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New and improved

Oleg Batyuk, Managing Partner, Salans Kiev, on WTO accession

In May 2008 Ukraine became a member of the WTO and took another step towards the development of a market economy. Since the negotiation and preparation for WTO accession started in 1993, Ukraine has undergone a long and complicated process to bring its national legislation into compliance with standards set in the General Agreement on Tariffs and Trade and WTO agreements. Among the positive effects of Ukraine's WTO accession is the establishment of a transparent and operational legal and regulatory system. Having created a national legislative and regulatory system in accordance with WTO requirements, Ukraine is ridding itself of existing schemes of government subsidies providing financial support for industry and of income being redistributed among industries.

On the road to WTO accession Ukraine made conspicuous changes to its laws. In 2002-07 alone, the parliament enacted or amended about 70 laws, and repealed more than 100 legal acts. In 2008, 10 draft laws have been developed, mostly of a technical nature, of which six have been enacted as of June 2008. The laws adopted govern such areas as intellectual property, export duty for agricultural products, insurance and banking, import of vehicles, taxes for agricultural producers and veterinary medicine, as well as improvements in Customs laws, the application of export duty to scrap non-ferrous and ferrous metal, agricultural production, a licensing regime, trade in and utilisation of genetically modified products, and the transition to a new system of description and codification of goods.

WTO membership contributes towards a sustainable competitive environment and prevents lobbyist pressure from being implemented by domestic corporate groups seeking preferences at the expense of other market players. Accession to the WTO is an obvious signal for investors that a satisfactory legal environment and civilised approach to the regulation of economic activity are in place. It can be expected that foreign investment will grow, which will increase the incentive for the business environment to ensure that the government

makes properly-considered decisions and that legislation is further improved.

However, it should not be expected that Ukraine's entry into the WTO will result in a rapid, large-scale legal transformation, or that immediately after such accession Ukraine will change its legal framework to match those of developed countries. Ukraine has spent 15 years adapting its legislation to WTO requirements and has enacted a great number of regulatory measures. Ukraine has terminated the most rudimentary normative acts to make the regulatory environment more attractive and friendly for business. But in the course of bringing its laws into compliance with WTO requirements, Ukraine has not changed the basic principles applied to business operations, and no essential changes have occurred within a legal system that remains only partially adapted to the needs of the market economy.

It is worth noting that WTO accession results in both direct and implied changes to the law. The former are mainly connected with changes in Customs and excise regulations, principles of support for agriculture, free access for food products and for services and service providers to the market, whereas the latter are more fundamental and relate to the stabilisation of tariffs, investments and regulatory legislation. It is this latter category where the most promising, but the most difficult, developments can be expected. A preliminary task is the creation of a favourable regulatory environment for business, the development of an innovative and investment-oriented environment, as well as of capital and insurance markets. The influence of such changes could have a profound and multifaceted impact on increasing Ukraine's attractiveness to investors and its perennial struggle with corruption. The introduction of more transparent Customs procedures is reducing cases of corruption in Customs houses. The elimination of bureaucratic obstacles to entrepreneurial activity, the simplification and formalisation of the registration of property rights and consistent regulation of capital markets will be factors crucial to banishing corruption.