Ukraine

RISK & COMPLIANCE REPORT

DATE: March 2018

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Executive Summary - Ukraine	
Sanctions:	EU & US Sanctions
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	US Dept of State Money Laundering assessment Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.)) World Governance Indicators (Average Score)
Medium Risk Areas:	Failed States Index (Political Issues)(Average Score) Compliance with FATF 40 + 9 Recommendations

Major Investment Areas:

Agriculture - products:

grain, sugar beets, sunflower seeds, vegetables; beef, milk

Industries:

coal, electric power, ferrous and nonferrous metals, machinery and transport equipment, chemicals, food processing

Exports - commodities:

ferrous and nonferrous metals, fuel and petroleum products, chemicals, machinery and transport equipment, food products

Exports - partners:

Russia 23.7%, Turkey 6%, China 4.1% (2012)

Imports - commodities:

energy, machinery and equipment, chemicals

Imports - partners:

Russia 19.4%, China 10.2%, Germany 9.6%, Belarus 7.8%, Poland 7.1% (2012)

Investment Restrictions:

Under Ukrainian law, certain types of business activity may be pursued by state-owned enterprises only. These include some natural monopolies, the rocket industry, the production of bio-ethanol, and the printing of banknotes and blank securities forms. In addition, Ukrainian law authorizes the government to set limits on foreign participation in "strategically important areas," although 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. For example, the share of foreign investors' participation in Ukrainian publishing houses is limited to 30%. Investments into the energy sector can also be problematic. A company's "strategic status" can be lifted by Parliament, on the recommendation of the Cabinet of Ministers, and foreign entities would then be allowed to participate. Although foreigners are prohibited from establishing TV or radio stations, they can invest into already established entities in this area. In addition, foreign entities cannot buy agricultural land.

Ukraine's Anti-Monopoly Committee implements anti-monopoly, competition, and consumer protection legislation under the March 2002 Law "On Protection of Economic Competition." New companies and mergers/acquisitions face strict controls. Most investments, joint ventures with multiple partners, and share acquisitions require the Committee's approval. Those violating fair competition rules may be fined up to 10% of the prior year's turnover. If unfairly gained profit exceeds 10% of income, up to three times the normal penalty can be collected. The applicant, defendant, or a third party may appeal a Committee decision, but the appeal must be filed within two months after the decision is taken.

Ukraine canceled the mandatory registration requirement for foreign investment in April 2010, which had been in force since November 2009.

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Section 1 - Background

Ukraine was the center of the first eastern Slavic state, Kyivan Rus, which during the 10th and 11th centuries was the largest and most powerful state in Europe. Weakened by internecine quarrels and Mongol invasions, Kyivan Rus was incorporated into the Grand Duchy of Lithuania and eventually into the Polish-Lithuanian Commonwealth. The cultural and religious legacy of Kyivan Rus laid the foundation for Ukrainian nationalism through subsequent centuries. A new Ukrainian state, the Cossack Hetmanate, was established during the mid-17th century after an uprising against the Poles. Despite continuous Muscovite pressure, the Hetmanate managed to remain autonomous for well over 100 years. During the latter part of the 18th century, most Ukrainian ethnographic territory was absorbed by the Russian Empire. Following the collapse of czarist Russia in 1917, Ukraine was able to achieve a short-lived period of independence (1917-20), but was reconquered and forced to endure a brutal Soviet rule that engineered two forced famines (1921-22 and 1932-33) in which over 8 million died. In World War II, German and Soviet armies were responsible for some 7 to 8 million more deaths. Although final independence for Ukraine was achieved in 1991 with the dissolution of the USSR, democracy and prosperity remained elusive as the legacy of state control and endemic corruption stalled efforts at economic reform, privatization, and civil liberties. A peaceful mass protest "Orange Revolution" in the closing months of 2004 forced the authorities to overturn a rigged presidential election and to allow a new internationally monitored vote that swept into power a reformist slate under Viktor YUSHCHENKO. Subsequent internal squabbles in the YUSHCHENKO camp allowed his rival Viktor YANUKOVYCH to stage a comeback in parliamentary elections and become prime minister in August of 2006. An early legislative election, brought on by a political crisis in the spring of 2007, saw Yuliya TYMOSHENKO, as head of an "Orange" coalition, installed as a new prime minister in December 2007. Viktor YANUKOVUYCH was elected president in a February 2010 run-off election that observers assessed as meeting most international standards. The following month, Ukraine's parliament, the Rada, approved a vote of no-confidence prompting Yuliya TYMOSHENKO to resign from her post as prime minister. In October 2012, Ukraine held Rada elections, widely criticized by Western observers as flawed due to use of government resources to favor ruling party candidates, interference with media access, and harassment of opposition candidates.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Ukraine is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Ukraine was undertaken by the Financial Action Task Force (FATF) in 2017. According to that Evaluation, Ukraine was deemed Compliant for 12 and Largely Compliant for 20 of the FATF 40 Recommendations. It was also deemed Highly Effective for 0 and Substantially Effective for 2 with regard to the 11 areas of Effectiveness of its AML/CFT Regime.

Key Findings

Corruption poses an overarching money laundering (ML) risk in Ukraine. It generates substantial amounts of criminal proceeds and seriously undermines the effective functioning of certain state institutions and the criminal justice system. The authorities are aware of the risks emanating from corruption and significant state-wide measures to mitigate the risk are currently being implemented. However, law enforcement focus to target corruption-related ML is only at its inception.

Ukraine has a reasonably good understanding of its ML and terrorism financing (FT) risks although there are areas (e.g. cross-border risks, risks posed by the non-profit sector and legal persons) here understanding could be enhanced. Ukraine has comprehensive national coordination and policy-making mechanisms to address identified risks, which include political commitment and have a positive effect. These mechanisms include proliferation financing (PF). Further efforts are needed to address the risks posed by fictitious entrepreneurship, the shadow economy and the use of cash, all of which are considered to pose a major ML risk.

The Financial Intelligence Unit (FIU) generates financial intelligence of a high order. Spontaneous case referrals regularly trigger investigations into ML, associated predicate offences or FT. Law enforcement agencies (LEAs) also seek intelligence from the FIU on a regular basis to support their investigative efforts. However, the FIU finds itself at a critical juncture as its IT system is out-dated and staffing levels are no longer adequate to cope with an ever increasing work-load.

Reporting appears to be in line with Ukraine's risk profile and has resulted in a significant number of case referrals to LEAs. Ukraine has nevertheless started to take steps to further improve the quality of suspicion-based reporting.

ML is still essentially seen as an adjunct to a predicate offence. While pre-trial investigations may be opened for ML in certain circumstances without a conviction for the predicate offence, it was widely assumed that a conviction for the predicate offence is essential before a ML case can be taken to court. The sentences for ML are almost always less than for the predicate offences and generally need to be more dissuasive in practice. The authorities have recently started aggressively restraining funds in cases of top level corruption and theft of state assets with a view to confiscation. Nonetheless, the confiscation regime does not appear to be applied consistently in all proceeds-generating cases.

Since 2014, the Security Services have concentrated on the consequences of international terrorism involving the fight against Islamic State of Iraq and the Levant (ISIL) , which has led to indictments, though no convictions as yet for FT . Financial investigations are undertaken in parallel with all terrorism-related investigations. Although Ukraine demonstrates aspects of an effective system in implementing FT targeted financial sanctions (TFS) , the legal framework is still not entirely in line with international standard s. No funds or other assets have been frozen under FT TFS in Ukraine.

The National Bank of Ukraine (NBU) has a good understanding of risk and applies an adequate risk-based approach to the supervision of banks. Major efforts have been made by the NBU in ensuring transparency of beneficial ownership of banks and in removing criminals from control of banks. The NBUhas applied a range of sanctions to banks, including fines and revocation of licences. As a result, the application of preventive measures by the banking sector has been found to be broadly effective. Significant improvements are required by most other supervisory authorities in discharging their functions and by non-bank institutions and designated non-financial businesses and professions (DNFBPs) in applying preventive measures.

Although the Unified State Register (USR) records all basic information and makes this available to the public online, the Registrar does not ensure that the basic or beneficial ownership information provided to it by legal persons is accurate or current. While this would not normally be considered a material issue, the vast majority of the private sector explained that they do rely on the USR to verify the beneficial owner (BO) of their client.

Ukraine has been generally proactive in providing and seeking mutual legal assistance (MLA). However, a number of issues have an impact on the effectiveness of MLA rendered, particularly issues related to tipping off. Limitations noted in relation to the transparency of legal persons at the national level negatively impact Ukraine’s capacity to provide comprehensive assistance.

Risks and General Situation

Ukraine faces significant ML risks. Corruption and illegal economic activities (including fictitious entrepreneurship, tax evasion and fraud) are the major ML threats. Organised criminality is on the rise and has a substantial impact on the overall ML risk situation. So-called conversions centres involving fictitious companies through which funds are siphoned from the real to the shadow economy are one of the prevalent ML typologies. Such centres are used to convert proceeds into cash and transfer proceeds out of Ukraine. Cash circulation is high and is considered to pose a significant threat to the financial system and economic security of the country. Turning to the risk of FT, since 2014, Ukraine has found itself used as a transit country for those seeking to join ISIL fighters in Syria. The non-profit sector is considered by the authorities to be vulnerable to FT. The sector has been misused to channel funds to terrorists and terrorist organisations.

The Ukrainian financial sector is bank-centric and roughly holds 80% of the assets in the financial sector. The banking services provided are generally traditional in nature and include deposits, loans, money transfers, foreign exchange and guarantees. High-risk products are either forbidden or not generally provided. The size of the shadow economy in Ukraine, which is exacerbated by the widespread use of cash, constitutes a significant ML vulnerability. Money remittances (through banks) play a significant role within Ukraine's economy. Most remittances are purportedly linked to Ukrainians working abroad sending money to their relatives in Ukraine. However, a significant portion of the remittances are conducted through informal channels.

Key Findings from Mutual Evaluation Progress Report (2012):

The measures taken by Ukraine in respect of all the FATF Core Recommendations are evidence of concrete progress made by Ukraine to correct the identified deficiencies. The very large majority of shortcomings identified in the context of the third round mutual evaluation report appear to have been addressed, strengthening the AML/CFT regime.

There remain certain issues, as outlined above. Notably, although the issue of corporate criminal liability has been revisited, there is no progress on the issue of criminal liability of legal persons . This issue will need to be revisited. The authorities should also consider, as previously raised, that the terrorist acts covered under article 258 and 258 - 5 include explicitly all acts prov ided for in the international conventions annexed to the TF Convention, and continue rais ing awareness and expertise on the application of recently introduced offences.

As regards the preventive regime, there remain a few issues which would require further clarifications, and the authorities should pursue their efforts in order to ensure that the provisions of the AML/CFT law, as amended, and additional implementing regulations of the preventive regime, are adequately implemented and enforced.

The updated statistics of the progress report could be indicative of improvements in respect of effectiveness, though a desk based review is limited in its ability to assess effectiveness or the lack thereof and as such this issue will be considered in - depth in the context of Ukraine's 4 th round follow up evaluation.

In conclusion, as a result of the discussions held in the context of the examination of this second progress report, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject of an update in every two years between evaluation visit s

US Department of State Money Laundering assessment (INCSR)

Ukraine is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.

OVERVIEW

Money laundering schemes remain a significant problem in Ukraine. Launderers distance themselves from illegal profits by registering under aliases and integrating laundered money into legal businesses. Money laundering trends remain unchanged, but the use of financial technologies significantly affects the circulation of money and the diversity of payment methods between parties. The most significant laundering schemes are connected to corruption and misappropriation of state assets. The government continues to investigate alleged corruption and misappropriation of state assets by former President Yanukovych and his associates. A notable success in 2017 was the return to the state budget of approximately U.S. $1.5 billion embezzled from the government by Yanukovych and his family during his presidency – a success tempered by concerns regarding the transparency of the legal process by which the funds were returned.

VULNERABILITIES AND EXPECTED TYPOLOGIES

Illicit proceeds in Ukraine are primarily generated through corruption; fraud; trafficking in drugs, arms, and persons; organized crime; prostitution; cybercrime; and tax evasion. Money launderers use various means to launder money, including real estate, insurance, bulk cash smuggling, financial institutions, and shell companies. The British Virgin Islands, Panama, Cyprus, and other offshore tax havens are often used to obscure ownership, evade taxes, or mask illicit profits. Ukraine's large shadow economy represents a significant money laundering vulnerability. Schemes using financial instruments such as liquid and illiquid securities, lending and deposit transactions, debentures, and fictitious contracts are widely used. Corruption exacerbates the money laundering problem in Ukraine. Furthermore, transnational organized crime syndicates utilize Ukraine as a transit country to launder illicit profits.

KEY AML LAWS AND REGULATIONS

The State Financial Monitoring Service (SFMS), Ukraine's FIU, is the central authorized agency for AML/CFT monitoring.

The AML/CFT Law #889-VIII came into force on February 6, 2015, and was last updated on December 10, 2015. The law addresses the obligations of reporting entities, regulation and supervision, law enforcement agencies (LEA), risk-oriented approaches, PEPs, and the determination of beneficial owners.

On November 26, 2015, the Law of Ukraine "On the National Agency of Ukraine for detection, investigation and management of assets derived from corruption and other crimes" (ARO-AMO) came into force. ARO-AMO includes asset search and identification provisions.

Ukraine's AML/CFT Council approved a national risk assessment report on October 7, 2016. The report focuses on detecting national money laundering threats and provides a basis for recommendations.

On August 30, 2017, the Cabinet of Ministers of Ukraine adopted Resolution 601, which approved the Action Plan to implement the Strategy of System Development Aimed at

Preventing and Counteracting the Legalization of Illegal Income, Money Laundering, Financing of Terrorism and Dissemination of Mass Destructive Weapons.

Information on financial investigations is exchanged using a secure information exchange channel through SFMS. Ukraine and the United States have a MLAT, coordinated through the Prosecutor General's Office (PGO) (on legal proceedings) or Ministry of Justice (on confiscation matters).

Ukraine is a member of MONEYVAL, a FATF-style regional body.

Ukraine must address the rise of cybercrime and related transnational organized crime activities by better examining the significant amounts of money flowing into its banking system. Ukraine needs to increase prosecution of large-scale financial crimes, corruption, and money laundering schemes. It also should improve the implementation of its provisions for asset freezing, confiscation, and forfeiture. Ukraine banned the gaming industry in 2009, although it has subsequently announced its intention to legalize gaming. Any legalization of gaming should ensure regulations are put in place to counter the use of the gaming industry to launder money. The government should investigate how informal money and value transfer networks are used for the transfer of illicit proceeds. Ukraine should enact its draft bill on international LEA cooperation to implement its treaty obligations.

ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

In the AML sphere, the identifying authority conducts a pre-trial investigation. From January-June 2017, the PGO reported 126 AML offenses with ongoing pre-trial investigations. Four cases were submitted to court, and the total amount of identified, related funds and property was approximately U.S. $50,000.

Regional court rulings in March and September 2017 resulted in the transfer to the state budget of approximately U.S. $1.5 billion in foreign currency-denominated cash, which the PGO claimed former President Yanukovych and his associates had stolen from the government and laundered through domestic shell companies. The government seized the cash and an estimated U.S. $200 million worth of Ukrainian government bonds from accounts that the SFMS froze in 2014. Civil society organizations have raised suspicions about the government's unusual decision to classify nearly all details of both cases.

During the first nine months of 2017, the volume of filed STRs more than doubled to over 5 million STRs, totaling U.S. $417 billion, which may be attributable to recent legislative updates addressing AML reporting obligations. The SFMS referred money laundering cases involving U.S. $1.7 billion to Ukrainian LEA. The SFMS also monitors the transactions of so-called officials of the "DNR" and "LNR" (occupied Donetsk and Lugansk regions of Ukraine).

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Ukraine does not conform with regard to the following government legislation: -

System for Identifying/Forfeiting Assets - The jurisdiction has enacted laws authorizing the tracing, freezing, seizure, and forfeiture of assets identified as relating to or generated by money laundering activities.

EU White list of Equivalent Jurisdictions

Ukraine is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Ukraine is not considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2017 (introduction):

Although Ukraine is not a major drug producing country, its location astride several important drug trafficking routes into Western Europe leaves it vulnerable as an important transit country. Ukraine's numerous ports on the Black and Azov seas and its extensive river routes – combined with Russia's aggression in eastern Ukraine and its occupation of Crimea, which prevent Ukraine from exerting full control of its borders – make Ukraine vulnerable for drug trafficking into the European Union's (EU) illegal drug market.

Heroin from Afghanistan is trafficked through Russia, the Caucasus, and Turkey, before passing through Ukraine. South American cocaine is moved through Ukrainian seaports and airports for both domestic use and further transit to EU countries. Ukrainian law enforcement occasionally interdicts large quantities of drugs in commercial shipments transiting southern ports. More commonly, however, drugs are seized in small quantities, ranging from several grams to several hundred grams.

More than 90 percent of the total domestic drug market within Ukraine involves cannabis and opium poppy grown either within the country or supplied from Russian and Moldova. The use of synthetic drugs and psychotropic substances, especially amphetamine-type stimulants (ATS), has also increased rapidly in Ukraine over the past decade, following international trends. Synthetic drugs are trafficked to Ukraine primarily from Poland, Lithuania, and the Netherlands, but they are also produced locally in small clandestine labs.

The number of registered Ukrainians with substance use disorders was 60,200 as of January 2016. Informed experts, however, have estimated the actual number of persons suffering from substance use disorders within Ukraine as ranging between 300,000 and 500,000.

During 2016, the National Police of Ukraine (NPU), Security Service of Ukraine (SBU) and other law enforcement agencies collectively eliminated 109 clandestine labs and dismantled 84 international drug supply channels. Approximately 11.7 metric tons of illegal drugs and other controlled substances were seized, including 14.4 kilograms (kg) of cocaine, 18.1 kg of ATS, and 10.9 kg of MDMA (ecstasy).

In early September, following a joint investigation by the NPU and the Prosecutor General's Office, the U.S.-trained, vetted, and equipped NPU SWAT unit successfully executed the high- risk arrest of a wanted leader of a criminal drug trafficking group. The U.S. assistance to help Ukraine bring its law enforcement and justice sector institutions up to European standards is designed to facilitate Ukraine's integration into Euro-Atlantic institutions. This will in turn assist Ukrainian authorities in building law enforcement capacity and developing effective counternarcotics programs in interdiction, investigation, and demand reduction, as well as to assist Ukraine in countering money laundering.

The U.S. Drug Enforcement Administration (DEA) has established a good working relationship with both the NPU and SBU, and ongoing training programs have deepened these relationships. The United States also assists the NPU in building capacity while simultaneously strengthening the Border Guards capability to execute control over the majority of Ukraine's 3,490 mile-long border. The United States Coast Guard is establishing a strong partnership with the Ukrainian Border Guards responsible for maritime security, and various training programs are planned for 2017.

US State Dept Trafficking in Persons Report 2016 (introduction):

Ukraine is classified a Tier 2 (watch list) country - A country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards

Ukraine is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Ukrainian victims are subjected to sex trafficking and forced labor in Ukraine, as well as in Russia, Poland, Turkey, the United States, and other parts of Europe, Central Asia, and the Middle East. Ukrainian women and children are subjected to sex trafficking within the country. Some Ukrainian children and vulnerable adults are subjected to forced begging. A small number of foreign nationals, including those from Moldova, Russia, Vietnam, Uzbekistan, Pakistan, Cameroon, and Azerbaijan, are subjected to forced labor in Ukraine in a variety of sectors including construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and street begging. The approximately 82,000-200,000 children institutionalized in state-run orphanages are especially vulnerable to trafficking. Officials of several state-run institutions and orphanages are allegedly complicit or willfully negligent in the sex and labor trafficking of girls and boys under their care.

Fueled by Russia's aggression, the conflict in eastern Ukraine has displaced nearly two million people, and this population is especially vulnerable to exploitation. In areas controlled by the Russia-led separatists, the situation has become particularly challenging. Employment options are limited and separatist "authorities" have restricted international humanitarian aid that would help meet civilian needs. There have been reports of kidnapping of women and girls from conflict-affected areas for the purposes of sex and labor trafficking. In 2015, there were several reports of Ukrainian internally displaced persons subjected to trafficking, as well as Ukrainians subjected to forced labor on territory not under control of the central government. During the reporting period, a variety of sources, including the OSCE Special Monitoring Mission in Ukraine, reported children as young as 15 years old continued to take part in active combat as part of combined Russian-separatist forces. There were reports that children ages 15 to 17 were actively being recruited to participate in militarized youth groups that teach children to carry and use weapons. Children who excel in this training were encouraged to form their own reconnaissance and sabotage groups and begin to fight. A Ukrainian government official reported that one children's battalion associated with this training program, the St. George the Victor Battalion, may include children as young as 12 years old. The recruitment of children by militant groups took place on territory not under the control of the central government and in areas where the government was unable to enforce national prohibitions against the use of children in armed conflict. Russian-led separatists also continued to employ children as informants and human shields during the reporting period.

The Government of Ukraine does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these measures, the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period; therefore, Ukraine is placed on Tier 2 Watch List for the fourth consecutive year. Per the Trafficking Victims Protection Act, Ukraine was granted a waiver from an otherwise required downgrade to Tier 3 because its government has devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards. During the reporting period, the government developed and approved a new national action plan and approved more applications for official victim status. However, several factors hindered the government's anti-trafficking efforts and capacity: corruption and weak rule of law; the drain on resources caused by Russian aggression; poor coordination at the national level; and a lack of understanding in government agencies about the issue. The number of trafficking convictions declined sharply, continuing a multi-year decline, and nearly 70 percent of convicted traffickers were not penalized with imprisonment. The government relied on foreign donors and NGOs to fund and provide most victim services.

Latest US State Dept Terrorism Report

Overview: Ukraine took several steps to mitigate the threat of terrorism. The government installed radiation detection systems at the port of Odesa, enacted amendments that strengthened Ukraine's terrorist financing legislation, and the Ukrainian military participated in regional military counterterrorism exercises.

Legislation and Law Enforcement: Following President Yanukovych's April pledge to eliminate Ukraine's stockpile of highly enriched uranium (HEU) by 2012 at the Nuclear Security Summit in Washington, DC, Ukraine reached a significant milestone in late December with the removal of 50 kilograms of HEU fresh fuel from Kyiv, Kharkiv, and Sevastopol. With this action, Ukraine demonstrated global leadership by ensuring that vulnerable nuclear material does not end up in terrorist hands.

Ukraine completed the installation of radiation detection systems and associated training in conjunction with the U.S. National Nuclear Security Administration's Second Line of Defense (SLD) program at the port of Odesa. The program aims to deter, detect, and interdict illicit trafficking in nuclear and other radioactive materials across international borders and through the global maritime shipping system.

In keeping with the National Biometrics Action Plan, the Ministry of Internal Affairs announced in November plans to introduce biometric passports for Ukrainians traveling abroad. The plan was not yet adopted by the Cabinet of Ministers at year's end, however.

Countering Terrorist Finance: On May 21, President Yanukovych signed into law amendments to Ukraine's anti-money laundering and counterterrorism financing (AML/CTF) legislation. The amendments represented a significant step toward compliance with the recommendations of the Financial Action Task Force (FATF) and the standards of the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The new legislation replaced and significantly improved Ukraine's basic AML/CTF Law, and amended relevant portions of the Criminal Code to bring them into greater compliance with international standards. However, Ukraine has remained on the FATF list of countries with "strategic deficiencies" since February 2010.

Regional and International Cooperation: Ukraine contributed a 20- person Special Operations Task Unit to participate in a multinational special operations counterterrorism exercise that was conducted in Poland in September. U.S. European Command (EUCOM) sponsored the exercise.

International Sanctions

OFAC - Publication of Ukraine-related general licenses

On 30 January 2015, the Department of the Treasury published three Ukraine-related general licenses: General License 6, "Noncommercial, Personal Remittances Authorized," General License 7, "Operation of Accounts Authorized," and General License 8, "Transactions Related to Telecommunications and Mail Authorized." These general licenses authorize certain transactions that would otherwise be prohibited pursuant to Executive Order 13685 of December 19, 2014, "Blocking Property of Certain Persons and Prohibiting Certain Transactions with Respect to the Crimea Region of Ukraine."

29 April 2014 - The U.S. and Europe expanded sanctions to include other Russian government officials and business entities in an effort to pressure President Vladimir Putin and his Ukrainian allies to cease their military activity in eastern Ukraine.

US

Europe

21 March 2014; The US President has issued a new Executive Order, Blocking Property of Additional Persons Contributing to the Situation in Ukraine; expanding the scope of the national emergency declared in Executive Order 13660 of March 6, 2014, and expanded by Executive Order of March 16, 2014

Read Order

21 March 2014; The EU has imposed sanctions on another 12 individuals over Russia's annexation of Crimea from Ukraine.

18 March 2014 - US President signed an Executive Order Blocking Property of Additional Persons Contributing to the Situation In Ukraine. This new authority expands upon E.O. 13660 by providing the ability to target officials of the Government of the Russian Federation, any individuals or entities that operate in the arms or related materiel sector in the Russian Federation, and any individual or entity that is owned or controlled by, or provides material or other support to any senior official of the Government of the Russian Federation or any person designated pursuant to this order.

Read More

EU imposes Ukraine sanctions after deadly Kiev clashes

7 March 2014 Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine

Read More

7 March 2014 OFAC: Issuance of Ukraine-related Executive Order

Read More

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	30
World Governance Indicator – Control of Corruption	20

A combination of rampant corruption, market volatility and political instability in Ukraine represents major business risks for foreign investors. Bribery and facilitation payments are widespread among Ukrainian public officials, severely complicating business registration and trade procedures for international companies. Public procurement also suffers from pervasive corruption, burdensome regulations and favoritism, severely impeding fair competition. Corruption, extortion, bribery of foreign public officials, abuse of office and facilitation payments are criminalized under the Criminal Code, and official corruption - including conflicts of interest, asset disclosure and gifts and hospitality - is also covered under Ukraine's legislative framework. Ukraine's anti-corruption laws encompass corrupt misconduct in both the private and the public sectors. The Law On Prevention of Corruption introduces measures for monitoring the effective implementation of anti-corruption provisions. However, a weak judicial system limits the enforcement of Ukraine's anti-corruption laws. **Information provided by GAN Integrity.**

US State Department

Corruption, which pervades all levels of society and government and all spheres of economic activity in Ukraine, has long been a major obstacle to foreign investment. The full scale of corruption at the highest levels was revealed after the fall of the Yanukovych regime, when all but $500,000 remained in the treasury account, and officials departed with billions of dollars of public funds. As fighting corruption was one of the primary tenets of the Euromaidan protests, the new government has pledged to eliminate corruption, and has taken several positive steps, including passing a new law on public procurement in April, which addressed some of the existing shortcomings of the previous law. However, the problem runs deep, and fighting will take considerable time and effort.

The government has proposed two new anti-corruption entities, which remain in the conceptual stage, and may not be formed and funded before 2015. One is an anti-corruption law enforcement investigation agency, for which draft legislation is pending, which would take over the Prosecutor General's responsibilities for investigating and prosecuting corruption. The other is an anti-corruption prevention and detection bureau for which legislation is being drafted. The functions are under considering, but may include setting anti-corruption and ethics policies, making criminal referrals, managing hotlines for complaints, promoting public awareness and accountability, and protecting whistleblowers. A prospective leader, a journalist with significant anti-corruption investigative experience, has been identified.

Corruption stems from such factors as such as a lack of institutional transparent decision-making and low societal understanding of the importance of corporate governance. That said, opinion polling shows increasing public frustration and anger with official corruption, which helped to mobilize the Maidan protests. Low public sector salaries fuel corruption in local administrative bodies such as the highway police, the health system, the tax administration, and the education system. Corruption within the Customs Service often makes it more difficult and more costly for businesses to import/export goods. Agricultural firms, for example, have been affected by significant overvaluation of imports. High-level corruption ranges from misuse of government resources and tax evasion to non-transparent privatization and procurement procedures.

Ukraine's guiding authority on corruption is the 2011 law "On Corruption Prevention and Counteraction," whose articles on Financial Controls came into force in 2012, but has been rarely enforced. Over the years, Ukraine adopted several strategies aimed at fighting corruption, though to little effect. In 2011, President Yanukovych announced a National Strategy on Fighting Corruption, creating an anti-corruption committee, but the committee never convened.

Although government action is still limited and uncoordinated, a regulatory and legislative framework to address corruption is slowly being developed. 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 and Second Rounds of Evaluation of Ukraine and published its report in 2007. The Third Round Evaluation Report was published in 2011, with recommendations for improvements in criminalizing corruption offenses and transparency of financing political parties. In this transitional period, resources to report corruption are limited.

Ukraine also 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.

In 2010 the State Department funded a new Resident Legal Advisor from the U.S. Department of Justice, focusing on ethics, asset declaration, and internal investigative units.

Political Climate

The 2010 presidential elections brought Viktor Yanukovych to power. The President heads the Party of Regions, which in October 2012 declared victory in Ukraine's parliamentary elections, despite observers accussations that election results were heavily falsified, according to an October 2012 article by the New York Times. The growing power of the executive coupled with the misuse of judiciary became the main indication of a deteriorating political landscape, preventing free and fair political competition and independence of local government, as reported by Freedom House 2013. The same report further notes that the President established a firm grip on national governance by appointing his son and his close entourage to key positions in the government. This structure engendered the close interconnectedness between the economy and the politics of Ukraine, but established a strong executive and weakened the judiciary. In the US Department of State 2011 report, Group of States Against Corruption (GRECO) expressed concern that the country's anti-corruption efforts lacked an independent anti-corruption body and a detailed plan of action for the implementation of the National Anti-Corruption Strategy. The source assesses that in 2011 corruption remained a pervasive problem in all three branches of government; furthermore, government officials at all levels were often engaged in corrupt practices. According to two GRECO reports, the Evaluation Report on Incriminations 2011 and the Evaluation Report on Transparency of Party Funding 2011, Ukraine's efforts to combat bribery and create greater transparency for political funding remains insufficient. For instance, private sector bribery and trading in influence are not fully addressed in Ukraine's legislation, while provisions on public sector bribery must be expanded to cover non-material gain. Among other problems is the fact that various state agencies in Ukraine have a legal mandate to fight corruption but they are insufficiently protected from political interests and interference.

To improve the transparency of the state authorities' activities and to create a better separation between the private and the public sector, Parliament adopted the Anti-Corruption Package of laws in its second reading in June 2009, consisting of the Law on the Principles of Prevention and Counteraction of Corruption, the Law on the Responsibility of Legal Persons for Corruption Offences and the Law on Amending Certain Legal Acts Regarding Responsibility for Corruption Offences. However, on 4 January 2011, incumbent President Yanukovych signed a law cancelling the Anti-Corruption Package of laws. On 15 March 2011, Parliament adopted a new anti-corruption law, replacing three pieces of legislation that were drafted in 2009. According to Freedom House 2013, the new law omits many key provisions of previous legislation, including mandatory declaration of expenditures by state servants and obligatory declaration of their assets. Corruption scandals have been publicly exposed, but have not been accompanied by changes in structural incentives or legal guidelines to regulate the private interests of public servants. One recent high-level corruption investigation was launched against former Prime Minister Yulia Tymoshenko who was accused of misusing state funds and abusing office during her term in office. In October 2011, the court handed down a seven-year prison term to Ms Tymoshenko, and ordered her to repay USD 188 million to the state. In addition, a former criminal case on state funds embezzlement and tax evasion charges was re-opened against Ms Tymoshenko. In December 2011, a Ukrainian court ordered Ms Tymoshenko's indefinite arrest as part of the investigation of alleged tax evasion and theft of government funds between 1996 and 2000, according to a 2011 article by Euronews. Ms Tymoshenko and her supporters claim that the probe is politically motivated.

There is generally a high tolerance for corrupt practices throughout Ukrainian society and the mindsets of political and economic elites at the federal and regional levels are slowing the country's progress towards efficient standards of opposing corruption. Both petty and grand scale corruption are thriving in Ukraine as a result, and corruption has had such a sustained impact on companies, state decision-making and the daily lives of citizens that it is perceived by many as a normal part of life. According to Transparency International's Global Corruption Barometer 2013, almost half of the surveyed respondents consider the government's efforts to fight corruption to be ineffective. According to the same report, 37% report having paid a bribe the previous year, while the judiciary and the police are reported to be the most corruption-prone public institutions. Given a political environment rife with corruption, business executives surveyed in the World Economic Forum Global Competitiveness Report 2013-2014 reveal that the level of public trust in politicians is very low.

Business and Corruption

President Yanukovych has prioritised improving Ukraine's business climate and encouraging foreign trade and investment since he took office in early 2010. However, complex laws and regulations, weak enforcement of laws by courts and corruption have made Ukraine a difficult place to operate. According to the US Department of State 2013, corruption in Ukraine represents a hurdle to doing business and investments in the country. The report notes that corruption in Ukraine permeates all levels of government and is widespread within the economy. Over the last few years, official corruption and a lack of transparency in Ukrainian administrative bodies have increased, fuelled in part by low public sector salaries. It has become more difficult and costly for businesses to import and export goods and do business in the country. High-level corruption ranges from misuse of government resources and tax evasion to non-transparent privatisation and procurement procedures, as noted by the same report.

Upon closer inspection, it is apparent that the country is still plagued by systemic corruption. This is supported by the Bertelsmann Foundation 2012, according to which, private interest groups in Ukraine have colonised important parts of the state. Privatisation of former state-owned assets had spawned many accusations of corruption, political interference and competition between the former President and the former Prime Minister. Former President Yushchenko cancelled the privatisation of several key industrial sites, such as UkrTelecom and the Odessa port chemical plant, calling them unconstitutional, while many other privatisations have been suspended. Corruption in the privatisation processes in Ukraine continued throughout the current administration under President Yanukovych. According to a May 2012 article published by Spiegel Online, a luxury estate known as the ‘Mezhgorye’ belonging to the Ukrainian state was privatised throughout a long process involving both London-based and Vienna-based companies, nevertheless, a lead in the process referred back to Viktor Yanukovych and his alleged involvement.

In the World Economic Forum's Global Competitiveness Report 2013-2014, corruption is regarded by business executives as the second most pressing constraint on foreign companies operating in Ukraine. According to the report, companies consider the occurrence of irregular payments and bribes in Ukraine as common. In addition, public funds are commonly diverted to companies, individuals or groups due to corruption. Given these reasons, companies are recommended to use a specialised public procurement due diligence tool in order to help mitigate the costs and risks of corruption involving public procurement processes in Ukraine.

According to Transparency International's Global Corruption Barometer 2013, corruption within the private sector is perceived as rampant and is given a score of 3.9 on a 5-point scale (1 'not at all corrupt' and 5 'extremely corrupt'). Similarly, Global Integrity 2011 reports that corruption in the business sector is widespread due to flaws, loopholes and inconsistencies in legislation, but even more so due to negative practices in interpreting and enforcing the law and intentional abuses and disregard for the law. Corrupt practices are still seen by public officials as low-risk behaviour, and many officials have grown accustomed to supplementing their salaries through solicitation of unofficial payments. There are also reports of government agencies creating fiscal targets for inspection agencies thus, creating quotas for the collection of fines instead of fining in accordance with objective criteria. This leads to the arbitrary fining of companies and greater relative risks for doing business in Ukraine. Entering the Ukrainian market will almost always require local agents or consultants who can facilitate making the necessary connections or market entry, and some of these third parties might use monetary or other inducements as a method of operation. Companies are recommended to develop, implement and strengthen integrity systems and to conduct extensive due diligence - especially when dealing with local business agents, when planning to invest or when already doing business in Ukraine.

Regulatory Environment

The years of power struggle between the executive and the legislative branches of government left the regulatory environment and the legal framework related to transparency and integrity in need of major revisions and amendments. Competing interests have been partially reflected in institutional duplication, such as the existence of several administrative units with similar formal tasks that compete for decision-making power, according to the Bertelsmann Foundation 2010. Business executives surveyed in the World Economic Forum's Global Competitiveness Report 2013-2014 perceive government administrative requirements to be quite burdensome, and business executives report that government policymaking is opaque and that government officials usually favour well-connected companies and individuals when deciding policies and contracts. Commercial regulations can be ambiguous and inconsistent, and the lack of transparency increases start-up and overall operational costs. Nonetheless, as pointed out by the Bertelsmann Foundation 2012, market entry barriers for small companies were lowered in 2005 by reducing the number of necessary licences. According to the same source, corruption is sustained by overregulation, which fuels opportunities for the extortion of bribes, not only for illegal actions, but also for the timely and proper performance of legitimate services.

Registration of a company can be followed by frequent controls and inspections, with civil servants enjoying broad discretionary powers within inspection regimes. As a result, there is a high-level of mistrust between business and regulatory bodies. Smaller companies, in particular, fear the 'costs of exposure' that come with registration, and large numbers of companies disregard legalisation in order to avoid official registration costs and further pressures from regulatory bodies. InvestUkraine, a non-profit investment promotion agency, was established in August 2005 with government support and intended to function as an investment one-stop shop. The agency has developed a wide-range of partnerships with international donors as well as domestic organisations working with anti-corruption and hosts networking conferences and events. National and local authorities have developed nearly 200 one-stop-shops intended to cut the number of standard registration procedures. Nevertheless, these results are not reflected in the findings of the World Bank & IFC's Doing Business 2013. In fact, the report reveals that starting a business in Ukraine is challenging, taking an average of 22 days and 7 procedures. Ukraine is reported to be among the most difficult countries in the world to conduct business in relation to licensing and taxes both in terms of time and number of procedures, according to the same report.

Ukraine's business and regulatory environment is negatively affected by a conflicting civil code and commercial code, as reported by the US Department of State 2013. The Civil Code is generally modern and market-oriented, ensuring private property and contract rights, whereas the Commercial Code is considered to be incompatible with market economy principles and directly contradictive to the provisions of the Civil Code, instead allowing for excessive government interference in private commercial relations. These conflicting codes, combined with high-levels of corruption, may produce problematic investor disputes. As a result, many observers believe that the Commercial Code should be eliminated, as cited in the US Department of State 2013. Ukraine has ratified the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitration Awards and the Washington Convention, which provides for the use of the International Centre for the Settlement of Investment Disputes (ICSID). However, international arbitration decisions are rarely enforced in practice. Thus, according to the US Department of State 2013, companies find it difficult to pursue arbitration cases in Ukraine's courts due to conflicting investment and commercial laws coupled with a high level of corruption in the country. Therefore, foreign investors often seek arbitration outside of the country. Moreover, there is no single governmental entity committed to resolving business and investment disputes, meaning that dispute resolution mechanisms in the courts are lengthy and complicated. Dispute settlement is reportedly weak, unfair and biased, and companies have little faith in the judiciary's ability to work with vague laws and regulations that leave ample room for subjective interpretation and corruption to occur. Business executives surveyed in the Global Competitiveness Report 2013-2014 report that the judiciary is often politically influenced by members of government, individual citizens or companies. Access the Lexadin World Law Guide for a collection of legislation in Ukraine.

Section 3 - Economy

After Russia, the Ukrainian republic was the most important economic component of the former Soviet Union, producing about four times the output of the next-ranking republic. Its fertile black soil generated more than one-fourth of Soviet agricultural output, and its farms provided substantial quantities of meat, milk, grain, and vegetables to other republics. Likewise, its diversified heavy industry supplied unique equipment, such as, large diameter pipes and vertical drilling apparatus, and raw materials to industrial and mining sites in other regions of the former USSR.

Shortly after independence in August 1991, the Ukrainian Government liberalized most prices and erected a legal framework for privatization, but widespread resistance to reform within the government and the legislature soon stalled reform efforts and led to some backtracking. Output by 1999 had fallen to less than 40% of the 1991 level. Outside institutions - particularly the IMF –encouraged Ukraine to quicken the pace and scope of reforms to foster economic growth. Ukrainian Government officials eliminated most tax and customs privileges in a March 2005 budget law, bringing more economic activity out of Ukraine's large shadow economy. But more improvements are needed, including fighting corruption, developing capital markets, and improving the legislative framework. From 2000 until mid-2008, Ukraine's economy was buoyant despite political turmoil between the prime minister and president.

Ukraine's dependence on Russia for energy supplies and the lack of significant structural reform have made the Ukrainian economy vulnerable to external shocks. Ukraine depends on imports to meet about three-fourths of its annual oil and natural gas requirements and 100% of its nuclear fuel needs. In January 2009, after a two-week dispute that saw gas supplies cut off to Europe, Ukraine agreed to 10-year gas supply and transit contracts with Russia that brought gas prices to "world" levels. The strict terms of the contracts further hobbled Ukraine's cash-strapped state gas company, Naftohaz. The economy contracted nearly 15% in 2009, among the worst economic performances in the world. In April 2010, Ukraine negotiated a price discount on Russian gas imports in exchange for extending Russia's lease on its naval base in Crimea.

Ukraine’s oligarch-dominated economy grew slowly from 2010 to 2014. After former President YANUKOVYCH fled the country during the Revolution of Dignity, the international community began efforts to stabilize the Ukrainian economy, including a March 2014 IMF assistance package of $14-18 billion. Ukraine has made significant progress on reforms designed to make the country a prosperous, democratic, and transparent country.

Russia’s occupation of Crimea in March 2014 and on-going aggression in eastern Ukraine have hurt economic growth. With the loss of a major portion of Ukraine’s heavy industry in Donbas and ongoing violence, Ukraine’s economy contracted by 6.8% in 2014 and by an estimated 10.5% in 2015. Ukraine and Russia have engaged in a trade war with sharply reduced trade between the countries by the end of 2015. The EU-Ukraine Deep and Comprehensive Free Trade Area finally started up on 1 January 2016, and is expected to help Ukraine integrate its economy with Europe by opening up markets and harmonizing regulations.

Agriculture - products:

grain, sugar beets, sunflower seeds, vegetables; beef, milk

Industries:

coal, electric power, ferrous and nonferrous metals, machinery and transport equipment, chemicals, food processing

Exports - commodities:

ferrous and nonferrous metals, fuel and petroleum products, chemicals, machinery and transport equipment, foodstuffs

Exports - partners:

Russia 12.7%, Turkey 7.3%, China 6.3%, Egypt 5.5%, Italy 5.2%, Poland 5.2% (2015)

Imports - commodities:

energy, machinery and equipment, chemicals

Imports - partners:

Russia 20%, Germany 10.4%, China 10.1%, Belarus 6.5%, Poland 6.2%, Hungary 4.2% (2015)

Banking

The Ukrainian banking system consists of the central bank - the National Bank of Ukraine (NBU), and 174 commercial banks, two of which are state-owned. The NBU is responsible for monetary circulation, registration of commercial banks and oversight of their activities, and sometimes intervenes in the currency market to moderate changes in the exchange rate.

Of 175 registered banks, the five largest banks control 36% of the market, representing the lowest market concentration level in all of Central and Eastern Europe. In absolute terms the Ukrainian banking sector is still fairly small. Total bank assets in Ukraine are estimated at UAH 920 billion (appr. $ 116 billion), with total loan assets of UAH 740 billion (appr. $ 93 billion), as of October 2010.

Stock Exchange

Ukraine has ten operational privately-owned stock exchanges. The PFTS is a broker/dealer SRO (self-regulatory organization) and electronic trading system, which is a leader in terms of trade volumes. About 55% of stock trades are conducted at PFTS, followed by the Ukrainian Exchange and Perspectiva Exchange with 20% each. The exchanges operate largely in compliance with international best practices. There is increasing competition in this sector, with plans underway to incorporate "market-maker" capabilities. In practice, however, significant trading continues to be done off-exchange, with some estimates placing this number at 90% of all securities market trading. The remaining exchanges are largely "pocket exchanges" that rely on revenue from sales of state-owned enterprises.

Although the equity market in particular has grown in recent years, it is still very small when compared to stock markets in other emerging markets of central Europe and does not yet act as an important source of capital for Ukrainian companies or investment destination fordomestic savings.

Section 4 - Investment Climate

Executive Summary

Ukraine continues to undergo historic transformation since the 2014 Revolution of Dignity. As the 2016 Investment Climate Statement goes to press, Ukraine once again finds itself at a crossroads. While many analysts calculate that the economic crisis has bottomed out, hard-fought macro-economic stabilization is at risk if the government does not follow through on tough reforms. In 2016 the Ukrainian Government will have to navigate a number of significant challenges, including an expected reset of both the ruling coalition in the parliament (Verkhovna Rada) and the government, a resurgence of fighting in the east, implementation of the Minsk agreements, negotiation of energy supplies to fuel the economy, continued economic and military aggression from Russia, and, above all, rooting out endemic corruption that has hindered Ukraine's prosperity for decades. An active, core group of MPs in Ukraine's pro-European, pro-reform parliament and a Cabinet that includes technocratic experts have demonstrated the country's strong desire to fundamentally change the way business has been done here since independence – to form a "New Ukraine" and push forward the necessary security, political, and financial reforms. The task ahead is daunting, and Ukraine continues to look to the United States for continued support in many spheres.

Positive and Negative Aspects of Ukraine's Investment Climate

The Ukrainian economy is showing signs of stabilization in 2016, but the government continues to struggle with structural problems. Ukraine's currency, the hryvnia, has depreciated nearly 65 percent against the dollar since May 2014. To prevent capital outflows, the GoU has implemented currency controls that have hampered international trade and investment. As an agricultural powerhouse, Ukraine produces sufficient basic foodstuffs domestically (albeit with foreign-sourced inputs like seeds), but relies on imports for most consumer goods, gasoline, automobiles, and clothing. Inflation, which spiked in early 2015 and is projected to moderate to between 12 and 25 percent by the end of 2016, has eroded already stagnant wages and created hardships for the average Ukrainian. Meanwhile, Russia's ban on Ukrainian dairy, chocolate, fruits, and vegetables has hurt Ukrainian exports. In fact, Russia has fallen behind the EU as Ukraine's largest export destination in recent years; exports to Russia now make up only 11 percent of Ukraine's total exports and only two percent of food exports. On top of an aging infrastructure system already in need of repair, the conflict has wrought significant damage to freight rail, ports, mines, and industrial facilities (historically centered in the Donetsk and Luhansk regions) and has severely curtailed Ukraine's heavy industry exports, a key source of precious foreign currency and middle-class jobs. As part of Ukraine's Association Agreement with the EU, the Deep and Comprehensive Free Trade Area or DCFTA came into effect on January 1. Ukraine successfully negotiated last summer with its creditors to restructure its external debt and subsequently has seen its credit rating improve.

The United States provided two $1 billion loan guarantees, the first in May 2014 and the second in May 2015. A further $1 billion is under discussion, contingent on continuing reform progress. In March 2015, the International Monetary Fund approved a new, four-year, $17.5 billion program for Ukraine – one of its largest programs. Ukraine, however, must continue to meet the IMF's stringent targets, including gradual elimination of subsidies on residential heating and electricity, reforming state-owned enterprises, maintaining a balanced budget, and pension reform. Many of these necessary steps are unpopular with the public, particularly when combined with the eroded purchasing power and rising unemployment during the past two years. Energy sector reform is ongoing, with key pieces of legislation being passed or drafted by the Rada.

Ukraine's Key Sectors

Ukraine is the world's third-largest grain producer (behind the United States and the European Union) and has been a profitable country for foreign investors. Domestically-oriented sectors like banking and construction have traditionally attracted foreign direct investment more than export-oriented manufacturing. Within the manufacturing sector, metallurgy and food processing have attracted investors ahead of machine building and the chemical industry. Even with ongoing reforms to reign in corruption and burdensome regulation, Ukraine is still seen as a difficult place to do business. However, many major U.S. companies are represented here, particularly in the agriculture, consumer goods, and technology sectors.

In spite of the country's recent political turbulence, Ukraine deserves special mention regarding its IT service and software R&D sector – this sector has demonstrated double-digit growth year-over-year. U.S. technology firms conduct R&D activities in Ukraine and an array of local IT outsourcing companies of all types and sizes serve clients worldwide. The export volume of Ukraine's software development industry reached at least $2.5 billion in 2015 and is considered the number-three export sector. This sector of Ukraine's economy shows great potential due to the country's large, skilled workforce.

Key Watch Items: Crimea and Donbas

Investors should note that the situation in both Crimea (unlawfully annexed by Russia in the spring of 2014), and in occupied territories of Donbas remains dire. The investment climate in both of these areas continues to be 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 continues to be volatile. Those businesses remaining in this zone have reported work stoppages, illegal "taxation," and the kidnapping of company personnel, all at the hands of the Russian-backed separatists. Banks have ceased operations in the region, and the Ukrainian Government is unable to provide basic services. In addition, road and rail systems in the region are damaged from the conflict, leaving businesses without the means to receive inputs or move product. Finally, significant portions of the Donbas controlled by Russian-backed separatists and most of Crimea experience frequent, extended power outages.

1. Openness To, and Restrictions Upon, Foreign Investment (FDI)

Attitude toward Foreign Direct Investment

The security situation in the East continues to negatively impact the perception of political risk associated with the country, especially at corporate headquarters abroad, where the key decisions regarding FDI are taken. Due to extensive media coverage of the conflict in international media, the whole country is to a large extent associated with the military conflict in the East; no clear distinction is made between different regions of Ukraine. This view is problematic, as business conditions in Western or Central Ukraine materially differ from those in the conflict area, even though one cannot deny that they are not completely independent, as there is likely some impact (e.g. the military draft, foreign exchange restrictions that were taken in response to confidence crisis originating in the East, etc.).

In 2016 Ukraine rose in the World Bank's "Doing Business" rankings (see Table 1) to 83 out of 189 countries measured – a consistent, 13-place improvement since the 2014 Maidan Revolution. During 2015 the government continued to streamline the process to start a business, with registrations having no cost and taking approximately two to three days. 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. Ukraine continues to facilitate 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.

Table 1: FDI Indicators

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	130 of 175	http://www.transparency.org/cpi2015#results-table
World Bank's Doing Business Report "Ease of Doing Business"	2016	83 of 189	http://doingbusiness.org/rankings
Global Innovation Index	2015	64 of 141	http://globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2015	USD 6,698.9	
World Bank GNI per capita	2014	USD 3.560	data.worldbank.org/indicator/NY.GNP.PCAP.CD

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.

Weighing heavily over Ukraine's FDI climate is the lack of progress in reforming Ukraine's judiciary. The judicial system in Ukraine has never been an independent branch of power. The courts have often been used as an instrument for confrontation between the President and Parliament. During the presidency of Viktor Yanukovych (2010-2014), courts were actively used for persecution of dissidents, manipulation of election results and prohibition of mass gatherings. The lack of rule of law was one of the driving reasons for the 2014 Revolution of Dignity. Ukrainian civil society continues to demand punishment of judges deliberately involved in illegal decision-making, the guaranteed independence of the judiciary system, and end to corrupt practices in the system. However, resistance in the system and the unwillingness of the political elite to abandon such a convenient instrument for the legalization of their decisions impedes the passing of reforms. Political analysts and media describe the current Rada as pro-European and pro-reform, having made significant strides on urgently needed reforms, including a law strengthening local government and civil service, proposed reforms to public funding of political parties, and numerous pieces of legislation to meet IMF requirements. Additionally, the Rada has passed laws to reduce burdensome business regulations, encourage public-private partnerships, require media ownership transparency, and improve agricultural land policies.

Other Investment Policy Reviews

The Organization for Economic Cooperation and Development (OECD), the World Trade Organization (WTO), and the United Nations Conference on Trade and Development (UNCTAD) have not conducted formal reviews since the 2015 Investment Climate Statement. Ukraine's first trade policy review as WTO member is scheduled for April 2016.

Laws/Regulations on 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); 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); Customs Code (2012); Law "On Industrial Parks" (2012), Law "On Amending Certain Laws of Ukraine with the Purpose of Increasing Protection of Investor Rights" (May 2015).

While the legislative framework for protection of investor rights is present, law enforcement remains uneven, as the judicial system needs a comprehensive reform. Laws and regulations are published on the Parliament's web-site http://rada.gov.ua.

Business Registration

On January 1, 2016, the GoU amended the Law of Ukraine "On state registration of legal and physical entities – entrepreneurs and civil organizations." This amendment modified the business and property registration system to grant approximately 7,000 notaries full authority to perform State Registrar's duties, along with accredited banks and Centers for administrative services under City Councils. The amended law also introduces a provision allowing citizens to address any notary office in Ukraine to register their business and legalized online services that had been operating as pilot projects.

The Ministry of Justice of Ukraine launched a website for registration of private entrepreneurs and legal entities at http://irc.gov.ua/ua/el_reg. However, critics have said that the Unified State Registrar, State Pension Fund, State Fiscal Service, the State Committee of Statistics, and authorities need to better coordinate their date.

It takes 11 procedures and 28 days to establish a foreign-owned limited liability company (LLC) in Ukraine (Kyiv). This is slower than the average of World Bank Investing Across Borders (IAB) countries in Europe and Central Asia, but still faster than the IAB global average. In addition to the procedures required of a domestic company, a foreign company establishing a subsidiary in Ukraine must legalize and translate the parent company's documents abroad. While the registration of a foreign investment is optional, the majority of foreign investors register their investments. The State Registrar should forward new registrations to the State Committee of Statistics of Ukraine, the state social funds (the State Pension Fund, the Employment Insurance Fund, the Social Security Fund, and the Fund for Social Insurance), and the tax. However, in practice, the State Registrar does not register with the State Committee of Statistics, and that registration is usually made by the company itself. Companies in Ukraine are free to open and maintain bank accounts in foreign currency.

Company registration is usually processed within three working days. For registration with the tax authorities (for VAT purposes), registration tends to take longer than three days and is supposed to be completed within 14 days. As the registering authority, the State Registrar issues a certificate of registration, which becomes the company's incorporation document. By implementing the one-stop shop system, Ukraine has eased registration with the Pension Fund, the Employment Fund, the Social Insurance Fund, the Industrial Accidents Fund, and the relevant tax authorities (except for VAT registration) through the Registration Office. This new system largely emerged following the Cabinet of Ministers Resolution, dated August 8, 2005, No. 321-��, "On Top-Priority Measures on Expediting Revision of Regulations and Enhancing Registration and Authorization Procedure." Pursuant to Order No. 317 of the State Tax Administration of Ukraine, dated August 8, 2005, No. 317 "On Amending Instruction on the Procedure for Keeping Record of Taxpayers," stand-alone tax registration was abandoned and incorporated into the one-stop shop system. Only a limited number of standard registration documents are available for download. Finally, although documents should be the same throughout the country, different districts use their own templates and not all districts provide templates online.

The World Bank Group provides a following ranking for starting a business in Ukraine:

- Starting a Business rank: 30 out of 189
- Starting a Business DTF: 93.88

(The distance to frontier score shows the distance of each economy to the "frontier," which represents the best performance observed on each of the indicators across all economies in the Doing Business sample since 2005. DTF is measured on a scale from 0 to 100, where 0 represents the lowest performance and 100 represents the frontier)

- The total number of procedures required to register a firm: 4

(A procedure is defined as any interaction of the company founders with external parties - for example, government agencies, lawyers, auditors or notaries).

- The total number of days required to register a firm: 7

(The measure captures the median duration that incorporation lawyers indicate is necessary to complete a procedure with minimum follow-up with government agencies and no extra payments).

- Cost: 0.6

(Cost is recorded as a percentage of the economy's income per capita. It includes all official fees and fees for legal or professional services if such services are required by law).

Ukraine's Civil Code defines micro, small, and medium-sized enterprises by the following criteria:

1) Micro-sized enterprises employ on average not more than 10 employees over a calendar year with annual revenue not to exceed an equivalent of €2 million estimated by an average annual National Bank of Ukraine rate.

2) Small-sized enterprises employ on average not more than 50 employees over a calendar year with annual revenue not to exceed an equivalent of €10 million estimated by an average annual National Bank of Ukraine rate.

3) Large-sized enterprises employ on average more than 250 employees over a calendar year with annual revenue exceeding an equivalent of €50 million estimated by an average annual National Bank of Ukraine rate.

4) Other economic entities fall under the category of medium-sized enterprises.

In March 2015 the Cabinet of Ministers initiated liquidation of the National Agency on Investments and National Projects and a draft law (No. 1256) "On development and State support for small and medium business in Ukraine" is being prepared for the second reading by the Verkhovna Rada.

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.
- The Law “On Stimulating Investment Activity in the Priority Sectors of the Economy in order to Create Jobs” envisages tax privileges for investment projects in such priority sectors as agriculture, communal and housing, machine building, transport infrastructure, resorts-recreation, metallurgy (http://zakon5.rada.gov.ua/laws/show/5205-17).

Legislative initiatives are available for viewing on the Parliament’s 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 in 2014 implemented an automated VAT-refund system to reduce opportunities for bribery. Electronic government procurement has also been introduced to combat corruption. The newly implemented open-source system of electronic procurement ProZorro is estimated to save about UAH 500 million of budget funds per year.

The World Economic Forum’s 2015-2016 Global Competitiveness Index ranked Ukraine 79 of 140 countries. In particular the report cited as adverse conditions the 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. The 2015 International Business Compass ranked Ukraine 89th, 20 spots up from its 109 position in 2014. The 2016 WB Doing Business Index ranked Ukraine 83 out of 189 countries, a four point improvement from 2015. The key reform, according to the Index, was made in Starting a Business where Ukraine moved 40 spots up, from position 70 to 30.

Limit on Foreign Control and Right to Private Ownership and Establishment

Aside from ownership of agricultural land, the regulatory framework for the establishment and operation of business in Ukraine by foreign investors is generally similar to that for domestic investors. Accreditation of representative offices of foreign companies and their branches significantly lags behind the simplified registration procedures for Ukrainian business. Accreditation by MEDT takes 60 days and costs $2,000. Foreign and domestic private entities can establish and own business enterprises and engage in all forms of remunerative activity. 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

The new government is looking into further expanding the list of companies slated for privatization in order to increase management efficiencies. The first tender under the new government, of licenses to provide nationwide 3G mobile telecommunications services, was generally regarded as transparent and drew interest of major players in the local market. In February, 2016 the Parliament approved legislation intended to facilitate large privatizations this year. The new legislation allows the State Property Fund to hire foreign advisors, increases transparency of asset evaluation procedures, removes the mandatory requirement to sell 5-10 percent of a privatized entity via a securities exchange and banned Russian and off-shore companies from participating in privatization in Ukraine. In March 2015, the government approved a list of companies to be privatized in 2015-2016. Due to the delays in adopting the legislation, the original privatization plans were postponed. Currently, the government is preparing to privatize 20 large state-owned enterprises in 2016, including an ammonium plant, a large energy generator and several energy distribution companies.

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. Observers note numerous instances of past privatizations adjusted to fit a pre-selected bidder. The new government has made statements that there will be no revisions of past privatizations. Still, some court cases have surfaced from private companies challenging earlier privatizations. Judicial reform is critical to ensure fair treatment of the cases. There will be more privatizations in the near-term as a means to plug budgetary gaps; the transparency of these transactions will be a good indicator of the new government’s approach to business and investment.

Screening of FDI

In April 2015 the Cabinet of Ministers passed a resolution to liquidate the State Agency for Investment and National Projects of Ukraine, which served as a clearing house for state-approved investment projects, in 2011-2015. Instead, a Department for Attracting Investments was established at the Ministry of Economic Development and Trade (MEDT). Thus, MEDT has the lead in the formation of government policy to improve Ukraine’s investment climate and attract new investments. To achieve these goals, the Ministry has developed a plan of business forums in different countries; 2016 fora will take place in the Netherlands, France and Canada.

The ministry responsible for attracting investment is:

- The Ministry of Economic Development and Trade
- Website: http://me.gov.ua/?lang=en-GB
- Tel. +38 044 596-6806 9-6805; 6809

Competition Law

The government is reforming Ukraine's Anti-Monopoly Committee (AMC) to ensure fair competition and consumer protection. 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. New AMC leadership worked with the Parliament to amend a 2002 Law

"On Protection of Economic Competition," leading to the November 15 passage of amendments that made AMC tasks more transparent and predictable, allowed the government to perform stricter controls of mergers and acquisitions, and gave it more effective tools to destroy existing and prevent new monopolies in sensitive sectors such as energy and utilities. The international business community has found the new AMC leadership to be more open and transparent, a significant shift from past years. However, there remain concerns with entrenched corrupt officials at the staff level, as well as an overarching lack of training for investigators and economists. With IMF support, the Government of Ukraine is working to establish a level playing field. USAID is launching an assistance program with the AMC under which U.S. anti-trust advisors will work with AMC and MEDT officials to develop a sound competition policy.

Contact information:

- Anti-Monopoly Committee of Ukraine
- http://www.amc.gov.ua/amku/control/main/uk/publish/article/84306
- Tel: (044) 594-64-10
- E-mail: info@amcu.gov.ua
- 45, Mytropolit Vasyl Lypkivskiy Street, Kyiv, 03035

2. Conversion and Transfer Policies

Foreign Exchange

In 2014 and 2015, the Ukrainian Government introduced a number of limitations on foreign currency exchange transactions, but started to relax them gradually as the situation began to show signs of stabilization. Limitations include a requirement for a three-day-in-advance application for the purchase of hard currency; a ban on currency purchases for firms that have banking deposits exceeding $10,000. The companies also faced a ban on foreign currency purchases to pay dividends or repatriate proceeds from selling shares of Ukrainian companies. Beginning June 13, 2016 gradual repatriation of dividends accumulated during 2014-2015 was allowed. The 2014 regulations also ban the purchase of foreign currency using loans in hryvnia and require a letter of credit confirmation for a transaction if it requires a purchase of more than $500,000 of hard currency. Hard currency purchases to make advance payments over $50,000 require National Bank of Ukraine (NBU) approval, which also incurs a fee. According to a September 2014 resolution, exporters had to sell 75 percent of foreign earnings in the interbank market, and return export proceeds to Ukraine within 90 days of the sale the limit was eased to 65 percent beginning June 13, 2016. The measures were introduced as a temporary step, but have been extended several times. The government has stated its intention to relax more of these restrictions in the near future.

Remittance Policies

In September 2014, the NBU introduced a ban on purchasing foreign currency to repatriate dividends from Ukraine, and subsequently extended it until June 2016. Although this measure is temporary, it could be extended if market instability persists. Loan payments to foreign entities are permitted. However, a March 2015 NBU resolution banned early repayment of foreign currency loans to non-residents. Generally, investors convert earnings into foreign currency through commercial banks, which purchase foreign currency on the electronic inter-bank currency market. Commercial banks may trade foreign currency in electronic form with other banks through participation in an 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 $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.

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

3. Expropriation and Compensation

According to current legislation, legal expropriation of property is permitted in certain criminal proceedings or in cases of failure to fulfil investment obligations during privatization procedures. Private property may be legally expropriated for military purposes given the special regime in place due to ongoing military action in Eastern Ukraine. Such operations are regulated by the law "On Defense of Ukraine", the law "On legal regulation of emergency state," and Martial Law.

On December 15, 2013, a Law on Amendments to Criminal Code and Criminal Procedural Code of Ukraine came into force (http://zakon4.rada.gov.ua/laws/show/222-18). This law introduced s*pecial confiscation*, which could be applied against third parties in criminal proceeding, both physical and legal entities. A court must order special confiscation during adoption of a court ruling in criminal proceeding. Introduction of special confiscation is controversial: it could contradict existing legislative provisions and create space for abuse within the criminal proceeding.

A draft Law (No. 2540-a) "On amendments to Criminal Procedural Code of Ukraine on certain issues of property arrest in order to eliminate corruption risks while application of such," dated August 28, 2015, is awaiting a second reading in the Rada. This draft law raises concerns due to its provision for the administration of property arrests based on the sole discretion of an investigator that represents the pre-trial investigation authority.

Post has not received any claims from U.S. companies on cases of expropriation. Since there is no known history of discrimination of U.S. persons in terms of expropriation, it is difficult to point out high-risk sectors prone to expropriation actions.

Special Note on the Donbas and Crimea

Post is aware of numerous illegal expropriation cases in Donbas in which more than 20 strategic enterprises were dismantled and transported to Russia. The Cargill plant in Donbas had been occupied by unknown persons since July 2014. The company had continued to support its Donbas-area employees but in May 2015 decided to end its employment relationship with the employees; Cargill did not retain the employees as representatives and did not expect to be able to access the plant in the foreseeable future.

There has been illegal expropriation reported in Crimea: local illegitimate authorities announced the launch of a local mobile operator utilizing the expropriated equipment of Ukrainian KyivStar Company. A similar expropriation occurred in Donbas.

4. Dispute Settlement

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

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 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.

Among the major problems of Ukrainian judicial system is its incapacity and dependence from prosecutorial influence on judges. Ukraine is ranked 132 out of 140 countries with regard to judicial independence by the Global Competitiveness Index report 2015-2016.

Topics	DB 2016 Rank	DB 2015 Rank	Change in Rank
Enforcing Contracts	98	98	No change

Bankruptcy

Resolving insolvency in Ukraine takes 2.9 years on average and costs 42.0 percent of the debtor’s estate, with the most likely outcome being that the company will be sold in a piecemeal sale. The average recovery rate is 8.3 cents on the dollar. Ukraine’s total score on the strength of insolvency framework index is 8.5 out of 16. Globally, Ukraine stands at 141, improving by one level compared to last year, in the ranking of 189 economies on the ease of resolving insolvency. 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. The relevant laws pertaining to bankruptcy are:

- The Law on Bankruptcy dated May 14, 1992
- The Law No. 1255-IV on Securing Creditors' Claims and Registration of Encumbrances (summary in English)

Investment Disputes

Post has noticed a pattern of claims related to tax (including VAT), customs and corporate raiding. Prosecutors are often involved with groundlessly registering criminal cases against one side of disputes. Another common scheme involves prosecutors initiating a baseless criminal proceeding against businesspeople, leading to searches and other actions that disrupt his or her business processes until bribes are paid. Civil society is actively involved in combatting and protesting against corruption and corporate raiding, although unfortunately there are still cases of criminal investigations against activists fighting corruption and corporate raiding.

International Arbitration

Indicators	Country Score	Regional Average	Global Average
Strength of laws index (0-100)	86.6	82.5	85.2
Ease of process index (0-100)	78.1	69.7	70.6
Extent of judicial assistance index (0-100)	72.6	64.4	57.9

The International Commercial Arbitration Law (ICAL, 1994) applies to international arbitration and the Law on Courts of Arbitration (2004) applies to domestic arbitration. A distinctive feature of ICAL is that it incorporates the regulations of two arbitral institutions. The Statutes of the International Commercial Arbitration Court and the Maritime Arbitration Commission at the Ukrainian Chamber of Commerce and Industry are annexed to ICAL. ICAL distributes the functions of arbitration assistance and supervision between the district courts and the President of the Chamber of Commerce and Industry of Ukraine for both ad hoc and institutional arbitrations.

The following commercial disputes cannot be resolved by domestic arbitration: disputes based on commercial contracts, those connected with fulfillment of state demands, disputes involving state secrets, bankruptcy disputes, disputes involving a party exercising state power, disputes over immovable property, intracompany disputes, disputes involving a nonresident party, and disputes in which a judgment of the arbitration court would require the execution of state power by an authorized body. ICAL limits the jurisdiction of international arbitration tribunals to civil law disputes arising from international economic operations (provided that the commercial enterprise of at least one party exists outside of Ukraine), disputes between international organizations and enterprises with foreign investments in Ukraine, and intracompany disputes of these enterprises. Arbitrators in domestic arbitrations must have a higher legal education, which is not required in international arbitrations. On average, it takes around seven weeks to enforce an arbitration award rendered in Ukraine, from filing an application to a writ of execution attaching assets (assuming there is no appeal). It takes roughly 13 weeks to enforce a foreign award.

The principal laws governing international arbitration are:

- Law "On International Commercial Arbitration" of February 24, 1994;
- Statutes of International Commercial Arbitration Court and the Maritime Arbitration Commission at the Ukrainian Chamber of Commerce and Industry, respectively annexed to the Law on I

References:

- www.rada.gov.ua(in Ukrainian)
- www.ucci.org.ua/en/arb.html(in English)
- www.nau.kiev.ua

ICSID Convention and New York Convention

The Government of Ukraine submitted a formal UN communication on October 20, 2015, the text of which can be found here: C.N.597.2015.TREATIES-XXII.1 of 20 October 2015.

Duration of Dispute Resolution – Local Courts

The length of litigation varies on case-by-case basis. Investment and commercial dispute proceedings at the local level generally take from one to six months to reach the resolution stage. In general litigation takes from one to four years, but has seen some litigation cases stretch as long as 10 years. Despite the fact that international arbitration is mandatory for consideration, not all judges recognize international arbitration rulings in practice. Court rulings on commercial disputes are usually followed by subsequent enforcement.

5. Performance Requirements and Investment Incentives

WTO Agreement on Trade-Related Investment Measures (TRIMs)

There are no current performance requirements or incentives, except for those made as part of privatization agreements. While negotiating its WTO accession, Ukraine eliminated measures that conflicted with the WTO Agreement on Trade-Related Investment Measures (TRIMs) in the automobile industry and other sectors. However, subsequently Ukraine imposed several safeguard duties on car imports, which Japan challenged in the WTO. The dispute settlement body concluded that Ukraine has broken as many as 10 global trading rules and should rescind the duties; the GoU lifted the automobile duties September 2015.

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. From January 1, 2013, through January 1, 2018, Ukraine provides a 0 percent Corporate Profit Tax (CPT) on income from projects resulting in job creation in qualifying industries, including high-tech, eco-friendly, and 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 law in order 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, well-connected oligarchs; it is widely expected to be eliminated by January 2017. However, Members of the Verkhovna Rada’s Energy Committee are considering legislation that would extend the decreased solar energy tariff through 2030, when the green tariff itself is set to expire, and are justifying the extension with an estimated $85 million a year in savings in the solar sector alone. 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 considered 'strategic': 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 trade and sale of agriculturally-zoned land is also banned, forcing many investors to use long-term (49-year) leases instead. The Cabinet of Ministers published a 2016 Action Plan that indicates the postponement of sales of state-owned land is likely to be extended until January 1, 2017, and privately owned land until January 1, 2019. While not binding, the action plan is a strong indication the GoU considers transparent land sales to be a few years off. The Land Cadaster agency responsible for technical implementation is working from this timeline.

Data Storage

Ukraine has no forced localization policies or requirements for foreign 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 widespread even the government.

6. Protection of Property Rights

Real Property

Ukraine has a regulatory framework protecting the interests in property, as well as mortgages and liens. The record system is generally reliable and maintained by the Ministry of Justice. Still, judicial reform is needed to ensure efficient enforcement of property rights. The Land Cadaster Law of July 2012 provided for a single land registry; its 2013 launch marked an improvement in land ownership protection. According to the Ministry of Agrarian Policy, the Land Cadaster is only 20 percent utilized and the Ministry has started a comprehensive land audit. 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 WB Ease of Doing Business ratings from #64 in 2015 to #61 in 2016. In an effort to increase protection of shareholders' rights, in May 2015, the Parliament approved 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 represent interests of minority shareholders in the public joint stock companies.

Intellectual Property Rights

Ukraine was designated Priority Foreign Country in 2013 in USTR's Special 301 Report due to the lack of progress in the issues outlined below. USTR changed Ukraine's designation in the 2015 Special 301 report to the Priority Watch List – an improvement. While the GoU has demonstrated some limited progress in IPR reforms to date, Ukraine continues to have serious IPR challenges. For example, Ukraine is host to some of the largest Internet pirate sites in the world. Further, a number of rogue collecting societies continue to freely operate in Ukraine, collecting royalties but not distributing those royalties to any legitimate rights holders. Industry representatives estimate that the majority of broadcast and public performance market places are unlicensed. In addition to digital piracy, Ukraine's many open-air markets continue to sell illegally copied music, films, and entertainment software. In the area of software piracy, the GoU has begun limited efforts to license the business software it uses, but admits that 40 to 80 percent of the software used in government ministries and enterprises remains unlicensed.

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 sufficient funds that they collect to the rights holders entitled to the royalties. The government has not prosecuted anyone – not even societies that the Government of Ukraine determined were collecting money without the necessary authorization. The number of rogue organizations increased in 2014 to 19; however, in 2015 the GoU reported the shutdown of a single rogue CMO and a second one in January 2016. Further, the GoU has reportedly suspended two more CMOs in February 2016 pending investigation. Despite these advancements, 15 rogue CMOs continue to operate in Ukraine, collecting royalties without distributing any of those royalties to legitimate rights holders. Finally, the MPAA estimates that more than 90 percent of Ukraine's broadcast and public performance market places are unlicensed. GoU officials, however, say that this is because broadcasters do not pay into the current corrupt system of royalty collections.

Software Piracy: The Government of Ukraine acknowledges that a significant percentage of the software used by the government itself is unlicensed. The most recent industry data identify Ukraine as having a higher software piracy rate than almost all other countries on the Special 301 Priority Watch List. Ukraine acknowledges the need for the government to use legal software, and has issued repeated official documents calling for such legalization as far back as 2002. In general, the situation in Ukraine remains challenging with minor progress. GoU officials report an incremental legalization of software among a number of agencies and services in the past year amounting to the legalization of approximately 20,000 systems.

Internet Piracy: The United States has repeatedly raised its strong concerns about the significant and growing piracy of copyrighted content. Online piracy has significant consequences for both the Ukrainian market and for international trade. Ukraine has been working on a draft Internet Piracy Law without progress. There was not a single online piracy-related conviction in Ukraine in 2015 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 readily available. Counterfeit apparel is common. Most counterfeit goods are not produced in Ukraine. The amount of counterfeit pesticides on the market continues to increase, now accounting for a significant percentage of the market, according to industry. Industry has reported that criminal prosecutions for counterfeiting crimes are stalled and ineffective, and that seized goods are not disposed of or released in a timely manner. Additionally, large amounts of counterfeit products and pirated goods are still openly sold in physical markets in Ukraine. Finally, patents for plants have also recently come under threat – specifically, industry representatives have reported alleged breeder rights infringement for illicitly appropriated plant materials found in Ukraine.

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.

Resources for Rights Holders:

Contact at Mission:

- Michelle Hoyt, Economic Officer
- U.S. Department of State
- U.S. Embassy Kyiv, Ukraine
- Tel: +380 (44) 521-5307
- Email: HoytML@state.gov

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 • Horizon Park Business Center • 12 Amosova Street, 15 Floor • Kyiv, 03680, Ukraine • T: +38-044-490-5800	• U.S.-Ukraine Business Council (USUBC) • 4-A Baseyna St. • Mandarin Plaza, 8th Floor • Kyiv 01004 Ukraine • Tel. +38 (050) 358 2681 • ldudnyk@usubc.org

• F: +38-044-490-5801 • E-mail: chamber@chamber.ua	

7. 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 is implementing the EU Association Agreement and plans to implement 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). Various laws remain ambiguous or contradictory, which further complicates matters. Legislative initiatives and Draft Laws 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., nevertheless not all of the proposed regulations are made public and available for viewing before their enactment.

Draft legislation and proposed regulations are available through public consultation process. NGOs, business associations, international business associations such as American Chamber of Commerce and the European Business Association are able to provide their feedback and amendments proposals to draft legislation and regulations.

Ukraine is moving in the direction of transparent policies and clear rules and enhancing fair competition. Improvements include implementation and utilization of the Prozorro system for government procurement, and the introduction of E-Governance.

Post has no record of discrimination against U.S. investors in comparison with other foreign investors.

Ukraine's Global Competitiveness index reached 79 of 140 countries according to the World Economic Forum's 2015/2016 Global Competitiveness Index. Ukraine ranked 87 of 140 in terms of burden of Government regulation and 98 of 140 in terms of Transparency of Government policy making according to the World Economic Forum's 2015/2016 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, an inefficient legal framework in settling disputes and challenging regulations, poor ethical behavior of firms, and weak auditing and reporting standards.

8. 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 42.8 percent of total capital in the banking sector as of February 2016. In absolute terms, the banking sector is still fairly small, and highly concentrated: the top 20 Ukrainian banks control 82 percent of assets in the system. Total bank assets in Ukraine are about $54 billion, with total loan assets of $41 billion as of February 2016, 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 2014-2015 and has set up the schedule of required recapitalizations by banks. The NBU has made progress in taking 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 needs to register a representative office in Ukraine. A nonresident private person can open a bank account in Ukraine.

The capital market for portfolio investment is slim and lacks sufficient liquidity. The local institutional investment sector, including private pension investment, is fragile. A foreign investor needs to open a bank account in a bank operating in Ukraine or act via a local trader in order to make portfolio investment. With its September 2014 resolution, the NBU temporarily banned the transfer of receipts from the sale of securities of Ukrainian issuers into foreign currency, with the exception of securities traded at stock exchanges. The measure is to expire in June 2016. Ukraine has 10 operational privately-owned stock exchanges, with the largest trade volumes conducted at four major exchanges. These exchanges operate largely in compliance with international best practices, and there is increasing competition in the sector. 87.1 percent of securities trading at Ukraine's exchanges were transactions with government bonds and 4.6 percent corporate bonds. 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

Money and Banking System, Hostile Takeovers

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

9. Competition from State-Owned Enterprises (SOEs)

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 3,340 business entities, of which only 1,829 are operating companies. The SOEs, which are defined as companies in which the state owns at least 50 percent +1 share, employ 900,000 people. SOEs are active in areas such as energy, machine-building and infrastructure, with such companies as producer of energy turbines Turboatom, energy generator Centerenergo and energy company Naftogaz, which, along with its subsidiaries - domestic oil producer Ukrnafta and UkrGasVydubuvannia (UGV) - holds substantial shares of their respective markets. Each Ministry publishes the list of SOEs under its management. The sector is inefficient and often unprofitable. The SOEs incurred net losses of about $9 billion in 2014. In 2015, the government identified the largest 100 companies and developed a schedule of independent audits for them. On February 18, 2016 the Parliament approved the "Legislative Amendments to Improve Management of

State-owned Entities," which increases corporate governance standards for SOEs, provides for mandatory independent audit of SOEs, and requires publishing of its results.

SOEs purchase and supply goods and services to private firms, including foreign firms. SOEs' procurement became more transparent following the April 2014 amendments to the procurement legislation, which obliged SOEs to follow procurement regulations. On March 16, 2016, Ukraine ratified the WTO Government Procurement Agreement. The majority of SOEs rely on government subsidies to function, 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 heavily subsidized its state-owned enterprises (especially in the coal mining, rail transportation, gas and communal heating sectors) and has supported debts of many SOEs with sovereign loans guarantees to keep them operating. In 2014 and 2015 the government improved the budget discipline of the SOEs. SOE access to extension of tax payment deadlines remains nontransparent especially in cases when SOEs are directed to sell their products at below-market prices. The Government of 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 the IMF program, the government raised gas tariffs to 100 percent cost recovery levels on May 1, 2016 and continues to work towards the unbundling of Naftogaz in order to increase transparency of the company and meet the Energy Community's Third Energy Package requirements. In general, the new government is developing a strategic plan to privatize up to 380 SOE's.

Research and development are practically non-existent in the energy sector. The state-run nuclear, hydroelectric, and extractive industries operate at a loss, with any potential profits siphoned off through corruption schemes, so little 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, especially on transparency. The new government has taken important steps to increase transparency of SOEs and improve their governance. On March 4, 2015, President Poroshenko signed a law requiring SOEs to publicize reports on use of budget funding. As part of the efforts to reform Naftogaz, the Government of Ukraine has conducted an audit of Naftogaz.

In order to increase transparency of SOE management, the Government of Ukraine launched competitive procedures to hire managers for the 60 largest state-owned companies in Ukraine. An interagency commission comprising representatives from five ministries will 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 and is yet to be completed. 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 of 50 percent+1 share in a company to call shareholders meetings. This will allow the state increase managerial control over certain SOEs, where private minority shareholders were able to gain managerial control, 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.

10. Responsible Business Conduct

Corporate Social Responsibility has not yet taken hold in the mind of the consumer and is just beginning to gain ground among producers in the country. International companies continue to be its strongest proponents within Ukraine and have made efforts to spread ideas of responsible business conduct over to their Ukrainian affiliates. The American Chamber of Commerce, the East Europe Foundation, the U.N. Global Compact Initiative, and other NGOs have educated Ukrainian companies about the potential long-term benefits of CSR as they relate to positive exposure for a company. ACC has cited lack of interest from the business community and a commercial environment in Ukraine beleaguered with other investment difficulties.

The GoU has not begun to develop any national policy on Corporate Social Responsibility (CSR) that would define minimal standards on environment and labor.

OECD Guidelines for Multinational Enterprises

Ukraine does not adhere to generally accepted CSR principles such the OECD Guidelines for Multinational Enterprises.

11. Political Violence

Large-scale political protests beginning in 2013 across Ukraine culminated in President Yanukovych abandoning Kyiv and his responsibilities and 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 implementation of the economic component in January 2016.

The conflict between the Ukrainian government and Russian-backed separatists in Donetsk and Luhansk oblasts continued in 2015. Since the signing of the Minsk II agreement in February 2015, the overall level of violence has diminished. However, ceasefire violations continue, resulting in civilian and military casualties. Individuals in separatist controlled territories are subject to political violence at the hands of so-called authorities. There are also reports of violence at the hands of Ukrainian authorities. Ukraine lacks control over its border in parts of Donetsk and Luhansk, allowing for the free flow of soldiers and weapons from Russia. Russia continues its illegal occupation of the Autonomous Republic of Crimea and the City of Sevastopol.

There are sporadic acts of violence directed against minorities, including ethnic, religious and LGBTI throughout Ukraine. There have been occasional acts of political violence. On February 22, 2016 a bomb exploded at a march in Kharkiv, killing four persons. In August 2015, a grenade attack at Parliament killed three National Guard soldiers were killed and wounded more than 100.

12. Corruption

The largest impediment to fighting corruption is a dearth of prosecutions. In October 2014, the Parliament passed a package of anti-corruption bills. These bills included the creation of a National Anti-Corruption Bureau focused on corruption prosecution, entrusted with corruption prevention, approval of a national anti-corruption strategy, a legislative basis for the prevention of money laundering, as well as mandating the disclosure of asset ownership for public officials. The last example extends to family members of government officials as well The National Anti-Corruption Bureau and the Anti-Corruption Prosecutor started operations in 2015. The Anti-Corruption Prosecutor is currently working on more than 40 cases of high level corruption in Ukraine.

GoU formed the National Agency for the Prevention of Corruption (NAPC) in 2015. The main task of the NAPC for 2016 is to implement an electronic property declaration form for civil servants. On March 15, 2016, the Parliament approved the legislative amendments to oblige government officials to file electronic declarations and introduced criminal responsibility for providing false information. As of February 2015, Ukraine also has an e-procurement system that improves transparency in public spending and is intended to reduce corruption by eliminating the human factor from the tender process. In March 2015, the Parliament passed a law to simplify the startup and conduct of entrepreneurial activities and cancel the licensing of activities that have an adequate level of government regulation and oversight, which has potentially significant implications for anti-corruption and improving the investment climate.

The Law on Corruption Prevention adopted by the Parliament in October 2014 provides for corruption prevention measures to be performed by private companies. In particular, the law sets requirements with regard to Anti-Corruption Programs and Codes of Conduct in companies that take part in government procurement tenders or where the government owns more than 50 percent of the shares. The law also requires appointment of compliance officers in such companies.

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 and Second Rounds of Evaluation of Ukraine and published its report in 2007. A Third Round Evaluation Report was published in 2011. The fourth evaluation was launched in 2012.

In early 2016, the prominent NGO [Anti-corruption Action Center] has been targeted by the Prosecutor General's Office, which received a court warrant to search its office and access all banking information under the guise of a criminal case. The new Prosecutor General has been appointed in May of 2016.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Ukraine also 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

National Anti-Corruption Bureau only just established by law October 2014 will be the appropriate resource for the reporting of corruption.

GoU contact for combating corruption:

- Mr. Artem Sytnyk, Director
- National Anti-Corruption Bureau
- 3, Vasyl Surikov St, Kyiv, Ukraine 03035
- Hot-line: 0-800-503-200

info@nabu.gov.ua or electronic form for corruption reporting http://nabu.gov.ua/povidomlennya-pro-kryminalne-pravoporushennya

Contact at "watchdog" organization:

- Mr. Oleksii Khmara
- Executive Director
- Transparency International Ukraine
- 40 Yegorov Str. of.203; Kirovograd, Ukraine 25006
- +38(044) 360-52-42
- info@ti-ukraine.org

13. Bilateral Investment Agreements

Bilateral Taxation Treaties

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), Japan (2015)

14. 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. Finally, in January 2016 the GoU imposed a ban on trade with Crimea making the functioning of a FEZ null and void.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

According to UkrStat official data, as of January 1, 2016, the total stock of FDI in Ukraine was $43.371 billion or approximately $1,072 per capita, representing a 29.6 percent decrease (or $5.246 billion decrease, including $-5.024 billion caused by the devaluation).

FDI by Country

In 2015, Ukraine's major investors that account for 83 percent of investments included: Cyprus (30 percent of FDI), the Netherlands (12.9 percent), Germany (12.5 percent), Russian Federation (7.8 percent), Austria (5.5 percent), the United Kingdom (4.3 percent), the British Virgin Islands (4.1 percent), France (3.5 percent), Switzerland (3.1 percent), and Italy (2.2 percent). U.S. investment comprised 1.6 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

30.6 percent of FDI in Ukraine goes to industry: 12.2 percent steel industry, 5.6 percent food processing and tobacco industries; 2.9 percent natural resources; 1.7 percent chemical industry; and 1.9 percent machine-building industries. 27.3 percent of FDI is in the financial sector, 13.0 percent in trade and auto repairs, and 8.0 percent in the real estate sector.

FDI from Ukraine

As of January 1, 2015, Ukraine's FDI to other countries equaled almost $6.21 billion. 93.7 percent of Ukrainian investment ($5.817 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, 2015, $91.2 billion (-31 percent)

GDP, 2014 $131.8 billion (-28 percent)

GDP, 2013 $182 billion (+3 percent)

GDP per capita 2015 $2,081 (-29 percent)

GDP per capita, 2014 $2,964 (-24 percent)

GDP per capita, 2013 $3,900 (+4 percent)

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

	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)	2015	$91.2 bln	2015	$118 bln	http://www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	2015	$698.9		n/a	BEA data available at http://bea.gov/international/direct_investment_multinational_ companies_comprehensive_data.htm

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(U.S. Dollars, Millions)*					
Inward Direct Investment			Outward Direct Investment		
	$ mln	100%	Total Outward	$, mln	100%
Cyprus	11744.9	27.1%	Cyprus	5817.6	93.7%

Netherlands	5610.7	12.9%	Russia	112.8	2.0%
Germany	5414.3	12.5%	Latvia	69.8	1.1%
Russia	3392.1	7.8 %	Virgin Isl.	51.3	0.8%
Austria	2402.4	5.5%	Poland	50.1	0.7%
"0" reflects amounts rounded to +/- USD 500,000.					

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets, June 2015								
Top Five Partners (Millions, U.S. Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	190	100%	All Countries	69	100%	All Countries	121	100%
Cyprus	66	35%	USA	64	94%	Cyprus	66	55%
USA	64	34%	Russia	1	2%	United Kingdom	34	28%
United Kingdom	34	18%	Latvia	0	0%	Netherlands	21	17%
Netherlands	21	11%						
Latvia	0	0%						

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments]

Legal system:

civil law system; judicial review of legislative acts

International organization participation:

Australia Group, BSEC, CBSS (observer), CD, CE, CEI, CICA (observer), CIS (participating member, has not signed the 1993 CIS charter although it participates in meetings), EAEC (observer), EAPC, EBRD, FAO, GCTU, GUAM, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITU, ITUC (NGOs), LAIA (observer), MIGA, MONUSCO, NAM (observer), NSG, OAS (observer), OIF (observer), OPCW, OSCE, PCA, PFP, SELEC (observer), UN, UNCTAD, UNESCO, UNIDO, UNMIL, UNMISS, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO, ZC

Section 6 - Tax

Exchange control

Currency operations that take place in Ukraine fall under state currency control regulations, a key feature of which is the concept of residency.

Only local currency (UAH) may be used in business transactions between residents. Residents and non-residents involved in international trade and investment transactions generally use a foreign currency.

Foreign currency proceeds received by a company from its foreign clients must be credited to a local bank account within 180 days of the export date of the services or goods (this is reduced to 90 days for a temporary period of six months from 19 November 2012). Failure to comply with this provision will result in the Ukrainian company being liable to pay a penalty of 0.3% of the proceeds for each day of the delay.

Goods must be imported into Ukraine within 180 days of prepayments being made by a Ukrainian company to its suppliers (this is reduced to 90 days for a temporary period of six months from 19 November 2012). Failure to comply with this provision will result in the Ukrainian company being liable to pay a penalty of 0.3% of the cost for each day of the delay.

Certain other transactions involving local and foreign currencies are subject to licensing by the National Bank of Ukraine (e.g. settlements made in a foreign currency on Ukrainian territory). Ukrainian residents are also required to obtain an individual license to make investments abroad.

For a temporary period of six months from 19 November 2012 all entities are required to sell at least 50 % of income they receive in specified foreign currencies (US Dollars, Euros, British Pounds and Swiss Francs), precious metals and Russian roubles.

Treaty and non-treaty withholding tax rates

As of December 2012, Ukraine has up to 70 double tax treaties in effect. Withholding taxes on interest, dividends and royalties are typically reduced by the treaties. A summary of withholding rates under the various treaties is provided in the table below.

Taxpayers do not require confirmation from the tax authorities before claiming relief under a treaty. However, the withholding agent must hold a certificate of residence from the treaty country for the person to whom income is paid. The certificate should be provided to the tax authorities no less than once every two years.

In addition to the above, the Tax Code requires the recipient of all types of income from Ukraine to be the beneficial owner (actual recipient) of the respective income. Agents, nominee holders and other intermediaries in respect of the received income cannot be beneficial owners of income sourced in Ukraine, and, therefore, are not entitled to favourable treaty provisions.

Country	Dividends (%)		Interest (2)	Royalties (3)
	Non-portfolio (1)	Portfolio	(%)	(%)
Domestic rates:				
Non-resident individuals	15	15	5/15 (4)	15
Non-resident corporations	15	15	15	15
Treaty rates:				
Algeria	5	15	10	10
Armenia	5	15	10	0
Austria	5	10	2/5 (5)	0/5
Azerbaijan	10	10	10	10
Belarus	15	15	10	15
Belgium	5	15	2/10 (5)	0/10
Brazil	10	15	15	15
Bulgaria	5	15	10	10
Canada	5	15	10	0/10
China (PRC)	5	10	10	10
Croatia	5	10	10	10
Cyprus (6)	0	0	0	0
Czech Republic	5	15	5	10
Denmark	5	15	0/10 (7)	0/10
Egypt	12	12	12	12
Estonia	5	15	10	10
Finland	0/5 (8)	15	5/10 (7)	0/5/10
France	0/5 (9)	15	2/10 (5)	0/5/10
Georgia	5	10	10	10
Germany	5	10	2/5 (5)	0/5
Greece	5	10	10	10
Hungary	5	15	10	5
Iceland	5	15	10	10
India	10	15	10	10
Indonesia	10	15	10	10
Iran	10	10	10	10
Israel	5/10	15	5/10 (10)	10
Italy	5	15	10	7
Japan (6)	15	15	10	0/10
Jordan	10	15	10	10
Kazakhstan	5	15	10	10
Korea (ROK)	5	15	5	5
Kuwait	5	5	0	10
Kyrgyzstan	5	15	10	10

Country	Dividends (%)		Interest (2)	Royalties (3)
	Non-portfolio (1)	Portfolio	(%)	(%)
Latvia	5	15	10	10
Lebanon	5	15	10	10
Libya	5	15	10	10
Lithuania	5	15	10	10
Macedonia	5	15	10	10
Malaysia (6)	15	15	15	10/15
Mexico	5	15	10	10
Moldova	5	15	10	10
Mongolia	10	10	10	10
Montenegro	5	10	10	10
Morocco	10	10	10	10
Netherlands	0/5 (11)	15	2/10 (5)	0 / 10
Norway	5	15	10	5 / 10
Pakistan	10	15	10	10
Poland	5	15	10	10
Portugal	10/15 (12)	15	10	10
Romania	10	15	10	10/15
Russia	5 (3)	15	10	10
Saudi Arabia	5	15	10	10
Serbia	5	10	10	10
Singapore	5	15	10	7.5
Slovak Republic	10	10	10	10
Slovenia	5	15	5	5 / 10
South Africa	5	15	10	10
Spain (6)	15	15	0	0/5
Sweden	0/5 (14)	10	0/10 (5)	0/10
Switzerland	5	15	0/10 (5)	0/10
Syria	10	10	10	15
Tajikistan	10	10	10	10
Thailand	10	15	10/15 (10)	15
Turkey	10	15	10	10
Turkmenistan	10	10	10	10
United Arab Emirates	5	15	3	0/10
United Kingdom	5	10	0	0 (15)
USA	5	15	0	10
Uzbekistan	10	10	10	10
Vietnam	10	10	10	10

(1) The ownership threshold for the non-portfolio rate is 10%, 20%, 25% or 50%, depending on the specific provisions in the treaty.

(2) Several treaties contain a rate of 0% on interest paid to or guaranteed by a government or one of its agencies.

(3) If more than one rate is shown, this means that the rate will depend on the type of royalties paid.

(4) The lower rate applies to interest on current or deposit bank accounts, certificates of deposit, contributions to a credit union, and participatory and fixed-yield mortgage certificates.

(5) The lower rate applies to interest paid on certain credit sales, and on loans granted by a financial institution.

(6) The treaties with Cyprus, Japan, Malaysia and Spain were entered into by the USSR before it dissolved. Ukraine will continue to honour these treaties, unless they are superseded.

(7) The lower rate applies to interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment, unless the indebtedness is between associated enterprises.

(8) The 0% rate applies if the investor holds at least 50% of the capital of the company paying the dividends and the capital invested is at least USD 1,000,000; the payer of dividend should not operate in the field of gambling, show business or intermediation business, or auctions.

(9) The 0% rate will apply if a French company or companies hold directly or indirectly at least 50% of the capital of the Ukrainian company, and the aggregate investments exceeds 5 million French francs.

(10) The lower rate applies to interest paid on any loan granted by a bank.

(11) The 0% rate applies if the investor holds directly at least 50% of the capital of the company paying the dividends, and the capital invested is at least USD 300,000.

(12) The 10% rate applies if the company receiving the dividend has, for an uninterrupted period of two years before the dividend is paid, owned at least 25% of the capital stock of the company paying the dividends.

(13) The 5% rate applies if the capital invested is at least USD 50,000.

(14) The 0% rate applies if the Swedish company holds directly at least 25% of the voting power of the company paying the dividends, and at least 50% of the Swedish company is held by Swedish residents.

(15) The 0% rate applies only if the royalties are taxable in the United Kingdom.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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