



**ROUNDTABLE ON ENTERPRISE DEVELOPMENT AND INVESTMENT
CLIMATE IN UKRAINE**

Kiev, 13 June 2006

SUMMARY OF DISCUSSIONS

Introduction

The roundtable was organised within the OECD-EC project on *“Improving the conditions for enterprise development and the investment climate for domestic and international investors in Ukraine”*. The meeting was co-hosted by the UNDP. The objective of the roundtable was to present main findings of the project carried out in 2004-2006 and discuss related policy recommendations with Ukrainian representatives.

More than 60 participants took part in discussions, including the representatives of the (new elected) Verkhovna Rada of Ukraine, government officials from the central and regional governments, governmental agencies as well as representatives of the business community and international experts (see the list of participants).

The meeting was divided in the three sessions, corresponding to the main components of the OECD-EC project, namely:

- Legal framework for business operations
- Financial markets and their role in creating favourable investment climate
- Investment and regional development.

The meeting was introduced by Mr. Rainer Geiger, Deputy Director of the OECD Directorate for Enterprises and Financial Affairs. He observed that whereas Ukraine has achieved some progress in particular in macroeconomic stabilisation, started attracting more foreign investment and is closer to WTO accession, many issues, including a number of policy recommendations suggested in the 2002 OECD Investment Policy Review, have not yet been addressed. The future government thus should set up clearly its priorities and time-bound reform targets. The OECD can contribute to this process by providing the evaluating tools such as the recently developed Policy Framework for Investment, which offers a coherent policy framework covering several areas, including for example competition, investment policy and the fight against corruption.

Mr. Francis O'Donnell, UNDP Resident Representative in Ukraine, noted that the issues discussed at the roundtable, especially the role of the financial sector and the conditions of the favourable business climate, are the key priorities for Ukraine to realise its FDI potential. These subjects will also be subject to the forthcoming UNDP study to be issued in July 2006. He expressed a hope that the new Rada and the government will adopt a more pro-active reform approach, using more intensively the experiences of other transition economies, for example in South-East Europe and the expertise of international organisations, including UNDP and the OECD.

Mrs. Natalia Prokopovych, People's Deputy of Ukraine, agreed that the general consensus of most stakeholders on current shortcomings and recommendations how to address them should now be translated into strong reform commitments by the Rada and the government, developed in close interaction with the civil society and with the assistance of international donors and organisations. She also stressed the role of the regions in these efforts and the need for better co-ordination between the central and

regional governments. In his keynote presentation, Professor Marek Dabrowski, Chairman of the Council, Centre for Social and Economic Research (CASE), highlighted main insufficiencies in Ukraine's business climate, in particular barriers to entry, lack of stability and transparency of the legal system and its unsatisfactory enforcement, poor quality of state institutions, especially of the judiciary and tax administrations as well as underdevelopment of the financial system and infrastructures.

Session 1: Legal framework for business operations

The session was moderated by Mrs. Irina Paliashvili, Director of the Russian-Ukrainian Legal Group, which participated in the OECD-EC publication on "*Legal Issues with regard to Business Operations and Investment in Ukraine*" (October 2004). She emphasised that the everyday experience of legal firms working with foreign investors confirms that most problems faced by foreign operators in Ukraine are unresolved, in particular the Civil Code remains business-unfriendly and the existing permit system represents a major barriers to starting business activities. Given that a number of CIS countries, including Russia and Kazakhstan, adopted the EU model in these areas, Ukraine has been loosing FDI attractiveness vis-à-vis its main competitors. An additional administrative burden for business operations is the currently extremely low monetary threshold for transactions requiring prior approval by the Ukraine's anti-monopoly administration.

Mr. Igor Zaglada, Director of the Ukrainian Centre for Foreign Investment Promotion, outlined the main objectives of this structure, which is a part of the Ministry of Economy and seeks to use best practices and methodologies for attracting FDI developed for example in Ireland and the Czech Republic, in particular as regards better access to land and establishment of industrial zones. He also informed the participants that Ukraine will put in place the system for extra-judicial resolution of disputes, including the function of FDI ombudsman. Mr. Daniel Bilak, UNDP counsellor and advisor to the Minister of Justice, focussed on several most burning issues related to functioning of the judiciary system, especially the long delays for approval by the judges of changing the corporate structure, low proportion of enforced judgements (less than 30%), inadequate mechanism for registration of property rights and bad quality and misuse of notarisation acts.

Two representatives of the business community, Mrs. Margarita Karpenko (Managing Partner, DLA Piper Ukraine LLC) and Mr. Andrei Pleskonos (General Director, Kodak Ukraine) provided several concrete examples of barriers faced by foreign investors operating in Ukraine, for instance registration of property rights, problems with enforcement of judgement regarding non-payments, taxation, foreign exchange regulations, certification and wide-spread corruption.

Session 2: Financial markets and their role in creating favourable investment climate

The moderator of this session Mrs. Ewa Sadowska-Cieslak introduced discussions by presenting main channels through which the financial system participates in encouraging

(domestic and foreign) investment and highlighting the areas where Ukraine's financial markets still do not fulfil this objective. Mr. Balazs Zsomboki from the Central Bank of Hungary summarised his country's experience with financial liberalisation, showing in particular the positive and stabilising role of opening of the banking sector to foreign investment. Mr. Igor Yakovenko, UNDP expert, enumerated main obstacles that prevent normal functioning of the financial markets in Ukraine, in particular the absence of the law on joint stock companies, dissuasive tax system, the lack of the schemes for special economic zones and concessions, nonexistent institutional structures such as state agencies for guarantees and anti-money laundering as well as underdeveloped banking and insurance sectors. Ms. Irina Golodniuk, Executive Director of CASE-Ukraine, demonstrated the underdevelopment of Ukraine's financial markets by comparing them to some transition economies, in particular Poland, Hungary and the Czech Republic, based on several indicators such as the share of stock market turnover and banking assets in GDP, the level of liquidity and competitiveness.

As in the previous session, there was a general agreement on the assessment of current weaknesses of Ukraine's financial markets and also on main avenues how to redress them. Participants also shared the view that the lack of political will and lack of trust of Ukrainian population in the banking sector have so far prevented significant progress in this area.

Session 3: Investment and regional development

The session, moderated by Mrs. Ekaterina Travkina from the OECD, was introduced by the presentation of the study on the Lviv region by Mr. Jonathan Potter, Senior Economist in the OECD Centre for Entrepreneurship, SMEs and Local Development. He first explained the process of elaboration of the study developed in close co-operation with regional authorities and outlined main recommendations concerning both the objectives and the means to enhance the region's FDI attractiveness and encourage linkages between FDI and regional economy. Mr. Petro Radchuk, Head of the Department for Investment Policy and Economic Relations in Lviv Regional Administration, observed that a number of comparative advantages of the region, in particular cheap labour and land are not fully exploited given other deterrents, especially high customs duties on raw materials. He admitted that whereas the regions have important responsibilities in FDI promotion, the contribution and support by central authorities remain crucial, in particular the introduction of duties and tax exemptions and more active de-regulation policy.

The representative of Ukraine's Institute for Reform presented the surveys on the regional FDI promotion programmes and regional FDI attractiveness rating. The surveys show large differentiation among Ukrainian regions, including in terms of availability of regional support, and confirm the lack of reliable information on the situation in individual regions. Mr. Bohdan Senchuk, UNDP Senior Advisor, challenged some generally accepted ideas, for example on cheap labour costs in Ukraine and long and costly registration procedures, which in fact often represent an important business for some local law firms. He pledged for using more systematically valuable foreign

experiences. Mr. Yuri Tretyak, President of National Association of Regional Development Agencies (NARDA) drew attention on the considerable mismatch between FDI promotion programmes designed by the regions and their financial and human resources to implement them. He also emphasised that qualification levels are often ill-adapted to the needs of foreign investors, partly due to the highly centralised education and training system.

Participants agreed on the following main priorities for encouraging regional development and investment: continue to adapt the legal framework in accordance with evolving business needs, develop coherent investment and development strategy with clear definition of responsibilities between central, regional and local authorities and foster the links between FDI and regional economies.

Conclusions: Policy recommendations and way forward

Several speakers and participants provided additional insights on the issues discussed during the roundtable. It was stressed that rather than further evaluation studies and general recommendations, Ukraine needs strong political leadership capable to push forward the reform agenda and ensure its implementation. Concrete experiences, including by foreign investors, show that the lack of clearly defined strategy on the national level allows some regions to pursue their own policies and even undertake legislative initiatives contradicting national legislation. The inadequacies of infrastructures, a frequent complaint by domestic and foreign investors alike, need to be addressed urgently, including through private-public partnership schemes. Business representatives also observed that whereas foreign investors continue to request more reliable information on national and local economic situation and the legal and regulatory framework, their investment decisions also depend to a large extent on bad or good experiences of other investors.

In his concluding remarks, Mr. Rainer Geiger summarised discussions and proposed several policy recommendations in main areas discussed at the roundtable:

- In its 2002 Investment Policy Review of Ukraine, the OECD noted that Ukraine is “a miracle in waiting” and this assessment continues unfortunately to apply given that most recommendations and issues have not yet been fully addressed, in particular in the administrative, judiciary and legal areas, mainly due to the lack of political leadership and consensus.
- In such conditions, further evaluation studies by international organisations are of limited interest and political significance. Ukraine should engage in a self-assessment exercise and set up commitments to time-bound targets. The OECD can contribute to this process by providing comparative benchmarking of reforms and offering a forum for peer review of reform progress.
- **Legal framework for business operations:** the principal task is to reduce existing impediments of the legal system for business and investment, in particular by

abolishing the business-unfriendly Commercial Code and revise the Civil Code in line for example with the Russian Civil Code which is based on the Dutch model.

- **Role of financial markets in creating favourable investment climate:** Experience of other transition economies shows that opening of the financial sector to foreign investment helps overcoming its underdevelopment and improves the range and quality of financial services. Liberalisation of capital movements is not a source of increased vulnerability if accompanied by a sound regulatory and supervision framework for financial markets.
- **Investment and regional development:** the regions have to develop a coherent investment promotion strategy in co-operation and not in conflict with strategic objectives and regulations established at the national level. The regions should focus on encouraging foreign investment linkages with the local economy and developing local infrastructures.