



## Doing Business in Ukraine: 2011 Country

### Commercial Guide for U.S. Companies

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## Chapter 1: Doing Business in Ukraine

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### Market Overview

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Ukraine has it all, proven resources (the good), trade barriers (the bad) and corruption (the ugly). In spite of the challenges to doing business in Ukraine – foreign companies are in the market – small, medium and large companies all recognize the vast potential of the Ukrainian market. Many have been doing business in Ukraine for more than 15 years.

As the 2<sup>nd</sup> largest country in Europe, Ukraine is sitting at a cross roads, and is potentially the richest country in terms of resources, in all of Europe - across the board.

- Land area of 233,000 sq/miles, 53% of which is arable black soil that has yet to even approach full agricultural production capacity.
- Diverse mineral resources in quantity such as iron ore, coal, manganese, natural gas, oil, salt, sulfur, graphite, titanium, magnesium, kaolin, nickel and mercury.
- Established industrial development in the coal, electric power, ferrous and non-ferrous metals industries; machinery and transport equipment, chemicals and food processing industries.
- Human resources – a population of approximately 46 million, with a literacy rate of 99.7% where most adults have a secondary or higher education.
- Ukraine is also a member of the WTO since 2008 – a clear indicator that Ukraine intends to be part of the international business community.

Unfortunately, Ukraine inherited a Soviet style bureaucracy that has stifled economic development and stymied the best efforts of three successive governments (since independence) to stimulate economic development. Add to the mix corruption that is so entrenched, it's impossible to tell where the government ends and the corruption begins.

Following the world financial crisis in 2008-2009, Ukraine's economy contracted by 15%. In 2010, external demand is beginning to fuel a recovery, despite policy-related risks and concerns about fiscal policy. Unpredictability, the lack of transparency and persistent corruption inhibits investment, but U.S. and other foreign companies continue to enter the market. In 2010 the American Chamber of Commerce in Ukraine (ACC) welcomed 119 new members, the U.S.-Ukraine Business Council (USUBC) added 40 more. Although some of these firms were not new to the Ukrainian market, their decision to join these organizations was evidence of their commitment to remaining in the market.

U.S. companies in Ukraine are performing well. They are continuing to invest, albeit at relatively conservative levels, with a watchful eye on amendments to existing and new legislation designed to increase State revenues and to improve the business and investment climate – the unpredictability factor. Most U.S. companies are actively involved in the ACC and the USUBC who both actively engage the Government of Ukraine (GOU) on issues affecting the business and investment environments.

## **Market Challenges**

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There are numerous challenges for foreign companies interested in the Ukrainian market, which are best summarized by the:

- The World Bank's Annual Doing Business Report that lists Ukraine at 145 out of 183 countries for ease of doing business, down from 143 in 2010. For the full report go to: <http://www.doingbusiness.org/data/exploreeconomies/ukraine/>.
- Transparency International's Corruption Perception Index ranks Ukraine at 134 out of 173.
- The 2011 Index of Economic Freedom gives Ukraine a score of 45.8 (equating to "repressed" economically), ranking its economy 164 out of 183. For the full report go to: <http://www.heritage.org/index/Country/Ukraine>

These low scores put Ukraine in last place in Europe (43 countries), below Russia and lower than the world average. The economic crisis did set Ukraine back after years of steady economic growth. However the crisis is not the sole reason for such a low standing internationally. State intervention continues to interfere with private sector development, as does:

- A regulatory infrastructure that is overly burdensome and not remotely transparent.
- An underdeveloped financial sector.
- A bureaucratic legal and regulatory system.
- Poor rule of law enforcement which encourages seeking arbitration outside Ukraine.
- IPR and Trademark infringement is commonplace.
- Unpredictability- the Grain Quota and routine Customs re-evaluation of imports are a couple of examples.
- Widespread corruption in the public and private sectors.

## **Market Opportunities**

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Market opportunities are most often inspired by an out of the ordinary need, for instance: the Euro-2012 Football Championship to be co-hosted by Ukraine and Poland in June 2012. This event has inspired the Government of Ukraine to identify

the following opportunities in order to comply with the UEFA requirements for host countries:

- Airport and ground handling equipment.
- Security equipment and management services.
- Creation of national emergency response system (aka. 911 call center).

Ukraine's agriculture sector -- which has yet to approach its potential -- has the natural resources to play a dominate role in improving the global food security situation. The GOU estimates that achieving this goal will require major purchases of:

- Modern agricultural machinery.
- Modern grain storage and cold chain systems.
- Food processing and packaging equipment and technologies.

To deflect the impact of importing expensive energy to supply and enhance energy security needs and to improve energy efficiency, the GOU intends to:

- Implement a large-scale energy efficiency program in both the industrial and consumer sectors.
- Modernize thermal and hydro power generation capabilities.
- Open up off-shore energy opportunities.
- Begin unconventional gas exploration.
- Utilize wind and solar power generation.

The National Projects for Ukraine are priorities of the Government of Ukraine. (Note: funding to be identified):

- Construction of an LNG Terminal on the Black Sea. (Note: the tender for this feasibility study was announced in Feb 2010.)
- Construction and management of solid waste treatment plants in 10 Ukrainian cities.
- Power of Energy -Developing alternative energy sources such as wind and solar power plants.
- Open World - Providing 1.5 million net-books for Ukrainian school students.
- Clean Water --Providing water purification systems in all Ukrainian cities.
- New Life -- The development of modern neo-natal centers in 27 regions of Ukraine.
- Danube Corridor- The development of multi-modal transportation infrastructure in the Danube delta area.
- Olympic Hope --The development of winter sports infrastructure in Western Ukraine.
- Affordable Housing -- Building new, affordable housing in major cities.

First, schedule a meeting with the U.S. Commercial Service office in Kyiv, Ukraine to take advantage of our business counseling services. Second, schedule a meeting with the ACC to learn about the experience of U.S. companies already on the ground doing business in Ukraine. Keep in mind:

- Ukraine is not a market for first time exporters.
- Beware of corruption in the guise of facilitation
- If you have concerns about protecting your intellectual property – this may not be the market for you at this time.
- Due diligence is essential
- Engaging local legal counsel is highly recommended

Depending upon your business plan/model you can successfully mitigate risks. The unpredictability factor is more difficult to deal with – it requires a great deal patience and determination to resolve issues created sometimes unintentionally due to GOU intervention. See Chapter 3: Selling U.S. Products and Services for specific information about using an agent or distributor, establishing an office, joint venture licensing, etc.

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## Chapter 2: Political and Economic Environment

For background information on the political and economic environment of the country, please click on the link below to the U.S. Department of State Background Notes.

<http://www.state.gov/r/pa/ei/bgn/3211.htm>

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### Using an Agent or Distributor

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A Ukrainian business is based on personal relationships. In an economy where rule of law is not yet firmly established, the quality and depth of key business relationships are often your best protection against loss, and your key to market access.

Selection of a local partner (or partners) is probably the most important decision your company will make in its market entry. It is potentially one of the riskiest decisions if you have not conducted due diligence. There have been numerous cases in which foreign companies have found themselves defrauded, or their assets taken over by disruptive local partners. Exercising due diligence can help you avoid, mitigate a great deal of risk.

Kyiv is not the only hub of trade in Ukraine. Look for distributors that have nationwide capabilities, including those located in the cities of Dnipropetrovsk, Donetsk, Lviv, Odessa, Zaporizhzhya, and Kharkiv. These regions are considered important industrial centers in Ukraine and are densely populated. We strongly advise against covering the Ukrainian market from regional offices in other countries. Ukrainians prefer to deal directly with local agents or representatives. On-the-ground presence is crucial to business development here.

To find a potential partner, we recommend the U.S. Embassy's Commercial Service Kyiv -International Partner Search and Gold Key programs to conduct initial screening of potential partners, agents or representatives. Interested companies may also want to participate in a Product Literature Center and Catalog Show organized by CS Kyiv at

major Ukrainian exhibitions. For more details please refer to <http://www.buyusa.gov/ukraine/en/8.html>.

## Establishing an Office

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A foreign company interested in starting a business in Ukraine has the option of forming a joint stock company, a limited liability company, a wholly-owned subsidiary, or a representative office. For regulatory and taxation purposes, representative offices are treated as independent legal entities, with some exceptions. A representative office can carry out marketing, promotional, and other auxiliary functions. The establishment of a wholly-owned company in Ukraine is recommended if the company intends to carry out manufacturing or other significant local commercial activities. A foreign legal entity may have both a representative office and a wholly-owned subsidiary.

The registration of local offices of foreign companies is handled by the Department of Bilateral Trade and Economic Cooperation within the Ministry of Economic Development and Trade (8, Lvivska square, Kyiv, Phone: +380 044 272-55-79). The process can take up to 60 days following submission of all the required documents and upon payment of the \$2,500 fee. For more details go to:

[http://www.me.gov.ua/control/en/publish/article/info\\_boxes?art\\_id=154153&cat\\_id=154151](http://www.me.gov.ua/control/en/publish/article/info_boxes?art_id=154153&cat_id=154151).

To register a representative office of a foreign business entity, you must submit the following documentation:

- An application for registration of a representative office in free form;
- An extract from the trade (banking) register of the country, where the foreign business entity is officially registered;
- A reference from the banking institution, where the applicant's account is officially kept;
- A power of attorney to carry out representative functions issued in accordance with the law of the country where the Head office of the foreign business entity is officially registered.

A full listing of the documents necessary for registration of a representative office can be found at: <http://www.mfa.gov.ua/usa/en/publication/content/16886.htm>. All documents should be certified by a notary at the place of issue and legalized in a consular institution of Ukraine in the United States. See the contact information for the Embassy and Consulate's of Ukraine in the U.S. in the Chapter 9 –Contents.

Upon acceptance of the documents for registration by an official from the Ministry of Economic Development and Trade, the applicant is given the number of an account for payment of the registration fee of \$2,500. We recommend that U.S. companies work with local law firms or business advisory services to ensure a smooth registration process.

U.S. companies can find professional personnel for their Ukrainian operations through a number of experienced recruitment agencies working in Ukraine, local as well as international. See the following link for the Association of Regional Recruiting Agencies of Ukraine (ARKA): <http://www.arka.com.ua/en/>.



Franchising is a relatively new business model in Ukraine; therefore its share in the national retail turnover is still small (below 5% of the retail market). However, it is one of the fastest growing segments. The number of companies operating in the Ukrainian franchising sector has grown dramatically from just 55 in early 2008 to over 680 by January 2011 (Source: <http://franch.biz/franch/franch-stats/>). The 2008-09 economic crises also had a positive impact on the development of franchising in Ukraine, as many companies found franchising a relatively low-cost opportunity for starting a business.

About half of the franchise businesses currently operating in Ukraine are of local origin (321 as of February 1, 2011). The top foreign player in the Ukrainian franchising sector is Russia firms with 158 franchising licenses, followed by the United States (46 licenses or 6.7% of the market). Lviv-based Fast Food Systems (FFS) Group is the largest local franchisor, operating four well known local restaurant brands: Pizza Celentano, Potato House, Yappi Sushi, and Lavazza Punkt.

Franchising in Ukraine has thus far been dominated by companies in the food and restaurant business, retail clothing, accessories and jewelry outlets. However, companies offering business and personal services, schooling and training, beauty and personal care, décor and gift retail, and kiddy play zones rapidly increased in 2010. Domino's Pizza, and Costa Coffee are the most recent international franchise entries into the Ukrainian market, both opened their first locations in Kyiv in late 2010.

The Ukrainian State Committee on Regulatory Policy and Entrepreneurship (<http://www.dkrp.gov.ua/control/en/index>) is the key GOU authority with oversight of franchising. In 2010, the Committee initiated and submitted to the Parliament legislative changes required to create a more favorable legal framework for the development of franchising. At this point, many foreign franchisors still find Ukraine's legislation limiting the development of the franchise industry. The most common mistakes made by international franchisors in Ukraine (that lead to commercial disputes) are the transfer of unregistered intellectual property, or concluding franchising agreements contradictory to Ukrainian law.

The Ukrainian Franchise Development Federation <http://www.triarh.com> collects data, maintains an informative web site, provides basic legal assistance for new-to-market franchisors, co-organizes seminars and organizes an annual trade show. Another important source of useful information is the Ukrainian Franchising Association: <http://www.franchising.org.ua/>.

#### TRADE EVENTS

Brand4Rent 2009 Exhibition (March 23-25, 2011, Kyiv, Ukraine):  
<http://www.pe.com.ua/en/exhibitions/brand4rent/>

International Franchise Expo "Franchising 2011" (February 22-25, 2011, Kyiv, Ukraine):  
<http://franchising.euroindex.ua/indexe.php>

#### RESOURCES

<http://www.franchising.org.ua/>

<http://triarh-franchising.com/index.php?lang=english>  
<http://franch.biz>  
<http://www.top-franchising.com.ua/news/> (Russian-language)  
<http://franchising.ua/> (Ukrainian and Russian languages)

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Direct marketing has had mixed success in Ukraine thus far, and companies should rely on the guidance of their local partner and local advertising firms when deciding on techniques. Direct sales have worked remarkably well in this region for herbal products, cosmetics, and small-scale consumer goods. The top five direct sales companies in Ukraine are: Amway, Avon, Faberlic, Mary Kay, and Oriflame. Telemarketing and direct mail are unlikely to be successful (except in selected niche markets) due to the impersonality of the approach, and the importance Ukrainians place upon personal relationships.

## **Joint Ventures/Licensing**

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Joint ventures between Ukrainian and Western partners became popular after independence. While many of these projects became notable successes, many degenerated into acrimonious business disputes due to the inexperience of both the Ukrainian and Western business partners, as well as weaknesses in the Ukrainian legal system. U.S. companies pursuing this option should employ local legal counsel and seek to structure their entity as an off-shore business organization where international – not Ukrainian – laws apply.

Licensing a product for local manufacture is a viable market entry strategy, but one that has not been widely attempted. Ukrainian manufacturers can often offer low-cost production plus an already established set of customers and distributors both in Ukraine and CIS countries. Protection of Intellectual property remains weak, and even favorable legal rulings are almost impossible to get enforced. U.S. companies should register their trademarks and patents and avoid sharing critical technologies if possible.

The number of regulations, required certificates, and inspection regimes in Ukraine imposes a significant regulatory burden on private enterprise. While the time and costs related to business registration have been reduced, the GOU still requires enterprises to obtain numerous permits to conduct business. The Law "On Permits System in Economic Activity," which entered into force in January 2006, canceled more than half of the required permits and increased the number of locations for obtaining permits six fold. The government also tried to expand "One-stop Registration Shops" that allow new businesses to be registered within two to three days, instead of a month, as in the past. Per new Cabinet orders, there is a silent consent provision for permit applications wherein the permits are automatically approved if there has been no decision made on them, within 30 days of submission. Once these cabinet orders are fully implemented, corrupt officials in multiple agencies/ministries will lose their ability to create additional and unnecessary costs and delays for private businesses.

Ukraine applies both activity and import licensing regimes. The Law "On Licensing Certain Types of Economic Activities" of June 2000 provides a list of activities subject to licensing. The October 22, 2010 amendments canceled licensing requirement for 22 types of economic activities. Still, licensing requirements apply to 56 economic activities and is meant for protection of human, animal or plant health, the environment, public morals, and national security, or for prudential regulation of the financial sector. Businesspeople continue to cite the burdensome activity licensing requirements as an impediment to commerce in Ukraine. Fees are described as high and compliance time excessive.

Import licenses are required for some goods. The list of goods covered by the licensing regime and the license terms are decided annually by the Cabinet of Ministers. As of December 23, 2010, the list included printer's ink, paper with watermarks, optical media production inputs, like optical polycarbonates and optical disc manufacturing equipment, some industrial chemical products, some pharmaceuticals, waxes and shoe polishers, detergents and cleaners, dyes, paints and lacquers, some hygiene and cosmetics products, refrigerators, heat pumps, fire extinguishers, air humidifiers and dryers, arms and personal protection aerosols and ozone-depleting substances.

While the import licenses themselves are granted automatically to applicants, some products require prior approval, (which may or may not be automatic) from the relevant administrative agency before receiving the necessary import license from the Ministry of Economic Development and Trade. For some goods, product certification is a prerequisite for an import license. Importers can request that a foreign facility be certified as in compliance with Ukraine's technical regulations that apply to imports. This option usually involves a burdensome and costly inspection visit by Ukrainian government officials. If approved, the supplier receives a certificate of conformity valid for 2 years to 3 years and avoids the burden of certifying each shipment and mandatory laboratory testing upon arrival in Ukraine.

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Although numerous studies by international organizations indicate that government procurement in Ukraine is one of the most corrupt spheres of state activity, large and increasing levels of international support for the Ukrainian government make Ukrainian government procurement an important export opportunity for U.S. companies. Track the tender announcements of the World Bank, the European Bank for Reconstruction and Development (EBRD); the International Finance Corporation (IFC), and the United Nations Development Program (UNDP) for opportunities. See chapter 9 for links to these organizations.

The presence of a Western tender organizer often makes selling to the government a more transparent practice, with published deadlines, proposal criteria, and more importantly, Western oversight in making final procurement decisions. Although Ukraine is not a signatory of the WTO Agreement on Government Procurement, Ukraine has pledged to become a party to the agreement. Source of information: <http://www.dgmarket.com/eproc/>

## **Distribution and Sales Channels**

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As the second largest country in Europe distribution and warehousing is a problem. With slightly more than 10 percent of Ukraine's population living in the three largest cities, establishing a reliable distribution and warehousing network is of great importance. Ukraine's commercial infrastructure has matured rapidly in recent years to meet the need. Western-style distribution networks are developing in the country.

Ukraine has an increasingly sophisticated retail sector, which is more highly developed in Kyiv and other major cities. Retail superstore chains are increasingly present in major cities and primarily specialize in food or consumer electronics. Other consumer goods are sold mainly through specialized retail outlets or open-air markets. As a result of the financial crisis, many retail businesses consolidated. This trend will offer new opportunities for U.S. investors and retailers interested in this market.

The key to marketing to the industrial sector is the quality of your agent or distributor's regional network. Marketing is done largely through distributor warehouses, exhibitions, trade shows, and catalogs mailed to the end-user.

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

#### **Selling Factors/Techniques**

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Locally-produced promotional advertising is necessary to expose the average Ukrainian to unfamiliar brand names. TV advertising has proven to be a most efficient and cost effective way to attract new customers. A description, list of ingredients, warranty, and maintenance guarantee often improve consumer confidence in products.

Ukrainian consumers do not like Western brand name products that are manufactured in Asia or other former socialist countries. The name of a Ukrainian or Russian distributor and local address on original packaging can increase consumer confidence. Since U.S. goods generally have a very good reputation but are not widely available on the local consumer market, a tag "Made in USA" could definitely increase customers' interest and enthusiasm.

There are also options of remote direct sales through TV shops on Ukrainian TV channels or through Ukrainian internet shopping portals. Placing an advertisement at such portals can help American companies explore market interest for products, lead to brand recognition. For additional information on sources for E-advertising see:

<http://www.topshoptv.com.ua>; <http://www.telemedia.ua>; <http://leloo.com.ua> and <http://www.ua.all-biz.info>

#### **Electronic Commerce**

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Ukraine remains a cash economy, but the use of credit cards is on the rise. However, when compared to other European countries both the B2C and B2B segments of E-commerce are still in their initial stages of development. Most Ukrainian Internet shops offer price lists or advertising sites where users can place orders for further delivery by couriers. Many Internet shops don't accept online payments.

Some retail businesses do use E-commerce to reduce taxes, however controlling government bodies (e.g. tax inspectorate, customs) remain skeptical and negative about E-commerce. Outdated commercial legislation, and the use of credit cards are the primary obstacles for E-commerce in Ukraine.

Please refer to the following e-commerce sites for additional information:

<http://furshet.ua/>; <http://www.ukraineinternational.com/eng/uk.html>;  
<http://e-commerce.com.ua/>

## Trade Promotion and Advertising

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While Ukraine's advertising industry has enjoyed one of the highest growth rates in Europe, it is still less developed than in most neighboring countries, where per capita spending on advertising is significantly higher. Almost two-thirds of the advertising market is television and radio, which remain the most powerful advertising channels. The most popular TV channels for advertising remain Inter and Starlight Media Channels (ICTV, STB, Novy). The most popular commercial radio channels are Gala Radio, ERA, Music Radio, Auto Radio, Nashe Radio, Shanson, and Renaissance. Together, radio and TV make up about 64% of the national advertising market.

Newspaper advertising accounts for 14% of the advertising market. The major Ukrainian papers/journals include:

- Fakty i Kommentarii/Facts and Commentary ([www.facts.kiev.ua](http://www.facts.kiev.ua));
- Silski Visti/Countryside News (<http://silskivisti.kiev.ua>);
- Uryadovyy Kurier/Government Courier (<http://uamedia.visti.net/uk/>);
- Aviso/advertising and announcements ([www.aviso.kiev.ua](http://www.aviso.kiev.ua)).

The major English-language newspapers/journals are:

- Kyiv Post ([www.kyivpost.com](http://www.kyivpost.com));
- KyivWeekly ([www.kyivweekly.com](http://www.kyivweekly.com));
- What'sOn: ([www.whatson-kyiv.com](http://www.whatson-kyiv.com)).

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

National trade shows and exhibitions continue to be effective ways to introduce your products to buyers. Major local trade show organizers and fair authorities include:

- Euroindex: <http://www.euroindex.com.ua/indexe.php>
- Medvin: <http://www.medvin.kiev.ua/news.php>

- PremierExpo: <http://www.pe.com.ua/new/index.php3?lang=3>
- ACCO International: <http://www.acco.ua/eng/index.html>
- International Exhibition Center: <http://www.iec-expo.com.ua/eng/index.php3>
- KyivExpoPlaza: <http://www.expoplaza.kiev.ua/index.php?j=e&ide=1>

CS Kyiv actively promotes American exporters at major local trade shows by organizing and staffing U.S. Product Literature Centers. For additional information see: <http://www.buyusa.gov/ukraine/en/28.html>.

## Pricing

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The Cabinet of Ministers has price-setting authority in certain sectors, including basic fees (e.g. electricity, telecommunications, transportation, utilities) and some essential products such as grain, bread, sugar, gas, and oil.

When establishing prices it is important to take into consideration the purchasing power of the average Ukrainian consumer and regional and age differences among end-users. Wages in Ukraine are low by Western standards. During the first nine months of 2010, the nominal average monthly wage increased by 21.9% year-on-year to UAH 2,439 (approximately \$307), while the real average wage increased by 9.8% year-on-year during the same period. The highest wages are in the financial and aviation sectors; the lowest wages are paid to agricultural and public health workers.

The demand for Western-made products is far greater among the younger generation, with the sharpest contrasts are seen between the under-55 and over-55 age groups. The widest differences are in the purchase of vehicles, personal care products, candy, jewelry, household goods, and electronics.

To review the prices for a wide variety of different goods please refer to the following web sites: <http://price.com.ua/> ; <http://shop.bigmir.net/>; <http://itc.ua/hl/> ; <http://www.ua.all-biz.info>; and <http://www.ukrdzi.com/en/prices/indicative/>

## Sales Service/Customer Support

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In February 1999, the Cabinet of Ministries adopted a decree on after-service and maintenance of household appliances. According to this legislation, all products have to carry a certification of origin, price, and information on its certification in Ukraine. Ukraine still has a long way to go before reaching Western standards of after-sale service and customer support. Although the local market shows solid and steady growth in consumer sales, the market size is still small for many international brand name manufactures to consider entering the market. Ukrainian customers fully expect well-known international brands to provide after-sale services and customer support, otherwise, the assumption is that the product could be counterfeit (and therefore of poor quality).

## Protecting Your Intellectual Property

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Ukraine remained on the Special 301 Watch List in 2010. In an effort to improve enforcement of intellectual property rights, Ukraine agreed to an IPR Action Plan at the October 2010 United States-Ukraine Trade and Investment Council meeting (TIC). In January 2011, Ukraine's Cabinet of Ministers formally adopted an internal IPR Action Plan based on the Action Plan agreed to at the TIC. While the overall level of Ukraine's IPR protection and enforcement is largely unchanged since last year's 301 report, Ukraine has illustrated its commitment to improving IPR protection by the adoption of the IPR Action Plan and by increasing its seizures of IPR infringing materials. Over the past six years Ukraine has made progress in IPR protection, in part to meet its WTO accession requirements as well as to fulfill expectations as it negotiates a free trade agreement with the European Union. For example, the factory-scale illegal production of pirated and counterfeit goods, in particular CDs, has been mostly halted. In addition, GOU authorities have successfully stopped cam-cording in Ukrainian movie theaters since the middle of 2010.

Ukraine's IPR-related legal base is now in compliance with TRIPS and other international norms, and Ukraine has become party to several international treaties administered by the World Intellectual Property Organization (WIPO). Law enforcement bodies continue efforts to seize IPR-infringing goods and to prosecute those involved in their trade. The GOU still faces serious IPR enforcement problems, however. Pirated optical discs and counterfeit goods remain widely available, particularly in large open-air markets throughout the country's larger cities. Internet piracy has increased in the past year. The transshipment of pirated and counterfeit goods is a major challenge for Customs officials. Government procurement and use of unlicensed software remains a significant problem for which progress has not been made. Courts continue to give sentences that do not deter IPR infringers from repeat offenses.

### **Protecting Your Intellectual Property in Ukraine:**

Several general principles are important for effective management of intellectual property ("IP") rights in Ukraine. First, it is important to have an overall strategy to protect your IP. Second, IP is protected differently in Ukraine than in the U.S. Third, rights must be registered and enforced in Ukraine, under local laws. Your U.S. trademark and patent registrations will not protect you in Ukraine. There is no such thing as an "international copyright" that will automatically protect an author's writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer copyright protection to foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions.

Registration of patents and trademarks is on a first-in-time, first-in-right basis, so you should consider applying for trademark and patent protection even before selling your products or services in the Ukrainian market. It is vital that companies understand that intellectual property is primarily a private right and that the US government generally cannot enforce rights for private individuals in Ukraine. It is the responsibility of the rights' holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. Companies may wish to seek advice from local attorneys or IP consultants who are experts in Ukraine law. The U.S. Commercial Service can provide a list of local lawyers upon request. See:

[http://www.buyusa.gov/ukraine/en/bsp.html?bsp\\_cat=80120000](http://www.buyusa.gov/ukraine/en/bsp.html?bsp_cat=80120000)

While the U.S. Government stands ready to assist, there is little we can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IP in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to legal doctrines such as statutes of limitations, laches, estoppel, or unreasonable delay in prosecuting a law suit. In no instance should U.S. Government advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on potential partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Consider carefully, however, whether to permit your partner to register your IP rights on your behalf. Doing so may create a risk that your partner will list itself as the IP owner and fail to transfer the rights should the partnership end. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in Ukraine require constant attention. Work with legal counsel familiar with Ukrainian laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IP and stop counterfeiting. There are a number of these organizations, both Ukraine or U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce
- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)

## **IP Resources**

A wealth of information on protecting IP is freely available to U.S. rights holders. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: **1-866-999-HALT** or register at [www.StopFakes.gov](http://www.StopFakes.gov).
- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: **1-800-786-9199**.



- For more information about registering for copyright protection in the US, contact the US Copyright Office at: **1-202-707-5959**.
- For more information about how to evaluate, protect, and enforce intellectual property rights and how these rights may be important for businesses, a free online training program is available at [www.stopfakes.gov](http://www.stopfakes.gov).
- For US small and medium-size companies, the Department of Commerce offers a "SME IP Advisory Program" available through the American Bar Association that provides one hour of free IP legal advice for companies with concerns in Brazil, China, Egypt, India, Russia, and . For details and to register, visit: [http://www.abanet.org/intlaw/intlproj/iprprogram\\_consultation.html](http://www.abanet.org/intlaw/intlproj/iprprogram_consultation.html)
- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: [www.StopFakes.gov](http://www.StopFakes.gov) This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IP-infringing products) and allows you to register for Webinars on protecting IP.

For more information on Intellectual Property Rights issues please refer to Chapter 6, "Investment Climate Statement".

## Due Diligence

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As in all business dealings, conducting due diligence is important. This is doubly so in Ukraine where there is not much open source information available on Ukrainian companies. While the extent of available data on Ukrainian companies has improved, there is no established Ukrainian system for checking the financial status of a Ukrainian partner, or is there a source of information on the "bona fides" of potential Ukrainian partners.

To help U.S. companies, CS Kiev offers an International Company Profile service, which provides a detailed report including a financial background report. For a full description of this service go to: <http://www.buyusa.gov/ukraine/en/8.html>.

## Local Professional Services

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In Kyiv there is a growing number of high quality professional service providers, including western firms. The American Chamber of Commerce in Ukraine is a good point of contact for professional services firms. See: <http://www.amcham.ua>. In addition there are a number of prominent business service providers listed on our website at: <http://www.buyusa.gov/ukraine/en/bsp.html>.

## Web Resources

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## Chapter 4: Leading Sectors for U.S. Export and Investment

### **Commercial Sectors**

- [Agricultural Machinery](#)
- [Aircraft/Parts](#)
- [Airport/Ground Support Equipment](#)
- [Automotive](#)
- [Biotechnology](#)
- [Computer Software/Services and Computers Peripherals](#)
- [Drugs and Pharmaceuticals](#)
- [Electric Power Systems](#)
- [Medical Equipment](#)
- [Oil & Gas Field Machinery](#)
- [Renewable Energy](#)
- [Telecommunications](#)

### **Agricultural Sectors**

- [Agricultural Sectors Overview – Courtesy of Foreign Agricultural Service](#)
- [Pork and Beef](#)
- [Poultry Meat](#)
- [Livestock Genetics](#)
- [Planting Seeds](#)

## Agricultural Machinery

### Overview

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Unit: USD

In thousands	2009 (estimated)	2010 (estimated)	2011 (estimated)	2012 (estimated)
Total Market Size	1,364,576	n/a	n/a	n/a
Total Local Production	203,440	732,398	1,400,000	n/a
Total Exports	135,627	n/a	n/a	n/a
Total Imports	1,500,000	6,000,000	n/a	n/a
Imports from the U.S.	1,071,000	1,020,000	n/a	n/a
Exchange Rate: 1 USD	7.7912 UAH	7.9359 UAH		

\*There is no accurate statistical data on the size of the agricultural equipment market for 2011.

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Sources: UkrAgroConsult Analytical Center

Despite government interference, decaying infrastructure, ancient equipment, and a continued moratorium on agricultural land sales, Ukraine's agricultural sector still shows signs of strength. The Ukrainian agricultural machinery market has grown steadily, with imports dominating. According to the Ministry of Agrarian Policy and Food of Ukraine, in 2010, tractor imports were 4 times higher than in 2009. The largest number of combine harvesters was imported from Germany (47% of the total volume) followed by the USA (17%). Used machinery and equipment accounted for one third of total imports. Most farm equipment is estimated to be depreciated 80-90% and is poorly maintained. According to a recent statement by the Minister of Agrarian Policy, the agricultural machinery fleet requires USD\$ 5 billion to modernize, including 120 thousand combine harvesters and 120 thousand tractors over the next 10 years. The annual demand of the Ukrainian agricultural market is 50 thousand combine harvesters and 12 thousand tractors. These estimates do not reflect the demand of farmers that use compact machinery.

### Sub-Sector Best Prospects

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- Grain-harvesting combines and tractors
- Second-hand farm machinery
- Grain, corn, canola headers
- Tillage equipment (cultivators, plows, disc harrows)

### Opportunities

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- Ministry of Agrarian Tenders

### Web Resources

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Ministry of Agrarian Policy of Ukraine: <http://www.minagro.gov.ua/>

Ministry of Industrial Policy of Ukraine: <http://industry.kmu.gov.ua/control/uk/index>

State Statistics Committee of Ukraine: <http://www.ukrstat.gov.ua/>

Agri-business news (English-language):

<http://www.proagro.com.ua/eng/news/>

<http://www.agroperspectiva.com/en/>

<http://www.agrimarket.info/>

UkrAgroConsulat Analytical Center <http://www.blackseagrain.net/>

Agribusiness trade events:

InterAGRO (February 2-4, 2011, Kyiv, Ukraine)

<http://interagro.in.ua>

Agribusiness exhibitions in Ukraine:

<http://www.expoua.com/Exhibition/lang/en/region/11/country/52/city/252/mode/byCategory/category/24/>

## Aircraft/Parts (ACP)

### Overview

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In thousands	2008	2009	2010 (estimated)
Total Market Size	298,970,000	265,200,000	340,000,000
Total Local Production	254,000,000	213,000,000	250,000,000
Total Exports	224,580,000	193,1000,000	220,000,000
Total Imports	44,970,000	52,200,000	90,000,000
Imports from the U.S.	5,556,000	4,045,000	35,000,000

Source: Global Trade Atlas

Ukraine has an aging fleet of Soviet designed aircraft, representing good opportunities for U.S. aircraft and parts. Even though Ukraine has a well developed aerospace industry, local production of aircraft is insignificant due to a lack of government financing.

As of December 2010, the Government of Ukraine (GOU) had licensed 70 Ukrainian airlines. However, only a fraction of this number operates regular flights, the six major Ukrainian airlines are: Ukraine International Airlines (airline code - PS), Aerosvit (VV), Dniproavia (Z6), Wind Rose (7W), Donbass Aero (7D), and Wizz air Ukraine (WU).

Boeing is a leading supplier of foreign commercial aircraft in the Ukrainian market. In total, Ukrainian airlines own or lease over 40 Boeing 737-classic aircraft, four 737-NG's, and four 767's; 19 MD-series, 28 Embraer-145, ten Embraer-190, and three Embraer-195's, five A-320's, and two A-321. General aviation is represented by a mix of old Soviet jets, Yk-40 and Tu-134-types, as well as Cessna, Bombardier, Hawker, and Gulfstream aircraft.

In 2010, the major aircraft suppliers to Ukraine were Germany with 50.2%, followed by the United States at 38.8%, Canada 6.0% and France 1.4%. In 2011-2012 Brazil is expected to become a major player in the Ukrainian market having signed a US\$ 400 million deal with Dniproavia for the purchase of 10 Embraer-190's with an option for another five in January 2011.

Aircraft leasing companies have become a major factor in the industry as aircraft development and production costs continue to escalate. For Ukrainian airlines, leasing aircraft is advantageous due to the low capital investment and greater flexibility adjusting to changing market conditions.

Since 2009, both UIA and Aerosvit Airlines have been implementing a large-scale fleet upgrade program whereby the two airlines plan to gradually phase out Boeing 737-classics to be replaced by Boeing 800' and 900' series aircraft during 2011-2015. The principal end-users of civil aviation aircraft, parts and equipment are the Ukrainian Aviation Group airlines (Aerosvit, Dniproavia, Donbass Aero, and Wind Rose Airlines), and Ukraine International Airlines (UIA).

Due to upcoming Euro-2012 Soccer Championship, the Ukrainian State Euro-2012 Agency and municipal governments in the four host cities (Kyiv, Lviv, Donetsk, and Kharkiv) plan to buy and lease emergency medical and rescue helicopters. Ukrainian Civil Aviation Authority has certified for use in Ukraine the following Western helicopter

types: Bell-430, 429, and 407; EUROCOPTER, Augusta, Enstrom-480, Robinson 44, 44-II Raven.

The State-owned Antonov Corporation is the major Ukrainian designer and manufacturer of civilian aircraft. It includes the Antonov Design Bureau, Kyiv Aviant Factory, Kharkiv Aircraft Production Company, and Kyiv Aircraft Repair Plant No. 410. Because of the lack of financing and interrupted supply chains (mainly from Russia), production output of the corporation has been minimal in the last decade. However, recent orders for new regional jets AN-148 and the AN-158 (for Russian and Kazakhi regional airlines) might revive serial production, thereby creating market opportunities for U.S. manufacturers of high-tech machine tools and smaller aircraft components, avionics, navigation systems and other large integrated components.

### **Best Prospects/Services**

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- Commercial jets
- Corporate jets
- Commercial and special purpose helicopters
- Parts and services
- Avionics
- MRO services

### **Opportunities**

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- UIA tender for 10 single-aisle jets
- Aerosvit fleet upgrade
- UIA MRO project
- Euro-2012 rescue helicopter procurements
- Supply chain for Antonov-148's, - 158's, retrofitted Antonov-124 (Ruslan)

### **Resources**

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State Aviation Administration of Ukraine (certification, licensing, airworthiness):

<http://www.avia.gov.ua>

Ukraine International Airlines: <http://www.flyUIA.com>

Aerosvit Airlines: <http://www.aerosvit.com>

Dniproavia: <http://www.dniproavia.com>

Wind Rose: <http://www.windrose.aero/>

Antonov Aviation Corp.: <http://www.antonov.com>

### **Trade Events**

Participating in trade events remains a critical element in a successful business development strategy for Ukraine. U.S. companies can meet prospective Ukrainian partners at international trade shows in 2011, i.e. Paris Air Shows, and MAKS Moscow Air Show

Paris Air Show

June 20-25, 2011

*Le Bourget, France*

<http://www.paris-air-show.com/en>

MAKS Moscow Air Show

August 16-20, 2011

Zhukovsky, Moscow Region

<http://www.airshow.ru/exhibition/1/ex.htm>



## Airport /Ground Support Equipment (APG)

### Overview

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Ukraine has 28 airports with international status of which only seven service regular international traffic. In 2010, Ukrainian airport passenger traffic grew by 14.4% as compared to 2009. Almost 97% of passengers and 83% of cargo and mail operations were concentrated in seven major airports: Kyiv-Boryspil, Donetsk, Dnipropetrovsk, Odessa, Simferopol, Lviv, and Kharkiv. Kyiv-Boryspil (KBP) is the largest Ukrainian airport servicing over 65% of the country's commercial air traffic.

### Top 7 Ukrainian airports performance 2009-2010:

	Passengers 000			Cargo & Mail 000 tons		
	2009	2010	2010 vs. 2009	2009	2010	2010 vs. 2009
<b>Total</b>	<b>8954,9</b>	<b>10242,5</b>	<b>14,4</b>	<b>39,7</b>	<b>42,5</b>	<b>7,1</b>
Kyiv-Boryspil (KBP)	5793,5	6691,8	15,5	27,2	31,9	17,3
Donetsk (DOK)	488,1	612,2	25,4	0,5	0,25	-50,0
Dnipropetrovsk (DNK)	330,5	341,4	3,3	2,2	0,8	-36,4
Lviv (LWO)	452,3	481,9	6,5	0,5	0,4	-20,0
Odessa (ODS)	650,9	707,1	8,6	0,7	0,8	14,3
Simferopol (SIP)	751,0	841,2	12,0	0,4	1,0	150,0
Kharkiv (HRK)	196,2	243,2	24,0	0,02	0,03	50,0

Source: ICAO

In the summer of 2012, four Ukrainian cities (Kyiv, Lviv, Donetsk, and Kharkiv) will host The Euro-2012 Soccer Cup games. In order to support the anticipated traffic increase there is a pressing need for airport upgrades and expansion in these cities. The overall cost of airport related opportunities has been estimated at over US\$2.3 billion for the period 2010-2012.

### ***Kyiv-Boryspil Airport (KBP)***

Kyiv-Boryspil (KBP) is the largest Ukrainian airport servicing more than 65% of the country's commercial air traffic. Almost 6.7 million passengers flew through Boryspil in 2010, which demonstrates 15.5% growth as compared to 2009, and double the growth as compared to 2005. The airport serves 73 local and foreign airlines with scheduled flights to 75 destinations.

The Government of the Ukraine has stated that it would attempt to develop KBP airport as a Central and Eastern European hub for international traffic with regional airports feeding passengers from other areas. An expansion to Boryspil's Terminal B was

started in 2006. The development of a new Terminal D with an estimated cost of \$260 million, funded largely by a \$185 million loan from the Japanese Bank for International Cooperation (JBIC), commenced in the summer of 2008. In September 2010, the new Terminal F was commissioned to serve 1,200 passengers per hour.

### **Lviv (LWO)**

Lviv International Airport (LWO) is strategically located in the western part of Ukraine providing easy access to EU countries. Lviv is the largest city in Western Ukraine with a population of 830,000. The airport's catchment area is over 10 million residents. Based on ICAO data, passenger traffic at LWO has increased significantly from 110,000 passengers in 2002 to over 532,000 in 2008, down to 481,900 in 2010, reflecting general negative trend for the industry due in part the world economic crises. The ratio of domestic to international departures is roughly 30/70. Regular services are provided to/from 12 international destinations by UIA, Aerosvit, Lufthansa, Austrian, Turkish Airlines, LOR Polish Airlines, UTair Aviation, Carpatair, and Wizzair. Market experts predict that LWO will continue to experience a very healthy increase in traffic over the next five to ten years. Projections indicate further growth significantly above average estimates for the country, particularly from international traffic.

#### **Lviv Airport (LWO) - Total commercial air transport**

Year	Number of months	Total flights	Departures	Arrivals	Pax Total	Pax Direct Transit	Freight Total tons	Mail Total tons
2007	12	9,115	205,848	218,355	424,203	16,088	380.6	86.7
2008	12	9,549	261,272	270,804	532,076	13,611	530.6	136.9
2009	12	9,592	222,831	229,467	452,298	11,822	408.5	54.5
2010	6	4,706	101,005	101,521	202,526	1,118	222	.4

Source: ICAO

### **Donetsk (DOK)**

Donetsk International Airport is the fourth busiest airport in Ukraine and is the main gateway to the heavily industrialized Donbass region (in Eastern Ukraine). The airport serves scheduled and charter flights that connect Donbass with important locations in Ukraine, Russia, Western and Eastern Europe, as well as with busy resort areas in the Mediterranean and the Near East. In 2010 the airport demonstrated solid growth of 25% as compared to 2009. DOK is a home base for DonbassAero Airlines (100% owned by Aerosvit Airlines).

DOK airport has conducted a technical assessment to identify potential short and medium term infrastructure needs. Based on this assessment, DOK plans to:

- Increase terminal capacity to 1,000 pax per peak hour.
- Extend the runway to 4,000 meters (Note this is already underway).
- Replace the runway at a cost of approximately \$120 million (scheduled for completion in 2010).

- Provide the equipment and technologies needed by the airport, which includes aircraft refueling equipment, baggage and cargo handling equipment, flight information systems, CCTV security equipment, escalators and elevators.

#### **Donetsk Airport (DOK) - Total commercial air transport**

Year	Number of months	Total flights	Departures	Arrivals	Pax Total	Pax Direct Transit	Freight Total tons	Mail Total tons
2007	12	11,591	287,218	292,992	580,210	23	299.6	131.3
2008	12	11,910	330,560	339,092	669,652		307.1	222.5
2009	12	10,093	241,013	247,060	488,073	1,686	250.8	236.7
2010	6	6,052	131,127	135,569	266,696	710	109.6	.1

Source: ICAO

#### ***Dnipropetrovsk International Airport (DNK)***

Dnipropetrovsk, the third largest Ukrainian city with over 1.1 million population, is a major industrial and banking center. DNK is the only airport in Ukraine where the airport authority and base airline – Dniproavia – is one corporate entity. Dniproavia is still enjoying a monopolistic position in domestic aviation market to and from Dnipropetrovsk.

#### **Dnipropetrovsk Airport (DNK) - Total commercial air transport**

Year	Number of months	Total flights	Departures	Arrivals	Pax Total	Freight Total tons
2007	12	9,583	178,244	179,564	357,808	655.2
2008	12	10,704	215,354	218,381	433,735	1,929.5
2009	12	9,706	164,768	165,746	330,514	2,161.8
2010	6	4,432	73,092	73,859	146,951	489.6

Source: ICAO

#### ***Proposed Essential Investment opportunities in DNK:***

- Repair and reconstruction of runway and tarmac – US\$ 115 M
- Airfield with boarding equipment - US\$ 7.15 M
- Reconstruction of existing terminal building and construction of new terminal – US\$ 71.6 M
- Development of technical infrastructure – US\$ 32.3 M

The overall cost of the proposed reconstruction work and related procurements is estimated at US\$ 243 million. Privat-Bank (a Ukrainian major banking group) operates DNK airport and owns its anchor airline DniproAvia. DniproAvia is part of the Aerosvit, DonbassAero and WindRose alliance, which has a total market share of 55% of all local airlines.

### ***Odessa International Airport (ODS)***

Odessa is Ukraine's third busiest airport with 2010 passenger traffic reaching 707,000. The airport works with 18 airlines serving 60 destinations. About 68% of total traffic is international. The airport belongs to the City of Odessa, which has been discussing potential investment opportunities with Russian and Turkish business groups.

#### **Odessa Airport (ODS) - Total commercial air transport**

Year	Number of months	Total flights	Departures	Arrivals	Pax Total	Pax Direct Transit	Freight Total tons
2007	12	14,659	334,518	336,226	670,744	8,978	2,876.8
2008	12	15,335	391,700	395,405	787,105	5,429	1,615.8
2009	12	12,784	324,488	326,422	650,910	3,426	667.3
2010	6	6,473	153,960	158,523	312,483	1,194	423.7

Source: ICAO

### ***Kharkiv International Airport (HRK)***

Kharkiv, with a population of over 1.6 million, is the second largest city in Ukraine, and the former capital of Ukraine (before 1934.) Kharkiv is one of the cities hosting the Euro-2012 Soccer Championship. In 2010, DCH Group, owned by Kharkiv-born Oleksandr Yaroslavsky, completed an \$80 million new terminal construction project. However, the GOU is still controlling the runway and airport navigation.

#### **Kharkiv Airport (HRK) - Total commercial air transport**

Year	Number of months	Total flights	Departures	Arrivals	Pax Total	Pax Direct Transit	Freight Total tons	Mail
2007	12	23,850	634,392	638,734	1,273,126	522	6,231	866.9
2008	12	7,809	153,500	156,400	309,900	n/a	70.8	n/a
2009	12	5,822	96,800	99,400	196,200	n/a	19.3	n/a
2010	6	2,959	52,906	52,736	105,642	n/a	7.2	n/a

Source: ICAO

Ukraine is expected to join the European Common Aviation Area (ECAA) in 2011, which liberalizes the air transport industry across much of Europe by eliminating borders among its members. This would open the Ukrainian market to international air carriers and likely provide for an increase in passenger traffic at the main Ukrainian international airports. Ukraine is expected to join the Open Sky Agreement in 2011, which should open opportunities to low-cost airlines thereby generating additional traffic in regional Ukrainian airports.

## Air Traffic Control

The Ukrainian State Air Traffic Service Enterprise (UkSATSE) operates five regional centers of flight information, covering an area of 730,372 square kilometers and providing navigation services to over 457,400 flights per year (to do in 2010). The air navigation equipment in Ukrainian airspace is in need of update and modernization. The estimated cost to upgrade the equipment and technology is estimated at US\$ 100 million.

### Best Prospects/Services

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*Major services and equipment categories that will be procured in 2011:*

- Airport equipment: lighting and signaling equipment, air bridges, de-icing equipment and de-icing fluid, baggage and cargo handling systems, elevators, loaders and reloading containers, airfield movers, security equipment, and air-conditioning and heating systems
- Engineering and consultant/management services
- Air Navigation Equipment: satellite-based Communication, Navigation and Surveillance/ Air Traffic Management (CNS/ATM) systems

During 2011 Ukraine should make major procurements of the following airport security equipment:

- Explosive detection systems – 48 units total for all airports;
- Control Access Systems – 12 units
- X-Raying Units – 56 units total
- Walk-through metal detectors – 56 units total
- Hand metal detectors – 80 total
- Video Surveillance Systems – 12 units
- Explosive localizers – 14 total

### Opportunities

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- Euro-2012 related regional airport development: Lviv, Donetsk, Kharkiv, Simferopol, and Kyiv-City (Zhuliany);
- Two terminals in Kyiv-Boryspil (KBP) airport: Terminal “D” funded by the Japanese government; and Terminal “F” for low-cost carriers (LCC) funded by GOU;
- Air traffic control modernization

### Resources

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State Aviation Administration of Ukraine: <http://www.avia.gov.ua>

Kyiv-Boryspil International Airport (KBP): <http://www.kbp.com.ua/>

Lviv International Airport (LWO): <http://www.airport.lviv.ua/details>

Donetsk International Airport (DOK): <http://airport.dn.ua/en/index.php>

Kharkiv Municipal Airport (HRK): <http://hrk.aero/en/>

Odessa International Airport (ODS): <http://www.airport.odessa.ua/>

Simferopol International Airport (SIP): <http://www.airport.crimea.ua/en/home.htm>

Regional Air Navigation Services Development Association (RADA):  
<http://www.rada.aero/main/en/news/top.htm>

Ukrainian State Air Traffic Service Enterprise (UkSATSE):  
<http://uksatse.ua/index.php?lang=en>

## Automotive (APS)

### Overview

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Unit: USD thousands	2009 (estimated)	2010 (estimated)	2011 (estimated)	2012 (estimated)
Total Market Size	2,600,000	2,800,000	2,900,000	3,000,000
Total Local Production	1,326,000	1,430,000	1,420,000	1,410,000
Total Exports	126,000	130,000	120,000	110,000
Total Imports	1,400,000	1,500,000	1,600,000	1,700,000
Imports from the U.S.	111,000	127,000	130,000	140,000
Exchange Rate: 1 USD	UAH 7.7912	UAH 7.9359	UAH 8.1091	UAH 8.1091

(Data Sources: Ukrainian Motor Vehicle Manufacturers Association, Global Trade Atlas (GTA), Autocentre All-Ukrainian Automotive Webportal)

Like any sector of the Ukrainian economy, the market for cars and spare parts has been affected by the world's economic recession since 2008. However, in 2010, there was a US\$ 200m increase over 2009 vehicle sales. In 2010, Ukraine assembled 82,800 vehicles, 20 % less than imports from abroad. Automotive industry experts predict that domestic assembly of cars will continue to decrease as imports increase over the next two years.

Nearly all car brands are available in Ukraine. The most common on the Ukrainian highways are those with a gasoline engine of less than 2,000 cubic centimeters, a left-side steering wheel, front wheel drive, a manual transmission, no air conditioning, and an average age of 9 years. Based on current market conditions, experts see good prospects for the sale of automotive parts and accessories to the ageing Ukrainian car fleet in general.

The most common models are larger models of Ukrainian manufacture - GMDAT (ZAZ Lanos, ZAZ Sens), and of Russian and CIS origin - VAZ manufacture models: Lada 2110, VAZ 2107, VAZ 21099, 2115, 21214 Chevrolet Niva, Lada 2172 Priora, 2111.

Ukrainian car importers plan to introduce the following vehicle models to the Ukrainian market in 2011:

- A-B class vehicles: Audi A1, Citroën C3, Citroën DS3, Hyundai i20, Mini, Mini Clubman, Seat Ibiza SC, Skoda Fabia, Suzuki Splash, Volkswagen Polo
- C-class vehicles: Alfa Romeo Giulietta, Chery M-11, Kia cee'd, Mazda 3, Opel Astra, Renault Fluence Renault Megane III, Seat Leon, Toyota Auris, Toyota CorollaD-class vehicles: Infiniti G, Toyota Prius, Volvo S60
- E-class vehicles: Audi A7, BMW 5 Series, Hyundai Sonata, Infiniti M, Lexus ES 350, Skoda Superb Combi
- F-class vehicles: Audi A8, Bentley Mulsanne, Jaguar XJ, Rolls-Royce Ghost

- Crossover-SUVs: BMW X3, Chery X-1, Hyundai ix35, Kia Sportage, Mini Countryman, Mitsubishi ASX, Mitsubishi Outlander XL, Nissan Qashqai, Nissan X-Trail, Peugeot 3008, Renault Duster, Subaru Impreza XV, Toyota RAV4
- SUVs: BMW X5, Infiniti QX56, Kia Sorento, Lexus GX 460, Mitsubishi Pajero Sport, Porsche Cayenne, Range Rover, Toyota Highlander, Toyota Land Cruiser Prado, Volkswagen Touareg
- Van-MPVs: Kia Venga, Mercedes-Benz R-class, Opel Meriva, Renault Scenic, Seat Altea XL, Volkswagen Golf Plus, Volkswagen Multivan, Volkswagen Touran
- Pick-ups: Nissan Navara, Renault Logan Pick-Up, Toyota Hilux, Volkswagen Amarok
- Hybrid vehicles: BMW X6 ActiveHybrid, Honda CR-Z, Porsche Cayenne S Hybrid, Toyota Prius

American car parts and accessories suppliers may want to consider opportunities with the Ukrainian automotive service stations, affiliates of large car parts dealers, and automotive flea market dealerships, who buy salvage and obsolete vehicles for parts.

#### **Sub-Sector Best Prospects**

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- Car Body Parts
- Engine and Fuel System Parts
- Car Batteries
- Car Filters
- Tires
- Automotive Glass
- Brakes and Parts
- Suspension Parts and Shock Absorbers

#### **Opportunities**

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Due to the requirement to meet EURO 4 emission standards:

- Emission control parts
- Development of a nationwide Trade-In program
- Commissioning of pre-owned cars for resale

#### **Web Resources**

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Major Ukrainian Automotive Trade Shows: <http://www.autoexpo.ua>

Nationwide Automotive Electronic Exchange Marketplaces: <http://avtobazar.ua>; <http://www.automarket.dp.ua>; <http://www.usacars.com.ua>; <http://www.autoua.com>;



<http://www.ukrauto.com.ua>; <http://www.auto-32.com>.

Automotive Market Development and Trends Analysis Agencies:

<http://www.ukrautoprom.com.ua>; <http://www.autocentre.ua>;

<http://www.autoconsulting.com.ua>; <http://www.gtis.com>

## Biotechnology

### Overview

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The main disciplines, which today make up modern biotechnology, include genetic engineering, monoclonal antibody, gene therapy, DNA amplification, and anti-sense technologies. Major areas of biotechnological applications are health care, agriculture, food and feeds, industrial chemicals, and the environment.

The biotechnology industry in Ukraine is mostly represented by the research institutes of the National Academy of Sciences (NAS) and Research & Development (R&D) centers of commercial pharmaceutical manufacturing plants. There are only a few biotechnology companies in Ukraine.

Ukrainian biotechnology scientists have made some major achievements, such as microbe super synthesis of some essential proteins and peptides (interferon, insulin etc.), development of biosensor systems for medical and ecological use, obtaining organisms producing biologically active substances, and the creation of new transgenic plants. However, thus far little of their success has been put into practical use.

Several Ukrainian pharmaceutical and test systems manufacturers, use biotech approaches for their human health care products. Although none of the Ukrainian pharmaceutical manufacturers are in a position to successfully develop biotech pharmaceuticals, many of them use biotech processes as part of a manufacturing cycle.

### Sub-Sector Best Prospects

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- Biotechnology with health care and agriculture applications

### Opportunities

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- Joint research and development facility in Ukraine

### Web Resources

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Institute of Molecular Biology and Genetics of the National Academy of Sciences of Ukraine: <http://www.imbg.org.ua>

Bogomoletz Institute of Physiology of the National Academy of Sciences of Ukraine: <http://www.biph.kiev.ua>

R. E. Kavetsky Institute of Experimental Pathology, Oncology and Radiobiology: <http://www.onconet.kiev.ua>

Institute of Cell Biology of the National Academy of Sciences of Ukraine: <http://www.cellbiol.lviv.ua>

## Computer Software/Services (CSF) and Computers Peripherals (CPT)

### Overview

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### CSF

Unit: USD thousands

Total Market Size	2009 (estimated)	2010 (estimated)	2011 (forecast)	2012 (forecast)
Packaged software	130,690	173,380	207,160	240,000
Services	184,450	213,620	257,210	310,000
Exchange Rate: 1 USD	UAH 7.7912	UAH 7.9359	UAH 8.05	n/a

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Source: IDC Ukraine

The exact size of the Ukrainian computer software market is difficult to measure, as the major subsectors - the import of software and software development are conducted mostly within the shadow economy. Illegal imports of pirated office software, illegal use of software licenses and domestic pirate industry has had a severe impact on the growth and development of the legitimate software market. Estimates of local production, exports, and imports are not available.

Imported software dominates in the legitimate market. Windows and Microsoft's Office software applications are currently the most widely used office packages in Ukraine, especially in the software solutions for government, business and industry.

The economic crisis of 2009 had a strong negative impact on the development of the Ukrainian IT market and impacted every segment. The packaged software market declined by almost 43%, services by 39% (according to IDC Ukraine). System integrators and software distributors cut costs and reduced staff to adapt to the decrease in sales. They also facilitated the development of new services including IT outsourcing, which helped them to survive.

The market started to improve in 2010. There were several SaaS projects launched in Ukraine in early 2010 and a growing number of inquiries coming into system integrators in regards to further development of IT infrastructure, not only from banks and telecommunications operators but also other sectors. The manufacturing industry also showed interest in the integration of internal reporting standards with the systems used in the headquarters abroad. IDC analysts estimate the growth of the packaged software market in 2010 at 32.7% compared to 2009, and services at 15.8%.

Ukraine is well known as a low cost site for high quality software development. Unofficial estimates indicate that this industry employs 50,000 programmers.

## CPT

Unit: USD thousands

Total Market Size	2009 (estimated)	2010 (estimated)	2011 (estimated)	2012 (estimated)
Hardware	1,467,770	2,485,190	2,926,870	3,400,000
Exchange Rate: 1 USD	7.7912UAH	7.9359 UAH	8.05UAH	n/a

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Source: IDC Ukraine

The exact size and structure of the Ukrainian hardware market is difficult to measure, since official statistics ignore such key factors as local production and shadow imports of components.

According to IDC Ukraine, the total value of the hardware market in 2010 reached almost \$ 2.49 billion, a 69% increase over 2009. Still the market hasn't approached pre-crisis level. The share of notebooks continues to grow and is expected to increase 60% in 2010. IDC analysts estimate the total number of notebooks sold in Ukraine in 2010 was approximately 1.1 million units, 12-15% more than in 2008, and almost twice as many as in 2009. Top five vendors - Acer, Asus, HP, Lenovo and Samsung - share over 90% of the market.

Sales of X86 and RISC/EPIC servers, as well as of external disc storage systems increased slightly over 2009, but the general decline in the sales of Enterprise-servers and storage systems remain. HP is leader in supplying X86 systems with a market share of 54%; Entry, IBM and Dell share 22% of the market. IBM is dominating in the RISC/EPIC servers market (with an 86%market share).

### Sub-Sector Best Prospects

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- System integration solutions
- Data warehousing development
- Security solutions
- Unified access technologies to multiple information silos
- Sharing and analysis across formats and repositories

### Opportunities

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- Procurement plans for World Bank Public Finance Modernization Project:  
Application software, field hardware and network equipment:

<http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=328533&menuPK=328565&Projectid=P090389>

### Web Resources

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IT Expo, Ukraine's major information technologies exhibition:

<http://ictexpo.info/en/exhibition>

IDC Ukraine, local research facility of International Data Corporation (IDC):

[http://www.idcukraine.com/index\\_eng.html](http://www.idcukraine.com/index_eng.html)

Association of Information Technology Enterprises of Ukraine: <http://apitu.org.ua>

Publishing House Softpress, publisher of the leading IT publications:

[http:// www.softpress.com.ua/eng](http://www.softpress.com.ua/eng)

## Drugs and Pharmaceuticals (GRG)

### Overview

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#### Market Size Data in USD thousands

	2009	2010 (data for the first 9 months)	2011 (forecast)	2012 (forecast)
Total Market Size	2,488,500	1,907,740	2,730,000	3,100,000
Total Local Production	689,630	604,740	900,000	1,200,000
Total Exports	141,180	120,000	170,000	200,000
Total Imports	1,940,050	1,423,000	2,000,000	2,100,000
Imports from the U.S.	68,000	54,000	76,000	80,000
Exchange Rate: 1 USD	7.7912UAH	7.9373UAH	8.05UAH	n/a

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Source: Ukrainian State Information-Analytical Center DerzhZovnishInform. (Note: These official forecasts maybe overly optimistic).

For the first 9 months of 2010 the total Ukrainian pharmaceutical market increased by 19.9% (compared to the same period of 2009) reaching over 1.9 \$ billion. This growth was achieved mostly due to the increase of private spending. The retail segment grew 5% (from 81% to 86%) in 2010. Respectively, hospital purchases decreased from 19% to 14%, locally manufactured pharmaceuticals for the hospital segment grew 6% - from 38% to 44%. The leading pharmaceutical exporters to Ukraine are Germany, India and France. The U.S. share is under 4%. There are 196 pharmaceutical importers in Ukraine, the top-20 account for 73% of all imports.

The local pharmaceutical industry is increasing production and exporting mostly to Russia and other CIS countries. There are 58 major pharmaceutical manufacturers in Ukraine, most of them privatized. Domestic manufacturers operate in the lowest price segment of the market, supplying predominantly generic drugs, branded generics, and vitamins. The financial crisis in 2008 – 2009 saw a change in consumer preferences, in favor of cheaper medications and drugs, benefiting local pharmaceutical manufacturers and accounting for steady growth in the domestic market.

### Sub-Sector Best Prospects

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- Analgesics & antibiotics
- Cough & cold preparations
- Cholagogue-hepatics
- Phycoleptics
- Anti-cancer
- Vasotherapeutics

### Opportunities

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- Periodic Ministry of Health tenders

## Web Resources

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Public Health, Ukraine's major medical equipment & pharmaceutical industries trade show: <http://www.publichealth.com.ua/en>

Ministry of Health of Ukraine: <http://www.moz.gov.ua>

Ukrainian State Information-Analytical Center DerzhZovnishInform:  
<http://www.ukrdzi.com>

## Electric Power Systems (ELP)

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Unit: USD thousands

	2009	2010	2011 (estimated)	2012 (estimated)
Total Market Size	2,000	2,057	2,100	2,180
Total Local Production	n/a	n/a	n/a	n/a
Total Exports	n/a	n/a	n/a	n/a
Total Imports	n/a	n/a	n/a	n/a
Imports from the U.S.	190	224	250	280
Exchange Rate: 1 USD	7.7912UAH	7.9373UAH	8.05UAH	n/a

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Sources: Global Trade Atlas (GTA), Ukrainian Association of heat-and-power engineering companies (ATEKU)

Ukraine's market for electric power equipment has good export potential for U.S. companies in 2011. On 24 September, 2010 the Ministry of Energy and Coal Industry of Ukraine signed a Protocol Concerning the Accession of Ukraine to the Treaty Establishing the Energy Community. According to the commitments under the Energy Community Treaty (ETC), Ukraine is obliged to increase the usage of renewable energy and improve energy efficiency in an effort to reduce energy consumption and to greenhouse gas emissions. The introduction of new technologies will contribute to the achievement of these objectives.

The 2005 Energy Strategy anticipated significant increased export capacities, from 11.35bn kWh in 2010 to 25bn kWh by 2030, on the assumption that Ukraine's power grid would work in parallel with the EU's. In 2010 electricity production in Ukraine reached 185 bn kWh. An export capacity increase is possible with renovation of existing power plants. For this achievement EBRD and World Bank have offered and provided loans.

Ukraine's power generation is structured as follows: 48.8% is generated by nuclear power, 43.3% is produced by thermal coal and gas-fired power generations, 6.8% is hydro and co-generation, and 1.1% comes from alternative sources of energy.

- The nuclear sub-sector is state-owned and still highly dependent upon Russia for nuclear fuel and essential equipment.
- Ukraine's thermal power generation sub-sector is mostly state-controlled, with outdated equipment and a lack of funding for upgrades.
- The sole private, thermal power generating company, Vostokenergo, is upgrading its three coal-fired power plants.
- The power distribution system is 30% privately-owned.

The major competitors in this market are: Germany (Siemens), Switzerland (ABB) and France (Alstom, Areva). Major U.S. companies working in Ukraine's power sector include: AES – electric power distribution, Contour Global, Emerson Process Management, Honeywell and GE International. Ukrainian manufacturers supply



turbines, generators, transformers, and electric cable at very competitive prices but generally lower efficiency and lifetime.

### Sub-Sector Best Prospects

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- High-voltage and energy saving technologies
- Equipment for coal-fired power plants, boilers and turbines
- Equipment for thermal power plants, process instrumentation and controls
- Technology, equipment and software for power distribution and transmission
- Heating equipment and auxiliaries
- Alternative/renewable energy equipment
- Cogeneration equipment

### Opportunities

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Rehabilitation and Modernization projects:

- EBRD loan for rehabilitation of most of its hydro power stations owned by UkrHydroEnergo (UHE), 2010 -2011. Estimated cost for the project is around EUR 350 million (w/o VAT)
- Ongoing project for upgrading the hydro-mechanical and electro-mechanical equipment owned by UkrHydroEnergo (UHE) till 2022. Project cost EUR 635.2 million, EBRD financing EUR 200 million.
- Power Transmission Project. Sponsor: state enterprise NPC Ukrenergo. Ongoing project for the period 2007-2012. (World Bank, USD 238 million)

Rehabilitation of Turbines for Kremenchug Hydro Power Plant, World Bank project

### Web Resources

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Ministry of Energy and Coal Industry of Ukraine: <http://www.mpe.energy.gov.ua>

Ukrenergo National Energy Company: <http://www.ukrenergo.energy.gov.ua>

Energatom National Nuclear Power Generating Company:  
<http://www.energatom.kiev.ua>

NAER National Agency of Ukraine on Ensuring of Efficient Use of Energy Resources  
Management: <http://naer.gov.ua/en/>

INEKO Energy Investment Company - power sector information:  
<http://www.imepower.com>

Ukrainian Association of heat-and-power engineering companies (ATEKU):  
<http://eutg.net/ua/topfirms/ateku>

SE Energorynok: <http://www.er.energy.gov.ua/>

Energobusiness Magazine - energy sector news, statistics and facts:  
<http://www.e-b.com.ua/>

EBRD: <http://www.ebrd.com>

World Bank: <http://www.worldbank.org/>

## Medical Equipment (MED)

### Overview

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#### Market Size Data in USD thousands

	2009 (estimated)	2010 (estimated)	2011 (forecast)	2012 (forecast)
Total Market Size	406,000	509,000	544,000	581,000
Total Local Production	n/a	n/a	n/a	n/a
Total Exports	n/a	n/a	n/a	n/a
Total Imports	245,000	355,000	400,000	435,000
Imports from the U.S.	45,000	80,000	100,000	110,000
Exchange Rate: 1 USD	UAH 7.7912	UAH 7.9359	UAH 8.05	n/a

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Source for Total Market Size: Espicom Business Intelligence; Total Imports and Imports from U.S.: - industry professionals estimates.

\*There is no accurate statistical data on the size of the medical equipment market.

In 2010, the Ukrainian market for medical equipment and supplies was estimated at \$509 million, or \$11 per capita, the lowest in Europe, 35% lower than in 2008, reflecting the country's lack of funding to import medical equipment and supplies. Growth in 2011 is expected to be about 7%. Healthcare funding in Ukraine is largely through taxation and healthcare services (ambulatory and hospital) are provided predominately by the public sector. A system of public healthcare insurance has been under discussion since 1996, but there has been no real action, nor has a long-term policy been developed.

Equipment used in public hospitals is typically obsolete and worn-out. Given the financial condition of many health institutions, replacement will be slow. Consequently, the number of private clinics and practitioners is growing steadily. Due to a lack of funding, patients are usually forced to make under-the-table payments to insure better treatment.

Imported equipment dominates the market. The leading suppliers include Germany, Japan, China, and the USA. Medical equipment traders are prime contacts for U.S. businesses entering the Ukrainian market, due to their extensive networks and ability to identify buyers.

The Ukrainian market is open to advanced medical equipment, offering ease of use and cost savings. Receptivity to used medical equipment is average – on the one hand, there is a demand from end-users, but on the other hand, used equipment cannot be purchased through government tenders. However, there is a potential market for used medical equipment, with the preferred approach to private hospitals and clinics, rather than through distributors.

### Sub-Sector Best Prospects

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- Emergency medical equipment (ambulances, mobile hospitals)
- Diagnostic equipment (ultrasound, computer tomography, magnetic-resonance tomography)

- Operating rooms
- Telecommunication equipment for telemedicine
- Dental equipment and materials
- Laser surgery devices
- Sterilization equipment

## **Opportunities**

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- Emergency medical equipment to prepare for the UEFA EURO-2012 games

## **Web Resources**

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Public Health, Ukraine's major medical equipment & pharmaceutical industries trade show: <http://www.publichealth.com.ua/en>

Ministry of Health of Ukraine: <http://www.moz.gov.ua>

Espicom Business Intelligence: <http://www.espicom.com>

## Oil & Gas Field Machinery (OGM)

### Overview

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Unit: USD thousands

	2009	2010	2011 (estimated)	2012 (estimated)
Total Market Size	1,102,000	1,091,000	1,158,000	1,210,000
Total Local Production	n/a	n/a	n/a	n/a
Total Exports	n/a	n/a	n/a	n/a
Total Imports	135,000	124,000	158,00	173,000
Imports from the U.S.	45,000	51,000	59,000	70,000
Exchange Rate: 1 USD	UAH 7.7912	UAH 7.9359	UAH 8.05	n/a

Data Source: Global Trade Atlas (GTA), Gas traders of Ukraine Association

\*There is no accurate statistical data on the size of the oil & gas machinery equipment market.

There is good potential for U.S. companies in the oil and gas equipment market in Ukraine. Despite having reserves of oil, gas, coal and shale gas, Ukraine supplies only 47-49% of its energy needs though oil extraction (10-12%), natural gas (20-25%), and coal (20-25%). Naftogaz, a state owned company and subsidiaries are the key stakeholders controlling the domestic natural gas and crude oil production industry, trading in over 90% of the gas market in Ukraine.

Market obstacles include troublesome customs clearance procedures, obtaining licenses, and certification, as well as the reluctance of state-owned petroleum companies to partner with international companies.

Three Ukrainian regions contain petroleum resources: the Dnipro-Donetsk basin, the Carpathian region in western Ukraine, and the Black Sea and Crimea region in the south. The Dnipro-Donetsk basin is a major oil and gas producing region accounting for 90% of all Ukrainian production. Ukraine's reserves of hydrocarbon resources considered for exploration are estimated at 5.4 trillion cubic meters of gas, and 400 million tons of gas condensate. Current average annual gas production amounts to 20 billion cubic meters of natural gas (2 billion cubic meters produced by private companies and JVs), and 4.27 million tons of crude oil. Ukraine also has substantial offshore natural gas and crude oil reserves, of which only 4% have been explored. The estimated amount of unexplored hydrocarbon resources on continental shelf of the Black and Azov Seas is estimated at 1.853 billion cubic meters of gas, 158 million tons of crude oil and 186 million tons of condensate. A lack of financing and advanced drilling technology are the major obstacles to exploring deposits located deeper than 70-80 meters (200 feet).

Ukraine has the second largest refinery capacity in the CIS region, with six crude oil refineries with about 53 million tons capacity per year. Several of these refineries require significant investments to modernize and improve operations in order to be competitive.

Ukraine also has an estimated 10 to 30 trillion cubic meters of shale gas reserves. The discovery of shale gas has tripled Ukraine's gas resources. Reserves of shale gas are twice as large as those for natural gas. Work on exploiting shale gas, which experts say could supply Ukraine with gas for the next 30 years, have not yet begun. According to

the Ministry of Energy and Coal Industry, the estimated cost of extracting shale gas is around US \$120-130/1,000 cubic meters.

Ukraine plans to start construction of its first liquefied natural gas terminal in the Black Sea region in 2015, with a capacity of 5 billion cubic meters to reduce its dependence on imports.

The major competitors on this market are Germany (RWE, Siemens, Bauer Maschinen, Dungs, Krohne,), the Netherlands (Akzo Nobel), Royal Dutch (Shell Group), British (Regal Petroleum Corporation Ltd) and Russia (TNK-BP, Luk-Oil). Major U.S. companies currently operating on the Ukrainian market include: Chevron, GE International, Honeywell, Halliburton, Emerson Process Management and NOV.

#### **Sub-Sector Best Prospects**

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- Gas production and storage technology; gas compressor units
- Pumping equipment (functioning below 6,000 feet)
- High-efficiency oil and gas exploration and drilling equipment and technologies, and drilling technology for offshore projects deeper than 200 feet
- Oil transport infrastructure equipment
- Valves, pumping equipment, compressors
- Automation and control equipment for oil pipelines and oil refineries
- Petrol station equipment

#### **Opportunities**

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- Potential project on enhanced Oil&Gas wells recovery
- Potential Tender on Construction of LNG terminal 2010-2015, (cost about USD 1.21 billion), one of the Ukraine's National Projects
- Offshore Oil & Gas Exploration in Azov and Black Seas
- Refinery Rehabilitation & Upgrade

#### **Web Resources**

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Ministry Energy and Coal Industry of Ukraine:

<http://mpe.kmu.gov.ua/fuel/control/uk/index>

Naftogaz Ukrainy National JCS: <http://www.naftogaz.com/www/2/nakweben.nsf/>

Ukrtransgaz Subsidiary Company: <http://www.ukrtransgas.naftogaz.com>

Ukrtransnafta National Joint-Stock Company: <http://www.ukrtransnafta.com>

Nadra Ukrainy State Company: <http://www.nadrukayny.com.ua>

Ukrnafta Open Joint-Stock Company: <http://www.ukrnafta.com>

Chornomornaftogaz State Joint-Stock Company: <http://www.blackseagas.com/eng/>

Geoinform State Scientific & Production Enterprise: <http://www.geoinf.kiev.ua>

Energobusiness magazine - energy sector news, statistics and facts:  
<http://www.e-i.com.ua>

Nafta i Gaz (Oil and Gas) Magazine: <http://www.oil-gas.com.ua>

Nefterynok (UPECO): <http://www.upeco.com>

Ukrainian Interbank Currency Market: <http://www.uice.com.ua/ukrainian>

Oil Market Magazine: <http://www.oilmarket-magazine.com/eng/index.phtml>

## Renewable Energy (RE)

### Overview

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Wind and solar power equipment has good export potential for U.S. companies in 2011. On March 1<sup>st</sup>, 2010, the Cabinet of Ministers of Ukraine adopted the State Target Economic Program on Energy Efficiency for 2010-2015. The program's objective is an optimization of local fuel and energy production in Ukraine, decreasing the amount of imported energy and the development of alternative energy sources. The Program is supplemented with 15 sector and 27 regional programs on energy efficiency and separate state target programs, particularly on bio-fuels, wind energy and solar energy development.

Today, alternative energy supplies barely 1-2% of Ukraine's domestic power needs.

**Wind Power:** Ukraine has developed and licensed wind power plants (WPPs) and built manufacturing facilities. Altogether, the country has eight wind energy stations (WESs) - in the Crimea, the Azov Basin and the Carpathian regions. WPPs are required to sell all the electricity they generate to Energorynok, a state-owned company, which operates Ukraine's wholesale electricity market. Energorynok is obligated to buy all of it. Theoretical wind power potential in Ukraine is 330mn GW. This is 6,000 times more than the total electricity generated by the country's power system today. But the actual technical and economical efficiency of WESs is thus far relatively low. On 8 of July 2009 the Cabinet of Ministers adopted a program that foresees the installation of pilot WESs with total capacity of 62.6 MW by 2014. The program will seek private investors to build WESs with a total capacity of 3300 MW.

**Solar Power:** Ukraine manufactures 10% of the world's solar silicon. According to preliminary projections, locally manufactured solar panels (with capacity of more than 100 MW) will be installed in Ukraine by 2015. The National Project "Energy of Nature" foresees the development of energy facilities that will utilize alternative energy sources—wind and sun, with projected capacity of 2000 MW. This is the equivalent of 2 billion cubic meters of imported gas. This project will be implemented mainly in the Crimea and Zaporizhzhya.

### Sub-Sector Best Prospects

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- Wind turbines, turbine blades, wind energy systems
- Solar panels, solar roofing systems, solar water heating systems

### Opportunities

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- Tender on Feasibility Study for "Energy of Nature" project 2011 (one of the Ukraine's National Projects)
- State Target Economic Program on Energy Efficiency for 2010-2015 will offer sales opportunities (cost for the project is around 21.4 billion)



## Web Resources

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The State Agency for Investment and National Projects Management:

<http://www.ukrproject.gov.ua/>

Ministry of Energy and Coal Industry of Ukraine: <http://www.mpe.energy.gov.ua>

EBRD: <http://www.ebrd.com>

NAER National Agency of Ukraine on Ensuring of Efficient Use of Energy Resources Management: <http://naer.gov.ua/en/>

SE Energorynok: <http://www.er.energy.gov.ua/>

## Telecommunications (TEL, TES)

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Unit: USD thousands

	2009 (estimated)	2010 (estimated)	2011 (forecast)	2012 (forecast)
Total Market Size	4,400,000	4,450,000	4,600,000	n/a
Exchange Rate: 1 USD	UAH7.7912	UAH7.9359	UAH 8.05	n/a

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Source: iKS-Consulting

There are no official statistics on the size of the Ukrainian telecommunications market for equipment or services. According to iKS-Consulting, in 2009 the total volume of the telecom market in Ukraine was \$4.4 billion. Unfortunately, estimates on local production, exports, and imports are not available.

The Ukrainian telecom industry has shown stable growth for the past few years, particularly in mobile wireless and data transfer. Despite the economic crisis, industry revenues in 2009 remained at about the level of 2008. In fact, some segments showed significant growth, in particular, data transfer increased 41% and cable TV increased 30%.

The mobile sector has been by far the most dynamic and the largest segment, nearly 70% of the telecom industry. The current penetration rate is over 123%, with over 57 million customer accounts for a population of 46.2 million. However, with the mobile market approaching saturation, growth has slowed recently with 59.8 million customers estimated by end of 2011. By the end of 2011, mobile connections will represent 81.1% of all telephone customers in the country.

In Ukraine there are five GSM operators – MTS Ukraine, Kyivstar GSM (majority shareholder- Telenor), Astelit (majority shareholder- Turkcell), Golden Telecom GSM, and Ukrainian Radio Systems (majority shareholder- Vypelcom). The two leading operators are MTS Ukraine and Kyivstar GSM service within around 80% of the market.

Currently, data transfer services is the fastest growing market segment.

### Sub-Sector Best Prospects

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- Equipment, software and components to maintain mobile and fixed telecom networks
- Digital TV network development
- Internet connectivity/data transfer services

### Opportunities

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- Telecommunications networks development & upgrade to comply with UEFA requirements for the EURO 2012 football Championship.

### Web Resources

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iKS-Consulting, International Consulting Agency: <http://www.iks-consulting.ru/ukr/index.html>

National Commission for Communications Regulation of Ukraine: <http://www.nkrz.gov.ua>

State Department for Communications and Informatization of the Ministry of Transport of Ukraine: <http://www.stc.gov.ua>

Telecom Club (regular convention of telecom executives and equipment suppliers): <http://www.telecom-club.org.ua>

Ukraine is a country of vast agricultural potential. In area, Ukraine is the second largest country in Europe after Russia. Nearly 88% of all foodstuffs consumed in Ukraine are produced domestically. These products include meat, poultry and dairy products, pasta, confectionery and bakery products; alcohol and non-alcoholic drinks, canned meat, and vegetables. Recently, the consumption of meat, dairy products, and fruits has rebounded after decreasing significantly since the early 1990s.

The Ukrainian economy showed steady growth from 2000 to 2008. In 2009, due to the world economic crisis, the economy contracted by 15%. However, there are indications that the economy is beginning to recover, although it is too early to say when these indicators will be reflected in consumer demand. There is substantial unmet demand from Ukrainian consumers, however low per capita income currently limits Ukrainian consumers to purchasing basic essentials. As the economy continues to recover, disposable income is growing as is consumer interest in new products.

Food price inflation and government efforts to control prices of “socially sensitive” food items such as bread are still significant characteristics of government interventions in food policy in 2011. Exporters are urged to stay current on developments in the import regime for all products, as tariffs may change with little or no advance notice due to GOU efforts to protect local production. In addition, the GOU now requires food products packaged for retail to attest to whether product ingredients may be made using genetic engineering. To date no genetically modified ingredients have been approved by the Government of Ukraine. Inputs such as seeds for planting must be conventional seeds, which are subject to testing for low level, incidental presence of products of genetic engineering. (Please see Planting Seeds, below).

In view of Ukraine’s economic recovery, the Foreign Agricultural Service in Kyiv (FAS/Kyiv) has identified a short list of consumer foods and agricultural inputs as best prospects for U.S. exporters to Ukraine: poultry meat, pork, beef, whitefish such as hake, and inputs including livestock genetics and seeds for planting. Future prospects for increased consumption of consumer-ready foods remain limited since the economic crisis. As Ukraine’s economic recovery increases so does the potential for agricultural production, and demand for agricultural inputs.

## AGRICULTURAL BIOTECHNOLOGY FOOD LABELING

In the beginning of January 2011, the Government of Ukraine signed Order #971 approving a list of food products that require monitoring for genetically engineered or genetically modified organism (GMO) content. Among the groups of products to be tested and monitored are soybeans and soy bean products, corn and products made with corn, potatoes and potato-derived products, tomatoes and tomato products.

In 2009, Genetically Modified labeling legislation was passed by the GOU, requiring all food products (e.g. grains, vegetables, table salt, water, etc.) to be labeled according to the product’s GMO content. This regulation was qualitative and lacking in scientific justification.

Decree #661, the Ukrainian GMO Law dated July 1, 2009, defines GMO presence in a product as follows:

- 1) Any food product that contains more than 0.9% of GMOs, or if any ingredient in a food product contains GMOs as well as food products that do not contain any GMOs but are produced at least in part with agricultural products that contain GMOs and the total weight of GMO or GMO derived products in a single food product package exceeds 0.9% of its total weight, this food product has to be labeled "Contains GMO".
- 2) The criteria for labeling package contents as "No GMO" is as follows: If a single package of food product contains zero or less than 0.9% GMOs, it shall be labeled "No GMO." Products without relevant labeling are not permitted for sale in Ukraine and are a subject to confiscation and fines.

To learn more about import requirements and biotechnology issues please contact the Foreign Agricultural Service Office in Ukraine at [agkiev@usda.gov](mailto:agkiev@usda.gov).

## SANITARY AND PHYTOSANITARY (SPS) MEASURES

Ukraine applies a range of SPS measures that restrict imports of a number of U.S. agricultural products, among them, pork, beef, and poultry. The industry has repeatedly complained that Ukraine's certification and approval process is lengthy, duplicative, and expensive. Over the past several years, Ukraine has passed amendments to several laws and regulations, most importantly to the law "On Veterinary Medicine" and the law on "Quality and Safety of Food Products and Food Raw Materials," to bring its legislative and regulatory framework into compliance with requirements of the WTO SPS Agreement.

The following SPS issues may be of particular importance to U.S. companies doing business in Ukraine:

- **Overlapping State Authorities:** Ukraine has maintained a complex and nontransparent oversight system for human and animal health measures that involves overlapping authorities - by the Veterinary Service, Sanitary Service, and DerzhSpozhyvStandard. Several legislative amendments passed as part of the WTO accession process made some progress, but have not yet solved the problem.
- **Beef, Beef Products, and Pork:** A U.S.-Ukraine bilateral agreement reached during WTO negotiations addresses the terms of U.S. exports of beef, beef products, and pork to Ukraine. Although Ukraine has allowed the entry of U.S. beef and pork that meets veterinary certificate requirements, the lack of a functioning protocol on live swine for breeding continues to limit U.S. port exports. Ukrainian veterinary authorities conducted a system audit of the U.S. system in 2007, but Ukrainian veterinary authorities still have questions that have held up the conclusion of the system audit.

## Web Resources

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Ministry of Agrarian Policy and Food of Ukraine: <http://www.minagro.kiev.ua/?lng=E>

State Statistics Committee of Ukraine: <http://www.ukrstat.gov.ua/>

Agri-business news (English-language): <http://www.proagro.com.ua/eng/news/>;  
<http://www.agroperspectiva.com/en/>; <http://www.agrimarket.info/>

UkrAgroConsulat Analytical Center <http://www.blackseagrain.net/>

Agribusiness trade events:

InterAGRO (February 2-4, 2011, Kyiv, Ukraine) <http://interagro.in.ua>

Agribusiness exhibitions in Ukraine:

<http://www.expoua.com/Exhibition/lang/en/region/11/country/52/city/252/mode/byCategory/category/24/>

## Pork and Beef

### Overview

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In Ukraine, there is a significant shortage of red meat for further processing. In 2008, relatively high import duties were reduced as Ukraine started to import pork to meet demand. Cheap cuts of U.S. beef and pork, as well as mechanically de-boned meat will be welcomed by Ukrainian companies in the meat processing business as these inputs are still in short supply. Please refer to USDA's Food Safety and Inspection Service Export Library for the latest information on exporting meat products to Ukraine: [http://www.fsis.usda.gov/Regulations & Policies/Ukraine Requirements/index.asp](http://www.fsis.usda.gov/Regulations%20&%20Policies/Ukraine%20Requirements/index.asp)

Imports of US poultry and red meat remain subject to compulsory import permits issued by the State Veterinary and Phytosanitary Service. The permits require time and often are turned down on formal grounds. Some analysts believe that the non-automatic nature of such permits creates a trade barrier that amounts to non-automatic import licensing. In addition importers are complaining about unfair and arbitrary import custom valuations which significantly increases import costs (import tariffs and value added tax). Ukrainian Custom's Service often disregards invoiced prices and arbitrarily re-values imports increasing costs for the exporter.

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<http://www.agroperspectiva.com/en/>; <http://www.agrimarket.info/>

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## Poultry Meat

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The domestic poultry meat industry is developing quickly, however does not satisfy growing domestic demand. Poultry meat for further processing has been the dominant U.S. export in recent years. It remains one of the best prospect sub-sectors despite pressures from the domestic industry for import protection. Imports of leg quarters and poultry cuts will persist.

### Opportunities

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Despite limited growth potential, poultry will continue to be the most demanded product (in value terms) by Ukrainian consumers.

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State Statistics Committee of Ukraine: <http://www.ukrstat.gov.ua/>

Agri-business news (English-language): <http://www.proagro.com.ua/eng/news/>;  
<http://www.agroperspectiva.com/en/>; <http://www.agrimarket.info/>

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## Livestock Genetics

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Ukraine's livestock industry has suffered enormously over the last decade due to low efficiency and loss of the sales market. Herd numbers continue to decline with little sign of recovery. The large concentration of animals in private households versus big industrial enterprises has resulted in a significant degradation of the genetic potential of Ukrainian hogs and dairy cows. Consequently, there are good opportunities for U.S.

suppliers, as more profit-oriented companies enter the hog and dairy businesses. At the moment, the market for high quality livestock genetics is limited to large agricultural companies with profitable dairy or hog operations. The market for lower quality genetics exists within the large household sector, but it is very price sensitive and U.S. exporters face fierce competition from domestic suppliers. In 2008, the United States improved its position as one of the major commercial suppliers of dairy genetics despite complex veterinary issues with animal diseases. In late 2010, the U.S. signed a bilateral protocol for swine genetics with Ukraine.

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Ministry of Agrarian Policy and Food of Ukraine: <http://www.minagro.kiev.ua/?lng=E>

State Statistics Committee of Ukraine: <http://www.ukrstat.gov.ua/>

Agri-business news (English-language):

<http://www.proagro.com.ua/eng/news/>

<http://www.agroperspectiva.com/en/>

<http://www.agrimarket.info/>

UkrAgroConsulat Analytical Center <http://www.blackseagrains.net/>

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<http://interagro.in.ua>

Agribusiness exhibitions in Ukraine:

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## Planting Seeds

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Despite rigid registration requirements, Ukraine's market for imported planting seeds has been growing for the last several years. Unfortunately, the financial crisis and the credit crunch has forced farmers to economize on purchases of quality seed and other inputs, leading to a decline in planting seed imports in 2009. Ukraine's market for imported planting seeds was estimated at \$235 million in 2008 with U.S. origin seeds capturing a 17% market share across all categories. The market has promising opportunities for U.S. suppliers of sunflower seeds. According to official statistics, U.S. share of total imports of sunflower seed for planting was 80% or about \$19 million.

### Opportunities

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There are promising opportunities for U.S. suppliers of sunflower seeds.



Ministry of Agrarian Policy and Food of Ukraine: <http://www.minagro.kiev.ua/?lng=E>

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## Chapter 5: Trade Regulations, Customs and Standards

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### Import Tariffs

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Ukraine's tariff schedule provides for three rates of import duty: full rates, most favored nation (MFN) rates, and preferential rates. The full rate of import duty can be from 2 times to 10 times higher than the MFN rate. Upon becoming a WTO Member on May 16, 2008, Ukraine applied new, lower MFN rates to all goods originating from WTO Members, in accordance with Article I of the GATT 1994. Preferential rates, lower than the MFN rates, are applied to imports from countries with which Ukraine has a Free Trade Agreement (FTA) or other preferential trade agreement, mostly from the CIS. Imports from the United States are subject to the MFN rate. U.S. exports to Ukraine usually receive the MFN rate if the following three criteria are met: (1) the company is registered in the United States; (2) the goods have a certificate to prove U.S. origin; and (3) the goods are imported directly from the United States. Most customs tariffs are levied at *ad valorem* rates, and only 1.5 percent of tariff line items are subject to specific or combined rates of duty. The average applied tariff rate fell to 4.95 percent after WTO accession and increased slightly to 5.4 percent in 2009. Excise duties are assessed as a percentage of the sum of the declared customs value, customs duties, and fees paid for importing products. Payment should be made in Ukrainian currency at the Ukrainian National Bank exchange rate effective on the day of payment.

VAT is assessed at 20 percent on most goods. In accordance with the new 2010 Tax Code, the VAT rate shall be reduced to 17% effective January 1, 2014. As the list of goods exempted from VAT changes frequently, businesses should contact a local tax expert for the most up-to-date list. Repayment of VAT has been a contentious issue – with many foreign companies owed millions of dollars in VAT refunds. However, the GOU intends to start automatic VAT reimbursement to so-called “white listed companies” as of March 2011. If implemented, automatic VAT reimbursement will be an important step closer to improving the business climate of Ukraine.

### Trade Barriers

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Ukraine continues to create new and maintain existing barriers to imports, including discriminatory fees and product certification regimes. Non-tariff barriers include non-transparent standards, costly certification and cumbersome procedures for Phytosanitary certification, and import licenses.

Over the past few years the government of Ukraine has on occasion temporarily restricted imports of U.S. agricultural products, allegedly for reasons of food safety.

## **Import Requirements and Documentation**

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Despite some procedural improvements made by the Ukraine's State Customs Service, firms importing goods into Ukraine should expect a slow working bureaucracy and a large volume of paperwork. Importers are required to complete a customs freight declaration for every item imported. Use of licensed customs brokers to navigate the often non-transparent and seemingly inconsistent customs regulations is recommended, as constantly changing regulations and, in many cases, the mood of the customs officer can hinder the successful import of a product.

Import licenses are required for some goods. The list of goods is updated annually by the Cabinet of Ministers, and changes from year-to-year. Most import licenses are granted through the Ministry of Economy. Other import licenses are issued by:

- Ministry of Internal Affairs (sporting weapons and self-defense articles)
- Ministry of Agriculture and Food Industry, the State Chemical Commission (agricultural chemicals), and Ministry of Environmental Protection (if such substances are supplied in sprays);
- Ministry of Agriculture and Food Industry (seeds);
- Ministry of Health (pharmaceutical products, cosmetics, and hygiene products) and Ministry of Environmental Protection (if such substances are supplied in sprays);
- Ministry of Agriculture and Food Industry, Department of Veterinary Medicine (veterinary medicines);
- Ministry of Education and Science (matrix forms used in the manufacturing of audio production); and
- Ministry of Environmental Protection (ozone-depleting chemical substances including propellants for spray-paints and enamels, perfume, body lotions, etc., paint-solvents, fire extinguishers and refills, oil-sprays, air-conditioners and refrigerating equipment, and refrigerated vending machines).

The importer/freight forwarder should have all documents ready for presentation to the Ukrainian customs authorities, including:

- Signed contract;
- Cargo customs declaration with the description and value of goods, term of payment (i.e., cash, bank transfer, barter, etc.), and terms of shipment. If payment is made by bank transfer, the name of the bank, address, and account number should be included;
- Certificate of origin of goods;
- Import license, if required;
- If importing weapons, ammunition, explosives, or poisonous substances, written permission from the Ministry of Internal Affairs;

- If importing electronic radio and equipment and high-frequency devices, written permission from the State Telecommunications Committee; and
- If importing drugs, medical preparations, and sources of ionizing radiation, written permission from the Ministry of Health.

Because the list of the documents to be presented to customs authorities changes frequently, businesses should contact a local customs expert for the most up-to-date list.

## U.S. Export Controls

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The Department of Commerce, Bureau of Industry and Security (BIS) -- see <http://www.bis.doc.gov> -- is the primary licensing agency for dual use exports (commercial items which could have military applications). [Other departments and agencies](#) have regulatory jurisdiction over certain types of exports and re-exports. For example, the State Department licenses the export of defense articles and services, while certain nuclear materials and equipment are licensed by the Nuclear Regulatory Commission.

Relatively few exports require an export license. Licenses are required in certain situations involving national security, foreign policy, short-supply, nuclear non-proliferation, missile technology, chemical and biological weapons, regional stability, crime control, or terrorist concerns. License requirements are dependent upon an item's technical characteristics, the destination, the end-use, the end-user, and other activities of the end-user. [Confirm whether your exports need a license before you export.](#)

The first step in determining your license requirements is to classify your product by determining its [Export Control Classification Number \(ECCN\) on the Commerce Control List \(CCL\)](#) -- see [More information on Commodity Classifications](#). Check these lists to insure your products are not being illegally sold to barred persons or entities.

- [Denied Persons List](#) - List of persons to whom export privileges are denied by written order of the Department of Commerce.
- [Unverified List](#) - includes names and countries of foreign persons who in the past were parties to a transaction with respect to which BIS could not conduct a pre-license check ("PLC") or a post-shipment verification ("PSV") for reasons outside of the U.S. Government's control.
- [Entity List](#) - These end users have been determined to present an unacceptable risk of diversion to developing weapons of mass destruction or the missiles used to deliver those weapons.
- [Specially Designated Nationals List](#) - Alphabetical master list of Specially Designated Nationals and Blocked Persons
- [Debarred List](#) - Defense Trade Controls List  
<http://www.pmddtc.state.gov/compliance/debar.html>

For further information, please contact: U.S. Department of Commerce, Bureau of Industry and Security (BIS), 14th and Pennsylvania Ave., N.W., Washington, DC 20230; Tel: (202) 482-0500. <http://www.bis.doc.gov/>

## **Temporary Entry**

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Temporarily imported goods can remain in Ukraine for one year from the date a customs declaration is submitted. If warranted, this term can be extended by local customs authorities for the duration of an economic, scientific, humanitarian, or other event in which the temporarily imported goods are required. The set term of temporarily imported goods should be reflected in the customs declaration. Samples may be shipped out of the country after usage via any customs point. Prior to their customs declaration expiration, temporarily imported goods should be:

- Returned outside the Ukrainian customs border;
- Declared at customs for further use;
- Passed to customs for storage in a bonded warehouse; or
- Demolished under customs control if these items cannot be used as goods, products, or equipment.

The following documents are required for temporarily importing demonstration samples:

- A customs declaration;
- Permission from the respective Ministry, if required; and
- Other documents outlined in the customs declaration.

Prior to being returned, samples are inspected by customs authorities to ensure that the quantity and description of goods match those registered at the time of importation. Demonstration samples to be returned outside Ukraine are exempt from customs fees.

## **Labeling and Marking Requirements**

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All imported food products should carry labels in the Ukrainian language. The labels should include information about the manufacturer, product ingredients, and expiration dates. In addition, some specific products require special standards, including labels for hazardous materials, labels indicating the contents and expiration date of foodstuffs, and markings indicating the voltage and frequency of electrical appliances. In addition, as of December 2009 Ukraine introduced mandatory requirement that goods containing Genetically Modified Organisms (GMOs) and GMO-free goods must be labeled accordingly, with importers facing a liability for incorrect information.

## **Prohibited and Restricted Imports**

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The Ukrainian government strictly controls and restricts the import of weapons, narcotics, chemical and hazardous substances, and certain pharmaceutical and communications products. U.S. companies wishing to import these goods should contact the relevant Ukrainian government ministry responsible for issuing licenses.

## **Customs Regulations and Contact Information**

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State Customs Service of Ukraine

11 Degtyarivska St., Kyiv 04119 Ukraine  
Tel: (044) 247-26-06, 274-26-63  
Fax: (044) 236-82-81  
E-mail: [dmsu@customs.gov.ua](mailto:dmsu@customs.gov.ua)  
<http://www.customs.gov.ua/>

## Standards

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## Overview

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U.S. and other foreign companies have long regarded Ukraine's system of technical regulations as a significant obstacle to trade and investment. Ukraine has passed several new laws and governmental decrees in recent years aimed at bringing Ukrainian practices in this area into line with the WTO Agreement on Technical Barriers to Trade (TBT), but significant problems remain. Based on the old Soviet system, the Ukrainian technical regulations system is characterized by burdensome, *ex ante* control and widespread compulsory standards, and it differs markedly from systems in Europe and OECD countries.

## Standards Organizations

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### **The State Service of Technical Regulation** (<http://www.dssu.gov.ua/control/en/index>)

On December 9, 2010 the standardization and certification body in Ukraine, was reorganized into the State Service of Technical Regulation (by Presidential Decree #1085 of the State Committee for Technical Regulation and Consumer Policy (DerzhSpozhyvStandard). Prior to the reorganization DerzhSpozhyvStandard was responsible for developing and approving standards, issuing certificates, conducting inspections of producers, and ensuring market surveillance and protection of consumer rights. This confusion of functions, including the bundling together of commercial certification functions with state supervision functions, combined with the fact that the same organization provided certification services and appointed other certification bodies, meant that there were considerable conflicts of interest and excessive discretionary powers. Appropriate resources, such as modern analytical equipment and reactants, were not available in most DerzhSpozhyvStandard laboratories. Depending on the type of product, testing, and applicable certification scheme, the certification process could take from 3 days to 1 month. So far, there is very little info about functions and responsibilities of the newly established State Service of Technical Regulation.

### **NIST Notify U.S. Service**

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries.

**Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at URL: <http://www.nist.gov/notifyus/>

## **Conformity Assessment**

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Contrary to accepted international practice, standardization in Ukraine is not a voluntary procedure through which manufacturers can ensure specific properties of a process or product, but rather a part of the state regulatory system. Standards are compulsory for virtually all goods, and many services. Mandatory certification is required in Ukraine for over 300 types of goods and services and remains applicable *de facto* for an even larger number of goods and services (DerzhSpozhyvStandard Order #28 of February 1, 2005 with amendments). Mandatory certification is often required without regard to the products' actual level of risk to the public, or to other types of regulation already applicable. Mandatory certification in Ukraine is applicable both to domestic products and to imported goods in most cases, generally irrespective of whether they already have proof of conformity with applicable international technical regulations. In addition, mandatory certification applies to produced goods rather than to the production process, thus forcing manufacturers to complete certification procedures repeatedly or to submit proof of conformity assessment for each batch of products.

Most current standards were created during the Soviet era do not correspond to international standards, and are typically far more restrictive and prescriptive than necessary. Although Ukraine belongs to several international standardization bodies, such as the International Organization for Standardization (ISO), it generally has not recognized foreign product certificates, even if they are issued in line with international standards, unless recognition is mandated through an international treaty signed by Ukraine.

Website of the State Service of Technical Regulation of Ukraine  
(DerzhSpozhyvStandard):

[http://www.dssu.gov.ua/control/en/publish/article/main?art\\_id=87434&cat\\_id=87301](http://www.dssu.gov.ua/control/en/publish/article/main?art_id=87434&cat_id=87301)

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## **Product Certification**

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Importers can apply for three types of technical standard certificates:

- A certificate for a single batch of goods;
- A certificate for one year, which is valid for all imported goods during that year with one or two additional selective tests (this type of certification is the most common in Ukraine, covering 70% of issued certificates); and
- A certificate for 5 years, for which mandates inspection of production facilities.

In addition, Ukraine applies a range of sanitary and phytosanitary (SPS) measures, many of which do not appear to be consistent with an international, science-based approach to regulation. The certification and approval process is lengthy, duplicative, and expensive, with politics and corruption still often behind arbitrary application of regulations. Amendments to the laws “On Quality and Safety of Food Products and Food Raw Materials,” “On Veterinary Medicine,” “On Plant Quarantine,” and others were passed to bring Ukrainian legislation into compliance with requirements of the WTO Agreement On Sanitary and Phytosanitary Measures (passed in 2005 and 2006).

To apply for certification, the following documents issued outside Ukraine confirming a product's conformity to specific requirements are to be submitted to the DerzhSpozhyvStandard:

- An application stating that the company wishes to certify imported products;
- A certificate of conformity;
- Standards (technical conditions) of production and the procedures for certification;
- A certificate of accreditation from the testing laboratory;
- A protocol/summary of test results;
- A certificate of quality control; and
- A certificate of origin (manufacturing).

Because the list of documents issued outside Ukraine confirming a product's conformity changes frequently, businesses should contact DerzhSpozhyvStandard for the most up-to-date list.

[http://www.dssu.gov.ua/control/en/publish/article/main?art\\_id=87434&cat\\_id=87301](http://www.dssu.gov.ua/control/en/publish/article/main?art_id=87434&cat_id=87301)

DerzhSpozhyvStandard has adopted ISO-9000 for production systems certification. Based on these standards, Ukrainian certification bodies can evaluate the quality of a production system rather than the quality of a single product. The procedure for issuing ISO certificates requires a visit from Ukrainian standards specialists to the importer's production facilities to inspect the system's quality. Adoption of the ISO-9000 series should facilitate the process of certifying goods as system quality certificates are issued for a three-year period. According to DerzhSpozhyvStandard, the ISO-9000 standard certificate doesn't prevent the importer from certifying individual products. An April 2008 amendment to the law “On Standards, Technical Regulations, and Conformity Assessment Procedures” helped to ensure that Ukraine's authorities will accept the results of alternative methods of conformity assessment, including those performed in the United States.

During WTO accession negotiations, Ukraine pledged to continually review the list of products subject to mandatory certification and to reduce the number of products on this



list, if the legitimate objectives could be met in a less trade-restrictive manner. In a positive move in September of 2010, DerzhSpozhyvStandard removed almost all items from the food certification list with the exception of baby food, tobacco, and alcoholic beverages. An April 2008 amendment to the law "On Standards, Technical Regulations, and Conformity Assessment Procedures" helped to ensure that Ukraine's authorities would accept the results of alternative methods of conformity assessment, including those performed in the United States. Ukraine's National Accreditation Agency is an affiliated member of the International Laboratory Accreditation Cooperation (ILAC), and in 2009 it made a first step on the way to full membership – signing an Agreement with European Cooperation for Accreditation (EA) about personnel accreditation. Once it becomes an ILAC member, Ukraine should significantly increase the acceptance of test results of laboratories accredited with, and notified by, ILAC member bodies.

## **Accreditation**

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On August 1, 2002, a National Accreditation Body was established to ensure the use of standards and procedures consistent with the European Cooperation for Accreditation policy. Ukraine's National Accreditation Agency is affiliated member of the International Laboratory Accreditation Cooperation (ILAC), and in 2009 it made a first step on the way to the full membership – signing an Agreement with European Cooperation for Accreditation (EA) about personnel accreditation. After becoming ILAC member, Ukraine should significantly increase the acceptance of test results of laboratories accredited with, and notified by, ILAC member bodies.

## **Publication of Technical Regulations**

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Publication of Technical Regulations can be found at official website of the State Committee of Ukraine for technical regulation and consumer policy:  
<http://www.dssu.gov.ua/control/en/index>. Please note that most of the documents are available in the Ukrainian language only.

## **Labeling and Marking**

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All imported food products must carry labels in the Ukrainian language. The labels should include information about the manufacturer, product ingredients, and expiration dates. In addition, some specific products require special standards, including labels for hazardous materials, labels indicating the contents and expiration date of foodstuffs, and markings indicating the voltage and frequency of electrical appliances. In addition, as of December 2009 Ukraine introduced the mandatory requirement that goods containing Genetically Modified Organisms (GMOs) and GMO-free goods must be labeled accordingly, with importers facing a liability for incorrect information.

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Website of the State Service of Technical Regulation of Ukraine  
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## Trade Agreements

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The United States and Ukraine signed a new Trade and Investment Cooperation Agreement (TICA) on April 1, 2008. The TICA establishes a joint U.S.-Ukraine Council on Trade and Investment, which will address a wide range of trade and investment issues including market access, intellectual property, labor, and environmental issues. Little more than a month later, Ukraine became the 152nd member of the World Trade Organization (WTO) on May 16, 2008.

Ukraine has signed free trade agreements with all of the former Soviet republics except Tajikistan. Ukraine has a Partnership and Co-operation Agreement with the European Union (PCA). Under the terms of the agreement, Ukraine enjoys most favored nation status with the EU, but is not required to bind its own tariffs. Ukraine and the EU started negotiations on a free trade agreement in February 2008. Ukraine is also a party to the 1995 CIS free trade agreement. This agreement has never been effectively implemented, however. Ukraine participates in the Black Sea Cooperation Council, along with Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, the Russian Federation, Macedonia, and Turkey. It is envisaged that the organization will be developed into a free trade area. Ukraine has concluded trade agreements with 12 countries (Austria, Argentina, Armenia, Bulgaria, Canada, Estonia, Finland, Kyrgyz Stan, Latvia, Moldova, Russia, and Switzerland). These agreements grant, on a reciprocal basis, most favored nation status to export-import operations with the countries concerned. As in the case of the PCA, Ukraine benefits via these agreements from the tariff concessions made by its partner countries who are WTO members without binding its own tariffs.

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Ministry of Economic Development and Trade of Ukraine: <http://www.me.gov.ua/>

State Customs Service of Ukraine: <http://www.customs.gov.ua/>

State Committee of Ukraine for technical regulation and consumer policy:  
<http://www.dssu.gov.ua/control/en/index>

Ukrainian Scientific-Research and Training Center for Standardization, Certification and Quality Assessment (UkrNDNC): <http://www.ukrndnc.org.ua/eng/>

National Scientific Center "Institute of Metrology" (based in Kharkiv):  
<http://www.metrology.kharkov.ua/eng/index.shtml>

List of 27 regional consumer rights protection centers:  
[http://www.dssu.gov.ua/control/uk/publish/article/main?art\\_id=36043&cat\\_id=36042](http://www.dssu.gov.ua/control/uk/publish/article/main?art_id=36043&cat_id=36042)

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## Chapter 6: Investment Climate

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### Openness to Foreign Investment

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#### GOVERNMENT'S ATTITUDE TOWARDS FOREIGN INVESTMENT

Ukraine encourages foreign trade and investment, and President Yanukovich, who was inaugurated in February 2010, prioritizes improving Ukraine's investment climate in his Economic Reform Plan. However, complex laws and regulations, poor corporate governance, weak enforcement of contract law by courts and corruption have made Ukraine a difficult place to invest. In fact, although the Government of Ukraine has listed improving the investment climate as a top economic policy goal since 2004, the overall investment and business climate remains poor, as evidenced by its low ranking-- 145 out of 183 economies -- in the World Bank's Doing Business Report for 2011. Due in part to conflicts in the body of laws that govern investment and commercial activity in Ukraine, and a high level of corruption in the country, foreign investors have found it difficult to pursue cases in Ukrainian courts and often seek arbitration outside of the country.

Although Ukraine will see economic growth in 2010, it was hit hard by the global financial and economic crisis. GDP contracted by 15% in 2009, and the government turned to international institutions to help it cope with the crisis. A new IMF loan (following a 2008 loan that went off track in late 2009) was approved in July 2010 and makes \$15.2 billion available to Ukraine over 29 months. Implementation of the loan's conditions should help improve Ukraine's macroeconomic situation and the operating environment for

businesses. For example, the government has promised to eliminate VAT refund arrears to exporters by the end of 2010.

Ongoing Free Trade Agreement negotiations with the European Union should also move Ukraine toward a more open and transparent trade regime and help improve the investment climate.

Despite the difficult operating environment, some investors are finding opportunities in Ukraine. Ukrainian legislation provides for national treatment of foreign investors, in line with its World Trade Organization (WTO) commitments.

For their part, officials at local levels are increasingly looking to attract investment and create jobs in their regions. In many instances, these local officials have become willing partners for investors in need of land or permits, which frequently are controlled below the national levels. Government officials at all levels have also become more receptive to public-private partnerships to finance and build needed infrastructure, particularly as Ukraine prepares to co-host Euro 2012 Soccer Championship games.

#### MAJOR LAWS/RULES AFFECTING FOREIGN INVESTMENT

The Law of Ukraine on Investment Activity (1991) establishes the general principles for investment activity in Ukraine. In addition, the following key laws and regulations pertain to foreign investment:

- Law "On the Foreign Investment Regime" (1996), which provides for equal treatment of foreign and Ukrainian-owned business with some restrictions in broadcasting and weapons manufacturing;
- Law "On the Protection of Foreign Investment" (1991);
- Cabinet of Ministers' Resolution "On the Procedure for the State Registration of Foreign Investment" (1996);
- Law of Ukraine "On Production-Sharing Agreements" (the "PSA Law"), which is effective in Ukraine since 1999.
- The Land Code (2001) provides for private ownership of land, facilitating the privatization of land for agricultural purposes, but also established a moratorium on agricultural land sales. Agricultural land sales are still not possible. The Land Code also prohibits foreign ownership of farmland.
- 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).
- Both a Civil Code and a competing Commercial Code went into effect on January 1, 2004. Lawyers and judges continue to grapple with how to implement the two laws, whose approaches to the regulation of business activities are contradictory. The Commercial Code has a number of provisions considered to be incompatible with market economics, and most experts believe it should be eliminated entirely.

## RESTRICTIONS ON FOREIGN INVESTMENT AND REVIEW COMMITTEES

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 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 a Ukrainian publishing house 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 founding 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.

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

## PRIVATIZATION

The State Property Fund oversees the privatization process in Ukraine. Privatization rules generally apply to both foreign and domestic investors, and, in theory, a relatively level playing field exists. Observers claim, however, that a common abuse of privatization laws is the adjustment of the terms of a privatization contest to fit the characteristics of a certain, pre-selected bidder. Few major, new privatizations have been conducted since the privatization rush of 2004. In 2005, Ukraine revoked the privatization of the Krivoriizhstal steel factory, which had been sold to a group of domestic investors for \$800 million, and subsequently sold it in a fair tender to Mittal Steel for \$4.8 billion, in what is generally viewed as Ukraine's most transparent major privatization to date.

No major privatizations took place in 2009 or 2010. The government has identified Ukrtelekom (Ukraine's state telecommunications operator), a large chemical producer (Odessa Portside Plant), energy generation companies, the Kryvorizhskyy Ore Mining and Processing Plant, and producer of turbines for power plants Turboatom as priorities for future privatization. Attempts at privatization in recent years were often marked by controversy.

## CUSTOMS AND DUTIES

Burdensome customs clearance procedures are a disincentive to investment in Ukraine. Imported goods entering Ukraine often must be "cleared" by a number of state bodies, some of which do not operate 24 hours a day, causing extended delays. Corruption also remains a serious problem, and businesses report that Customs officials frequently demand bribes or special "fees" to expedite clearance. Companies have identified improper customs valuation procedures -- i.e. Customs officers valuing goods well above their true value, thereby raising the customs duties and value added tax owed -- as a major obstacle to doing business in Ukraine.

Import duties are calculated in accordance with the law "On the Customs Tariff of Ukraine." Upon becoming a WTO Member in 2008, Ukraine applied new, lower MFN rates to goods originating from WTO Members, in accordance with Article I of the GATT 1994. Preferential rates are applied to imports from twelve countries with which Ukraine has a Free Trade Agreement (FTA) or other preferential trade agreement, mostly from the CIS.

The customs tariff schedule comprises more than 11,000 tariff lines. Most customs tariffs are levied at *ad valorem* rates, and only 1.5 percent of tariff line items (down from 5.97 percent prior to WTO accession) are subject to specific or combined rates of duty. These specific and combined rates apply primarily to agricultural goods that are produced in Ukraine, such as grains, sugar, and vegetables like carrots and potatoes. The average applied tariff rate fell in 2010 to 4.76 percent from 4.95 percent after WTO accession. For agricultural goods, the average applied tariff rate is now 8.95 percent down from 9.11 percent last year. For industrial goods the average applied rate is now 3.52 percent down from 3.71 percent last year.

Ukraine introduced grain export quotas on October 18th, 2010 and will restricted grain exports (wheat, corn, barley, rye, and buckwheat) to 4,202,000 MT (metric tons) until March 31th, 2011. The quotas and their distribution, which has been non-transparent, raise questions about Ukraine's commitment to the open trading principles of the WTO.

## PROCUREMENT

Ukraine's new government procurement law, which came into effect on July 30, 2010, aims to make procurement non-discriminatory and more transparent. The thresholds for applying the public procurement mechanism have been kept at the previously applicable level of UAH 100,000 (US\$ 12,500) for purchasing goods and services and UAH 300,000 (US\$ 37,500) for public works projects.

The Ministry of Economy of Ukraine (the "Ministry of Economics") continues to have the main regulatory and supervisory authority in the field of the public procurement.

The main changes introduced by the law include the following:

- non-residents of Ukraine will be able to participate in the public procurement procedures on a parity basis with Ukrainian residents;

- the Anti-Monopoly Committee of Ukraine (the "AMC") will have the power to review disputes arising out of the public procurement procedures (previously the tender participant's appeals would have been addressed to the Ministry of Economy or directly to the tender organizer (i.e. the customer.)) Courts may still review disputes as well;
- the period for consideration of an appeal has been extended from 20 to 30 business days;
- tougher qualification requirements of the bid participants or participants of the preliminary qualification have been introduced. For instance, under the new rules, the tender participant must submit bank statements confirming details of any indebtedness;
- public procurement mechanisms as "reduction" and "bids with limited participation" have been removed. Other public procurement procedures, such as open bids, two-step bids, procurement from the sole participant, have also been modified to make these procedures more transparent;
- administrative fines imposed for infringement of public procurement laws have been increased to a maximum of UAH 17,000 (US\$2,125).

Implementing mechanisms for the new law were not yet fully in place as of the end of 2010, and amendments to the law are pending in Ukraine's legislature. As a result, it is too early to evaluate whether the law will improve the functioning of Ukraine's government procurement system.

In the past, foreign firms have complained of: (1) the lack of public notice of tender rules and requirements; (2) covert preferences in tender awards; (3) the imposition of conditions that were not part of the original tender requirements; and (4) ineffective grievance and dispute resolution mechanisms, which often allow a losing bidder to block the tender after the contract has been awarded.

Ukraine is not yet a signatory to the WTO Agreement on Government Procurement (GPA).

## **Conversion and Transfer Policies**

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### **RESTRICTIONS ON CONVERTING/TRANSFERRING FUNDS**

The 1996 Law "On Foreign Investment" guarantees the "unhindered transfer" of profits, revenues, and other proceeds in foreign currency after taxes and other mandatory payments.

While foreign investors may repatriate earnings, companies must obtain a license from the National Bank of Ukraine (NBU) for some operations. For repatriation of hard currency, each transaction over \$50,000 must be approved by the NBU. The NBU also charges a fee to review the transaction. Foreign exchange is readily available at market-determined rates. The exchange rate for Ukraine's currency, the hryvnia (UAH) was relatively stable in late 2010, trading at about UAH 8 per one dollar, after a period of high volatility linked to 2008-2009 financial crisis.



A pension fund tax hard currency purchases was canceled beginning July 1, 2010; however, it will likely be reintroduced in 2011 at 0.5%, as was the case in the beginning of 2010.

On April 27, 2010 Ukraine's parliament reversed almost all amendments, introduced in June 2009 to fight the economic crisis, which had complicated investment procedures. The new legislation canceled the requirement to open investment accounts with local banks, mandatory registration of investments, and requirements for investment transactions in hryvnia only. The law on The Foreign Investment Regime envisages voluntary registration of foreign investment with the Ministry of Economy. However, only registered foreign investors have the right to guarantees and privileges envisaged by the law.

In late 2008, the NBU issued a series of regulations designed to respond to the financial crisis and limit capital flight. These regulations are still in place as of the end of 2010, and include limiting individual residents' and non-residents' monthly transfers of foreign currency to 15,000 hryvnia (\$1900) without supporting documentation (e.g., court decision, contract, purchase invoice, etc.) or up to an equivalent of 75,000 hryvnia a month with supporting documentation. Exemptions are allowed for medical expenses abroad or travel related to said expenses; or payments connected with a death in the family abroad; or money transfers made to enforce court or law enforcement decisions; as well as transfers made as part of a permanent departure from Ukraine.

Also since November 2008, short-term foreign currency loans (six months) by foreigners to Ukrainians have been subject to new restrictions. Loans to Ukrainian borrowers can no longer be paid directly to a foreign counterpart without a transfer through the borrowers' bank account, which must be in a Ukraine-based bank (foreign or domestic-owned), absent a special license from the NBU. In addition, interest rates which can be applied to each tranche of a loan to a Ukrainian borrower under a single facility are now capped based on the NBU's rates for loan agreements of similar terms. Previously, the NBU had relaxed the cap on foreign currency loans by foreigners to Ukrainians in an effort to attract foreign lending to Ukraine. However, starting in November 2010, the NBU has obliged non-financial companies, which issue guarantees on foreign loans to obtain NBU licensing to execute such guarantee. The measure is aimed at limiting currency outflow from Ukraine.

Beginning in September 2010, the NBU resumed a 20% reserve requirement on short-term currency loans and deposits obtained by banks from foreigners.

Investors convert their 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 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 exceeded \$500,000. The Law "On the Circulation of Promissory Notes" provides an opportunity for payments in foreign currency and issuance and circulation of promissory notes, in accordance with the 1930 Geneva Convention "Providing a Uniform Law for Bills of Exchange and Promissory Notes."

At present, there is no legal parallel market that investors might use to remit returns on their investment such as convertible instruments or foreign currency denominated bonds, although this is an item that the Ministry of Finance and NBU have considered in the past. There is no legal limit on the inflow or outflow of funds for profits, debt service, capital gains, returns on intellectual property, or export/imports.

Direct investors seeking to liquidate and repatriate their investments face stringent documentary requirements, though the NBU has stated its willingness to waive requirements if documents from the original transactions are no longer available. Nonresident investors who wish to convert dividends or divestment income into foreign currency must provide proof of the initial foreign investment.

## **Expropriation and Compensation**

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Under the 1996 Law "On the Regime of Foreign Investment," a qualified foreign investor is provided guarantees against nationalization, except in cases of national emergencies, accidents, or epidemics. On November 17, 2009 the Parliament adopted the law on transfer of land plots and property for public needs. The law gives clear definition of public need, defines procedure of such an expropriation, and provides a list of possible reasons for expropriation for public needs.

Expropriation of property is rare, although in 2008, the government abruptly cancelled a Production Sharing Agreement with a U.S. company to explore for oil and gas in the Black Sea, and in 2010, law enforcement officials forcibly removed a U.S.-invested floating restaurant from its moorage on the Kyiv waterfront without providing documentation or further access to the owners. International institutions have recommended that definitions of expropriation and nationalization in the foreign investment law and bilateral treaties be expanded to include indirect and creeping expropriation. Courts have the jurisdiction to determine whether owners of privatized enterprises failed to pay for an enterprise or to implement investment commitments in a privatization sale. Failure to pay or invest allows the GOU, with court permission, to revoke ownership and resell the property.

## **Dispute Settlement**

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### **EXTENT AND NATURE OF INVESTMENT DISPUTES**

The Embassy continues to provide advocacy on behalf of U.S. investors. For many years, investment disputes frequently have involved key problems with the investment climate such as the lack of adequate rule of law, fair and impartial dispute resolution mechanisms, and enforcement of domestic court and international arbitration decisions. Another problem is poor corporate governance (inadequate protection for shareholder rights, inadequate disclosure, asset-stripping, and voting fraud). Currently, there is no single point of contact in the Ukrainian government tasked to help resolve business and investment disputes involving foreign companies. Most U.S. businesses have little confidence in Ukrainian courts. Commercial contracts may permit the parties to use international arbitration or specified foreign courts to settle disputes. Though Ukrainian

legislation recognizes international arbitration decisions, in practice such decisions can be very difficult to enforce in Ukraine.

Corruption continues to lie at the heart of many investor disputes. Laws and regulations are vague, with considerable room for interpretation, providing officials at every bureaucratic layer ample opportunities for rent seeking.

If a foreign investor is involved in a dispute with the State Tax Administration (STA), the STA will often request that the Ministry of Economic Development and Trade impose sanctions against the foreign company, preventing it from clearing its goods through customs or engaging in financial transactions with entities outside of Ukraine. The State Customs Service has also used the non-tariff barrier of 'quality certification' to impose de-facto bans on exports of selected commodities. Neither practice is codified in Ukrainian law, but both are part of the government's standard procedures.

## DESCRIPTION OF UKRAINE'S LEGAL SYSTEM

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. All other disputes involving a foreign investor must be settled in the Ukrainian courts, in courts of arbitration, including international arbitration courts, or other bodies of dispute resolution chosen by the parties to the dispute.

Ukraine's court 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: (i) local courts; (ii) appellate courts; and (iii) 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 (except military disputes).

Since Ukraine is a civil law country, the exercise of judicial power is based solely on the application of statutes. Court decisions do not constitute binding precedents, although Supreme Court and Supreme Commercial Court decisions are summarized, to introduce uniformity to the interpretation and application of the applicable legislation, and are followed by the lower courts on a quasi-mandatory basis.

Commercial courts of Ukraine accept jurisdiction over disputes between legal entities, including foreign legal entities, Ukrainian legal entities and individual entrepreneurs, arising out of the conclusion, modification, termination, and performance of commercial agreements (including privatization). Commercial courts are also in charge of administering bankruptcy cases and certain cases initiated by the Antimonopoly Committee of Ukraine and the Accounting Chamber.

Administrative courts handle tax, customs, and certain antimonopoly disputes.

## ENFORCEMENT OF RIGHTS

Investors criticize Ukraine's legal system for its inefficiency, burdensome procedures, unpredictability, corruption, and susceptibility to political interference. Even when they obtain favorable decisions, investors claim the decisions are sometimes not enforced. The enforcement responsibilities fall under the State Enforcement Service, which reports to the Ministry of Justice.

The procedure for recognizing and enforcing foreign court decisions is regulated by Section 8 of the Code of Civil Court Procedures of Ukraine. In accordance with the Code, a foreign court decision is recognized and enforced in Ukraine if such recognition and enforcement is provided for in international treaties, the mandatory nature of which has been endorsed by the parliament, or based on a mutual ad-hoc agreement with a foreign state whose court has rendered a decision that is to be enforced in Ukraine.

The State Enforcement Service implements decisions rendered by foreign courts and arbitration tribunals in accordance with the Law "On Enforcement Proceedings." The Law "On Implementing Decisions and Applying Practices of the European Court of Human Rights" entered into force on March 30, 2006. Along with a subsequent Cabinet of Ministers implementing Resolution, the law obligates the Ministry of Justice to ensure implementation of the Court's decisions.

## COMMERCIAL LAW

A new Civil Code and a competing Commercial Code both went into effect on January 1, 2004. Lawyers and judges have since grappled with how to implement the two conflicting laws. Despite heavy criticism of the Commercial Code by businessmen and GOU officials, Parliament has not yet taken action to amend or annul it. The Civil Code ensures protection of the rights of private property, of engaging in contracts, and of entrepreneurial activity. It provides a unified framework for economic regulations.

The Civil Code is generally market-oriented and modern, but the Commercial Code is often contrary to market economy principles and directly contradicts provisions of the Civil Code in numerous instances. The Commercial Code aims to preserve a privileged position for the public sector of the economy and allows for governmental interference in private commercial relations. Further, in both codes, gaps in regulation exist. The existence of these two codes creates uncertainty in planning and structuring transactions, and leaves questions surrounding transactions unanswered. Problems arising from these two codes also surface in the resolution of disputes, as courts are not able to resolve the conflicting provisions of the codes, or are not able to fill in the gaps in regulation that arise as a result of the missing provisions in the codes. Finally, other commercial laws have not been harmonized with these codes.

A 1999 bankruptcy law provides for debtor-led reorganization, a meaningful moratorium on payment and collection of pre-existing debt, and a tax forgiveness provision. Creditors protect their rights under the law by electing a creditors' committee, which is actively involved in the bankruptcy proceedings. Most observers believe the bankruptcy laws should be amended to provide more protection for creditors. Notice provisions, protections for the rights of minority shareholders, and procedures for valuation and the sale of assets to satisfy liabilities are undeveloped.

## CORPORATE GOVERNANCE

Problems with corporate governance in Ukraine involve corporate ownership, shareholder rights, transparency, and disclosure. The Law "On Companies" offers scant protection for minority shareholders against insider dealing, asset stripping, profit skimming, and share dilution. Corporate finance is restricted. Some examples of shareholder rights abuses include limited disclosure, capital restructuring without shareholders' consent, and shareholder voting fraud. A new Joint Stock Company law, which came into effect in April 2009, introduced principles of sound corporate practices that meet international standards. The transition to the new rules will be completed by May, 2011.

Corporate governance in Ukrainian companies is usually based on three-tier system and includes general meeting of shareholders, a supervisory board, and an executive body (either single or collegial). The executive's body activity and financial performance of a company is controlled by a revision commission.

## BINDING INTERNATIONAL ARBITRATION

Ukraine enacted an international commercial arbitration law in February 1994, which parallels commercial arbitration laws set forth by the United Nations Commission on International Trade Law. Ukraine is a member of the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitration Awards. Some investors have problems enforcing foreign arbitration awards in Ukraine. Foreign arbitral award enforcement procedures in Ukraine are regulated by a number of statutes and regulations, including the Section 8 of the Civil Procedural Code and a law "On Enforcement Proceedings." In early 2000 Ukraine ratified the Washington Convention, providing for use of the International Center for Settlement of Investment Disputes (ICSID), an internationally recognized mechanism for resolving investment disputes between investors and the GOU. The U.S.-Ukraine Bilateral Investment Treaty (BIT), signed in November 1996, recognizes arbitration of investment disputes before the ICSID. One major investment dispute involving a U.S. company was resolved in May 2006 through a combination of direct consultations with the Ukrainian government and international arbitration by ICSID.

### Ukraine's International Ranking:

Measure	Index/Ranking	Year
TI Corruption Index	134	2010
Heritage Economic Freedom	162	2010
World Bank Doing Business	145	2011
MCC Govnt Effectiveness	-0.40 (23%)	FY11
MCC Rule of Law	-0.40 (26%)	FY11
MCC Control of Corruption	-0.51 (19%)	FY11
MCC Fiscal Policy	-3.8 (26%)	FY11
MCC Trade Policy	85.2 (93%)	FY11
MCC Regulatory Quality	-0.13 (39%)	FY11
MCC Business Start Up	0.977(69%)	FY11
MCC Land Rights Access	n/a	
MCC Natural Resource Mgmt	93.50 (84%)	FY11

## PERFORMANCE REQUIREMENTS

There are no current performance requirements or incentives, except for those made part of privatization agreements. In 2010, the GOU claimed Arcelor-Mittal had failed to make required investments in the Kryvy-Rih steel foundry and subsequently attempted to re-nationalize the facility on that basis. However, Ukrainian courts rejected the GOU's argument, and the matter has been settled in Arcelor Mittal's favor.

Ukraine eliminated measures that conflict with the WTO Agreement on Trade-Related Investment Measures (TRIMs) in the automobile industry and other sectors in the context of its accession efforts. Currently Ukraine has not notified the WTO of any measures that would be inconsistent with TRIMs requirements or violate TRIMs obligations.

## INVESTMENT INCENTIVES

Ukraine modified its foreign investment law of 1996 to provide foreign investors a number of state guarantees, the most important being the unhindered and immediate repatriation of profits and stable regulations for the time of the investment. Foreign investors are exempt from customs duties for any in-kind contribution imported into Ukraine for the company's charter fund. Some restrictions apply and import duties must be paid if the enterprise sells, transfers, or otherwise disposes of the property. There is no current requirement that investors purchase from local sources or export a certain percentage of output, or only have access to foreign exchange in relation to their exports.

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 the host economy related to the items being procured. With that said, however, the high level of corruption involved in government procurement may result in these sorts of terms being unofficially introduced into investment deals. Regarding government/authority-imposed conditions on permission to invest, there has been a ban, in place since 2003, on foreign investment in sectors considered 'strategic' by the GOU - primary its energy infrastructure and development of its natural energy resources. This ban was partially lifted in late December 2010 with a presidential decree allowing investment in Ukrainian power plants. A ban is also in place on the purchase of agriculturally-zoned land, forcing many investors to use long-term (49-year) leases instead.

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.

## VISA/WORK PERMIT REQUIREMENTS

A passport valid for six months beyond the planned date of travel is required for entry. U.S. citizens do not require a visa as long as their length of stay in Ukraine is less than 180 days and their purpose of travel is tourism, private travel, or business. A U.S. citizen must have a valid Ukrainian visa if their planned stay exceeds 180 days or if their purpose of travel is other than tourism, private travel, or business. The Government of Ukraine does not issue visas at its borders or ports of entry. Visas must be obtained in advance by those who need them. U.S. citizens may apply for all types of visas through Ukrainian Embassies and Consulates overseas. Contact details for Ukrainian Embassies and Consulates are available on the Ministry of Foreign Affairs web site at <http://www.mfa.gov.ua/mfa/en/305.htm> or <http://www.mfa.gov.ua/mfa/en/403.htm>. Visas may be obtained from the Consular Office of the Embassy of Ukraine in Washington, D.C., or from Ukrainian Consulates General in New York, Chicago, or San Francisco.

Mandatory registration for short-term visits of up to 180 days is completed at the border by border control offices and is valid for a period of 180 days in one year. In other words, a traveler may come to Ukraine as a tourist for a cumulative period of 180 days within a consecutive period of 360 days without a visa. The calculation of the 180-day period begins from the date of the first entry into Ukraine. This regulation applies to all American citizens irrespective of the date of their entry into Ukraine.

Future extensions for stays exceeding 180 days are completed through the Ukrainian Ministry of Internal Affairs' Office of Citizenship, Immigration and Registration (OVIR). Most cities have several OVIR offices. Extensions are not automatic, however, and are valid only for continued presence in the country. It is not possible to depart Ukraine and return on the extension, nor can an adjustment to visa status be made from within Ukraine. Applications for extension of registration should be submitted at least three days before the current registration expires.

All foreigners -- except those with permanent residency status -- are required to have a work permit to work in Ukraine. The Laws of Ukraine "On Population Employment" and "On the Legal Status of Foreigners" define the procedures for obtaining a permit at the State Employment Service. Cabinet of Ministers Resolution #917 from July 11, 2007 introduced some changes to the rules surrounding work permits, although implementation of this new regulation has been unclear and inconsistent.

Resolution #917 states that, if a foreigner intends to travel to Ukraine for employment, the employer in Ukraine must obtain a work permit from the Ministry of Labor. The foreigner should then apply at a Ukrainian Consulate for an IM-1 visa. After the applicant enters Ukraine, he/she should submit his/her passport with the IM-1 visa and work permit to the local Department of Citizenship, Immigration, and Registration, which will provide a passport stamp allowing the person to leave and re-enter Ukraine. For stays longer than one year, the employer must apply to the Ministry of Labor for an extension of the work permit. If a foreigner enters Ukraine without a visa, the employer must apply to the Ministry of Labor for a work permit, and, upon approval, the employee must register with the Department of Citizenship, Immigration, and Registration. Spouses/family members of IM-1 visa holders are not automatically entitled to IM-1 status. However, if they intend to stay in Ukraine for more than 90 days, they must have a visa - most likely a P-1 (private) visa. When the IM-1 visa holder registers his/her work permit at the Department of Citizenship, Immigration, and Registration, he/she should request the same status for family members. Family members will receive a different

stamp (most likely a permit for temporary residence) to allow them to stay in Ukraine and travel in/out of the country just like the IM-1 visa holder.

Cabinet of Ministers Instruction No. 892, dated September 12, 2005, extended work permits from one year to the tenure of employment for foreign citizens working in managerial or specialized positions in Ukraine and individuals providing services without their commercial presence in Ukraine. Employers must notify employment centers, police, and the State Committee for Border Protection three days before revoking contracts with foreign nationals.

## **Right to Private Ownership and Establishment**

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The Constitution of Ukraine guarantees the right to private ownership, including the right to own land. A new Land Code consistent with the Constitution was adopted on October 25, 2001. The Land Code provides for foreign ownership of non-agricultural land and clarifies the rights of foreign investors.

The major provisions of the Land Code address the right of individuals to own, buy, and sell land. It classifies land into seven categories, based on potential use including agricultural, industrial, and natural reserve lands. The mix of state control and ownership rights varies with each type of land. It is easier to own, buy, sell, and mortgage industrial land than agricultural land.

A longstanding moratorium on the sale of agricultural land remains in effect. The Land Code also prohibits foreigners from owning agricultural land directly. The creation of a legal Ukrainian-registered business to purchase (non-agricultural) and manage (all types) land in Ukraine is not prohibited. The Land Code codifies the state's right to oversee private land transactions via registration, the court system, and dispute mediation, as well as broad government/state rights to "influence" the land market.

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

## **Protection of Property Rights**

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### **MORTGAGES**

Since 2000 Ukraine has laid the legislative and administrative groundwork for a functioning mortgage market. Adoption of the Law "On Withholding Land Shares in Kind" in 2002 and the Law "On Mortgages" in 2003 was particularly important. The GOU created the State Mortgage Institution (SMI) in October 2004 with authorized capital of UAH 50 million (\$6.6 million) as a liquidity facility largely aimed at putting downward



pressure on lending rates by allocating capital efficiently. The SMI began issuing corporate securities during the first quarter of 2007. In October 2010 the GOU resolved to increase the SMI's capital to UAH 2.2 billion (about USD 277 million). SMI's actions, which were intended to bring liquidity to the market, had limited success. A report released in June 2010 by the Audit Chamber of Ukraine accused the SMI of misusing the UAH 3 billion it borrowed from 2007 to 2009 under state guarantee.

USAID helped create a pledge registry, the first of its kind in the former Soviet Union, which applies to individuals' obligations with regard to movable property and tax liens. Though rudimentary, the registry is nationwide, providing a more transparent lending market for personal property.

Mortgage lending more than doubled in 2007, increased by another 56 percent in the first eleven months of 2008 to reach UAH 78 billion (roughly \$10 billion). New lending, however, came to a virtual halt in late 2008 as a result of the ongoing financial crisis, as the real estate market experienced a severe correction and the local currency faced a sharp devaluation against the U.S. dollar. As a result of the financial crisis, the estimated volume of non-performing loans reached 20% of the total loan portfolio. In an attempt to limit currency risk among mortgages, Ukraine banned new mortgage lending to private persons in foreign currency in November of 2009.

In 2010, the volume of mortgage lending has stabilized at UAH 85 billion (roughly USD 10.7 billion). Nearly all mortgage lending is for residential real estate loans. Lack of available lending has caused many construction companies to suspend existing projects and refrain from new investment, slowing down mortgage market development. The construction industry posted a 9% decline in the first ten months of 2010 on top of a 48.2% decline in 2009.

## **Transparency of Regulatory System**

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### **BUREAUCRATIC REGULATORY PROCEDURES**

The number of regulations, required certificates, and inspection regimes in Ukraine imposes a significant regulatory burden on private enterprise. While the time and costs related to business registration have been reduced, the GOU still requires enterprises to obtain numerous permits to conduct business. The Law "On Permits System in Economic Activity," which entered into force in January 2006, canceled more than half of the required permits and increased the number of locations for obtaining permits six fold. The government also tried to expand "One-stop Registration Shops" that allow new businesses to be registered within two to three days, instead of a month, as in the past. Per new cabinet orders, there is a silent consent provision on permit applications in which the permits are automatically approved if there has been no decision made on them after 30 days have passed since submission. Once these cabinet orders are fully implemented, corrupt officials in multiple agencies/ministries will lose their ability to create additional and unnecessary costs and delays for private businesses. The World Bank "Doing Business 2011" report on 183 countries rated Ukraine 118th for ease in starting a business, up from 134th in the 2010 report. "Doing Business 2010" estimates that on average it takes 27 days and approximately \$150 (6.1% of GNI per capita) to open a business in Ukraine; OECD averages are 13.8 days and 5.3% of GNI per capita.

## LICENSING

Ukraine applies both activity and import licensing regimes. The Law "On Licensing Certain Types of Economic Activities" of June 2000 provides a list of activities subject to licensing. The October 22, 2010 amendments canceled licensing requirement for 22 types of economic activities. Licensing applies to 56 economic activities and is meant for protection of human, animal or plant health, the environment, public morals, and national security, or for prudential regulation of the financial sector. Businesspeople continue to cite burdensome activity licensing requirements as an impediment to commerce in Ukraine. Fees are described as high and compliance time consuming, particularly for telecommunications equipment.

Import licenses are required for some goods. The list of goods covered by the licensing regime and the license terms are decided annually by the Cabinet of Ministers. As of December 23, 2009, the list included printer's ink, paper with watermarks, optical media production inputs, like optical polycarbonates and optical disc manufacturing equipment, some industrial chemical products, some pharmaceuticals, waxes and shoe polishers, detergents and cleaners, dyes, paints and lacquers, some hygiene and cosmetics products, refrigerators, heat pumps, fire extinguishers, air humidifiers and dryers, arms and personal protection aerosols and ozone-depleting substances.

While the import licenses themselves are granted automatically to applicants, some products require prior approval, which may or may not be automatic, from the relevant administrative agency before receiving the necessary import license from the Ministry of Economy. In some cases import permits themselves serve as indirect non-automatic import licenses without Ministry of Economy participation (such as product of animal origin import permits issued by the State Veterinary and Phytosanitary Service). For some goods, product certification is a prerequisite for an import license. Importers can request that a foreign facility be certified as in compliance with Ukraine's technical regulations that apply to imports. The U.S. distilled spirits and fish processing industries reports that this option usually involves a burdensome and costly inspection visit by Ukrainian government officials. If approved, the supplier receives a certificate of conformity valid for 2 years to 3 years and avoids the burden of certifying each shipment and mandatory laboratory testing upon arrival in Ukraine.

## RULEMAKING/INSPECTIONS

Proposed draft laws and regulations are available for public review on the official website of Parliament and executive government agencies, but there is no formal procedure for submitting comments.

Current Ukrainian legislation envisages a mandatory financial inspection of a business entity per year and requires a minimum of 10 days notice. Non-financial inspections (i.e. taxes, fire safety, sanitation, etc.) can be burdensome impediments to doing business in Ukraine.

## TECHNICAL REGULATIONS: STANDARDS, TESTING, AND CERTIFICATION

U.S. and other foreign companies have long regarded Ukraine's system of technical regulations as a significant obstacle to trade and investment. Ukraine has passed several new laws and governmental decrees in recent years aimed at bringing Ukrainian

practices in this area into line with the WTO Agreement on Technical Barriers to Trade (TBT), but significant problems remain. Based on the old Soviet system, the Ukrainian technical regulations system is characterized by burdensome, *ex ante* control, and widespread compulsory standards, and it differs markedly from systems in Europe and OECD countries.

Contrary to accepted international practice, standardization in Ukraine is not a voluntary procedure through which manufacturers can ensure specific properties of a process or product, but rather a part of the state regulatory system. Standards are compulsory for virtually all goods, and many services. Mandatory certification is required in Ukraine for over 300 types of goods and services and remains applicable *de facto* for an even larger number of goods and services (Derzhspozhyvstandard Order #28 of February 1, 2005 with amendments). Mandatory certification is often required without regard to the products' actual level of risk to the public, or to other types of regulation already applicable. Mandatory certification in Ukraine is applicable both to domestic products and to imported goods in most cases, generally irrespective of whether they already have proof of conformity with applicable international technical regulations. In addition, mandatory certification applies to produced goods rather than to the production process, thus forcing manufacturers to complete certification procedures repeatedly or to submit proof of conformity assessment for each batch of products.

Most current standards were created under the Soviet Union, do not correspond to international standards, and are typically far more restrictive and prescriptive than necessary.

On December 9, 2010 by Presidential Decree #1085 the State Committee for Technical Regulation and Consumer Policy (DerzhSpozhyvStandard), the standardization and certification body in Ukraine, was reorganized into the State Service of Technical Regulation. Before the reorganization Derzhspozhyvstandard was responsible for developing and approving standards, issuing certificates, conducting inspections of producers, and ensuring market surveillance and protection of consumer rights. This confusion of functions, including the bundling together of commercial certification functions with state supervision functions, combined with the fact that the same organization provided certification services and appointed other certification bodies, meant that there were considerable conflicts of interest and excessive discretionary powers. Appropriate resources, such as modern analytical equipment and reactants, were not available in most DerzhSpozhyvStandard laboratories. Depending on the type of product, testing, and applicable certification scheme, the certification process could take from 3 days to 1 month. Experts alleged that government officials responsible for issuing licenses often required businesses to provide documents that were not mandatory, deliberately concealed information in order to confuse a potential licensee, or delay issuing documents in order to induce licensees to offer a bribe. So far, there is very little info about functions and responsibilities of the newly established State Service of Technical Regulation that has a different name, but may have similar powers and approaches.

During WTO accession negotiations, Ukraine pledged to continually review the list of products subject to mandatory certification and to reduce the number of products on this list, if the legitimate objectives could be met in a less trade-restrictive manner. In a positive move in September of 2010 Derzhspozhyvstandard removed almost all items from the food certification list with the exception of baby food, tobacco, and alcoholic

beverages. An April 2008 amendment to the law "On Standards, Technical Regulations, and Conformity Assessment Procedures" helped to ensure that Ukraine's authorities would accept the results of alternative methods of conformity assessment, including those performed in the United States. Ukraine's National Accreditation Agency is an affiliated member of the International Laboratory Accreditation Cooperation (ILAC), and in 2009 it made a first step on the way to full membership – signing an Agreement with European Cooperation for Accreditation (EA) about personnel accreditation. Once it becomes an ILAC member, Ukraine should significantly increase the acceptance of test results of laboratories accredited with, and notified by, ILAC member bodies.

## SANITARY AND PHYTOSANITARY (SPS) MEASURES

Ukraine applies a range of SPS measures that restrict imports of a number of U.S. agricultural products, among them, pork, beef, and poultry. Industry has repeatedly complained that Ukraine's certification and approval process is lengthy, duplicative, and expensive. Over the past several years, Ukraine has passed amendments to several laws and regulations, most importantly to the law "On Veterinary Medicine" and the law "Quality and Safety of Food Products and Food Raw Materials," to bring its legislative and regulatory framework into compliance with requirements of the WTO SPS Agreement.

The following SPS issues may be of particular importance to companies doing business in Ukraine:

**Overlapping State Authorities:** Ukraine has maintained a complex and nontransparent oversight system for human and animal health measures that involves overlapping authority by the Veterinary and Phytosanitary Service, Sanitary Service of the Ministry of Health, and DerzhSpozhyvStandard (now State Service of Technical Regulation). Several legislative amendments passed as part of the WTO accession process made progress but did not solve entirely the problem of overlapping authority.

**Beef, Beef Products, and Pork:** A U.S.-Ukraine bilateral agreement reached during WTO negotiations addresses the terms of U.S. exports of beef, beef products, and pork to Ukraine. Although Ukraine has allowed the entry of certified U.S. beef and pork that meets veterinary certificate requirements, the trade remains limited by import permits and custom valuation measures. In 2009, raw animal products, feed additives, livestock feed, and veterinary drugs were made subject to mandatory certification by Ukraine's State Veterinary and Phytosanitary Service.

**Biotechnology:** Ukraine has not established an approval process for agricultural biotechnology products. The incompleteness of an approval process has resulted in unpredictable sales conditions for corn products, soybeans, and meal. The United States is working with Ukraine to establish procedures governing biotechnology that are supported by science-based risk assessment principles and guidelines, including those of the WTO SPS and TBT Agreements, the Codex Alimentarius, and the International Plant Protection Convention (IPPC). Although Parliament passed a law in 2007 establishing the framework for the creation, testing, and use of products of biotechnology, the necessary implementing regulations to open the market are still under development.

In 2009, Parliament passed laws requiring all food product labels to include information about the presence or absence of biotechnology (GMO) content. Every single food product that appears on the shelf has to be labeled accordingly. Food industry had to absorb additional costs (GMO-testing, labeling, etc.) and highly opposed the measure. At present, a limited list of food products that will require GMO-testing is being considered. In addition, a number of draft laws that regulate issues of biotechnology are being considered among which are the two that call for absolute bans on the import and sale of biotechnology in Ukraine.

## Efficient Capital Markets and Portfolio Investment

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### BANKING

The Ukrainian banking system consists of the National Bank of Ukraine (NBU) and commercial banks. The NBU is responsible for monetary policy, licensing of commercial banks, and oversight of their activities. There are 175 banks registered in Ukraine, including 53 with foreign equity participation, including 20 fully foreign owned. The five largest banks control 36% of the market, representing the lowest market concentration level in all of central and Eastern Europe. Foreign capital represents 39.1% of total capital in the banking sector as of December 1, 2010. Ukraine remains a cash economy, but the use of credit cards and ATM machines is on the rise. In absolute terms, however, the banking sector is still fairly small. Total bank assets in Ukraine are about UAH 920 billion, with total loan assets of UAH 740 billion (as of October 2010).

In 2004-2008 Ukraine's banking system expanded rapidly and played an important role in the development and modernization of the economy as a whole, and in providing wider groups of the population with access to credit. However, the reliance of banks on foreign borrowing to fund domestic lending operations made Ukraine's banking system sensitive to international shocks. With the global financial crisis, foreign credit dried up for Ukrainian banks in late 2008 and Ukraine's banking sector came under pressure.

Two IMF stand-by arrangements (November 2008 and July 2010) have helped Ukraine meet its external debt commitments from 2008, and have demanded restructuring of the financial system. An audit of the banking system conducted under the IMF identified systemically important banks in need of recapitalization. To streamline recapitalizations, the National Bank of Ukraine (NBU) raised the share of subordinated debt which could be counted as capital from 50% to 100%. Banks used the permission extensively, raising the share of subordinated debt to 25% of the banks' own capital. In 2009, the state recapitalized three banks, raising the number of state-owned banks to five. The NBU also introduced provisional administrations in banks where solvency problems were most acute. Four banks remained under provisional administration by the National Bank of Ukraine and 19 were undergoing liquidation, as of December, 2010.

The banking crisis virtually froze corporate and consumer lending. Corporate lending grew by only 7% over the first nine months of 2010 and consumer lending fell by 8% over the same period. Non-performing loans are estimated at about 30% of the banking sector's total loan portfolio, and the problem was still surfacing as of the end of 2010. While the NBU's official estimation of non-performing is only 11.9%, this official estimate takes into account the overdue part of the problematic loan only, not the full outstanding loan amount. Insufficient foreclosure and bankruptcy procedures prevent fast resolution

of bad debt and force banks to accumulate large provisioning to cover possible losses, which limits lending opportunities and slows recovery from the crisis.

In January 2002, the law "On Banks and Banking Activity" eliminated discrimination against foreign-owned banks. It entrusted the NBU with issuing banking licenses and included provisions to prevent money laundering. The NBU sets minimum capital requirements each year to be met by the banks by the year-end. Current minimum capital requirements range from EUR 7 million (UAH 75 million) to EUR 15 million (UAH 148.4 million). In December 2010, the NBU announced its intention to raise the minimum capital requirement to about EURO 45 million. However, only 50 Ukrainian banks currently meet the suggested requirement, and the new requirements may not be adopted. Foreign-licensed banks may carry out all activities that domestic banks do and there is no ceiling on their participation in the banking system, including operating via subsidiaries in Ukraine. In November 2006, the Rada approved an amendment to the law "On Banks and Banking Activity" permitting foreign banks to operate via branch offices. Foreign banks have significantly increased their presence in Ukraine's banking sector in recent years, usually through the acquisition of Ukrainian banks.

It is also worth noting that in December, 2009, the PFTS Association, which owns the Ukraine's largest stock exchange, increased its authorized capital and sold the additional shares to the Russian exchange MICEX, giving MICEX a 50% ownership in the PFTS Exchange.

Ukraine's anti-money laundering regime (AML) is established by the Law on Prevention and Counteraction to Legalization (Laundering) of the Proceeds of Crime or Terrorism Financing, with the primary financial monitoring function assigned to the State Committee for Financial Monitoring. In 2010 Ukraine amended its AML regime to increase compliance with FATF recommendations. In October 2010, the Financial Action Task Force (FATF), the primary worldwide body that oversees AML efforts, identified Ukraine among jurisdictions which have strategic deficiencies in its AML regime, but has developed a plan of actions to address them. The evaluation of Ukraine's AML regime by the Council of Europe's Committee of Experts on the Evaluation of AML Measures and the Financing of Terrorism (Moneyval) is expected in March of 2010.

Reacting to the sharp drop in bank deposits in late 2008, the NBU moved to impose restrictions on early withdrawal of deposits and ordered banks to review their existing deposit base and better classify accounts. As the deposit outflow subsided, the NBU canceled the ban on pre-term withdrawal of bank deposits in May, 2009. Deposit guarantees were doubled to \$20,000. The government also took steps to implement the bank resolution plan foreseen in the IMF loan agreement.

## INSURANCE

With WTO accession in 2008, Ukraine gave foreign companies the right to operate in insurance market of Ukraine. During the 5 year transition period foreigners have the right to provide a limited number of insurance services and are required to open representative offices in Ukraine in order to operate in the country. After the 5 years, foreign companies will be able to operate in Ukraine via affiliates or brokers. Respective amendments to the law "On Insurance" were adopted in November 2006 and May 2007.

## CAPITAL MARKETS

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 Perspektiva 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.

Ukrainian law allows for the following types of securities:

- share securities (shares, investment certificates);
- debt securities (bonds of enterprises, state bonds of Ukraine, bonds of local loans, treasury obligations of Ukraine, savings (depository) certificates, bills of exchange);
- mortgage securities (mortgage bonds, mortgage certificates, mortgages, certificates of funds of operations with real estate);
- privatization securities;
- derivative securities;
- title securities

Most of these markets are still in a nascent stage. 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 for domestic savings.

There are no legal restrictions on the free flow of financial resources needed to support growth in the product/factor markets. Credit is largely allocated on market terms and foreign investors are able to get credit on the local market, utilizing a variety of credit instruments. However, the market environment lacks transparency, enforcement of key laws and regulations remains weak, and investors (domestic and foreign) continue to face significant uncertainty. This includes low market confidence (hurt further by the 2008 global financial crisis), transitional accounting standards, a lack of accurate company information, inadequate protection of minority shareholders' rights, and a macroeconomic environment that, despite marked growth and economic modernization in recent years, remains volatile. Rulings of the Securities and Stock Market State Commission (SSMSC) and Financial Services Regulator (FSR) have insufficient enforcement power and are not always followed by the courts. The SSMSC and FSR also face problems with budgetary and political independence, which they are actively seeking to address.

In 2008, the NBU and a group of Ukraine's largest banks founded the All Ukrainian Securities Depository (AUSD). The new entity is expected to end the disputes between the market-owned securities depository MFS and the state-owned National Depository of Ukraine (NDU). Since October 2009, the AUSD was registered as successor of the MFS and owner of 97% of its shares. Depository operations by AUSD are largely in line with G-30 requirements. The AUSD services 90% of new emissions in Ukraine, provides

clearing for all Ukraine's exchanges. The state-owned NDU remains in existence, but has little practical function. Over 344 licensed registrars continue to operate in Ukraine. Many are seen as "pocket registrars" and have been used in the past to disguise or eliminate ownership records.

Principal laws, decrees, and regulations governing Ukraine's capital markets include: the law "On Securities and Stock Exchanges" (1991), replaced in May 2006 by the law "On Securities and the Stock Market" (2006), the law "On Business Associations" (1991), law "On Joint Stock Companies" (2008), a Presidential Decree "On Investment Funds and Investment Companies" (1994), the law "On State Regulation of Securities Markets" (1996), the law "On the National Depository System" (1997), the law "On Accounting and Financial Reporting" (1999), the law "On Bankruptcy" (1992), the law "On Collective Investment Institutions" (2001), and the law "On Financial Services" (2001).

The new law "On Joint Stock Companies" (2008) represents a major improvement over the law "On Business Associations" which was vague and did not support basic shareholders rights and facilitates a large number of corporate governance abuses (including share dilution, asset stripping, and dubious transfer pricing). The new law aims to define critical conditions and standards for establishing, governing and closing joint stock companies, while also significantly improving legal protections for minority shareholders and filling numerous loopholes in the legal framework. It is largely in compliance with EU Directives on corporate governance and incorporates OECD Principles for Corporate Governance.

The Law "On Securities and Stock Market" (2006) represents a major improvement over the prior Law "On Securities and Stock Exchanges" (1991), especially regarding internationally compliant disclosure requirements for listed companies, issues of transparency of ownership, and the new rules for insider information and insider trading.

The Law "On Collective Investment Institutions" encourages the creation of mutual funds, introduces the idea of a licensed asset manager, regulates the establishment and operation of subjects of mutual investment, provides guarantees of ownership rights to securities, and protects rights of exchange market participants. The Law "On the Circulation of Promissory Notes" (2001) provides a framework for the circulation of promissory notes in accordance with the Geneva Convention of 1930. The legal framework and regulatory system for portfolio investment does therefore exist, although substantial work remains to insure it is properly applied and enforced.

## **Competition from State Owned Enterprises**

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The vast majority of Ukraine's state-sector was privatized in the 1990s and early 2000s, and the state sector is now estimated to comprise less than 10% of Ukraine's economy. Nonetheless, the state sector, according to Ukraine's Ministry of Economy, is one of the largest in Europe in terms of size and contains more than 5,000 business entities. The sector is rather inefficient and often loss-making. However, the stated goal of the Yanukovich administration is to divest itself of unprofitable SOEs through aggressive privatization efforts.

In general, private enterprises, including foreign firms, compete on equal terms with public enterprises. In actuality, the majority of SOEs rely on GOU 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. Private firms, however, are barred, under Ukrainian law, from engaging in certain types of business, including in the areas of certain natural monopolies, the rocket industry, and the production of bio-ethanol. The GOU has had to heavily subsidize its state-owned enterprises (especially in the energy sector) to keep them operating. However, one of the conditions of the 2010 IMF stand-by arrangement is that the budget of the state-owned energy monopoly, Naftohaz, must be balanced through increases in the prices charged to customers, so enforcement may improve in 2011. Fixed land telecommunications systems and energy transit networks, including the transmission of electricity, have not yet been opened to private competition.

Regarding their structure, SOE senior management reports directly to the relevant ministry, which has the authority to appoint the firm's management. Ukrainian law specifies that the ministries are not permitted to interfere with the day-to-day economic activities of an SOE, but anecdotal reports indicate that, in practice, 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 Property Fund to create joint ventures with state property; and prepare proposals to divide state property between the national and municipal levels.

Ukraine does not maintain or operate a sovereign wealth fund.

## **Corporate Social Responsibility**

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Corporate Social Responsibility is still a new concept in Ukraine that has not yet taken hold in the mind of the consumer and is just beginning to gain ground amongst producers in the country. International companies continue to be the strongest proponents of CSR within Ukraine and have made efforts to transfer the idea of CSR over to their Ukrainian affiliates. With help from The American Chamber of Commerce, The East Europe Foundation, the U.N. Global Compact Initiative, and other NGOs, Ukrainian companies have been made aware of the potential long-term benefits of CSR as they relate to positive exposure for a company in relation to its philanthropic projects or programs.

The main obstacle facing the advancement of CSR initiatives is the unwillingness of the Parliament to pass legislation that will offer tax exemptions to companies that participate in CSR activities. On November 1, 2009, the first public hearing was held on CSR by the Parliamentary Committee on Regulating Policy and Entrepreneurship. To date, the only bill that has been passed but not signed is a green bill that will allow companies that display efficient waste management practices the option to sell reprocessed waste products within Ukraine. Apart from this one incentive, any Ukrainian or international company must be willing to undertake CSR projects without tax or legislative assistance. The American Chamber of Commerce remains engaged with Members of Parliament regarding the advancement of CSR through introducing tax-beneficial drafts, albeit unsuccessfully to date.

From the perspective of consumers, CSR initiatives are seen as positive outreach by companies but are more viewed as the exception rather than as the rule. Consumers do

not expect companies to develop, finance, or complete projects that do not directly affect growth or profit. Aside from a "Go Green" ad campaign led by the U.N. Global Compact Initiative, which asks individual citizens to do their part by conserving water and electricity and which promotes recycling, there is little in the way of social responsibility by consumers.

Foreign firms that work inside of Ukraine do not need to follow CSR principles but generally follow and are judged by NGO's on the following standards: AccountAbility's AA1000 standard, Global Reporting Initiative's Sustainability Reporting Guidelines, Verite's Monitoring Guidelines, Social Accountability International's SA8000 standard, and the ISO 14000 Environmental Management Standard. The Centre for CSR Development Ukraine, which was founded by the East Europe Foundation, has become an active proponent of CSR and holds numerous events throughout the year to promote, advertise, and recognize CSR initiatives and successes. Per reporting by the Global Compact Initiative (GCI), there are 89 companies within Ukraine which are currently members of GCI and of these, 61 companies have submitted their annual CSR reports, making Ukraine competitive in CSR reporting efficiency amongst European countries.

## **Political Violence**

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Ukraine is largely free of significant civil unrest or any organized anti-American domestic political movements. Occasionally, mass demonstrations occur in larger cities, such as Kyiv, and are usually sponsored by individual political organizations.

There also have been decreasing incidents of racially-motivated violence; groups of "skinheads" and neo-Nazis do, however, sometimes target people of Asian, African, or other non-European descent, as well as religious minorities, in Kyiv and throughout Ukraine.

## **Corruption**

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### **UKRAINE OVERVIEW**

Corruption, which pervades all levels of society and government and all spheres of economic activity in Ukraine, is a major obstacle to foreign investment. Ukraine ranking improved slightly in Transparency International's Year 2010 Corruption Perception Index (CPI). The country moved up from 146<sup>th</sup> place in 2009, to 134<sup>th</sup> place. In 2010, Transparency International rated Ukraine at 2.4 points on the CPI's 10-point scale.

Corruption stems from a number of factors, such as a lack of institutional traditions of transparent decision-making and low societal understanding of the importance of corporate governance and transparency. Low public sector salaries fuel corruption in local administrative bodies such as the highway police, 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. High-level corruption ranges from misuse of government resources and tax evasion to non-transparent privatization and procurement procedures.

Ukraine's prosecution of corruption is based on the law "On Combating Corruption," which was passed in October 1995. The law is rarely enforced, and on the rare occasions it is enforced, it is normally aimed at lower-level state employees or used retributively in political vendettas. In January 2006, then-President Yushchenko signed a decree committing Ukraine to honor its obligations to the Council of Europe, which include several anti-corruption provisions. In September 2006, the President signed a separate decree adopting a national anti-corruption strategy that directed all branches of government to support these efforts, and the Government of Ukraine followed up by adopting an Action Plan to implement this strategy. In 2009, the President signed into law a package of anti-corruption legislation that was to come into effect in January 2011, but it was annulled by the Parliament in December 2010. A law that draws heavily on the annulled package's contents is under consideration in the Parliament as of December 2010.

In 2010 the State Department funded a new Resident Legal Advisor from the United States Department of Justice to follow up on the Millennium Challenge Corporation's project which focused on ethics, asset declaration and internal investigative units.

Although government action is still limited and uncoordinated, fundamental changes have taken place in the GOU's attitude towards corruption. Government and parliamentary officials now openly discuss the problem of corruption with USG contacts and with the press and public at large. In March 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 has concluded its Joint First and Second Rounds of Evaluation of Ukraine and published its report in October 2007. Parliament has passed laws to ratify the Council of Europe Criminal Law Convention on Corruption, signed in January 1999, and the UN Anticorruption Convention, signed in December 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. Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

**U.S. Foreign Corrupt Practices Act:** In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: <http://www.justice.gov/criminal/fraud/>

**Other Instruments:** It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. This country is party to [add instrument to which this country is party], but generally all countries prohibit the bribery and solicitation of their public officials.

**OECD Antibribery Convention:** The OECD Antibribery Convention entered into force in February 1999. As of December 2009, there are 38 parties to the Convention including the United States (see <http://www.oecd.org/dataoecd/59/13/40272933.pdf>). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA. [Insert information as to whether your country is a party to the OECD Convention.]

**UN Convention:** The UN Anticorruption Convention entered into force on December 14, 2005, and there are 143 parties to it as of December 2009 (see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. [Insert information as to whether your country is a party to the UN Convention.]

**OAS Convention:** In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March

1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 33 parties (see <http://www.oas.org/juridico/english/Sigs/b-58.html>) [Insert information as to whether your country is a party to the OAS Convention.]

**Council of Europe Criminal Law and Civil Law Conventions:** Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 46 member States (45 European countries and the United States). As of December 2009, the Criminal Law Convention has 42 parties and the Civil Law Convention has 34 (see [www.coe.int/greco](http://www.coe.int/greco).) [Insert information as to whether your country is a party to the Council of Europe Conventions.]

**Free Trade Agreements:** While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: <http://www.ustr.gov/trade-agreements/free-trade-agreements>. [Insert information as to whether your country has an FTA with the United States: Country [X] has a free trade agreement (FTA) in place with the United States, the [name of FTA], which came into force. Consult USTR Website for date: <http://www.ustr.gov/trade-agreements/free-trade-agreements>.]

**Local Laws:** U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department’s U.S. and Foreign Commercial Service can provide assistance with navigating the host country’s legal system and obtaining a list of local legal counsel.

**Assistance for U.S. Businesses:** The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company’s overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at [www.trade.gov/cs](http://www.trade.gov/cs).

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce

Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" Website at [tcc.export.gov/Report\\_a\\_Barrier/index.asp](http://tcc.export.gov/Report_a_Barrier/index.asp).

**Guidance on the U.S. FCPA:** The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at [www.justice.gov/criminal/fraud/fcpa](http://www.justice.gov/criminal/fraud/fcpa). Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html). More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

*POST INPUT: Public sector corruption, including bribery of public officials, [remains a major/minor challenge for U.S. firms operating in xxx xxx. Insert country specific corruption climate, enforcement, commitment and information about relevant anticorruption legislation.*

### **Anti-Corruption Resources**

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay-Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at: <http://www.justice.gov/criminal/fraud/fcpa>.
- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: [http://www.oecd.org/departement/0,3355,en\\_2649\\_34859\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/departement/0,3355,en_2649_34859_1_1_1_1_1,00.html). See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html).



- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009](http://www.transparency.org/policy_research/surveys_indices/cpi/2009). TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org/publications/gcr>.
- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 212 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See [http://info.worldbank.org/governance/wgi/sc\\_country.asp](http://info.worldbank.org/governance/wgi/sc_country.asp). The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://go.worldbank.org/RQQXYJ6210>.
- The World Economic Forum publishes the *Global Enabling Trade Report*, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org/en/initiatives/gcp/GlobalEnablingTradeReport/index.htm>.
- Additional country information related to corruption can be found in the U.S. State Department's annual *Human Rights Report* available at <http://www.state.gov/g/drl/rls/hrrpt/>.
- Global Integrity, a nonprofit organization, publishes its annual *Global Integrity Report*, which provides indicators for 92 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

## Bilateral Investment Agreements

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The Bilateral Investment Treaty between the United States and Ukraine came into force on November 16, 1996. The following countries have also signed bilateral investment agreements with Ukraine: 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 in 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), UK (1993), Uzbekistan (1993), Vietnam (1994), Yugoslavia (2001), Yemen (2002).

The United States and Ukraine signed a Trade and Investment Cooperation Agreement (TICA) on April 1, 2008. The TICA established a joint U.S.-Ukraine Council on Trade and Investment, which is working to increase commercial and investment opportunities by identifying and removing impediments to bilateral trade and investment flows.

## **OPIC and Other Investment Insurance Programs**

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The U.S.-Ukraine Overseas Private Investment Corporation (OPIC) Agreement was signed in Washington on May 6, 1992. OPIC resolved a long-standing dispute in December 2009, and restored its programs in Ukraine after an almost ten-year hiatus.

In July 2002, the Board of the U.S. Export-Import bank opened facilities for short and medium-term (up to seven years) lending for commercial and sub-sovereign projects. Ukraine is a member of the Multilateral Investment Guarantee Agency (MIGA).

In June 2010 OPIC concluded an agreement enabling the Ukrainian Development Network (UDN) to serve as an originator for a growing alliance with the private sector designed to support small and medium-sized enterprises expanding into emerging markets overseas.

## **Labor**

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### **LABOR AVAILABILITY**

Ukraine has a well-educated and skilled labor force (about 20.24 million people) with nearly a 100 percent literacy rate. As of October 1, 2010, unemployment (ILO methodology) averaged 9.2 percent, although unemployment in some regions, particularly in western Ukraine and central Ukraine, was significantly higher. The Government of Ukraine, which counts only those officially registered to receive unemployment benefits, claims employment was only 1.5% as of October 1, 2010.

### **WAGES**

Wages in Ukraine remain low by Western standards. During the first nine months of 2010, the nominal average monthly wage increased by 21.9% year-on-year to UAH 2,439 (about \$307), while the real average wage increased by 9.8% year-on-year during the same period. The highest wages are in the financial and aviation sectors; the lowest wages are paid to agricultural and public health workers.

### **MINIMUM WAGE**



The minimum monthly wage increased to UAH 888 on July 1 (approximately \$112), and to UAH 907 (approximately \$114) on October 1. The 2010 state budget calls for a further minimum wage increase to UAH 922 (\$116) by the end of 2010. According to the law, the minimum monthly wage equals the monthly subsistence level.

The exchange rate has been relatively stable throughout 2010 at approximately UAH 8 per USD, following a 40% devaluation in 2009. Ukrainian government policy aims to maintain the stability of the local currency against the U.S. dollar, although the GOU has agreed with the IMF to introduce more exchange rate flexibility. . Gross international reserves at Ukraine's central bank amounted to \$34.7 billion at the end of September, a level sufficient to cover 5.8 months of imports. This level of reserves and high external debt roll-over should allow the exchange rate to remain in the range of UAH 7.9-8.0 per USD through 2011.

## PENSIONS

In 2004 Ukraine began a comprehensive pension reform program, based on international standards, which envisaged a three-pillar system: Pillar I, a solidarity system, Pillar II, a mandatory accumulation system, and Pillar III, a voluntary private pension system.

For Pillar I, retirement payouts are determined on the basis of the individual's labor records and contributions. The system follows "pay as you go" principles, meaning the contributions of today's workers fund today's pensioners. Despite major reform, the Pillar I system remains financially unsustainable. Major systemic issues, such as the need to increase the retirement age, provisions for early retirement, and the level of the minimum pension payments, still need to be resolved. At 18% of GDP, Ukraine spends the highest amount on pensions in the region, and with a declining and rapidly aging population, costs continue to rise rapidly. Employer contributions at 33.2% of wages exacerbate shortfalls in financing by encouraging substantial underreporting of income to evade high pension contributions. A significant percentage of workers in the gray economy, particularly in the agrarian sector, do not contribute to the pension fund but have accrued entitlement to these same resources. The result is growing pressure to subsidize basic pensions using revenues from the general government budget. The estimated deficit of the Pension Fund currently exceeds UAH 60 billion (about \$7.6 billion).

Pillar II, the Mandatory Accumulation System, is not yet enacted in Ukraine, although the draft legislation passed the first reading in April 2007. The 2003 law on Mandatory Pension Insurance includes preconditions for the operation of the Mandatory Accumulation System and the Cabinet of Ministers recently pushed back the likely commencement date of the system until 2014 when it is felt these preconditions may be met. Once enacted, the law will mandate that each Ukrainian worker contribute to an individual retirement account. The law is designed to pre-fund a part of the public pension to relieve pressure on the current "pay as you go" system. The success of Pillar

It will depend on achieving long-run fiscal sustainability of the first pillar and establishing the necessary operational systems. When implemented, Pillar II will generate substantial domestic long-term savings to finance economic growth. Depending upon who participates in the system when the scheme starts, contributions could be between \$US 60 to 145 million each year.

Pillar III, voluntary private pension funds, began operations at the end of 2004. These funds are the only effective, tax-favored method workers have to supplement their retirement income through voluntary savings. Since 2004 the number of private pension funds has grown rapidly, but they still remain a minor financial actor. The financial crisis has impacted the industry and some rationalization has occurred with perhaps more in the future. In an economy with over 16 million workers, 50 active funds service about half a million participants and have assets of under \$100 million. Moreover, Ukraine's underdeveloped capital markets do not provide private pension funds with sufficient sound, long-term investment opportunities. At the end of September 2009 48.3% of assets were invested in bank deposits, 19% was invested in Ukrainian corporate bonds, 8% in Ukrainian Government Bonds and 8.8% in Ukrainian equities. The legal framework required to support successful private pension funds is still weak and regulatory oversight is even weaker. Various international donor initiatives are supporting the Ukrainian government's efforts to strengthen the legal framework and effectiveness of regulatory oversight. Due to weaknesses in market structure, non-transparency, lack of public trust, and low income, however, private pension funds are not likely to be a major source of investment funds in the near future.

Finally, as a condition of receiving a loan from the International Monetary Fund, Ukraine committed to reform its pension system, in particular by increasing the retirement age for women to 60 years over the next 10 years to match the retirement age of men, whose life expectancy is lower than women.

## LABOR/MANAGEMENT RELATIONS

Ukrainian workers are generally accustomed to "top-down" management practices and therefore tend not to demonstrate initiative. A younger, more independent-minded generation is slowly moving into the workforce, and it is becoming easier to find professional personnel who function independently.

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

Ukraine's Labor Code remains outdated and inappropriate for a market economy. The government has drafted a new Labor Code with assistance, but Parliament is still considering the draft legislation. Independent trade unions maintain that the draft Labor Code will not allow workers to associate freely and could damage the viability of independent unions.

## Foreign-Trade Zones/Free Ports

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Ukraine has in the past maintained special or free economic zones (SEZs-FEZs), but in 2005 the government canceled all tax exemptions (i.e., from land tax, corporate income tax, import duty, and VAT on imports) to investors in SEZs-FEZs to stop the large-scale misuse of these zones for tax evasion and smuggling. While this cancelation of exemptions remains in effect, Prime Minister Azarov has expressed support for their restoration.

## Foreign Direct Investment Statistics

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According to Ukraine's State Statistics Committee, as of October 2010 the total stock of FDI in Ukraine was \$42.5 billion (about 31% of GDP), or \$930 per capita. This was a 1% increase from October 2009, when the total stock of FDI stood at \$38.6 billion, or \$838 per capita. -a slowdown from over 20% annual growth in the FDI inflow demonstrated prior to 2008.

### FDI BY COUNTRY

As of October 1, 2010 Ukraine's major investors included: Cyprus (22.5% of total FDI), Germany (16.5%), the Netherlands (9.6%), Russia (7%), Austria (6.3%), the United Kingdom (5.4%), France (4.1%), and Sweden (4.1%). Investment from the United States made 2.9% of FDI. Cyprus remains a popular offshore destination for Ukrainian and Russian enterprises through which to channel investments.

### FDI BY INDUSTRY SECTOR DESTINATION

The largest portion of cumulative investment went to the financial sector – 32.2%, steel production – 14%, trade and repairs – 10.8%, real estate and engineering – 10.6%, food processing – 4.4%, and machine-building – 2.7%.

### FDI FROM UKRAINE

As of October 1, 2010, Ukraine's FDI to other countries stood at USD 6.85 billion (5% of GDP). 93% of the investment from Ukraine or USD 6.4 billion went to Cyprus. Cyprus is a popular destination for Ukrainian capital due to a lucrative double taxation agreement between Ukraine and Cyprus concluded back in 1982. The second largest destination of FDI from Ukraine is Russia, which received 2.4% of Ukraine's FDI or USD 164.5 million.

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## Chapter 7: Trade and Project Financing

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- [U.S. Banks and Local Correspondent Banks](#)
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### How Do I Get Paid (Methods of Payment)

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Ukraine adheres to international legal instruments pertaining to international payments via checks, bills of exchange, letters of credit (L/C) and collection arrangements. All types of L/Cs (revocable, irrevocable, transferable, "Red clause", revolving, and stand-by) are served by Ukrainian banks. The recommended method of receiving payment for U.S. exports is through an irrevocable letter of credit.

Transfer of payment orders in foreign currencies are made either through a cover at the foreign partner-bank, or through international Settlements Department of the National Bank of Ukraine (NBU). To carry out hard currency transactions, a bank has to be authorized by the NBU. Authorized Ukrainian commercial banks are members of SWIFT (Society for Worldwide Inter-bank Financial Telecommunications). According to current Ukrainian legislation the term of return of currency receipts is limited to 90 days. Exceeding this term requires an individual license from the National Bank of Ukraine.

### How Does the Banking System Operate

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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.

### Foreign-Exchange Controls

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Foreign investors are guaranteed the right to repatriate profit, income or other funds relating to investments without any restrictions, after the payment of applicable taxes. For repatriation of hard currency, each transaction over \$50,000 must be approved by

the NBU. The NBU also charges a fee to review the transaction. Foreign exchange is readily available at market-determined rates.

On April 27, 2010 Ukraine's parliament reversed almost all amendments to the Law of Ukraine #1533-VI "On Amendments to Certain Legislative Acts of Ukraine aiming to Overcome Negative Effects of the Financial Crisis" introduced in June 2009, which had complicated foreign lending, foreign currency proceeds and investments procedures. The new legislation canceled the requirement to open investment accounts with local banks, mandatory registration of investments, and requirements for investment transactions in hryvnia only. The law on The Foreign Investment Regime envisages voluntary registration of foreign investment with the Ministry of Economic Development and Trade. However, only registered foreign investment has the right to guarantees and privileges envisaged by the law.

## Project Financing

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The **Export-Import Bank of the United States of America (U.S. Ex-Im Bank)** supports short-, and medium- term transactions in both the public and private sectors. In recent years, Ex-Im Bank has supported U.S. exports in the agricultural, metallurgical, informational technology and telecommunications sectors.

The **European Bank for Reconstruction and Development (EBRD)**, the largest foreign investor in Ukraine, makes debt and equity investments in the financial sector, small and medium businesses, food production and processing enterprises, municipal and state infrastructure and transport. Special emphasis is put on energy sector reform and the introduction of energy efficiency technologies in Ukraine.

The **World Bank** provides loans and grants in agriculture and energy, public administration, environment protection and the social sector.

The **International Finance Corporation (IFC)** invests mainly in financial sector. Technical assistance operations are provided in privatization, SME and capital market development.

The **U.S. Trade and Development Agency (TDA)**: TDA funds feasibility studies, mainly in the energy, infrastructure and public utility sectors, for major projects that offer good potential for future U.S. exports

**Overseas Private Insurance Corporation (OPIC)** reopened its programs in Ukraine in December 2009.

The **Western NIS Enterprise Fund**, capitalized with US\$150 million by the U.S. Government has operated in Ukraine, Belarus, and Moldova since June 1995. WNISEF has invested approximately \$120 million in 29 companies in the region in a range of industries with a concentration on consumer goods, construction materials, packaging, retail, and financial services. WNISEF is managed by Horizon Capital Associates, LLC.

## Web Resources

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Export-Import Bank of the United States: <http://www.exim.gov>

Country Limitation Schedule: [http://www.exim.gov/tools/country/country\\_limits.html](http://www.exim.gov/tools/country/country_limits.html)

European Bank for Reconstruction and Development:  
<http://www.ebrd.com/country/country/ukraine>

The World Bank: <http://www.worldbank.org.ua>

Trade and Development Agency: <http://www.tda.gov/>

International Finance Corporation: <http://www.ifc.org/>

Overseas Private Insurance Corporation (OPIC): <http://www.opic.gov>

Western NIS Enterprise Fund (WNISEF): <http://www.wnisefk.com>

SBA's Office of International Trade: <http://www.sba.gov/oit/>

USDA Commodity Credit Corporation: <http://www.fsa.usda.gov/cc/default.htm>

U.S. Agency for International Development: <http://www.usaid.gov>

The National Bank of Ukraine: <http://www.bank.gov.ua>

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## Chapter 8: Business Travel

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### Business Customs

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The legacy of a centralized authority, bureaucracy, and an unwillingness to take initiative has been imprinted on the Ukrainian business psyche. Signatures, proper letterhead, stamps of authenticity, and forms (in triplicate) are very important to "getting the job done" in Ukraine - a process which can exercise the patience of even the most experienced international businessperson.

Ukraine has many traits of a kleptocratic business culture, endemic corruption and powerful well-connected oligarchs. Ukrainian business partners often believe the key to the success of an enterprise is not a sound business plan, but a powerful patron in government or industry. Ukrainians can be shrewd and tough negotiators. It is important to be very responsive to one's negotiating partner, even regarding seemingly mindless issues.

The absence of a strong, transparent legal infrastructure your deal may depend on the trust you have painstakingly built over many months or years. Emphasis should be placed on cementing personal relationships before doing business. Face-to-face meetings are the norm, with little business conducted over the phone. Business cards, printed in English and Ukrainian or Russian, are de rigueur, with a firm handshake to open and close a meeting.

Background Notes are available on the U.S. Department of State's Travel & Business web site: <http://www.state.gov/r/pa/ei/bgn/3211.htm>

Background information on Ukrainian culture and traditions is available on the Embassy of Ukraine (in Washington D.C.) web site: <http://www.mfa.gov.ua/usa/en/263.htm>

### Travel Warning

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Please review the Consular Information Sheet available on the U.S. Department of State's Bureau of Consular affairs web site for the latest travel advisories:

[http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1053.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1053.html)

## Visa Requirements

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A passport valid for six months beyond the planned date of travel is required for entry to Ukraine. U.S. citizens do not need a Ukrainian visa as long as their stay in Ukraine does not exceed 90 days and the purpose of travel is tourism, private travel, or business. U.S. citizens whose planned stay in Ukraine exceeds 90 days must have a visa. U.S. citizens also must have an appropriate visa regardless of the length of stay if their purpose of travel is other than tourism, private travel, or business. The Government of Ukraine does not issue visas at its borders or ports of entry. Visas must be obtained from a Ukrainian embassy or consulate abroad.

For additional information about Ukrainian visas and related policies, please contact the Ukrainian Embassy or Consulate nearest you.

Embassy of Ukraine in Washington D.C.: <http://www.mfa.gov.ua/usa/en>

Consulate General of Ukraine in New York: <http://www.ukrconsul.org>

Consulate General of Ukraine in San Francisco: <http://www.ukrainsf.com>

Consulate General of Ukraine in Chicago: <http://www.ukrchicago.com>

For more details please visit the U.S. Embassy Ukraine's web site:

<http://ukraine.usembassy.gov/ukrainian-issues.html>

[http://travel.state.gov/visa/visa\\_1750.html](http://travel.state.gov/visa/visa_1750.html)

<http://ukraine.usembassy.gov/service.html>

## Telecommunications

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For telephone service information please visit the web site of the U.S. Embassy in Ukraine:

<http://ukraine.usembassy.gov/service-ukraine.html>

Phone codes of Ukrainian cities and regions are available on the following web sites:

<http://www.yellowpages.kiev.ua/dialcodesukr.php?l=3>

<http://www.brama.com/ukraine/citycode.html>

## Transportation

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City bus / trolleybus service in Kyiv is inexpensive, crowded and slow at times. If you aren't familiar with the city and do not read Cyrillic, best take a taxi. The Metro (subway/local train) is probably the quickest public transport method – but you need to be able to read Cyrillic.. Metro tokens can be purchased at individual stations; monthly passes at transportation kiosks. Metro map is available on <http://www.russia-ukraine-travel.com/kyiv-metro-map.html>. However, hailing a taxi is probably the most efficient form of transportation within the city. Private cars can also be hired for a reasonable



price, but most drivers do not speak English. Be sure to agree on a price beforehand. It is becoming customary to order a taxi by phone. The most reliable taxis can be ordered by dialing: 0-58, 234-4444, 238-8238. Taxi services are listed on <http://kievukraine.info/taxi.htm> and <http://www.go2kyiv.com/view/taxi.html>.

Car rental services: Avis (<http://www.avis.com.ua/> Tel: 502-2010), Budget (<http://www.budget.ua/en> Tel: 490-1088), Europcar (<http://www.europcar.ua/> Tel: 238-2691), Hertz (<http://www.hertz.ua/> Tel: 492-3270), and SIXT (<http://www.sixt.com/car-rental/ukraine/>) run operations in Kyiv, Boryspil Airport, and other large cities.

Train travel is the least expensive and most convenient method to reach just about any location in Ukraine. Trains are slow, but generally safe. Train schedules are available on <http://poezda.meta.ua/index.php?language=en> and [http://www.ukrainetrip.com/travel\\_in\\_ukraine\\_trains.shtml](http://www.ukrainetrip.com/travel_in_ukraine_trains.shtml).

Almost all international flights to Kyiv arrive at [Boryspil International Airport](http://www.airport-borispil.kiev.ua/eng/) (<http://www.airport-borispil.kiev.ua/eng/>) located 30 kilometers from the city center. Zhuliany-Kyiv is the other main airport, which handles mostly domestic flights, is located 7 kilometers from the center of Kyiv. Be prepared for frustrating delays at passport and customs control points. Delta flies directly from New York to Kyiv part of the year. United Airlines operates code-share flights with Austrian Air and Lufthansa; Delta Airlines with Air France; Northwest with KLM; and American Airlines with Swiss Air Lines. Flight schedules are available on <http://www.kiyavia.com/eng/info/timetable/>.

For traffic safety and road conditions please visit the U.S. Department of State's Bureau of Consular affairs web site: [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1053.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1053.html)

## Language

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Ukrainian is the official state language of Ukraine (since 1990). However, Russian is widely used in Kyiv and especially in the cities of eastern Ukraine (and to a much lesser extent in western Ukraine). Although those in the political world and the local media use both languages, official documents are in Ukrainian. The number of English speakers is growing yearly. Some useful Ukrainian vocabulary to remember is DOBRIY DEHN (hello, good day); DYA-KOO-YOU (thank you); BOOD LASKA (please/you're welcome).

For more information please visit the web site of the Embassy of Ukraine in Washington D.C.: <http://www.mfa.gov.ua/usa/en/>

## Health

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Bring prescriptions with you and avoid drinking tap water (bottled water is readily available in major hotels and supermarkets). It is wise to make sure that all foods and utensils are thoroughly cleaned. Prior to travel, make sure proper immunizations are up-to-date.

Medical information, including information about medical evacuation and insurance and medical services in and outside of Kyiv is available on the U.S. Embassy Ukraine's web

site:

<http://ukraine.usembassy.gov/med-emergencies.html>

Information on medical facilities and insurance is available on the U.S. Department of State's Bureau of Consular affairs web site:

[http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1053.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1053.html)

Information on vaccinations and other health precautions, such as safe food and water precautions and insect bite protection, may be obtained from the Centers for Disease Control and Prevention's web site:

<http://wwwn.cdc.gov/travel/destinationUkraine.aspx>

### Local Time, Business Hours, and Holidays

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Ukrainian time is GMT+2 (Greenwich Mean Time) and EST+7 (Eastern Standard Time). Ukraine observes daylight savings times from the last Sunday in March through the last Sunday in October.

To find the exact time in Ukraine, please visit

<http://www.timeanddate.com/worldclock/city.html?n=367>

Work week: 40 hours per week, Monday through Friday.

Normal business hours: 9 a.m. – 6 p.m.

The Embassy will be closed to the public on the following American and Ukrainian holidays in 2011.

Holiday	Day	Date	Country
New Year's Day	Friday	December 31	U.S.
New Year's Day	Monday	January 3	Ukraine
Orthodox Christmas	Friday	January 7	Ukraine
M. L. King's Birthday	Monday	January 17	U.S.
Presidents' Day	Monday	February 21	U.S.
International Women's Day	Tuesday	March 8	Ukraine
Orthodox Easter	Sunday, Monday	April 24, 25	Ukraine
International Labor Day	Sunday, Monday, Tuesday	May 1, 2, 3	Ukraine
Victory Day	Monday	May 9, 10	Ukraine
Memorial Day	Monday	May 30	U.S.
Holy Trinity Day	Sunday, Monday	June 12, 13	Ukraine
Constitution Day	Tuesday	June 28	Ukraine
Independence Day	Monday	July 4	U.S.
Independence Day	Wednesday	August 24	Ukraine

Labor Day	Monday	September 5	U.S.
Columbus Day	Monday	October 10	U.S.
Veterans Day	Friday	November 11	U.S.
Thanksgiving Day	Thursday	November 24	U.S.
Christmas Day	Sunday, Monday	December 25, 26	U.S.

### Temporary Entry of Materials and Personal Belongings

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According to Ukrainian law, a traveler can take cash in the amount, not exceeding the equivalent of 10,000 EUR across Ukrainian state border under an oral declaration. If the amount exceeds the equivalent of 10,000 EUR, the total amount must be declared in writing on the Customs Declaration Form upon entry/exit and supported by the documents showing the origin of money (e.g. bank statements).

Ukrainian Customs Procedures for Transporting Currencies, Monetary Instruments, or Precious Metals is available on the U.S. Embassy Ukraine's web site:

<http://ukraine.usembassy.gov/ukrainian-issues.html>

Information on customs regulations is available on the following web sites:

U.S. Department of State's Bureau of Consular affairs:

[http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1468.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1468.html)

Embassy of Ukraine in Washington D.C.: <http://www.mfa.gov.ua/usa/en/1604.htm>

### Web Resources

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Travel information:

Cabinet of Ministers of Ukraine:

[http://www.kmu.gov.ua/control/en/publish/officialcategory?cat\\_id=32672](http://www.kmu.gov.ua/control/en/publish/officialcategory?cat_id=32672)

Embassy of Ukraine in Washington D.C.:

<http://www.mfa.gov.ua/usa/en/publication/content/14649.htm>

Ukraine's tourist information (general overview, main attractions and places of special interest): <http://www.mfa.gov.ua/usa/en/publication/content/15954.htm>

U.S. Department of State International Travel Information: <http://travel.state.gov>

Maps of Ukraine:

<http://map.meta.ua/>

<http://travel.kyiv.org/map/>

U.S. Embassy's web site (Information on banking, delivery and translation services in Ukraine are available on this site): <http://ukraine.usembassy.gov/service-ukraine.html>

Web-search engines for Ukraine:

<http://meta.ua/en/>  
<http://www.google.com.ua/>

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## Chapter 9: Contacts, Market Research and Trade Events

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- [Market Research](#)
- [Trade Events](#)

### Contacts

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#### THE U.S. EMBASSY IN UKRAINE

<http://ukraine.usembassy.gov/>

U.S. Commercial Service, U.S. Embassy Ukraine  
Cheryl Dukelow, Senior Commercial Officer  
4, Hlybochytska St., 4th Floor, Kyiv 04050, Ukraine  
Tel: (380-44) 490-4018; Fax: (380-44) 490-4046  
E-mail: Cheryl.Dukelow@trade.gov  
<http://www.buyusa.gov/ukraine/en/>

GOVERNMENT OF UKRAINE (all Ukrainian Ministries and Parliamentarians are on this website) <http://www.kmu.gov.ua/control/en>

#### STATE STATISTICS COMMITTEE OF UKRAINE

<http://ukrstat.gov.ua>

Export-Import Bank of the United States  
811 Vermont Avenue, N.W., Washington, D.C. 20571  
Tel: (202) 565-3413; Fax: (202) 565-3628  
<http://www.exim.gov>

OPIC (Overseas Private Investment Corporation)  
1100 New York Avenue, N.W., Washington, D.C. 20527  
Tel: (202) 336-8618; Fax: (202) 408-5145  
<http://www.opic.gov>

USTDA (U.S. Trade and Development Agency)  
1621 N.Kent Street, Suite 200, Arlington, VA 22209-2131  
Tel: (703) 875-4376; Fax: (703) 875-4009  
<Http://www.tda.gov>

EBRD (European Bank for Reconstruction and Development)  
27/23, Sophyivska Vul., Kyiv 01021, Ukraine  
Tel: (380-44) 464-0132; Fax: (380-44) 464-0831  
<http://www.ebrd.com>

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Jorge Zukoski, President

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<http://www.usubc.org/>

## **Market Research**

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To view market research reports produced by the U.S. Commercial Service please go to the following website: <http://www.export.gov/mrktresearch/index.asp> and click on Country and Industry Market Reports.

Please note that these reports are only available to U.S. companies. Registration to the site is required, and is free.

## **Trade Events**

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Please click on the links below for information on upcoming trade events.

<http://www.export.gov/tradeevents/index.asp>

<http://www.buyusa.gov/ukraine/en/events.html>

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## Chapter 10: Guide to Our Services

In support of President Obama's National Export Initiative we have doubled our efforts to assist U.S. exporters. The U.S. Commercial Service offers customized solutions to help U.S. exporters, particularly small and medium sized businesses, successfully expand exports to new markets. Our global network of trade specialists will work one-on-one with you through every step of the exporting process:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers
- Gain access to the full range of U.S. government trade promotion agencies and their services, including export training and potential trade financing sources

To learn more about the U.S. Government's trade promotion resources for new and experienced exporters, please click on the following link: [www.export.gov](http://www.export.gov)

For more information on the services the U.S. Commercial Service offers to U.S. exporters, please click on the following link: <http://www.buyusa.gov/ukraine/uk/>

U.S. exporters seeking general export information/assistance or country-specific commercial information can also contact the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRAD(E)**.

**We value your feedback on the format and contents of this report. Please send your comments and recommendations to: [Market\\_Research\\_Feedback@trade.gov](mailto:Market_Research_Feedback@trade.gov)**

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of Commerce** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.

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