UKRAINE

TRADE SUMMARY

The U.S. goods trade balance with Ukraine went from a trade surplus of $122 million in 2007 to a deficit of $472 million in 2008. U.S. goods exports in 2008 were $ 1.9 billion, up 39.2 percent from the previous year. Corresponding U.S. imports from Ukraine were $2.3 billion, up 91.8 percent. Ukraine is currently the 65th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Ukraine was $1.3 billion in 2007 (latest data available), up from $549 million in 2006.

WTO Accession

Ukraine became the 152nd member of the World Trade Organization (WTO) on May 16, 2008. WTO accession marked the end of 15 years of negotiations and is expected to promote serious liberalization of Ukraine's trade regime.

United States-Ukraine Trade and Investment Cooperation Agreement

The United States and Ukraine signed a new Trade and Investment Cooperation Agreement (TICA) on April 1, 2008. The TICA establishes a forum for discussion of bilateral trade and investment relations and will help deepen those relations. The TICA establishes a joint United States-Ukraine Council on Trade and Investment, which will address a wide range of trade and investment issues including market access, intellectual property, labor, and environmental issues. The Council will also help to increase commercial and investment opportunities by identifying and working to remove impediments to trade and investment flows between the United States and Ukraine. The Council met for the first time on October 2, 2008.

IMPORT POLICIES

Ukraine continues to maintain licensing requirements and fees on certain imports. Ukraine imposes several duties and taxes on imported goods: customs/import tariffs, value added tax (VAT), and excise duties. Additionally, imports into Ukraine are subject to customs processing fees, a unified fee on vehicles crossing Ukraine’s borders, and port fees.

Customs/Import Tariffs

Ukraine’s tariff schedule provides for three rates of import duty: full rates, MFN rates, and preferential rates. The full rate of import duty can be from 2 times to 10 times higher than the MFN rate. Upon becoming a WTO Member, Ukraine applied new, lower MFN rates to all goods originating from WTO Members. Ukraine now applies the full rate to imports from only a few countries which are not WTO members. Preferential rates are applied to imports from 12 countries with which Ukraine has a Free Trade Agreement (FTA) or other preferential trade agreement, mostly from the CIS. Imports from the United States are subject to the MFN rate.

Import duties are calculated in accordance with the law "On the Customs Tariff of Ukraine." Most customs tariffs are levied at *ad valorem* rates, and only 1.5 percent of tariff line items (down from 5.97

percent prior to WTO accession) are subject to specific or combined rates of duty. These specific and combined rates apply primarily to agricultural goods that are produced in Ukraine, such as grains, poultry products, sugar, and vegetables such as carrots and potatoes. The average applied tariff rate fell to 4.95 percent after WTO accession in May. For agricultural goods, the average applied tariff rate is now 9.11 percent (down from 13.8 percent before WTO accession, at the beginning of 2008). For industrial goods the average applied rate is now 3.71 percent (down from 4.4 percent before WTO accession).

On February 20, 2009, President Yushchenko signed into law a bill that imposes a temporary 13 percent increase in customs duties for a large number of imported goods. The increases went into effect on March 6, 2009 and expire after 6 months, but are subject to renewal. The tariffs affected by the law were increased to well above Ukraine's WTO bound rates. The U.S. government has signaled its concern over this measure, which adversely affects a significant number of U.S. exports.

Excise Duties

Ukraine applies excise duties to a limited set of goods imported into Ukraine, such as alcoholic beverages, non-filter cigarettes, motor vehicles, and petroleum products. High excise duties hinder U.S. exports of wine and grape spirits and automobiles to Ukraine. Although VAT and excise tax exemptions for locally-produced vehicles were eliminated in 2005, excise taxes on automobiles remain high, especially for those with larger engines, ranging from 0.02 euros/cc for automobiles with smaller engines to 3.50 euros/cc for those with larger engines. Although import tariffs on automobiles were significantly reduced as part of the commitments Ukraine made for WTO accession, the government has introduced a new registration fee that is considerably higher for used cars and therefore discourages imports of foreign used cars.

Import Licenses

Import licenses are required for some goods. The list of goods covered by the licensing regime and the license terms are decided annually by the Cabinet of Ministers. In 2008, the list included pesticides, alcohol products, sugar and sugar syrup, prepared food products containing cocoa, optical media production inputs, some industrial chemical products and equipment containing them, official foreign postage stamps, excise marks, officially stamped/headed paper, checks and securities, some goods that contain sensitive encryption technologies, and ozone-depleting substances. In 2008, the following goods were removed from the list requiring import licensing: beef, pork, cattle, pigs, poultry meat, and some meat by-products.

While the licenses themselves are granted automatically to applicants, some products require a prior approval, which may or may not be automatic, from the relevant administrative agency before receiving the necessary import license from the Ministry of Economy. In 2008, the Ministry of Environment significantly tightened procedures for obtaining its approval to import goods that are potentially ozone-depleting. The stricter procedures delayed shipments and significantly increased business costs for importers of a wide range of goods, including aerosols, refrigerators, mascara, lipstick, toothpaste, and coffee makers. During the WTO accession negotiations, Ukraine committed not to impose restrictive import licensing requirements without adequate WTO justification, (*e.g.*, on imports of mass-market, commercially-traded goods containing encryption that are covered by the Information Technology Agreement).

For some goods, product certification is a prerequisite for an import license. Importers can request that a foreign facility be certified as in compliance with Ukraine's technical regulations that apply to imports. The U.S. distilled spirits industry reports that this option usually involves a burdensome and costly inspection visit by Ukrainian government officials. If approved, the supplier receives a certificate of conformity valid for two years to three years and avoids the burden of certifying each shipment and mandatory laboratory testing upon arrival in Ukraine.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

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

Virtually all goods, and many services, are subject to mandatory standards. Mandatory certification is required in Ukraine for over 400 types of goods and services and remains applicable *de facto* for an even larger number of goods and services. Mandatory certification is often required without regard to products' actual level of risk and is often redundant – for example, food products must be certified by both the Ukrainian Sanitary and Veterinary Services. In addition, Ukraine sometimes requires mandatory certification for each batch of products rather than permitting certification by product type or production process.

Most current standards were created under the Soviet Union and according to industry generally appear not to correspond to international standards and to be far more restrictive and prescriptive than necessary. The International Finance Corporation estimates that over 12,000 of Ukraine's standards are not harmonized with international standards.

The State Committee for Technical Regulation and Consumer Policy (DerzhSpozhyvStandard), the standardization and certification body in Ukraine, is responsible simultaneously for development and approval of standards, issuing certificates, conducting inspections of producers, and ensuring market surveillance and protection of consumer rights. Many of these functions overlap in some areas with other government authorities, such as the Sanitary and Epidemiological Service and the State Committee for Veterinary Medicine. This overlap creates confusion and conflicting requirements for businesses. Appropriate resources, such as modern analytical equipment and reactants, are not available in most DerzhSpozhyvStandard laboratories. Depending on the type of product, testing, and applicable certification scheme, the certification process can take from three days to one month.

Ukraine pledged during WTO accession negotiations to continually review the list of products subject to mandatory certification and to reduce the number of products on this list if the legitimate objectives could be met in a less trade-restrictive manner. DerzhSpozhyvStandard issued two decrees in 2007 to reduce the number of products subject to mandatory certification, but has made no additional progress in 2008. An April 2008 amendment to the law "On Standards, Technical Regulations, and Conformity Assessment Procedures" helped to ensure that Ukraine's authorities will accept the results of alternative methods of conformity assessment, including those performed in the United States. Ukraine's National Accreditation Agency is taking steps to become a member of the International Laboratory Accreditation Cooperation (ILAC), anticipated in 2009. Once an ILAC member, Ukraine should significantly increase the acceptance of test results of laboratories accredited with, and notified by, ILAC member bodies. Ukraine has also pledged to clarify which agencies are responsible for technical regulations applied to specific products, to prevent duplicative testing.

Sanitary and Phytosanitary Measures

Ukraine applies a range of SPS measures that restrict imports of a number of U.S. agricultural products, among them, pork, beef, and poultry. Industry has repeatedly complained that Ukraine's certification and approval process is lengthy, duplicative, and expensive. Over the past several years, Ukraine has passed amendments to several laws and regulations, most importantly to the law "On Veterinary Medicine" and the law "Quality and Safety of Food Products and Food Raw Materials," to bring its legislative and regulatory framework into compliance with requirements of the WTO SPS Agreement. Ukraine is working to amend the law "On Safety and Quality of Food Products" to clarify that standards are not mandatory, and to amend the law "On Fish, Other Water Living Resources, and Food Production from Them" to eliminate provisions requiring certificates for imports of fish and other seafood products.

The following potentially trade distorting issues are subjects of our bilateral discussions:

Overlapping State Authorities: Ukraine has maintained a complex and nontransparent oversight system for human and animal health measures that involves overlapping authority by the Veterinary Service, Sanitary Service, and DerzhSpozhyvStandard. Several legislative amendments passed as part of the WTO accession process, this year including an April amendment to the law "On Standards, Technical Regulations and Conformity Assessment Procedures" and a September amendment to the law "On Veterinary Medicine," made progress but did not solve entirely the problem of overlapping authority. As noted above, Ukraine has pledged to make further clarifications.

Beef, Beef Products, and Pork: A bilateral agreement with Ukraine negotiated at the same time as the March 2006 WTO bilateral Market Access Agreement, addresses the terms for U.S. exports of beef, beef products, and pork to Ukraine. Although Ukraine has allowed the entry of certified U.S. beef and pork that meets veterinary certificate requirements, the lack of a functioning protocol on pork or on live swine for breeding continues to limit U.S. exports. Ukrainian veterinary authorities conducted a system audit of the U.S. system in 2007 but call for further audits, and in the meantime insist on individual plant inspections of U.S. producers.

In the past, Ukraine blocked the importation of beef and beef products due to concerns over the use of growth promoting hormones as well as Bovine Spongiform Encephalopathy (BSE). Ukraine has amended laws and regulations bringing requirements closer to World Organization for Animal Health guidelines, but problems remain. In addition, U.S pork exports to Ukraine have been hampered by regulations concerning trichinae. The United States is working with Ukraine to align Ukrainian standards for trichinae with international norms.

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

GOVERNMENT PROCUREMENT

Ukraine is not yet a signatory to the WTO Agreement on Government Procurement (GPA), but committed to initiate negotiations for GPA membership within two years of its WTO accession. Ukraine is reportedly preparing its initial offer to begin the process of GPA accession.

Until 2008, Ukraine's procurement system operated under a 2000 law "On Procurement of Goods, Works, and Services Using State Funds." Although this procurement law was originally largely in line with international practice, amendments in 2004 to 2006 opened the system to widespread corruption and moved it away from international norms. Authority to carry out central oversight and policy development for the government procurement system was taken from the Ministry of Economy, and its policy and oversight functions were dispersed across several bodies, weakening oversight and policy making, and creating conflicts of interest and overlapping functions. The amendments also granted the Tender Chamber of Ukraine, a nongovernmental organization, the authority to monitor the procurement process and to undertake key operational functions that were inherently governmental. The Tender Chamber became the center of the procurement system's corruption and lack of transparency.

Parliament, responding to widespread complaints of the corruption and dysfunctional nature of the system, repealed the law on government procurement in March 2008. In place of the law, the Cabinet of Ministers issued a decree establishing temporary provisions for government procurement based largely on the 2004 pre-amendment procurement law. The temporary provisions eliminated the Tender Chamber and again made the Ministry of Economy the central oversight and policy body for the procurement system. The Constitutional Court subsequently ruled the temporary provisions unconstitutional on technical grounds, leaving Ukraine without a functioning government procurement system. On October 17, 2008, the Cabinet of Ministers issued a new decree, which closely tracked the previous temporary provisions. The constitutionality of the October 17 decree is not yet clear, although it was intended to address the constitutional issue raised by the Court. A new draft procurement law passed a first reading on May 20, 2008, but has not completed the legislative process.

The Cabinet of Ministers' decree currently in force requires that all government procurement of goods and services valued at more than UAH 100,000 (approximately $16,500) and public works valued at more than UAH 300,000 (approximately $50,000) must be procured through competitive tenders. Open international tenders are used when procurement is financed by any entity outside of Ukraine.

Ukraine's procurement rules generally do not restrict foreign enterprises from participating in government procurement, but in practice foreign companies claim that they are rarely able to compete on an equal footing with domestic companies. Foreign companies generally win only a tiny fraction of the total tenders. Among the problems faced by foreign firms are: (1) the lack of public notice of tender rules and requirements; (2) non-transparent preferences in tender awards; (3) the imposition of conditions that were not part of the original tender requirements; and (4) ineffective grievance and dispute resolution mechanisms, which often allow a losing bidder to block the tender after the contract has been awarded.

EXPORT BARRIERS

Exports of some categories of products are subject to registration by the Ministry of Economy. Products that must be registered prior to export from Ukraine include: precious metals and stones, rolled metal products exported to the United States, scrap metal, printer's ink, and paper with watermarks. The government has eliminated most export duties, with the prominent exceptions of natural gas, livestock, raw hides, some oil seeds, and scrap metal. As part of the commitments Ukraine made for WTO accession, Ukraine agreed to reductions of a number of these duties and elimination of others.

Export Restrictions on Grains and Sunflower Oil/Seeds

Ukraine is the sixth largest wheat exporter in the world. From September 2006 until May 2008, however, Ukraine imposed various export restrictions on grain exports, at some times constituting a near export ban. Ukraine did not convincingly explain how it faced a "critical shortage," as required in order to maintain such a ban under Article XI:2 of the GATT 1994. The World Bank cited Ukraine's export restrictions as a contributing factor to the global food crisis at the end of 2007 and beginning of 2008.

The Cabinet of Ministers issued a decree on May 21, 2008, lifting the grain export restrictions. The lifting of the measures coincided with a banner harvest and falling world food prices, and the government still needs to move toward a more sustainable, market-oriented agricultural policy to avoid the same situation should a poor harvest emerge in the future.

In March 2008, the government imposed export quotas on sunflower oil and seeds in order to combat rising domestic prices of cooking oils. The government subsequently lifted those quotas in June.

Live Cattle, Sheep, Hides, and Skins

Export duties have been in place on live cattle, sheep, hides, and skins since 1996. Ukraine began a staged reduction of these duties at the time of its WTO accession in May 2008. For live calves, the duty fell from 75 percent of the customs value to 50 percent; for live cows it fell from 55 to 50 percent; and for live sheep it remained at 50 percent. Previous specific duties, which usually proved greater than the *ad valorem* rates and sometimes prohibitive, were eliminated. For raw hides of cattle and sheep, the duty remained at 30 percent, and for pigskins the duty rose from 27 to 30 percent, but for these products as well, the specific and often prohibitive duties were eliminated. Export duties on live calves, cows, and sheep will fall to 10 percent, 8 years after WTO accession. Export duties on raw hides will fall to 20 percent, 10 years after accession.

Scrap Metal

Between January 2003and WTO accession in 2008, Ukraine imposed an export duty of 30 euros/metric ton on ferrous steel scrap and had, in effect, a ban on exports of nonferrous metals. The ferrous scrap export duty contributed to a decline in scrap exports from Ukraine, when global demand and prices for steel scrap were rising. Ukrainian metallurgical producers benefited from scrap inputs at prices lower than world levels. As part of its March 2006 bilateral WTO Market Access Agreement with the United States, Ukraine agreed to significantly lower these export duties. Upon WTO accession, duties fell to 25 euros/metric ton for ferrous metals and to 30 percent *ad valorem* (with minimum, specific rates for some products) for nonferrous metals. Laws passed in 2006 and 2007 as part of the accession process provide for staged duty reductions to 10 euros/metric ton over a period of 6 years for ferrous metals and reductions to 15 percent *ad valorem* over a period of 5 years for nonferrous metals.

Sunflower Seeds

Sunflower seeds have been subject to an export duty since June 2001, to the benefit of local sunflower oil producers. The export duty on sunflower seeds was lowered to 16 percent *ad valorem* upon accession to the WTO. Further 1 percent annual reductions are scheduled, reaching a final duty of 10 percent, 6 years after accession.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Ukraine has substantially improved its protection of IPR in recent years, in part to implement the IPR obligations contained in the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement) and other international norms. Law enforcement bodies have also stepped up efforts to seize IPR-infringing goods and to prosecute those involved in their trade. Perhaps most importantly, according to U.S. industry, illegal production of pirated and counterfeit goods has been halted almost completely. In 2008, USTR improved Ukraine's designation in its Special 301 Report from Priority Watch List to Watch List. Ukraine still faces IPR enforcement problems, however, including widespread retail piracy, the transshipment of pirated and counterfeit goods, Internet piracy, and government use of illegal software. The Ukrainian government meets regularly with U.S. Government officials and with U.S. and domestic industry representatives to monitor the progress of enforcement efforts through the United States-Ukraine IPR Enforcement Cooperation Group. Ukraine also meets biannually with European Commission officials as part of a European Union-Ukraine IP Dialogue.

Optical Media

Despite the significant reduction of illegal production of optical discs, pirated discs remain widely available, particularly in large open-air markets throughout the country's larger cities; the Petrivka market in Kyiv is the most notorious. Industry representatives estimate piracy levels for music and video at 60 percent, and for computer software at 84 percent. The transshipment of pirated and counterfeit goods, particularly optical discs produced in Russia, remains a serious problem, as does government procurement and use of unlicensed software.

Internet Piracy

Internet piracy is a growing problem in Ukraine. According to U.S. industry, many Ukraine-based websites offer pirated material for download with the full knowledge of their Internet Service Providers (ISPs). Industry groups estimate that out of the roughly 400 ISPs in Ukraine, 150 of them support websites offering pirated material. U.S. industry has also complained that Local Area Networks (LAN), some of which cover entire Ukrainian cities, allow for widespread software piracy. Another common type of Internet piracy is online mail order sites.

Ministry of Internal Affairs officials have pointed to some successes in stopping the mail order piracy, but admit that enforcement against illegal file sharing/downloading is much more difficult. The United States will continue to monitor this issue and urges Ukraine to increase its enforcement efforts to reduce Internet piracy.

Patent and Trademark

Trademarked and copyrighted goods and services must be registered for a fee in the Customs Service's rights holder database in order to be guaranteed protection. Counterfeit goods, including products that contain protected trademarks, remain readily available in Ukraine. Counterfeit apparel products are particularly common. Most counterfeit goods appear to be imported rather than produced in Ukraine, although industry has reported instances of production of counterfeit cigarettes. There has also been growth in the amount of counterfeit pesticides on the market, and Ukraine reportedly does not have the technical capability to destroy some forms of counterfeit pesticides, complicating enforcement efforts.

Data Protection

Ukraine has improved its protection of undisclosed test and other data submitted in support of marketing approval from unfair commercial use. Local representatives of international pharmaceutical companies are generally satisfied with the new law, but continue to complain of a lack of transparency by GOU bodies responsible for granting market approval for generic drugs.

Judicial System

Industry reports that civil IPR lawsuits remain rare because of a general lack of confidence in Ukraine's legal system, and because there are few judges properly trained in IPR law. Many IPR cases result only in small fines for administrative cases. The U.S. Government has worked closely with the Government of Ukraine to provide specialized IPR training to judges.

SERVICES BARRIERS

As part of its WTO accession commitments, Ukraine agreed to expand access significantly for foreign service suppliers in a number of areas, including energy services, banking and insurance branches, professional services, express delivery, and telecommunications. Ukraine's services commitments are virtually free of limitations on foreign equity, economic needs tests, or other common limitations found in GATS schedules. When fully implemented, Ukraine will have one of the most liberal services markets in the region.

Audiovisual Services

A local content requirement exists for radio and television broadcasting, although it has not been stringently enforced in most cases.

Financial Services

The United States continues to monitor Ukraine's actions in particular with regard to electronic payments services. On June 19, 2008, the National Bank of Ukraine (NBU) issued new rules that require any bank that wishes to bid on cash management contracts for state employee salaries to join the National System of Mass Electronic Payment (NSMEP). NSMEP operates as a domestic electronic payments system in Ukraine, competing against foreign service suppliers. The new rules may force banks wishing to bid on these government contracts to base their bids on NSMEP-branded cards, thus shutting out foreign service suppliers.

INVESTMENT BARRIERS

The government is working to streamline regulations and eliminate duplicative and confusing laws regarding investment and business. The State Center for Foreign Investment Promotion (known as InvestUkraine) is charged to help attract foreign investment to the country. The Council of Investors, an advisory body to the Cabinet of Ministers, includes representatives from foreign and domestic companies and advises the government on efforts to improve the business and investment climate.

The United States has a bilateral investment treaty (BIT) with Ukraine, which took effect in 1996. The BIT guarantees U.S. investors the better of national and MFN treatment, the right to make financial transfers freely and without delay, international legal standards for expropriation and compensation, and access to international arbitration. Despite the BIT, there are several longstanding investment disputes faced by several U.S. companies. These disputes mainly date from the early 1990s and the initial opening of the Ukrainian economy to foreign investors. In most cases, however, there has been little progress toward resolution under subsequent Ukrainian governments despite advocacy by the United States.

Of particular concern is the longstanding, unresolved dispute that has prevented the Overseas Private Investment Corporation (OPIC) from operating in Ukraine. The availability of OPIC's financing and political risk insurance could significantly increase the level of U.S. investment in Ukraine. The Ukrainian government has been slow in working out a resolution to this dispute, although there has been real progress recently, spurring hopes that OPIC may soon be able to resume operations in Ukraine.

Taxation

Companies report that Ukraine's taxation system is a major obstacle for U.S. investors doing business in Ukraine, and a World Bank study recently ranked Ukraine 180th out of the 181 countries surveyed in terms of the ease of paying taxes. Ukraine maintains a corporate profit tax (25 percent), a personal income tax (flat rate of 15 percent), a Value Added Tax (20 percent), and a payroll tax (variable, between 36.66 percent and 49.6 percent) that funds pension and social insurance programs. Many analysts single out the payroll tax as being exceptionally high and the main reason why shadow wage payments remain common in Ukraine.

In recent years, arrears in the payment of VAT refunds to exporters have also been a problem. In the spring of 2008, the Ukrainian government significantly increased the pace of VAT refunds, particularly to agricultural exporters, who tend to run up especially large VAT arrears. The government also intends to introduce a comprehensive electronic system to ensure speedy refunds continue in the future. However, Ukraine's inability to refund VAT in a timely manner remains a problem, and delays in reimbursement have become an important cost factor for many foreign companies. Improvements to the system would have an important, positive impact on the investment climate.

Special Economic Zones (SEZs)

Ukraine has in the past maintained two forms of special economic zones (SEZs): Free Economic Zones (FEZs) and Priority Development Territories (PDTs). In April 2005, Ukraine canceled all tax exemptions (*i.e.*, from land tax, corporate income tax, import duty, and VAT on imports) to investors in all SEZs to stop large-scale misuse of these zones for tax evasion and smuggling. While the step reduced corruption and expanded the tax base, the abrupt cancellation of privileges and lack of compensatory provisions caused losses to some legitimate investors.

Privatization

The State Property Fund oversees the privatization process in Ukraine. Privatization rules generally apply to both foreign and domestic investors, and, in theory, a relatively level playing field exists. Observers claim, however, that a common abuse of privatization laws is the adjustment of the terms of a privatization contest to fit the characteristics of a certain, pre-selected bidder. Few major, new privatizations have been conducted since the privatization rush of 2004. In 2005, Ukraine revoked the privatization of the Krivorizhstal steel factory, which had been sold to a group of domestic investors for $800 million, and subsequently sold it in a fair and transparent tender to Mittal Steel for $4.8 billion, in what is generally viewed as Ukraine's most transparent major privatization to date. Since then, Ukraine has taken no further steps to reverse previous privatizations.

No major privatizations have taken place in 2008, largely due to constant political wrangling over the privatization process. The government has identified the Odessa Portside Plant, one of Ukraine's largest chemical producers, Ukrtelekom, the state telecommunications company, the Kryvorizhskyy Ore Mining and Processing Plant, and Turboatom, a producer of turbines for power plants, as priorities for privatization, but none have moved forward. Other attempts at privatization in recent years were often marked by controversy. The government has also announced its intention to privatize approximately 120 of the 140 coal mines still owned by the government. There are concerns that a few Ukrainian and Russian firms are trying to acquire these mines without going through a fair, transparent privatization process.

Ukraine maintains a moratorium on the sale of agricultural farmland. This provision blocks private investors from purchasing some of the 33 million hectares of arable land in Ukraine and constitutes a serious obstacle to the development of the agricultural sector. While there have been some efforts to adopt new legislation necessary to open the land market, as of October 2008, the ban on the sale of agricultural land remains in place.

Corporate Hijacking

Ukraine is experiencing an escalation in corporate hijacking activity. Some researchers claim that thousands of Ukrainian enterprises have suffered hijacking attempts in the last several years. These hijackers frequently purchase a small stake in a company, and then take advantage of deficient legislation, corrupt courts, and a weak regulatory system to gain control of companies to the detriment of rightful shareholders. This development harms investors, including U.S. companies and shareholders, and has damaged the image of Ukraine among foreign investors. The Ukrainian government has recognized the seriousness of this problem and has taken some steps to address it. In September, Parliament passed a new law "On Joint Stock Companies," a major step to improve corporate governance and help stop corporate hijacking.

OTHER BARRIERS

Regulatory Inspections

The frequency of inspections by regulatory agencies is often identified as one of the major hindrances to business development in Ukraine. The annual number of inspections conducted throughout the country exceeds 1.5 million. According to a recent study conducted by the International Finance Corporation, 65 percent of private businesses in Ukraine consider inspections to be overly complex and a hindrance to business development in Ukraine. Ukraine's system of inspections does not appear to fulfill its stated purpose of preventing legal abuses or ensuring consumer safety, but is primarily punitive in nature.