

1. UKRAINE - AN OVERVIEW

1.1 Geography and Topography

Ukraine is located in Eastern Europe and covers a land area of 603,700 sq. kilometers, making it the second largest country in Europe after Russia. It borders the Russian Federation to the east, Belarus to the north, Poland, Slovakia, Hungary, and Romania to the west, and the Black Sea and the Sea of Azov to the south.

1.2 Population

The population of Ukraine is approximately 46.01 million (as of 1 June 2008), with a population density of 77 people per sq. kilometer. Approximately 77.8% of the population are ethnic Ukrainians and 17.3% ethnic Russians. The remaining 4.9% of the population includes ethnic Poles, Jews, Bulgarians, Tatars, Hungarians, Romanians, Greeks, and other nationalities.

1.3 Government, Political and Legal Systems

Ukraine follows a civil law system, under which the *Constitution of Ukraine* (the *Constitution*) provides the framework for its legislative system. The principal body of legislation consists of laws adopted by the Verkhovna Rada (Parliament) of Ukraine and international agreements of Ukraine duly ratified or acceded to by the Verkhovna Rada. Laws are implemented through various normative acts, which are adopted by the relevant government bodies (*i.e.*, the President, the Cabinet of Ministers, Ministries, and State Committees).

The current *Constitution* was adopted on 28 June 1996, and heralded a new period in the development of the Ukrainian legislative system. The *Constitution* established general guidelines for national policy and established a foundation for the development of a democratic state. Apart from its political significance, the *Constitution* has enormous value as a legislative act. The provisions of the *Constitution* are norms of direct application, which entitle any individual to seek the protection of his/her rights within the judicial system. In general, all laws and normative acts are adopted on the basis of, and in strict compliance with, the *Constitution*. The *Constitution* itself mandates the preparation and implementation of a comprehensive program of legislative developments by providing for the adoption of more than 30 new laws and, as deemed necessary, amendments of existing laws.

The legal system of Ukraine contains three major layers of normative acts: the *Constitution*; laws adopted by the Verkhovna Rada and international agreements of Ukraine duly ratified or acceded to by the Verkhovna Rada; and other normative acts. The Verkhovna Rada ratifies or accedes to international agreements in the form of laws of Ukraine.

Pursuant to the *Constitution*, Ukraine has three branches of state power: the legislative branch, represented by the Verkhovna Rada; the executive branch, represented by the Cabinet of Ministers of Ukraine (the Cabinet of Ministers) and headed by the Prime Minister; and the judicial branch, represented by a multilevel system of courts, with the Supreme Court of Ukraine at the highest level. In addition, there is the Constitutional Court of Ukraine, which is the only body authorized to exercise control over compliance with the *Constitution* and the laws of Ukraine, its international agreements, and acts of the President, the Cabinet of Ministers, and other governmental agencies.

The President is the head of state and the commander-in-chief of the armed forces, and has certain authority over the executive branch. Presidential elections are held every five years.

Under Constitutional reforms dated 8 December 2004, adopted by the Verkhovna Rada during the course of the Orange Revolution and entering into force on 1 January 2006, the distribution of executive powers among the President and the Cabinet of Ministers of Ukraine was shifted in favour of the Cabinet of Ministers of Ukraine. Some of the key Constitutional rights of the President (*e.g.*, the right to appoint the Prime Minister pending approval by the Verkhovna Rada) have been transferred to the Verkhovna Rada. The Constitutional reform transformed Ukraine's political system from presidential-parliamentary republic to parliamentary-presidential republic.

Under the amended *Constitution* the President, *inter alia*, has the right:

- to sign bills (*i.e.*, proposed legislative acts adopted by the Verkhovna Rada) into law;
- to nominate the Minister of Defense and the Minister of Foreign Affairs for their approval by the Verkhovna Rada;
- to appoint (and to dismiss) the General Prosecutor of Ukraine (pending the approval of the Verkhovna Rada);

- to veto bills (*i.e.*, proposed legislative acts adopted by the Verkhovna Rada) and return them to the Verkhovna Rada for amendment;
- to dissolve the Verkhovna Rada if a majority coalition is not formed within 30 days from the date of its first meeting after an election; and
- to establish courts in accordance with the procedures established by law.

The Verkhovna Rada is the supreme legislative body in Ukraine, with the power to adopt laws and resolutions, and to approve candidates for the Prime Minister, ministers and several other senior government officers. The Verkhovna Rada is comprised of 450 deputies, elected for five-year terms. Under the amended *Constitution* effective from March 2006, Parliamentary elections will be held completely by party lists (*i.e.*, under proportional representation). In previous years, half of the body was elected under proportional representation, and the other half was elected directly and individually by a majority vote in each voting district.

The Cabinet of Ministers lead by the Prime Minister is the highest body within the executive branch. The parties which win places in the Verkhovna Rada are required to form a majority coalition within 30 days from the date of the first meeting of the newly-elected Parliament or from the date of dissolution of any previous coalition. If a coalition is not formed within this period, the President has the right to dissolve the Parliament and to call for an extraordinary parliamentary election.

If a majority coalition is formed, it will have the right to nominate a person for the position of the Prime Minister. The President will then introduce the candidate nominated by the majority coalition for appointment by a majority vote in the Verkhovna Rada. The approved Prime Minister will have the right to nominate members of the Cabinet of Ministers for the Parliament's approval, with the exception of the Minister of Defense and the Minister of Foreign Affairs, which can be nominated only by the President.

In Ukraine, a bill becomes a law once it gains a majority (226 deputies) of the votes in the Verkhovna Rada (except for certain types of laws requiring a supermajority of 300 votes), and is signed into law by the President. The Cabinet of Ministers implements laws once they are adopted. The various Ministries, State Committees, and other authorized bodies of the executive branch are responsible for the direct implementation of the resolutions passed by the Cabinet of Ministers.

The court system, consisting of the courts of general jurisdiction and the Constitutional Court of Ukraine, exercises independent judicial power in Ukraine. The Supreme Court of Ukraine is the highest judicial body within the system of the courts of general jurisdiction.

The courts of general jurisdiction are responsible for civil, criminal, and administrative cases. In accordance with the *Constitution* (and the current legislation), the courts of general jurisdiction have the following four-tier structure:

- the Supreme Court of Ukraine, consisting of five specialized chambers;
- the supreme specialized courts (commercial and administrative), and the Cassation Court of Ukraine;
- the appellate courts and the Appellate Court of Ukraine; and
- the local courts.

1.4 Economy

Ukraine benefits from a consumer market of approximately 46.01 million people, and enjoys an opportune geographical location, a mild climate, a rich natural resource base, a highly educated labor force, a well-developed transport infrastructure, and a well-developed tradition of scientific research and development. Despite the fact that Ukraine has experienced steady economic growth over the past five years, the country faced serious challenges in sustaining the negative consequences of the world economic crisis and remains in need of investment in all sectors of industry, with many industrial plants unable to meet current consumer demand.

Export restrictions have been significantly reduced on various categories of products following independence from the Soviet Union, with the core export categories including ferrous and non-ferrous metals and metal products; chemical products; fertilizers; plastics and rubber; agricultural products and foodstuffs; engineering goods; various types of machinery and equipment (including various types of transport vehicles); textiles; and a wide variety of raw materials.

The Ukrainian financial sector has undergone substantial changes and improvements in the past several years with an effective regulatory framework being progressively created and a modern financial system, based on market principles, steadily emerging. However, like in other economies, Ukrainian financial sector is experiencing the

negative effects of the world financial crisis. The National Bank of Ukraine and the government are implementing a number of measures in order to fight the negative consequences of the world financial crisis. Such measures, *inter alia*, include recapitalization of Ukrainian banks, limitation of the outflow of capital from Ukraine and facilitation of the performance of debt obligations by Ukrainian borrowers.

In 1996, shortly after the adoption of the new Constitution, the NBU successfully launched the new Ukrainian currency, the Hryvnia (UAH). The NBU's most significant achievement to date has been the stabilization of Ukraine's currency through its adherence to a tight monetary policy between 1995-1998.

1.5 Foreign Relations

Since gaining independence in 1991, Ukraine is currently party to more than 400 multilateral treaties and over 2,000 bilateral agreements. Among others, Ukraine is a constituent member of the United Nations and various other multilateral organizations, including the IMF, IBRD, IFC, MIGA, EBRD, BSTDB, EIB, OSCE, and the Council of Europe. In 2008 Ukraine joined WTO. Ukraine also cooperates with the OECD, the European Union and NATO. Ukraine has stated its intention to ultimately join the European Union and NATO within the next decade. To this end, Ukraine has signed and ratified the *Treaty on Partnership and Cooperation* with the EU and the *Cooperation Agreement* with NATO, both of which are now in force.

Ukraine has also ratified the *Agreement on the Common Economic Space* (CES). The CES establishes a free-trade zone among Ukraine, Russia, Belarus, and Kazakhstan to promote the strengthening of economic cooperation among these member-states.

1.6 Regional Structure

Ukraine is a unitary state divided into 24 oblasts (regions), the Autonomous Republic of Crimea, and the cities of Kyiv and Sevastopol (each of which is deemed a separate administrative unit). Every oblast and each of the cities of Kyiv and Sevastopol has a governor, who is appointed by the President. The Autonomous Republic of Crimea has its own constitution, Verkhovna Rada (Parliament), and government, but remains subordinate to the central Government of Ukraine. It is anticipated that major administrative and territorial reforms will take place in Ukraine in the medium-term.