UKRAINE
INVESTMENT CLIMATE STATEMENT
2015

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Executive Summary

Ukraine has undergone an historic transformation since 2014 which has laid the foundation for a dramatically improved investment climate in the future. As the 2015 Investment Climate Statement goes to press, Ukraine's post-Maidan government is moving forward with an ambitious reform agenda to put Ukraine's weak economy back on solid ground and to create a welcoming business environment. During 2014, the Government of Ukraine made tangible progress moving Ukraine's government and economy away from the highly centralized, corrupt structures left over from the Yanukovych era and legacy Soviet systems. However, more work remains to be done, and the challenge of implementing a robust reform program during a period of political transition, economic contraction, and military conflict in the East is daunting.

During 2014 the government signed and ratified their Association Agreement with the European Union. Although full implementation of the economic part of the Association Agreement – the Deep and Comprehensive Free Trade Area - is postponed to January 2016, Prime Minister Yatsenyuk and his new cabinet continue engaging positively with European countries. The Parliament has also made important strides; for example, they have stripped parliamentary immunity, made progress on political and economic decentralization, and begun to address judicial reform. The Government of Ukraine has also made headway on anti-corruption efforts, with the passage of amendments to the National Anti-Corruption Board of Ukraine (NABU) law, the appointment of a NABU director, and more decisive action by a new Prosecutor General appointed February 2015. The government signed a Standby Agreement with the IMF in April 2014 and an Extended Fund Facility in March 2015 demonstrating its commitment to the programs by implementing decisive measures to enable sustainable growth through comprehensive governance and structural reforms, such as: introducing a flexible exchange rate regime, stabilizing the financial system, securing fiscal sustainability, and restructuring the energy sector. Efforts along these lines could well enable Ukraine to turn the page on the past and open its doors more widely to foreign investment while cementing democratic values and adhering to transparent economic principles.

However, the Russian invasion, occupation, and illegal annexation of Crimea in March 2014, Russia's continued aggression in eastern Ukraine, along with Russia's trade and economic warfare toward Ukraine, continue to undermine the economy. For example, by the end of 2014, in response to Ukraine's signing of the Association Agreement with the EU, Russia implemented technical barriers to trade banning the importation of all Ukrainian dairy products and livestock. The Russian-backed conflict in the east decreased industrial production as well. Further damaging Ukraine's export revenues, Russia has also disrupted transit of some Ukrainian goods across the territory of the Russian Federation. Such actions impact major exporters, including multinational companies, and further undermine investor confidence.

This report describes key aspects of the investment climate in Ukraine as of April 2015 including political context, legislative changes, economic performance, and overall business conditions. As noted, the political and economic situation in Ukraine has transitioned rapidly over the past year, and we anticipate this trend will continue. Overall, Ukraine's trajectory provides many reasons to be cautiously optimistic about the future, but further hard work is needed to create a stable, transparent and welcoming business environment.

Special Statement on Investment Climate in Crimea and Donbas

While the Government of Ukraine is working toward building a more welcoming business environment in Ukraine, investors should note that the situation in both Crimea (unlawfully annexed by Russia in the spring of 2014), and in occupied territories of Donbas is quite different. The investment climate in both of these areas is poor, characterized by a lack of governance, transparency and stability. American companies are prohibited from participating in certain transactions in Crimea, which is subject to sanctions under Executive Order 13685 dated December 19, 2014. Media reports suggest that Crimean “authorities” do not respect property rights and have “nationalized” and/or confiscated a sweeping array of business assets. Businesses that do operate there report difficult conditions for their personnel as local “authorities” attempt to enforce foreign law and require the adoption of Russian documentation. The situation in the Donbas (portions of Luhansk and Donetsk oblasts) controlled by Russian-backed separatists is volatile. Businesses located in this zone have reported work stoppages, illegal “taxation,” and the kidnapping of company personnel, all at the hands of the Russian-backed separatists. Because of the lawlessness, banks have ceased operations in the region and the Ukrainian government has stopped providing basic services or pensions. In addition, road and rail systems in the region have been damaged during the conflict, stranding some businesses without means to receive inputs or move product. Over the last year significant portions of the Donbas controlled by Russian-backed separatists experienced frequent power outages.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The new government has started implementing wide-ranging reforms to improve the investment climate by increasing transparency in state-owned enterprises, eliminating unnecessary regulations, revamping procurement processes, and simplifying the tax code. However, its immediate focus is stabilizing the weak economy which has necessitated measures like increased import tariffs and administrative currency controls that are not business-friendly. The ministers of the economy and finance have acknowledged that 2015 will be a year of transition and reform and hope to see a stabilization of the situation and increased FDI in 2016. To support this goal these ministers have brought in a new team of reform-minded deputies, many of whom hail from the private sector, to be agents of change in the government. Instability in the East continues to cast a shadow across the Government of Ukraine’s reform efforts as many would-be investors remain on the sidelines waiting for a sustainable resolution to the conflict.

In 2014 Ukraine climbed 16 places to 96 in the World Bank’s “Doing Business” rankings—earning the “Most Improved” award. During 2014 the government streamlined the process to start a business by eliminating both the need for registration with the statistics authority and the fee for value added tax registration. Authorities now process construction permits through a risk-based approval system, eliminating requirements for certain approvals and technical conditions and simplifying the process for registering real estate ownership rights. The Government of Ukraine simplified property registration and transfer processes. Ukraine is also facilitating cross-border trade by releasing customs declarations more quickly and reducing the number of physical inspections. Finally, the government introduced an electronic system for filing and paying labor taxes. In addition to the efforts of central authorities, officials at local levels continue looking to attract investment and jobs to their regions. In many instances, these local officials have become willing partners for investors in need of land or permits, which frequently are controlled below the national levels.

On March 11, the IMF Executive Board Approved a 4-Year USD 17.5 Billion Extended Fund Facility (EFF) for Ukraine. This program expands and replaces the prior Standby Facility that was established in April 2014. Continued IMF financing as well as bilateral support are critical to restoring economic stability. In a March 2015 press release, the IMF emphasized that the program will support the Government of Ukraine's efforts to improve the business climate, stating that "addressing deep-rooted structural problems is critical to create an enabling environment for investment and private sector activity." Tackling weak governance and improving the business climate is critical to increase investment and achieve higher growth. A comprehensive strategy to reform state-owned enterprises is important to enhance efficiency and reduce fiscal risks." The European Union Association Agreement was signed in 2014. The EU unilaterally reduced tariffs on Ukrainian goods as of April 22, 2014 through December 2015, when Ukraine begins to implement the Deep and Comprehensive Free Trade Area (DCFTA) – the economic component of the Association Agreement. We anticipate that DCFTA implementation will involve additional business friendly reforms such as harmonization of standards to meet EU norms.

Ukrainian legislation provides for national treatment of foreign investors, in line with its World Trade Organization (WTO) commitments. Due in part to conflicts in the body of laws that govern investment and commercial activity in Ukraine, and persistent issues with corruption, foreign investors have found it difficult to pursue cases in Ukrainian courts and often seek arbitration outside of the country. However, judicial reform is underway. The President of Ukraine signed the Law "On Ensuring the Right to a Fair Trial" on February 24, 2015. Starting March 28, 2015 the powers of the Supreme Court were enhanced and new rules now apply to the selection and disciplining of judges, in what is the first step in an expected major overhaul of the judicial system in Ukraine, a stated priority of President Petro Poroshenko. Successful judicial reform and strengthening of rule of law, both of which are key demands from the Maidan revolution of dignity, will be essential to eliminate the culture of corruption in the country.

Other Investment Policy Reviews

The Organization for Economic Cooperation and Development (OECD) launched an update in January 2015 of Ukraine's 2011 Investment Policy Review, which is a whole-of-government process resulting in a roadmap for making the investment framework more predictable, transparent, open, and stable.

Laws/Regulations of Foreign Direct Investment

The Law of Ukraine on Investment Activity (1991) establishes the general principles for investment. In addition, the following laws and regulations pertain to foreign investment: Law "On the Foreign Investment Regime" (1996); Law "On the Protection of Foreign Investment" (1991); Cabinet of Ministers' Resolution, "On the Procedure for the State Registration of Foreign Investment" (1996); Law "On Production-Sharing Agreements," (1999), amended in 2012
• The Land Code (2001); National Bank of Ukraine Resolution "On Regulation of Foreign

Investing in Ukraine" (2005); Law "On Amending Certain Laws of Ukraine with the Purpose of Overcoming Negative Impacts of the Financial Crisis" (2009); Updated Tax Code (2010); Law “On Public-Private Partnerships” (2010); Law “On Preparation and Implementation of Investment Projects Based on the Principle of the Single Registration Window,” (enacted 2012); Amended Customs Code (2012); Law “On Industrial Parks” (2012).

Industrial Promotion

Ukraine continues to struggle to build a legal system that effectively protects investor rights. The following major pieces of legislation – in addition to the Tax Code – affect foreign investment into Ukraine:

• The law On Foreign Investment Regime sets out in broad terms Ukraine's policy on inward investment and the rights and obligations of foreign investors.
• The Civil Code regulates civil relationships, the establishment of legal entities, and personal property rights.
• The Commercial Code (enacted on the same day as the Civil Code) governs business relationships. The Commercial Code is intended to regulate issues that are not dealt with in the Civil Code, although in practice there is some overlap.
• The law On Securities and Stock Market governs the public issuance and trading of securities.
• The law On Protection of Economic Competition restricts business monopolies. The majority of mergers and acquisitions in Ukraine are likely to require pre-approval from the Antimonopoly Committee.
• The law On Protection from Unfair Competition aims to protect business entities and consumers from unfair competition.
• The Environmental Protection Law establishes a framework for pollution fees to be imposed on any legal entity that discharges contaminants into the environment.

Legislative initiatives are available for viewing on the Parliament’s [Verhovna Rada] website (http://www.rada.gov.ua/en) as well as on websites of government agencies granted with legislative initiative authority; the principal agencies are the Ministry of Justice and the Ministry of Economic Development and Trade.

Transparency: The Ukrainian Government is contemplating e-commerce registration as a mechanism to increase transparency. For example, the Government of Ukraine recently implemented an automated VAT-refund system to reduce opportunities for bribery. Electronic Government procurement has also been introduced to combat corruption. Recently elected Members of Parliament have expressed support for the introduction of an interoperability plan and system for government ministries to not only share information but ensure the protection of data.

The World Economic Forum’s 2014/2015 Global Competitiveness Index ranked Ukraine 76 of 144 countries. The Index also ranked Ukraine 115 of 144 in terms of burden of Government regulation and 104 of 144 in terms of Transparency of Government policy-making. In particular the report cited the adverse conditions of a lack of transparency in policy-making, high level of favoritism in decision-making, poor judicial independence, weak protection of property rights and minority shareholders’ interests, endemic issues with bribery, burdensome regulation, inefficient legal framework in settling disputes and challenging regulations, and weak auditing and reporting standards.

Limits on Foreign Control

In general, the regulatory framework for the establishment and operation of business in Ukraine by foreign investors is similar to that for domestic investors (apart from the ownership of agricultural land). Investment permits are not required, but all enterprises must be established according to the form and procedure prescribed by law and registered with the appropriate state authorities. Foreign companies are restricted from owning agricultural land, manufacturing carrier rockets, producing bio-ethanol, and some publishing activities. In addition, Ukrainian law authorizes the government to set limits on foreign participation in "strategically important areas," but the wording is vague and the law is rarely used in practice. Generally, these restrictions limit the maximum permissible percentage of foreign investment into Ukrainian firms in these sectors.

Privatization Program

Ukraine has a privatization program covering the years 2012-2015. However, the new government is looking into substantially expanding the list of companies slated for privatization in order to increase management efficiencies. The first privatization under the new government which tendered licenses to provide nationwide 3G mobile telecommunications services was generally regarded as transparent and drew interest of major players in the local market. In 2014 the government proposed removing 1,250 state-owned enterprises from the list of companies exempt from privatization, but the bill failed to get support of the Parliament. The government plans to re-submit the legislation this year with the aim to launch new privatizations in late 2015. The largest enterprises which are currently authorized for privatization include companies in the mining sector, energy generation and port infrastructure.

The State Property Fund oversees privatizations. Privatization rules generally apply to both foreign and domestic investors, and, in theory, a relatively level playing field exists. However, observers note numerous instances of past privatizations adjusted to fit a pre-selected bidder. Although the new government has not made any statements of privatization revisions, numerous court cases have surfaced from companies challenging earlier privatizations. Judicial reform is critical to ensure fair treatment in these cases. There may be more privatizations in the near-term as a means to plug budgetary gaps; the transparency of these efforts will be a good indicator of the new government's approach to business and investment.

Screening of FDI

The State Agency for Investment and National Projects of Ukraine serves as a clearing house for state-approved investment projects; its offices at the oblast [regional] government level review potential investments. This agency runs a commercial outreach program called "Invest Ukraine" through which various investment projects are supported. The agency has conducted investment conferences and road shows to highlight investment opportunities in Ukraine. In addition to national projects, most oblasts have their own development offices which are eager to engage with investors.

Inquiries on industrial investment may be directed to:

State Agency for Investment and National Project of Ukraine
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See more at: http://investukraine.com/456-contacts#sthash.Lwgp8i9y.dpuf

Competition Law

Ukraine's Anti-Monopoly Committee (AMC) was intended to implement competition and consumer protection measures under the 2002 Law "On Protection of Economic Competition." However, the AMC was heavily criticized in 2014 by government officials and business representatives alike for failure to do so. New company start-ups and mergers/acquisitions face strict controls, but in many cases oligarchs have managed to build monopolies in sensitive sectors such as energy and utilities. With IMF support the Government of Ukraine is working to establish a level playing field as part of its Extended Fund Facility (EFF) program. Based on current legislation, companies found to be violating fair competition rules may be fined up to 10 percent of the prior year's turnover and if unfairly gained profit exceeds 10 percent of income, up to three times the normal penalty can be collected.

Investment Trends

Despite a reform-minded government, FDI has fallen precipitously in reaction to multiple, concurrent crises: continued instability in the East, and the unlawful occupation and illegal annexation of Crimea by Russia, and a weak economy more generally. FDI is not expected to reach previous levels until 2016 at the earliest.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	142 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	96 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	63 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	$3,960	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

The Ukrainian Government announced in February 2015 its intention to relax foreign exchange restrictions, as part of a resolution requiring a three-day advanced application for the purchase of hard currency and a requirement of confirmation of the absence of tax arrears. The regulation also bans the purchase foreign currency using loans in the local currency (hryvnia) and requires a letter of credit confirming the hard currency transaction in amounts exceeding USD 500,000. Hard currency transactions over USD 50,000 require National Bank of Ukraine (NBU) approval, which incurs a fee. A September 2014 resolution requires exporters to sell 75 percent of foreign earnings via the inter-bank currency market, and to repatriate export proceeds to Ukraine within 90 days of the sale. These were introduced as temporary measures, but may be extended.

Remittance Policies

The NBU introduced in September 2014 a ban on the repatriation of dividends from Ukraine, which has been extended to June 2015. This temporary measure could be extended further if market instability persists. Loan payments to foreign entities are permitted, however, a March 2015 NBU resolution banned early repayment of foreign currency loans by non-residents. Generally, investors convert earnings into foreign currency through commercial banks, which trade foreign currency on the electronic inter-bank currency market, regulated and operated by the NBU. To purchase hard currency, companies must provide their banks with a copy of their foreign trade contracts. Commercial banks must announce their clients' intentions to sell on inter-bank currency market if the transactions exceed USD 500,000. 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."

At present, there is no developed legal alternative market that investors might use to remit returns on their investments such as convertible instruments or foreign currency denominated bonds. Based on a March 2015 NBU resolution, investors may repatriate proceeds from selling domestic bonds denominated in hard currency, provided a set of detailed conditions are met.

3. Expropriation and Compensation

International institutions have recommended expanded definitions of expropriation and nationalization, to include indirect and creeping expropriation, in Ukraine's foreign investment law and bilateral treaties. Courts have the jurisdiction to determine whether owners of privatized enterprises have failed to fully pay for an enterprise or to otherwise implement investment commitments in a privatization sale. Failure to complete payment or to adequately invest allows the Government of Ukraine, with court permission, to revoke ownership and resell the property. Current legislation permits legal expropriation of property and/or assets within certain criminal proceedings.

Other legal expropriation of property is regulated by the law “On Defense of Ukraine”, the law “On legal regulation of emergency state,” and Martial Law. According to these legislative acts, private property may be legally expropriated for defense purposes with obligatory evaluation and compensation. There are some inconsistencies: the law “On Defense of Ukraine,” provides for full compensation for expropriated property by order and terms set by the Cabinet of Ministers of Ukraine, while the law “On Mobilization” states that the property must be returned to its owner within 30 days after de-mobilization based on the Delivery-and-Receipt Act signed during the expropriation procedure.

Illegal expropriation in Eastern Ukraine and Crimea

Over the past year there have been numerous illegal expropriations in Eastern Ukraine and unlawfully annexed Crimea. In Eastern Ukraine, the self-proclaimed Donetsk People’s Republic expropriated “Donbasenergo” and Starobeshivska Heating and Electricity Plants. Militants in Luhansk expropriated cinema “Ukraine”, shopping center “Atrium”, “Centralnyi”, “Atlant” and supermarkets of trade network “ATB” (renamed to Narodnyi). The self-proclaimed State Council of Crimea declared the republic’s ownership of an apartment complex in Gurzuf (popular resort area), which was constructed with investment funds from Ihor Kolomoiskyi’s “Privatbank”. A total of 17 real estate items and assets of the agricultural enterprise “Sinokosne-Agro” LLC were expropriated (“nationalized”). In general in Crimea expropriations by the self-proclaimed government are being carried out in a widespread, systematic fashion. According to public reports, more than USD 1 billion in real estate and other assets have been stripped from their former owners. The assets include banks, hotels, shipyards, farms, gas stations, the principal bakery, a vital dairy and even the lots of the Yalta Film Studio. In September 2014 alone self-proclaimed officials “nationalized” 87 property items owned by Ihor Kolomoiskyi and Privat Group. Also, more than 200 recreation facilities, sanatoriums, hotels and other tourism sector assets were expropriated from Ukraine’s state ownership. On the list are large holdings such as the Zaliv Shipyard in Kerch. The self-proclaimed government also “nationalized” D-TEK CrimeaEnergo (owned by R.Akhmetov).

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

In practice, Ukraine’s court system is viewed as ineffectual, corrupt, and in dire need of reform. The EU Association Agreement, including the Deep and Comprehensive Free Trade Area

(DCFTA), when ratified and implemented, will be a powerful catalyst for modernizing Ukraine's governance and legal system and moving them closer to EU standards. Theoretically in the event of a commercial dispute, a foreign investor may seek recourse through a number of institutions. Generally, the Foreign Investment Law provides that a dispute between a foreign investor and the state of Ukraine must be settled in the Ukrainian courts, unless otherwise provided by international treaties.

Ukraine's judicial system consists of the Constitutional Court and the courts of general jurisdiction. The Constitutional Court has exclusive jurisdiction over interpretation of the Constitution and laws of Ukraine and acts as final arbiter on constitutional issues. Courts of general jurisdiction are organized by territory and specialty and include: local courts, appellate courts, high specialized courts for civil and criminal cases, and supreme courts. Local courts are either courts of general jurisdiction (including military courts) or specialized courts (i.e. commercial and administrative courts). Local commercial courts exercise jurisdiction over commercial and corporate disputes, while local administrative courts administer justice in disputes connected with legal relations in the area of state government and municipalities, with the exception of military disputes.

Commercial courts of Ukraine accept jurisdiction over disputes between legal entities, including foreign legal entities, Ukrainian legal entities and individual entrepreneurs, arising out of the conclusion, modification, termination, and performance of commercial agreements (including privatization). Commercial courts are also in charge of administering bankruptcy cases and certain cases initiated by the Antimonopoly Committee of Ukraine and the Accounting Chamber. Under the Constitution of Ukraine, the Supreme Court heads the judicial system and has the power to review decisions of all three branches of the court system.

Bankruptcy

Ukraine's most recent law "On Restoring the Debtor's Solvency or Recognizing it Bankrupt" came into force in 2013. This Law is the third effort by the Parliament to build a legal basis for insolvency and restructuring on a European model. In general the law has done little to improve harmonization with EU standards and some provisions have even eroded the regulation of insolvency relationships when compared to previous versions of the law.

Unwinding insolvency in Ukraine takes 2.9 years on average and costs an estimated 42 percent of the debtor's estate, with the most likely outcome being that the company will be unbundled and sold at auction. The average recovery rate is 8.6 cents on the dollar. Globally, Ukraine ranks 142 out of 189 economies on the Ease of Resolving Insolvency Index. In 2014 Ukraine made resolving insolvency easier by strengthening the rights of secured creditors, introducing new rehabilitation procedures and mechanisms, making it easier to invalidate suspect transactions and shortening the statutory periods for several steps of the insolvency process.

Investment Disputes

Investment disputes frequently highlight the key problems in Ukraine's investment climate such as inadequate rule of law, a lack of fair and impartial dispute resolution mechanisms, official corruption, and poor enforcement of domestic court and international arbitration decisions.

Another challenge is generally poor corporate governance (inadequate protection for shareholder rights, insufficient disclosure, asset-stripping, and voting fraud).

In 2015 Ukraine took a major step towards improving its investment climate with the appointment of a Business Ombudsman, who will act as an independent advocate for businesses and may publicly appeal to the Government if corruption is detected at customs, tax service, public authorities, and/or state regulators, or if the rights of entrepreneurs are otherwise impaired. The position was created with the cooperation of the Ukrainian government, international organizations including the EBRD and the OECD, and the business community.

Despite the ongoing reforms, the Embassy has seen a marked increase in requests for advocacy over the past year, though the grounds for dispute have changed. The corporate raids that were common during Yanukovych’s tenure have shifted to legal disputes over VAT, customs and taxation, exacerbated by the State budget's lack of funds. On a positive note, many long-standing disputes previously subjected to multiple postponements and delay tactics have recently had favorable rulings.

International Arbitration

Ukraine enacted an international commercial arbitration law in 1994, which parallels commercial arbitration laws set forth by the United Nations Commission on International Trade Law.

ICSID Convention and New York Convention

Ukraine is a member of the New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards. Nonetheless, some investors have had problems enforcing foreign arbitration awards in Ukraine. Foreign arbitral award enforcement procedures in Ukraine are regulated by a number of statutes and regulations, including Section 8 of the Civil Procedural Code and a law "On Enforcement Proceedings." Ukraine is not a member of ICSID.

Duration of Dispute Resolution

The length of litigation varies on case-by-case basis, i.e. whether the ruling is issued in the local court or is subject to appeal, reaches the Supreme Court level, etc. Investment/commercial dispute proceedings at the local level take approximately 1 to 6 months to reach resolution; general litigation, by contrast, takes 1 to 4 years. Despite the fact that international arbitration is mandatory for consideration, not all Judges recognize international arbitration rulings in their practice.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Ukraine has no current performance requirements or incentives, except for those made as part of privatization agreements. While negotiating its WTO accession, Ukraine eliminated measures that conflict with the WTO Agreement on Trade-Related Investment Measures (TRIMs) in the automobile industry and other sectors. While not yet implemented, several automobile industry specific import taxes that are pending would appear to be TRIMs-noncompliant.

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 do apply and import duties must be paid if the enterprise sells, transfers, or otherwise disposes of the property. There is no current requirement that investors purchase from local sources, export a certain percentage of output, or be limited to foreign exchange in relation to their exports. From January 1, 2013, through January 1, 2018, Ukraine provides a 100% exemption from Corporate Profit Tax (CPT) on income from projects resulting in job creation in qualifying industries, including high-tech, eco-friendly, manufacturing and export-oriented industries. The incentive is granted for new projects as well as reconstruction or upgrades to existing enterprises, under certain conditions concerning the value of the investment, the number of jobs created, and salary levels. Ukraine also offers generous depreciation rates for most fixed assets, including property, plant, and equipment for both foreign and domestic investors.

Research and Development

U.S. and other foreign firms are able to participate in government/authority financed and/or subsidized research and development programs on a national treatment basis.

Performance Requirements

Ukraine imposes no performance requirements or incentives except for those related to TRIMs (previously referenced). Ukraine has few requirements that investors purchase from local sources or export a certain percentage of output, with the most notable case being a 50 percent local content requirement for renewable energy sources to receive the “green” incentive tariff. This requirement is a legacy of the old regime and was intended to benefit specific oligarchs; it is widely expected to be eliminated. There are no official "offset" requirements, whereby major procurements are approved only if the foreign supplier invests in manufacturing, R&D, or service facilities in Ukraine related to the items being procured.

Regarding government-imposed conditions on permission to invest, in 2014 the government lifted a 2003 ban on foreign investment in sectors that were considered “strategic” at the time: energy infrastructure and natural energy resource development. Four out of five power generation companies are now privatized and 49 percent of the gas transit system is now eligible for privatization. The purchase of agriculturally-zoned land is also banned, forcing many investors to use long-term (49-year) leases instead. This ban was originally intended to expire in 2012, but is now expected to remain in place until at least 2016. However, even if/when the moratorium is lifted, restrictions on foreign ownership of agricultural land may continue.

Data Storage

Ukraine has no forced localization policies or requirements for foreign information technology (IT) providers to turn over any source code or provide backdoors into hardware or software applications. Ukraine's overall regulation of IT infrastructure and Internet Service Providers is unusually free and unregulated – so much so that Internet piracy is rampant and the use of unlicensed software is even evident in the government.

6. Right to Private Ownership and Establishment

The Constitution of Ukraine guarantees the right to private ownership, including the right to own land (non-agricultural). Ukraine's Law "On Ownership" recognizes private ownership and stipulates that Ukrainian residents, foreign individuals, and foreign legal entities may own property in Ukraine. Property owners, including foreign investors and joint ventures, may use property for commercial purposes, lease property, and keep the revenues, profits, and production derived from its use. However, the law is not comprehensive, and mechanisms for transferring ownership rights are weak. Some difficulties have arisen when foreigners acquire majority control of enterprises, with the government or the current management in some cases continuing to exercise effective control of company decisions.

Foreign companies are restricted from owning agricultural land, manufacturing carrier rockets, and some publishing activities. The Land Code (2001) provides for foreign ownership of non-agricultural land, clarifies the rights of foreign investors, and addresses the right of individuals to own, inherit, buy, and sell land. It classifies land into seven categories based on potential use, including agricultural, industrial, and natural reserve lands. While industrial-use land can be bought, sold, and mortgaged, Ukraine's parliament has set a moratorium on the purchase of agricultural lands through 1 January 2016. Ukrainian-registered land management companies for the purchase of non-agricultural and management of all types of land are permitted. The Land Code sets out the state's right to oversee private land transactions via registration, the court system, and dispute mediation, as well as broad government/state rights to "influence" the land market.

7. Protection of Property Rights

Real Property

The Land Cadaster Law of July 2012 provided for a single land registry; its 2013 launch marked an improvement in land ownership protection. Local media estimated that 5 percent of land in Ukraine does not have clear title. Ukraine has improved its ratings in registering property in the World Bank Doing Business ratings from #88 in 2014 and #158 in 2013 to #58 in 2015. In an effort to increase protection of shareholders' rights, the Parliament voted in the first reading (as of April 2015) the legislation providing minority shareholders the right to file a court claim, in the interests of the company, demanding restoration of damage done by the management of the company (derivative suit) and introducing the notion of "independent director," who will represent interests of minority shareholders in the public joint stock companies.

Intellectual Property Rights

Ukraine was designated a "Priority" Foreign Country in 2013 in USTR's Special 301 Report due to the lack of progress in IPR Enforcement. IPR protection in Ukraine has continued to deteriorate; recent government efforts have not yet gone far enough to demonstrate a commitment to resolving long-standing problems.

Collection Management: Ukraine has recognized that it has a significant problem with the operation of illegal or "rogue" collecting societies, i.e., organizations that collect royalties by falsely claiming they are authorized to do so. Such organizations tend to operate without adequate transparency and rarely disburse the funds they collect to the rights holders entitled to the royalties. The government has not prosecuted any of these societies.

Software Piracy: The Government of Ukraine acknowledges that a significant percentage of the software used by the government itself is unlicensed, and has issued repeated official documents calling for the use of legal software as far back as 2002. In general, the situation remains unchanged.

Internet Piracy: The United States has repeatedly raised its strong concerns about the significant and growing piracy of copyrighted content. Online piracy now has significant and growing consequences for both the Ukrainian market and for international trade. Ukraine has been working on a draft Internet Piracy Law without progress; neither were there any online piracy-related convictions in Ukraine in 2014 under existing statutes.

Patents and Trademarks: Trademarked and copyrighted goods must be registered for a fee in the Customs Service's rights holder database in order to be guaranteed protection. Counterfeit goods, including products containing protected trademarks, remain common and openly sold throughout Ukraine. The amount of counterfeit pesticides, in particular continues to increase. Industry has reported that criminal prosecution for counterfeiting is stalled and ineffective, and that seized goods are not disposed of or released in a timely manner.

Judicial System for IPR Protection: Civil IPR lawsuits remain rare because of a general lack of confidence in Ukraine's legal system, and because few judges are properly trained in IPR law. Law enforcement officials and industry also complain that too many IPR cases result only in small fines, which do not deter illegal activity. In some cases, infringing companies have won dubious and nontransparent court decisions that appear to violate the patent and trademark rights of other companies.

Customs officers have ex-officio right authority to seize and destroy counterfeit goods. To destroy the counterfeit goods customs needs a request from the rights holder or consent of shipment owner. During three days rights holder and shipment owner decide on further steps and shipment is either destroyed or sometimes relabeled. Goods may also be "donated."

Generally, the rights holder is financially responsible for the storage and destruction of counterfeit goods, but sometimes the shipment owner may pay if agreed to in advance. Storage of confiscated goods is problematic. Some counterfeit goods, i.e. agrochemicals, can't be destroyed in Ukraine because there are no facilities for such. In general, Ukrainian customs lacks expertise in detecting counterfeit goods, especially when destruction is needed.

Counterfeit goods are prevalent in the market place. Textiles, apparel, and wardrobe accessories are the most prevalent counterfeit goods. Counterfeit mobile phones (i.e. Apple iPhones running the Android operating system) are also prevalent throughout Ukraine. The more nefarious counterfeit products are pharmaceuticals and agrochemicals that pose health and safety hazards to the population.

Resources for Rights Holders

Contact at Mission:
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Website for List of lawyers: http://ukraine.usembassy.gov/lawyers.html

For treaty obligations and points of contact at local IP offices, see WIPO's country profiles: http://www.wipo.int/directory/en/

Country/Economy resources:

The American Chamber of Commerce in Ukraine
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8. Transparency of the Regulatory System

Ukraine continues to struggle to build a legal system that facilitates easy interaction with the international community. However, as the country plans and implements the EU Association Agreement in 2015 and the Deep and Comprehensive Free Trade Area (DCFTA) in 2016 transparency and legal certainty for EU investments in Ukraine should improve. Currently, many issues are not dealt with by a single piece of legislation (Note: the 2011 Tax Code is an exception). The various laws may also be ambiguous or contradictory, which further complicates matters. Legislative initiatives are available for viewing on the Parliament's website as well as on websites of government agencies granted with legislative initiative authority: The Ministry of Justice, Ministry of Economic Development and Trade, etc. The following major pieces of legislation – in addition to the Tax Code – affect foreign investment into Ukraine: The law On Foreign Investment Regime; the Civil Code; the Commercial Code; the law On Securities and Stock Market; the law On Protection of Economic Competition; the law On Protection from Unfair Competition; and, the Environmental Protection Law.

Ukraine's Global Competitiveness index reached 76 of 144 countries according to the World Economic Forum's 2014/2015 Global Competitiveness Index. Ukraine ranked 115 of 144 in terms of burden of Government regulation and 104 of 144 in terms of Transparency of

Government policy making according to the World Economic Forum's 2014/2015 Global Competitiveness Index. Ukrainian regulatory institutions are still characterized by poor transparency of government policy making, high favoritism in decisions of government officials, poor judicial independence, weak protection of property rights and minority shareholders' interests, highly irregular payments and bribes, burdensome government regulation, inefficient legal framework in settling disputes and challenging regulations, poor ethical behavior of firms, and weak auditing and reporting standards.

9. Efficient Capital Markets and Portfolio Investment

The Ukrainian banking system consists of the National Bank of Ukraine (NBU, the central bank) and commercial banks. The NBU is responsible for monetary policy, licensing of commercial banks, and oversight of their activities. Foreign capital represents 32.6 percent of total capital in the banking sector as of February 2015. In absolute terms, the banking sector is still fairly small, and highly concentrated: the top 20 Ukrainian banks control 78 percent of assets in the system. Total bank assets in Ukraine are about USD 65 billion, with total loan assets of USD 50 billion as of January 2015, declining sharply with the banking crisis and the local currency devaluation. The government has made progress in bank recapitalization based on the stress-testing conducted in 2014 and has set up the schedule of required recapitalizations by banks. The Central Bank has made progress in removing insolvent banks from the market and improving the regulatory framework with special emphasis on curbing related-party lending. Foreign-licensed banks may carry out all activities conducted by domestic banks, and there is no ceiling on participation in the banking system, including operating via subsidiaries. A foreign company can open a bank account in Ukraine for the purposes of investment operations; otherwise it must register a representative office in Ukraine. A nonresident private person can open a bank account in Ukraine.

Ukraine's capital market for portfolio investment is slim and lacks sufficient liquidity. The local institutional investment sector, including private pension investment, is fragile. Ukraine has ten operational privately-owned stock exchanges, with the largest trade volumes conducted at three major exchanges. These exchanges operate largely in compliance with international best practices, and there is increasing competition in the sector. 87 percent of securities trading in Ukraine involve transactions with government bonds. Most of such transactions have been conducted at exchanges (78 percent in 2014). Other securities are mostly traded "off-exchange." The remaining exchanges are largely "pocket exchanges" that rely on revenue from sales of state-owned enterprises. Ukraine has accepted the obligations under Article VIII of the IMF agreement in 1996, and refrains from restrictions on current international transactions.

There are no legal restrictions on the free flow of financial resources needed to support growth in the product/factor markets. Credit is largely allocated on market terms and foreign investors are able to get credit on the local market, utilizing a variety of credit instruments. However, the market environment has long lacked transparency; enforcement of key laws and regulations has been weak, and investors, both domestic and foreign, continue to face significant uncertainty.

Money and Banking System, Hostile Takeovers

Legislation aimed at protection from hostile takeovers cover both domestic and foreign companies. However, hostile takeovers have been a common problem given the poor rule of law.

10. Competition from State-Owned Enterprises

Ukraine's state sector is estimated to comprise less than 10 percent of the economy. Nonetheless, according to the Ministry of Economic Development and Trade, the state sector is one of the largest in Europe and contains more than 5,000 business entities. The State-owned enterprises are active in areas such as energy, machine-building, and infrastructure. Such companies as producer of energy turbines Turboatom, energy generator Centerenergo and energy company Naftogaz – along with its subsidiaries domestic oil producer Ukrnafta and UkrGas – hold substantial shares of their respective markets. Each Ministry publishes the list of SOEs under its management. The sector is inefficient and often unprofitable. SOEs are defined as companies where the state owns at least 50 percent+1 share.

SOEs purchase and supply goods and services to private firms, including foreign firms. Transparency of procurement by SOEs has increased markedly after the April 2014 amendments to the procurement laws, which obliged SOEs to follow procurement regulations. Ukraine applied to join the WTO Government Procurement Agreement in 2012 and is still negotiating its accession. Observers note that the procurement transparency by SOEs has room for improvement, as SOEs which do not publish procurement reports face no consequences. The majority of SOEs rely on Government subsidies to function (especially in the coal mining, rail transportation, gas and communal heating sectors), and cannot directly compete with private firms. Most of the SOEs capable of making a profit have already been privatized, leaving mainly inefficient firms in government hands. The Government of Ukraine has supported debts of many SOEs with sovereign loans guarantees to keep them operating; enforcement of budget constraints is weak. SOEs' ability to extend tax payment deadlines remains nontransparent, particularly in cases where SOEs to sell their products below market prices. Ukraine long resisted raising consumer gas prices to market levels, forcing the state energy monopoly, Naftogaz, to run massive operating deficits. However, as a condition of a lending agreement with the IMF, the government has agreed to raise gas tariffs, has launched the process of unbundling Naftogaz, and has increased transparency more generally. The new government has developed a strategic plan to privatize some 380 SOEs in 2015.

Research and development are practically non-existent in the energy sector. The nuclear, hydroelectric, and extractive industries are run at a loss, have a reputation for corruption , and little money remains to invest in new equipment, let alone R&D.

OECD Guidelines on Corporate Governance of SOEs

SOE governance practices in Ukraine fall below standards set by the OECD Guidelines on Corporate Governance of State-Owned Enterprises, especially on transparency. On March 4, 2015, President Poroshenko signed a law requiring SOEs to publicize reports on use of budget funding. As part of the reform efforts on Naftogaz rehabilitation, the Government of Ukraine has ordered an audit of Naftogaz.

In order to increase transparency of SOE management, the Government of Ukraine has launched competitive procedures to hire managers for the 60 largest SOEs. An interagency commission comprising representatives from five ministries has been established to select such directors. The first such competition was announced in January for the position of director for state railway monopoly Ukrzaliznytsja, though the position has not yet been filled. The selection process has met strong resistance from existing management of SOEs. SOE senior managers traditionally report directly to the relevant ministry, which has had the authority to appoint the firm's management. Ukrainian law specifies that the ministries are not permitted to interfere with the daily economic activities of an SOE, but anecdotal reports indicate that this restriction is often ignored. Ministries have the power to decide on the creation, reorganization, and liquidation of SOEs; adopt and enforce SOE charters; conclude and cancel contracts with SOE executives; grant permission to the State Corporate Social Property Fund to create joint ventures with state property; and prepare proposals to divide state property between the national and municipal levels. March 2015 amendments to the Law on Joint-Stock Companies enabled owners (50 percent+1 share in a company) to call shareholders meetings. This will allow the state to increase managerial control in cases where where private minority shareholders were able to gain managerial control of SOEs, most notably at Ukrnafta, the domestic oil producer. Judicial reform is long overdue in Ukraine and an efficient system of protection of investor rights is lacking, including in disputes involving SOEs.

Sovereign Wealth Funds

Ukraine does not maintain or operate a sovereign wealth fund.

11. Corporate Social Responsibility

Corporate Social Responsibility has not yet taken hold in the mind of the consumer and is just beginning to gain ground amongst producers in the country. International companies continue to be the strongest proponents of CSR within Ukraine and have made efforts to transfer the idea of CSR to their Ukrainian affiliates. With help from the American Chamber of Commerce (ACC), the OECD, the East Europe Foundation, the U.N. Global Compact Initiative, and other NGOs, Ukrainian companies have been made aware of the potential long-term benefits of CSR as they relate to a positive brand reputation. ACC has cited lack of interest from the business community and a commercial environment in Ukraine beleaguered with other investment difficulties.

OECD Guidelines for Multinational Enterprises

The Government of Ukraine does not adhere to generally accepted CSR principles such the OECD Guidelines for Multinational Enterprises or UN Guiding Principles on Business and Human Rights.

12. Political Violence

Large-scale political protests beginning in 2013 across Ukraine culminated in President Yanukovych abandoning Kyiv and his responsibilities, followed by the elections of a new President and Parliament. Ukraine is on a slow march forward to implement the EU Association Agreement, signed and ratified in 2014, including the economic component in 2016. The Yanukovych-government-instigated violence that marred the last few days of the otherwise peaceful protests during the Maidan period is in the past. However, Russian-aided separatists have seized control of parts of eastern Ukraine and engaged in combat with Ukrainian government forces. The situation remains tense and unpredictable, and the presence of Russian military forces in Crimea, in eastern Ukraine and on the Ukrainian border as well as Russian-sponsored agents provocateurs in Ukrainian cities have caused great concern about potential future escalations.

There are sporadic acts of violence directed against racial minorities and people perceived as being lesbian, gay, bisexual or transgender (LGBT) in Kyiv and throughout Ukraine.

13. Corruption

The largest impediment to fighting corruption is a dearth of cases being prosecuted by the government. Ukraine's first anti-corruption trials under new laws are currently in progress. High-level investigations are also on-going, as witnessed by the March 2015 public arrest of the head of the State Emergency Services and his first deputy on suspicion of involvement in corrupt procurement schemes. In October 2014, the Parliament passed a package of anti-corruption bills, including the creation of a National Anti-Corruption Bureau focused on corruption prosecution; the creation of the National Anti-Corruption Committee entrusted with corruption prevention; approval of a national anti-corruption strategy; and a legislative basis for the prevention of money laundering and for the disclosure of asset ownership by public officials, extending to family members of government officials. Since anti-corruption laws are not retroactive, first results should appear after the tax season of 2015, in spring 2016. Ukraine's President appointed the new Director of the National Anti-Corruption Bureau in April 2015, stating that the Director's mission is "to build a new institution that would demonstrate Ukraine's determination to battle corruption."

The National Corruption Prevention Agency has a primary task in 2015 to implement an electronic property declaration form for civil servants. As of February 2015, Ukraine implemented an e-procurement system that improves transparency in public procurement and is intended to reduce corruption by automating the tender process. Another important anti-corruption law on business deregulation, passed by the Parliament in March 2015, is expected eliminate many corrupt practices in licensing activity; the law simplifies the startup and conduct of entrepreneurial activities and waives licensing requirements for activities that have an adequate level of government regulation and oversight.

The Law on Corruption Prevention adopted by the Parliament in October 2014 sets requirements with regard to anti-corruption programs, codes of conduct, and appointing compliance officers in companies which take part in government procurement tenders or where the government owns more than 50 percent of the shares.

Ukraine participates in international Anti-Corruption initiatives. In 2005, Ukraine ratified the Council of Europe Civil Law Convention on Corruption and became a member of the Council of Europe's Group of States Against Corruption (GRECO). GRECO concluded its Joint First, Second, and Third Rounds of Evaluation of Ukraine, publishing reports in 2007 and 2011. The fourth evaluation was launched in 2012.

Local NGOs involved in corruption investigations have marked a significant improvement in government protection of their rights, as compared to the Yanukovych's government where such NGOs were often victims of threats and spurious criminal prosecutions.

The government has recently opened to public access the registries of licenses for production of natural resources and of real property owners, and increased transparency of government procurement processes. However, the areas of dispute settlement and competition protection are still seen as highly corrupt.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Ukraine participates in the OECD Anticorruption Network for Eastern Europe and Central Asia. Parliament passed laws to ratify the Council of Europe Criminal Law Convention on Corruption, signed in 1999, and the UN Anticorruption Convention, signed in 2003. However, ratification of these Conventions will come into effect only when additional implementing legislation is adopted. Ukraine is not party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Resources to Report Corruption

The National Anti-Corruption Bureau established by law in October 2014 is the appropriate resource for the reporting of corruption.

14. Bilateral Investment Agreements

The Bilateral Investment Treaty between the United States and Ukraine has been in force since1996. The following countries have also signed bilateral investment agreements with Ukraine: Albania (2004), Austria (1996), Argentina (1995), Armenia (1994), Azerbaijan (1997), Belarus (1995), Belgium (2001), Bosnia and Herzegovina (2002) Bulgaria (1994), Brunei (2006), Canada (1994), Chile (1995), China (1992), Cuba (1995), Croatia (1997), the Czech Republic (1994, amended 2010), Denmark (1992), Equatorial Guinea (2005), Egypt (1992), Estonia (1995), Finland (2005), France (1994), Gambia (2006), Georgia (1995), Germany (1993), Great Britain and Ireland (1993), Greece (1994), India (2001), Indonesia (1996), Iran (1996), Israel (1995), Italy (1995), Jordan (2005), Hungary (1995), Kazakhstan (1994), Congo (2010), Korea (1996), Kuwait (2002), Kyrgyzstan (1993), Latvia (1997), Lebanon (1996), Libya (2001), Lithuania (1994), Macedonia (1998), Morocco (2001), Moldova (1995), Mongolia (1992), Nigeria (2010), the Netherlands (1994), OAE (2003), Oman (2002), Panama (2005), Poland (1993), Portugal (2003), Russia (1998), San Marino (2006), Saudi Arabia (2009), Singapore (2006), Syria (2002), Slovakia (1994), Slovenia (1999), South Korea (1996), Spain (1998), Sweden (1995), Switzerland (1995), Tajikistan (2001), Turkmenistan (1998), Turkey

(1996), Uzbekistan (1993), Vietnam (1994), Yugoslavia (2001), Yemen (2002).

Bilateral Taxation Treaties

Ukraine signed a bilateral taxation treaty with the United States in 1994.

15. OPIC and Other Investment Insurance Programs

The U.S.-Ukraine Overseas Private Investment Corporation (OPIC) Agreement was signed in Washington in 1992. OPIC currently provides political risk insurance for Ukraine. OPIC resolved a long-standing dispute in 2009, and restored its programs in Ukraine after an extended hiatus. In 2010 OPIC concluded an agreement enabling the Ukrainian Development Network (UDN) to serve as an originator for a growing alliance with the private sector designed to support small and medium-sized enterprises expanding into emerging markets overseas. In 2002, the Board of the U.S. Export-Import Bank (EXIM) opened facilities for short and medium-term (up to seven years) lending for commercial and sub-sovereign projects in Ukraine. Ukraine is also amember of the World Bank Group's Multilateral Investment Guarantee Agency (MIGA).

The joint stock company "The State Export-Import Bank of Ukraine" (UkrExImBank) provides export-import banking services in Ukraine. UkrExImBank is in the process of an ambitious restructuring and has an end-of-May 2015 deadline to finalize negotiations with creditors to restructure its publicly held debt. However, there are large doubts that the May deadline will be met. UkrExImBank operates through Retail Banking, Corporate banking, and Inter-Bank and Investments Business segments. The U.S.-Ukraine Overseas Private Investment Corporation (OPIC) Agreement was signed in Washington in 1992. OPIC currently provides political risk insurance for Ukraine. OPIC resolved a long-standing dispute in 2009, and restored its programs in Ukraine after an extended hiatus. In 2010 OPIC concluded an agreement enabling the Ukrainian Development Network (UDN) to serve as an originator for a growing alliance with the private sector designed to support small and medium-sized enterprises expanding into emerging markets overseas. In 2002, the Board of the U.S. Export-Import Bank (EXIM) opened facilities for short and medium-term (up to seven years) lending for commercial and sub-sovereign projects in Ukraine. Ukraine is also a member of the World Bank Group's Multilateral Investment Guarantee Agency (MIGA).

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16. Labor

Availability: Ukraine has a well-educated and skilled labor force (about 23 million people) with nearly a 100 percent literacy rate. As of October 1, 2014, unemployment (ILO methodology) averaged 9.3 percent, although unemployment in some regions, particularly in western Ukraine and central Ukraine, was significantly higher. During 2014 unemployment increased in the industrial eastern regions, too, because of civil unrest; many big enterprises faced lay-offs due to severe economic challenges, including loss of access to Russian and CIS markets. According to official statistics, which count only those registered to receive unemployment benefits, employment was only 2.0 percent in January-February 2015. In January the unemployment insurance allotted to each worker amounted to UAH 1251 (USD 78) and in February this dropped precipitously to UAH 1206 (USD 48) due to sharp hryvnia depreciation.

Wages and Conditions of Work: Wages in Ukraine remain low by Western standards. In December, 2014 the nominal average monthly wage increased by 10.4 percent year-on-year to UAH 4012 (USD 260), while the real average wage increased by 13.6 percent year-on-year during the same period. As of February 2015 the average monthly wage plunged to UAH 3455 (USD 144). The highest wages are traditionally in the financial and aviation sectors; the lowest wages are paid to agricultural and public health workers. Because of wage arrears in the east of Ukraine that equaled UAH 1,12 billion (USD 70 million) as of January 2015, total wage arrears stood at UAH 2,44 billion (USD 152 million). The greatest arrears accumulated in industry, transport and construction sectors.

Minimum Wage: As of January 2015 the minimum monthly wage is UAH 1,218 (USD 80), which by law equals the monthly subsistence level. The 2015 state budget envisages minimum wage increase as of December 1 to UAH 1,378, adjusting only for inflation.

Labor/Management Relations: Ukrainian law allows workers to organize, and unions are prevalent in most industries. The law provides most workers with the right to form and join independent unions and to bargain collectively without previous authorization. By law, trade unions are equal, and a union's establishment does not require government permission. Within classic sectors of the economy, sector-specific collective bargaining agreements involve representative employers' associations (e.g., chemical employers), sector trade unions, and some participation of the government through the Ministry of Social Policy. Such agreements can also take place at the regional level.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

Ukraine has maintained special or free economic zones (SEZs-FEZs), but in 2005 the government canceled tax exemptions (i.e., from land tax, corporate income tax, import duty, and VAT) to stop the misuse of these zones for tax evasion and smuggling. In September 2014 a law of Ukraine "On Free Economic Zone (FEZ) of Crimea" established an FEZ on the Crimean territory occupied by Russia. So far, this Crimea FEZ is largely theoretical, given many provisions of the new law are difficult if not impossible to implement.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

According to UkrStat official data, as of January 1, 2015, the total stock of FDI in Ukraine was 45.916 billion USD or approximately 1,072 USD per capita, representing a 29.6 percent decrease (or USD 13.592 billion decrease, including USD 12.246 billion caused by the devaluation).

FDI by Country

In 2014, Ukraine's major investors included: Cyprus (29.9 percent of FDI), Germany (12.5 percent), the Netherlands (11.1 percent), Russian Federation (5.9 percent), Austria (5.5 percent), the United Kingdom (4.7 percent), the British Virgin Islands (4.4 percent), France (3.5 percent), Switzerland (3.0 percent), and Italy (2.2 percent). U.S. investment comprised 1.9 percent of FDI. Many Ukrainian and Russian enterprises continue to channel investments through Cyprus due to a favorable bilateral tax treaty. In 2012, Ukraine and Cyprus signed a Double Taxation Convention to replace the bilateral agreement dating from 1982. Under the new treaty, which was ratified by the Parliament in July 2013 and entered into force in August 2013, most income earned in Cyprus is taxed between 5 and 15 percent, reducing the tax gap between the two countries. While the Government of Ukraine announced plans to introduce a 12 percent tax on the operations of companies registered in offshore countries (in order to increase collections to the Pension Fund), Cyprus was not included on this list.

FDI by Industry Sector Destination

32.3 percent of FDI in Ukraine goes to industry: 12.1 percent steel industry, 6.0 percent food processing and tobacco industries; 3.2 percent natural resources; 2.0 percent chemical industry; and 2.2 percent machine-building industries. 25.1 percent of FDI is in the financial sector, 13.1 percent in trade and auto repairs, and 8.3 percent in the real estate sector.

FDI from Ukraine

As of January 1, 2015, Ukraine's FDI to other countries equaled almost USD 6.35 billion. 91.6 percent of Ukrainian investment (USD 5.819 billion) is reported as moving through Cyprus (the revised OECD Benchmark Definition of FDI is designed to filter out such detours or round-tripping through tax havens; FDI statistics may thus be more informative in future reports). Russia is generally observed to be the chief destination of actual Ukrainian FDI.

Ukraine’s Macroeconomic Indicators

GDP, 2014	USD 130.9 billion (- 28.1 percent)
GDP, 2013	USD 182 billion (+ 3.2 percent)
GDP per capita, 2014	USD 3.049 (- 23.9 percent)
GDP per capita, 2013	USD 3.049 (+3.5 percent)

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Note: GDP and FDI Statistics for 2014 are unavailable.

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($M USD)	2014	130.9			www.ukrstat.gov.ua

Foreign Direct Investment	**Host Country Statistical source***		**USG or international statistical source**		**USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	2014	862.3	2013	-6	www.ukrstat.gov.ua; U.S. Bureau for Economic Analysis
Host country's FDI in the United States ($M USD, stock positions)	2014	n/a	2013	0	BEA data available at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as percent host GDP	2014	35 percent	2013	0	

*Source of 2014 data: State Statistics Service of Ukraine

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
Top Five Sources/To Top Five Destinations *(US Dollars, Millions)as of December 31, 2014*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	45916.0	100 %	Total Outward	6352.2	100 %
Cyprus	13710.6	29.9%	Cyprus	5819.0	91.6%
Germany	5720.5	12.5%	Russian Federation	196.9	3.1%
Netherlands	5111.5	11.1%	Latvia	85.0	1.3%
Russian Federation	2724.3	5.9%	Poland	52.6	0.8%
Austria	2526.4	5.5%	Georgia	36.4	0.6%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	187	100%	All Countries	69	100%	All Countries	118	100%
Cyprus	66	35%	United States	51	73%	Cyprus	66	56%
United States	51	27%	United Kingdom	12	18%	United Kingdom	37	32%
United Kingdom	49	26%	Russian Federation	4	5%	Netherlands	15	12%
Netherlands	15	8%	Switzerland	2	3%			
Russian Federation	4	2%	Latvia	1	1%			

Source: IMF Coordinated Portfolio Investment Survey

19. Contact for More Information

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