

Thematic session “Business Environment and Investment Climate”

Discussion paper

During 2020-2021 the global and the Ukrainian economy faced economic challenges caused by the COVID-19 pandemic. In response, the Cabinet of Ministers of Ukraine approved the 2020-2022 National Economy Stimulus Plan to overcome the impact of the restrictive measures aimed at preventing the occurrence and spread of the disease. The actions of the Stimulus Plan aim to respond to systemic and COVID-19 related economic challenges, ensure macro-economic stabilization and sustainable economic development. Reforms have still continued during the pandemic with decentralization, digitalization, privatization, and the establishment of a land market as the main success stories created with strong support of international partners.

“Ukraine-2030 Strategy” has been adopted on March 3, 2021, and defines 20 vectors and targets of state policy focusing on creating a competitive market environment and attracting investments. It includes such priority areas as strengthening the rule of law, fighting corruption, decentralization, reforms in energy sector, corporate governance of SOEs, antitrust regulation, investments attraction, simplification of architectural control and development of eco-industrial parks. Implementation of the Ukraine-EU Association Agreement, including DCFTA, is crucial for the Strategy objectives to be achieved, as is the progress in social sector reforms (education, healthcare and pension system). Systemic digitalization of the state services creates transparency and reduces opportunities for corruption. Decentralization gives local communities significant financial and property resources, opportunities for economic development and attracting investment.

Investment climate

Ukraine ranks 64th in the ease of doing business according to “Doing Business 2020” report, moving up seven positions compared with the previous year. The Government committed to an ambitious plan to improve investment climate further with the adoption of the “Ukraine-2030 Strategy”. The Ukrainian Parliament has adopted several important laws, namely on the state support for investment projects with significant investments in Ukraine and on the Bureau for Economic Security, which will reduce the pressure on business from law-enforcement agencies and consequently improve the investment climate in Ukraine. Unfortunately, corruption and lack of trust in the judiciary remain main obstacles for doing business and priority area for reforms. Simplification of the tax administration and introduction of the New Computerised Transit System (NCTS) for customs clearing are key tasks, which will reset the business climate for taxpayers complying with the law and will eliminate opportunities for unfair competition.

Progress was achieved in the area of public-private partnership, namely by creating a legal framework for development of big infrastructure projects, including concession of seaports. A major breakthrough for SMEs is improved access to credits within the state program 5-7-9, which is supplemented by measures of de-shadowing of the economy through fiscalisation of incomes for entrepreneurs through the mandatory introduction of electronic cash registers. Another important area of reforms include liberalization of the labor market, optimizing the function of

state agencies and updating the employee status according to the modern challenges of remote work.

- *What suits better for investments attraction – economic stimulus and tax preferences or ready-made investment products (eco-industrial parks, technological clusters, accelerators, etc.)?*
- *How can Ukraine become an industrial hub for European partners?*
- *Respect and enforcement of the rule of law, accountability and independence from vested interests and fight against corruption are key objectives to improve business climate and to attract foreign investment. What concrete steps should be taken to send an encouraging message to the foreign investors?*
- *What types of EU best practices can be implemented in the Ukrainian economic and legal system with regards to property and investors' rights protection and improving business climate?*

Privatization and corporate governance of SOEs

Inefficient and non-transparent management of SOEs has rendered many of them underperforming by creating conditions for inherent corruption and economically unjustifiable state monopolies. To tackle these problems, the government must optimize its own footprint in Ukraine's economy by launching large-scale privatization, introducing efficient corporate management in strategic SOEs, and liquidating non-operational facilities.

Progress has been achieved in privatization of small objects and other material assets in all regions of Ukraine. State Property Fund reported UAH 2 billion raised. Receiving of additional income is anticipated after the Parliament removed the restrictions due to the COVID-19 pandemic, paving the way for the large-scale privatization.

However, none of the large SOEs has been privatized so far. The framework law on privatization adopted in January 2018 needs revision by the Parliament in 2021. Six largest state-owned enterprises were prepared for privatization during 2019-2020, and four of them are ready to be privatized in 2021.

SOEs corporate governance reform has to continue in order for Ukraine to align to the OECD Guidelines and successfully conclude with its request to adhere to these guidelines. Focus should be given to strategically important SOEs as well as those that need to improve their performance in preparation for future privatization. The Government needs to ensure SOE supervisory boards' independence and empower them to exercise their duties, while defining clear criteria for the appointment, evaluation and dismissal of supervisory board members. The Government has approved almost all individual ownership policies for the top-15 SOEs. Ukraine should now develop an overarching ownership policy of SOEs that would provide the overall rationale for state ownership and the role in the governance of SOEs. This ownership policy should also provide a list of SOEs of strategic importance for the economy or state security, and define which SOEs are intended to remain under full or partial state ownership.

- *After the Parliament approves the list of the objects banned for privatization further systematic sorting of enterprises for privatization, public-private partnership, or other types of rehabilitation will become possible. How will transparency of privatization be ensured?*

- *Risks to good corporate governance of SoEs gives reason for concern, taking into consideration Ukraine's commitments to OECD Guidelines and IMF/EU macro-financial assistance conditionality. What are the next steps in aligning with the OECD Guidelines and development of an overarching ownership policy for SOEs?*

Land reform

Adoption of Land Turnover Law provides staged opening of the land market from July 2021 onwards. Ukrainian citizens will be allowed to purchase agricultural land of up to 100 hectares until end of 2023. No legal entities can obtain land during this time, except banks, which will be allowed to accept land as collateral but are obliged to alienate such land within a period of 2 years. The moratorium on state-owned land sales will stay in place during this initial period. From January 1, 2024, the Ukrainian citizens as well as the Ukrainian legal entities will be allowed to purchase agricultural land of up to 10,000 hectares. Foreign citizens and legal entities are barred from ownership until referendum decision not earlier than in 2024.

State Land Cadaster and the State Register of Real Estate Rights are being modernized and digitalized, and inventory of public agricultural land has been conducted. Legislation on land decentralization and deregulation to expand the powers of local communities, and on electronic land auctions for the transparent disposal of public land has also been approved.

At the final stage is the adoption of legislation on the procedure for the creation of a Partial Credit Guarantee Fund, and the privatization of land of the state agricultural enterprises. The government is updating and unifying the methodological principles of monetary valuation of land, as well as initiating the adoption of legislation on land consolidation, which aims to improve the conditions for agribusiness.

- *Raising awareness among small farmers and making sure they get financial backing from the start will be crucial in order to support small farmers and provide the agricultural sector with long-term investments for the development of high value-added industries (livestock, horticulture, viticulture, vegetable growing, food processing) – what measures are envisaged?*
- *How the issue of unregistered land which is used under informal arrangements and which is source of raider attacks in rural areas will be addressed?*
- *What are the plans to restructure state institutions and eliminate bottlenecks to ensure transparency and prevent corruption, and to provide landowners with unbiased advice and access to the legal system?*

Energy sector reform

Energy sector reform remains one of the Government's priorities because of its direct influence on all branches of the economy and investment attractiveness. Ukraine continues the integration of its gas infrastructure and market with the European energy system. EU companies have increasingly used Ukraine's capacity for both transportation of gas between the EU Member States and gas storage, relying on Ukraine's wholesale market and operation of gas infrastructure in line with the EU rules. Transparency in electricity sector has improved after introduction of a new electricity market design in 2019. The government plans to phase-out cross-subsidization of electricity supply and to improve electricity market functioning. Significant efforts are directed towards simplification of grid connections for businesses and individual household suppliers.

Completion of the energy market reforms, including in the retail sector, as well as improvements of market efficiency, governance and stabilization of the financial framework are necessary in order to improve liquidity and to attract the necessary investments in modernization of the energy sector. Decarbonisation of the energy sector, including development of renewable hydrogen, increased energy efficiency in all sectors of economy, and protection of the Ukrainian interests connected with the Nord Stream-2 are the most significant challenges, which Ukraine should overcome with the strong support of international partners.

- *How to find a balance in attracting investments to renewables and keeping economically justified tariffs for end consumers?*

European Green Deal

Ukraine shares and fully supports the climate ambitions of the EU and the Ukrainian government has repeatedly declared its willingness to join the EU Green Deal. Ukraine has undertaken obligations in the field of combating climate change, in particular in the framework of the Association Agreement, the Energy Community, and the Paris Agreement. Ukraine has identified areas of common interest with the EU, which include energy efficiency, hydrogen, transition of coal regions, sectoral alliances, and climate governance architecture.

Ukraine faces several significant challenges it must address as the low energy efficiency and high carbon intensity of its economy, phasing out fossil fuels, decoupling economic growth and energy/ carbon emissions and investing in the green transition. The biggest challenge for Ukraine is related to financing the green transition in both the public and private sectors. The Ukrainian government is working on a gradual transformation of the national economy and the energy sector towards carbon-neutrality. The commitments to be set out in the updated Nationally Determined Contribution will determine the path of development and decarbonization of Ukraine's economy in the next 10 years and will cover all sectors. A robust long term strategy (mid-century low emissions development strategy - LEDS) is the natural next step.

- *What are the challenges and opportunities of Ukraine's green transition?*