



FRISHBERG
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ATTORNEYS AT LAW

GETTING STARTED IN UKRAINE





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PRACTICAL GUIDELINES TO DOING BUSINESS IN UKRAINE

I. Introduction

As a rule, all foreign companies doing business in Ukraine must interface with government officials at one point or another. In fact, each step of doing business requires some interaction with the state authorities that can negatively influence a given transaction.

In the case of mass privatization, the State Property Fund (SPF) was the key agency responsible for continually failing to implement large and mid-scale privatization with strategic (foreign) investors. Joint ventures were encouraged instead. In import-export operations, the state customs authorities play the lead role in expediting (or delaying) the customs clearance process. In all cases, each rayon administration requires a company registration certificate and a valid lease agreement for a company to engage in business activities.

Thus, prior to entering the Ukrainian market, foreign investors often ponder whether they will approach the relevant state officials directly or, alternatively, send someone else to represent their interests. This initial choice is important because depending on the degree of preparation, the first official visit can either produce insurmountable future barriers or provide immediate positive results. This is especially vital in the area of real estate construction.

II. Diplomacy or Bribery: That Is the Question

Multinational companies with large investment projects frequently attempt to "arrange" the success of their transactions through diplomatic



connections (ambassadors, commercial officers, congressmen, senators, etc.). Unfortunately, direct lobbying through diplomatic channels, however dignified, provides no guarantees that such projects will materialize, because promises by the President often do not carry much weight at the local level.

Other foreign companies, often registered in exotic off-shore zones, rely on a more direct approach, including, but not limited to, making cash gifts or other presents of appropriate material value in exchange for various favors. Admittedly, in such situations the projects sometimes receive the green light with greater degree of expediency than through diplomatic connections. This alternative, however, carries significant risks for the reputation of the company.

Many mid-size organizations cannot engage the attention of their ambassadors to represent their agenda, and refuse to "reward" a Ukrainian state employee in his or her individual capacity. Small businesses and non-profit organizations often simply cannot afford the amount of the requested payment. Still others, including many U.S. companies, are legally handicapped by the notorious Foreign Corrupt Practices Act, whose provisions they dare not violate.

Inability to wield influence through either diplomatic or financial channels provides these companies with the only, and arguably the most efficient (and legal), alternative: using the infrastructure available only to local consultants.

III. Use of Local Consultants as Intermediaries

Unlike foreign representatives, local consultants are uniquely equipped to operate within the existing system. The Soviet Union blessed local consultants with bitter cynicism, enabling them to anticipate and avoid the numerous pitfalls in the system that frequently entrap and frustrate wealthy (foreign) entrepreneurs.

Dealing with local consultants is not for everyone: through trial and error, foreign companies have learned that such dealings can become a cruel and unusual experience. During the Kravchuk administration, it was not uncommon for members of various racket groups to sign up as representatives of foreign companies, only to appropriate the goods stored in the warehouse for re-sale on the black market. Today, the Ukrainian government punishes anyone caught in the more obvious scams with greater regularity, but we continue to recommend that one select local consultants based on their reputation in the field.

Unlike foreigners, local consultants have a variety of tools at their disposal, allowing them to "lobby" individual projects with greater efficiency. Typically, the consultant will begin by gathering information about the parties involved in the transaction. Analysis of this preliminary information often provides clear guidelines in doing the follow-up work to achieve the ultimate results. The actual follow-up can consist of several steps (or events) aimed at building a general consensus of support for the given project.

Depending on the nature of the project, a number of tools can be used to accomplish the more difficult projects. Sometimes, as in the case of British Know-How Fund's privatization of 5 vegetable bases and 40 stores, much of the success depends on influencing the public opinion through the press (newspapers, radio and television). Other times, successful transactions depend on organizing a small, quiet, yet influential, base of support for a given project within a specific government ministry or its branch.

In this regard, it is far easier to mobilize support within one ministry, where all the "players" know (and usually respect) each other. The situation becomes more difficult when consent-building must be coordinated with two or more government agencies (e.g., in case of

privatization, the Cabinet of Ministers and the SPF). Because each situation is different, a case-specific approach increases the chances of a successful transaction.

Sometimes a local consultant will need to retain the services of a specialist with a unique expertise in a certain area (e.g., securities regulations, banking, intellectual property, etc.).

If so, such arrangements are reached on a case-by-case basis, either at an hourly rate or reasonable flat fee basis (much like engaging a lobbying group in Washington, D.C.). A sum viewed as "unreasonable" could, of course, amount to indirect bribery and would be counter-productive to the goal of transacting business without violating the Foreign Corrupt Practices Act.

IV. Conclusion

Foreign companies frequently try to enter the Ukrainian market based on promises made by senior government officials, only to be rebuffed at the local government level. Others try to arrange transactions themselves. As could be expected, their high attrition rate since 1991 has only enhanced Ukraine's notoriety for its difficult working environment.

The first barrier preventing foreign investors from working in Ukraine, is a "Catch-22" situation: as in any developing market, investment demands that careful due diligence is performed. At the same time, foreign companies rightfully complain that no useful information is available through official means.

Undoubtedly, the key to success lies in the procurement of reliable information in a timely fashion. Local consultants are the best resource in procuring the necessary information and implementing the investor's assignment. Conveniently, they are a worthy alternative to corruption.



MOST COMMONLY USED BUSINESS STRUCTURES

The Ukrainian Civil Code (No. 435-IV, dated January 16, 2003, effective January 1, 2004) and Economic Code (No. 436-IV, dated January 16, 2003, effective January 1, 2004) in combination provide for virtually any type of companies. Despite the dazzling range of business structures offered under Ukrainian law, foreign investors typically choose one of the following four alternative business structures:

- representative office (which is not a legal entity, and can be either commercial or non-commercial);
- wholly-owned foreign subsidiary or enterprise (usually with limited liability provided in the founding documents);
- "joint ventures" — companies with foreign participation (either in the form of a closed stock company or a limited liability company); or
- agreements on joint cooperation and production, which do not require registration of a separate legal entity, including toll manufacturing or production outsourcing agreements.

RESIDENT VS. NON-RESIDENT STATUS

One significant consideration in selecting the appropriate business structure involves Ukrainian foreign currency legislation, which categorizes the above structures as either non-residents or residents, depending on the type of activities carried out.

Non-commercial representative offices are "non-residents" under currency regulations

and tax legislation, while commercial representative offices, subsidiaries and joint ventures are classified as "residents" because they are legal entities, registered and residing in Ukraine for more than 183 days per year. While the distinction is not clearly expressed in other laws, it is significant in terms of tax consequences and the ability of foreign businessmen to effectuate transactions in foreign or Ukrainian currency.

Both subsidiaries and joint ventures have the status of separate corporate entities and, thus, both limit an investor's liability to its initial investment. As Ukrainian corporate entities, joint ventures and subsidiaries are considered to be "residents" under Ukrainian currency regulations and they are subject to a different financial regime than "non-residents" (such as representative offices). For instance, resident companies may only transact business in Ukrainian currency.

REPRESENTATIVE OFFICES

By definition, a representative office of a foreign company is not a separate legal entity, but is viewed as an "arm" of a non-resident company. As such, a representative office is not incorporated under Ukrainian law. A representative office simply represents the interests of a foreign legal entity on Ukrainian territory and, consequently, there is flow-through liability for the parent company.

Another consequence: representative offices that are accorded "non-resident" status under the Ukrainian taxation system are subject to a special financial regime under tax laws and currency regulations. Foreign companies initially prefer to register their presence as non-



resident representative offices, particularly in case of import-export activities or simple research of the market opportunities and conditions.

The key function of such non-resident representative offices is to service existing contracts between the non-resident company and a local customer, but not to engage in commercial activities on its own behalf. Engaging in the so-called "commercial activities" (executing contracts in its own name, accepting payment for goods, etc.) may result in a representative office's re-classification as a "resident," thereby being taxed based on local revenues derived from its activity in Ukraine.

Moreover, the Ukrainian corporate tax legislation places non-residents into two categories: those which effectuate profit-generating activities in Ukraine (a) through a permanent representative office (active), or (b) without a permanent office (passive). Different tax rates and payment procedures attach to each category. This significant distinction is aimed at closing the loophole by which non-resident representative offices circumvented currency regulations and paid lower (if any) taxes in Ukraine on activities typically performed by resident companies.

RESIDENTS: JOINT STOCK AND LIMITED LIABILITY COMPANIES

Wholly-owned foreign subsidiaries and joint ventures usually take the form of either closed joint stock companies or limited liability companies, depending on the particular requirements of the project. Both structures are considered to be "residents" under the Ukrainian currency regulations and tax laws, and both have the corporate shield, limiting the liability of founders or shareholders to the value of their contributions to the company.

Several differences exist between the above companies. For example, in a limited liability company, the founders own equity in the company, expressed by a percentage of ownership (i.e., such a company does not issue shares of stock). The main difference between a limited liability company and a joint stock company, however, lies in the degree of structural complexity. Limited liability companies are relatively simplistic and accommodate the interests of minority owners. In sharp contrast, joint stock companies can be extraordinarily complex, particularly in cases of highly negotiated joint ventures with state-owned enterprises, and do not give minority shareholders very much protection.

The management structure of a stock company and that of a limited liability company is very similar with a few minor variations. The three-part structure is headed by the "general assembly of shareholders" (or in case of a limited liability company, "general assembly of participants") which represents the interests of the company owners. The next level, the "supervisory council" (a.k.a. the "board of directors") is optional in both structures; it is commonly employed in the stock company structure, but smaller companies tend to disregard it. The final level, the management board, performs the company's day-to-day functions.



In practice, simple joint ventures or 100% foreign-owned companies usually register in the form of a limited liability company. This company structure allows a relatively small number of people to avoid a complex multi-layered management structure composed of a general assembly, supervisory council and management organs and to avoid the registration of shares of stock. It is particularly attractive in cases of 100% foreign-owned companies because the charter (by-laws) can provide for one executive organ where the founder has complete and unequivocal control.

CAPITALIZATION REQUIREMENTS

The Law "On Economic Associations" governs the formation of joint stock companies and limited liability companies, and contains no limitations on the size of share capital for joint stock companies, provided however that the company's authorized capital is divided into shares of stock of equal nominal value.

The minimum capitalization for registration of joint stock companies is 1,250 minimum monthly salaries, while for limited liability companies it is 100 minimum monthly salaries. As of January 1, 2007, one minimum monthly salary is equal to UAH 400 (from July 1, 2007 it will increase to UAH 420 and from December 1, 2007 to UAH 450). Note that increases of the minimum monthly salary are common; therefore, please verify this information before calculating authorized capital, fines, fees, etc. Contributions to the authorized capital of a company may be either in cash or in-kind.

Shareholders of stock companies and founders in limited liability companies must make initial pre-registration deposits towards their contributions prior to registration. According to the Law "On Economic Associations," 50% of a shareholder's contribution must be paid

prior to registration if the shares are originally distributed amongst the founders of a joint stock company or a limited liability company. The remaining sum must be paid, in its entirety, no later than one year after registration of both types of companies.

COMPANY REGISTRATION

On July 1, 2004, the Law of Ukraine No. 755-IV "On State Registration of Legal Entities and Physical Entities-Entrepreneurs," dated May 15, 2003 (hereinafter the "Law"), came into force. The Law was specifically tailored to correspond with the Civil and Economic Codes of Ukraine, which simultaneously came into effect on January 1, 2004. The discussion below focuses on the registration of legal entities.

State registration in Ukraine evidences the creation or liquidation of legal entities, as well as any other registration activities which require an entry into the Unified State Register of Legal Entities and Physical Entities-Entrepreneurs (the "Register"). The Register should be fully up and running in 2006, including a "one-window" registration point.

Registration is performed by a duly qualified state registrar. They are responsible for registering legal entities, reserving names of legal entities (a novelty in Ukraine), providing information to various state authorities from registration cards, creating and storing registration cards, filling out and issuing certificates of registration and extracts from the Unified State Register, registering amendments in the founding documents of legal entities, registering terminations of activity.

DOCUMENT PREPARATION

All documents to be submitted for any registration activity must be personally submitted or sent by registered mail and must be written in Ukrainian. Registration cards

must be typewritten or handwritten in print and signed (in case of dispatch by registered mail, the applicant's signature must be notarized). All founding documents (charters, founding agreements, if applicable, regulations) must completely conform to the requirements of Ukrainian legislation.

Please note that documents, which are executed and issued in a foreign country, must be duly signed, notarized with a certification of the notary's signature by the authority in the foreign country authorized to certify such signatures and, finally, legalized with the Ukrainian Consulate in the foreign country or certified by an Apostille, provided that the foreign country has recognized Ukraine as a member to the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

After a legal entity or entrepreneur is entered into the Unified State Register, the relevant state registrar will create a registration file and assign it a registration number.

REGISTRATION PROCESS

The registration of a legal entity usually entails submission of the following documents:

- a duly filled in registration card for carrying out the state registration of the company;
- a copy of the resolution of the founders or their authorized bodies on the creation of a legal entity;
- two counterparts of the founding documents (according to the Civil and Economic Codes, the charter is the founding document of most types of companies, including joint stock companies, limited liability companies and enterprises);
- the document evidencing payment of the registration fee for the state registration of a legal entity; and

- for legal entities established by a foreign legal entity (foreign legal entities), a duly legalized (certified by Apostille) extract from the trade, banking or court register in such entity's (entities') country of location, which extract evidences registration in such country.

Again, we stress that if the above documents are issued in a foreign country, then such documents must be notarized, certified and affixed with an Apostille stamp in accordance with the 1961 Hague Convention (or legalized in the Ukrainian consulate in the country of origin) to use them officially in Ukraine. Importantly, "state registration" does not include mandatory registration with the social security funds, the Pension Fund of Ukraine, the Employment Center and the tax authorities.

In addition, the state registrar must provide to the statistics bodies, the state tax authorities, the Pension Fund of Ukraine and the social security funds (hereinafter "Registration

Authorities") notice on the state registration of the company with an indication of the number and date of registration and all information in the company's registration card. This act alone will be the basis for the inclusion of the company into the registers of the aforementioned state authorities.

Individuals, who carry out commercial activities including the manufacturing and sale of products, the rendering of services or the performance of certain jobs, must also register as entrepreneurs for tax purposes. As a brief overview, the state registration of entrepreneurs includes the submission of a duly executed registration card and a copy of the individual's certificate evidencing registration as a taxpayer and payer of other mandatory payments and the payment of the registration fee. Entrepreneurs are also entered into the Unified State Register and their information is publicly accessible with the exception of their tax identification codes.



COMPANY TAXATION

The Ukrainian system of taxation contains the following principle taxes and/or mandatory payments:

- Corporate Income Tax;
- Value Added Tax;
- Personal Income Tax;
- Customs Duties;
- Pension Fund and Social Security Fund Contributions;
- Excise Duties;
- State Duties;
- Land Tax;
- Vehicle Owners Tax;
- Payments for Licenses/Patents.

CORPORATE INCOME TAX (CIT)

1. Tax Jurisdiction

Legal entities incorporated and operating under the legislation of Ukraine are normally treated as tax residents and are taxable on their worldwide income. Legal entities incorporated abroad and operating under the laws of another country are normally treated as foreign tax residents (non-resident) and are taxable on two sources of income:

- Business income received from carrying out trade or business in Ukraine; and
- Other non-business income received from Ukrainian sources.

According to the Law of Ukraine No. 334/94 "On Taxation of Profits of Enterprises," dated December 28, 1994 (hereinafter the "Profit Tax Law"), the tax on companies is known as corporate income tax. Currently, this tax is generally calculated at a flat rate of 25% as of

January 1, 2004. Special tax rules may apply to certain companies, such as insurance companies.

2. Taxation of Resident Entities

(a) Tax Accounting Rules

Under domestic tax accounting rules, tax items (including gross income and gross expenses) are normally recognized on the basis of the cash-or-accrual method (e.g. first event rule). Under this method, income is recognized within the reporting period upon the occurrence of one of the following events, whichever occurs earlier:



- i) the date of the transfer of funds from the purchaser (customer) to the bank account of the taxpayer as payment for goods sold or services (works) rendered or, in case of payment in cash, the date of receipt of cash as payment for such goods, works or services; OR
- ii) the date of the unloading of the goods sold or, for works or services, the date of the factual provision of the results of the works or services by the taxpayer.

Expenses are recognized upon the occurrence of the one of the following events, whichever occurs earlier:

- i) the date of the write-off of goods from the bank account of the taxpayer as payment for goods, works or services and, in case of payment in cash, the date of the withdrawal of cash from the cash register or cash reserves of the taxpayer; OR
- ii) the date of the receipt of goods by the taxpayer or, for works and services, the date of the factual receipt of the results of such works or services.

The tax year corresponds to the calendar year. Taxpayers must submit tax returns for a calendar quarter, half year, three quarters, calendar year and make quarterly tax payments. Quarterly tax returns must be submitted within 40 days following the last calendar day of each calendar quarter, half year and three quarters and the fourth (i.e., last) quarter. There is no additional annual tax return.

(b) Taxable Income

Resident entities are taxable on their worldwide income received or accrued within a reporting period. The amount of taxable income is determined by subtracting allowable deductible expenses and capital allowance from gross income.

(c) Gross Income

Gross income is defined as any income from domestic or foreign sources received or accrued by the taxpayer from any activity. Such income may be in monetary, tangible or intangible form. The following items are specifically included in gross income:

- Overall income from the sale or exchange of goods, works or services, including securities (except with respect to their initial issuance or final extinguishment);
- Income from banking, insurance and other operations involving the provision of financial services, currency sales, securities and debt instrument sales;
- Property and services received free of charge;
- Income from joint activity and in the form of dividends from non-resident companies, unlike dividends received from resident companies, as well as interest, royalties, debt instruments and income from leasing operations (lease),

The following items are specifically excluded from gross income:

- Amounts of VAT received (accrued) by the taxpayer on top of the cost of goods/services, except in cases when the taxpayer is not a payer of VAT;
- Income received from joint activity on the territory of Ukraine without the creation of a legal entity, including dividends received from resident companies, unlike dividends received from non-resident companies, which dividends are taxed according to a special procedure;
- Monetary or in-kind contribution of capital to an entity or partnership in exchange for an equity interest therein, irrespective of whether

the investor acquires a controlling interest following such contribution.

(d) Deductible Expenses

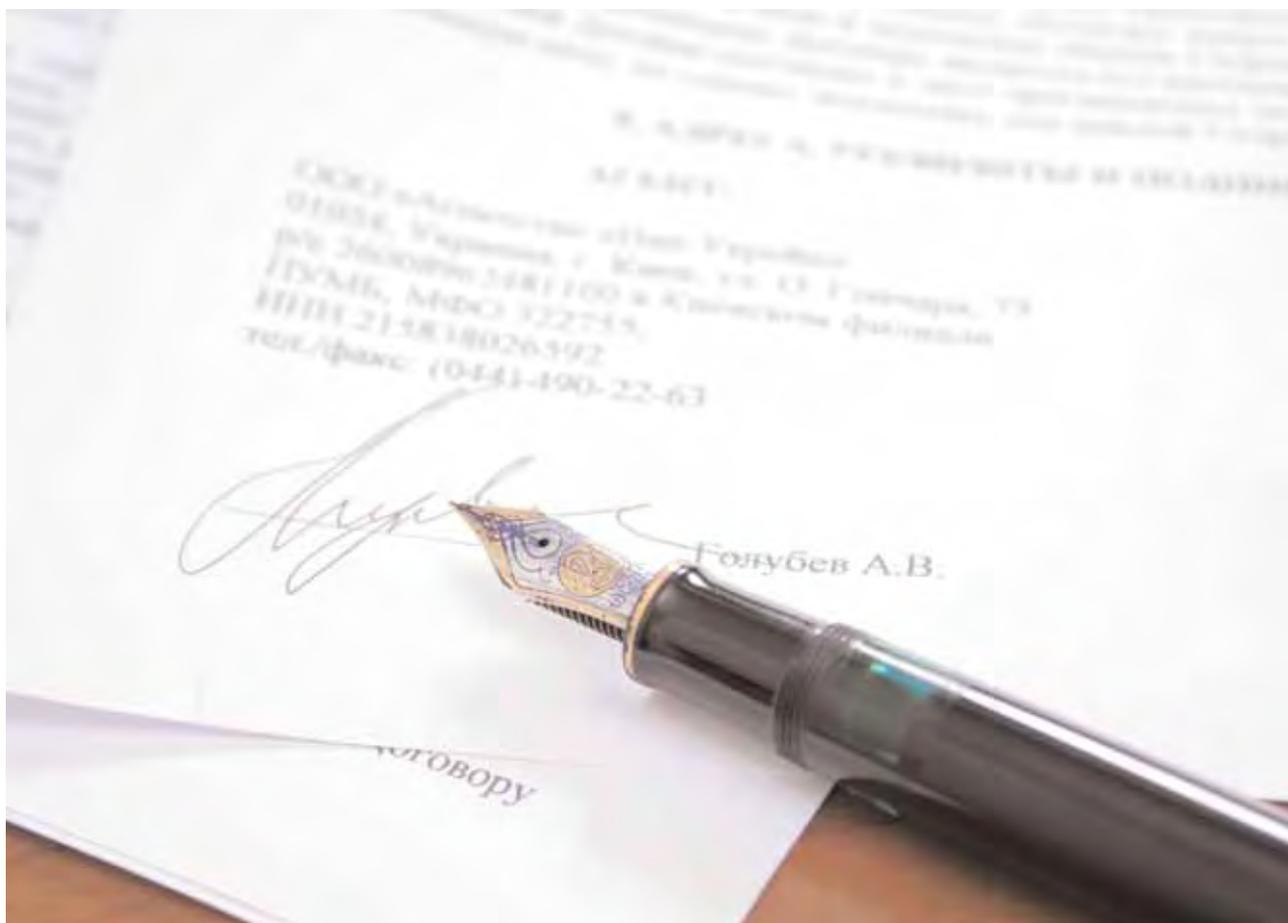
Any current business-related expenses are deductible unless such deduction is restricted or disallowed by the Profit Tax Law. The following items are specifically included as deductible expenses:

- Compensation for goods or services to be used by a taxpayer in its business;
- Any current expense in connection with starting-up, managing and carrying out of business;
- Capital asset improvement costs of up to 10% of the total book value of all capital assets at the beginning of the reporting year. Excess costs are capitalized.

Deductions of certain expense items is specifically prohibited, including penalties and fees paid, dividend payments, corporate and personal income tax payments, as well as VAT amounts included in the price of purchased goods (services) and amusement, entertainment, or recreational expenses. Of course, this restriction does not apply to expenses incurred by the taxpayer whose main business activity is furnishing amusement, entertainment, or recreation.

3. Corporate-Shareholder Taxation

The Profit Tax Law entitles Ukrainian resident companies to pay dividends to its shareholders regardless of whether the paying entities have recorded income or losses for the tax period. Moreover, the Profit Tax Law further provides that there is no distinction between accounting and taxable income/loss for the purposes of this rule.



Ukrainian tax law treats taxes on dividends as a constituent part of corporate income tax and not as a separate tax.

(a) Corporate Income Tax

Corporate income tax is paid on dividends distributed to residents and non-residents alike at the rate of 25 % as of 1 January 2004. The tax is accrued on top of a dividend payment and is made from the funds of the issuing company (e.g. corporate entity's funds). This means that when the distribution is made (or before such distribution is made) a tax payment of 25 % of the dividend is remitted to the State, and the full value of the dividend is paid to the shareholder.

At the end of the tax period, the taxpaying company is entitled to use the amount of previously contributed tax on dividends as a credit against its corporate tax liabilities. If the taxpayer does not have a sufficient corporate tax liability for the period, the amount of remitted tax on dividends may be carried forward indefinitely into future taxable periods.

(b) Withholding Tax

Unless there is a better rate provided by the respective tax treaties, dividend payments made to non-resident taxpayers are subject to a 15% withholding tax described above (e.g. Taxation of Non-business income). The amount withheld should be remitted to the State at the time of the dividend distribution.

Currently, there is no withholding tax for resident shareholders.

VALUE ADDED TAX

1. Taxable Transactions

In accordance with the Law of Ukraine No. 168/97 "On Value Added Tax," dated April 3, 1997, value added tax ("VAT") is imposed on:

- (a) Domestic sale transactions of goods or services, including payment for services under lease agreements and operations involving the transfer of ownership rights to pledged objects to a creditor to extinguish debt;
- (b) Import of goods or services for use or consumption in Ukraine, including the import of property under leasing agreements, pledge agreements and/or mortgage agreements;
- (c) Export of goods or services for use or consumption outside of Ukraine.

VAT is levied at a rate of 20% of the taxable amount for domestic sales and imported goods or services. For exported goods or services the VAT rate is zero percent. The general rule is that the taxable amount is defined on the basis of the contractual value of the goods or services supplied.

2. Exempt Transactions

(a) Transactions Specifically Exempt from VAT

Certain transactions subject to the provisions of the "Law on Value Added Tax" ("the VAT Law") are exempt from VAT. These include, but are not limited to, sale of domestically produced baby food products, published periodicals, student notebooks, textbooks, books, and supplementary study materials, educational services by institutions with special permission (license) to provide such services, special-purpose goods for disabled individuals, pensions and monetary assistance to the population, public transportation services, among others.

(b) Transactions Not Subject to VAT

According to the VAT Law, certain transactions are not subject to VAT. These include, but are not limited to:

- Issuance of securities by enterprises, the National Bank of Ukraine, the Ministry of Finance of Ukraine, and by local authorities;
- Insurance and reinsurance services, including social and pension insurance;
- Transfer of lease property by a resident lessor to a lessee and the return of the lease property by the lessee to the lessor; the payment of interest or commission in lease (leasing) payments calculated on the value of the leased object (without calculating the portion of leasing payments provided as compensation of a part of the value of the leased object pursuant to agreement);
- The pledge of property to a creditor pursuant to a credit agreement and the return of the property; the transfer by a resident creditor of a mortgaged object into possession or use by a borrower; and cash payments of the principal amount and interest under a mortgage;
- Payment of salary, pensions, stipends, subsidies and other cash or in-kind payments to natural persons at the expense of budgets or social and insurance funds;
- Payment of dividends and royalties in monetary form or in the form of securities;
- Provision of commission (brokerage) and dealer services for the sale or management of securities;
- Transfer/import of fixed assets as a contribution to the authorized capital of a legal entity in exchange for equity interest therein, provided that these assets are used to form a business (or part thereof) as a going concern.

3. Taxable Persons

There are several types of taxable persons defined as VAT-payers, based on the kind of business



activity they perform. These VAT-payers include, but are not limited to, any person/entity which:

- a) carries out or plans to carry out commercial activity and voluntarily registers as a VAT-payer;
- b) is subject to mandatory registration as a VAT-payer, including but not limited to, the following cases:
 - (i) If the total amount from the carrying out of operations involving the supply of goods (services), including via the use of a local or global computer network, subject to taxation pursuant to the VAT Law, is transferred (paid, provided) to such person/entity or as payment of obligations to third parties within the last 12 calendar months exceeds in aggregate 300,000 Ukrainian Hryvnia (without taking into account VAT);
 - (ii) The person/entity is supplying goods (services) on the customs territory of Ukraine with the use of the global or a local computer networks. In this case, a person/entity-non-resident may only carry out such activity via its permanent representative registered on the territory of Ukraine;
- c) imports goods (accompanying services) in volumes subject to taxation by VAT in accordance with the law.
- d) any person/entity which imports (for natural persons — imports or sends) goods (accompanying services) into the customs territory of Ukraine for their use or consumption on the customs territory of Ukraine, regardless of which regime of taxation it uses pursuant to legislation, with the exception of (a) natural persons, who are not registered as VAT-payers and which import (send) goods (objects) in

accompanying luggage or receive them via post office within the limits of non-trade turnover in volumes not subject to taxation in accordance with customs legislation (except the import of transportation means or spare parts thereto by such natural persons) and (b) non-residents sending postal packages pursuant to the rules of the International Postal Union into the territory of Ukraine and receivers of such postal packages.

Note that foreign legal entities are able to register as VAT-payers in Ukraine only if they carry out business in Ukraine through a permanent establishment.

4. Taxable Amount

For any taxable domestic sale, VAT is chargeable on the contractual value of money, goods/services or any other consideration received or accrued in connection with the sale. Should a taxable supply be made to a related person, to a non-registered VAT person, or for any consideration other than money (in-kind consideration), VAT is chargeable by the supplier on normal price ("fair market value") of goods or services being sold or provided.

5. VAT Administration

(a) Remittance

VAT on domestic supplies and importation of services is administered by the tax service, while VAT on the importation of goods is administered by the customs service.

Any taxable person should assess the amount of VAT to be remitted to the budget by reducing ("crediting") its output VAT liability (VAT collected on outward taxable sales) with input VAT credit (VAT incurred on inward taxable sales and import sales).

VAT on imported goods is payable by the importer in cash at the customs border. A

taxable person responsible for paying import VAT and meeting certain requirements may defer such payment by issuing a VAT promissory note. This VAT promissory note should either be settled within a 30-day period or included in output VAT liabilities.

(b) VAT Credit

Any input VAT incurred by a taxable person on inward domestic sales and import sales is creditable against output VAT liabilities provided that such input VAT was incurred:

- In connection with the acquisition or production of goods (including upon their import) and services for purposes of their further use in taxable operations in the context of the business activity of a VAT-payer; and
- In connection with the acquisition (construction, erection) of fixed assets (capital assets, including other non-turnover tangible assets and incomplete capital investments in non-turnover capital assets), including upon their import, for purposes of further use in production and/or the supply of goods (services) for taxable operations in the context of business activity of a VAT-payer.

If a VAT-payer acquires (produces) goods (services) and fixed assets, which are not intended for their use in operations not subject to VAT or exempt from VAT, such VAT is not creditable, but may be deductible or depreciable/amortizable for CIT purposes. If produced and/or acquired goods (works, services) are partially used in taxable operations, then that portion of the paid VAT is creditable upon their production or acquisition which corresponds to the portion of use of such goods (works, services) in taxable operations of the reporting period.

If a VAT-payer acquires (produces) tangible and intangible assets (services), which are not

intended for their use in the business activity of such taxpayer, then the amount of VAT paid in connection with such acquisition (production) is not creditable.

(c) Tax Refunds

Since export sales are zero rated, any taxable person making sales of goods/services for use or consumption outside of Ukraine may claim as a credit its input VAT incurred in connection with exported supplies.

Although the excess credit is refundable, very strict requirements for such refunds are established. In fact, such requirements make VAT refunds very difficult to obtain or at least delay them considerably. Needless to say, some very entrepreneurial Ukrainians have made a profitable business out of the refund of VAT; however they do charge high percentages in achieving the return of VAT in a quick manner.



PERSONAL INCOME TAX

On January 1, 2004, the new law "On Personal Income Tax" came into effect. Notwithstanding the number of notable changes, the law inherits certain key principles established by preceding acts of legislation, among which is tax jurisdiction.

Individuals, who are tax residents in Ukraine, are subject to personal income taxation on their worldwide income. Non-resident individuals are subject to taxation only on income from Ukrainian sources.

TAXATION OF RESIDENT INDIVIDUALS

1. Tax Residency

A tax resident of Ukraine is an individual, who has permanent residence in Ukraine. If an individual has a permanent residence in more than one country, he or she will be qualified as Ukrainian tax resident in case he or she has closer personal or economic ties (e.g. center of vital interests) in Ukraine.

If it is impossible to determine the country in which the individual has his center of vital interests or if the individual does not have a permanent residence in any country, the individual will be considered a Ukrainian tax resident if present in Ukraine for at least 183 days of the tax period (including days of arrival and departure). Furthermore, if tax residency is impossible to determine based on the above provisions, the individual will be a tax resident of Ukraine if he or she is a legal Ukrainian citizen.

2. Tax Rates

Over the period from January 1, 2004 to December 31, 2006, the personal income tax rate was a flat tax rate of 13%. However, the rate is increased to 15% as of January 1, 2007.

In addition, from January 1, 2004 there is a 5% income tax on interest income received on deposits and deposit certificates. Furthermore, income derived from gambling, winnings, etc.



will be taxed at a rate equal to double the flat rate (i.e. as of January 1, 2007 the rate is 30%).

3. Taxable Income

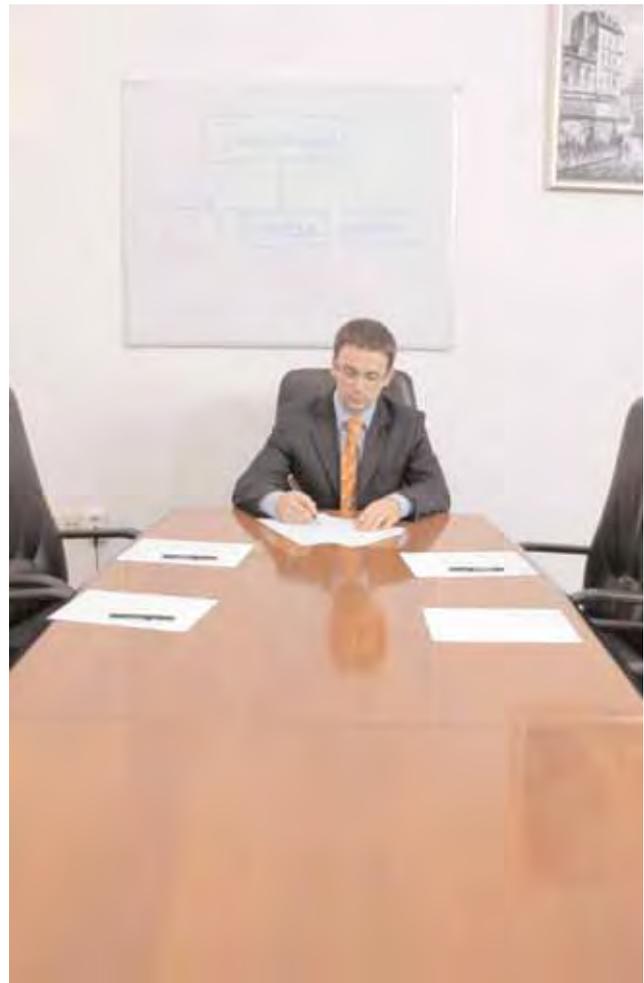
Resident individuals are taxable on their worldwide income, i.e., on income "received" from both domestic and foreign sources. Income is taxable irrespective of whether it is received in cash or in-kind. If a resident individual receives benefits in-kind, the amount of taxable income is determined on the basis of the fair market value of the property, services or other benefits received.

Certain benefits, received by a resident individual, are specifically excluded from personal income taxation, such as State Pension and social security insurance payments, alimony, gifts made by spouses; state social insurance and state welfare payments, housing subsidies, and other payments and compensations payable from the state budget, the Pension Fund and social security funds, the value of state-owned apartments (buildings) received by individuals on a no-charge basis.

The Personal Tax Law contains a list of items specifically included in the gross income of an individual. These include, among others, gifts, insurance payments and premiums, rental income, fringe benefits (including the cost of received rent, property, food, assistance of home servants, expense reimbursements, amounts of financial aid), amounts of punitive (vs. actual) damages received, forgiven debts and obligations, interest and dividend income, investment income, and inheritance.

4. Taxation of Foreign Citizens Resident in Ukraine

Foreign citizens, who are tax residents of Ukraine, are taxed under the very same rules applicable to Ukrainian tax resident-citizens. In addition, resident foreign citizens can enjoy a few employer-provided allowances, which are



specifically excluded from their taxable income, such as car, travel and housing allowances, their social security contributions and state pension.

(a) Assessments and Payments

Tax forecasts are to be filed by tax agents on a quarterly basis. Under the Personal Tax Law, a tax agent is a person responsible for withholding and paying taxes to the budget. Tax forecasts should be filed with the tax authorities within 40 days from the end of a tax reporting period.

(b) Taxation of Non-resident Individuals

Non-resident individuals are taxable only on income received from Ukrainian sources. Under the Law, income is considered to be derived from Ukrainian sources if it is received or earned in Ukraine.

OVERVIEW OF IMPORT-EXPORT LEGISLATION

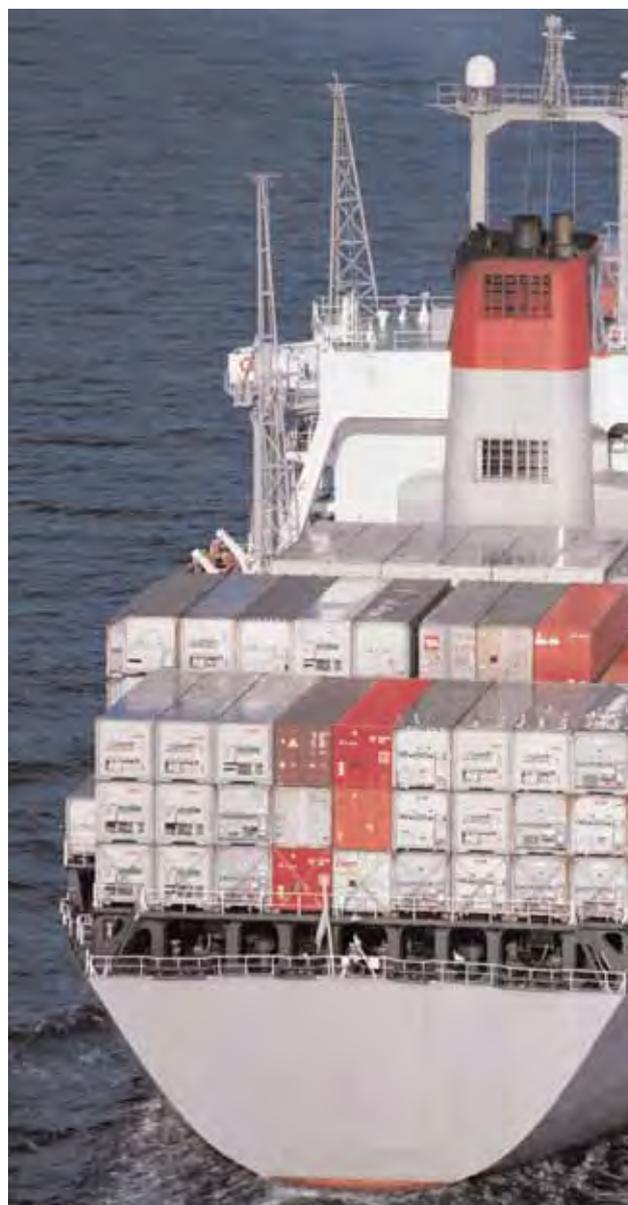
I. Introduction

Since declaring its independence in August of 1991, the Ukrainian government has struggled to establish a legal system to accommodate its entrance into the global commercial economy. For instance, commercial structures are described in such legislative acts as the Civil and Economic Codes and the Law "On Economic Associations." In the case of joint stock companies, the Law "On Securities and the Stock Exchange" and relevant Ministry of Finance instructions will also apply.

Foreign investment is governed by the Laws "On the Protection of Foreign Investments in Ukraine," "On the Foreign Investment Regime," "On Foreign Economic Activities," "On Privatization of State-Owned Property," "On Privatization of Small State Enterprises (Small-scale Privatization)," "On Restoration of the Solvency of a Debtor or Recognition of a Debtor as Bankrupt," and "On Secured Transactions," as well as the Land Code. In the case of privatization, additional SPF instructions must be analyzed. Other laws also impact foreign investment, such as taxation, currency and import-export regulations, and intellectual property laws.

The Parliament of Ukraine adopted all required legislative acts for the WTO accession. The new documents should be passed to the WTO Working Group, which will assess whether the laws meet the WTO standards. Afterwards, the laws should return to the Parliament for the final ratification as a whole and such ratification announce Ukraine's accession. The legislation will liberalize and facilitate the import-export transaction and will promote stable trade relationships with other WTO-members.

Therefore, it is incorrect to say that Ukraine's legislation is not functional. Admittedly, some



provisions in Ukrainian legislation are ambiguous, and sometimes contradictory, while others are plainly unenforceable. Nevertheless, a jigsaw puzzle-like legislative system exists and, as dysfunctional as it may be, deserves the analysis contained herein. By way of introduction to the peculiarities of Ukrainian commercial law, we begin with an overview of the foreign economic activities and, specifically, import-export aspects of Ukrainian legislation.

A. The Law "On Foreign Economic Activities"

All foreign entities (legal and physical) can engage in various forms of business activities in Ukraine and effectuate many types of investment. As a rule, any activity contemplating foreign participation is classified as "foreign economic activity," and is therefore subject to a specific legislative regime.

The 1991 Law "On Foreign Economic Activities," No. 0959, is clearly outdated. Nevertheless, it is still technically effective, and therefore deserves at least a superficial review. Drafted and enacted in the nostalgic pre-hyperinflationary Soviet economic era, when the ruble zone provided Ukraine with necessary economic support, much of this antique law has been supplemented or amended, either legislatively or in practice. The unaffected remainder does not reflect the substantial changes in commercial legislation that have occurred since Ukraine's independence.

In its heyday, this law encompassed all types of "foreign economic activities," including export and import of goods, services and capital; servicing of foreign businesses; scientific activity and training of personnel; international financial operations and securities trading; credit and financial operations and the creation of corresponding institutions; joint entrepreneurial activity; entrepreneurial activity through the granting of licenses, patents, know-how, trademarks; conducting of shows, auctions, trade fairs, conferences, symposiums, seminars, etc.; wholesale, retail and consignment trading for foreign currency; leasing operations; currency trade and sale through currency auctions, currency exchanges and inter-bank currency markets; contracts between Ukrainian citizens and foreign legal entities; employment of foreigners in Ukraine, among others.

Regardless of the self-proclaimed breadth of its jurisdiction over all transactions involving

foreign entities, in reality the law "On Foreign Economic Activities" primarily serves as a basis for effectuating import-export operations. Immediately below, we summarize the various facets of Ukrainian import-export legislation, as reflected by the supporting laws which accomplish what the law "On Foreign Economic Activities" never could: namely, provide a functional structure for standard import-export operations.

With this brief overview, we can begin our analysis of the relationships and rights between Ukrainian entities and foreign importers.

B. Import-Export Contracts

According to the Law "On Foreign Economic Activities," the single most important rule is that a foreign economic (or cross-border) contract must be in written form. Later, the Regulations "On the Form of Foreign Economic Agreements (Contracts)," approved by Order No. 75 of the Ministry of Foreign Economic Relations and Trade of Ukraine on October 5, 1995, provided a variety of standard clauses to be incorporated into foreign economic agreements executed in Ukraine.

Subsequently, Order No. 75 was rendered ineffective by Order No. 201 "On Approval of the Regulation on the Form of Foreign Economic Agreements (Contracts)" issued by the Ministry of Economy and European Integration on September 6, 2001, which provides the guidelines regarding the material terms and conditions of foreign economic contracts, taking into consideration the relevant provisions of international agreements to which Ukraine is a party.

Until the end of October 1999, it was relatively well-settled that one of the key requirements for the execution of agreements with Ukrainian companies was the appearance of two signatures on the behalf of the Ukrainian party. This requirement was repeatedly stated in the Law of

Ukraine "On Foreign Economic Activities," as well as the above-mentioned Regulations. However, on October 21, 1999, the Parliament adopted the Law "On Amendments to Article 6 of the Law of Ukraine 'On Foreign Economic Activities,'" No. 1182-XIV, which excluded the dual signature requirement for foreign economic agreements.

No additional permissions or registrations of foreign contracts are usually required by the state administrative authorities, unless specifically provided otherwise by Ukrainian legislation or unless licensing is required in the specific import-export transaction. Several exceptions exist, however, including barter and counter-trade contracts with foreign parties, almost all contractual arrangements with Ukrainian state-owned enterprises (which are subject to review and approval by such enterprises' higher-standing organization, such as its Ministry), certain transactions in foreign currency (which require special permission

from the National Bank) and, recently, joint investment agreements with foreign entities.

Today, any Ukrainian physical or legal entity may enter into foreign trade contracts without obtaining any special state permissions. That said, however, Ukrainian individuals engaging in any commercial activities (local or foreign) must now register as "subjects of entrepreneurial activity" with the local state authorities and pay the much-dreaded income tax. The introduction of a simplified taxation procedure and a flat tax rate in 2004 (13% until January 1, 2007, and 15% thereafter), however, have made the payment of income taxation almost commonplace.

Naturally, the parties to a foreign economic contract have the right to choose foreign arbitration for settlement of disputes. Alternatively, such issues can be resolved in Ukraine under foreign law by agreement of the parties. If the parties failed to agree as to choice of law under a contract, Ukrainian law will



dictate the law to be applied to the contract. However, there are notable exceptions. For example, contracts for the construction or acquisition of immovable property on the territory of Ukraine are governed exclusively by Ukrainian laws.

The form of foreign economic contracts is determined by the place of execution thereof, unless the parties provide otherwise. Accordingly, a contract entered into in a foreign country cannot be invalidated by Ukrainian laws for reasons of non-compliance with Ukrainian standard forms. However, such foreign economic contract must adhere to substantive Ukrainian laws.

On the other hand, a foreign economic contract must be complete in form as well as substance if such contract is executed in Ukraine. Under Ukrainian law, either a foreign agreement or some of its provisions may be declared invalid or void by a court if it does not comply with the requirements of Ukrainian law or international agreements of Ukraine. An agreement is void under Ukrainian law from the moment of its execution.

C. New Licensing Requirements

The Law of Ukraine No. 1315-IV, dated November 20, 2003, introduced amendments to Article 16 of the Law "On Foreign Economic Activity" regarding the licensing of certain foreign economic operations. Such amendments deal with the licensing of the export/import of goods into Ukraine under either an "automatic" licensing procedure or a "non-automatic" licensing procedure in certain cases. Automatic licensing grants permission to subjects of foreign economic activity for the export or import of goods within a specified period provided that such goods are not subject to a quota. Conversely, non-automatic licensing grants permission to subjects of foreign economic activity within a specified

period for the export or import of goods, which are subject to quotas (quantitative or otherwise limited).

Export is subject to licensing in Ukraine if there is a disbalance of certain vitally important goods on the internal market or to protect the population, animals, plants, the environment, public morale, national wealth, intellectual property or state security. Likewise, import of goods is subject to licensing in case of (i) certain fiscal problems; (ii) a decrease in gold-currency reserves; (iii) necessity to protect the population, animals, plants, the environment, public morale, national wealth, intellectual property or state security; (iv) importing precious metals (except bank metals); (v) protecting national production of goods and patents, trademarks and copyrights; and (vi) fulfilling international agreements of Ukraine.

The Cabinet of Ministers is empowered to apply quotas and establish a licensing regime on certain goods at the request of the central body of the executive branch responsible for issues of economic policy or other authorized body. According to the amendments to Article 16, only one type of license may be issued for each type of product. The licenses themselves are issued by the central body of the executive branch responsible for issues of economic policy or other authorized body on the basis of applications. In some cases, the granting authority may also request to review any documents and information necessary to confirm the data in an application, as well as the foreign economic agreement itself.

In the case of automatic licensing, the application for a license and the other necessary documents may be submitted on any working day before the customs clearance of goods. The term for issuing a license should not exceed ten (10) working days from the date of receipt of the application. However, in the case

of non-automatic licensing, the following will apply:

- 1) the term for considering applications should not exceed 30 days from the date of receipt of applications if they are considered in the order of their receipt, but not more than 60 days commencing from the date of the expiration of the announced term for acceptance of applications if they are considered simultaneously;
- 2) a license shall be issued on the basis of an application within the limits of a quota with an indication of the validity term of the license;
- 3) if established quotas are exhausted at the time of application, such application shall not be considered. A subject of foreign economic activity, which submitted a corresponding application, shall be informed in writing of the fact of the exhaustion of quotas within seven (7) working days from the date of its receipt;

- 4) a decision on the issuance of a license shall be taken, taking into account information on earlier received licenses provided that the applicant observes the requirements of the legislation on the protection of economic competition.

Upon payment of the issuance fee and acceptance of the application, a license will be issued to the subject of foreign economic activity. The customs clearance of goods will only take place upon the presentation of an original license. A copy of the license will be attached to the cargo customs declaration and will serve as one of the grounds for the admission of the goods across the customs border of Ukraine.

Each month the regional customs authorities receive information on the issuance of licenses for the export or import of goods falling under a licensing regime. For its part, the regional customs authorities inform the central body responsible for issues of economic policy on the volume of the export or import of goods.



The licensing requirements also apply to barter operations with goods falling under a licensing regime and to the export or import of disks for laser reading systems, matrixes, equipment and raw materials for their production. However, the licensing requirements do not apply to the export of goods received by an investor on the basis of production sharing agreements, unless otherwise provided by the production sharing agreement itself. They also do not apply to certain goods related to military production, atomic energy and state secrets of Ukraine on the basis of Article 20 of the Law "On Foreign Economic Activity."

Finally, the list of goods, the export or import of which fall under a regime of licensing, the validity term of licenses and any amendments to such information, as well as the procedure for the submission and consideration of license applications is published in the official publications of Ukraine with a notice to the corresponding committee of the World Trade Organization (WTO) within 60 days from the day of the publication and the presentation of copies of such publications.

If a quota is allocated amongst countries-suppliers, information on such allocation is published with a notice about the allocation to other countries interested in the supply of certain goods in Ukraine. The official publication must take place no later than the date of the introduction of a licensing regime. At the request of an interested member of the WTO, the corresponding information must be provided regarding the following:

- 1) the procedure for the application of limitations;
- 2) the quantity of issued licenses for a specific period with an indication, if necessary, of the volume and/or value of goods;
- 3) the allocation of licenses amongst countries-suppliers;
- 4) the statistical information regarding the volume and/or value of goods.

II. Miscellaneous Supporting Legislation

The simplicity of the Law "On Foreign Economic Activity" ultimately necessitated additional legislation to provide a common payment mechanism for effectuating various import-export transactions. A separate set of supporting instructions governs case-specific transactions, such as barter or consignment agreements. As should be expected, therefore, numerous supporting legislative acts govern import-export transactions, including:

- Resolution No. 1996 of the Cabinet of Ministers "On Lists of Products, the Exportation and Importation of Which are Subject to Licensing and Upon Which Quotas are Established in 2004," dated December 24, 2003;
- Resolution No. 136 of the National Bank of Ukraine "On Approval of the Instruction on the Procedure for Executing Control Over and Obtaining Licenses for Export-Import and Leasing Operations," dated March 24, 1999 (as lastly amended on February 12, 2003);
- Resolution No. 1104 of the Cabinet of Ministers "On Approval of the Procedure for the Issuance, Circulation and Repayment of Promissory Notes Which Are Drawn In The Amount of VAT When Importing (Carrying) Products Onto the Customs Territory of Ukraine," dated October 1, 1997 (as lastly amended on May 12, 2003); and
- Order No. 201 of the Ministry of Economy and European Integration "On Approval of the Regulation on the Form of Foreign Economic Agreements (Contracts)," dated September 6, 2001 and registered with the Ministry of Justice on September 21, 2001 under No. 833/6024.



In combination, these directives create a system whereby a Ukrainian resident can execute a contract to sell or purchase any desired goods or services. In a typical import transaction, for instance, a Ukrainian resident can convert Hryvnia, the Ukrainian national currency, into virtually any foreign convertible currency. The contractually agreed-upon amount will then be wired to the seller as payment under a foreign economic agreement (e.g., sale-purchase of goods or services).

Note that Ukrainian legislation requires that the purchased goods must enter the Ukrainian territory within 90 days of the payment date. Otherwise, the Ukrainian importer will be subject to a penalty in the amount of 0.3% of the customs value of the undelivered products. However, in certain cases, the above 90-day term may be extended if the Ukrainian importer receives an individual license from the National Bank of Ukraine.

The supporting legislation wisely protects against the more obvious abuses, such as inflating the contract price (for receiving kickbacks) or deflating them (for dumping on foreign markets). For instance, the "Regulations on the Method of Forming and Using Indicative Prices," approved by the Ministry of Foreign Economic Trade in its Order No. 506 of August 8, 1996, impose indicative prices on all subjects involved in foreign economic activity for comparison purposes. Such indicative prices are based on current international market prices for similar goods.

On October 2, 1996, the National Bank of Ukraine's Directive No. 254 imposed a system calling for the "registration of foreign contracts" whereby all licensed banks were required to provide guarantees for their clients' performance of contractual obligations if such a foreign contract contained a pre-payment provision. Ukrainian banks suddenly found themselves liable for 100% of the contract amount if the goods were not delivered in a timely fashion and, as a result, no contracts were signed with "pre-payment" clauses. Fortunately, this Directive was canceled on January 10, 1997, by Directive No. 2, and pre-payment clauses are once again permissible without limitations. Nevertheless, such theatrics should serve as a reminder of the necessity to seek advice immediately prior to undertaking any transaction in Ukraine.

The last significant step in completing the cycle of an import transaction under the Law "On Foreign Economic Activities" involves clearing Ukrainian customs taking into account the Cabinet of Minister's Resolution No. 390 "On the Importation onto the Territory of Ukraine of Certain Types of Goods," dated March 29, 2002, which takes effect from January 1, 2004. Generally, the Ukrainian customs officials allow products to cross the Ukrainian border only upon presentation of a customs declaration and proof of payment of customs duties and value added tax (and, where applicable, excise tax).

TAXATION OF CROSS-BORDER TRANSACTIONS

1. Outbound Transactions

Since resident entities are taxable on their worldwide income and may also be taxable by foreign countries on their income derived from sources within that country or from carrying on business in such countries, the same income is potentially subject to double taxation.

In order to avoid this double taxation, Ukraine uses a foreign tax credit method in its double taxation treaties. Under this method, foreign taxes paid by a resident taxpayer on foreign source income may be credited against its Ukrainian tax liabilities on such foreign source income.

Excess foreign tax credit may not be offset against a resident taxpayer's Ukrainian tax liabilities on any domestic source income, nor may it be carried forward or backward.

2. Inbound Transactions and Double Taxation Treaties

Ukraine has a surprisingly extensive global treaty network. To date, it has concluded double taxation treaties with over 50 countries, which generally follow the OECD Model Income Tax Convention. Plus, Ukraine was a legal successor to a number of double taxation treaties concluded by the former Soviet Union. We attach a table at the end of our Investment Guide for your perusal.

CUSTOMS DUTIES

Customs duties are imposed on most goods imported into Ukraine and certain goods exported from Ukraine. Customs duties are normally levied on the customs value of taxable goods in accordance with the Unified Customs Tariff of Ukraine.



Under the current Unified Customs Tariff, goods are classified through the harmonized system of numbers, which is similar to the European Union's harmonized customs classification. Customs duties are normally levied at rates ranging from 2 to 50%, with most rates ranging from 5 to 20%.

The new Customs Code was approved and became effective as of January 1, 2004. This Customs Code introduces new concepts of customs value determination, an amended procedure for determining the country of origin of goods.

Below we provide a description of the existing customs rules, as well as the changes to customs legislation.

TAXABLE RULES FOR CUSTOMS VALUE DETERMINATION

1. Past Provisions

Under the old rules, the customs value meant the price actually paid for goods or the price established at the moment the goods crossed the customs border of Ukraine. The following expenses, provided that they were not included in the original payment for goods, should have also been added to the customs value of the goods to determine the duties:

- Transportation costs, loading, reloading and unloading expenses, as well as insurance up to the point of entry to the customs territory of Ukraine;
- Commission and brokerage fees;
- License and other fees for the use of intellectual property attributable to the imported goods that should have been paid by the importer or exporter either directly or indirectly as a condition of importation of these goods.

If the declared customs value was substantially misstated or if it was impossible to verify the appropriateness of the customs value declared, then the Customs Authority had the authority to determine the customs value based on the value of identical goods, or if not available, based on the value of similar goods that are usually established in the main countries — exporters of the goods in question.

2. Current Provisions of the Customs Code

The new Customs Code introduces a new concept of customs value which follows the standards of GATT/WTO. In terms of the general definition, the customs value of goods shall mean the value of goods at the moment they cross the customs border of Ukraine as declared by the declarer (the importer or his agent) or as calculated by the customs authorities. In addition to the general definition, the Customs Code also provides 6 methods for the determination of customs value as follows:

Method 1: According to the value in the agreement under which the goods were imported;

Method 2: According to the value in an agreement for identical goods;

Method 3: According to the value in an agreement for similar (analogous) goods;

Method 4: On the basis of subtraction of the value;

Method 5: On the basis of addition of the value; and

Method 6: Reserve method (GATT).

For determining the value of goods exported from Ukraine, the rules similar to the old Customs Code are applied (see above "Past Provisions").

OTHER TAXES

1. Value Added Tax

a) Import of Goods

For import of goods, VAT is chargeable on the contractual value of the goods imported. However, if their contractual value is less than their customs value, the taxable amount is their customs value.

The customs value of any imported goods is equal to their value in terms of the customs laws of Ukraine, including expenses for transportation; loading, unloading, reloading and insurance up until the customs crossing point of Ukraine; payment of brokers, agency, commission and other fees connected with the import of such goods, payment for use of related intellectual property, excise duty, import duty, and other fees and duties included into the price of such goods.

b) Import of Services

Should services be imported for use or consumption within Ukraine, VAT is chargeable on the contractual value of services received under the "reverse-charge mechanism". This mechanism is defined by the VAT law as follows: "For services provided by non-residents on the customs territory of Ukraine, the basis for taxation is the contractual value of such works or services taking into account excise duty and other taxes and fees (mandatory



payments), which are included into the price of such works or services, excluding VAT. The determined value is recalculated into Ukrainian Hryvnia according to the currency exchange rate of the National Bank of Ukraine effective at the end of the operational day preceding the day on which the act certifying the fact of receipt of the services was executed."

2. Excise Duty

Excise duty is imposed on taxable items produced in, or imported into, Ukraine and is included in the price of such goods. In addition, excise tax at the rate of zero percent is imposed on export sales. Since excise duty works as an indirect tax, any excise duty paid in connection with exported items produced in Ukraine can normally be refunded to the exporter.

Excise duty is imposed on alcohol and tobacco products, motor fuels, motor vehicles, beer and jewelry. Excise duty is normally imposed when a taxable item is sold for domestically produced articles or prior to its entering Ukraine for imported articles.

3. Customs Fees

Under the rules of the tax and customs laws of Ukraine, customs fees are collected for customs registration of goods and other articles in zones of customs control that are located on the premises of the enterprises storing these goods (i.e., customs bonded warehouses). Customs fees are also charged for the storage of goods and other articles under the jurisdiction of a customs warehouse in cases when their detainment on the territory of the customs-house is not obligatory.

As of January 1, 2006, the Rates of Customs Fees shall be established by Resolution No. 93 of the Cabinet of Ministers of Ukraine dated January 18, 2003.

LABOR LAWS

Ukrainian labor law categorizes all persons residing in Ukraine into two groups of employment relationships: (1) labor employment agreements governed by the Labor Code of Ukraine; or (2) sub-contractual agreements governed by the Civil Code of Ukraine.

The first category is further divided into three different types of labor agreements: (a) labor agreements of indefinite duration; (b) labor agreements of specific duration; and (c) labor agreements effective for the duration of a specific project.

At the initial stages of employment, an employee is hired on the basis of a labor agreement, and may be placed on probation for a period not exceeding either three months or one month, depending on the classification of such worker under Ukrainian law.

Ukrainian employees are entitled to social security benefits and must be paid at least the minimum monthly salary (as of January 1, 2007 it is UAH 400, and from July 1, 2007 it will increase to UAH 420 and from December 1, 2007 to UAH 460) during the course of a normal work week of no more than 40 hours. Any additional time put in by the employee, even if he or she is hired on a temporary basis, is subject to overtime payment rates. Depending on the actual duration of the employment term, the employee also is entitled to vacation and sick leave (at least 24 calendar days, depending on tenure, working conditions and position) and a regular schedule of salary payments twice a month.

Under the current legislation, 33.2% of actual expenditures of a company, which are allocated for the payment of wages subject to personal income tax, is paid to the Pension



Fund, 1.5% is paid to the social security fund for cases of temporary disability, 1.3% to the social security fund for cases of unemployment, and from 0.66% to 13.6% to the social accident fund (depending on the type of activity of the company and the class of risk at work). All social security payments are made by the employer, in Ukrainian Hryvnia, on top of the employee's salary (i.e., not taken out of the employee's paycheck).

Various employers, including wholly-owned foreign subsidiaries, joint ventures and even representative offices, employ so-called "labor contracts" as their favorite form of labor agreements because only a "labor contract" may contain provisions in addition to those contained in the Labor Code, including employment period, rights, obligations and responsibilities of the parties.

Importantly, all employers, including enterprises, institutions and organizations, must maintain labor books for all of their full time employees (i.e., everyone other than subcontractors or part-timers) including seasonal and temporary workers. Such labor books typically contain information about the type of work performed, any awards and the duration of employment. In essence, labor books serve as a basis for ascertaining the employee's work longevity, which will determine his or her social security and pension rights after retirement.

In contrast to labor agreements, sub-contractual agreements typically contemplate hiring a worker to complete a specific task, work or service at his or her own risk (i.e., free lance workers). As elsewhere in the world, the sub-contractor maintains relative independence in performing the designated task and typically receives payment upon completion of services. Notably, the sub-contractor does not receive the benefits of social security and is independently responsible for paying his or her own personal income tax.

WORK PERMITS FOR FOREIGN EMPLOYEES

According to Ukrainian legislation, all foreign employees working in Ukraine must submit an application to obtain a work permit in Ukraine. This requirement specifically applies to foreign citizens who are sent to Ukraine by a foreign employer to work on the basis of a contract between such employer and a Ukrainian resident enterprise. The application for a work permit must be accompanied by various documents, such as an employment contract.

An exception is made for foreigners employed by representative offices of foreign companies and foreigners registered as private entrepreneurs in accordance with Ukrainian legislation. These subjects are not required to apply for work permits.

Administrative penalties apply for a foreign employee's failure to obtain a work permit. These penalties can be applied to the foreign employee and the employer itself in the amount of 10-20 non-taxable minimum incomes by the local police. Further, the state employment authorities may also apply a fine on entities employing foreigners without work permits.

The State Center of Employment of the Ministry of Labor of Ukraine or its authorized regional or city bodies (the "Employment Center") issues work permits. General work permits are not issued, and instead a foreigner obtains permission to work at a specific position at a specific enterprise, institution or organization. Work permits also must be registered at the appropriate regional Employment Center of the Republic of Crimea, the oblasts, or the cities of Kiev and Sevastopol.

Work permits are valid for up to one year, but may be extended if an application is filed with the Employment Center up to one month before expiration of the current term.

COMMERCIAL AND RESIDENTIAL REAL ESTATE

Ever since 1991, foreigners have routinely purchased all kinds of real estate. Some acquired large communal apartments for personal use while other converted them for office use. Still others purchased free-standing buildings and have obtained that coveted "free and permanent use of land" thereunder. In other words, the real estate market in Kiev reached its peak a long time ago.

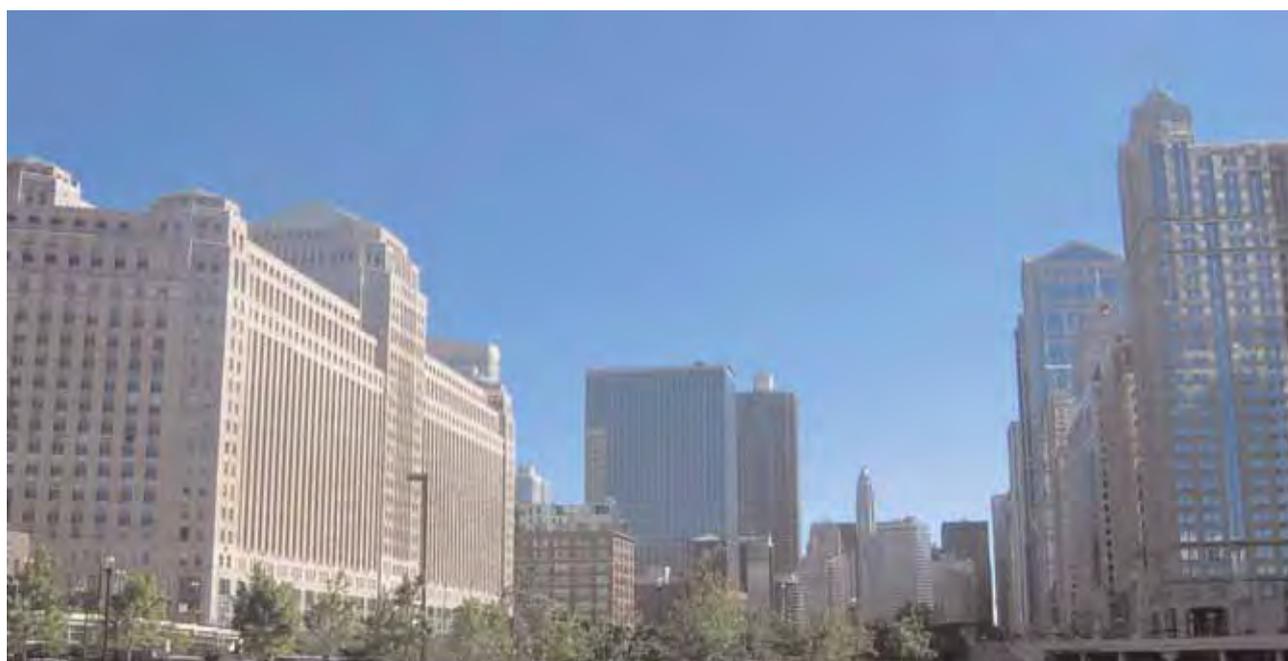
In the early years of 1991-1996, only three Western-quality residential and commercial properties existed: Maculan, Regina Center and Kiev-Donbass. Each charged near-extortionate fees ranging from USD 65 to USD 85 per square meter per month, and used their monopoly positions to lock up multinational companies in a lease for up to 5 years.

One thing that has remained consistent in the ever-changing Ukrainian real estate market is legislation that expressly allows foreigners to purchase real estate (except land).

Property Title Research

In all cases involving real estate (purchase or lease), questions of security in the property's title and ownership rights predominate the agenda, frequently causing confusion and distrust. The reason is simple: fraudulent transactions are abound and, as a consequence, all issues connected with title transfer and identity of the true owner must be flushed out before the actual execution of a sale-purchase (or lease) agreement in front of a notary public.

In the past, gullible companies incurred significant financial losses after effectuating substantial pre-payment (up to 6 months' of lease price) to false lessors, only to find that their newly leased apartment actually belonged to an innocent third party. Other cases involved premature termination of fake lease agreements (often following repairs at the lessee's expense). Of course, recourse to the law has minimal, if any, effect on reimbursement of the



expenses or provisions for alternative office space.

To avoid the various pitfalls, any potential purchaser or lessee must insist on reviewing the background documentation, which serves as the ultimate proof of ownership. The various documents include:

1. sale-purchase agreement, gift agreement or privatization certificate for the property;
2. "technical characteristic" certificate from the Kiev City Bureau of Technical Inventory; and
3. certificate from the 1st Kiev City Notary Public that the property is not secured by collateral or subject to encumbrances (i.e., it has no liens or "arrests" placed on it).

Other documents may be necessary, such as a waiver of the children's rights to the property. In case the alleged owner is a legal entity, the seller's foundation documents are most helpful. If the owner is a physical person (individual), his/her passport must be verified.

Various excuses, such as lost documents necessary to confirm ownership rights, or that a particular document original is somehow inaccessible, is an indication of a potential problem. Contrary to a popular misperception, property ownership records are kept in meticulous order somewhere in the state archives. In fact, we once tracked a complete set of documents dating as far back as 1944, which granted land rights to a Soviet army general, whose children wanted to sell his house to a foreign investor before immigrating.

All of the above documents should contain the relevant seals of the state authorities, and should be collected within 3 months from the date of their presentation for professional review. Based on these documents, a legal opinion will be

drafted, confirming or rejecting the ownership rights to any given property.

Buying Buildings

A title search, however, is only a part of the chain of legal dilemmas surrounding procurement of property. The supporting legislation concerning currency regulations and taxation can also play a large role in deciding the best way to structure real estate transactions and secure long-term possession and quiet enjoyment of the premises.

Procedurally, Article 657 of the Civil Code of Ukraine states that real estate transactions must be executed before a notary public in written form and are subject to state registration. Alternatively, the Law "On Commodity Exchanges" permits certain commodity exchanges to execute real property sale-purchase agreements.

In the past, purchasers had significant difficulties with state-owned notary publics and, because an alternative existed, 99% of all property transactions were executed at commodity exchanges. Since then, Ukraine has introduced a system of "private notaries" to undertake this role, with varying degrees of success. Currently, sale-purchase agreements are executed either before a state notary public or before a private notary.

A. State Notary Public

With reference to real estate, the Ukrainian government is represented by various entities, such as notary publics (state and private), the Kiev City Bureau of Technical Inventory and the local ZHEK (literally translated as "Residential Exploitation Committee"). These bodies attest to the Ukrainian seller's ownership and occupancy rights to any property.

State notary publics are usually state officials and, as a rule, use their own standard forms for most transactions. In the context of real property transfers, the standard 2-page notary form for sale-purchase agreements recites only the most fundamental information concerning the property transfer, such as the names of the parties, the property's address, etc., and bears the parties' signatures and the notary's seal. Negotiated provisions, including representations and warranties, are viewed as irrelevant.

To encourage sellers and purchasers to state realistic sales price in the sale-purchase agreements (instead of a fraction of such value, as was the long-standing practice to avoid property tax), in the spring of 2000, the government decreased the state fee for notarization of agreements on the alienation of immovable property from 5% to 1% of the amount of the transaction (i.e., the total amount indicated in the sale-purchase agreement).

B. Private Notary Public

Ukrainian legislation generously permits the existence of private notary publics. Once licensed, their powers are equal to those of state notary publics without the drawbacks of the bureaucracy. By law, private notary publics cannot charge less than the current state fee to notarize real estate sale-purchase agreements. Although private notaries are permitted to take a higher percentage, most private notary publics do not charge higher than the state notary publics due to the tight competition between private notary publics these days.

In all cases, however, follow-up registrations must take place with the Kiev City Bureau of Technical Inventory (establishing the new owner's identity), the notary public (central and rayon) and ZHEK.



ACQUIRING LAND RIGHTS

As a starting reference point, Ukrainian land is either state-owned or it is already in private hands. This obvious distinction is absolutely vital, because no sane investor wants to deal with a government bureaucracy, especially a Ukrainian one.

Getting access to state-owned land for construction purposes, whether by leasing or auction purchase, requires significant time and financial investment. Plus, foreign investors are confronted by a separate set of legal hurdles altogether, forcing them to employ creative legal solutions. And yet, the government has the most land available in the best locations... So what's a poor investor (resident and non-resident) to do?

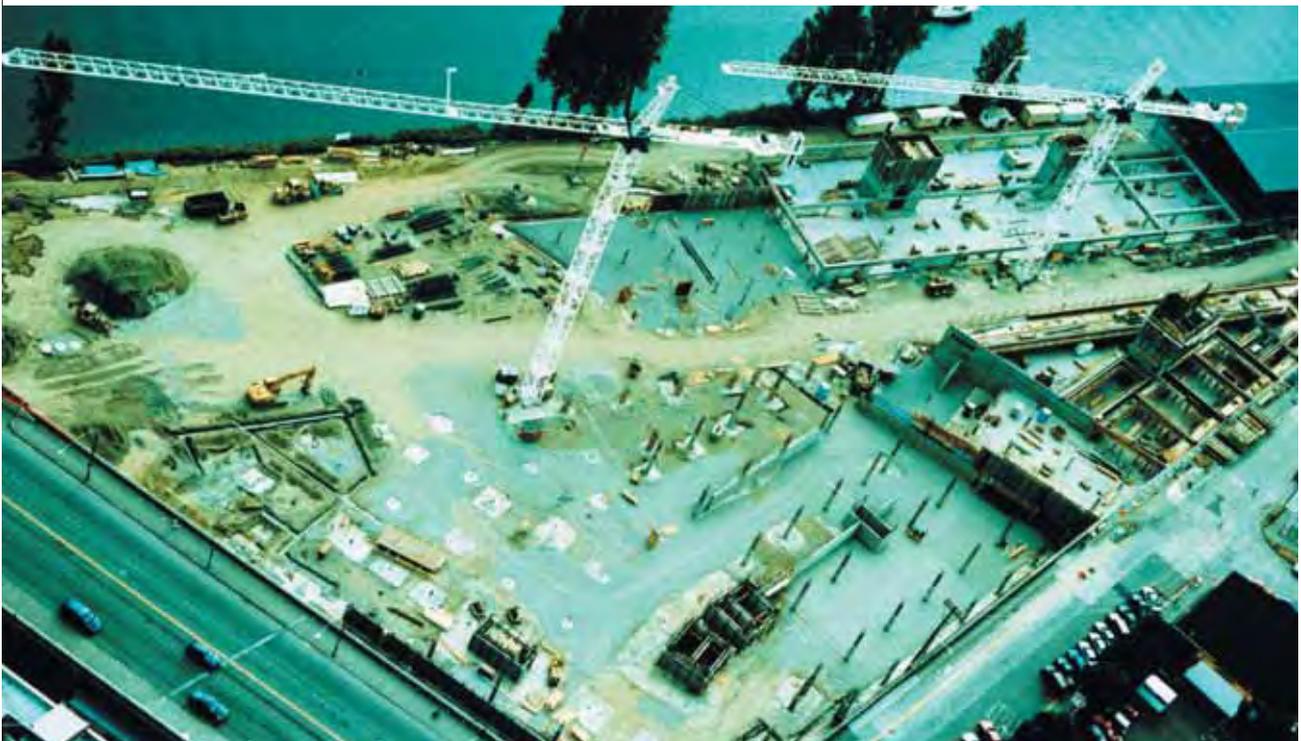
Every Investor's Dream

Every investor's dream (the "Dream") is to acquire permanent free use to a legally defined

parcel of land with a specific purpose allocation to construct a building to the investor's needs and specifications (e.g., a residential/office high-rise, a two-story restaurant).

Theoretically, such a parcel of land exists somewhere on the secondary (private) market in Ukraine, but finding and acquiring such a parcel in Kiev remains a Dream. Even if an investor finds an acceptable privately-owned land parcel in the center of Kiev, there will probably be a need to change the initially allocated "specific purpose" (see below) to fit its new owner's business profile.

The next best option, entering into a lease agreement with the Kiev City Council, is extraordinarily risky due to the Council's recent unilateral cancellation of numerous lease agreements. This unprecedented event put a harsh spotlight on the fragile legal status of lease agreements in today's booming real



estate environment. Hence, by default the next best choice is to purchase a desired land parcel from the government at one of the many upcoming land auctions.

Allocation for a Specific Purpose

In accordance with today's legislation, land parcels can be (a) leased (short or long term) or (b) purchased. Unfortunately, permanent free use of land is now granted only to non-profit organizations (invalids), state-owned and communally-owned companies and connected enterprises, as well as persons who already own finished buildings on the land. The latter are allowed to purchase the land they have always used at new, outrageous prices.

In either case, according to Article 19-20 of the Land Code, the land has to be allocated for a specific purpose (e.g., an office building or a restaurant). Subsequent deviation from the initial purpose designation may result in termination of the land ownership or use/lease rights (see Land Code, Article 141-143). Plus, to a far less significant degree, there is an administrative fine of between 3 and 25 of untaxed monthly minimum wages.

If the party with land rights tries to transfer (sell) its rights to another entity, the original allocation purpose must be preserved. Should the subsequent land user alter the purpose of the land (e.g., change from an office building to a casino), it must legally revise the allocation accordingly. The terribly painful, drawn-out and expensive process is similar to the initial land allocation itself. This pathetic reality is true regardless whether the land is in government or private hands.

In accordance with the Law "On Land Valuation," dated December 11, 2003, any state or communally-owned land alienation must undergo a "valuation" process. According to Art. 127 of the Land Code, the sale of state-

owned land to legal entities and natural persons takes place on a competitive basis (auctions, competitions), except buy-outs of land with finished buildings thereon. Unfortunately, experienced land developers routinely complain that the best parcels never make it to the auction.

Foreigners and Other Non-Residents

Foreign investors without political connections cannot buy land directly from Ukrainian government because the sale of federally-owned land to non-residents (i.e., foreign legal entities and governments alike) requires consent of the Cabinet of Ministers, together with approval of the Supreme Council of Ukraine (a.k.a, the Parliament).

On a local level, the sale of communally-owned land to foreigners requires consent of the local council of people's deputies, the consent of the Cabinet of Ministers. To completely emasculate a non-resident's chances of land allocation, no instructions exist regarding the timing for obtaining such a consent.

In cases where an investor takes the comparatively easy route by entering into a lease or a sale-purchase agreement (via an auction), the land bureaucrats have a "take-it-or-leave-it" attitude. No meaningful negotiations regarding specific provisions take place, even in cases of unreasonably short terms in lease agreements or near-extortionate prices in sale-purchase agreements. Then again, the government has all the best properties, so the negotiating power is truly on the side of its underpaid employees.

Notwithstanding the above reality, Section 1 of Article 82 of the Land Code of Ukraine states that legal entities (founded by citizens of Ukraine or legal entities of Ukraine) can acquire plot lands for their business activity if:

- (i) plot lands are acquired on the basis of sale-purchase, gift, exchange or other civil law agreements;
- (ii) land plots are contributed to the charter fund by its founders;
- (iii) land plots are inherited;
- (iv) land plots are acquired based on other grounds provided by law.

Section 2 of Article 82 of the Land Code of Ukraine expressly allows foreign legal entities to acquire title (ownership rights) to land plots of non-agricultural designation:

- (a) within the populated districts if they acquire immovable property thereon and for the purpose of the construction of objects connected with the carrying out of business activity in Ukraine;
- (b) outside of the populated districts if they acquire immovable property on such land.

Section 3 of the Land Code of Ukraine states that joint ventures founded with the participation of foreign legal entities and physical persons can acquire title to non-agricultural land plots in cases defined by Sections 1 and 2 of Article 82 of the Land Code of Ukraine (see above) and the procedure established by the Land Code for foreign legal entities.

Given the above, it is likely that many foreign companies cannot directly purchase the target land plot without firstly purchasing immovable property (i.e., a building, structure, etc.) on top of the land to be purchased. However, it is still possible to indirectly purchase the land by way of acquiring corporate rights in the business entities which are the owners of land.

Land Tax

There is a land tax imposed on owners and users of land. The amount of tax depends on the use

(e.g., farmland) and location of the land. If there is a value estimate attached to the land, then the land tax is calculated at 1% of that estimate. Otherwise, the amount of land tax ranges from UAH 4.65 per square meter in towns populated with less than 200 people to UAH 65.10 per square meter in cities populated with more than 1 million people. For regional centers, zone coefficients range from 1.2 to 3.

Conclusion

Due to the abundance of privately owned property in Kiev, foreign investors can easily purchase (or lease) virtually any real estate object, provided they are willing to pay astronomic prices. Reviewing ownership documents, drafting (and executing) the sale-purchase agreement, and registering the property at the Bureau of Technical Inventory, are the necessary technical details that accompany any transfer of property rights. Unlike the old times, such follow-up registrations have become routine and easy to perform.



CURRENCY REGULATIONS

Currency operations on the territory of Ukraine are under state currency control. A key feature of currency control is the concept of residency. The currency restrictions imposed on residents are more severe than those for non-residents. Under the regulations, a resident of Ukraine is defined as:

- Any natural person, including foreign citizens, permanently residing in Ukraine, including those citizens temporarily staying outside of Ukraine;
- Legal entities, branches or other structural subdivisions thereof located and performing business activities on the territory of Ukraine;
- Ukrainian diplomatic, consulate, trade and other official governmental institutions abroad that enjoy diplomatic privileges and immunity;
- Branches or other structural subdivisions of Ukrainian companies and organizations

abroad if such subdivisions perform representative functions and are not engaged in business.

Any other person or structural subdivision, which is not a resident of Ukraine, is treated as a non-resident for the purposes of exchange control regulations. The basic rules of currency regulations include the following:

- Only local currency may be used in business transactions between residents;
- Foreign currency is the only means of payment between residents and non-residents involved in international transactions (trade and investment) through authorized banks;
- Foreign currency proceeds received by a company from its foreign customers must be credited to a local bank account no later than 90 days after the day of export of the services/goods. Failure to comply with this



provision renders the Ukrainian company liable to a penalty of 0.3% of non-received proceeds per day;

- Goods must be imported into Ukraine within a period of 90 days after pre-payments have been made by a Ukrainian company to its suppliers. Failure to comply with this provision renders the Ukrainian company liable to a penalty of 0.3% of non-received proceeds per day.

Other transactions with local and foreign currency are subject to licenses from the National Bank of Ukraine (e.g. settlements in foreign currency on the territory of Ukraine). Technically, Ukrainian residents are also required to obtain an individual license for making investments abroad, opening an account with a foreign bank and issuing or taking out foreign currency loans. If one party to a currency transaction has obtained the required license, the other party is also treated as having acquired this license.

An NBU license is issued for a certain period of time and with a limited amount of foreign currency specified. The procedure for obtaining an individual license is quite troublesome and requires a specific set of documents to be submitted to the NBU for approval. Normally, a license can be obtained within 4-6 weeks from the date of filing the required set of documents with the NBU, unless the latter finds sufficient grounds to reject the application.

The NBU establishes the exchange rates of UAH to other currencies on a daily basis. Authorized banks when trading in currencies may establish different rates to those established by the NBU; however, the rates used by the banks do not usually differ dramatically from those established by the NBU.

Procedurally, all residents must carry out foreign currency transactions through a Ukrainian bank that is licensed to perform currency operations.

Residents may purchase foreign currency from such banks for a specific business purpose, which must be declared at the time of the purchase. This includes procurement of foreign currency for payment under an import contract.

Salaries paid in Ukraine may only be paid in local currency. Ukrainian residents are prohibited from opening and maintaining foreign bank accounts, unless they have permission from the National Bank of Ukraine. Similarly, they cannot effectuate any investments abroad, including the purchase of foreign or Ukrainian securities from non-residents, without first obtaining a corresponding individual license from the National Bank.

All residents (i) must declare their ownership of currency and property located outside Ukraine; (ii) must declare their worldwide income and (iii) must submit monthly reports regarding their foreign currency operations to the regional branch office of the National Bank, as well as to the local tax inspections. Failure to disclose such ownership is subject to a fine set by the National Bank of Ukraine.

Finally, in order for a resident business entity to effectuate payment to a non-resident business entity, which renders or performs services or works or transfers intellectual property rights to such resident entity under a foreign economic agreement in a total amount exceeding EUR 100,000, such resident will be required to obtain a so-called "act of price examination" from the Ukrainian state information and analytic center for monitoring external markets.

COMMERCIAL ARBITRATION

In an effort to accommodate the business needs of multi-national corporate clients, the world's leading nations have entered into bilateral or multilateral international arbitral agreements. Such agreements set the stage for implementing the accepted international arbitration rules and executing the resulting judgments on a local level.

Similarly, Ukraine has established a forum for international commercial disputes at the Ukrainian Chamber of Commerce and Industry, the rules of which are based on the Law of Ukraine "On International Commercial Arbitration." Actually, the Law of Ukraine "On International Commercial Arbitration" is based on the UNCITRAL Model Law. Additionally, Ukraine is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, and the European Convention on Commercial Arbitration of 1961.

Overall, Ukraine's local and foreign arbitration legislation is in accordance with world standards. As in other countries, the parties to international agreements have the freedom to select either the domestic (Ukrainian) national court system or international arbitration in any country (including Ukraine). The final award or ruling can be executed in Ukraine under the 1958 New York Convention, assuming that all parties involved in the arbitration are signatories to that Convention.

Under Ukrainian legislation, foreign investors may submit disputes for resolution to either (1) the Ukrainian national arbitration courts or (2) any other international arbitration tribunal. The second option can be further separated into two categories: (a) arbitration conducted in Kiev at the Ukrainian Chamber of Commerce and Industry or (b) arbitration held in a third country (e.g., Sweden, Great Britain, U.S.A.)



As of January 15, 2002, foreign investors were provided with yet another option for settling any disputes with their Ukrainian counterparts with the coming into effect of Law No. 2860-III "On the Recognition and Enforcement of Foreign Court Decisions in Ukraine," dated November 29, 2001. Law No. 2860 is designed to solve the age-old problem in Ukraine when foreign investors (or other holders of valid foreign judgments) would go through the lengthy process of obtaining a foreign judgment in their favor, only to find that enforcement of such judgment is impossible in Ukraine.

Law No. 2860 broadly encompasses the decisions of most foreign courts involving civil, labor and family matters, as well as those portions of criminal verdicts, which are related to the confiscation of property and the compensation of damages to victims. The Law also applies to the decisions of foreign arbitration courts and acts of other bodies of foreign governments empowered to consider civil, labor and family matters.

Law No. 2860 applies to the said decisions only if they have come into force and are subject to enforcement on the territory of Ukraine in accordance with international agreements to which Ukraine is a party. Conversely, if a decision is made by a foreign court in a country without an international agreement with Ukraine, such decision is not subject to enforcement under Law No. 2860, and may only be subject to enforcement under a special procedure in Ukrainian legislation.

Importantly, all foreign investors, as well as Ukrainian residents (such as joint ventures and wholly-owned foreign subsidiaries), have the right to submit their disputes with other Ukrainian entities to national commercial courts. In fact, unless a provision in an international agreement specifically defers arbitration to take place elsewhere (e.g., the Ukrainian Chamber of Commerce and

Industry), then national commercial courts have jurisdiction.

The Highest Commercial Court of Ukraine is the highest body for resolving economic disputes. The Highest Commercial Court of Ukraine supervises the lower courts' judgments and exercises control over their activities. The Highest Commercial Court of Ukraine is also responsible for the preparation and selection of candidates for judgeships, the improvement of the qualification of the commercial courts' employees, among other functions.

Ukrainian courts have become more and more conducive to rendering fair judgments with respect to the enforcement foreign money judgments and following the rules of the international treaties to which Ukraine has become a party. As a consequence, Ukrainian national courts have also become more transparent and fair in rendering decisions regarding domestic disputes and dispute resolution clauses in foreign economic contracts on the territory of Ukraine.



Withholding Tax Rates for Treaty Countries

Country of Recipient	Dividends			Interest	Royalties
	Major Rate (%)	Minor Rate (%)	Major Holding (%)	(%)	(%)
Armenia	5	15	25	10	-
Austria	5	10	10	2/5	5
Azerbaijan	10	10	-	10	10
Belarus	15	15	-	10	15
Belgium	5	15	20	2/5	5
Bulgaria	5	15	25	10	10
Canada	5	15	20	10	10
China (P. Rep. of)	5	10	25	10	10
Croatia	5	10	25	10	10
Cyprus	-	-	-	-	-
Czech Republic	5	15	25	5	10
Denmark	5	15	25	10	10
Egypt	12	12	0	12	12
Estonia	5	15	25	10	10
Finland	5	15	20	5/10	5/10
France	5	15	10/20	2/10	10
Georgia	5	10	25	10	10
Germany	5	10	20	5	-
Hungary	5	15	25	10	5
India	10	15	25	10	10
Indonesia	10	15	20	10	10
Iran	10	10	-	10	10
Italy	5	15	20	10	7
Japan	15	15	-	10	10
Kazakhstan	5	15	25	10	10
Korea	5	15	20	5	5
Kyrgyzstan	5	15	50	10	10
Latvia	5	15	25	10	10
Lithuania	5	15	25	10	10
Macedonia	5	15	25	10	10
Malaysia	15	15	-	15	10/15
Moldova	5	15	25	10	10
Mongolia	10	10	-	10	10
Netherlands	5	15	20	10	10
Norway	5	15	25	10	5/10
Poland	5	25	25	10	10
Portugal	10	15	25	10	10
Romania	10	15	25	10	10
Russia	5	15	-	10	10
Slovak Republic	10	10	-	10	10
Spain	18	18	-	-	5
Sweden	5	10	20/25	10	10
Switzerland	5	10	20/25	10	10/15
Turkey	10	15	25	10	10
Turkmenistan	10	10	-	10	10
United Kingdom	5	10	20	-	-
United States	5	15	10	-	10
Uzbekistan	10	10	-	10	10
Vietnam	10	10	-	10	10
Yugoslavia	5	10	25	10	10

THE FIRM'S CLIENTS INCLUDE:

- Advanced Logic Solutions, Inc.
- AMADEUS GLOBAL TRAVEL DISTRIBUTION, S.A.
- Baltic Beverages Holding;
- Bank Austria Creditanstalt
- British Energy
- Bruhn Internationale Transporte GmbH
- BT Global Services
- Chumak
- Commerzbank Aktiengesellschaft
- Credit Commercial de France
- CTB, Inc.
- Deloitte
- Direct EDI Inc
- DUROPACK
- Emilceramica SpA
- Fiat Auto
- FL Smidth & Co.
- Freshfields Bruckhaus Deringer
- Hewlett-Packard Company
- Imanto AG
- INDEVCO
- Jahn General Products Ukraine
- Jabil Circuit, Inc.
- Quality Schools International
- KLM Royal Dutch Airlines
- KPN Royal Dutch Telecom
- Linklaters
- Notaro & Michalos
- Philips Electronics
- Robert Fleming & Company, Ltd.
- SCL Corporate Finance SA
- Sealed Air Limited
- Skanska East Europe OY
- Stragen Chemical SA
- Sun Microsystems
- Theeuwes de Jong B.V.
- The Danish Investment Fund for Central and Eastern Europe
- Thornkild Kristensen Properties AS
- Tyco Electronics AMP GmbH
- Van Oostveen Medical B.V.
- Vetropack Holding Ltd.
- The Embassy of Austria
- The Embassy of Sweden
- The US Embassy
- Vimpel Communications, among others.



REFERENCES

"Since 1992 we have the pleasure of being the client of Frishberg & Partners, and recent results just confirm that this was and still is a very right choice for KLM Royal Dutch Airlines."

Sergey Fomenko, KLM Royal Dutch Airlines

"We are very satisfied with the services of your law firm and especially appreciate the quick, accurate and business-minded responses and analysis."

Dr. Brigitte Carbonare-Hartsleben, BT Global Services

"I really appreciate the capability and professionalism of your lawyers and the efforts your company successfully put in the defense of ours. We thank you for your assistance and cooperation."

Flavia Smiraglio, Fiat Auto S.p.A.

"We at Sun and I am personally as legal counsel for Sun operation in CIS region, are very pleased with a level of expertise and service which were and are provided to our company in Ukraine by Frishberg & Partners. I would like to particularly mention also a constant effort of F&P lawyers to keep its clients updated on the most recent developments of Ukrainian legal environment and their responsiveness to our needs in that country."

Dr. Andrei Zalivako, Sun Microsystems

"Frishberg & Partners' advice and services are of excellent quality, very timely, reliable and to the point, and with a good understanding of our business interests."

Christoph Zeyen, Tyco Electronics

"As always, thank you for your immediate attention to our needs. Your assistance will help

enable us to successfully complete a very large contract and to keep a very good customer."

Lori K. Rose, CTB, Inc.

"Emilceramica appreciates Frishberg & Partners' professional collaboration in supporting the project "Joint Venture Zeus Keramik" with Ukrainian participation. In this regard, Emilceramica hopes to have Frishberg & Partners' assistance in future."

Dr. Efrem Montepietra, Emilceramica SpA

"Thank you and the colleagues at Frishberg & Partners for your assistance and the very valuable input you provided. We are all happy with the outcome of the matter that was handled well, based on a good sense of judgment, lots of wisdom, good decision making and good use of past learnings from previous experiences in this country."

Elias N. Ashkar, INDEVCO Group

"You did an excellent job for Joss Chemicals BV, and you prepared an excellent report on our behalf. This was very positive for us, and it allowed us to set up our business in Ukraine. Now we are actively pursuing this business thanks to your excellent lawyers."

Jan Huijbregts, Joss Chemicals BV

"We hired Frishberg & Partners to analyze certain issues in the Ukrainian legislation in the process of acquiring a company in Ukraine and were very happy with the services we received. All your lawyers we worked with are extremely professional, competent and helpful. Thank you for a job well done."

Dmitriy Kasyanenko, Vimpel Communications



Over the last 15 years, **Frishberg & Partners** has served as corporate counsel to multinational companies and banks (see our list of clients). We have registered a multitude of joint ventures, subsidiaries and representative offices in Ukraine. By now, the registration process is well-established, as is liquidation.

Acquisition of controlling blocks of shares in Ukrainian companies, however, is an entirely different game, requiring knowledge and experience of local corporate legal specialists. Because each target company is unique, there is no standard approach. That is why our lawyers provide a comprehensive analysis of alternative corporate and tax-efficient acquisition structures in light of the client's specific goals.

Strategic investment is often structured around real property, and sometimes land plots. Together with our real estate specialists, we can set up turn-key operations on industrial greenfield sites, from land right allocations and construction permits to the finished enterprise, fully commissioned and ready for use. Just turn the key.

After the acquisition has taken place, we continue to work closely with our clients to resolve the day-to-day issues, including employment law, capital increases or decreases, tax and customs matters.

At the corporate law firm of **Frishberg & Partners**, our clients truly benefit from getting the most complete package of corporate legal services available on the Ukrainian legal market.

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