

EXHIBIT 3



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A. Openness to Foreign Investment

While the process of economic reform in Ukraine has been slower than in many other Eastern European countries, Ukrainian government officials state that their goal is to create a free market economy and that they actively seek foreign investment. Senior government officials, including the President and the Prime Minister, hold regular meetings with panels of foreign investors who provide advice on priority reforms. In 2001, western participants in these meetings reported that Ukrainian officials were more open to suggestions and comments than in the past. While the resulting mood was quite upbeat, all parties agree that the key will be action, not words. Ukraine must take significant measure to improve its investment climate before foreign investment is likely to increase significantly.

Although foreign direct investment (FDI) has risen since Independence, current

cumulative FDI reached USD 3.866 billion or about USD 70 per capita. During 2000, USD 792.2 million was invested in Ukraine, a 5 percent increase over 1999. For comparison, annual FDI in Ukraine's neighbor, Poland, is nearly ten times as high.

A survey conducted by the International Finance Corporation (IFC), entitled "Ukrainian Enterprises in 2000," revealed that firms of all sizes agree that taxation -- both the overall tax burden and the administration of the tax regime -- ranks as the most serious barrier to investment. General macroeconomic conditions such as low demand and inflation were the second major obstacle, followed by anti-competitive behavior, including discriminatory practices, and a non-level playing field.

A report by the International Private Capital Task Force (IPCTF) and Sigma Bleyzer, entitled "Accelerating the Flow of International Private Capital to Ukraine," concluded that Ukraine is receiving only a fraction of potential FDI and

that a series of economic policy changes could therefore lead to a rapid increase in FDI. Priority actions recommended in the study included: liberalize and deregulate business activities; provide a more stable and predictable legal environment (independent judiciary, meaningful legislation such as Draft Civil, Labor, Criminal, and Tax codes); improve corporate and public governance and accelerate privatization; liberalize foreign exchange and trade regimes; facilitate financing in the financial sector; eliminate corruption; reduce political risks; and eliminate special incentives. According to the report, policies should be aimed overall at achieving transparency, simplicity, and predictability in the business sphere. While the report focused on foreign investment, the authors noted their conviction that the steps they were advocating would prove equally beneficial to domestic investors.

According to a Ukraine Investment Policy Review completed by the Organization for Economic Cooperation and Development (OECD), the shadow economy continues to distort the Ukrainian economy. The OECD report cited corruption, un-restructured Soviet-era industrial and agricultural sectors, a narrow tax base and slow privatization as factors that inhibit foreign investment. The report recommended the establishment of an independent judiciary, deregulation, and other legislative and institutional reforms. It also strongly recommended the adoption of a foreign investment policy that creates a level playing field for both foreign and domestic investors rather than relying on incentives and special economic zones. Improvement in rule of law was highlighted as one of the most significant problems and the adoption of new civil, tax, judiciary, and administrative codes was recommended as a possible solution. Inadequate corporate governance, tax regime, banking and nonbanking sectors, and trade and currency regimes were cited. Privatization and enterprise restructuring was criticized for lack of transparency and scale and public governance was described as "bloated" and subject to high state capture.

Key domestic legislation includes the law "On Foreign Investment," passed in April 1996, which guarantees foreign investors equal treatment with local companies and provides potential privileges. The law permits exemption from customs duties for in-kind contributions of fixed assets imported into Ukraine from a company's charter fund. Some restrictions to the exemptions apply and import duties must be paid if the enterprise sells, transfers, or otherwise disposes of the contributed property for any reason other than repatriation of foreign investment. The law also provides general guarantees against expropriation, unhindered transfer of profits and post-tax revenues, and a ten-year guarantee against changes in legislation that affect these basic protections.

The U.S.-Ukraine Bilateral Investment Treaty, which took effect November 16, 1996, provides U.S. investors further protection. However, international arbitration afforded under the treaty is to be regarded as a tool of last resort and is not very practical for solving the everyday problems that businesses continually face. Some investors have resorted to World Bank's International Center for Settlement of Investment Disputes.

Ukrainian legislation restricts foreign participation to 49% or less in the charter capital of enterprises in certain sectors, such as insurance, publishing, and broadcasting sectors and the manufacture of weapons and alcoholic spirits. In

"strategic" enterprises (including TV and radio stations) foreign shares cannot exceed 30%. In practice, foreign investment in many other sectors and individual enterprises is limited by laws or regulations that list specific investment provisions or which require the government to maintain majority stakes in "strategic" enterprises.

Ukraine's anti-monopoly law requires that establishment of a legal entity, mergers, and acquisitions be approved by the anti-monopoly committee if the investment fulfills certain criteria (e.g. acquiring a certain percentage of the voting rights in an enterprise). Nearly all equity investments, joint ventures with multiple participants, and share acquisitions require anti-monopoly committee approval, a lengthy and fairly costly undertaking. In February 2001, a number of amendments to regulations were made which related to the following: Grounds for carrying out extraordinary inspections; procedures for crediting; use of funds received from the payment of penalties imposed for violation of antimonopoly legislation; and interest accrued in cases of delay of penalty payments.

Privatization officially started in 1992 with the establishment of the State Property Fund. Privatization met strong bureaucratic and parliamentary resistance and was suspended in 1994. A November 1994 presidential decree instituted a new voucher-based mass privatization program. Prior to 1995, 1,200 medium to large enterprises were privatized through an employee lease-buyout program, whereby employees' leases were converted to ownership. Beginning in 1996, voucher sales began for medium and large industrial enterprises. A May 2000 privatization law radically changed the process. The new program provided for cash-based privatization via open tenders of large blocks of shares and controlling interests in strategically important enterprises. Additionally, this law banned privileged privatization to employees. The new policy helped facilitate the generation of UAH 2.73 billion (USD 390 million) in privatization revenues in 2000, exceeding the value of privatization revenues received during the last nine years. Most of the 2000 privatization revenues came from the sale of large machine-building, metallurgy enterprises, and oil refineries. While no restrictions were placed on foreign participation, the process of evaluating privatization tenders was often at times non-transparent, a factor which led to charges of discriminatory decision making.

The privatization of six regional energy companies (oblenergос) in 2000 and 2001 set a new standard for transparent, international privatization in Ukraine. A working group consisting of Ukrainian, U.S., and EBRD (European Bank for Reconstruction and Development) officials work with an investment advisor, Credit Suisse First Boston, and the Ukrainian State Property Fund cooperated to ensure that the privatization process matched the highest international standards for transparency and fairness. At the end of the process, Ukraine sold six energy distribution companies for \$160 million to strategic investors from the U.S. (AES) and Slovakia (East Slovak Energy Works). Despite the success, some Government officials expressed dissatisfaction with the low number of bidders and the President initiated an internal review of the privatization process. As a result of a "lessons learned" review, Ukraine decided to continue with this transparent, international approach to energy sector privatization. In future privatizations, however, it has committed itself to do more to mitigate investor risk

and uncertainty in the market in order to attract more potential investors and to raise the value of objects being sold. Ukraine plans to continue its privatization of the 12 remaining power distribution companies in 2001 and will begin privatization of power generating companies in 2002.

In the first half of 2001, the government planned to raise UAH 2.7 billion (approximately \$ 490 million) cash through privatization, but only UAH 1.6 billion (\$294 million) was raised. The failure to meet the privatization revenue target is generally attributed to the slow pace of strategic privatization, particularly notable in the telecommunications sector where the Government had originally planned to move forward more quickly with the privatization of Ukraine's national telecommunication company, UkrTelecom. The Government has revised its plans and announced that UkrTelecom will be privatized by January 2002. Nevertheless, 85.7% of all medium and large enterprises (8,600 out of 10,000) had been privatized as of January 1, 2001. Volumes of production by private enterprises exceed by 240% production of state-owned and municipal companies. These private enterprises account for 75.7% of Ukraine's industrial production.

B. Right to Private Ownership and Establishment

The Constitution of Ukraine (June 28, 1996) guarantees the right to private ownership, including the right to own land. In addition, Ukraine's Law on Ownership, which was one of the country's first major parliamentary measures, specifically recognizes private ownership and includes Ukrainian residents, foreign individuals, and foreign legal entities among those entities able to own property in Ukraine. Moreover, the law permits owners of property (including foreign investors and joint ventures) to use such property for commercial purposes, to lease property, and to keep the revenues, profits and production derived from its use. The Law on Ownership does not, however, establish a comprehensive regime regulating the rights of ownership and the mechanisms for their transfer. Some difficulties have arisen over foreign acquisition of majority control of enterprises, with the government or the current management continuing to exercise effective control or veto power over company decisions.

The Land Code of Ukraine, adopted in 1992, regulates the ownership, use and disposition of rights and interests in land. The Code was adopted four years before the Constitution (1996) and is inconsistent with it in some of its provisions.

and dacha plots, the right to own land is still subject to substantial limitations. A new Land Code is being developed, and the draft allows foreign ownership of land for non-agricultural purposes. In addition to the proposed new Code, there are several presidential decrees that permit foreign ownership of enterprise land. The new Land Code would strengthen the legislative framework for foreign ownership.

Despite these decrees, law firms have generally advised foreign investors not to conduct land transactions based on presidential decrees that contradict the current Land Code and may be challenged in court. A new USAID land titling initiative will provide technical assistance to both reduce the cost of agricultural

land titling and to directly support the issuance of land titles. President Kuchma has cited the issuance of agricultural land titles as one of his highest priorities.

In June 1999, President Kuchma issued a 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. Another deterrent to bank lending is an underdeveloped legal system minimizing creditors' chances of seizing property. USAID has been instrumental in the creation of a pledge registry, the first of its kind in the former Soviet Union, which applies to individuals' obligations with regards to movable property and tax liens. Though rudimentary, the registry is nationwide, providing a more transparent lending market for personal property.

C. Protection of Intellectual Property Rights

Ukraine's protection of intellectual property rights remains uneven. Ukraine 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 significant loopholes and enforcement of existing legislation is patchy. Intellectual property violations range from petty, small-scale counterfeiting to industrial-scale piracy with links to organized crime.

As a result, in 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. As of June, 2001, USTR was completing the statutory investigation which could likely lead to trade sanctions and removal of Ukraine's duty-free privileges under the Generalized System of Preferences (GSP) in the event that the government fails to make sufficient progress fulfilling the IPR action plan. Copyright piracy also remains a problem in the market for music cassettes and movie videos.

Trademark piracy is a common problem for domestic and foreign companies with well-known consumer brand names. While there are examples of businesses cooperating with law enforcement officials on raids of counterfeiting production facilities and distribution centers, companies cannot expect law enforcement bodies to take a pro-active role in combating trademark piracy. In addition, state agencies have in the past known to resell seized products as a source of revenue.

Ukraine has recognized the need to improve its protection of intellectual property, and support for needed changes is gradually growing within the government, the parliament and in society at large. The U.S. Government is supporting Ukrainian efforts to bring its legislation in line with the IPR-related conditions (TRIPs) for WTO membership.

D. Performance Requirements/Incentives

There are no known cases of performance requirements being imposed on routine foreign investors in Ukraine. Ukraine modified its foreign investment law of 1996 and law of investment activity of 1992 several times, thereby removing certain tax breaks previously accorded foreign investors, equalizing tax treatment of foreign and domestic investors. The scope and the ability to make foreign investments were also strengthened. There are no tax breaks provided for in the new laws, but the foreign investor is granted a number of state guarantees, the most important being unhindered and immediate repatriation of profits and stable regulations for the time of the investment.

At the beginning of June 1999, President Kuchma issued several decrees providing certain tax benefits for foreign investors in the areas of finance and investment and submitted the provisions of the decrees to the Parliament as proposed laws. Foreign investors are still exempt from customs duties for any in-kind contribution imported into Ukraine for the company's charter fund. Some restrictions apply, however, and import duties must be paid if the enterprise sells, transfers, or otherwise disposes of the contributed property for any reason.

E. Transparency of the Regulatory System

Over regulation of the Ukrainian economy is a legacy of the country's Soviet history and a major contributor to corruption. The government recognizes this problem and is moving to address it. A special "State Committee on Entrepreneurship" has been established and has opened ombudsman offices in every oblast (state) of Ukraine. In June 2000, new licensing laws were passed which provided greater transparency and simplified licensing procedures. The list of activities subject to licensing was reduced to 60, eliminating many subactivities, particularly for small business. The number of documents required for applications was reduced and a shorter turn-around time was established. License conditions, which under prior law were a condition precedent to issuing a license, are now conditions subsequent. Nonetheless, various ministries and state bodies continue to require many license-like permits. Bureaucratic procedures for obtaining permits and licenses are burdensome and confusing and significantly raise the cost of doing business in Ukraine, provide opportunities for corruption, and drive much activity into the burgeoning "shadow" economy. The challenge for 2001 and 2002 will be to consolidate the gains made at the federal level and to push the deregulation process down to the oblast and city level.

Certification is another area where the situation is improving. According to IFC's survey, in 2000 70 percent of all surveyed reported having undergone certification and 74 percent of these felt procedures were a burden. Recently passed legislation should provide some relief. A law, "On Standardization," introduces voluntary standards and requires that standards be set by legislative or government acts. A law, "On Assurance of Conformity," replaces mandatory certification for many types of products and permitted gradual correspondence of conformity assessment procedures to international standards and the "New Approach" directives of the European Union, including the principle of "presumption of conformity to standards." A law, "On Accreditation of Conformity

Assessment Bodies," establishes a national accreditation body, separate regulation of accreditation and certification, and use of practice, standards, and procedures that apply for membership in the European Cooperation for Accreditation (ECA). All of these recent changes are so new that their impact would not yet be reflected in the IFC survey of business cited above.

While the process of deregulating the Ukrainian economy is proceeding, much remains to be done. According to the 2000 IFC survey of Ukrainian businesses cited earlier, 94 percent of all respondents reported that frequently changing

had to make some sort of unofficial payments related to regulatory and administrative issues and work time of senior management dealing with the state amounted to 16 percent. 86 percent of firms needed to obtain permits/permissions with 44 percent finding this a serious or major barrier to market entry. The most troublesome were in connection with land and construction.

F. Corruption

On Transparency International's Year 2000 Corruption Perception Index, Ukraine ranked 87 (tied with Azerbaijan) out of 90 countries. Only Yugoslavia and Nigeria ranked worse. Corruption in Ukraine includes both administrative "petty" corruption (bribes) and "state capture," where public officials are improperly enriching themselves through their position and leading firms or oligarchs use their political influence to secure favorable policy and legislation, court decisions, and central banking conditions. Corruption is ubiquitous and constitutes a major impediment to investment and business development. Donors, friendly governments, and potential trading partners have all pressed Ukraine's officials and leadership to take steps to reduce corruption and create more public awareness and support for anti-corruption efforts. Some corrupt acts have been criminally prosecuted, but many more have resulted in little or no action. Anticorruption campaigns in the past have been criticized as being politically or economically motivated. There is little evidence of a consistent anti-corruption effort by Ukrainian law enforcement agencies.

Corruption permeates much of Ukraine's court system, police, civil service and regulatory system. Conflict of interests abound as many public servants continue to own businesses while serving. Corruption is sometimes institutional, to the extent that certain government entities own or have close ties to businesses that compete with those they regulate. Government entities also use means that are off the balance sheet to pay for operations and expenses not funded by the state budget. A complicated, opaque, and unaccountable regulatory system has facilitated corruption. Low salaries add to the problem. The looming shadow economy continues to deprive the budget of needed funds and leadership the information it needs to make effective policy. It also encourages further unfair business practices and corruption, while discouraging further business investment and development. As the process of deregulating the Ukrainian economy proceeds, avenues for administrative corruption decrease.

G. Labor

Ukraine has a well-educated and skilled labor force with a nearly 100% literacy rate (98.6%). Although the official unemployment level is low, (4.2%), this figure is misleading. Most experts agree (1) that reported unemployment is understated (with the real unemployment rate closer to 14%), (2) that underemployment at state enterprises continues, and (3) that employment in the informal sector accounts for a difficult to measure share of the total labor force.

Wages in Ukraine remain very low by Western standards. The nominal average monthly wage in Ukraine in 2000 and 2001 was UAH 250 (\$46.29 according to June 2001 exchange rates). Many Ukrainians are forced to work second and third unofficial jobs to make ends meet -- a factor that both complicates calculations of the true unemployment rate and that significantly adds to the shadow economy. While the exact size of the shadow economy is unknown, a 1998 report by the Harvard Institute for International Development estimated that the size of the informal economy is in excess of 70% of Ukraine's official GDP. While a significant portion of the Ukrainian labor force remains engaged in the shadow sector on either a full or part-time basis, recent simplified tax rates for the smallest businesses have encouraged a number of entrepreneurs to move from the shadow economy toward legitimate tax-payer status.

wage and pension arrears were drastically reduced. Arrears were completely eliminated in many sectors of the economy. Where arrears still exist, they tend to be relatively short -- one or two months rather than the six months to a year that was the case in the past. Although foreign investors may still encounter resistance in trimming a project's work force to an efficient level, the insistence of local administration and management on keeping a maximum number of people employed within an enterprise is beginning to wane. It is important for investors to remember that as in Soviet days, in many cases, a Ukrainian enterprise is still expected to maintain much of the social infrastructure of their immediate community (schools for local children, cafeterias, some medical facilities, etc). While many local officials are willing to work with businesses to identify what services are essential, such arrangements should be finalized before investments are made.

Ukraine's industrial inheritance from the former Soviet Union, particularly its military-industrial complex, has produced excellent specialists, engineers, and programmers. However, these specialties were rarely commercialized in the Soviet command economy, leaving many Ukrainians poorly equipped for the demands of dynamic, information-based commerce. Ukrainian workers are generally more accustomed to "top-down" management practices and therefore fail to demonstrate initiative. However, a younger, more independent-minded generation is slowly moving into the general workforce, and finding personnel that function competently and independently is getting easier.

H. Efficiency of Capital Markets and Portfolio Investment

Legal, regulatory, and accounting systems are not transparent enough in Ukraine and are not fully consistent with international norms. The reform process is

advancing in these areas. Despite signs of growth, Ukraine's security market still lags behind international standards and reform has not advanced as quickly as in the banking sector. An effective portfolio investment regulatory system and the

high macro-economic risk, developing accounting standards, lack of accurate company information, and inadequate protection of minority shareholders' rights.

In June 1991, the Parliament of the then Ukrainian Soviet Socialist Republic approved a Law on Securities and the Stock Market, which marked the birth of a Ukrainian capital market. The Law outlined the existence of the following types of securities: stocks (registered, bearer, preferred, and common), government securities, general obligations bonds, corporate bonds, savings certificates, and promissory notes. Later decrees and amendments adopted from 1991 to 1995 added bond coupons, loan certificates, bank orders, savings books, and privatization certificates. In June 1995, the State Securities and Stock Market Commission was established, having administrative and disciplinary powers over issuers, investment funds, brokers and trading activities.

In 1996, the Ukrainian securities industry broker/dealer self-regulatory organization (SRO) and its nationwide, electronic trading system – PFTS was founded. As a Ukrainian over-the-counter market, PFTS remained the largest marketplace with 80% of secondary on shore trading through 2000. The PFTS market capitalization was \$2.2 billion at the end of 2000. Average monthly trade volume increased through 2000, with the \$24 million being monthly traded. PFTS Membership, 200, representing Ukrainian and Western banks, investment funds and broker/dealers companies, remained the largest and most influential of all the Ukrainian exchanges. For the four year period covering 1997 and 2000, PFTS exercised its SRO authority by carrying out over 200 inspections of companies and certifying over 500 traders (authorized persons of companies) who have access to trading. In addition, the SRO executed 27 disciplinary cases and 8 arbitration cases.

The Professional Association for the Registrars and Custodians (PARC) was established in July 1996, beginning as an association of registrars only. Ukraine has about 420 licensed registrars, more than half of which are PARC members. Beginning March 1997, the SSMSC started licensing "depository activities of custodians". Seventy legal entities are now registered as custodians, of which 32 are PARC members. The SSMSC granted PARC the legal SRO status in October 1997. PARC's main areas of activity include the following: (a) developing rules and standards for the registrar/depository industry; (b) providing information about changes in the legal environment; (c) maintaining relations with the media and the general public; and (d) providing training and other educational programs for members. PARC's main international contact is with its Russian counterpart, PARTAD. Geographically, member traders represent 16 cities throughout Ukraine, the bulk of which are in Kyiv, Kharkiv, Donetsk and Dnipropetrovsk.

The Ukrainian Association of Investment Business, created in 1996, is the only currently existing fund industry SRO. However, a component of future USAID financial market activity includes the establishment and development of a more progressive fund industry SRO.

The Interregional Depository and Clearing/Settlement Organization (MFS) was created in 1997 by a group of the largest Ukrainian banks and the National Bank of Ukraine. MFS has served as the foundation for the All-Ukraine Clearing Depository, the private industry owned and managed depository. The AUCD system was officially launched with USAID support in April 2000. The AUCD/MFS system will safeguard ownership records in all publicly traded enterprises, and efficiently transfer ownership in all actively traded enterprises.

Principle laws, decrees, and regulations governing Ukraine's financial markets include: Law on Securities and Stock Exchanges (1991), Law on Business Associations (1991), Presidential Decree on Investment Funds and Investment Companies (1994), Law on State Regulation of Securities Markets (1995), Amendments to Law on Business Associations (1996), Law on National Depository System (1997), Law on Accounting and Financial Reporting (1999), Bankruptcy Law (1999) and the Law on Collective Investment Institutions (received first reading 2000 and scheduled to receive second reading in 2001).

Passage of the Joint Stock Company Law is currently the single most pressing matter for corporate governance development. If ratified, the law would provide a much more sound and objective base for relations between enterprises and their shareholders. Additionally, revision of the draft Civil Code chapter titled "On Joint Stock Companies" would provide much-needed policy and regulation of companies.

Ukraine's State Stock Market Securities Commission (SSMSC) is the primary Ukrainian financial market regulatory body. The Commission and securities market institutions continue to face obstacles inhibiting sustained progress in market reform. First, the market regulatory structures in Ukraine continue to experience difficulty in attracting and retaining qualified professional staff due to non-competitive pay scales under the GOU civil service system. Second, a stronger enforcement program with rewards and penalties needs to be enacted. Because of the weak market, many companies practicing good corporate governance are not rewarded with increased investment and many companies practicing bad corporate governance are not exposed or subject to financial penalties. Third, Ukraine is still struggling with macroeconomic and fiscal challenges necessary for a fully efficient securities market. The State continues to dominate in enterprise transactions so progress remains limited.

According to the State Stock Market and Securities Commission, there were 228 investment funds and investment companies (128 investment funds and 100 investment companies) operating in Ukraine at the end of 2000. This was less than it was at the beginning of year. During the same time period, the distribution of funds by regions remained the same, where approximately 70.3 percent of the total is concentrated in Kyiv, Kharkiv, Donetsk Regions and Republic of Crimea. The volume of stock trades in 2000 accounted for UAH 39 billion, a two-fold increase over the 1999. Trading corporate shares accounted for UAH 11 billion, trade of promissory notes accounted for UAH 22 billion, and trade of T-bills made UAH 3 billion. As of April 12, 2001, 857 stock traders were registered in Ukraine, 857 stock registrars, and 10 stock exchanges.

A Presidential Decree "On Additional Measures Regarding Development of Stock Exchange Market of Ukraine, passed in March 2001, approved a plan for the development of the stock exchange market for 2001 – 2005. The decree provided tax incentives, changes to the regulatory system, development of corporate management, development of the institutes of mutual investment, formation of stock exchange market infrastructure, development of the National Depository System, development of securities legislation, and training specialists in stock exchange market and corporate development fields. The law "On Mutual Investment Institutions" encourages creation of mutual funds, introduces a notion of licensed asset manager, regulates the establishment and operation of subjects of mutual investment, provision of guarantees of ownership, rights to securities, and protection of rights of participants of the exchange market.

An Order of the State Committee on the Issues of Regulatory Policy and Entrepreneurship, and Resolution of the State Securities and Stock Exchange Market Commission "On Approval of the Licensing Conditions for Carrying Out Professional Activities at the Securities Market," dated March 2001, established conditions for obtaining licenses for carrying out securities market activities.

A law "On Circulation of Promissory Notes in Ukraine," dated in April 2001, provided a framework for the circulation of promissory notes in accordance with Geneva Convention of 1930 - which introduced the Unified Law "On Negotiable and Ordinary Promissory Notes" subject to provisions stipulated in Appendix II to the Convention and the Geneva Convention of 1930 "On Settlement of Certain Conflicts of Laws On Negotiable and Ordinary Promissory Notes," and "On Stamp Duty In Respect of Negotiable and Ordinary Promissory Notes."

The Ukrainian banking system consists of the central bank - the National Bank of Ukraine (NBU) - and commercial banks of various classifications. NBU is responsible for monetary circulation, registration of commercial banks and overseeing their activities, and sometimes intervenes in the currency market to moderate changes in the exchange rate. As at January 1, 2000, 203 banks were registered in Ukraine, including 30 with foreign capital backing, and 9 with 100% foreign capital. Of the total 203 banks registered, 65 banks are actually operating. With the exception of two state-owned banks, Oshchadbank and Ukreximbank, the banks are all either joint-stock companies (JSC) (124 open JSC, 49 closed JSC) or limited liability companies (28).

In contrast to many other sectors of the Ukrainian economy, there has been real progress in structural reform in the banking sector over the last several years. Development of sound market-oriented banking system has been an important area of emphasis of international assistance, including from the United States.

of the banking sector, requiring many foreign investors to keep double entry books, one entry with Ukrainian accounting standards and one entry following international standards (IAS) for use by the parent company. In July 1999, Parliament adopted the "Law on Accounting and Financial Accountability," which defined the main principles of accounting and other forms of financial

accountability in accordance with international standards, to ensure that a company's records provide full and true information about its finances and business activities. This law is the basis for future reforms and the introduction of ~~accounting rules. Full implementation is likely to take two to three years.~~

improve transparency and compatibility and reduce the shadow economy. The Accountancy Chamber, the chief accounting body of the government, is advocating a rapid move to IAS.

NBU has passed a number of new regulations, such as loan-loss provisioning, loan classification and lending to insiders and related parties, which are in line with Western practice. Foreign licensed banks may carry out all the same activities as domestic banks and there is no ceiling on their participation in the banking system. However, laws to enable NBU needed authority to deal with banks in trouble should be passed. Some measures were introduced to make it easier to identify bad loans and avoid possible crises, but many banks continue to have many bad loans and they continue to lack resources to provide credit to serve as a source for investment. Loans that are made are short-term and at high interest. Bank capitalization is small and subject to risk in the event of currency devaluation.

Ukrainian financial markets do not seem to have such complex "cross-shareholding" and "stable shareholder" arrangements as are found in Asian markets. However, foreign investment through mergers and acquisitions is restricted in Ukraine, but for other reasons such as underdeveloped legislation and unfair treatment toward minority shareholders by company insiders.

Ukraine is still a cash economy, but the Ukrainian credit card market is promising ~~and rose two fold during January-April, 2001. Ukrainian banks have been issuing~~ Visa and Europay cards since 1997. The number of the Europay International and Visa International plastic cards issued in Ukraine is expected to reach 1.5 million by the end of 2001. Currently, the number of plastic cards issued by Ukrainian banks made 1.018 million as of March 1, 2001. The increase in the number of automatic teller machines (ATMs) to 536 is directly linked with the development of the payment-cards business. In an effort to fight plastic fraud and educate public in plastic cards, ten large Ukrainian banks created a forum of plastic cards' safety and payments in March 2001.

I. Conversion and Transfer Policies

The April 1996 Foreign Investment Law guarantees foreign investors the "unhindered transfer" of profits, revenues, and other proceeds in foreign currency after covering taxes and other mandatory payments. Ukraine's new currency, the hryvnia, was introduced in 1996 and is traded in Ukraine against the U.S. dollar and other currencies. The dollar-hryvnia exchange rate has remained quite stable for more than a year, with the exchange rate generally staying between 5.5 and 5.7 hryvnia to the U.S. dollar.

There are currently no limitations on the frequency of repatriation of earnings. In general, foreign exchange is rapidly available at market-determined rates, and

investors can convert their earnings into foreign currency through commercial banks, which purchase foreign currency for the investor at the Interbank market. Commercial banks can trade foreign currency among themselves or participate in electronic currency trading at the Ukrainian Interbank Currency Exchange (UICEX). Due to the August 1998 financial crisis, the National Bank of Ukraine (NBU) put into place a number of capital controls. Investors should be aware that such regulations change regularly and the NBU is often forced to protect thin foreign currency reserves. However, since spring of 1999 there has been a liberalizing of the foreign exchange market.

Effective February 2001, NBU regulations on international private currency transfers permitted residents to transfer up to USD 300 abroad without opening a bank account. NBU also increased the volume of funds which may be transferred abroad by private persons without prior permission, including assistance to a relative residing abroad -- no more than USD 1000 per month (up from the USD 500 allowed previously) and court fees - no more than USD 5000.

An NBU resolution "On Approval of Amendments to the Instruction on the Procedures for Opening and Operation of Accounts in Foreign and National Currencies," dated March 2001, approved amendments to the Instruction "On the Procedures for Opening and Operation of Accounts in Foreign and National Currencies." Under the amendments, non-residents and their representative offices may open current accounts in national and foreign currencies as well as deposit accounts. Prior to providing the bank with a notice evidencing the registration of the account the tax authorities, a business entity may carry out only crediting operations on such account. From now on a client shall be

in May 2001, NBU recommended that companies with intentions to sell on the Interbank currency exchange in advance if the will exceed USD 500,000. According to NBU, substantial currency resources enter Ukraine from non-residents for the purchase of state properties being privatized, influencing the currency market. NBU proposed to amend privatization legislation in order to obviate the need to convert currency into hryvnia for the purchase of privatized properties. Currently, investors must convert half of their foreign currency revenues to the national currency. Effective early May, a law "On Circulation of Promissory Notes in Ukraine regulating the issuance and circulation of promissory notes in accordance with the 1930 Geneva Convention Providing a Uniform Law for Bills of Exchange and promissory Notes with certain exceptions and amendments. The law provides more opportunity for payments in foreign currency. Also in May, the Criminal Code was amended to eliminate criminal charges for illegal trade of hard currency in favor of administrative penalties, release of those imprisoned on such charges, and cancellation of sentences.

J. Expropriation and Compensation

Under the 1996 law on foreign investment, a qualified foreign investor is provided guarantees against nationalization, except in cases of national emergencies, accidents, or epidemics. However, some incidents with foreign investors have

caused concern. In one case, the U.S. Overseas Private Investment Corps determined in 1999 that an expropriation insurance claim by a U.S. company was valid and paid the claim. OPIC is now seeking to recover compensation from GOU for the funds paid out in the claim.

K. Dispute Settlement, Including Enforcement of Foreign Arbitral Awards

Ukraine needs to improve rule of law and adopt a new civil code; tax code; judiciary law; and administrative law. Lack of access to fair and impartial dispute resolution mechanisms and inability to enforce domestic court and international arbitration decisions are a frequent source of lingering investment disputes. Other complaints include overzealous tax collection, sudden and drastic tariff hikes, unilateral rescission and abrogation of valid contracts and licenses, and outright corruption. A number of corporate governance problems are a concern such as limited disclosure, capital restructuring without shareholders' consent, asset-stripping, and voting fraud.

At the heart of the disputes is corruption, lack of transparency in Ukraine's business environment, the problem of authority (or lack thereof), the lack of an independent judiciary and non-implementation of arbitration decisions. Ukrainian laws and regulations are vague and open to considerable leeway in interpretation, providing ample corruption opportunities for officials at every bureaucratic layer. Xenophobic attitudes, especially at the regional level, also play a role as foreign investors are all too often seen as competitors of local firms and their government "sponsors."

Although high-level Ukrainian government officials in Kyiv are aware of the problems, and are sensitive to the needs of foreign companies, the difficulty lies in the middle levels of the bureaucracy. There are simply too many officials, both in the various layers of government and at the enterprise level, who have a strong, vested interest in the status quo.

In the past, American firms that operated for several years in joint ventures with a Ukrainian firm experienced difficulties once the JV started to show a profit. After it became clear that the firm had established itself on the Ukrainian market, the Ukrainian partner attempted -- through various illegal or semi-legal means -- to force out the American partner. The number of such cases reported to the Embassy has declined to some extent but investors continue to voice similar complaints.

In February 1994, Ukraine enacted an international commercial arbitration law. The law parallels commercial arbitration laws set forth by the United Nations Commission on International Trade Law and is therefore in accordance with international standards. The law covers a wide range of international commercial transactions, reflects the principles of equality and fair treatment of parties, provides for a supportive relationship between the courts and arbitration tribunals, and includes basic provisions for the functioning of arbitration proceedings where the parties themselves have not made necessary provisions. According to Ukraine's law on foreign investment, disputes between U.S. investors and the state are to be considered by Ukrainian courts of arbitration.

Ukraine is also a member of the New York Convention of 1958 on the recognition and enforcement of foreign arbitration awards. Some parties have been able to enforce foreign arbitration awards in Ukraine, although there has not been universal success. (Should update as to amendments changes regarding 1994 international commercial arbitration law and application of NY Convention of 1958.)

A new Civil Code passed in June of 2001 should improve the regulation of all commercial relationships in Ukraine. The Code addresses private ownership protection, freedom of contract and entrepreneurship, and provides a unified framework for economic regulations and future legal reforms such as the draft Joint Stock Company law, Land Code, and Tax Codes.

Overall dispute settlement remains weak in Ukraine. Most U.S. businesses avoid the court system because the local and national court systems are burdensome and highly unpredictable. Some investors have reported instances in which the Ukrainian judicial system appeared subject to considerable political interference and/or suffered from corruption and inefficiency. Even when firms receive favorable rulings from Ukrainian courts, the country's judicial system lacks the mechanism necessary to enforce court judgments in their favor.

L. Political Violence

While Ukraine experienced an increase in political demonstrations over the past year, the demonstrations were relatively peaceful and resulted in only a few scattered incidents of violent behavior. On those few occasions when violence did occur, it was limited to interaction between police and demonstrators and did not involve the population at large. The likelihood of widespread politically inspired violence that would affect foreign property interests remains relatively low.

M. Bilateral Investment Agreements

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 (1992), Greece (1994), Indonesia

(1994), Kyrgyzstan (1995), Latvia (97), Lebanon (1990), Lithuania (1997), 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).

N. OPIC and Other Investment Insurance Programs

Overseas Private Investment Corporation:

The Overseas Private Investment Corporation (OPIC) provides financing for projects in Ukraine and offers insurance to U.S. investors against the risks of expropriation and political violence in Ukraine. The U.S.-Ukraine OPIC Agreement was signed in Washington on May 6, 1992. Since January 1994, OPIC has approved investment insurance totaling more than USD 133 million for seven projects in Ukraine. Additionally, three OPIC supported investment funds have made investments totaling USD 54,000,000 in 31 private companies located in Ukraine. OPIC is currently in negotiation with GOU to recover monies paid out to a U.S. claimant whose investment was expropriated. OPIC's support

Export-Import Bank:

In spring 1992, the U.S. Export-Import Bank reached an agreement with the Export-Import Bank of Ukraine to support transactions involving the export of U.S. goods to Ukraine. The Export-Import Bank requires a GOU state guarantee

state guarantees, ExIm is currently inactive in Ukraine. This situation could change within the coming months.

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 which 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

O. Capital Outflow Policy

It was previously estimated that \$10-20 billion of Ukrainian capital has been "hidden abroad" since 1991. Ukraine's investment policy has been heavily focused on attracting this offshore money back to Ukraine, but with little success so far. Some experts believe that flight of capital slowed in 2000 and inflow was rejuvenated due to investment opportunities created by the economic growth and privatization.

P. Major Foreign Investors

As of June 2001, major foreign investments made in Ukraine were channeled into: (a) telecommunications – Utel, a long-distance and international telephone services joint venture with foreign shareholders AT&T (USA), PTT Telecom (Netherlands), and Deutsche Bundespost Telecom (Germany), and the UMC joint venture (with contributions from PTT Telecom, Deutsche Bundespost

Telecom, and Telecom Denmark); (b) tobacco - R.J. Reynolds, Philip Morris, and Reemstma; (c) soft drinks - Coca-Cola and PepsiCo; (d) food processing - Cargill, Kraft Jacobs Suchard; (e) consumer goods - Procter & Gamble; (f) detergents - SC Johnson; (g) electric power - Westinghouse-Siemens (Germany-USA), AES Corporation (USA), ABB (Swiss-Swedish-US), Northland Power (Canada); (h) oil & gas - Lukoil (Russia), TNK (Russia), Kazakhoil (Kazakhstan), JV UkrCarpatOil (Carpatsky Petroleum Corp., USA), JV Poltava Petroleum Company (JKX Oil & Gas UK), JV Eurogas Ukraine (Eurogas USA, RWE-DEA Germany), USENCO (USA.); (i) agribusiness - Cargill Ukraine; (j) fast food - McDonald's; and (k) construction - American Industrial Development Corporation (AIDCO), Best International (USA), Interwindows (USA), OTIS (USA), Western NIS Enterprise Fund, Knauff (Germany), Henkel Bautechnik (Germany), JOBI (Austria.)

CCG Customer Satisfaction Survey

U.S. Department of Commerce
International Trade Administration
The Commercial Service

The U.S. Department of Commerce would appreciate input from U.S. businesses that have used this CCG report in conducting export market research. Please review the privacy statement / disclaimers at the bottom of this Web site. Please take a few moments to complete the attached survey and fax it to 202/482-0973, mail it to QAS, Rm. 2002, U.S. Department of Commerce, Washington, D.C. 20230, or Email: Internet [Robert.Opfer@mail.doc.gov].

* * * About Our Service * * *

1. Country covered by report: _____

Industry/title: _____

Commerce domestic office that assisted you (if applicable):

2. How did you find out about the CCG service?

- Direct mail
- Recommended by another firm
- Recommended by Commerce staff
- Trade/state/private newsletter
- Department of Commerce newsletter
- Other (specify): _____

3. Please indicate the extent to which your objectives were satisfied:

- 1-Very satisfied
- 2-Satisfied
- 3-Neither satisfied nor dissatisfied
- 4-Dissatisfied

5-Very dissatisfied

6-Not applicable

- Overall objectives
- Accuracy of information
- Completeness of information
- Clarity of information
- Relevance of information
- Follow-up by Commerce representative

4. In your opinion, did using the CCG service facilitate any of the following?

- Decided to enter or increase presence in market
- Developed an export marketing plan
- Added to knowledge of country/industry
- Corroborated market data from other sources
- Decided to bypass or reduce presence in market
- Other (specify): _____

5. How likely would you be to use the CCG service again?

- Definitely would
- Probably would
- Unsure
- Probably would not
- Definitely would not

6. Comments:

* * * About Your Firm * * *

1. Number of employees: 1-99 100-249 250-499
 500-999 1,000+

2. Location (abbreviation of your state only): _____

3. Business activity (check one):

- Manufacturing
- Service
- Agent, broker, manufacturer's representative
- Export management or trading company
- Other (specify): _____

4. Value of export shipments over the past 12 months:

- Less than \$10K
- \$11K-\$100K
- \$101K-\$500K
- \$501K-\$999K
- \$1M-\$5M

More than \$5M

May we call you about your experience with the CCG service?

Contact name: _____

Phone: _____

Fax number: _____

Email: _____

Thank you--we value your input!

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