



OECD Eurasia
Competitiveness Programme



SECTOR COMPETITIVENESS STRATEGY
FOR UKRAINE – PHASE III

**Assessment of Ukraine's
Investment Policy
Framework: An Overview**

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UKRAINE SECTOR COMPETITIVENESS STRATEGY – PHASE III

The OECD project “Sector Competitiveness Strategy for Ukraine” was launched in 2009. During the initial phase, the project prioritised and defined sector-specific sources of competitiveness and policy barriers for improved investment promotion, particularly in the key sectors of agribusiness, machinery and transport equipment manufacturing, renewables and energy efficiency. The second phase of the project aimed to address specific policy barriers to focus on short-term results through practical and effective measures. The project is currently in Phase III, which aims to put in place the mechanisms for a sustainable reform process and support the Government of Ukraine in implementing them effectively. It does so by sharing OECD expertise and methodologies, identifying remaining policy challenges to private sector competitiveness in the target sectors, consulting closely with the private sector, and organising capacity-building events to strengthen government institutions.

The project’s Phase III will conclude in December 2015, and is **co-financed by the European Union and the Government of Sweden**. The Investment Policy Review of Ukraine received additional financial contribution from the **United States**.

www.oecd.org/countries/ukraine/ukrainesectorcompetitivenessstrategy.htm

ASSESSMENT OF UKRAINE'S INVESTMENT POLICY FRAMEWORK: AN OVERVIEW

1. The 2015 Investment Policy Review of Ukraine was prepared in response to the Ukrainian authorities' request received on 25 August 2011 to adhere to the OECD Declaration on International Investment and Multinational Enterprises and to participate in related work of the OECD Investment Committee. In March 2012, the OECD invited Ukraine to adhere to the Declaration subject to a full examination of its international investment policies. This full examination includes an assessment of Ukraine's progress in response to the recommendations of a previous Review conducted in 2011.

2. The OECD prepared this Review in close cooperation with the Ukrainian authorities, coordinated by the Ministry of Economic Development and Trade, which have promptly provided all requested information and very efficiently supported the OECD during the whole preparation process. The OECD undertook technical missions to Kiev in May and September 2015 and met with representatives from several ministries and government agencies, as well as business organisations, and representatives of OECD countries on 5 November 2015.

3. The 2015 Investment Policy Review of Ukraine assesses the country's ability to comply with the principles of liberalisation, transparency and non-discrimination and its policy convergence with recognised international investment standards such as the OECD Declaration on International Investment and Multinational Enterprises. It also considers the interaction and coherence of Ukraine's investment policy with other areas such as investment promotion and facilitation, infrastructure development, financial sector development and responsible business conduct practices, in light of the recently updated *Policy Framework for Investment*.

Ukraine's policy framework for investment

4. Since the first Review was conducted in 2011, Ukraine has been wracked by a period of severe political and economic turmoil that culminated in unprecedented tensions with its Russian neighbour in 2014. The situation in the Autonomous Republic of Crimea and in Eastern Ukraine remains extremely complex, with important economic and financial implications. While external forces triggered these events, this young democracy suffers from a deeper malaise of destructive policies and corruption.

5. During this crisis, Ukraine has upheld the generally open stance that has characterised legislation since the country gained independence in 1991. This includes introducing the principle of non-discrimination of foreign investment and enhancing general provisions to protect it, including against nationalisation and changes in relevant legislation as well as guarantees for compensation and the repatriation of profits. Protection against expropriation is guaranteed by the Constitution and conditions and procedures are stipulated in the 1996 Foreign Investment Regimes Act as well in legislation addressing private land, national defence-related legislation and privatisation laws.

6. At the same time, Ukraine still applies some restrictions on foreign investment, which qualify for the list of exceptions to national treatment and measures reported for transparency in the meaning of the OECD Declaration on International Investment and Multinational Enterprises. Its OECD FDI Restrictiveness Index (a measure of statutory restrictions on foreign direct investment) is higher than the OECD average, albeit lower than the average of non-OECD countries. Still, there are a significant number of public monopolies that Ukraine would notify as they qualify for the list of measures reported for transparency under the OECD Declaration. This concerns in particular measures that restrict any private investment in oil and gas pipeline transport, distribution and

transmission of electricity, railways, supply and distribution of water and heating, the burial of domestic waste and the production of ethyl alcohol.

7. In the scarcely two years since a new attempt at economic reforms was launched in earnest, the reform momentum has strengthened and Ukraine has achieved quite important progress in introducing a modern legal framework that is conducive to investment in general and foreign direct investment (FDI) in particular. The ratification of the Association Agreement with the European Union and preparation towards full implementation of its economic part – the Deep and Comprehensive Free Trade Area – in January 2016 have provided an anchor for many different measures.

8. New legislation aiming at simplifying business registration procedures and cleansing government procurement is in place. Ukraine has now a comprehensive framework regulating public procurement. Developed in the framework of the EU-Ukraine Association Agreement, it is largely modelled on the 2004 EU Procurement Directives and has been designed to streamline and facilitate government procurement in Ukraine. Public procurements are open to foreign and domestic economic operators on an equal basis. A dedicated web portal (www.tender.me.gov.ua) is run by the Ministry of Economic Development and Trade, which places advertisements about upcoming public procurement. E-procurement practices are increasingly being used and should soon be generalized.

9. To address corruption, in particular in the judiciary, judicial reform is underway: the powers of the Supreme Court were enhanced and new rules now apply to the selection and disciplining of judges. Ukraine has also begun to reform its independent prosecutors. To cope with commissioned tax-related criminal investigations and inspections of the target business, Ukraine established a Tax Ombudsman in 2015. In the crucial area of anti-bribery, amendments to the National Anti-Corruption Bureau of Ukraine (NABU) law were passed and a NABU director was appointed. In a major step forward towards the improvement of the investment climate in the country, a Business Ombudsman institution also became operational in 2015. It provides a platform for the business community in Ukraine to file complaints about unfair treatment by the state or municipal authorities, state-owned or controlled companies, or their officials. Since then, businesses have voiced support for the Ombudsman institution and have been encouraged that the government was addressing issues such as administrative and legal abuse by state or local agencies, repetitive tax audits or investigations, excessive fines or retaliation.

10. Ukraine has signed over 70 international investment agreements (bilateral investment treaties and investment provisions in free trade agreements) with partner countries. These agreements offer covered foreign investors substantive and procedural protection. The review of the investment provisions suggests that Ukraine should consider updating its international investment agreements with a view to ensuring that they well-reflect government intent and emerging trends in investment treaty policy. Ukraine ratified the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) in 1960 and the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) in 2000. Expropriation of property has been rare in Ukraine. Expropriations have primarily occurred on the territory of the Autonomous Republic of Crimea in the aftermath of its self-declared independence.

11. Problems in applying existing (and *a fortiori* new) laws and regulations, however, continue to plague the business environment and depress domestic and foreign investors' sentiment. Access to agricultural land is an additional issue: foreign investors are subject to a foreign ownership restriction, while the absence of a unified registration system for land and real estate imposes additional bottlenecks. Vagueness in defining the scope of "strategic" sectors closed to foreign investors or subject to authorisation procedures continues to increase legal uncertainty and discourages foreign multinationals from bringing their expertise to Ukraine. Additional obstacles to FDI include the uncertainty and duration of judiciary processes –seen by many investors as one of the most corruption prone areas in Ukraine- and persistent scepticism regarding the fight against corruption in the highest echelons of power.

The role of FDI in the economy of Ukraine

12. Combined with the ongoing conflict in the Donbas region, political instability, and capital-account restrictions introduced to stabilize the exchange rate, such problems make it very difficult to match the country's vast economic potential with commensurate investment. Ukraine's FDI inflows have indeed proven particularly volatile in the face of an adverse global environment for world investment. Hardly had they recovered from the global economic slowdown that FDI flows to Ukraine declined by 45% in 2013 and plummeted again by 81% in 2014. Preliminary data suggest a mild recovery in the first semester of 2015.

13. The round-tripping phenomenon, whereby Ukrainian investors use legal entities in offshore jurisdictions to channel local funds, which subsequently return to the local economy in the form of foreign direct investment, is widespread. Because of round-tripping, official statistics tend to overestimate genuine FDI inflows.

14. Financial services and manufacturing (for the most part metallurgy and food processing) together account for 53% of the total inward FDI stock, with trade and repair representing an additional 13%. Despite the country's comparative advantage in agriculture, this sector has a very modest share of the total FDI (1.3%). EU27 countries are the main source of Ukraine's FDI, representing over 75% of the total stock. The principal mode of entry is acquisition, including through privatisation deals, although the privatisation process has stalled in recent years.

15. There are fewer foreign-owned companies among the largest Ukrainian companies (7 out of 32 in 2014, based on Deloitte CE Top 500 rating) than in almost all of Ukraine's neighbours in Eastern Europe. Nevertheless, foreign-owned enterprises have also come to play a significant role in the economy of Ukraine. In 2012, Multinational enterprises (MNEs) from the European Union accounted for about 200 000 employees in Ukraine, while MNEs from the United States of America employed an estimated 26 000 employees. Foreign-owned enterprises dominate mobile telephony: mobile operators are currently deploying their 3G network across the country. They are also prominent players in Agribusiness, Consumer products, Banking and Retail distribution. Arcelor Mittal owns one of the largest integrated steel companies in Ukraine.

The status of infrastructure and finance

16. Sound infrastructure development policies ensure that scarce resources are channelled to the most promising projects. In Ukraine, insufficient investment in energy and deficient infrastructure, in particular in transport, are increasingly hindering the country's competitiveness. The road network is one of the deadliest in Europe. In addition, while the country boasts a world-class airport in Kyiv International Airport, its railways lag behind in terms of the quality and efficiency of the network. Attempts at attracting private investment in ports and terminals have produced limited results.

17. The authorities recognise that much larger private sector participation is needed and are committed to address infrastructure bottlenecks. The little experience with Public Private Partnerships (PPPs) compounds the lack of expertise in managing such complex transactions. The intricate legal framework for PPPs means that their preparation is very burdensome, with decisions from various different bodies required. However, a reform to improve this legal framework is currently discussed in parliament. In this context, this review emphasizes the challenges and risks of these complex instruments and draws on recent OECD recommendations regarding PPPs in Ukraine to provide some advice.

18. In a similar vein, effective financial sector policies provide a stable environment that facilitates households, enterprises and entrepreneurs to realise their investment plans. Access to finance (especially access to medium and long maturities loans) remains an important obstacle to higher corporate investments and SME growth in Ukraine. Some foreign private-owned banks, traditionally the main lenders to SMEs in Ukraine, exited the market in the aftermath of the 2008-

2009 crises, while others have been decreasing the size of their balance sheet. The situation deteriorated dramatically in 2014, with a 31% contraction of domestic credit outstanding in real terms and a withdrawal of deposits from the banking sector. The state of the banks, especially those owned by domestic conglomerates, remains fragile, while the stock exchange and non-bank financial institutions (dominated by insurance companies) are still at an early stage of development. The incomplete credit information system causes high transaction costs (and thus higher interest rates), while long, costly and unpredictable judicial proceedings for contract enforcement impedes the ability of banks to take security and enforce it effectively.

19. Ukraine is currently undertaking numerous significant reforms that could, if properly implemented, lay the conditions for a sustainable growth of the financial sector. The recapitalisation of the banking sector is under way: systematic asset quality reviews of banks have been undertaken, resulting in mandatory recapitalisation plans or resolution of establishments with insufficient capital. The current crisis episode should therefore result in a necessary consolidation of the banking system. The bank resolution framework is being strengthened and the capacities of the Deposit Guarantee Fund (DGF) reinforced. The National Bank of Ukraine (NBU) has gained new supervisory powers and will closely monitor related party lending, while new legislation toughened disclosure requirements regarding bank ownership. Finally, the new unified registry of credit history should improve Ukraine's credit information system.

Exceptions to the OECD National Treatment instrument

20. Two categories of restrictions apply to foreign investment activity in Ukraine. The first relates to restrictions that are applied to both established companies with foreign capital and domestic companies with no foreign ownership (i.e. non-discriminatory). The second category relates to certain restrictions applicable only to foreign investment or companies with foreign ownership (i.e. discriminatory). Ukraine's investment policy in this area follows two approaches: Ukraine applies rules on ownership that prohibit foreigners to own a company or operate in a specific sector; it also has rules on acquisition, which regulate the extent a foreigner can acquire stakes in a company operating in a given sector.

21. For instance, foreign companies (Ukrainian legal entities with foreign investment) are not authorised to own agricultural land and any acquisition of state and municipality land by foreign legal entities is subject to approval by the Cabinet of Ministers. The 1992 privatisation law also prohibits investment in the privatisation of state and municipal property by companies that are more than 25% equity-owned by a state (i.e. by a foreign state or by the state of Ukraine). Foreign ownership of mass media companies and news information agencies is limited to a maximum of 35% of the charter capital. The number of such restricted industries is nevertheless rather limited and is expected to decrease even further, except for those sectors that are seen by the Ukrainian authorities as national security sensitive due to the on-going tensions with the Russian Federation.

Responsible business conduct and the OECD Guidelines for Multinational Enterprises

22. The OECD Guidelines for Multinational Enterprises (OECD Guidelines), which form a part of the OECD Declaration on International Investment and Multinational Enterprises, are recommendations on responsible business conduct (RBC) addressed by adhering governments to businesses operating in or from their jurisdictions. The Guidelines set out principles and standards in all major areas related to good business practices, including information disclosure, human rights, employment and industrial relations, environment, bribery and corruption, consumer interests, science and technology, competition, and taxation.

23. Upon adherence, Ukraine will establish a National Contact Point (NCP) for the OECD Guidelines as a dedicated unit within the Ministry of Economic Development and Trade (MEDT), which led Ukraine's adherence process to the OECD Declaration. The Ministry's functions are broad and include, among others, implementation of the EU-Ukraine Association Agreement, cooperation

with international financial organisations, strategic planning and regulatory policy, public-private partnerships, and trade, investment, and entrepreneurship policy. In the government's view, MEDT's combined experience, breath of responsibilities, and available resources create the appropriate conditions to establish a robust, transparent and easily accessible NCP that is capable of fulfilling all of its functions effectively. The NCP will initially be staffed by two experts from MEDT that participated in all RBC-related activities organised as part of the adherence process. An action plan has been identified for the NCP's first year of functioning; actions, among others, include quarterly information and promotion activities with a wide range of stakeholders, and outline the initial procedures for how the NCP will handle specific instances.

24. The concept of responsible business conduct is relatively new in Ukraine. RBC-related activities so far have mostly been undertaken by the private sector and civil society. While there is no comprehensive national strategy on RBC or public policies targeting responsible business conduct in specific sectors, the ongoing economic and social reforms that aim to bring Ukraine close to international standards in fields such as human rights or labour relations represent a positive step in shaping and strengthening Ukraine's policy framework that affects and enables RBC. Ukraine's adherence to the OECD Declaration, and, in particular, the establishment of an NCP, will be an opportunity to further promote RBC principles and standards, both within the government and with the wider public and to further clarify and set out the government's expectations on responsible business conduct.

25. In specific areas covered by the OECD Guidelines, corporate governance requirements, including on disclosure and reporting, are still evolving in Ukraine. The existing legislation mainly requires disclosure of financial information. Disclosure is an integral part of RBC and corporate governance. Clear and complete information on the corporation is important to a variety of users, from shareholders to workers, local communities, governments and the society at large. The government has a leading role to play in enhancing transparency and accountability in the overall market and would benefit from clarifying the requirements on disclosure, including disclosure of non-financial information.

26. Ukraine has undertaken concrete steps toward improving the human rights situation. It has ratified all the major international instruments on human rights, as expressed in the International Bill of Human Rights and has an established office of the Ukrainian Parliament Commissioner for Human Rights. The first-ever National Human Rights Strategy in Ukraine was approved in August 2015. Ukraine would benefit from including a section on business and human rights in the action plan to implement the Human Rights Strategy, paying particular attention to measures for ensuring the respect of human rights in Ukraine's conflict-affected regions.

27. Ukraine has ratified 69 ILO International Labour Standards (Conventions), eight fundamental Conventions and the four governance Conventions. It is currently in the process of introducing major changes to its existing labour legislation. Particular attention should be paid to measures that will increase the labour productivity, while ensuring that the proposed changes are in line with internationally recognised principles and standards on employment and industrial relations. Reducing informality of employment would not only bring substantial benefits to Ukraine's economy, but would also protect workers, increase labour and product market efficiency and productivity.

28. Strengthening environmental protection and responding to major environmental challenges in Ukraine, particularly soil erosion, agricultural run-off, and low energy efficiency, would bring immediate benefits to Ukraine. Environmental performance in agriculture and fisheries has declined considerably in Ukraine according to the 2014 Yale Environmental Performance Index compared to 10 years ago, with a respective -22.46% and -10.47% change. Ukraine could consider harmonising its environmental policy to EU standards as part of the obligations under the EU-Ukraine Association Agreement. Strengthening disclosure requirements for environmental and climate change matters is also of relevance.

29. As noted above, corruption remains one of the main risks for businesses operating in Ukraine, even though a number of actions have been taken by the Ukrainian government in response to it. The Anti-Corruption Strategy of Ukraine was updated for 2014-2017 and adopted as a law. The legislation on the National Anti-Corruption Bureau was passed; the President has appointed the head of the bureau and special investigators have been hired. The National Council for Anti-Corruption Policy has been established and held its first meeting, chaired by the President, in October 2015. Businesses are now able to report claims of corruption and unfair practices by Ukraine's public agencies to the Business Ombudsman and the Tax Ombudsman. New rules aimed at preventing corruption in government purchases have also been established. These developments are encouraging and illustrate the willingness on part of the Ukrainian government to acknowledge the problem of widespread corruption and to take practical measures to address it, although many business representatives feel like not much is happening in practice. One area where future reforms could particularly focus on is strengthening the involvement by the private sector in the implementation and monitoring of efforts to promote integrity in the private sector.

30. Reforms have been undertaken in the area of consumer interests. The newly established State Food Safety and Consumer Protection Service, which will be directed and coordinated by the Cabinet of Ministers, will focus on food safety, consumer protection, advertising laws and regulations, sanitary legislation, plant, veterinary and agricultural certifications and market supervision. Regarding consumer protection, the service, among other things, will be able to check consumer protection compliance and impose penalties in case of violations of businesses, as well as to control advertising compliance. Future activities could involve supporting and promoting consumer education and information programmes in order to increase the capacity of the civil society to be aware of consumer rights, to monitor government policy, and to promote effective defence of consumer rights. Ukraine could make a particular effort to promote sustainable consumption.

31. Ukraine's innovation potential is high; however, the full potential of Ukraine's highly educated workforce is not yet fully tapped due to structural and institutional barriers that prevent Ukraine from realising its full innovative and scientific potential. Reforms in the employment and labour market should yield positive benefits in this regard.

32. According to the World Economic Forum 2015/2016 Global Competitiveness Index, Ukraine has one of the lowest rankings in the world on the effectiveness of anti-monopoly policy - 136 out of 140. Ensuring the impartial and transparent functioning of the Anti-Monopoly Committee of Ukraine and addressing any competition-distorting behaviours in the reform of SOEs should bring benefits to Ukraine.

33. Ukraine introduced significant tax reforms in 2015. As related to RBC, tax governance and tax compliance should be treated as important elements of enterprise oversight and broader risk management systems and corporate governance. Considering the size of the informal economy in Ukraine, the government should consider assessing if taxes and unified social security contributions represent excessive burdens on those in the formal sector relative to the informal sector.

The road ahead

34. Provided sweeping political, economic, social, and government reforms are undertaken, Ukraine has a great opportunity to achieve prosperity and fortify independence. Priorities include that financial stability be fully restored (including the unwinding of foreign exchange administrative restrictions) and that the security outlook improves. As the government seeks a new engine for economic recovery in 2016 and onwards, no effort should be spared to stimulate foreign investment and attract foreign MNEs. In addition, well-targeted policy reforms can increase the quality and quantity of private investment, especially in infrastructure where it can be a significant complement to public investment. These efforts will have greater chances of succeeding if Ukraine develops a coherent view on the role of foreign investment and MNEs in its development strategy and then applies it consistently and convincingly.

35. In order to attract new investors, the policy and institutional framework for investment promotion needs to be consolidated. To address this, a more detailed strategy and action plan would be required. In the aftermath of the liquidation of the State Agency for Investments and National Projects, more consideration must also be given to the provision of public support to foreign and domestic investors in the form of business services and informational assistance. The government could consider setting up an agency responsible for investment promotion with a clear mandate and adequate funding. The creation of a user-friendly and regularly up-dated online portal specifically designed for potential and existing investors could help investors get information and shed some light on recent legal and regulatory changes and upcoming opportunities.

36. Even through the number and scope of regulatory restrictions to foreign investments is limited, the government could reconsider some of them. It is already planning to revise the 1992 Privatisation Law in order to allow foreign companies that are more than 25% equity-owned by a state to take part in privatisation of State-owned enterprises. This would open privatisation tenders to a broader scope of foreign investors in and thus allow more competition between bidders. Ukraine could also soften strict conditions on the acquisition of non-agricultural land plots outside of settlements by foreign businesses established in the country. Ukraine should consider opening some of its public monopolies (such as railways) to attract private and foreign investments in these sectors and improve productivity. Last but not least, defining clearly the scope of “strategic sectors” that may be closed to foreign investment or subject to special authorisations procedures for national security reasons would reduce any current legal uncertainty concerning foreign investment in these sectors.

37. Anti-corruption policies are also critical for attracting investors and for reaping the development benefits of investment. Although Ukraine has made progress in setting up a legal and institutional framework to combat corruption, enforcement is uneven. More consideration should be given to provide adequate political and financial support to the newly established anti-corruption bodies. The wish to combat corruption effectively can be fulfilled only if they have sufficient resources and are not influenced by undue considerations.

38. Investment treaties are another policy area to help contribute to a sound investment climate for both existing and new investors, Ukraine should consider updating its international investment agreements with a view to ensuring that they well-reflect government intent and emerging trends in investment treaty policy. As part of this strategy, Ukraine and its treaty partners should consider specifying the treaty language of key investment protection provisions, such as on expropriation, fair, equitable, and most favoured-nation treatment. With regard to investment arbitration proceedings, Ukraine and its partners should provide for adequate levels of regulation and ensure that they respect minimum standards of transparency and accountability. A first valuable step could be for Ukraine to adhere to the UN Convention on Transparency in Treaty-Based Investor-State Arbitration. The review provides useful information on the temporal validity of Ukraine’s international investment agreements, which could inform the country’s timetable to engage with its treaty partners.

39. Finally, Ukraine’s newly established NCP could serve as a valuable vehicle for bringing about policy coherence on a wide range of issues that affect the quality of the investment environment, including, for example, labour relations and corporate governance. A robust NCP, one that has adequate human and financial resources to operate effectively, also has the potential to shape the quality of incoming investments, contributing to a more stable and predictable investment environment based on a level-playing field. Should the government decide to set up an agency for investment promotion, a partnership between the NCP and this agency would ensure that investors are fully aware of Ukraine’s expectations on responsible business conduct.

Box 1. Policy recommendations

- Define the strategic sectors in which foreign investment is prohibited or subject to specific authorization procedures; specify relevant authorization procedures, including the conditions/documents required for applications and the deadline for reply to applicants by the responsible authority.
- Observe the guiding principles of non-discrimination, proportionality, transparency and accountability in implementing investment measures related to national security, as expressed in the 2009 OECD Guidelines for Recipient Country Investment Policies relating to National Security and consider the formal acceptance of these recommendations.
- Clarify the notion of control of “residents from countries undertaking armed aggression against Ukraine and/or creating conditions for armed conflict or use of military force against Ukraine” in the Law “ On Licensing Types of Economic Activity” (in particular, whether indirect control falls under the scope of this provision). Ensure that different licensing authorities apply this provision consistently.
- Issue the implementing legislation to mainstream electronic registration.
- Continue the process of business simplification, especially about permit procedures.
- Abolish the moratorium on agricultural land ownership and accelerate the implementation of the unified registration of land and real estate property.
- Ensure that the recommendations of the Business Ombudsman Council based on the analysis of issues that are brought to its attention are taken into account to effectively tackling concrete problems faced by new and established investors.
- Develop and publicize a detailed strategy and action plan for investment promotion and consider setting up an agency responsible for investment promotion with a clear mandate and adequate funding. This would include the creation of a user-friendly and regularly up-dated online portal specifically designed for potential and existing investors to help investors get information and to shed some light on recent legal and regulatory changes and upcoming opportunities. The role of the NCP and the expectations on responsible business conduct, as outlined in the OECD Guidelines for Multinational Enterprises, should be adequately reflected in these efforts.
- Ensure that the principles contained in the Instrument on International Investment Incentives and Disincentives are observed, in particular concerning the importance for adhering countries to evaluate the costs and benefits of incentives with a view of meeting their investment promotion objectives.
- Carry out a thorough costs-benefit analysis before reintroducing the preferential investment regimes in priority development territories and industry parks.
- Finalise refunding of VAT arrears and improve VAT administration as foreseen by the IMF agreement and the government’s plan
- Develop implementing regulations to make possible the rapid and effective application of the law on public-private partnerships. Improve the regulatory framework of PPPs (Public-Private partnerships) in line with international standards to strengthen existing guarantees granted to private investors while ensuring its overall coherence.
- Strengthen the dedicated PPP unit under the Ministry of Economic Development and Trade, and give it resources to engage in technical support and capacity building of officials dealing with PPP Projects (including at the subnational level). Given the lack of practical PPP experience, focus on

projects where technical and other risks are well understood, such as basic infrastructure.

- Pursue ongoing financial regulation reforms, including the reinforcement of the supervisory capacity of the NBU and the NCSSM, since new regulatory powers are to be transferred to these institutions. Strengthen corporate insolvency and credit enforcement mechanisms, in particular the enforcement of collateral by creditors.
- Establish a general credit guarantee scheme focused on SMEs and based on best practice in transition countries.

Box 2. Recommendations on responsible business conduct

- Consider developing a national action plan or strategy on responsible business conduct, based on the OECD Guidelines for Multinational Enterprises and in line with international good practice. Ensure, as a matter of policy coherence, that the extent of business responsibilities on environmental and social matters is considered during the ongoing reforms.
- Streamline and clarify corporate governance requirements, including also on disclosure of non-financial information.
- Consider including a section on business and human rights in the action plan to implement the National Human Rights Strategy of Ukraine, paying particular attention to measures for ensuring the respect of human rights in Ukraine's conflict-affected regions.
- Adhere to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas at the same time as the OECD Declaration in light of the importance of the mining sector in Ukraine.
- Finalise employment and labour market reforms, paying particular attention to measures that will reduce the rates of informal employment, skills mismatch and labour mobility.
- Strengthen environmental protection, paying particular attention to the most urgent environmental issues such as soil erosion, agricultural run-off, and low energy efficiency.
- Continue the ongoing reforms to combat corruption and consider strengthening the involvement of the private sector in the implementation and monitoring of efforts to promote integrity in the private sector as outlined in the 2014-2017 Anti-Corruption Strategy of Ukraine.
- Consider introducing initiatives that promote consumer education and information programmes in order to increase the capacity of the civil society to be aware of consumer rights, to monitor government policy, and to promote effective protection of consumer rights. Particular efforts could be made to promote sustainable consumption.
- Ensure that competition-distorting behaviours are adequately addressed through impartial and transparent functioning of the Anti-Monopoly Committee of Ukraine and ongoing SOEs reforms.
- Considering the size of the informal economy in Ukraine, consider assessing if taxes and unified social security contributions represent excessive burdens on those in the formal sector relative to the informal sector.

Table of content of the Investment Policy Review (forthcoming)

INTRODUCTION, ASSESSMENT AND RECOMMENDATIONS.....	
Ukraine’s policy framework for investment.....	
The role of FDI in the economy of Ukraine.....	
The status of infrastructure and finance.....	
Exceptions to the OECD National Treatment instrument.....	
Responsible business conduct and the OECD Guidelines for Multinational Enterprises.....	
The road ahead.....	
CHAPTER 1. THE ROLE OF FDI AND MULTINATIONAL ENTERPRISES IN UKRAINE’S ECONOMIC DEVELOPMENT	
1. Introduction.....	
2. Recent developments of the Ukrainian economy.....	
Ukraine is not integrated in Global Value Chains.....	
3. The role of Foreign Direct Investment in Ukraine’s development	
Recent FDI trends.....	
FDI by country of origin.....	
FDI in Ukraine by sector.....	
Notes.....	
References.....	
CHAPTER 2. THE POLICY FRAMEWORK FOR INVESTMENT IN UKRAINE.....	
1. Overview of national investment-related legislation.....	
Establishment procedures and permits – complex but progressively simplified.....	
Efforts to reduce administrative burden are producing results and should be pursued.....	
Problems persist with ownership registration for land and other forms of property.....	
Enforcement of contracts is affected by the poor state of the judiciary.....	
Expropriation has been rare.....	
State-owned enterprise reform is a priority, privatisation programme gaining new momentum..	
New policies are being enacted for the purpose of creating a more transparent and efficient	
environment for public procurement.....	
2. International investment agreements.....	
Further specification of investment protection provisions would help to better reflect	
government intent.....	
Treatment of domestic and foreign investors.....	
Ukraine’s international investment agreements are starting to be used by policy-makers to	
foster investment liberalisation, sustainable development goals, and responsible business	
conduct	
Ukraine’s legal framework for investor-State dispute settlement.....	
Decisions about review and possible renegotiation of existing investment treaties should take	
account of their temporal validity.....	
3. Investment promotion and facilitation.....	
Persistent political and macroeconomic instability have endangered promotion activities.....	
Institutional framework for investment promotion.....	
Dialogue with investors.....	
4. Investment incentives and the tax system.....	
Inventory of incentive regimes.....	
Special economic zones.....	
Industrial parks.....	
Evaluation of the cost of investment incentives.....	
VAT refund.....	
Ongoing tax reforms.....	

5. Benchmarking Ukraine’s business environment.....
Notes.....
References.....

CHAPTER 3. INFRASTRUCTURE, FINANCIAL DEVELOPMENT AND NATURAL RESOURCES.....

1. Little progress with regard to concessions, but reform ongoing.....
2. Attracting investment in infrastructure is one of Ukraine’s key priorities but they are still legislative and other regulatory constraints on private sector participation.....
Electricity generation, transmission and distribution.....
Natural gas.....
Transport and communications.....
Telecommunications.....
3. Financial sector development.....
Banking.....
Insurance.....
4. Natural resources.....
Notes.....
References.....

CHAPTER 4. UKRAINE AND THE OECD NATIONAL TREATMENT INSTRUMENT.....

1. Exceptions to the National Treatment instrument.....
Exceptions at national level.....
2. Measures relevant to be reported by Ukraine under the National Treatment instrument for transparency.....
Measures at the Level of National Government.....
3. Rationale for the existing restrictions and plans for phasing out them.....
4. Ukraine’s position under the instrument of the OECD Declaration on Investment Incentives and Disincentives.....
5. Ukraine’s position under the instrument of the OECD Declaration on Conflicting Requirements.....
6. Ukraine’s FDI Restrictiveness.....
Index.....
Notes.....
References.....

CHAPTER 5. RESPONSIBLE BUSINESS CONDUCT AND THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES.....

1. Understanding Responsible Business Conduct.....
2. Understanding the OECD Guidelines for Multinational Enterprises.....
3. Ukraine’s National Contact Point.....
4. General Policies for Promoting Responsible Business Conduct in Ukraine.....
5. Policies in Specific Areas Covered by the OECD Guidelines.....
Disclosure.....
Human Rights.....
Employment and Industrial Relations.....
Environment.....
Combating Bribery, Bribe Solicitation and Extortion.....
Consumer Interests.....
Science and Technology.....
Competition.....
Taxation.....

Notes.....	
References.....	

ANNEX A: UKRAINE’S EXCEPTIONS TO NATIONAL TREATMENT IN THE MEANING OF THE OECD DECLARATION ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES.....

A. Exceptions at the national level.....	
I. Investment by established foreign-controlled enterprises.....	
II. Official aids and subsidies.....	
III. Tax obligations.....	
IV. Government purchasing.....	
B. Exceptions at the territorial subdivisions.....	

ANNEX B: MEASURES NOTIFIED BY UKRAINE FOR TRANSPARENCY IN THE MEANING OF THE OECD DECLARATION ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES.....

A. Measures reported for transparency at the level of national government.....	
I. Measures based on public order and essential security considerations.....	
II. Other measures reported for transparency.....	
C. Private or mixed monopolies.....	
I. Public monopolies.....	
III. Concessions.....	

ANNEX C: STATISTICS.....

ASSESSMENT OF UKRAINE’S INVESTMENT POLICY FRAMEWORK: AN OVERVIEW.....	1
Ukraine’s policy framework for investment.....	1
The role of FDI in the economy of Ukraine.....	3
The status of infrastructure and finance.....	3
Exceptions to the OECD National Treatment instrument.....	4
Responsible business conduct and the OECD Guidelines for Multinational Enterprises.....	4
The road ahead.....	6

Tables

Table 1. Percentage of real GDP per sector (System of National Accounts 2008).....	
Table 2. Trade profiles – Ukraine compared to Poland and Turkey.....	
Table 3. Value of announced Greenfield FDI projects 2004-2014.....	
Table 4. Outward FDI Stock positions of selected OECD countries excluding SPEs.....	
Table 5. Major foreign M&A deals in Ukraine, 2005-2015.....	
Table 6. Ownership of Ukraine’s largest companies by turnover (USD million).....	
Table 7. ISDS Cases against Ukraine.....	
Table 8. Claims by Ukrainian investors against Foreign States.....	
Table 9. Ukrainian International Investment Agreements and their temporal validity.....	
Table 10. Ukraine: structure of the banking sector.....	
Table 11. Estimated Turnover of OECD Affiliates in Ukraine (2012).....	
Table 12. Estimated number of employees of OECD Affiliates in Ukraine (2012).....	

Figures

Figure 1. Structure of Ukrainian exports.....	
Figure 2. FDI Inflows, outflows and net inflows (2004-2014).....	

Figure 3. FDI inflows (gross) as a percentage of GDP in Ukraine, Poland, and Turkey for selected years.....	.....
Figure 4. FDI inward stock per capita, 2014.....	.....
Figure 5. Inward FDI Stock by country of origin (June 2015).....	.....
Figure 6. Employment and turnover by foreign affiliates from OECD countries in Ukraine (2012).....	.....
Figure 7. Inward FDI Stock by sector (June 2015).....	.....
Figure 8. Distance to frontier.....	.....
Figure 9. Average distance to frontier .....	.....
Figure 10. Ukraine: distance to frontier across indicators (Doing business 2016) .....	.....
Figure 11. Ukraine's score across the six dimensions of the Logistics performance index (2014).....	.....
Figure 12. Ownership structure of the banking sector.....	.....
Figure 13. 2015 FDI Indices by country.....	.....
Figure 14. Ukraine's score across the six dimensions of the Logistics performance index (2014).....	.....

Boxes

Box 1. Policy recommendations.....	.....
Box 2. Recommendations on responsible business conduct.....	.....
Box 3. Global Value Chains and investment policy: key OECD messages.....	.....
Box 4. Ukraine's Foreign Direct Investment Statistics.....	.....
Box 5. The Cyprus* - Ukraine Investment Relationship.....	.....
Box 6. The Policy Framework for Investment.....	.....
Box 7. Common features of international investment agreements .....	.....
Box 8. Two approaches to specifying and limiting the FET provision.....	.....
Box 9. Public scrutiny of international investment agreements.....	.....
Box 10. Claims for reflective loss.....	.....
Box 11. Transparency of arbitral proceedings.....	.....
Box 12. Reforming an Investment Promotion Agency – the case of Chile.....	.....
Box 13. Addressing problems faced by businesses: the Business Ombudsman Council of Ukraine in practice.....	.....
Box 14. Key challenges for developing Public-Private Partnerships.....	.....
Box 15. Legal and regulatory framework of access to finance: highlights from the SME Policy Index: Eastern Partner Countries 2016.....	.....
Box 16. The Declaration on International Investment and Multinational Enterprises.....	.....
Box 17. Calculating the OECD FDI Regulatory Restrictiveness Index.....	.....
Box 18. International Convergence and Coherence on RBC Expectations.....	.....
Box 19. How Responsible Agricultural Supply Chains Can Contribute to Sustainable Development.....	.....
Box 20. Promoting Integrity in the Private Sector - Anti-Corruption Strategy of Ukraine.....

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