



German
Advisory Group
Ukraine



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German Advisory Group,
German-Ukrainian Chamber of Commerce

Joint report

Unlocking investment through reforms:

Proposals from German business in Ukraine

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About the German Advisory Group

The German Advisory Group on Economic Reforms, which has been active in Ukraine since 1994, advises the Ukrainian Government and other state authorities such as the National Bank of Ukraine on a wide range of economic policy issues and on financial sector development. Our analytical work is presented and discussed during regular meetings with high-level decision makers. The group is financed by the German Federal Ministry for Economic Affairs and Energy.

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About the German-Ukrainian Chamber of Industry and Commerce

The German-Ukrainian Chamber of Industry and Commerce was officially opened in Kyiv in October 2016. The chamber coordinates economic operations of its members, present their interests and provide services to them, support companies and organizations that are not chamber members. The chamber is integrated into a worldwide network of German Chambers of Commerce abroad, which consists of 140 offices in 94 countries. The network's umbrella organization is the Association of German Chambers of Commerce and Industry (DIHK).

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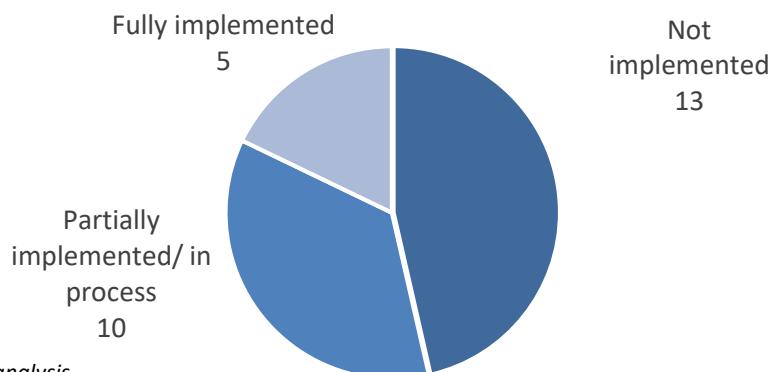
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1. Introduction

In September 2018, the German Advisory Group Ukraine and the German-Ukrainian Chamber of Industry and Commerce (AHK Ukraine) published a joint study with 28 reform proposals of German companies in Ukraine to improve the business climate, attract more foreign direct investment (FDI) and hence accelerate economic growth in Ukraine. As more than a year has passed and a new government has assumed office, it is time to publish an update on this study. For this reason, we have conducted a monitoring of the implementation progress on the reform proposals made last year.

Figure 1. Implementation state of the 28 reform proposals as of November 2019



Our monitoring exercise reveals that significant progress has been made, but substantial work remains to be done. Out of 28 total reform proposals made, five have been fully implemented and another ten have been partially implemented or are in process of implementation. Hence, more than half of our proposals have been at least partially implemented but, on the other hand, work remains to be done on more than four fifths of the proposals put forward in our original study.

Ukraine's growth challenges, however, remain and the country stands to strongly benefit from implementing these proposals. The government of Ukraine has embraced the need to increase growth by adopting a highly ambitious programme in October of this year, aiming at 40% growth in real GDP and attraction of USD 50 bn in new FDI over 2019-2024. The President of Ukraine has signed an equally ambitious decree in November, tasking the Cabinet of Ministers with conducting substantial reforms, liberalising and opening markets, privatising state-owned enterprises and improving business climate as well as other reforms.

We welcome this reform momentum. The proposals made in this study are perfectly suited to fit into the reform effort as they aim at ensuring the functioning of open and fair markets, improving business climate through solving actual problems of actual investors. The study combines the competences of the German Advisory Group Ukraine with those of the German-Ukrainian Chamber of Industry and Commerce (AHK Ukraine), which was officially opened in Kyiv in October 2016. Currently, the chamber has grown to more than 150 member companies across all sectors of the economy, which are organised in several working groups. The chamber is integrated into a worldwide network of German Chambers of Commerce abroad, which consists of 140 offices in 94 countries. The network's umbrella organization is the Association of German Chambers of Commerce and Industry (DIHK).

2. Methodological Approach

2.1 Design of the Original Study

This study follows a bottom-up approach to generate reform proposals. Based on a questionnaire prepared by the German Advisory Group Ukraine, the different working groups of AHK Ukraine assembled a set of recommendations, which underwent an extensive review and checking process between the author team of the German Advisory Group Ukraine and AHK Ukraine. The review process ensured that proposals are consistent with a general reform direction towards transparent, competitive markets, consistent with pre-existing contractual obligations of Ukraine (such as the EU Association process and other commitments) and contribute to equitable, sustainable growth.

The main aim of the study was to generate proposals for reform that businesses themselves desire and that are relatively easy to implement. The focus was not, as is the case with many other studies, to ask what are the most important reforms that Ukraine needs and neither to analyse “binding constraints” in each field. Our focus was to explicitly also include smaller, incremental reforms that are easy to implement and will lead to noticeable improvements for businesses in Ukraine and their activities. Hence, our bottom up approach has resulted in a relatively large set of recommendations, both of smaller and larger nature, which are unified by a relative ease of implementation.

The reforms are presented in a structure corresponding to the organisation of AHK Ukraine’s working groups. It should be noted that this sector list is not exhaustive and is limited by the existence of working groups within the AHK before September last year, when proposals were collected.

- Horizontal reform proposals that affect all businesses alike are listed in chapter 3:
 - Law: Cross-cutting legal regulations that are not tax and accounting issues
 - Tax and accounting issues
- Sector-specific reform proposals are listed in chapter 4:
 - Financial sector
 - Agri-food sector
 - Construction and Energy Efficiency
 - Logistics and Transport
- Chapter 5 contains a top-ten list of “quick wins” that are especially quickly implementable

2.2 Implementation Monitoring in the Update

In order to monitor the implementation, German Advisory Group and AHK experts jointly reviewed the progress on each individual proposal. Where suitable draft laws have been submitted to the Verkhovna Rada, or parts of the proposal have been finally implemented, proposals were classified as “partially implemented/in process”. If only preliminary steps (such as discussion in working groups) have been taken, proposals were classified as “Not implemented”. Of course, only proposals that have been fully and finally implemented in substance were classified as “fully implemented”. The implementation process of proposals is documented using a “traffic light” system in each chapter summary table and, for each proposal, with standardised boxes including the traffic lights as well as a detailed description of the respective implementation progress.

3. Horizontal Reform Proposals

3.1 Reform Proposals in the Area of Law

The area of law covers all cross-cutting (i.e. non sector-specific) legal regulations that does not fall into the domain of tax and accounting. We have identified four reform proposals in this area.

Table 1. Overview of Reform Proposals in the Area of Law

Number	Title
L-1	● Binding framework for determination of competition law fines
L-2	● Improved execution of court decisions for claims against the state
L-3	● Improving the legal regulation of concession activities
L-4	● Abolition of registration of corporate cars with military enlistment office

L-1: Binding framework for determination of competition law fines

● Not implemented

Draft law #2431 requiring AMCU to set binding rules for calculation of fines was rejected by the Verkhovna Rada in February 2019.

Responsible government institution:

AMCU, Ministry of Justice

Problem statement:

The AMCU's (Ukrainian competition authority) methodology for calculation of fines is not obligatory for the authority when imposing fines. An excessive amount of discretion for the AMCU coupled with a lack of traceability for third parties whether fines imposed have been paid have a negative impact on transparency in antitrust cases, including suspicions of corruption.

Suggested reform measures:

While the AMCU will need to retain some discretion in setting fines in order to reflect particularities of each case, the predictability and transparency of fines magnitudes should be increased. Hence, a document explaining the principles to be used in the setting of any pecuniary sanctions imposed for infringements of competition laws should be published and adopted as a legally binding act for the AMCU. This document should contain both the methodology for calculating a "reference amount" for fines along with a discretionary bandwidth that the AMCU has for finally setting these fines.

Estimation of effect:

Increased transparency of decisions will strengthen confidence in public institutions and their commitment to providing a level playing field for companies, hence strengthening companies' willingness to invest in Ukraine.

L-2 Improved execution of court decisions for claims against the state

● Not implemented

No progress towards implementing this reform has been achieved.

Responsible government institution:

Verkhovna Rada

Problem statement:

Private claims against the state, e.g. tax refunds in areas other than VAT, are often not honoured on time or not at all by the state. Even court decisions against the state are often not executed. According to various sources, execution rates ranged from 8-15% in 2017. Businesses hence are deprived of their liquidity. Several legislative regulations intended to solve this problem, up to criminal responsibility, already exist, but are not observed in practice.

Suggested reform measures:

In order to provide incentives for the state to repay claims on time, and in order to grant to the taxpayer certain compensation, the state shall pay interest rate on due refunds at the same interest rate, as the tax payer. Furthermore, unpaid claims from the last budget cycle should be made "senior" to all expenditures of each new budget cycle for all relevant state institutions.

Estimation of effect:

Ideally, the combination of these two measures will lead to quicker repayment of arrears by the state. At the very least, automatic interest being added to arrears will prevent claimants from losing money due to inflation while waiting for repayment of arrears. If the measures lead to timely repayment of claims, it will lead to two further effects: First, it will increase the liquidity of companies and lead to more investment, activity and fewer insolvencies. Second, the reform will remove a stain on the reputation of government institutions as especially international companies carefully monitor whether government institutions adhere to the law, unlocking additional (FDI) investment.

L-3 Improving the legal regulation of concession activities

Fully implemented

Law 1046 "On Concessions" came into effect in October 2019

Responsible institution:

Verkhovna Rada, Ministry of Economy, Trade and Agriculture, Ministry of Infrastructure

Problem statement:

The procedure for concluding public-private partnership activities in the area of concessions (operation of publicly owned infrastructure or of public services on public ground by a private company holding a concession) is currently too bureaucratic. Applicants have to seek out and define projects themselves, submitting an application that then has to be agreed to by a long list of state bodies ranging from local government bodies up to the Cabinet of Ministers to Ukraine. It is not transparent, how concessions are then finally given out. In result, only relatively few concessions exist (with heavy regional concentrations) and potential applicants are deterred from going through a long and uncertain application process.

Suggested reform measures:

The draft law "On Concessions", which passed at first reading, should be adapted but amended. The present draft, inter alia, introduces a transparent competition procedure for choosing concessionaires, defines the procedure of substitution of the concessionaire (if obligations are not fulfilled) as part of the agreement and enables the engagement of professional advisers and independent experts in complex projects development. The draft law should be further amended to:

- Publish an electronic list of objects that are intended for concessions
- Set clear decision procedures: Which authorities need to agree to in order for objects to be put under concession and for concession agreements to come into effect
- Provide for the reimbursement of the costs for initiating a concessions process of the applicant who has initiated the concessions process by the final winner of the tender
- Facilitate using the proprietary rights under concession agreements as collateral for credit
- Set forth regulations on payments enabling concessionaire to clear debts of a state enterprise owning the concession object
- Define that companies with existing lease agreements can transfer these into concessions without going through a new competition for the remaining duration of the lease agreement
- Subject concessions to the same rules and exceptions regarding currency remittance and banking service issues as other PPP forms
- Stipulate rules concerning the seizure of land plots for the concession's purpose, i.e. to maintain existing regulations on court procedure for seizure of land plots

Estimation of effect:

More participation/interest of solid private companies in concessions will lead to improved performance of public-private partnerships, better delivery of public services through concessionaires and higher income from concessions.

L-4 Abolition of registration of corporate cars with military enlistment office

● Not implemented

Draft law # 8500 abolishing the registration of corporate cars was supported by the relevant Verkhovna Rada committee in October 2018 but was not considered in the plenary and expired when the last Rada's term ended. No similar draft law was introduced in the new Rada.

Responsible institution:

Cabinet of Ministers, Verkhovna Rada

Problem statement:

In addition to normal registration at the traffic authorities, every vehicle belonging to a legal entity has to be registered and de-registered with the local military enlistment office. The procedure is highly bureaucratic, clumsy (only paper documents can be submitted with long waiting times) and contains corruption risks in the contact with military officers.

Suggested reform measures:

Registration at the military enlistment office should be abolished through a law. As all information about the vehicles is already available in the registry of the Ministry of Internal Affairs, it should be provided via automated data exchange to the relevant bodies of the Ministry of Defence.

Estimation of effect:

Reduction of the administrative burden for companies and of instances of possible corruption.

3.2 Reform Proposals in the Area of Tax and Accounting

In the area of tax and accounting, we have identified five reform proposals:

Table 2. Overview of Reform Proposals in the Area of Tax and Accounting

Number	Title
T-1	Combatting fictitious private entrepreneurship
T-2	Eliminating penalties for late/no registration of tax invoices not provided to buyers
T-3	Limit arrests of money on bank/tax accounts in criminal proceedings
T-4	Deleting the article on fictitious entrepreneurship in criminal code
T-5	Clarifying PIT treatment of foreign investment profits

T-1 Combatting fictitious private entrepreneurship

● Not implemented

Despite an initiative by the Ministry of Social Policy in early 2019, no formal steps such as submission of a draft law have been taken.

Responsible institution:

Verkhovna Rada

Problem statement:

Widespread misuse of the Simplified System of Taxation by companies that pay their de-facto employees as “private entrepreneurs” leads to unfair competition. Fictitious private entrepreneurs benefit from not paying Personal Income Tax, Military Duty and Single Social Contribution. Tax compliant companies have a serious disadvantage in competition.

Suggested reform measures:

Based on the German practice, a list of criteria that determine fictitious private entrepreneurship should be included in the Tax Code of Ukraine. If an individual falls under two or more of these conditions, he or she would be deprived of the right to engage in private entrepreneurship under the Simplified System of Taxation and be qualified as employee. Consequently, the respective Personal Income Tax, Social Contributions and corresponding fines should be charged to the employer. The details of these criteria are described in detail in TN/05/2015 “Comments to the Draft Law by the Parliamentary Committee on Taxation and Customs Policy (Draft Law No.3357 of 26.10.2015” of the German Advisory Group Ukraine and relate to issues such as dependency on a single client as well as characteristics of regular employment (working in the premises of and using machinery of the employer, performing work similar to employees of the employer etc.).

Estimation of effect:

The reform would have two main positive effects: First, turning fictitious private entrepreneurs into regular employees would lead to considerable increases in tax and social contributions revenues. This would be sizeable as fictitious private entrepreneurship is estimated to account for approx. 20% of all private entrepreneurs of group 3 in the System of Simplified Taxation. Second, tax compliant companies (most companies with foreign investment, whose governance does not permit using schemes such as employing fictitious private entrepreneurs) would no longer be at a competitive disadvantage to companies benefiting from fictitious entrepreneurship. As this problem is quite severe, the reform would significantly improve business climate and the willingness to invest especially among solid companies that produce for the Ukrainian market and face competition within Ukraine.

T-2 Eliminating penalties for late/no registration of tax invoices not provided to buyers

● Not implemented

No progress towards implementing this reform has been achieved.

Responsible institution:

Ministry of Finance/ State Tax Service

Problem statement:

Currently, penalties are foreseen for taxpayers who either do not or untimely register VAT tax invoices, including VAT invoices that are not provided to buyers, who are not VAT payers themselves. This means that these penalties also apply to taxpayers who sell goods or services to VAT non-payers or end-customers, pay the respective VAT but do not or only lately register the tax invoices. These taxpayers would pay penalties for untimely registration, although they fully complied with their tax liabilities.

Moreover, online VAT registration procedures were recently changed from a 24/7 approach to 12 hours, 5 days per week, while formal acceptance of VAT registration by the system is subject to delays of several hours. Even if a taxpayer registers VAT documents in time, delays in the electronic processing by the government may cause fines to be automatically levied against the taxpayer.

Suggested reform measures:

Penalties should only apply when it is discovered that a taxpayer understated her tax liabilities by not or late registering tax invoices. Point 120-1.1 of Article 120-1 of the Tax Code of Ukraine should be amended to state that, in the part of non-application of penalties for late registration of tax invoices, if there is no understatement of tax liabilities to the State Budget and violation of the rights of other VAT payers, no penalties apply. Secondly, the online VAT registration system should be upgraded to accept, as is technically possible, VAT registrations in real time.

Estimation of effect:

Reduction of administrative burden and costs for companies, move to a more modern and cooperative interaction between taxpayers and the tax authority.

T-3 Limit arrests of money on bank/tax accounts in criminal proceedings

● Not implemented

No progress towards implementing this reform has been achieved.

Responsible institution:

Verkhovna Rada

Problem statement:

Under the Code of Criminal Proceedings, wide-ranging arrests of monetary funds as "evidence" or provision for possible confiscation by pre-trial investigation bodies are permitted in the context of criminal investigations. This includes money on bank accounts and monetary funds of third persons. Moreover, as a matter of practice, it is also extended to the elements within the system electronic administration of VAT (first of all, so-called 'registration limits' within which the taxpayer may issue and register VAT vouchers) even though the arrest of VAT accounts and funds on such accounts is specifically prohibited by the special law back in 2015. This practice is too permissive for pre-trial investigation bodies, contains large corruption risks and may lead to companies having to stop their entire business activity (especially when VAT-related capabilities are arrested) for the duration of such investigations. Furthermore, petitions by the owners regarding the arrest of their funds can be considered by judges without even notifying the owners of the funds.

Suggested reform measures:

The Code of Criminal Proceedings (Art 170, part 10) should be changed to:

- To reconfirm the prohibition of the arrest of funds on VAT accounts and VAT accounts as such as well as imposing arrest on any element in the System of Electronic Administration of Value Added Tax directly in the Code of Criminal Proceedings,
- Limit the possibility of arresting money on bank accounts as "evidence" or as provision for possible confiscation to a very short period of time (10 calendar days are suggested), within which the prosecutor would have to bring additional evidence that the funds are stemming from criminal actions or are otherwise involved in criminal actions. Upon expiry of the period and absence of a new court order (which shall be served by the court this time only upon summoning the affected person to the hearings within which the issue is considered) all injunctions shall be terminated automatically (unless a separate new order as mentioned above is issued in which case the funds/amounts on the account will remain blocked),
- Limit the arrest of monetary funds on bank accounts of third persons in the same way as the arrests of money as "evidence" recommended above (arrest limited to 10 days, prosecutor needs to bring additional evidence, automatic termination of injunctions in absence of new court order).

Furthermore, part 2 of Article 172 of the Code for Criminal Proceeding shall be modified, as it deprives owners of monetary fund of opportunities to defend their legal positions, rights, freedoms and legitimate interests within criminal proceedings. Petition on arrest of monetary funds should be

considered under obligatory participation of owners of these funds, with a single exception for provisional arrest for a very short period of time (say, not exceeding 10 calendar days) in case of extreme need, requiring a mandatory reconfirmation with participation of the affected person as suggested above.

Estimation of effect:

This reform would significantly contribute to reducing unnecessary risks to businesses related to stopping their activity due to investigations, which are often used as a means for extracting bribes. The reform would hence improve business activity and investment climate while reducing corruption risks.

T-4 Deleting the article on fictitious entrepreneurship in criminal code

● **Fully implemented**

Article #205 (on fictitious entrepreneurship) was deleted in the Criminal Code through Law # 101-IX of 18/09/19 "On introduction of the amendment to the Criminal Code of Ukraine and the Criminal Procedural Code of Ukraine".

Responsible institution:

Verkhovna Rada

Problem statement:

At present, Article 205 "Fictitious Entrepreneurship" of the Criminal Code of Ukraine fulfils neither a preventive, nor a compensatory function. "Fictitious Entrepreneurship" only covers the establishment or purchasing of sham companies, not their illegal activities (treated by other articles in the Criminal Code). The Article is mainly used for pressuring taxpayers by the tax authorities in disputes. The tax authority can use the article to create an "evidentiary basis" against a taxpayer, as any transaction of a company with another entity deemed to fall under Article 205 can lead to the former company losing the right for tax (VAT) credit or deduction of expenses.

Suggested reform measures:

We recommend deleting article 205 from the Criminal Code of Ukraine. This would not affect any real prosecution of fictitious or other illegitimate companies as such prosecution uses other articles anyway.

Estimation of effect:

Further reduction of unnecessary risks and "threat potential" of public authorities versus companies in corruption-related contexts.

T-5 Clarifying PIT treatment of foreign investment profits

● Not implemented

No progress towards implementing this reform has been achieved.

Responsible institution:

Ministry of Finance

Problem statement:

The tax treatment in the Personal Income Tax (PIT) for investment incomes from sources of origin outside Ukraine of tax residents of Ukraine is currently subject to legal uncertainty. As the provisions in the Tax Code of Ukraine are not clear, it is unclear whether the taxable income in this case is constituted by revenues or profits (revenues minus costs of original investment) for investment incomes from sources outside Ukraine. However, it is quite obvious that not all revenues but only the profits should be taxed as this is both standard in international practice and in analogue regulations for domestic investment incomes from within Ukraine.

Suggested reform measures:

We recommend two complementary measures:

Medium term solution: The Tax Code of Ukraine should be amended (see TN/03/2018 “Taxation of investment income with a source of origin outside Ukraine” of the German Advisory Group for concrete recommendations) in order to clarify the treatment of investment income from sources of origin outside Ukraine as an investment income, equal to domestic investment income.

Short term solution: The Ministry of Finance of Ukraine should approve a General Tax Advice on taxation of personal income with a source of origin outside Ukraine, which clarifies that such income should count as investment income under the PIT (see Chapter 8 of TN/03/2018 for a concrete suggestion on the explanatory note to be issued by Ministry of Finance. This explanatory note would only be a temporary solution and does not eliminate the need for appropriate changes to the Tax Code.

Estimation of effect:

Although this reform will technically lower PIT revenues (although not by much), it will constitute a fairer application of the PIT. Also, the reform will better incentivise tax honesty, reducing incentives to receive investment incomes into offshore accounts.

4. Sector-specific Reform Proposals

4.1 Reform Proposals in the Financial Sector

In the financial sector, we have identified the following reform proposals:

Table 3. Overview of Reform Proposals in the Financial Sector

Number	Title
F-1	Strengthen creditor rights protection
F-2	Ensure fair competition between state and private banks
F-3	Improve the regulatory framework for financial markets
F-4	Enhance consumer protection in financial services

F-1: Strengthen creditor rights protection

Fully implemented

Law #8060 was adopted on 18.10.2018, entered into force on 21.10.2019, Law no. 6027-d was adopted on 03.07.2018, entered into force in February 2019.

Responsible government institution:

Verkhovna Rada

Problem statement:

New lending by banks, which is vital for the economic recovery of Ukraine, is held back by weak protection of creditors' rights, despite recent legal progress (adoption of draft law "On amendments to certain legislative acts of Ukraine regarding restoration of lending", #6027-d).

Suggested reform measures:

Adopt the "Draft code of Ukraine on bankruptcy procedures" (#8060) in the final reading. The draft code passed the first reading on 20 March 2018 and substitutes draft law #3132-d.

Estimation of effect:

The result of this reform will be an acceleration of banking lending to corporates, which will boost GDP growth.

F-2: Ensure fair competition between state and private banks

● Partially implemented/in process

Law #8331-d, adopted on 05.07.2018, entered into force on 10.11.2018. However, Oschadbank still does not participate in the Deposit Guarantee Fund.

Responsible government institution:

Verkhovna Rada

Problem statement:

The banking sector has undergone a significant transformation during the last years. As one result of these developments, a small number of state-owned banks make up more than 50% of the market. In order to ensure fair competition between private and state-owned banks in the future, the commercial orientation of state-owned banks needs to be strengthened. The recent adoption of draft law “On amendments to certain legislative acts of Ukraine on improving the functioning of the financial sector in Ukraine” (#8331-d) that introduces changes in the corporate governance framework is a very important step in the right direction, which needs to be followed by further actions.

Suggested reform measures:

One concrete example that shows existing differences in the treatment of private and state banks is the blanket deposit guarantee provided to Oschadbank. The bank, which is the second largest bank in Ukraine, does not participate in the Deposit Guarantee Fund (DGF), which puts it in a special competitive position as compared to the rest of the market. An abolishment of this special treatment would be an important step in the right direction.

Estimation of effect:

A level playing field between private and state-owned banks will increase the efficiency of financial intermediation in the country, and positively impact financial and economic stability. It will also reduce incentives for corruption.

F-3: Improve the regulatory framework for financial markets

● Partially implemented/in process

Draft law #1069-2, similar to draft law #2413a (“split” law), was adopted by Rada on 20.09.2019 and will enter force on 01.07.2020.

Law #2413a was dismissed as moot after draft law 1069-2 was adopted.

Law #6303-d was not taken up by the last Rada before the end of its term.

Responsible government institution:

Verkhovna Rada

Problem statement:

Financial markets in Ukraine are underdeveloped, which places a high burden on the banking sector as the main provider of finance. One reason for this underdevelopment are weaknesses in the regulation of the financial sector.

Suggested reform measures:

Adopt the draft law "On amendments to some legislative acts of Ukraine regarding the consolidation of the functions of state regulation of financial services markets" (#2413a) in the final reading. The draft law was adopted in the first reading on 7 July 2016. The draft law provides for the redistribution of functions performed by the National Commission for the Regulation of Financial Services Markets between the NBU and the National Securities and Stock Market Commission (NSSMC) ("split law").

Adopt the draft law "On amendments to certain legislative acts of Ukraine to protect investors against abuse in the Capital Markets" (#6303-d). The draft law is instrumental in ensuring the independence of the NSSMC.

Estimation of effect:

This reform will contribute to greater transparency of financial market regulation and help streamline regulatory efforts. Regulatory reform will give a stimulus for financial market development, which will contribute to a growing and more diversified financial sector. Ultimately, the real economy will benefit.

F-4: Enhance consumer protection in financial services

● Fully implemented

Draft law #1085-1, including similar substance to draft law #2456-d, was approved by the Verkhovna Rada on 20.09.2020 and will enter force on 19.01.2020.

Draft law #2456-d was dismissed as moot after draft law #1085-1 was approved.

Responsible government institution:

Verkhovna Rada

Problem statement:

Currently, there are certain gaps and inconsistencies in laws and regulations on consumer rights protection in the sphere of financial services. What is needed are equal requirements for banks and non-banking financial institutions as to advertising of financial services and disclosure of information about the operational terms and procedures.

Suggested reform measures:

Adoption of draft law "On amending certain laws of Ukraine regarding the improvement of financial services consumer protection" (#2456-d) in the final reading.

Estimation of effect:

Adoption of this law would provide a legal framework to regulate relations between individuals and financial institutions in accordance with best EU practices. As a result, financial institutions will be liable for failing to timely provide financial services consumers with information about the terms for the provision of financial services as mandated by the applicable law.

4.2 Reform Proposals in the Construction and Energy Efficiency Sector

In the construction and energy efficiency sector, we have identified the following six reform proposals:

Table 4. Overview of Reform Proposals in the Construction and Energy Efficiency Sector

Number	Title
C-1	Harmonisation with EU standards and improvement of quality control mechanisms
C-2	Liberalisation of the energy metering market
C-3	Improving energy connection of companies
C-4	Competitive pricing mechanisms for renewable energy
C-5	Implementation of the Energy Ombudsman Institution
C-6	Compensation for private investments in port infrastructure

C-1: Harmonisation with EU standards and improvement of quality control mechanisms

● Partially implemented

Major changes in the law on construction norms were adopted, streamlining the adoption of modern building codes in October 2019. Several new construction norms were adopted and entered into force, including a new state construction norm on residential construction on December 1. These changes constitute important steps towards harmonisation of Ukrainian construction standards with EU standards, but especially problems of quality control remain.

Responsible government institution:

Ministry of Communities and Territories Development

Problem statement:

The construction industry in Ukraine is still working mainly in accordance with older national standards and largely without quality control and market supervision. Tender procedures in public procurement are ineffective and often won by dishonest companies with manipulated budget estimates or by using substandard construction materials. High-quality construction companies in general face difficulties in competing with dishonest low-quality companies in public and private contracts. All of this leads to a relatively poor quality of construction and less than the achievable improvement in the infrastructure of Ukraine. Under the EU Association Agreement, European norms (Eurocodes) for construction will have to be transposed into Ukrainian law by 2020. Implementation has not progressed far to date.

Suggested reform measures:

Steps should be taken up both to accelerate the harmonisation process with EU construction norms as well as improving the quality control of the construction sector.

Firstly, to speed up standards harmonisation, an action plan on implementing new construction norms harmonised with the EU should be drawn up and international/EU technical assistance should be

sought in developing suitable new norms for Ukraine, as harmonisation goes significantly beyond copy-paste work and a good balance, appropriate for the situation of the country, between construction quality and affordability should be struck. In this context, a national sectors classificatory system of construction works should be developed.

Secondly, the quality control system in the construction sector should be improved. This will require setting enforceable quality standards for works and services in construction and establishing proper control by institutions of construction companies' compliance with regulatory requirements, also through improving and better monitoring of certification institutions. A differentiated sanctions system for infringements should be established along with implementing a mechanism of recall for construction materials that do not meet quality requirements. In addition, mandatory procedures facilitating the identification of such products should be implemented.

Thirdly, public tender processes should contain prequalification requirements for participating companies. When drawing up tenders, a comprehensive approach to project cost accounting should be taken by using professional consulting in order to balance short-run construction cost savings with long-run savings in operational costs through higher-quality construction (e.g. by using quality certified materials and systems certified by European standards).

Estimation of effect:

The reform will lead to improvements in buildings and infrastructure quality, benefiting the economy and population as a whole. A more level playing field will unlock investments and activity from higher-quality construction companies that not only provide better work but also use more highly qualified and paid employees. While higher standards may result in higher construction costs in the short run, there will be long run savings from reduced renovation and operation of facilities built with higher quality.

C-2: Liberalisation of the energy metering market

● Partially implemented

In October/November 2018 and February 2019, the government approved implementing acts for the Commercial Heat and Water Metering Law that made it economically feasible to install heating meters in older residential buildings. In September 2019, the Energy Efficiency Fund (funded jointly by EU, Ukraine and Germany) started accepting grant applications that would cover part of the costs for modernising heating systems in residential buildings including installing heating meters. The first pilot projects are currently being implemented.

It is now possible for flat owners to install individual heating meters, but the required customer-oriented infrastructure operating the heating meters by the energy providers is still missing to tie payment to metering.

Responsible government institution:

Verkhovna Rada, Ministry of Energy Generation and Protection of Environment

Problem statement:

While Ukraine still suffers from very low energy efficiency especially of buildings, deficits in regulation of energy provision fail to provide incentives for investments in energy efficiency. The energy measuring market is not properly regulated at present, especially with regard to the unbundling of energy provision and measuring. Large energy providers, especially for Soviet-era multi-storey residential blocks have no incentive to install equipment in order to measure the energy use by individual apartments. Without individual metering and payment, individual owners of apartments

have no financial incentive to invest in expensive, but very necessary construction-related improvements of energy efficiency of their apartments and buildings.

Suggested reform measures:

The energy measuring market, especially for heat energy, should be properly liberalised. The operation by individual companies of measuring/metering (installation, operation of metering equipment and - services for consumers as well as maintenance of the equipment) should be properly regulated. Energy providers should be required to provide individual invoices to consumers who have installed calibrated metering equipment and to accept and, if necessary, calibrate the metering equipment operated by third companies within clearly defined, short timespans following installation.

In addition, the government should provide technical advice and legal assistance for the modernisation of heating systems of existing multi-storey buildings in order to facilitate the decentralisation at apartment level of regulation of heat provision and measuring heat energy consumption.

Estimation of effect:

Individual measurement and regulation of energy consumption in multi-storey buildings will both facilitate immediate reductions in energy consumption as well as unlocking significant investments into energy-efficiency related measures. Hence, this reform is likely to lead to both reductions in energy expenditures of households as well as to higher activity in the construction sector.

C-3: Improving energy connection of companies

Partially implemented/in progress

Regional electricity companies have published network maps as required by law

In October 2019, the government mandated the State Energy Inspection to resolve disputes between electricity distribution companies and their customers on network connection using a “single window” approach. This contributes to shortening connection times, but does not fully solve the problem.

Responsible government institution:

Verkhovna Rada, Ministry of Energy Generation and Protection of Environment

Problem statement:

Getting electricity is a real problem for companies in Ukraine, reflected by Ukraine being on only rank 128 of the “getting electricity” indicator of the 2018 Doing Business index. The main problem is that energy suppliers take very long time to build connections to companies, often in connection with corruption issues. According to the Doing Business data, it takes 281 days to establish an electricity connection in Ukraine, compared to an average of 79 days in OECD high income countries.

Suggested reform measures:

Electricity suppliers should be given reasonable and thoroughly enforced maximum timespans for establishing a functioning and operational electricity connection of companies who apply. If no operational connection exists after the deadline, the electricity suppliers should be liable to pay damages to the client. Furthermore, maps with networks (and substations) should be publicised in order to provide more transparency regarding the difficulty of connecting new locations with the existing networks.

Estimation of effect:

As difficulties in establishing an operational electricity supply are a strong disincentive to invest especially in the manufacturing sector, resolving this problem can be expected to strongly contribute to improving the investment climate, especially by new companies in the industrial sector of Ukraine. Also, Ukraine would significantly improve its position in the “getting electricity” component and overall “Doing Business” ranking, signalling progress to potential investors.

C-4: Competitive pricing mechanisms for renewable energy

● Partially implemented/in process

The draft law 8449-d on auctions of renewables was adopted on 25th April 2019 and stipulates an auction system, for Wind Power Plant above 5 MW and Solar Power Plants above 1 MW capacity. The actual system with its rules is currently under development. A freely accessible network map has not been published as to date.

Responsible government institution:

Verkhovna Rada

Problem statement:

Ukraine is currently contemplating changes to its system for supporting renewable electricity generation. At the moment, the existing green tariff system has not been able to facilitate significant investments in green energy by a wider number of companies. Risks with regard to costs and delays in establishing network connection are further holding back investors.

Suggested reform measures:

In order to ensure manageable costs and risks of network connection, a freely accessible network map should be created along with similar obligations of network providing companies to connect new producers as suggested for clients in proposal C-3.

An auction system should be established for larger projects (above a threshold between 2 and 10 MW, possibly differentiated by type) in which companies bid downwards on the feed-in tariff they receive. If better control over the regularity of supply is desired by the state, auctions can be for specific (and perhaps already network-connected or with advanced planning to that end) sites. For smaller projects, a pre-set feed-in tariff should be used.

Estimation of effect:

This would lead to unlocking more investment by multiple companies in renewable power production whilst keeping the cost of the system limited. Additional electricity supplies can also reduce the ability of incumbent producers to increase prices when the deregulated market is opened. Furthermore, Ukraine would benefit from a long-run reduction of the CO2 intensity of power generation by starting to switch more to renewable energy sources.

C-5: Implementation of the Energy Ombudsman Institution

● Not implemented

The draft law “On Energy Ombudsman” was withdrawn from the Verkhovna Rada on 29/08/2019 (as not completed in the previous legislative term) and has not been reintroduced.

Responsible government institution:

Verkhovna Rada

Problem statement:

No real arbitration structure exists at the moment for the complaints of household or company clients against powerful, locally monopolistic energy providers.

Suggested reform measures:

Establishing an “Energy Ombudsman” institution with sufficient staff (e.g. around 50 staff for Kiev alone) who can help customers by providing legal advice, customer representation against energy providers along with offering arbitration in conflicts with producers and feeding back needs for reform to the policy level.

Estimation of effect:

Strengthening consumer protection in energy will help reduce energy costs and lead to more investments in energy-efficiency related issues as more accurate invoicing and payments will make consumers notice the benefits of higher energy efficiency.

C-6: Compensation for private investments in port infrastructure

● Not implemented

No progress towards implementing this reform has been achieved.

Responsible government institution:

Cabinet of Ministers, Ministry of Infrastructure

Problem statement:

The infrastructure of Ukraine with regard to seaports is relatively deficient and in order to strengthen exports by sea, new terminals, roads and support infrastructures should be built. There is currently no procedure for compensating investors who create new and update existing strategic objects of port infrastructure (hence filling gaps in infrastructure provision by the state). The Law “On Sea Ports” provides for such a procedure in principle, but no procedure has been drawn up. This results in a lack of interest by private investors to realize projects that require or contain the improvement of seaport infrastructure objects and hence holds back investment and exports.

Suggested reform measures:

The Cabinet of Ministers of Ukraine should approve the procedure for compensation of private investments made into strategic objects of port infrastructure as soon as possible, providing for a transparent mechanism for compensation and balance of interests of both the state and private investors. The last version of the draft of such procedure was published on the web-site of the Ministry of Infrastructure <https://mtu.gov.ua/projects/160/>. We support this draft law as it takes into account the most relevant interests of the business.

Estimation of effect:

In the first step, the reform will lead to increased investments into domestic sea ports, an improved state of the port infrastructure and the increased competitiveness of Ukrainian ports. In a second step, this will help unlock further investments, e.g. in export-oriented production that requires more and better port capacity.

4.3 Reform Proposals in the Agri-food Sector

In the agri-food sector, we have identified the following five reform proposals:

Table 5. Overview of Reform Proposals in the Agri-food Sector

Number	Title
A-1	Reform of the land market
A-2	Building up a registry for genetically modified plants and feedstuff
A-3	Treatment of new crop protection products
A-4	New mechanism for destruction and removal of obsolete pesticides
A-5	Accession to the OECD schemes for oilseeds and sugar beet

A-1: Reform of the land market

● Partially implemented/in process

Substantial progress has been made. On 13th November 2019, Draft Law no. #2178-10 "On amendments to certain legislative acts of Ukraine regarding agricultural land circulation" was adopted by the Verkhovna Rada in first reading and could be finally adopted in second reading as early as December 2019, which would end the moratorium on land sales whilst adequately incorporating the interests of present lessees.

Responsible government institution:

Ministry of Economy, Trade and Agriculture, Ministry of Justice, Verkhovna Rada

Problem statement:

The moratorium on certain agricultural land sales is a significant burden for the competitiveness of the agricultural sector. Management of a vast number of rental agreements has significant transaction costs for companies. It favours local incumbents with long experience in this matter at the expense of new market entrants, who may however have more expertise in actual production. Inability to use land as collateral for credit further limits investments into capital by agricultural companies.

Suggested reform measures:

Development and adoption of the Law on Land Market and abolition of the moratorium. As the agricultural sector is of utmost importance to the Ukrainian economy it is suggested to carefully consider the interest of the land lessees. Lessees' rights must be protected with a pre-emptive right with respect to acquisition of the ownership title. If they choose not to acquire ownership title, they should be entitled to keep their leasehold and also be given pre-emptive rights regarding neighbouring land plots, encircled land plots, access rights and other.

Estimation of effect:

This should unlock large investments in the agricultural sector of Ukraine, leading to considerable increases in the agricultural sector's productivity. The ability to use land as collateral for credit in

future should prevent the cost of land purchases from “crowding out” investment expenditures of the new land owners.

A-2: Building up a registry for genetically modified plants and feedstuff

● Not implemented

No progress towards implementing this reform has been achieved.

Responsible government institution:

Ministry of Economy, Trade and Agriculture, Ministry of Energy Generation and Protection of Environment

Problem statement:

Although required by Art. 14 of the Law of Ukraine “On the national system of biosecurity in the process of producing, conducting trials, handling and utilization of genetically modified organisms”, there is currently no registry for plants and feedstuff produced on the basis of genetically modified organisms (GMO). At the same time, without this registry, there is no legal basis on which to check whether GMO plants and feedstuffs are legal to be used in Ukraine. GMO controls have not been suspended in the context of widespread moratoria on state controls due to the importance of food safety.

Suggested reform measures:

Assign personnel, secure a budget and issue respective order of the Ministry of Agrarian Policy and Food of Ukraine to implement provision of Art. 14 of the Law of Ukraine “On the national system of biosecurity in the process of producing, conducting trials, handling and utilization of genetically modified organisms” and create a registry of permitted GMO plants and feedstuff as soon as possible. This registry should be developed together with EU or other international partners, incorporating their research and experience on the costs, benefits and safety of using different kinds of GMO plants.

Estimation of effect:

The registry would permit using high yield genetically engineered (hybrid) classes of plants in Ukraine that internationally dominate in crop industry and feedstuff production. Hence, the productivity of the agricultural sector along with its exports would be strengthened.

A-3: Treatment of new crop protection products

● Partially implemented/in process

Draft law #6606 was withdrawn in August 2019 with the dissolution of the Rada at the end of the last legislative term. A new draft law № 2289 on amendments to Article 4 of the Law of Ukraine "On Pesticides and Agrochemicals" concerning foreign pesticides in the territory of Ukraine was registered in Verkhovna Rada on 18th of October 2019 and was recommended to Parliament for adoption via a simplified procedure by the Committee for Agriculture on 13th November.

Responsible government institution:

Ministry of Energy Generation and Protection of Environment, Verkhovna Rada

Problem statement:

There currently is a legislative bottleneck for using innovations in crop protection. In line with the Law of Ukraine "On Pesticides and Agrochemicals", while importing samples of unregistered pesticides into Ukraine for the purposes of state trials and research, importers must submit a confirmation of such product's registration in the country of manufacture. This is difficult to comply with, as products are developed for specific markets. While a new pesticide may be developed for Ukraine, there is no reason to undergo a costly further registration procedure in its country of manufacture. This situation is blocking access to innovations and forces agricultural producers in Ukraine to use older products, decreasing their competitiveness. In 2018, the leading R&D companies reduced their investments into R&D in Ukraine by 60%.

Suggested reform measures:

We recommend speedy adoption of Draft Law No. 6606 dated 21.06.2017, which is aimed at removing the effective requirement to provide a confirmation of product's registration in the country of manufacture while importing samples of unregistered CPP for the purposes of state trials and research. It should be stressed that this is in line with the practice in other countries in the EU or the USA and refers only to samples for the purpose of research and testing by official agencies and laboratories in Ukraine and does by no means allow large-scale imports of unregistered products.

Estimation of effect:

This measure will allow new pesticides to be used in Ukraine (after trials and registration in Ukraine, where labs and procedures exists that will take into account all necessary consumer and environmental protection concerns). This will contribute to raising the productivity and competitiveness of the agricultural sector of Ukraine.

A-4: New mechanism for destruction and removal of obsolete pesticides

Fully implemented

The first permit for transboundary export of obsolete pesticides from Ukraine was granted by the Ministry of Energy Generation and Protection of Environment in September and exports will begin shortly.

Responsible government institution:

Ministry of Energy Generation and Protection of Environment, Cabinet of Ministers

Problem statement:

Over the last decades, a significant amount of expired or obsolete pesticides have accumulated in Ukraine that should and must be disposed of according to the law. However, no working facilities that can handle the safe disposal in line with the required technical and ecological standards exist in Ukraine, but transport to international disposal sites is currently not permitted. Companies that hold expired or obsolete pesticides at their sites cannot comply with legal requirements as not enough permitted storage and no disposal facilities exist or operate at the moment. The obsolete pesticides from the Soviet era are very often stored in an uncontrolled manner across the country.

Suggested reform measures:

Ukraine should adopt the proposed amendment to resolution #1120 on transboundary movement of hazardous waste. This will permit the transboundary movement of obsolete pesticides by licensed

operators for proper and regulated disposal at specialized factories abroad. The Basel convention on the same issue permits this movement, even if there are local facilities available.

Estimation of effect:

Reduction of compliance risks for companies, better environmental protection.

A-5: Accession to the OECD schemes for oilseeds and sugar beet

● **Not implemented**

No progress towards implementing this reform has been achieved.

Responsible government institution:

Verkhovna Rada, Ministry of Economy, Trade and Agriculture

Problem statement:

Ukraine has not yet fully acceded to the OECD scheme for crucifer seed and other oil or fibre species and the OECD scheme for sugar beet and fodder beet seeds. OECD admitted Ukraine to these schemes in 2014 and 2018, respectively, but the schemes have not been implemented as national legislation yet. The draft law is being developed by the Ministry of Agrarian Policy and Food of Ukraine and will need to be adopted by the Parliament. The process started about 4 years ago and has not been accomplished yet

Suggested reform measures:

A draft law on Ukraine's accession to the OECD scheme for crucifer seed and other oil or fibre species and the OECD scheme for sugar beet and fodder beet seeds should be developed by the Ministry of Agrarian Policy and Food of Ukraine and adopted by parliament.

Estimation of effect:

Implementation of the above schemes into local legislation will improve Ukrainian seed certification procedures and enable local seed producers to export seeds with internationally recognized certificates.

4.4 Reform Proposals in the Logistics and Transport Sector

In the logistics and transport sector, we have identified the following three reform proposals:

Table 6. Overview of Reform Proposals in the Logistics and Transport Sector

Number	Title
LT-1	Negotiate an increase transportation permits for trucks going into the EU
LT-2	Simplification of documentation requirements for transport and tax
LT-3	Acceptance of EU invoice prices
LT-4	Improvement of system of penalties for overweight vehicles

LT-1: Negotiate an increase transportation permits for trucks going into the EU

● Partially implemented, but remains highly pressing

This issue remains highly problematic: Analysis by the German Advisory Group and other institutions has confirmed the lack of permits. Ukrainian authorities have highlighted and emphasised the topic of a lack of permits in bilateral negotiations with the Polish side, but have so far not been successful in negotiating an increase in the number of permits.

The highlighted issues with distribution of the permits on the Ukrainian side have been successfully resolved.

Responsible government institution:

Ministry of Infrastructure, Ministry of Economy, Trade and Agriculture

Problem statement:

In order to operate in foreign countries, trucks must have transport permits (or ECMT-books) issued by the respective country. Transport permits are usually negotiated quid-pro-quo between governments. There is a lack of transparency of the available total/remaining number as well the fear of an inadequate total number of transport permits in this year especially for Poland, vital for Ukraine's EU exports. Companies cannot see in advance whether sufficient permits remain as these are formally given out on the border. A shortage of transport permits for Poland would be a significant constraint on Ukraine's EU exports that mainly transit through Poland.

Suggested reform measures:

Firstly, it should be analysed and forecasted if sufficient transport permits have been negotiated with the government of Poland. If necessary, additional permits should be negotiated quickly.

Secondly, a transparent and rule-based system for monitoring and distribution of transport permissions and ECMT-books should be put in place, allowing companies to monitor electronically the amount of remaining permits and allowing the government to anticipate shortages early enough to arrange for additional permits with other governments before shortages hit.

Estimation of effect:

Preventing actual shortages is of great importance, as otherwise this could constitute a binding constraint on Ukraine's important road exports, especially to EU countries. A more efficient and transparent monitoring and distribution system will reduce administration costs and risks of logistics companies and lead to lower trade costs for the economy of Ukraine.

LT-2: Simplification of documentation requirements for transport and tax

● Not implemented

No progress towards implementing this proposal has been achieved. Although a law concerning electronical transport documents was accepted, it still contains the "Bill of Loading" as a standard document for inner-state transportation.

Responsible government institution:

State Tax Service, National Bank of Ukraine, Ministry of Justice

Problem statement:

We identify two documents stemming from Soviet times that are required by law for transport documentation and/or tax purposes without having a specific use:

- The „Act of Executed Works“ or „Act of Acceptance“ to be signed by the client of an operation is especially superfluous in the context of operations with EU countries, where no such document exists and payment of the invoice generally signifies that the required work has been completed.
- The "Bill of Loading" has no operational use. Companies should only be required to use modern CMR documentation.

The continued requirement to use these documents adds bureaucratic burden (especially in dealing with international client that do not know and understand these documents) and exposes companies to risks if the documentation is not complete whilst not serving any operational purpose on the side of the government.

Suggested reform measures:

Abolish the legal requirement relating to these documents.

Estimation of effect:

Small effect, but a reduction of administrative burden and improvement of business climate along with a reduction of (corruption) risks in case of incomplete documentation.

LT-3: Acceptance of EU invoice prices

● Not implemented

No progress towards implementing this reform has been achieved.

Responsible government institution:

Ministry of Finance, State Customs Service

Problem statement:

Customs often do not accept the prices in invoices, if they have witnessed higher prices for similar goods in other instances, assuming that the importer wants to evade customs payment. In many instances, there is no customs fraud being undertaken but prices were in fact low due to large quantity purchases etc. Especially invoices from EU countries are generally reliable sources of price information and are accepted by customs in other countries. Disputes between companies and customs can be long and costly, with trucks being stopped for extended periods at the border and penalties being levied at companies.

Suggested reform measures:

Customs should be required to, as a general practice, accept prices stated on invoices from at least EU and comparable countries, where the informal economy size is small. Anti-fraud checks and mechanisms can and should be in effect in parallel, but should not be in conflict with the general practice as proposed.

Estimation of effect:

Less risk of inflated customs payments and quicker customs transit will reduce trade costs with EU and other applicable countries.

LT-4: Improvement of system of penalties for overweight vehicles

Partially implemented

Laws no. 54-IX and 74-IX from 11.09.19 contain an increase and differentiation of penalties. However, the system of checks has not been changed. In particular, it remains legally impossible to use automatic speed checks in Ukraine.

Responsible government institution:

Ministry of Infrastructure

Problem statement:

As no real penalties exist, frequent usage of heavily overweight vehicles especially in domestic shipments severely damages roads and is one important factor in explaining the overall poor state of roads in Ukraine. Even newly built roads can easily be damaged by grossly overweight vehicles.

Suggested reform measures:

Penalties for overweight vehicles should reflect whether the vehicle was just erroneously overloaded by a small amount or grossly overweight. A system should be put in place where the magnitude of the penalty rises with the infraction, either with constant penalty per tonne per wheel or with a two-tier system, with a first-stage low non-critical penalty for overweight up to 2 tonnes and a high penalty for overweight over 2 tonnes. In addition, the system of checks should be improved and expanded.

Estimation of effect:

If successful, this can lead to massive savings in road reconstruction and rehabilitation along with an improvement of road quality, benefiting all other individuals and companies by reducing travel times.

5. Generating Quick Wins: Recommendations for Priority Reform Measures

Out of the top ten priority measures identified in the first version of the study, six have not been implemented and another four have only been partially implemented:

Table 7. Top-ten Reform Recommendations for Generating Quick Wins

#	Number	Title
1	C-3	Improving energy connection of companies
2	LT-1	Negotiate an increase of transportation permits for trucks going into the EU
3	L-2	Improved execution of court decisions for claims against the state
4	T-2	Eliminating penalties for late/no registration of tax invoices not provided to buyers
5	T-3	Limit arrests of money on bank/tax accounts in criminal proceedings
6	LT-3	Acceptance of EU invoice prices
7	LT-2	Simplification of documentation requirements for transport and tax
8	F-2	Ensure fair competition between state and private banks
9	A-3	Treatment of new crop protection products
10	T-1	Combatting fictitious private entrepreneurship

As none of the suggested top-ten measures has been fully implemented to date, we believe it is useful to restate these suggestions for priority measures. They are characterised by being especially quick to implement and to yield benefits. Effectively, these priority measures fall under at three categories:

1. The top two priorities are reforms/measures that are likely to have a very direct impact on business activity and investment in Ukraine.
 - Getting energy is of key importance for investors in order to be able to produce in Ukraine. The present state of getting electricity – 267 days until the energy connection is active – is likely to actively deter investors. Despite important steps taken (the “single window” at the State Energy Inspection), problems still exist. Resolving this issue could have a significant impact on real sector investment activity.
 - Negotiating an increase in the number of transportation permits for trucks entering the EU is of key importance for permitting an increase of goods exports to the EU at low mark-ups for transportation costs. Despite the progress achieved by the Ukrainian side in achieving a transparent process for distribution of transport permit, the main issue – the shortage of permits for Ukrainian trucks to work in the EU, especially Poland, has even become more pressing.

Both these measures are slightly more complex (especially resolving the energy issue) than the following measures, but are likely to have very strong and noticeable effects on investment and business activity.

The other recommended priorities are measures that are easier to implement and will still have clear benefits for the business and investment climate in Ukraine.

2. The second category of measures is aimed at removing unnecessary bureaucratic and administrative burdens (often coupled with corruption risks). These are:

- L-2: Improved execution of court decisions for claims against the state
- T-2: Eliminating penalties for late/no registration of tax invoices not provided to buyers
- T-3: Limit arrests of money on bank/tax accounts in criminal proceedings
- LT-3: Acceptance of EU invoice prices
- LT-2: Simplification of documentation requirements for transport and tax

Removal of unnecessary burden for companies is a continuous challenge for countries across the world but should of course be a top priority for Ukraine, eliminating remnants of an overregulated post-Soviet system and reducing the scope for corruption at the same time while freeing up the resources of companies to do business, generate growth and provide employment and income.

3. The final category of recommended priority measures are relatively easy-to-implement measures towards creating a level, competitive playing field not discriminating against new, foreign or private companies.

- F-2: Ensure fair competition between state and private banks
- A-3: Treatment of new crop protection products
- T-1: Combatting fictitious private entrepreneurship

These measures should be tackled by the government with the highest priority in the order presented here in order to generate relatively quick benefits for business activity, investment and hence economic growth in Ukraine. For most of the measures, draft laws or similar preparations of reform already exist; hence the reforms would benefit from solid preparation and are not exceedingly complex. This does however not imply that the proposals not listed under priority measures here should be neglected – indeed they should be promoted with significant energy. Some of those proposals will even have very large benefits if enacted (e.g. land market reform), but will take more time to solidly prepare and enact.

