership. A law designed to bring all laws into compliance with the TRIPS requirements passed in spring 2003. U.S. IPR experts have concluded that the bill fulfills the TRIPS requirements. It is too early to tell how effectively the law will be enforced.

Due Diligence Return to top

Given the difficulties of doing business in Ukraine, it is advisable for a U.S. company to perform its own feasibility study before starting a project in Ukraine. Numerous opportunities in Ukraine carry a significant level of risk. The first step in undertaking a project in Ukraine is knowledge of costs, risks, and returns. Most of the risks are legal, permission-related, and practical. What constitutes conforming to code in the U.S. does not necessarily mean the same in Ukraine. The nuances and various possible interpretations of Ukrainian laws, rules, and regulations make it almost impossible for one person to understand all possible ramifications. In order for a contract to be truly enforceable in Ukraine one should have a lawyer, an accountant, and an interpreter even if the private investor is fluent in Ukrainian or Russian.

Official State statistics are often unreliable, and understanding market dynamics in Ukraine comes down to informed opinion. Local surveys and "experts" should be treated with some caution, because their objectivity can be blurred by conflicts of interest.

There is no viable system for checking the financial status of a Ukrainian partner, and information on bona fides of potential Ukrainian partners should be treated with caution. It is not a practice in Ukraine for banks to provide information on the financial status of their clients, and there is no nationwide service for registering enterprises of doubtful solvency.

Due diligence is performed by a Dun&Bradstreet representative in Ukraine – Avesta-Ukraine (www.avesta-ukraine.com.ua), or by western accounting/law firms and investment advisors with a permanent local presence.

To help U.S. companies evaluate a potential Ukrainian business partner, CS Kiev offers the International Company Profile service (see http://www.buyusa.gov/ukraine/en/47.html).

Local Professional Services Return to top

Business service providers can be found at http://www.buyusa.gov/ukraine/en/bsp.html and http://www.buyusa.gov/ukraine/en/51.html

U.S. companies can find professional personnel for their Ukrainian operations through a number of experienced local and international recruitment agencies working in Ukraine. The major recruitment agencies in Ukraine include: Ancor SW (www.ancor-sw.com/), Alternativa (www.alter.com.ua), Brain Source International (http://brain-source.com), Egida (www.egida.com), Grand Personnel (www.gp.com.ua), Human Factor (www.humanfactor.com.ua), Management Consulting (www.mchr.com.ua/), Powerpact HR Consulting/Execusearch International TM (www.powerpact.com.ua), Staff Standard (www.stafstan.com), and the Association of Regional Recruiting Agencies of Ukraine (ARKA): http://www.arka.com.ua.

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http://www.bizukraine.com/employment.htm
http://ukraine-today.com/business/person_agenc/personnel_agencies.htm
http://ukraine-today.com/business/employment/index.shtml
http://www.ukrjob.hut.ru/agency.php

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Openness to Foreign Investment

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GOVERNMENT'S ATTITUDE TOWARDS FOREIGN INVESTMENT

Ukraine has not yet attracted the levels of foreign investment enjoyed by neighboring Central European countries. While macroeconomic successes and some economic reforms have improved the investment climate, issues of corruption, transparency, and rule of law have discouraged foreign investment. A new government is taking office in early February 2005 and is expected to make improving the investment climate a priority.

After eight years of decline following independence, the Ukrainian economy began growing in late 1999 and has been growing steadily since. Ukraine's GDP grew 9.4 percent in 2003 and 12 percent in 2004. Over the past few years, Ukraine has liberalized its markets, reduced regulation, eliminated most licensing requirements, eliminated most restrictions on foreign exchange and began the transformation of the agricultural sector from state-run farms to private agriculture. After years of hyperinflation and plummeting currency values, the national currency, the Hryvnia, has been stable against the U.S. dollar for over four years. Much remains to be done to achieve full economic liberalization. Ukraine's economy is still shackled by corruption, poorly developed rule of law, over-regulation and excessive government interference in what should be private business decisions.

Foreign investors express little confidence in the Ukrainian court system. Ukrainian courts tend to strike down or ignore contractual provisions for international arbitration or that assign legal responsibility for dispute resolution to a foreign court. Ukraine passed a law on the enforcement of foreign court decisions, but it has not resulted in appreciable changes. The greatest number of investor complaints involves the State Tax Administration (STA) and selective enforcement of tax policy. Businesses say that STA uses its investigative authority to advance political or business interests.

MAJOR LAWS/RULES AFFECTING FOREIGN INVESTMENT

Ukraine's law "On Foreign Investment Regime" (1996) provides for equal treatment of foreign and Ukrainian-owned business with some restrictions in publishing and broadcasting. Foreigners are prohibited from participating in the manufacture of weapons or alcoholic spirits. In October 2004, the Rada Committee supported a draft law "On State Support and Stimulation of Investment," that streamlines procedures of registration and receiving permits by companies with foreign investment. The draft is to be voted by the Rada in 2005.

Both a new Civil Code and a competing and incompatible new Commercial Code went into effect on January 1, 2004. One year later, lawyers and judges are still grappling with how to implement the two conflicting laws. In 2004 many collisions between these two codes were reported. Much existing legislation is also not fully compliant with the codes. Several bodies say they plan to recommend that the new government repeal the Commercial Code.

PRIVATIZATION

A transparent privatization law provides for the cash sale of majority shareholdings in a number of strategic enterprises, open bidding procedures, and the use of financial advisers to assist Ukraine's State Property Fund (SPF). In practice, however, the privatization process is not very transparent. Privatization rules apply to foreign and domestic investors, and, in theory, a relatively level playing field exists. Foreign participation in privatization is limited for certain "strategic" enterprises (radio, television, energy, and insurance). Foreign shares of TV and radio broadcasting and publishing companies generally may not exceed 30 percent. The Rada may lift legislative restrictions on foreign ownership in specific instances and has done so on occasion.

Mass privatization of small- and medium-scale enterprises was completed in 1999. These enterprises, now in private hands, contribute significantly to economic growth. Lack of clear regulatory control limits the Government's ability to privatize attractive enterprises in several strategic sectors. Ukrainian, and sometimes Russian, business interests use the weak institutional setting to circumvent privatization rules. The year of Presidential elections - 2004, was marked by hasty privatizations of large enterprises, including a highly controversial privatization of Ukraine's largest steel mill Krivorizhstal, which clearly discriminated against foreign bidders. In January-November 2004, privatization receipts reached UAH 9.25 billion (USD 1.7 billion), higher than in any previous year.

PROCUREMENT

Ukraine is not a signatory to the WTO Agreement on Government Procurement but is negotiating WTO accession. A March 2000 government procurement law gives priority to Ukrainian bidders for the purchase of goods and services and provides a 10 percent differential to domestic bidders over foreigners in certain cases. Purchasing practices

vary and include open and closed tenders. To avoid abuses in highly concentrated areas of industry, the GOU relies primarily on open tenders. Personal contacts and politics, however, remain important. Investors complain about a lack of advance notice of rules and requirements for tenders, covert preferences in tender awards, awards made being subject to conditions not defined in initial tender announcements, partiality towards domestic investors and an inability to resolve grievances and disputes.
A law on production sharing agreements, effective October 1999, provided a legal framework guaranteeing that the terms of agreements between foreign investors and the GOU for natural resources development could not be changed once an investment is made. Special tax provisions apply, but this key law is still not yet fully implemented.

ANTI-COMPETITIVE ACTIVITY

Unfair competitive practices have been a leading barrier to doing business in Ukraine. Problems arise from competitors in the shadow economy (who do not pay taxes fully, for example) and privileges given businesses favored by local authorities.
Ukraine's anti-monopoly committee implements competition policy, and consumer protection legislation. The anti-monopoly committee recorded 2,792 violations of the anti-monopoly legislation during 11 months of 2004, which is about 16 percent more than for the same period in 2003. Similar to the previous years, the majority of the violations – 1,328, relate to the monopolists' misuse of their privileged position on the market. As a result of their unlawful activity violators have paid UAH 32,947 in penalties.

Conversion and Transfer Policies

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RESTRICTIONS ON CONVERTING/TRANSFERRING FUNDS

The April 1996 "Foreign Investment Law" guaranteed the "unhindered transfer" of profits, revenues, and other proceeds in foreign currency after taxes and other mandatory payments. However, according to the National Bank of Ukraine (NBU) Resolution 482 effective 12 November 2004, foreign investment funds may only be brought into Ukraine via special commercial bank accounts, which must convert the hard currency into Hryvnia. Foreign investments, therefore, may only be conducted in Hryvnia. Likewise, the resolution stipulated that all payments to foreign investors must be made in Hryvnia to the investors' bank accounts in Ukraine. The banks are free to convert the Hryvnia into hard currency so that the payments may be repatriated. Although the NBU claims that this controversial new resolution is merely a complication of previously existing regulations, bankers and businesspeople complain that it renders international transfers more burdensome and costly for investors. Ukraine's currency, the hryvnia, has floated freely since 2000. The hryvnia has been stable. As of January 2005, it traded against the U.S. dollar at approximately UAH 5.3 to the dollar, approximately the same level as last year.

FOREIGN CURRENCY EXCHANGE

While foreign investors may repatriate earnings, sale of proceeds in hard currency received by a purely Ukrainian company are subject to a 50 percent conversion requirement, and companies must obtain a license from the National Bank of Ukraine (NBU) for some operations. For hard currency being sent out of Ukraine, each transaction over $50,000 has to be approved by the NBU, and the NBU charges a fee to review the transaction. Foreign exchange is readily available at market-determined rates. Investors may convert their earnings into foreign currency through commercial banks, which purchase foreign currency on the inter-bank market. Commercial banks may trade foreign currency in electronic form with other banks or participate in electronic currency trading at the Ukrainian Inter-bank Currency Exchange (UICEX). In October 2004, the NBU limited bank exchange rates to a 2 percent deviation from the official NBU exchange rate. The range between purchase and sale exchange rates was limited to 10 percent

.

To purchase hard currency, companies must provide their banks with a copy of the foreign trade contract and, if a transaction exceeds USD $10,000, get a permit from the State Tax Administration. Commercial banks must announce their clients' intentions to sell on UICEX if the transactions exceeded USD $500,000. Investors must convert half of their foreign currency revenues to the national currency. The law "On the Circulation of Promissory Notes" provides an opportunity for payments in foreign currency and issuance and circulation of promissory notes, in accordance with the 1930 Geneva Convention "Providing a Uniform Law for Bills of Exchange and Promissory Notes." Residents may transfer up to USD $300 abroad without opening a bank account. Illegal trade of hard currency is not a criminal matter but brings administrative penalties.

FOREIGN CURRENCY LOANS

Resident legal entities and entrepreneurs and foreign banks may receive foreign currency loans. The regulations address procedures for loans from non-residents, interest-free credits in foreign currency, and the application of sanctions for currency violations. Companies with no representation in Ukraine may not open deposit accounts with Ukrainian banks, but they may open accounts to conduct settlements.

Expropriation and Compensation

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Under the 1996 "Foreign Investment Law," a qualified foreign investor is provided guarantees against nationalization, except in cases of national emergencies, accidents, or epidemics. International institutions recommend that definitions of expropriation and nationalization in the foreign investment law and bilateral treaties be expanded to include indirect and creeping expropriation. Courts can determine whether owners of privatized enterprises failed to pay for an enterprise or to implement investment commitments in a privatization sale. Failure to pay or invest allows the GOU, with court permission, to revoke ownership and resell the property.

Dispute Settlement

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EXTENT AND NATURE OF INVESTMENT DISPUTES

The Embassy provides advocacy on behalf of U.S. investors. Frequently, investment disputes involve the lack of adequate rule of law, fair and impartial dispute resolution mechanisms, enforcement of domestic court and international arbitration decisions. Another problem is poor corporate governance (inadequate protection for shareholder rights, inadequate disclosure, asset-stripping, and voting fraud). Corruption lies at the heart of many investor disputes. Laws and regulations are vague, with considerable room for interpretation, providing officials at every bureaucratic layer ample opportunities for corruption. Dispute settlement remains weak. Most U.S. businesses consider the local and national court systems unpredictable and try to avoid them. Commercial contracts may permit the parties to use international arbitration courts to settle disputes. Although Ukrainian legislation recognizes international arbitration decisions, in practice such decisions are difficult to enforce in Ukraine.

DESCRIPTION OF UKRAINE'S LEGAL SYSTEM

Ukraine has a civil law system relying on codes and acts. The court system has constitutional courts and courts of general jurisdiction. The general courts include courts designated by administrative level (rayon, oblast, and supreme) and by specialization. The courts of general jurisdiction review and settle civil, criminal, and administrative cases while specialized arbitrage courts review business disputes, bankruptcy, and anti-monopoly cases. Despite their name, these are commercial courts, not for binding arbitration. The Supreme Court of Ukraine is the highest court in the general courts system. Ukraine's Constitutional Court interprets the Constitution and laws of Ukraine. The law "On the Judiciary", in force as of January 1, 2003 creates five levels of courts-local courts, courts of appeal, courts of cassation, higher specialized courts, and the Supreme Court, as well as an independent judicial department to manage the court system rather than the Ministry of Justice. Though the law increases the independence of the judiciary, in some cases it increases the powers of the President.

ENFORCEMENT OF RIGHTS

Investors criticize Ukraine's legal system for burdensome procedures, unpredictability, political interference, corruption, and inefficiency. Even when they obtain favorable decisions, investors claim they are often not enforced.

The "On Acknowledgment and Execution in Ukraine of Decisions of Foreign Courts" provides for execution of court decisions of those countries with which Ukraine has signed international treaties. The law covers foreign court decisions in civil, labor, and family cases; sentences in criminal cases in terms of reparation of damages to victims; and decisions of foreign arbitration courts. Laws "On the Order of Executing Decisions of the European Court for Human Rights" and "On Executive Implementation Procedures" show an encouraging trend toward conforming Ukraine's legal system to international norms.

CORPORATE GOVERNANCE

Ukrainian law offers scant protection for minority shareholders against insider dealing, asset stripping, profit skimming, and share dilution. In December 2002, the law "On Companies" was amended to obviate the rights of minority shareholders. Corporate finance is restricted and the lack of a company register breeds a lack of transparency. Some examples of shareholder rights abuses include limited disclosure, capital restructuring without shareholders' consent, and shareholder voting fraud. A "Joint Stock Company" law to remedy the pitfalls of the current law by introducing sound corporate practices that meet international standards has languished un-passed for six years. Interest now is growing in the business community in pushing through this needed reform.

BINDING INTERNATIONAL ARBITRATION

Ukraine enacted an International Commercial Arbitration Law in February 1994, which parallels commercial arbitration laws set forth by the United Nations Commission on International Trade Law. Ukraine is a member of the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitration Awards. Some investors have problems enforcing foreign arbitration awards in Ukraine. Foreign arbitral award enforcement procedures in Ukraine are regulated by a number of statutes and regulations, including the laws "On Commercial Arbitration" and "On Enforcement Proceedings."

ICSID MEMBERSHIP

In early 2000 Ukraine ratified the Washington Convention, providing for use of the International Center for Settlement of Investment Disputes (ICSID), an internationally recognized mechanism for resolving investment disputes between investors and the GOU. The U.S.-Ukraine Bilateral Investment Treaty (BIT), signed in November 1996, recognizes arbitration of investment disputes before the ICSID, but international arbitration under the BIT is a tool of last resort and impractical for everyday problems.

Performance Requirements and Incentives Return to top

PERFORMANCE REQUIREMENTS

There are no known cases of performance requirements imposed on foreign investors other than those clearly spelled out in privatizations conducted via open tender.

INVESTMENT INCENTIVES

Foreign investors are exempt from customs duties for any in-kind contribution imported into Ukraine for the company's charter fund. Some restrictions apply and import duties must be paid if the enterprise sells, transfers, or otherwise disposes of the property.

Right to Private Ownership and Establishment Return to top

The Constitution of Ukraine guarantees the right to private ownership, including the right to own land. Ukraine's law "On Ownership" recognizes private ownership and includes Ukrainian residents, foreign individuals, and foreign legal entities among those entities able to own property in Ukraine. It permits owners of property (including foreign investors and joint ventures) to use property for commercial purposes, to lease property, and to keep the revenues, profits and production derived from its use. The law "On Ownership" is not comprehensive and mechanisms for the transfer of ownership rights are weak. Some difficulties have arisen over foreign acquisition of majority control of enterprises, with the government or the current management continuing to exercise effective control of company decisions.

Protection of Property Rights Return to top

On October 25, 2001 the Ukrainian Parliament passed a Land Code. The Land Code provides for private ownership of land but introduces a moratorium on trading in agricultural land until 2005. In December 2004, the Rada extended the moratorium on land sales until January 1, 2008, by overriding the Presidential veto on the extension. Individuals cannot own more than a total of 100 hectares of agricultural land after the expiration of the moratorium in 2008 and before 2015. The Land Code has a 20-year moratorium on agricultural land sales to foreigners, though foreigners may own land plots on which company facilities have been built. Such restrictions may delay the development of a functioning land market, but the overall picture is not entirely negative. There is an active market in land leasing.

MORTGAGE

In late 2002 Ukraine adopted a law on "Withholding Land Shares in Kind". In June 2003, a law "On Mortgages" was adopted. Implementation of the law may take several years. USAID sponsors a land titling initiative aimed at providing technical assistance both to reduce the cost of agricultural land titling and to provide direct support for the issuance of land titles. Since passage of the decree, 3.3 million land titles out of a possible 6.7 million were issued by June 1, 2003. The World Bank assists Ukraine in developing the cadastre. Currently some mortgages are issued under a June 1999, Presidential decree permitting mortgages on land and buildings, both private and commercial. However, banks are reticent to provide financial backing for the purchase of real or personal property. While the use of mortgages in Ukraine remains limited by the scarcity of issued titles and limits on lending activity, apartments, houses, office buildings, other types of buildings, and dacha plots have secured mortgages.

USAID has been instrumental in the creation of a pledge registry, which applies to individuals' obligations with regard to movable property and tax liens. Though rudimentary, the registry is nationwide, providing a more transparent lending market for personal property.

IPR

Ukraine's protection of intellectual property rights (IPR) remains uneven. Ukraine is a member of the World International Property Organization and a signatory to a Number of international agreements and conventions, and has Passed a large number of laws aimed at strengthening the Protection of intellectual property. In 1999-2000, Ukraine was Europe's largest exporter of pirated CDs, and in 2001, the U.S. Trade Representative designated Ukraine a Priority Foreign Country under the Special 301 provisions of the U.S. Trade Act of 1974 and imposed 75-million-worth trade sanctions. USTR's most recent assessment in May 2004 concluded that Ukraine should remain a "Priority Foreign Country."

Ukraine has made progress in stopping the manufacture of illegal products, but it remains a major transit country for pirated material imported from Russia and shipped elsewhere to Europe. UkrainQs CD Licensing Law still needs to be amended to create a legal base for effective licensing and enforcement. Several attempts to amend the law in 2004 failed.

Trademark piracy is a common problem for domestic and foreign companies with well-known consumer brand names. Companies cannot expect law enforcement bodies to be pro-active in combating trademark piracy. Customs procedures for the registration of goods containing intellectual property can be burdensome. In addition, state agencies have been known to resell seized products.

Despite these problems, support for needed changes is gradually growing within the government, the parliament and in society at large. The U.S. Government supports Ukraine's efforts to bring its legislation in line with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) requirements for WTO membership. A law designed to bring all laws into compliance with the TRIPS requirements passed in spring 2003. U.S. IPR experts conclude that the bill fulfills the TRIPS requirements.

Transparency of Regulatory System

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TRANSPARENCY OF REGULATORY POLICIES

While there has been some deregulation, the number of regulations, required certificates, and inspection regimes in Ukraine impose a significant regulatory burden on private enterprise. The State Committee for Regulatory Policy and Entrepreneurial Activity (SCRPEA), according to Ukrainian legislation, is to review all proposed new laws, ministerial decrees, and regulations before they are adopted to determine possible impact on entrepreneurial activity.

The GOU has detailed procedural and methodological recommendations for preparing regulatory impact (cost-benefit) analyses for every newly proposed regulatory act; dissemination of proposed texts of all new regulations to interested parties, and an opportunity for public hearings and comment before adoption. USAID provides training to help with the implementation of the acts.

BUREAUCRATIC PROCEDURES

The GOU requires enterprises to obtain numerous permits to conduct business. Procedures are complex, unpredictable, burdensome, and duplicative creating confusion, increasing the cost and time to do business in Ukraine, providing opportunities for corruption, and driving business into the shadow economy. With initiative from local (municipal) governments and support from USAID, "One-stop Registration Shops" have been introduced in several cities. Some cities have begun to apply one-stop concepts to land use and other permits.

LICENSING

A Law "On Licensing Certain Types of Economic Activities" provides which activities are subject to licensing. Fees are high and compliance burdensome, particularly for telecommunications equipment. Licensing laws favor domestic producers and traders of ethyl, cognac, and fruit alcohol, spirits, and tobacco.

RULEMAKING

A Cabinet of Ministers resolution on Procedures for Adoption of Regulatory Acts, signed in July 2000, outlines procedures for approving draft regulations relating to entrepreneurial activity by SCRPEA.

INSPECTIONS

A 1998 Presidential Decree restricts entities' authority to conduct financial inspections to one planned inspection per year and requires a minimum of 10 days notice. Non-financial inspections continue to be used as a means of harassment and are major impediments to doing business in Ukraine.

CERTIFICATION/HEALTH AND SAFETY POLICIES

Technical standards and certification requirements are imposed on many imports. The certification body is the State Committee of Ukraine for Technical Regulation and Consumer Policy ("DerzhSpozhyvStandard). Although Ukraine belongs to several international standardization bodies, such as the International Organization for Standardization (ISO), it generally fails to recognize foreign product certificates, even if issued in line with international standards, unless recognition is mandated through an international treaty signed by Ukraine. Procedures can be lengthy, burdensome, and expensive and standards are vague, inflexible, and subject to frequent changes. Numerous certification bodies operate independently without coordination or oversight. Local, regional, and municipal authorities often require additional documentation beyond that required by certification bodies. As of November 2004, DerzhSpozhyvStandard had a network of 107 accredited product certifying bodies and six accredited certifying bodies for quality management systems, as well as 780 testing laboratories throughout Ukraine. Appropriate resources, such as modern analytical equipment and reactants, are not available in most laboratories. Quality management systems are needed to ensure testing is done within an acceptable margin of error. DerzhSpozhyn-Standard's system includes 28 state centers for standardization, systematizing weights and measures, certification and 27 territorial departments for consumer protection. Companies seeking testing should first contact DerzhSpozhyvStandard.

Importers can apply for three types of certificates: a certificate for a single batch of goods; a certificate for one year, which is valid far all imported goods during that year with one or two additional selective tests (this type of certification covers70 percent of issued certificates); and a certificate for 5 years, which mandates inspection of production facilities.

Ukraine plans to bring its standardization system into conformity with the European Standards System by 2011, to meet the requirements for accession to the European Union. The law "On Assurance of Conformity" is replacing mandatory certification for many types of products with assessment procedures in conformance with international standards and the "New Approach" directives of the European Union, including the principle of "presumption of conformity to standards." On August 1, 2002, the National Accreditation Body started operations to ensure the use of standards and procedures consistent with the European Cooperation for Accreditation (ECA) policy.

Efficient Capital Markets and Portfolio Investment Return to top

BANKING

The Ukrainian banking system consists of the National Bank of Ukraine (NBU) and commercial banks. The NBU is responsible for monetary circulation, registration of commercial banks, and oversight of their activities.

The banking sector plays a minor role in Ukraine's economy. Bank capital is less than 6 percent of GDP. Total bank assets are about UAH 140.3 billion, with total loan assets of UAH 91.8 billion. Money lending and deposits grew at a fast 33.9 percent and 32 percent respectively in January-November, 2004. Despite rapid growth, bank deposits account for 28 percent of GDP, putting Ukraine in the 'poor' category in the standard rankings of deposits. Interest rates declined from an average of 22 percent in 2003 to 17.9 percent in 2004 making credit more accessible. Most banks have a high cost structure and have high net interest margins versus low operating profits. There are 160 banks operating in Ukraine, but a handful of banks dominate the market. The top ten banks control 55 percent of loans outstanding and own 36 percent of the total capital of the system. With more active consumer lending, the share of loans exceeding one year increased to 46.2 percent of the total loan portfolio of the banking system, up from only 23 percent last year.

In January 2002, the law "On Banks and Banking Activity" eliminated discrimination against foreign banks. It entrusted the NBU with issuing banking licenses, and includes provisions to prevent money laundering. The NBU sets minimum capital requirements each year to be met by the banks by the year-end. Current minimum capital requirements range from UAH 7.6 million to UAH 36.6 million. It is expected that 21 Ukrainian banks will not be able to implement the minimum capital requirements in 2004 and will face NBU sanctions. Foreign licensed banks may carry out the same activities as domestic banks, and there is no ceiling on their participation. Foreign banks can operate via subsidiaries in Ukraine. The decision to allow foreign banks to operate via branch offices is pending before the Rada. In May 2002, most provisions of the law "On Systems of Payment and Money Transfer in Ukraine" came into effect, making payments more flexible and modern, including the use of electronic signatures. In July 2002, a law was passed that established legal principles for the provision of financial services and performance of regulatory and supervisory functions. Ukraine remains a cash economy, but use of plastic cards is rising.

INSURANCE

Only insurance companies registered in Ukraine may carry out insurance operations. There is a lower minimum capital requirement for domestic insurance companies than insurance companies with foreign shareholders. Foreign insurance companies can invest in local companies, but must establish a registered commercial presence such as a subsidiary to operate in Ukraine.

CAPITAL MARKETS

Legal, regulatory, and financial disclosure systems for the securities market lag behind international standards. Basic market infrastructure exists as does a regulator, but the legislative basis for capital market operations is weak. Rulings of the Securities and Stock Market Commission (SSMC) are advisory only and are not always followed by the courts. Investors face low market confidence, high macroeconomic risk, transitional accounting standards, a lack of accurate company information, and poor protection of minority shareholders' rights.

Ukrainian law allows for stocks (registered, bearer, preferred, and common), government securities, general obligation bonds, corporate bonds, savings certificates, promissory notes, bond coupons, loan certificates, bank orders, savings accounts and privatization certificates.

According to the SSMC, there were 139 collective investment institutions, 863 securities traders, 131 custodians, 396 registrars, and 10 self-regulatory organizations (six of which are associations) in 2004. Eight stock exchanges were registered in Ukraine. A Ukrainian securities industry broker/dealer self-regulatory organization (SRO) and its nationwide electronic trading system (PFTS) is the largest marketplace with 76 percent of secondary onshore trading. Market capitalization was UAH 42.6 billion (USD $8.04 billion) in early 2004.

Principal laws, decrees, and regulations governing financial markets include: "Law on Securities and Stock Exchanges" (1991), "Law on Business Associations" (1991) and amendments (1996), "Presidential Decree on Investment Funds and Investment Companies" (1994), "Law on State Regulation of Securities Markets" (1995), "Law on National Depository System" (1997), "Law on Accounting and Financial Reporting" (1999), "Bankruptcy Law" (1999) "Law on Collective Investment Institutions" (2001), and the "Law on Financial Services" (2001).
A law "On Collective Investment Institutions" encourages the creation of mutual funds, introduces the idea of a licensed asset manager, regulates the establishment and operation of subjects of mutual investment, provides guarantees of ownership rights to securities, and protects rights of exchange market participants. Ukrainian Law provides a framework for the circulation of promissory notes in accordance with the Geneva Convention of 1930.

BANKRUPTCY

A January 2000 bankruptcy law provides for debtor-led reorganization, a meaningful moratorium on payment and collection of pre-existing debt and tax forgiveness.

Political Violence

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Political demonstrations with some violence occurred early in 2001. The demonstrations were directly tied to the political scandals surrounding the Presidency. Subsequent demonstrations against the President in the fall of 2002 and March 2003 were peaceful. A fraudulent presidential runoff election in November 2004 brought about the "Orange Revolution" in November and December 2004. The country saw massive street demonstrations in Kiev and other cities. Protesters blocked government offices and buildings. Some companies went on strike in support of the opposition candidate but the strikes lasted just a few days. Disruptions in normal business activities were minimal. The demonstrations were peaceful. The likelihood of future widespread politically inspired violence that would affect foreign property interests remains relatively low.

Corruption

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Corruption pervades all levels of society and government and all spheres of economic activity in Ukraine. On Transparency International's Year 2004 Corruption Perception Index, Ukraine ranked 122nd on the list of the 145 countries. Russia ranked 90th. The incoming President has declared reducing corruption as a top priority.

Corruption stems from rampant conflicts of interest, a lack of institutional traditions of transparent decision-making and societal understanding of the importance of corporate governance and transparency. Low public sector salaries fuel corruption in local administrative bodies such as the highway police and tax administration as well as in the education system. Miniscule salaries in the medical system mean that the state guarantee of "free medical care" has been largely supplanted by a system of informal payments where patients are expected to make a "charitable donation" to receive treatment. High-level corruption ranges from misuse of government resources and money laundering to non-transparent privatization and procurement procedures. In short, corruption impacts the daily lives of Ukraine's citizens and important decisions taken at the state level.

Ukraine's prosecution of corruption is based on the law "On Combating Corruption", which was passed in October 1995. The law is rarely enforced, and then normally aimed at lower-or mid-level state employees.

Although government action is still limited, fundamental changes have taken place in the GOU's attitude towards corruption. Gone are the days when GOU officials refused to admit that corruption existed in Ukraine. Government and Rada officials now openly discuss the problem of corruption. President Kuchma established a coordination committee for combating corruption and organized crime composed of the State Security Service, Justice Ministry, Ministry of Internal Affairs, and State Customs Service. In April 2004 the Constitutional Court confirmed the status of the Committee as an advisory body, and cancelled its authority to draw regulatory acts. With financial support from the International Development Fund of the World Bank, the GOU will implement the Dialogue for Reforms project, aimed at increasing transparency of government activity and introducing mechanisms for public consultations. In February 2004, President Kuchma issued a resolution On Measures to Eliminate Conditions Favoring Corruption. The resolution focuses on repatriating shadow funds from foreign bank accounts and streamlining VAT refund procedures. Ukraine signed the UN Anticorruption Convention in December 2003 but has not yet ratified it.

RULE OF LAW

As discussed above, improvement of the ability of investors to protect their property and contractual rights is crucial to the investment climate. The judicial system needs to be reformed and made more independent. Enforcement of court decisions is also lacking.

Bilateral Investment Agreements Return to top

The Bilateral Investment Treaty between the United States and Ukraine came into force on November 16, 1996. The following countries have also signed bilateral investment agreements with Ukraine: Austria (1996), Argentina (1995), Armenia (1994), Azerbaijan (1997), Belarus (1995), Bulgaria (1994), Canada (1994), Chile (1995), China (1992), Cuba (1995), Croatia (1997), the Czech Republic (1994), Denmark (1992), Egypt (1992), Estonia (1995), Finland (1992), France (1994), Georgia (1995), Germany (1993), Greece (1994), Indonesia (1996), Iran (1996), Israel (1995), Italy (1993), Hungary (1995), Kazakhstan (1994), Kyrgyzstan (1993), Latvia (1997), Lebanon (1996), Lithuania (1994), Macedonia (1998), Moldova (1995), Mongolia (1992), the Netherlands (1994), Poland (1993), Russia (1998), Slovakia (1994), Slovenia (1999), South Korea (1996), Spain (1998), Sweden (1995), Switzerland (1995), Turkmenistan (1998), Turkey (1996), UK (1993), Uzbekistan (1993), Vietnam (1994), Yugoslavia (2001), Yemen (2002), Saudi Arabia (2003).

OPIC and Other Investment Insurance Programs

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STATUS OF OPIC OPERATIONS IN UKRAINE

The Overseas Private Investment Corporation (OPIC) in 2004 resumed financing and insurance for projects in Ukraine. The U.S.-Ukraine OPIC Agreement was signed in Washington on May 6, 1992. OPIC is currently in negotiation with the GOU to recover monies paid out to a U.S. claimant whose investment was expropriated.

EXPORT-IMPORT BANK

On July 20, 2002 the Board of the U.S. Export-Import bank opened up its facilities for short and medium-term (up to seven years) lending for commercial, and sub-sovereign projects.

MULTILATERAL INVESTMENT GUARANTEE AGENCY
The Multilateral Investment Guarantee Agency (MIGA) is an independent member of the World Bank Group, which provides guarantees against political risk to foreign investors in connection with new investment in developing member countries. Forms of investment that can be covered by MIGA include equity, loans, loan guarantees, and loans made by financial institutions (as long as MIGA is also insuring part of the foreign equity in the project enterprise). Certain non-equity direct investments may also be eligible such as technical and management contracts and franchising and licensing agreements.

Labor

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LABOR AVAILABILITY

Ukraine has a well-educated and skilled labor force with nearly a 100 percent literacy rate. The official (registered) unemployment level is low, 3.3 percent as of November 2004, but these figures are misleading. Most experts agree that reported unemployment is understated with the real unemployment rate more like 9.3 percent.

WAGES

Wages in Ukraine are very low by Western standards. In 2004 the nominal average monthly wage in Ukraine was UAH 462.27 and in October 2004 reached UAH 636.21($120 roughly). The highest wages are in the financial and credit sectors while the lowest wages were paid to agricultural workers.

LABOR/MANAGEMENT RELATIONS

Ukrainian workers are generally accustomed to "top-down" management practices and therefore fail to demonstrate initiative. A younger, more independent-minded generation is slowly moving into the workforce, and it is becoming easier to find personnel who function independently.

Although investors may encounter government resistance to trimming the work force to an efficient level, absolute demands to maintain employment levels are fading. Ukrainian enterprises still maintain much of the social infrastructure of their immediate community (schools for local children, cafeterias, and medical facilities). While many local officials are willing to work with businesses to identify social services that an enterprise must support, such arrangements should be clearly spelled out before investments are started.

MINIMUM WAGE

The minimum monthly wage was increased in 2004 to UAH 237. According to Ukrainian legislation, the minimum wage is adjusted whenever consumer price increases reach 5 percent. The GOU announced that by 2007 the minimum wage in the country would reach the subsistence level, which was increased to UAH 423 per month in January 2005.

PAYROLL TAXES

Payroll taxes (both employee-paid and employer-paid) total over 40 percent as follows:

TYPE OF PAYROLL TAX	PAYER/PERCENTAGE		CAP
Pension Fund	Employer	32.0%	UAH 1,000
Pension Fund	Employee	2.0%	UAH 1,000
Temporary Disability Fund	Employer	2.9%	UAH 1,000
Temporary Disability Fund	Employee	0.5%	UAH 1,000
Unemployment Fund	Employer	2.1%	UAH 1,000
UNEMPLOYMENT FUND	Employee	0.5%	UAH 1,000

The Temporary Disability Fund and Unemployment Fund form part of the Social Security Fund.

Foreign-Trade Zones/Free Ports

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As of December 2004, there were 11 Special Economic Zones (SEZ) and 11 priority development Areas (PDA), offering tax and import duty exemptions and other benefits to encourage investment and production of goods for export. They differ by tax concessions granted. FEZs mandate privileges for 10 to 30 years (depending on the investment). Priority Development Territories (PDT) do not have independent customs borders. There is a moratorium on creation of new SEZs, which was again violated by creation of new zones, two of which were created in November 2003. The IMF and World Bank suggested that the zones be eliminated and advised the government to focus instead on improving the overall investment climate in the country. The GOU did cancel some previously granted privileges, but formidable regional political interests are likely to prevent closure of FEZs.

FREE PORTS

Porto-Franco in Odessa has the status of a free port. In total, Ukraine has 20 seaports and 10 river ports located on the Black Sea, the Sea of Azov, and the Danube, Yuzhniy Bug and the Dnieper rivers. They are currently under the authority of the Ministry of Transportation's Department of Sea and River Transport. All seaports are state-owned with the exception of a small port that belongs to the Mykolayiv Alumina Plant. All river ports are open or closed joint stock companies.

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FOREIGN DIRECT INVESTMENT

According to the State Statistical Committee, in 2004 foreign investment in Ukraine grew by 22 percent. As of January 1, 2004, FDI in Ukraine accounted for USD 6.658 billion or USD 140 per capita, one of the lowest levels of FDI in the CIS. Annual FDI in Ukraine's neighbor, Poland, was nearly 10 times as high. Over nine months of 2004, foreign direct investment grew by over USD 1 billion to USD 7.76 billion as of December 1, 2004 or USD 162 per capita. USD 1.32 billion in foreign investment entered Ukraine while USD 277 million were withdrawn.

FDI BY COUNTRY

In all, 117 countries invested in Ukraine. As of December 1, 2004 Ukraine's major investors include: Cyprus (14.1%), the United States (13.6%), the United Kingdom (10.4%), Germany (7.1%), the Netherlands (6.8%), Virgin Islands (6.1%), Russia (5.5%), Switzerland (4.9%), Austria (4%).

FDI BY INDUSTRY SECTOR DESTINATION

Over 9 months of 2004, 16 percent of FDI went to domestic trade, 14.6 percent - to food processing, 8.4 percent - to machine building and the finance sector, 7.3 percent - to the transportation and communications industry.

Q. Tax Issues of Interest to Major U.S. Investors:

TAX TREATIES

The "U.S.-Ukraine Tax Treaty" went into force June 5, 2000. Every year, the GOU updates a list of offshore jurisdictions to establish restrictions on the deductibility of payments by resident companies to nonresident entities "located" in offshore jurisdictions. In such cases, only 85 percent of the amount paid may be deducted or capitalized.

In May 2001, the Cabinet of Ministers approved a resolution "On Approval of the Procedure for Exemption of Incomes Generated in Ukraine from Taxation (Tax Deductions) in Compliance with Ukraine's International Agreements on Prevention of Double Taxation." The order exempts from taxation profits of non-Ukrainians who pay taxes on repatriated profits and whose home nations have signed bilateral agreements with Ukraine against double taxation if they submit a document verifying that they reside in a country with which Ukraine has a double-taxation agreement. Without such a document, non-residents' profits of Ukrainian origin are subject to taxation. If a non-resident believes that a tax was exacted on profits exceeding the amount due under an international double taxation agreement, he or she may file a repayment claim with tax authorities from the state where the entity that generated the income is registered.

TAX POLICIES

The most frequent complaints from businesses in Ukraine involve tax administration. One key issue is the administration of refunds to exporters for VAT that has been collected. There is a large backlog of refunds that must be repaid and the GOU is discussing the issue with the IMF. There has been discrimination against foreign companies in the use of promissory notes to cover VAT for temporary imports. In addition to confusing regulations and a heavy tax burden, investors complain of harassment by tax officials, discriminatory application, and disproportionate penalties. On December 24, 2002 the Rada voted to reform the "Enterprise Profits Tax," cutting the corporate tax rate from 30 percent to 25 percent and liberalizing provisions for loss carryovers. On May 22, 2004 Ukraine introduced a flat rate of 13 percent on personal income. Budgetary effects of the tax cuts are still being calculated.

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EXHIBIT 13



October 2004

Legal Issues with regard to Business Operations and Investment in Ukraine

OECD

- how best to resolve conflicts between provisions of the Codes that regulate civil relationships, considering whether conflicts among the Civil Code, the Commercial Code and subordinate legislation should be decided in favor of the Civil Code or the Commercial Code; and
- how best to enact into law the implementing legislation referred to in the Civil Code, which has not yet been passed, most importantly, the bill on private international law (which covers conflicts of laws rules) currently pending before the Supreme Rada.

Several Roundtable participants argued that the Codes were essentially contradictory in their natures. It was noted that the Civil Code, while containing some problems, can be improved; on the other hand, the Commercial Code embodies concepts that simply do not work within a market economy. It was generally agreed that the conflicts and inconsistencies between the two Codes are so numerous as to make it impossible to bring them into compliance with each other.

It was suggested that the Commercial Code could perhaps be transformed into an act that regulates only legal relations between the State and private companies. Another participant expressed the belief that setting up separate legal regulations for each of the private and public sectors would be dangerous, and that both State-owned and private businesses should be subject to the same legal regulations. Incidentally, this was a point also raised in the Survey. The representative from the Delegation of the European Commission argued that Ukraine should move towards a unified system of legislation, as the EU is doing, with the aim of both eliminating conflicts among legislative acts and simplifying the process of enforcing laws – which is currently one of Ukraine's primary problems. Another participant pointed out that the Civil Code is already an all-encompassing document, echoing a sentiment expressed by respondents to the Survey. Thus, the Commercial Code was not needed at all and should be abolished.

Ultimately, the majority of the Roundtable participants agreed that the Civil Code must be amended and that this can be done without undue difficulty. In contrast, the Roundtable participants cited the Commercial Code's decided tendency towards re-establishing a command economy, for example, its empowerment of the government to dictate the actions of companies and to deprive companies of various benefits and privileges when they do not comply with government demands, should be abolished.

3. Company law

The OECD's 2001 *Investment Policy Review: Ukraine* noted several weaknesses in Ukraine's company law regulation, embodied in the Law on Enterprises and the Law on Companies. Ukraine has repaired some of these problems by annulling the Law on Enterprises. Yet, serious problems with Ukraine's company laws continue to disrupt the economic life of the country. In the OECD's 2001 *Investment Policy Review: Ukraine*, the observation was made that it would be desirable to: "develop entirely new legislation for various types of businesses based on relevant provisions of the draft civil code". That, too, has been accomplished by passing the new Civil Code.

Nonetheless, the businesses surveyed feel that Ukrainian company laws can still be improved. Based on comments gleaned from the Survey, the Roundtable focused on the following three issues:

- how to resolve overlapping and uncoordinated provisions of the Civil and Commercial Codes that regulate the same issues; clarifications of ambiguous terminology; and problems with the effective application of many of the Codes' important provisions;
- the possible removal of incongruous provisions and legislative gaps in the Law on Companies, which is the primary Ukrainian law regulating companies; and
- the possible removal of impractical and unreasonable provisions found in the Codes.

All of these problems hinder enterprise development and business operations in Ukraine. They often create bureaucratic obstacles to the free operation of companies, open the door to unscrupulous competitors using legal loopholes to compete unfairly and create a fertile ground for corruption to grow within government agencies and the courts.

EXHIBIT 14

Intellectual Property

Priority Foreign Countries are those pursuing the most onerous or egregious policies that have the greatest adverse impact on U.S. right holders or products, and are subject to accelerated investigations and possible sanctions. Countries or economies on the **Priority Watch List** do not provide an adequate level of IPR protection or enforcement, or market access for persons relying on intellectual property protection. Thirty-four trading partners are placed on the **Watch List**, meriting bilateral attention to address the underlying IPR problems. China and Paraguay, due to their serious IP-related problems are subject to another part of the statute, **Section 306** monitoring, because of previous bilateral agreements reached with the United States to address specific problems raised in earlier reports.

2005 Special 301 Report

2005 Special 301 Report

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2005 SPECIAL 301 REPORT

EXECUTIVE SUMMARY

The 2005 "Special 301" annual review examines in detail the adequacy and effectiveness of intellectual property rights (IPR) protection in 90 countries. Based on a lengthy process of information-gathering and analysis, the United States Trade Representative (USTR) has identified 52 countries that are designated in the categories of Priority Foreign Country, Section 306 Monitoring, Priority Watch List, or Watch List. The Special 301 Report reflects the Administration's resolve to take consistently strong actions under the Special 301 provisions of the Trade Act.

This Administration is determined to ensure the adequate and effective protection of intellectual property and fair and equitable market access for U.S. products. The designations and corresponding requisite measures announced today result from close consultations with affected industry groups, other private sector representatives, and Congressional leaders, and demonstrate the Administration's commitment to use all available methods to resolve IPR issues.

Addressing weak IPR protection and enforcement in China continues to be one of the Administration's top priorities. These IPR issues, outlined in the China section of the Special 301 Report, are critical in light of the rampant counterfeit and piracy problems that plague China's domestic market and the fact that China has become a leading exporter of counterfeit and pirated goods to the world. In the China section of the Special 301 Report, we are announcing the results of the out-of-cycle review conducted in early 2005. This year's Special 301 Report also sets forth the United States' plan to work with U.S. industry and other stakeholders to further build a factual record and to develop arguments with an eye toward utilizing World Trade Organization (WTO) procedures to bring China into compliance with its WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) obligations, to invoke the transparency provisions of the TRIPS Agreement, to elevate China to the Priority Watch List, and to maintain Section 306 monitoring. We will be monitoring closely China's IPR activities throughout the coming year.

USTR notes the continued need for Ukraine to take effective action against significant levels of optical media piracy and to implement intellectual property laws that provide adequate and effective protection. As a result, Ukraine will continue to be designated a Priority Foreign Country, and the $75 million in sanctions, first imposed on Ukrainian products on January 23, 2002, will remain in place. Ukraine's failure to protect IPR jeopardizes its efforts to join the WTO and undermines its ability to attract trade and investment. The United States notes with optimism, however, that Ukraine has recently renewed efforts to enact needed optical media legislative amendments, and has expressed its commitment to resolving IPR issues. The United States encourages Ukraine to enact necessary IPR laws and regulations as well as increase its enforcement efforts to combat piracy, and today announces the commencement of a Special 301 out-of-cycle review to monitor Ukraine's progress in providing effective copyright protection and IPR enforcement.

PRIORITY FOREIGN COUNTRY

UKRAINE

The United States withdrew Ukraine's benefits under the Generalized System of Preferences (GSP) program in August 2001 and imposed $75 million worth of sanctions on Ukrainian imports in January 2002. These sanctions remain in effect based on the repeated failure of the Government of Ukraine to enact and implement adequate optical disc media licensing legislation in order to comply with the June 2000 U.S.-Ukraine Joint Action Plan to Combat Optical Media Piracy. The Ukrainian Government has drafted amendments to the existing Optical Disc Licensing Law to address inadequacies, but Ukraine's Rada has failed to pass these amendments on several occasions. The United States notes with optimism that Ukraine's Rada currently is undertaking efforts to pass these amendments. However, until such amendments are passed, Ukraine's law lacks adequate provisions to prevent unauthorized optical media production and distribution. Ukraine is also a major transshipment point and storage location for illegal optical media produced in Russia and elsewhere. Ukraine's border enforcement efforts remain weak and criminal penalties for unauthorized production and export of CDs and CD-ROMs are not significant enough to act as an effective deterrent. As a result, there continue to be extremely high levels of piracy and substantial losses to U.S. industry. Trademark counterfeiting is also a serious problem, and the U.S. trademark industry remains concerned over the lack of cooperation by enforcement officials in combating counterfeiting activities. The United States urges the Ukrainian Government to pass needed amendments to its optical media law in the near term and to enforce that law aggressively to significantly reduce high levels of piracy and exports of pirate product. The United States is announcing that a Special 301 out-of-cycle review will be commenced in 2005 to monitor Ukraine's progress in passing amendments to its optical media law, implementing the new law, and deterring optical media piracy through adequate enforcement.

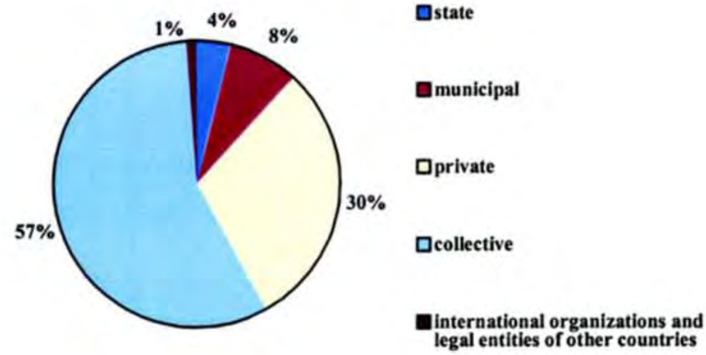
EXHIBIT 15

UKRAINE 2003

Population, mln.	**47.6**
Area, thsd. sq. km	**603.7**
Neighbouring countries	**Russia, Belarus, Poland, Slovakia, Hungary, Romania, Moldova**
Capital city	**Kyiv**
State language	**Ukrainian**
Currency	**Hryvnia**
National holiday	**Independence Day – 24 August**

Unified State Register of Enterprises and Organizations of Ukraine

Economic Entities, by Type of Ownership as of January 1, 2004



Economic Entities, by Main Type of Activity, thsd.

(at the beginning of the year)

	2001	2002	2003	2004
Industry	90.2	97.6	103.3	108.3
Agriculture, hunting	66.8	74.0	79.0	82.0
Construction	51.1	53.5	56.3	59.7
Wholesale and retail trade	213.1	232.5	246.4	258.5
Transport and communications	22.2	24.8	26.4	28.5

Economic Entities, by Main Type of Business Management, thsd.

(at the beginning of the year)

	2001	2002	2003	2004
Partnerships, Ltd	221.9	241.8	261.2	281.1
Private enterprises	192.2	206.1	217.8	229.3
Collective enterprises	40.0	37.9	36.1	34.0
Joint stock partnerships	34.9	35.1	35.0	34.7
Farms	38.6	43.0	45.8	46.9
State enterprises	10.0	9.3	8.5	8.0
Enterprises with 100% of foreign investment	2.4	2.4	2.3	2.3
Organizations, institutions and establishments	69.4	72.0	75.7	80.3

EXHIBIT 16

Privatisation

Background

Privatisation in Ukraine started in 1992, however political circumstances and organisational constraints hindered this process and resulted in the Ukrainian Parliament's legislative moratorium on privatisation. Privatisation of medium and large-scale enterprises was renewed in 1995 in the form of the "Mass Privatisation Program" (MPP) project sponsored by USAID.

The Government privatisation authority, State Property Fund (SPF), developed appropriate legislation, strong internal procedures, and a marketing strategy necessary for the speedy privatisation of the State's assets in exchange for paper certificates (so-called Privatisation Property Certificates, PPCs). Circulation of PPCs and accordingly the duration of the MPP were initially planned for one year (1995-96). In parallel, the SPF conducted privatisation of small-scale enterprises, primarily for cash.

The main methods of privatisation were: buy-out of small-scale enterprises by buyers' associations; buy-out of State property leased with the right of subsequent buy-out, auctions, and the sale of shares in open joint stock companies.

Unfortunately, the results of MPP were not as fruitful as originally anticipated, largely because of a lack of political will, including the differing ideas that the SPF, the regional ministries, and the Cabinet of Ministers have had on the pace and priorities of privatisation. The MPP was prolonged several times up to the end of 1999.

In response to the Government's desire to generate additional budget revenues and a shift from mass privatisation to individual (case-by-case) privatisation for cash, the SPF developed a Law "On privatisation program for 2000-2002". Approved in mid-2000, this Law ended mass privatisation by use of PPCs and defined Government objectives and property privatisation principles for the next 2 years. The key objective was set as the sale of the large and, if possible, controlling stakes of strategic industrial enterprises to investors who would invest into the development of the enterprise.

Latest developments

The shares of thousands of privatised enterprises have served as the basis for the development of Ukraine's capital market, including the establishment of stock exchanges and an over-the-counter trading system.

According to figures published by the State Property Fund, 98,142 entities of the state and municipal property had been privatised since 1992 till February 1, 2005, including 5,968 during 2004.

Ukraine's privatisation in 2004 has reached its peak in terms of both the attractiveness of privatisation sales for investors and the revenues gathered from privatisation to the state budget. As the State Property Fund of Ukraine ("SPFU") reported, revenues from privatisation gathered by the SPFU for 2004 amounted to UAH 9.599 billion (approximately USD 1.811 billion), which exceeded the revenue goals established by the State Budget Law for 2004 by 183.98%. Moreover, this is the highest result in revenues from privatisation ever shown by the privatisation agency for any previous year since Ukraine's privatisation began in 1992. For instance, in 2003 the SPF generated UAH 2.175 billion in privatisation revenues into the state budget.

The distinguishing feature of 2004 privatisation is that in spite of the Parliament's failure to adopt a new Privatisation Programme for 2004-2006, the SPFU, using the available current legislative framework, administered the privatisation process in a manner that allowed for the best privatisation revenue results ever. This is mostly due to the fact that that in 2004 the SPFU put up for sale a number of controlling stakes in large and nationally strategic enterprises.

In 2004, privatisation of state-owned companies has was conducted in accordance with the State Privatisation Programme for 2000-2002, which is still effective and will continue to be effective until the moment Ukraine's Parliament approves a new Privatisation programme. In 2004 the Parliament rejected the new Privatisation programme, sending it back to the Government for modifications. After presidential elections in December 2004 and recently appointed head of SPFU, a new Privatisation Programme for 2005-2007is to be approved by the Parliament in the first half of 2005.

Some owners of Ukrainian companies privatised in the last two years that appear to have been subject to certain privatisation irregularities are concerned about possible re-privatisation. However, the Government has stressed that there are no grounds for mass re-privatisation or nationalisation, except in relation to companies privatised with obvious violations of law. Re-privatisation of such companies can be made only through the court.

Legacy of privatisation

The impact of Ukraine's privatisation can be assessed in terms of the following strategic changes to Ukraine's economy over the last ten years:

- The State has given up majority ownership in 90% of the industrial enterprises it owned in 1991. While authorities continue to exert informal influence over roughly 10,000 medium and large enterprises privatised since 1992, millions of privatised shares will never return to the hands of the State. Millions of Ukrainian citizens have become shareholders and more than 60% of Ukraine's labour force work for privatised enterprises.
- While in most cases the directors and managers of privatised enterprises are those from the Soviet era, they are gradually being replaced by a new generation of directors and managers from the post-Soviet generation.
- In many cases, the new generation of investment fund managers, who have become major shareholders via the privatisation program, are putting in place new enterprise directors and managers and introducing new management techniques, which ought to allow many ex-State enterprises to survive and compete in the post-Soviet economy.

State budget support for unprofitable enterprises has been greatly reduced since the beginning of the privatisation program.

EXHIBIT 17

RESERVED

EXHIBIT 18

January 2005
IMF Country Report No. 05/21

Ukraine: Statistical Appendix

This Statistical Appendix paper for **Ukraine** was prepared by a staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information available at the time it was completed on **October 4, 2004.** The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of **Ukraine** or the Executive Board of the IMF.

The policy of publication of staff reports and other documents by the IMF allows for the deletion of market-sensitive information.

To assist the IMF in evaluating the publication policy, reader comments are invited and may be sent by e-mail to publicationpolicy@imf.org.

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International Monetary Fund
Washington, D.C.

Table 12. Ukraine: Population, Labor Force, and Employment, 1998–2003
(In thousands of persons)

	1998	1999	2000	2001	2002	2003
Population 1/	49,545	49,115	48,664	48,241 3/	47,787	47,442
Outside active age	21,672	21,193	20,647	20,256 3/	19,653	19,214
Active age	27,873	27,922	28,016	27,985 3/	28,135	28,228
Total employment 2/	21,824	21,269	21,016	21,379	21,449	...
State sector	35.5	34.5	34.2	33.4	31.1	...
Collective and cooperative sector	38.7	36.1	32.0	...	...	...
Private sector	25.8	29.5	23.0	...	...	...

Source: Ukrainian State Statistics Committee.

1/ Beginning of period.
2/ Annually-reported information (average).
3/ As per All-Ukrainian Census data as December 5, 2002.

EXHIBIT 19

Politics
Business
Industry
Stock Market
Banking
Transport/Tourism
Food/Agriculture
Technology
Science
Health
Education
International
Entertainment
Sports
24/7: This Modern Life

Ukrainian politics: Investors remain cautious

By FT.com / May 13, 2005 12:00 AM

FT.com
FINANCIAL TIMES

However much the Orange Revolution heightened interest in Ukraine's economic potential, a great deal remains to be done before foreign investors come charging through the doors.

And with the country's new leaders apparently thinking more about how they can consolidate their victory in parliamentary elections - not due until March - potential investors could hardly be blamed for being cautious.

Since he took power in January, Viktor Yushchenko, Ukraine's new pro-western, liberal president, has moved more slowly than many hoped to launch free-market reforms. His government has spent most of its first months dealing with personnel and tackling immediate problems, such as inflation.

This deflation of expectations was evident during a visit by reform advisers organised by the UN Development Programme. Mr Yushchenko and his prime minister, Yulia Tymoshenko, stood up the group.

One member, Mart Laar, the former Estonian prime minister, said he understood Ukraine's new leaders were busy "working like a fire brigade" to tackle inflation. The group's co-chair, Swedish economist Anders Aslund, said: "You don't undertake major social economic reforms just before an election. One simply has to accept this as a fact."

The reforms that Mr Yuschenko's team has focused on are the kind that rarely please investors - collecting taxes and increasing pensions and public wages. Mr Yushchenko has been consistent in saying these were top priorities. Economists such as Mr Aslund protested when Mr Yushchenko's opponent doubled pension payments a month before the elections, but Mr Yushchenko responded by claiming only he had a realistic plan to find funding.

His and Ms Tymoshenko's first moves have been an amended budget with more social spending, an end to various kinds of tax privileges and a crackdown on tax and customs evasion.

The finance ministry says revenues to the government's general fund were up 68 per cent in January-April over the same period last year, without any increase in the general tax rates.

The social spending has a bright side for such businesses as consumer goods manufacturers and importers. But some foreign investors have been hit by the closed loopholes, and a few are even suing the government over its decision to cancel tax and customs holidays they claim were guaranteed when they invested in "special economic zones".

More unsettling, Mr Yushchenko plans to challenge up to 40 of the privatisation sales carried out by the former government, and he has been slow to clarify which ones.

The tabular content relating to this article is not available to view. Apologies in advance for the inconvenience caused.Longer term, the project could make key industrial sectors more competitive by weakening the dominant position of local oligarchs. The immediate effect, however, has been to scare the oligarchs, who have reduced investments. Partly because of that, growth was down to 5.4 per cent in the first quarter after reaching 12 per cent last year.

Mr Yushchenko's priorities were underscored by his appointment of a critic of privatisation, Valentina Semenyuk, as head of the privatisation agency, the State Property Fund. Ms Semenyuk, a member of the Socialist party, advocates using the privatisation review to return property to state hands, and argues that the state should seek to earn profits from its enterprises and sell only loss-makers.

Ms Tymoshenko, who heads the centrist Fatherland party, advocates a stronger state role in key markets and has used temporary price caps on petrol to keep down inflation. Liberals from Mr Yushchenko's Our Ukraine bloc, however, control the finance and economy ministries.

Next year's parliamentary elections will determine whether one of these competing economic views - liberal, centrist and Socialist - will come to the fore in Mr Yushchenko's presidency, or if the current, uneasy cohabitation will continue.

Mr Yushchenko, whose powers would be sharply reduced, now appears to regret having agreed to these changes and has said the issue could be re-opened through a national referendum.

In spite of the uncertainties, sentiments about Ukraine's long-term future remain positive, especially in the banking and retail sectors. Ukraine is seen as the next frontier for the big western groups already active in central Europe.

Austria's Raiffeisen Bank, already Ukraine's seventh-largest banking group, is in exclusive talks with the owners of the second-largest bank, Aval, a deal that could be worth up to $600m.

The main influx of foreign investment this year has been in treasury bills, driven by a conviction among economists that Ukraine's hryvnya currency is undervalued and likely to appreciate.

Tom Warner

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EXHIBIT 20

[emblem]

UKRAINE LAW

On Prices and Pricing

(Gazette of the Supreme Council (GSC), 1990, No. 52, article. 650)

(Enacted by Supreme Council Decree
No. 508-XII (508-12), dated 3 December 1990, GSC, 1990, No. 52, article 651)

(As amended by the Laws
No. 2032-XII (2032-12), dated 4 January 1992, GSC, 1992, No. 17. article 209
No. 642/97-VR, dated 18 November 1997, GSC, 1998, No. 10. article 36
No. 184/98-VR, dated 5 March 1998, GSC, 1998, No. 33. article 225
No. 495-XIV (495-14), dated 17 March 1999, GSC, 1999, No. 24. article 210
By the Constitutional Court Ruling
No. 2-rp/2000 (v002p710-00), dated 10 February 2000
By the Laws
No. 3047-III (3047-14), dated 7 February 2002, GSC, 2002, No. 29. article 194
No. 762-IV (762-15), dated 15 May 2003, GSC, 2002, No. 30, article 247
No. 1280-IV (1280-15), dated 18 November 2003, GSC, 2004, No. 12, article 155
No. 1294-IV (1294-15), dated 20 November 2003, GSC, 2004, No. 13, article 181)

(In the Law, the terms "Ukrainian SSR" and "Council of Ministers of the Ukrainian SSR" in all their variations have been replaced by the terms "Ukraine" and "Ukraine Cabinet of Ministers" in their respective variations; the terms "people's deputies" have been deleted according to Law No. 184/98-VR, dated 5 March 1998.)

Pursuant to the Declaration on the National Sovereignty of Ukraine (55-12) and the Ukraine Law "On the Economic Independence of the Ukraine SSR" (142-12), the Ukraine independently implements a price policy. This Law outlines the basic principles for establishing and applying prices and tariffs and for arranging monitoring of adherence to them within the republic.

Section I
GENERAL PROVISIONS

Article 1. Ukraine legislation on pricing

Ukraine legislation on pricing consists of this Law and other legislative enactments of Ukraine that are issued in accordance herewith.

Article 2. Applicability of the Law

This Law shall apply to all businesses and organizations, regardless of form of ownership, affiliation and methods of labor and industrial administration.

Article 3. Pricing policy

Pricing policy is an integral part of the Ukraine's overall economic and social policy and is aimed at ensuring:

- Equal economic conditions and incentives for the development of all forms of ownership and the economic independence of businesses, organizations and geopolitical regions of the republic;
- A balanced market for the means of production, goods and services;
- Opposition to monopolistic tendencies among producers of products and goods and service providers;
- Objective ratios among prices for industrial and agricultural product, which ensures equivalence of exchange;
- An expansion of the use of free prices;
- An increase in product quality;
- Social guarantees primarily for low-paid and lower-income individuals, including a system of compensatory payments related to increases in prices and tariffs;
- Creation of the economic guarantees necessary for manufacturers;
- The orientation of prices on the domestic market to the level of the world market.

Article 4. Authority of the Ukraine Cabinet of Ministries over pricing

The Ukraine Cabinet of Ministers shall:

- Ensure the implementation of the government price policy within the republic;
- Define the list of products, goods and services, the government-fixed and regulated prices and tariffs for which shall be authorized by the relevant government authorities, except in telecommunications (article 4, third paragraph, as amended by Law No. 1280-IV (1280-15), dated 18 November 2003)
- Define the powers of government authorities over the establishment and application of prices (tariffs) and to control prices (tariffs).

Article 5. Social Protection of the Public from Price and Tariff Increases

Ukraine government agencies and authorities shall consistently take steps to support the public's standard of living, primarily that of low-paid and lower-income individuals by introducing compensatory payments related to increases in prices and tariffs and by indexing incomes for socioeconomic groups within the population.

(The provisions of the second part of article are null and void, having been found unconstitutional on the basis of Constitutional Court Ruling No. 2-rp/2000 (v002p710-00), dated 10 February 2000). If arrears occur on payment of wages, stipends, pensions and other social payments, increases in prices and tariffs on housing services and public transportation services provided to Ukraine citizens are prohibited. (Article 5 was amended by the addition of a second part under Law No. 495-XIV (495-14) dated 17 March 1999).

Citizens shall have the right to file suit in court against the unlawful actions of government agencies, businesses and other legal entities and individuals and demand compensation for losses they have incurred when they have been sold goods and services in violation of the requirements of pricing law.

Section II
ESTABLISHMENT AND APPLICATION OF PRICES AND TARIFFS

Article 6. Kinds of prices and tariffs

Free prices and tariffs and prices and tariffs fixed and regulated by the government shall be used in the private sector.

Article 7. Free prices and tariffs

Free prices and tariffs shall be set for all kinds of products, goods and services, except those for which the government regulates prices and tariffs.

Article 8. Government regulation of prices and tariffs

The government shall regulate prices and tariffs by establishing:

- Prices (tariffs) fixed by the government;
- Price (tariff) caps or thresholds at which the government may fix prices and tariffs.

If there is an excessive increase in prices that were previous removed from controls by a decision of the Ukraine Cabinet of Ministers, executive committees of oblast or municipal councils (for municipalities of national significance), a temporary return to government regulation of prices and tariffs shall be permitted.

The Ukraine government may introduce other methods of government price and tariff regulation.

Article 9. Prices and tariffs fixed and regulated by the government

Prices and tariffs fixed and regulated by the government shall be established for resources that have a significant impact on the overall level and trend in prices, on socially significant goods and services and on products, goods and services, the production of which is concentrated in companies that have a monopoly (dominant) position on the market. (Article 9, part 1, as amended by Law No. 1294-IV (1294-15), dated 20 November 2003).

Prices and tariffs fixed and regulated by the government shall be established by Ukraine government agencies.

(Article 9, part 3, is null and void on the basis of Law No. 2032-12, dated 4 January 1992).

(The provisions of article 9, part 3, are null and void, having been found unconstitutional on the basis of Constitutional Court Ruling No. 2-rp/2000 (v002p710-00), dated 10 February 2000). Prices and tariffs for housing services (including for electricity and natural gas for the domestic needs of the Ukraine population), public transport and communications services shall be set by the Ukraine Cabinet of Ministers in coordination with the Ukraine Supreme Council. (Article 9 was amended with the addition of part 3 according to Law No. 495-XIV (495-14), dated 17 March 1999).

Article 10. Change in prices and tariffs fixed and regulated by the government.

The level of prices and tariffs fixed and regulated by the government for certain kinds of products, goods and services shall be changed by the procedure and on the schedule set by the agencies that approve or regulate those prices (tariffs) hereunder.

Prices and tariffs fixed and regulated by the government may be changed if there is a change in conditions for the production and sale of products that is beyond the control of businesses.

Article 11. Pricing for export and import and for inter-republic exchange

In export or import directly or through a foreign trade agent, contractual (foreign trade) prices set according to prices and conditions on the world market shall be used in settlements with foreign partners.

The Ukraine Cabinet of Ministers shall determine the regulation of domestic pricing for exported and imported products (services).

Inter-republic exchange of products shall be based on contractual prices.

Article 12. Government pricing authorities

The relevant Ukraine government authorities and their divisions shall coordinate efforts to implement pricing policy, perform economic analysis of price levels and trends and take steps to regulate prices and tariffs.

A specially authorized central executive branch city planning and architecture agency shall establish a set of estimating regulations, define the procedure for its use in construction and monitor compliance of customers, design and construction organizations and other stakeholders with regulations and standards for calculating the value of construction projects built with funds from the Ukraine national budget, the budget of the Autonomous Republic of Crimea, municipal budgets and funds from government enterprises, institutions and organizations.

Section III
PRICE MONITORING

Article 13. Monitoring of adherence to government price discipline

The government shall monitor prices as part of the establishment and application of prices and tariffs fixed and regulated by the government. The legality of their application and of compliance with the requirements of the law on protecting economic competition shall be monitored. (Article 13, part 1, as amended in accordance with Law No. 1294-IV (1294-15), dated 20 November 2003.)

Agencies assigned thereto by the Ukraine government shall monitor adherence to government price discipline. These agencies shall carry out monitoring in coordination with trade unions, consumer unions and other public organizations.

Government agencies monitoring prices and their officials shall have the rights, perform the duties and bear the responsibilities specified by the Ukraine Law "On the National Tax Service in Ukraine" (509-12), except as specified by article 11, sections 6-9, therein.

Businesses shall duly file the information necessary to monitor the accuracy with which prices are established and applied.

(Article 13, part 5, was deleted on the basis of Law No. 3047-III (3047-14), dated 7 February 2002.)

Article 14. Liability for violation of government price discipline

All income illegitimately received by a company or organization as a result of violation of government price discipline and of the current procedure for determining the value of construction projects built with funds from the Ukraine national budget, the budget of the Autonomous Republic of Crimea, municipal budgets and funds from government enterprises, institutions and organizations shall be paid to the relevant budget depending on the affiliation of the company or organization. A fine equal to twice the illegitimate income shall be paid to the non-budgetary funds of the municipal councils. These amounts shall be withdrawn from the bank accounts of the companies and organization on the basis of a court order. (Article 14, part 1, as amended by Laws No. 642/9-VR, dated 18 November 1997; No. 184/98-VR, dated 5 March 1998; No. 762-IV (762-15), dated 15 May 2003.)

Businesses, organizations, other legal entities and individuals shall have the right to file suit in court against price violations by government agencies, enterprises, organizations, cooperatives and other legal entities and individuals and to demand reimbursement of losses they have incurred in cases when they were sold goods and services in violation of the requirements of current law. (Article 14, part 2, as amended by Law No. 762-IV (762-15), dated 15 May 2003).

Prices and tariffs authorized in violation of this Law and pricing decisions by the republic government shall be rescinded by the Price Committee of the Ukraine Cabinet of Ministers.

Individuals guilty of violating the procedure for establishing and applying prices and tariffs shall be subject to administrative and criminal action.

Head of the Ukraine Supreme Council L. KRAVCHUK
Kyiv, 3 December 1990
No. 507-XII

EXHIBIT 21

Coal Industry. Govt drafting concept of coal mining industry's development throughout 2030

12.05.2005 | 09:55 | Ukrinform

As Prime Minister Yuliya Tymoshenko told participants in high-profile deliberations to tackle the Ukrainian coal mining industry's problems, the Government has embarked on drafting a concept of the coal mining industry's long-term development throughout 2030.

In particular, the concept envisages that coal extraction will increase from 60 million tons to 110 million tons a year.

Mrs Tymoshenko stated the deliberations as aimed at finding ways to restitute the domestic coal mining industry's repute, power and affluence, rather than starting massive shutdowns of coal mines.

The Prime Minister also stated the coal mining industry development program as part and parcel of the national fuel-energy strategy.

According to Yuliya Tymoshenko, Ukraine has ample ground to have an optimistic outlook about its fuel-energy sector's future.

Mrs Tymoshenko stated coal as the only fuel which Ukraine can boast of possessing in strategic amounts, which is why Ukraine's energy security may be viewed as heavily relying on extraction of coal.

The Head of Government admitted to the coal mining industry's deep systemic crisis, which has been caused by coal mines' depreciated technical equipment, inefficient management and misappropriation of funds, with the money continuously washing out through vertically integrated companies into the economy's shadow sector.

This vicious practice could not but have a most disastrous effect on coal mines' satellite townships and the local population, Mrs Tymoshenko contended.

As the Prime Minister stressed, the concept of the coal mining industry's development proceeds from the dire need to improve its workers' living standards and safety of their work.

Speaking in the deliberations, First Deputy Fuel & Energy Minister Viktor Topolov noted that coal is Ukraine's only fuel, amounts of which are enough to meet the national economy's needs.

As he said, experts predict that the share of coal in the global balance of fuels will increase as the share of petroleum tends to shrink.

According to Viktor Topolov, coal accounts for 67 percent of fuels, which the would extracts, versus petroleum's 18 percent and 15 percent for natural gas.

In Ukraine coal accounts for 95.4 percent of the nation's fuel deposits (the shares of petroleum and natural gas are just 2 percent and 2.6 percent).

If Ukrainian fuel-fired power plants switch to applying technologies of so-called boiling supralayers then Ukraine's energy requirements will be securely met for at least 60 years to come, Mr Topolov noted.

Further commenting on the concept, Viktor Topolov said its materialization will be carried out in three stages.

The first stage, which will last to 2010, provides for boosting coal extraction to 91 M. tons a year.

Within this period new longwalls will be commissioned with an up to 17 M. ton capacity.

This will allow to meet Ukraine's demand for energy coal.

The second and three stages will last to 2015 and 2030, respectively. By 2015 extraction of coal is supposed to increase to 96.5 M. tons to 110 M. tons a year.

As far as the coal mining industry's reconstruction is concerned, in 2006 7.45 bn. UAH is supposed to be allocated to this end, including 4.5 bn. UAH of budgetary means.

According to Viktor Topolov, the industry's proprietorial relations will be radically altered. Today, he said, out of Ukraine's 167 coal mining enterprises 122 enterprises remain the State's property, 20 enterprises are joint-stock companies, four enterprises are leased entitles, ten coal mines combine state and private capital and only ten coal mines are privately owned.

As Viktor Topolov told the audience, though Ukraine belongs to the world's ten biggest extractors of coal, labor efficacy and productivity of Ukrainian coal mines is much lower than in Germany and Poland and dozen times lower than in the USA and Canada.

Mr Topolov stated Ukrainian coal mines' credit indebtedness as fluctuating between 9 bn. UAH and 10 bn. UAH for several years, which is 2.5 times larger than their debtor indebtedness, two times in excess of their yearly extraction.

Mr Topolov stated wages in the coal mining industry as the fuel-energy segment's lowest.

According to Viktor Topolov, 47 percent of coal, extracted in Ukraine, is meant for making coke, 33 percent is shipped to fuel-fired power plants, 8 percent is exported, 4 percent is meant for coal mines' internal consumption, one percent is meant for public utilities, and 7 percent is meant for other purposes.

Touching on the coal mining industry's restructuring, Fuel & Energy Minister Ivan Plachkov noted that the concept envisages a four-tire management system, which is the Fuel & Energy Ministry, the national company Vuhillia Ukrainy ("Ukraine's Coal"), regional state-owned coal agencies and coal mines.

EXHIBIT 22

IMF *Survey*

INTERNATIONAL MONETARY FUND

APRIL 4, 2005 VOL. 34, NO. 6

www.imf.org/imfsurvey

NEWS: Jobs key to Middle East future

High oil prices are a windfall for some Middle East economies, but throughout the region progress with tackling high unemployment and meeting pressing social needs remains frustratingly slow. As the region searches for ways to better integrate into the global economy, create jobs, and boost growth, Mohsin Khan, Director of the IMF's Middle East and Central Asia Department, sees signs of remarkable political changes that could be vital for a region that has frequently bewildered economists.

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COUNTRY FOCUS: Ukraine's turning point?

Ukraine's new government—which took office in January following a bitter election battle—has established as its top priorities rooting out corruption and putting the country on a path toward European Union accession. Fiscal discipline must be reestablished and extensive structural reforms will need to be implemented, but with investor interest running high and the international community standing ready to support serious reforms, this could be a watershed moment for Ukraine.

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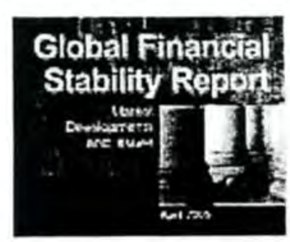
RESEARCH: World financial markets are healthier



Global financial markets have grown stronger and more resilient, according to the IMF's April 2005 *Global Financial Stability Report*. Solid growth and improved corporate and emerging market fundamentals are chiefly responsible for the good showing, although with interest rates and spreads so low, the risks are on the downside. Also spotlighted in the report are the transfer of risk to the household sector and trends in emerging market corporate finance.

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FORUM: Aid and its trade-offs

The development community is being spurred to consider a substantial increase in aid for poor countries. But larger aid flows, if they do materialize, can be a mixed blessing for recipient countries, particularly for those with limited absorptive capacity. The consensus at a recent high-level seminar in Maputo, Mozambique, was that aid can be excessive if, for example, bottlenecks prevent its effective use or if it adversely affects the recipient country's trade competitiveness.

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Ukraine: Now is the time for serious reform

After a tumultuous presidential election that brought the country to the brink of financial crisis, hopes are running high that Ukraine's new government will usher in a new era of economic reform and prosperity. President Viktor Yushchenko has declared rooting out corruption and putting Ukraine en route toward European Union accession his two policy priorities. At the same time, faced with a surging fiscal deficit and rising inflation, the new government's immediate challenge is to restore macroeconomic stability. This article sketches the roots of Ukraine's current policy challenges and the new government's evolving agenda.

After declaring independence in 1991, Ukraine tumbled into a deep and prolonged depression. The country's initial conditions were clearly unfavorable, and this was nowhere more evident than in its oversized, energy-intensive industrial sector, which produced goods in little demand and provided a habitat for rent seeking and corruption. Amid initial bursts of hyperinflation, Ukraine saw its output slide by 55 percent from 1991 to 1999.

As a result of several stabilization and reform programs, implemented from late-1994 onward and supported by IMF financing, Ukraine gradually managed to bring inflation under control, but the country remained traumatized by incoherent policy gradualism. Drifting stop-go structural policies, exemplified by on-off credit support for politically well-connected sectors, left Ukraine's economic and political systems caught in an "under reform" trap. Rampant corruption, high taxes, and burdensome regulations fueled a rapidly expanding shadow economy and rent-seeking activities that, in turn, stymied the buildup of the market-supportive institutions required for high and sustained catch-up growth. The low point was reached when Russia's financial crisis hit in 1998, and Ukraine was forced to devalue its currency steeply and restructure its external debt.

A surprising growth spurt

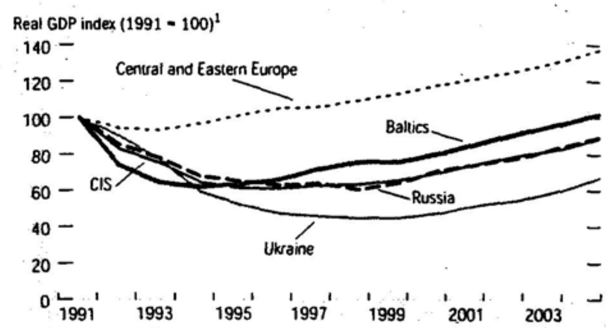
Confounding expectations, Ukraine boomed during 2000–2004, with annual GDP growth averaging 8½ percent. The boom seems to have been ignited and sustained by four main factors:

- A new reform-minded government led by then-Prime Minister Yushchenko embarked on a set of limited but well-targeted structural reforms focused on cutting enterprise-specific subsidies and rooting out the pervasive nonpayment culture.
- Strict macroeconomic discipline, partly enforced by the lack of financing after the financial crisis and helped by persistent positive growth surprises, restored confidence and sparked rapid remonetization and a banking sector boom.
- The sharply depreciated currency and lower real wages following the Russian crisis meant increased international competitiveness and export growth facilitated by substantial idle capacity.
- A sharp improvement in the terms of trade added further momentum to the boom, as Ukraine benefited tremendously from rapid increases in global prices for its exports of steel, other metals, and chemicals.

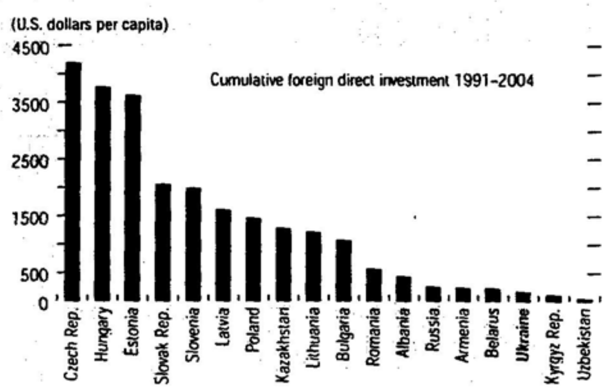
But this success has brought new challenges. Combined with inadequate policy reactions, the growth boom gave rise to serious internal and external macroeconomic imbalances. In 2004,

Halting first steps

Ukraine's delayed recovery . . .



. . . reflects, in part, the economy's poor business and investment climate.



[1]Unweighted average.
Data: Ukrainian authorities; IMF, *World Economic Outlook;* and IMF staff estimates.

in the run-up to the presidential election, the incumbent government embarked on a highly procyclical expansionary fiscal policy in an already overheating economy. Reflecting mainly a massive hike in pensions, the fiscal deficit swelled to 4½ percent of GDP. Moreover, partly owing to the authorities' maintenance of a significantly undervalued de facto currency peg vis-à-vis the U.S. dollar, the external current account surplus widened to 11 percent of GDP, forcing partly unsterilized intervention in the foreign exchange market by the National Bank of Ukraine. As a result, inflation has picked up, reaching over 13 percent in the year to February 2005—the highest 12-month rise in consumer prices in four years.

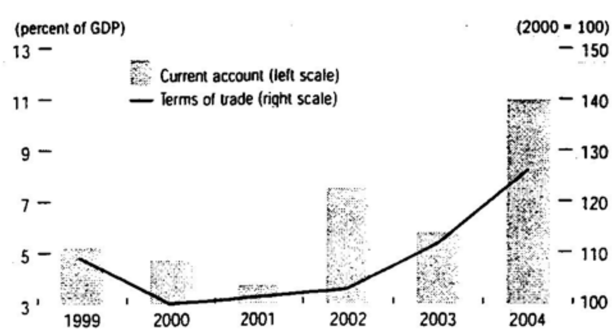
First things first

Reestablishing fiscal discipline now needs to be the number-one priority to restore macroeconomic stability. The unprecedented sudden hikes in pensions by the previous government are estimated to have pushed Ukraine's public pension bill from 9 percent to 16 percent of GDP—very high by international standards. If this problem is left unaddressed, the pension system's future financing needs will crowd out other spending priorities (particularly on education, health care, and infrastructure) and impose a massive additional tax burden on an already overtaxed formal economy.

At the same time, there is only limited room for tightening monetary policy as long as Ukraine continues to operate its de facto exchange rate peg. Looking forward, more favorable risk-return perceptions regarding Ukrainian assets could cause a further pickup in net capital inflows, thus adding to the challenge of sterilizing foreign exchange intervention.

Trade matters

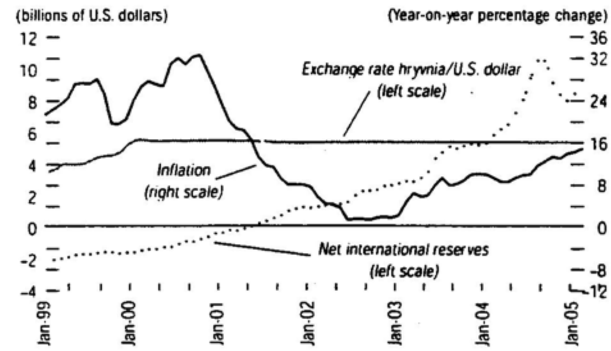
Favorable terms-of-trade shifts have spurred Ukraine's export-led turnaround.



Data: Ukrainian authorities; IMF, *World Economic Outlook*; and IMF staff estimates.

Imbalances have hurt

Under the de facto peg of the exchange rate, external and internal imbalances have added to inflationary pressures.



Data: Ukrainian authorities; IMF, *World Economic Outlook*; and IMF staff estimates.

The IMF has for some time now recommended that Ukraine allow more exchange rate flexibility.

And then the hard part

While putting Ukraine's fiscal house in order is a vital first step, the current growth spurt is liable to peter out without far-reaching structural reforms to protect property rights, enforce contracts, and build institutions in support of a well-functioning market economy. By all indications, corruption and rent seeking remain endemic. Ukraine ranks 122 out of 146 countries in the corruption index compiled by Transparency International, and its privatization efforts have been notorious for allegedly brazen insider deals.

Naturally, foreign investors had shunned such a difficult business environment, with foreign direct investment totaling less than $8 billion since independence. The lack of transparency and convoluted ownership structures have also resulted in more specific risks to the Ukrainian economy. In particular in the banking sector, where related-party lending has been a widespread practice, the true state of credit quality and of bank financial conditions remains opaque. The evolving strategy of the new government therefore rightly focuses on increasing transparency and tackling institution building.

The scope of the challenges is huge, but the time is propitious for a watershed in Ukraine's transition to a market economy. Ukraine's economy and currency are strong, investor interest is unprecedented, and the international community stands ready to support serious reform efforts. ■

Andrea Schaechte
IMF European Departmen

EXHIBIT 23

A WORLD BANK COUNTRY STUDY

Ukraine

Building Foundations for Sustainable Growth

A Country Economic Memorandum: Volume 1

This Revision: August 2004

strengthened incentives and the expectations of the population. This includes responsible and effective macroeconomic policy, numerous measures since 2000 to enhance payment and financial discipline, major reform in agriculture, key changes in tax rules, deregulation, and reductions in (fiscal and quasi-fiscal) subsidies to loss-making firms. These measures, together with related institutional changes, re-enforced the positive incentive effects from the favorable external conditions, encouraged the deshadowization of underground activities, and boosted efficiency in the economy as a whole.

Nevertheless, the positive trends will weaken without vision at the top level of government.

4. The current trends in growth and poverty reduction will nevertheless weaken considerably in the medium term without vision and determination at the top level of the Ukrainian government. Despite genuine progress in economic transition and institutional development, the rapid pace of growth is still supported by external factors that are either temporary or inherently unpredictable. This includes a still exceptionally weak national currency, strong world prices for Ukrainian exports, substantial internal excess capacity, and extremely rapid growth in money demand and credit. As these conditions weaken, the challenges to economic policy will become greater, and the continuation of the strong favorable trends will be possible only through improvements in the overall climate in Ukraine for business, investment, and fair competition. Despite progress in some areas, the investment climate in Ukraine remains difficult, with significant weaknesses in key market institutions, high regulatory instability, and serious problems of low transparency, unfair competition, and regulatory capture.

An "insider economy" threatens to become a primary obstacle to Ukraine's future development...

5. Indeed, a good share of the recent economic growth in Ukraine has been concentrated in large financial-industrial groups (FIGs) with the power to circumvent formal institutions through ownership ties, relations with government administrations, and direct influence over the courts and other regulatory bodies. FIGs have made some positive contributions to the Ukrainian economy, and have played a leading role in the development of institutions of corporate governance and financial intermediation. Nevertheless, the "insider economy" model now threatens to become a primary obstacle to the continued development of Ukraine. By its very nature, the insider economy hinders fair competition, encourages low transparency and corruption, discourages foreign investment, restricts the adaptability of the economy to changing market conditions, limits the realization of genuine comparative advantage, and complicates processes associated with access to foreign markets and world economic

integration.

...and also weakens the link between economic growth and welfare benefits for the larger population

6. The insider economy also weakens the link between economic growth and welfare benefits for the larger population. While the recovery in wages, pensions, and social services following the crisis of the late 1990s has so far supported poverty reduction, the concentration of wealth in a handful of privileged groups may generate increasing problems from a polarization in income distribution. Limited opportunities for entrepreneurship and fair competition are also, in and of themselves, serious constraints on the welfare of the greater population. The complicated investment climate of the insider economy continues to encourage the flight offshore of substantial Ukrainian capital.

Many developments in Ukraine have paralleled those in the Russian Federation...

7. The recent development of the Ukrainian economy parallels that in the neighboring Russian Federation to a striking degree. In both countries, a strong economic decline in the 1990s culminated in financial turmoil in 1998. This was followed by a major exchange rate and macroeconomic adjustment, greater financial discipline, and subsequent rapid recovery and monetization. In both countries, much of the recent economic growth has been concentrated in large and expanding financial industrial groups in the context of a difficult and complicated overall climate for business and investment. Both countries showed signs of an economic slowdown in 2001-2002, but received a subsequent boost from a strengthening of key export prices on world markets. Both countries will face formidable challenges in maintaining the strong positive economic momentum in the absence of the current exceptional circumstances.

...but Ukraine can now forge ahead on an independent accelerated path of development

8. Yet Ukraine now finds itself in a potentially much more advantageous position than Russia and most other CIS countries for forging ahead on its own independent accelerated path of development and integration with Europe and world markets. Ukraine's advantages include a its geographical position, bordering on (from mid-2004) the European Union and containing a large part of the most fertile agricultural land in the world. This stands in contrast to Russia, where difficult geographical factors and political errors of the Soviet and earlier times concentrated too many settlements and industrial firms in excessively cold areas and expanded agriculture to marginal (inefficient) lands. Second, as emphasized in a number of studies, the fuel energy wealth of neighboring Russia may be as much of a curse as a blessing for economic development. Ukraine does not suffer from the same sort of "Dutch Disease," where large exports of natural resources place continual upward pressure on the

EXHIBIT 24

Inside US Trade

U.S. PRESSES SCRAP EXPORT TAX COMPLAINTS IN WTO ACCESSION TALKS

Date: October 8, 2004

The Bush Administration was expected this week to use a round of bilateral talks in Washington with Russia on that country's effort to join the World Trade Organization to again press for the elimination of a Russian tax on scrap metal exports, a key component used to produce steel. The latest U.S. pressure follows a round of talks held late last month with the Russian and Ukrainian governments.

However, outside of again raising this issue in the context of Russia's continuing WTO accession efforts, an Administration official said the Bush Administration has not settled on a specific plan for future steps on this issue, including whether the Administration would accept a Section 301 petition from an industry coalition.

Following last month's talks in Russia and Ukraine, the official said interagency discussions would be needed to decide on "what the next steps should be." The official said the Administration would try and formulate a plan on how to proceed "as quickly as possible" but did not indicate a specific timeframe for deciding how best to proceed or on a possible resolution.

The official also declined to comment on specific steps the Administration is considering on how to address the export taxes and satisfy industry complaints. Speculating at this point "would just be premature," the official said.

One informed source said interagency discussions were expected to resume this week following the visits to Russia and Ukraine.

The official acknowledged that the Emergency Steel Scrap Coalition has been lobbying the Administration to consider launching a 301 investigation into whether Russian and Ukrainian scrap export taxes are an unreasonable burden on U.S. commerce (*Inside U.S. Trade*, Aug. 13, p. 1). However, the official said it would be "premature to offer any assessment" of the industry petition drive as the petition has yet to be filed and "no decision has therefore been made."

The scrap coalition has been waiting for an informal signal from the Administration on whether or not it is willing to accept a 301 petition if it files one.

This week's talks with Russia are the latest in a series of talks the Administration has undertaken in response to pressure from the coalition. Last month, officials from the Commerce Department and the U.S. Trade Representative's Office traveled to Russia and Ukraine for meetings with government officials and industry representatives.

During those talks, U.S. officials re-iterated the position already staked out by USTR Robert Zoellick and Commerce Secretary Donald Evans "that the best step would be for them to eliminate the tax as soon as possible before WTO accession," the official said.

Zoellick and Evans pressured both countries to eliminate their export taxes in April letters sent to both countries. Those letters argued that the elimination of these taxes could give a boost to WTO accession negotiations, although these talks are troubled by continued differences between the U.S. and Russia on a number of issues, particularly intellectual property rights, agriculture and services.

Zoellick and Evans also warned that there is growing industry pressure on the Bush Administration to investigate the causes of massive increases in the price of steel products and steel inputs.

The Administration official said both Russia and Ukraine were warned that the scrap coalition could file a 301 petition but declined to comment on how both countries reacted to that warning and to the U.S. message that both countries should drop their scrap taxes.

The official stressed that the U.S. is "certainly committed" to trying to resolve the issue amicably without having to resort to some form of trade retaliation were it to make a positive finding in a possible 301 investigation.

Whether an amicable solution is likely is a matter of some debate, as the European Union has so far failed to convince both countries to drop their scrap taxes. The continued unhappiness of EU member states over Ukraine's tax has twice prevented member states from approving a 2004 steel import quota it negotiated with Ukraine that would replace a unilateral 2004 quota the EU currently imposes on Ukraine.

Italy, Luxembourg, Spain and particularly France have complained loudly about Ukraine's unwillingness to eliminate or reduce its scrap tax, a EU member state source said. The EU has already slashed Ukraine's access to its market by 30 percent over its failure to eliminate the tax. European sources noted that the continued impasse on this issue has also held up member state approval of a negotiating mandate for the European Commission to strike a 2005-2006 quota deal with Russia and Ukraine. However, the member state source conceded that Russia is less of a problem because of its lower export tax.

However, one informed source argued that despite the EU's inability to get Russia and Ukraine to drop their taxes, European steel producers benefit from the reduced volume of steel imports from these two countries. This source also argued that both countries are not too bothered by losing some access to the EU because they can divert those exports to the U.S.

Ukraine imposes a 30-euro per ton tax on ferrous scrap and a complete ban on the export of non-ferrous metal scrap while Russia has a 15 percent ferrous scrap export tax and a duty imposed on copper cathode exports.

The Administration official said the biggest gain the U.S. took out of last month's talks was additional information on the nature of the Russian and Ukrainian measures and the situations in both countries' markets. The official said such information "should improve the quality of our decision making on the issue." The official said the U.S. was able to meet with representatives from Ukraine's scrap industry but was not able to meet with Russian representatives.

Assistant Secretary of Commerce for Export Administration Peter Lichtenbaum led the U.S. delegation in the Sept. 23 meeting with Russian officials in Moscow. However, Lichtenbaum did make the journey to Kiev for the Sept. 24 Ukraine meetings. USTR's Director of Steel Trade Policy Jean Kemp attended those talks.

INSIDETRADE-22-41-12

EXHIBIT 25

2004 National Trade Estimate Report on Foreign Trade Barriers

The 2004 National Trade Estimate Report on Foreign Trade Barriers (NTE) is the nineteenth in an annual series that surveys significant foreign barriers to U.S. exports. The report provides, where feasible, quantitative estimates of the impact of these foreign practices on the value of U.S. exports. Information is also included on actions taken to eliminate barriers.

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Appendix

Complete Text [large file]

UKRAINE

TRADE SUMMARY

The U.S. trade deficit with Ukraine was $51 million in 2003. U.S. goods exports in 2003 were $231 million, down 9.4 percent from the previous year. Corresponding U.S. imports from Ukraine were $282 million, down 22.2 percent from 2002. Ukraine is currently the 88th largest export market for U.S. goods. The flow of U.S. foreign direct investment (FDI) into Ukraine was $272 million in 2003, an increase from $235 million in 2002.

Trade relations between the United States and Ukraine are governed by the 1992 United States-Ukraine Trade Agreement which provides for normal trade relations (NTR) between the United States and Ukraine and governs other aspects of the bilateral trade relationship. Ukraine is not a member of the World Trade Organization (WTO), but it is in the process of negotiating terms of accession.

IMPORT POLICIES

Ukraine continues to maintain a number of barriers with respect to imports, including discriminatory fee and certification regimes. Import tariffs generally range from 2 percent to 50 percent, and combined with high value-added tax (VAT) (currently 20 percent) and excise taxes these charges can act as a hindrance to U.S. exports to Ukraine. Import tariffs are particularly high with respect to petroleum products (5-40 EUR/ton) and distilled spirits (7.5 EUR/1liter). The import tariff on alcohol amounts to an *ad valorem* tariff of 50 percent to 100 percent.

Excise taxes generally range from 5 percent to 100 percent. Four categories of imports were subject to discriminatory excise taxes in 2003: alcohol, tobacco, petroleum products, and automobiles. Excise duty rates are assessed as a percentage of the sum of the declared customs value, customs duties, and fees paid for importing products. On October 24, 2002 President Kuchma signed a law On amending some laws of Ukraine on Taxation, Production, and Circulation of Excisable Goods, which became effective on January 1, 2003. This law increased excise rates on alcohol, beer and gasoline. The discriminatory tax regime for alcohol was scheduled to be eliminated effective January 1, 2004.

Import licenses are required for some goods, primarily pesticides, alcohol products, CD production inputs, some industrial chemical products and equipment containing them, official foreign postage stamps, excise marks, officially stamped/headed paper, and checks and securities. The U.S. distilled spirits industry reports particularly burdensome import permit requirements for alcohol products, under which certificates of conformity are issued to importers only after officials of the Ukrainian Government have conducted an exhaustive and costly inspection of the producer's facilities. In some cases, these practices haves led exporters to withdraw their products from the Ukrainian market.

The U.S. Embassy in Kiev estimates that Ukrainian barriers to U.S. agricultural goods cost U.S. producers between $10 million to $25 million annually. Talk of increasing tariffs and introducing quotas, possibly limiting imports of U.S. poultry into Ukraine's tax-free Free Economic Zones (FEZs), may further hamper U.S. exports.

Sales of U.S. non-agricultural goods and services, including agricultural and food processing equipment, electrical power equipment and oil and gas pumps, are generally not hampered by non-tariff barriers, and Ukrainian importers typically find ways to circumvent existing import restrictions, e.g., by importing through FEZs.

STANDARDS, TESTING, LABELING AND CERTIFICATION

advance notice, giving companies little time to adjust to new requirements. Improvements are being made in tax filing and collection procedures, although these still differ significantly from those in western countries. The Chairman of the State Tax Administration established an advisory committee on the tax problems of foreign companies, which has been functioning for about two years and has achieved resolution of some difficult issues brought before it by U.S. and other foreign companies.

The United States has a Bilateral Investment Treaty (BIT) with Ukraine, which took effect on November 16, 1996. The BIT guarantees U.S. investors the better of national and MFN treatment, the right to make financial transfers freely and without delay, international legal standards for expropriation and compensation and access to international arbitration. U.S. investors, however, face numerous day-to-day problems and regard recourse under the BIT as only a last resort.

To attract investment and remove obstacles to trade, Ukraine created eleven Free Economic Zones (FEZs), and nine Priority Development Territories (PDTs), reportedly covering some 10 percent of Ukrainian territory. In August 2002, the Cabinet of Ministers introduced a moratorium on the establishment of FEZs and PDTs until January 1, 2005. There is no single, clear law that regulates the FEZs. Legislative loopholes permit companies to misuse FEZ status, and to avoid taxes and import duties. Profits from such activity are used to finance political campaigns.

Privatization rules generally apply to both foreign and domestic investors, and, in theory, relatively level playing field exists. In practice, however, the privatization process continues to lack transparency. Clear qualification requirements for advisors need to be established, and recognition of procedures and financial information need to be more public, complete, and timely. Phased implementation of a 2002 privatization which provides for the cash sale of majority shareholdings in several strategic large-scale enterprises, has been patchy. A number of large-scale privatizations conducted since early 2000 have been marked by unclear, non-transparent and changing regulations and by heavy political interference.

ELECTRONIC COMMERCE

The Internet and electronic commerce are underdeveloped in Ukraine. Recently, the Ukrainian Parliament voted in favor of two draft laws to control the Internet. A third draft law "On Monitoring of Telecommunications," is being considered.

On November 19, 2003 the Parliament passed the law "On Telecommunications," which would oblige Internet service providers to purchase, install and maintain all monitoring equipment necessary for the carrying out of operational and investigative measures by the authorized bodies. These expenses will be incurred by service providers. If this law is put into effect, there will be no inviolability of e-mails. The potential effect of this legislation on electronic commerce is unknown.

OTHER BARRIERS

Ukraine imposed an export duty of 30 euros per metric ton on ferrous steel scrap during the second quarter of 2002. This export duty has contributed to a decline in scrap exports from Ukraine, at a time when global demand and prices for steel scrap are rising. The export tax provides an artificial advantage to Ukrainian steel producers by increasing domestic steel scrap supply, providing producers with an unfair advantage in Ukraine and in third markets. Moreover, it constricts global supplies of a key steel input, which has the effect of raising prices of steel scrap for otherwise competitive producers elsewhere, including those in the United States.