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UKRAINE

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I OVERVIEW OF 2007/2008 M&A ACTIVITY

In 2007 the Ukrainian M&A market set a new record for M&A deal value in the domestic market. According to expert estimates, the aggregate deal value of M&A transactions in Ukraine in 2007 was approximately \$14.5 billion, almost three times the figure of \$4.8 billion for 2006.

The growth in the number and value of transactions as well as similar consolidation processes in core sectors of the economy continue to be the M&A trends in Ukraine, despite the ‘credit crunch’ in the US and European markets since mid-2007.

This year turned out to be more successful for domestic business groups. Ukrainian-based groups acquired assets both in Ukraine and abroad, launched IPOs and merged with foreign competitors as well as with domestic market players more actively. Certain M&A transactions involving domestic business groups were aimed at optimisation of group structure and disposition of the assets outside of the group’s core business. This activity in the domestic market is a natural outcome of the global trends in M&A.

Ukraine maintains the status of a promising market for foreign investors. Cross-border M&A deals dominate in the aggregate volume of M&A deals in Ukraine in 2007. Russia, Poland, UK, Italy, Germany and the US remain the major investors targeting the Ukrainian market.

There was an immaterial increase in the acquisition of foreign targets by Ukrainian players (5 per cent more than the volume in 2006) but they still appear to be insignificant. Ukrainian company-buyers are apparently not yet ready for large expansion abroad.

The deal value attributed to privatisation transactions in 2007 was even smaller than in 2006 (which is still below 1 per cent).

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Similar to 2006, most transactions in 2007 were attributed to the financial services, industry (primarily metallurgy and food), telecommunications and real estate markets in Ukraine. Banking and insurance M&A in general still remain 'hot topics' but the focus is gradually shifting to the insurance and investment sectors. In 2007, its estimated share in the aggregate M&A deals is approximately 42 per cent. Transactions in the banking sector accounted for approximately \$3 billion in deal value and illustrated buyers' interest mostly in medium-sized and small Ukrainian banks (with a value up to \$300 million).

II GENERAL INTRODUCTION ON THE LEGISLATIVE M&A FRAMEWORK

The Civil Code 2004, the Economic Code 2004 and the Law on Companies 1991 ('the Companies Act') provide the fundamental legislative framework for regulating M&A activity in Ukraine. While the Civil Code and Economic Code cover the issues of M&A transactions from a predominantly general legal perspective, the Companies Act states more specific regulations for the purchase and sale of Ukrainian legal entities.

Apart from the above laws, M&A transactions require dealing with specific regulations.

The Law on the Securities and Stock Market 2006 ('the Securities Act') governs relations in the sphere of issuance and circulation of securities and performance of the professional activities at the stock market.

The Securities Act covers five distinct areas, such as the securities themselves (definitions, classifications, transfer of rights derived from the securities, etc), professional activities at the stock market (their categories, issues related to stock exchange operations), the securities issuance both through public and private offerings (a step-by-step procedure, prospectus and other regulatory requirements), information disclosure requirements at the stock market (information about issuer, insiders and insider information), and fundamentals of the securities' market regulation (e.g., self-regulating organisations).

The fundamentals of economic concentration regulation in Ukraine are established in Article 42 of the Constitution, which provides for the protection of fair competition by the state and prohibits abuse of monopolistic standing, and Chapter 3 of the Commercial Code. Furthermore, there are two special legislative acts that govern the state economic concentration policy: the Law on Protection of Economic Competition 2001 ('the Economic Competition Act'); and the Law on the Antimonopoly Committee of Ukraine 1993. In addition, said issues are covered by several regulations issued by the Antimonopoly Committee of Ukraine ('ACU'), the state body authorised to supervise said sphere. Together these Acts set forth the principal features of anti-competitive concerted actions of companies, abuse of monopoly (dominant position) in the market and restrictive as well as discriminatory activities by companies in Ukraine.

Following these declared objectives, the Economic Competition Act envisages the transactions that require prior approval by the ACU (merger clearance) subject to the satisfaction of certain thresholds. According to the Economic Competition Act, certain transactions might be considered as a concentration if they result in direct or indirect acquisition of assets, participation interest (shares) in a company, establishment

of a new company by merger or acquisition, appointment or election to top executive positions, acquisition of direct or indirect control over the company as well as any other coordinated conduct of business entities.

Foreign investments are governed by the Law on Investment Activity 1991, which appears to be out of date. Nevertheless, it is still in effect and establishes the general principles for investment activity at the territory of Ukraine irrespective of the nationality of the investor. The particularities of making foreign investments in Ukraine are governed by the Law on the Foreign Investment Regime 1996 (‘the Foreign Investment Act’) and by the Resolution on Regulation of Foreign Investment Matters in Ukraine issued by the National Bank of Ukraine in 2005.

According to the Foreign Investment Act, foreign investment covers all forms of values invested by the foreign investor into objects of investment activity in accordance with the applicable Ukrainian law in order to make profit or achieve social effects.

The principal legislative act in Ukraine in the area of foreign currency regulation is the Decree of the Cabinet of Ministers on the System of Currency Regulation and Currency Control 1993 (‘the Currency Act’), which sets forth the general rules of use of foreign currency at the territory of Ukraine by both residents and non-residents to Ukraine. In its implementation, the National Bank of Ukraine adopted numerous regulations and other normative acts.

III DEVELOPMENTS IN CORPORATE AND TAKEOVER LAW AND THEIR IMPACT

The biggest achievement of corporate and takeover law in Ukraine was the long-awaited Securities Act, which entered into force on 12 May 2006 and substituted the out-of-date Law on Securities and the Stock Exchange 1991. The Securities Act introduced a new regulation of subscription, circulation of securities and performing the professional activity in the stock market. As a result, in 2006 and 2007 the Ukrainian legislation on securities was subject to significant changes that have led to the material modification of the playground for the Ukrainian stock market.

The new Regulations on Trading Securities Activity of 12 December 2006 provide for the new regulation of brokerage, dealer, securities underwriting activities and the activities in administering the securities. The Regulation on Defining Insider Information of 21 November 2006, which came into force on 1 October 2007, indicates the scope of information to be classified as insider information that should be annually and quarterly reported by the issuer.

The new Regulations on Registration of Issue of Shares in the Process of Establishing Joint Stock Companies came into force on 21 April 2007. The approved procedure is of great practical importance, being a systematic document governing share issuance matters during establishment of open and closed joint-stock companies (‘JSCs’). In addition, the new Regulations on Registration of Issue of Shares and Regulations on Procedure of Increase (Decrease) of Share Capital of JSCs, aimed at regulating the process of subsequent share issuances by JSCs, were adopted in April and February 2007 respectively.

It should be noted that the Companies Act currently in force does not, in most respects, satisfy the requirements of the current M&A market situation in Ukraine. The Companies Law lacks the sophisticated rules of corporate governance that would ensure the existence of transparent relationships between the shareholders and the governing bodies of the company, protection of the rights of minority shareholders, protection of the company from hostile takeovers by unlawful means, and numerous other similar corporate governance issues.

Furthermore, the Ukrainian M&A legislation is still lacking a specific act regulating the establishment and activity of JSCs). A law on JSCs is needed for various reasons, including insufficient regulation of certain specific aspects of the legal status of JSCs and discrepancies in the legislation that governs the activities of JSCs. Another aim is to establish the legal basis for appropriate corporate governance of JSCs in Ukraine.

There is no specific act regulating public or private takeovers and mergers in Ukraine. The concept of public bids is underdeveloped in the Ukrainian legal framework as well (the applicable laws do not set aside the recommended and hostile bids).

Unfortunately, the draft Law on Joint Stock Companies (No. 3177, dated 15 February 2007) ('the Draft JSC Law') was not adopted in 2007. The Draft JSC Law is intended to resolve many controversial issues and fill in numerous gaps in the regulation of activities of JSCs. It provides for incorporation of a JSC either of a public or private type. A public JSC shall be listed at least at one stock exchange, while the shares of a private JSC may not be traded at the stock exchange other than in the course of a tender. The Draft JSC Law also aims at establishing the legal basis for appropriate corporate governance of JSCs in Ukraine.

One significant gap in Ukrainian corporate governance is that applicable law fails to allow the shareholders of a JSC to conclude a shareholders' agreement between them. On 28 December 2007, the Supreme Commercial Court of Ukraine published its Recommendations, in particular, in respect of execution of agreements between the shareholders and governing such agreements by foreign law, as well as settlement of disputes arising in connection with such agreements at an arbitration forum. The said Recommendations, although meant to serve as guidelines only, in the mandatory manner state that shareholders may not decide on settlement of corporate matters related to activity of a Ukrainian company in an international commercial arbitration forum. Moreover, if the shareholders agreement is governed by a foreign law (in particular, any matters of corporate governance), it is to be treated as void and may not be enforced in Ukraine for the reason of its alleged inconsistency with public policy.

The Recommendations have been strongly opposed by a number of Ukrainian lawyers as not consistent with the fundamental provisions of civil and commercial law.

Having said that, no substantial developments in M&A legislation environment in Ukraine during 2007 can be noted.

IV FOREIGN INVOLVEMENT IN M&A TRANSACTIONS

The key peculiarity of the Ukrainian M&A market in the past few years has been the predominance of foreign capital. In 2007 the majority of deals with Ukrainian targets were completed by foreign companies.

However, this fact requires some explanation of the processes currently attributed to Ukrainian market players. The crucial reason why the statistics indicate a constant increase of foreign transactions in Ukraine is the absence of a clear division between (i) the 'pure' foreign-capital injection in the Ukrainian market and (ii) intra-group transactions aimed at ownership restructuring of domestic market players. The consequence of such restructuring is the establishment of the vertical group structure with the ultimate holding company incorporated abroad.

Obviously, such holding company, as a rule, is incorporated in a foreign jurisdiction that is favourable from the tax perspective and results in tax and management optimisation of the group's activity. Additionally, the formal control by a foreign company provides the group with additional options to obtain less expensive financing compared with those available in Ukraine.

At the same time, these transactions have domestic origins and should probably not be included in the aggregate share of foreign involvement in M&A transactions in Ukraine.

V SIGNIFICANT TRANSACTIONS, KEY DEVELOPMENTS AND HOT INDUSTRIES

Most of the significant transactions of the past year on the Ukrainian M&A market appear to involve the participation of foreign investors.

The list of 'hot' industries in 2007 is set out below. Unfortunately the financial sector remains the leader of Ukrainian M&A market in 2007. The share of M&A deals in the financial sector amounted to 6 per cent of the total M&A deals in the relevant segment in Central and Eastern Europe.

i Financial sector – banking segment

Ukrainian banks continue to receive the most interest from foreign strategic investors: last year the number of deals in the banking segment was 25, making up approximately 30 per cent of all M&A deals in Ukraine.

In the past three years, a quarter of Ukrainian banks had some foreign capital, including half of the country's top 10 banks. According to the 2007 annual report of the National Bank of Ukraine, 47 Ukrainian banks had foreign capital, of which 17 are fully foreign-owned (26.7 per cent and 9.7 per cent of the total number of banks registered in Ukraine).

In 2007, foreign investors acquired both small banks ('licence-purchase deals') and banks in the top five.

Compared to the previous years, the novelty of 2007 was a package transaction: Swedish Swedbank acquired two Ukrainian banks owned by the same business group (TAS-Komerzbank and TAS-Investbank) at once. Interestingly, one month previously, Swedbank's main competitor in Sweden, SEB Bank, acquired its second bank in Ukraine (Faktorial Bank in Kharkov), having purchased Azhio Bank three years ago.

The most active investors in 2007 in the banking segment were banks from Sweden and Cyprus (two representatives from each country). In addition, in 2007 new players from Russia (Kitfinance), Germany (Commerzbank AG), France (Société

Générale), Italy (UniCredit Bank) and Georgia (Bank of Georgia) entered Ukrainian market in this segment. Another novelty is that second- and third-tier foreign banks (Cypriot Marfin Popular Bank and the Bank of Georgia) were present among foreign strategic investors.

However, 2007 saw much lower premiums offered for Ukrainian banks (on the average, a decrease to 4 to 3 bank capitals). This trend clearly evidences that the boom in banking M&A is subsiding.

The three top deals of 2007 in the Ukrainian banking sector were as follows:

- a* the acquisition of 95 per cent in UkrSotsbank by Unicredit Group (Italy) (through Bank Austria Creditanstalt) for \$2.07 billion;
- b* the acquisition of TAS-Komerzbank and TAS-Investbank by Swedbank (Sweden) for \$735 million; and
- c* the acquisition of 60 per cent +1 in Bank Forum by Commerzbank AG (Germany) for \$600 million.

Other sizeable deals in the banking sector were:

- a* the acquisition of 75.8 per cent in Ukrinbank by Bank Hapoalim (Israel) for \$136 million;
- b* the acquisition of 99.2 per cent in Marine Transport Bank by Marfin Popular Bank (Cyprus) for \$137.4 million;
- c* the acquisition of 97.25 per cent in Faktorial Bank by SEB Bank (Sweden) for \$116.7 million;
- d* the acquisition of 95 per cent in AvtoZaZbank by the Bank of Cyprus for \$76 million; and
- e* the acquisition of Universal Bank of Development and Partnership by the Bank of Georgia for \$74 million.

The only in-out M&A deal in the banking sector was the acquisition by PrivatBank (the biggest Ukrainian bank in terms of asset size) of 75 per cent in the Georgia's TaoBank for \$24 million.

ii Financial sector – insurance segment

The Ukrainian insurance market is continuing the boom that started last year. In 2007 there were 10 deals, with an aggregate deal value of \$300 million. The main focus of foreign investors is on Ukrainian insurance companies acting on the retail market and with a developed regional network.

The deal of the year in the Ukrainian insurance market was the increase of shareholding in Oranta Insurance Company by Bank TuranAlem (Kazakhstan) up to 85 per cent (by an acquisition of 25 per cent for \$99.2 million). The initial price for the 25 per cent stake announced for privatisation by the State Property Fund of Ukraine was \$15 million, and in the course of the tender TuranAlem increased it by 6.7 times.

Another deal widely announced was acquisition by AXA French financial group of two Ukrainian insurance companies – Ukrainian Insurance Alliance (50 per cent for approximately 50 to 70 million Ukrainian hryvnas) and Vesko (50 per cent for 130

million hryvnas). The acquired companies act in the banking-related insurance segment (insurance of pledge, life and health of pledgee).

Also, in November 2007, Vienna Insurance Group (Austria) acquired 62 per cent of Ukrainian Insurance Group for \$49.5 million. Vienna Insurance Group has been already present in Ukraine through two risk insurance companies (Knyazha and Globus) and in the life insurance segment (Jupiter and VAB group that includes 3 insurance companies).

iii Metallurgy

In 2007 the metallurgy market competed with financial sector for leadership in the volume of M&A transactions in Ukraine (41 per cent of the aggregate number of M&A deals in Ukraine).

During the last year Privat Group divested all its metallurgy assets in favour of EvrazHolding, one of the leaders of the Russian metallurgy market for approximately \$3.3 to 3.5 billion.

SCM Group was involved in the deal announced as a merger of the year in this market sector – its subsidiary holding, Metinvest merged with Russian Smart Group, as a result of which Smart Group became the second owner of Metinvest (20 to 25 per cent) in consideration for transfer of control over Makeevsky Steel Plant (Ukraine), Inguletsky iron-ore mining and enriching company (Ukraine) and Promet Steel rolling plant (Bulgaria) to Metinvest. Analysts believe that the amount of the said merger was approximately \$4.5 billion.

Furthermore, as expected in 2007 the Ukrainian metallurgy companies were quite active in acquiring abroad. To optimise their costs, they made a number of acquisitions to establish vertically integrated production chains and dispose of assets that were non-attributable to the core business.

The deals (all of them in-out transactions) that are worth mentioning are:

- a* the acquisition by Metinvest of two steel assets abroad –Trametal Sp based in Italy and Spartan UK in Great Britain for approximately \$600 million;
- b* the acquisition by Palmory of the biggest Australian manganese coal manufacturer, Consolidated Minerals, for \$1.1 billion;
- c* the acquisition by ISD Group of Stocznia Gdansk shipyard in Poland for approximately \$140 million; and
- d* the IPO performed by Finance and Credit Group – a little above 25 per cent of shares of Ferrexpo holding, controlling the Poltava iron ore mining plant (Ukraine), were offered on the LSE.

iv Food industry

The food industry in Ukraine also tends to grow (8 per cent of the aggregate number of M&A deals in Ukraine). According to expert assessments, the sector of non-alcoholic beverages and dairy products kept the lead. 2007 has seen 20 M&A deals to the aggregate amount of approximately \$1 billion.

The largest deal in the food industry for 2007 was the acquisition of the leading domestic juice manufacturer, Sandora, by Pepsi Corporation. The acquisition was executed by PepsiAmericas and PepsiCo. The transaction has been structured in two

stages: first stage provided for the purchase of 80 per cent shares for \$542 million, and the second one was closed in October 2007 through the buyout of the remaining 20 per cent for approximately \$135 million.

The other major deals were:

- a* the acquisition of 100 per cent of Rosynka Kiev soft drinks plant by Orangina Group (France) for approximately \$65 million.;
- b* the acquisition of 17 companies of the Klub Syru Corporation (cheese and dairy manufacturer) by Investment Group Renaissance Capital (Russia) for \$679 million.;
- c* the acquisition of 95 per cent of shares in Shostka City Milk Factory (cheese manufacturer) by Bel Group (France) for approximately \$50 million.;
- d* the acquisition of a controlling stake (over 50 per cent) in Kiev Sparkling Wine Plant by Henkell & Sohnlein Group (Germany) for \$14 million.

Although agriculture takes one of the leading positions in the Ukrainian economy, concentration degree of the food industry remains behind the level achieved by more developed countries.

The notable trend of M&A in the agriculture in 2007 is numerous small and medium-sized domestic mergers between raw-material processors and agricultural enterprises. Mainly, all such M&A deals were aimed at acquisition of agricultural lands by local manufacturers (through share deals) to ensure control over the complete processing cycle. Further, in such a way Ukrainian agricultural companies are 'gaining weight' in preparation for foreign investors coming to this market segment in two to three years' time.

v Oil and gas

There were seven large deals in the oil and gas sector in 2007, with a total value of \$413 million. The largest M&A deal in this market was acquisition of 50 per cent of Regal Petroleum Ukraine Plc by Moravske naftove doly Ltd (Czech Republic) for \$330 million. The substantial part of the assets of Regal Petroleum Ukraine are based in Ukraine (two oil and gas fields in the Chernigiv region).

Other deals to be noted were:

- a* the \$71 million acquisition by Kuwait Energy KSCC (Kuwait) of the Ukrainian assets of Cardinal Resources Ukraine (i.e., 100 per cent of Carpatsky Petroleum Inc, Raget Commercial Ltd, Mitre Resources Ltd and Burovaya Kompania Rudis, CJSC; and 50 per cent of UkrKarpatOil, Ltd); and
- b* the acquisition of 50 per cent of Alians Holding by Shell International Petroleum plc (UK) for \$150 million.

vi Real estate

Having appeared in the top ranks of the Ukrainian M&A market for the first time in 2006, the real estate sector retained its place in 2007, with 3 per cent of the aggregate number of M&A deals in Ukraine.

2007 presented several transactions involving transfer of shares in the companies operating real estate objects:

- a* the acquisition by Group DF of Parus, one of the newest business centres in Kiev, as well as the Kiev shopping mall Mandarin Plaza; and
- b* the acquisition by Meyer Bergman, a European-based private equity fund, of Kiev shopping mall Aladdin.

In addition, the Immo Industry Group, a Belgian-based development group, entered the Ukrainian commercial property market – a newly established joint venture with Ukrainian private investors allowed Immo Industry Group to launch several development projects aimed at the construction of logistics centres built according to the needs of particular customers.

vii Other sectors

Significant transactions in other sectors included:

- a* in the media market, the acquisition by Mr Ihor Kolomoysky of 3 per cent of Central European Media Enterprises for \$110 million. As a result, CME increased its Studio 1+1 (the leading national TV-channel) interest up to 90 per cent with an option to acquire the remaining 10 per cent interest. The total consideration paid by CME for the purchase was \$219.6 million, of which \$140 million was paid to Mr Kolomoisky and \$79.6 million to other sellers;
- b* in the same sector, the acquisition by UA Inter Media Group Ltd (a Ukraine-based media holding) of 60 per cent of TV channel NTN for approximately \$210 million; and
- c* in the communications sector, the acquisition by Providence Corporation of the largest domestic cable-TV and broadband services provider, Volya-Kabel, for approximately \$210 million.

Rather active M&A processes also occurred in the chemical and pharmaceutical industries and the advertising, wholesale and retail sectors.

VI FINANCING OF M&A: MAIN SOURCES AND DEVELOPMENTS

Both equity and debt capital remain among the sources of financing M&A transactions in 2007 in the Ukrainian market.

A notable trend of Ukrainian M&A market is the increase in both domestic and international businesses active in Ukraine performing initial public offerings of shares (‘IPOs’) in the international capital markets. In 2007, 20 Ukrainian companies listed the shares of their holding companies abroad for the aggregate amount of \$1.9 billion. The most popular markets are the Main Market and AIM at the London Stock Exchange, Frankfurt Stock Exchange and Warsaw Stock Exchange. The latter is the most suitable for small and medium-sized companies providing for the flexible terms of listing.

In most cases, proceeds of the IPOs were allocated to fund aggressive M&A strategies in the Ukrainian regions in the booming sectors or, in some cases, to survive a raider attack. An illustration of the latter is CJSC pharmaceutical firm Darnystya, one of the domestic leaders of Ukrainian pharmaceutical market, which listed 20 per cent of its shares at the Frankfurt Stock Exchange in a private placement in 2007.

The domestic capital market, however, remains largely too illiquid to finance any substantial M&A transactions because of an immature legislative framework and numerous regulatory hurdles for investors. For various reasons, the Ukrainian market is also not yet ready for management buyouts either.

VII EMPLOYMENT LAW

Currently the Ukrainian authorities are increasing their supervision over the activities of foreign commercial entities, particularly representative offices. Therefore, in addition to typical tax and currency regulation issues, foreign investors also had to pay close attention to strict compliance with labour laws. However, no significant changes have occurred during the last years in this sphere.

The key statute regulating employment relations in Ukraine is the Labour Code. In spite of numerous alterations, the Labour Code and its supplementing legislation remain antiquated and are based on the old Soviet, extremely employee-oriented approach, often failing to reflect the current requirements of the Ukrainian market and the business environment.

As a general rule, employers may employ a foreigner if the latter has an employment permit. Employment of foreigners in Ukraine is regulated by the Labour Code; the Law on the People's Employment 1991; and the Law on Legal Status of Foreign Citizens and Stateless Persons 1994.

The procedure for issuing a permit, terms of its validity and other matters are regulated by the Resolution of the Cabinet of Ministers on the Procedure of Granting Employment Permit to Foreigners and Stateless Persons 1999.

Employment of foreign citizens and stateless persons by domestic employers falls within a specific procedure, which consists of obtaining an employment permit for the foreigner in Ukraine from the State Employment Centre; making further insurance payments to the State Insurance Fund against Unemployment; submitting records to the State Employment Centre; meeting certain tax obligations imposed on the employer. Further, the employer's registration as a taxpayer is an absolute requirement for issuing a permit.

Currently, however, there is no legal provision for issuing more than one work permit to foreigners occupying part-time jobs. A foreigner needs to obtain a certificate of permanent residence in Ukraine providing the right to be employed within two or more companies without obtaining a work permit.

Ukrainian law contains some restrictions on using the labour of foreign citizens. Particularly, citizens of foreign states may not be appointed to some positions or be involved in certain work, e.g., the civil service, the judicial system, etc.

VIII TAX LAW

One of the most noteworthy novelties of 2006, and a significant step in favour of investors, was the amendment to the Law on Corporate Profit Tax ('the Corporate Profit Tax Act') incorporated in November 2006. According to the small but material changes, the taxpayer should no longer include into its gross revenues the amount of share

premium (the margin obtained by the issuer as a result of sale of the securities or other shares issued by it at a price exceeding their nominal value during initial subscription). Thus, the issuer has an additional possibility for more flexible terms and conditions in the process of formation of its own capital and to obtain some financing free from the corporate profit tax.

The most topical issue for foreign investors with regard to Ukrainian taxation policy is still investment into Ukraine with minimum tax consequences, and at the same time with a guarantee of profit return to non-residents and optimisation of taxation on these profits in Ukraine.

The general rules applicable to taxation of profits of non-residents that have income from Ukraine are set forth in the Corporate Profit Tax Act. Except for some kinds of profit, the common rate of tax on income for non-residents is 15 per cent of the sum of the paid profit. This tax is deducted from the sum paid to the non-resident (and therefore represents the withholding tax).

The above-mentioned tax can be legitimately avoided upon application of double taxation treaties concluded and ratified by Ukraine and similar international treaties signed by the USSR that remain in force in the territory of Ukraine.

In February 2007, the Cabinet of Ministers by its Decree approved the Concept of Ukrainian Tax System Reform (Decree No. 56-p of 19 February 2007), which aims at bringing the Ukrainian tax system into compliance with EU standards. However, no material changes to the existing Ukrainian tax system have been implemented so far.

IX COMPETITION LAW

There were no substantial developments in competition legislation in Ukraine in 2007.

Among the landmark developments in competition law in the last few years, particular attention should be paid to the Resolution on Typical Requirements for Establishment of Business Associations, setting out the conditions under which no decision of the ACU is required for the establishment of a business association. Another important amendment worth noting is the provision granting the ACU express authorisation to file a suit to the competent Ukrainian courts with a view to recognise agreements or any other documents underlying the transaction as null and void if the latter will or may result in monopolisation of respective markets, abuse of monopolistic or dominant position, and restriction of competition.

The most recent amendments to the Economic Competition Act may be considered as less significant in respect of their expected effect on the regulatory framework, since they mainly concern expert rights and expert examination procedure in competition cases.

Although the Ukrainian law on merger control allows for a number of ambiguities and uncertainties, it represents a significant and successful institutional innovation. Despite certain gaps, the Ukrainian legislation on merger control is capable of duly governing the relations resulting from the parties' intention to expand their business. In 2006, the number of merger clearance applications received by ACU and, respectively, the amount of the issued prior approvals grew by 100 per cent against the same figures of the previous year. Such statistics clearly demonstrate the development of competition

legislation (in particular, merger clearance regulations) in Ukraine as well as their sustained application in practice. Furthermore, in case of obvious gaps or ambiguity in the applicable Ukrainian legislation, both the transaction parties and ACU officers, acting by analogy, increasingly apply the relevant provisions of the EU competition law. In view of this trend, the progressive development of the Ukrainian competition legislation appears to keep in line with the growing sophistication of the domestic and international competition levels.

X FUTURE DEVELOPMENTS AND OUTLOOK

According to the experts, in 2008 most Ukrainian M&A deals will involve foreign investors, with an insignificant increase of domestic transactions in the total volume of deals. Analysts believe that the aggregate deal value of M&A transactions in 2008 could reach approximately \$20 billion.

The M&A market in the banking sector is expected to concede first place in 2008. However, according to investment bankers, the total deal value in the banking sector should still exceed \$3 billion. The top 20 Ukrainian banks, as well as small and medium-sized banks, will still be targeted within next two years.

The likely targets in 2008 are Pravex Bank, still one of the leaders of the banking retail market, and Kreditprombank. Other Ukrainian banks that could be sold in 2008 are Transbank (the South Korean Kookmin Bank is named as the most likely bidder) and Khreshchatyk Bank, both controlled by domestic private investors.

There is no doubt that the insurance market will continue its boom in the next few years. The reason for its being among the 'hot' industries in M&A market in 2008 is that its potential is extremely high compared to insurance markets in the USA and Western Europe. In Ukraine the aggregate amount of insurance premiums in the non-life sector increased by approximately 27 per cent and in the life sector by 50 to 60 per cent on the previous year. Another reason for foreign investors to continue their expansion into the Ukrainian insurance market is its enormous profitability: for the last year in different segments effectiveness was evaluated at 300 to 350 per cent.

Growth of interest is expected considering the fact that Ukraine is the second-largest country by population in the CIS.

According to the insurance experts, the retail market will be the most promising (both life and non-life). The potential targets for 2008 in the insurance market are insurance companies Etalon, TAS (affiliated with the former owner of TAS-Komerzbank and TAS-Investbank) and ASKA (affiliated with SCM).

At the same time, it is expected that the consideration will become lower (in 2006/2007 it amounted to 2.5 to 5 times the aggregate premium amount collected by a domestic insurance company).

Furthermore, similar to the banking segment, it is forecasted that there will be license-purchase deals, ensuring quick access to the Ukrainian insurance market for foreign groups.

Undoubtedly one of the factors positively influencing the activity of foreign investors is that Ukraine joined the World Trade Organization ('WTO') in May 2008. It is expected that WTO membership will result in significant increase of M&A deals

in Ukraine, above all in such industries as steel, engineering, chemicals, agriculture and food.

The real estate and development industry no doubt will continue to capture the attention of foreign investors in 2008, though domestic investors still appear to be much more adapted to the local regulatory and legislative framework in land and property matters.

It is also expected that the pharmaceuticals market will be interesting for foreign investors in 2008. According to analysts, the growth of this market segment is approximately 32 per cent per year.

It is also expected that the main Ukrainian business groups will continue the process of structuring and consolidation of their assets aimed at preparing for IPOs. The likely candidates for doing IPOs in 2008/2009 are EastOne (formerly Interpipe) and UA Inter Media Group Limited, one of the biggest Ukrainian media groups.