

Main Department of Civil Service of Ukraine
Center for Adaptation of the Civil Service to the Standards of the European Union
Center of Social Expertise of the Institute of Sociology, NAS of Ukraine

*Development of a Network of Policy Analysis Groups
in the System of Central Executive Bodies in Ukraine*

Consultations on Improving the Investment Climate in the Agricultural Sector of the Ukrainian Economy

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Foreword

Development of the Ukrainian State and its movement towards the European community requires establishment of modern, professional civil service that would function in accordance with the requirements of democratic governance. Civil servants of Ukraine must be politically neutral and professional, armed with modern knowledge and skills in public administration.

Among the key functions of public officials in democratic countries is the development of policy recommendations and policy alternatives to solve the existing problems in specific sectors. Civil servants also hold consultations with stakeholders and carry out monitoring and evaluation of the policy efficiency and effectiveness.

Comparing with EU practice, the system of policy coordination and development in Ukraine is not sufficiently transparent and is too centralized. Requirements to analyze policy alternatives and hold consultations with stakeholders are not always fulfilled. The Ukrainian officials often lack practical skills to analyze policy problems and their causes, possible consequences and obstacles to implementation of various options for problem solution.

In order to strengthen the capacity of civil servants to analytical support of the strategic government decisions, the Main Department of Civil Service of Ukraine during 2005–2008 supported a number of initiatives dealing with activities of a network of the policy analysis groups in the central executive bodies in Ukraine. Around 130 civil servants of top and middle managerial levels from the Secretariat of the President of Ukraine, Secretariat of the Cabinet of Ministers of Ukraine, National Bank of Ukraine, ministries and other central executive bodies received training and acquired relevant public policy skills and knowledge needed for application of democratic procedures to the decision-making process.

Results of the policy analysis groups' activities include publication of green and white policy papers. This is an effective tool used in the EU member states and other developed countries to ensure efficiency, transparency, consistency and predictability of work of public authorities.

Requirements to the quality of public policy development and implementation become even more exacerbated in the context of preparation of the EU – Ukraine Association Agreement. Success of the relevant negotiation process largely depends on the capacity of the Ukrainian officials to formulate a coherent, effective and far-sighted strategy of mutual relationships.

Given the magnitude of the obligations of Ukraine in the framework of the future Association Agreement with the European Union, in 2008 the Main Department of Civil Service of Ukraine put forward an initiative, which was supported by the Government, to expand the network of policy analysis groups and to focus their work on the issues of implementation of Ukraine's commitments under the future Free Trade Agreement with the EU.

In December 2008 the initiative on “Development of a Network of Policy Analysis Groups in the Central Executive Bodies in Ukraine” was launched by the Center for Adaptation of the Civil Service to the Standards of the European Union. It was implemented by the Center of Social Expertise of the Institute of Sociology of the National Academy of Sciences of Ukraine. 10 cross-sectoral groups were created to deal with the sectoral issue of the EU–Ukraine Free Trade Agreement and 3 policy analysis groups—to deal with issues of the civil service reform. Each of the groups consisted of 7–10 top-level civil servants (II–IV categories).

Policy analysis groups dealing with priority issues of the EU-Ukraine Free Trade Agreement:

- Development of a strategy to overcome technical barriers to trade: standardization and compliance assessment.
- Development of a strategy in the field of financial services.
- Development of a strategy in the field of trade in services: the movement of capital.
- Development of a strategy in the field of public procurement.
- Development of a strategy in the field of sanitary and phytosanitary regulations.
- Development of a strategy in the field of protection of intellectual property.
- Development of a strategy in the transport sector.
- Development of a strategy in the environment sector.
- Development of a strategy in the energy sector.
- Development of a strategy in the field of taxation.

Policy analysis groups dealing with priority issues of the civil service reform:

- Reform of the classification system in connection with the civil service compensation system.
- Introduction of new approaches for the annual performance evaluation of civil servants’ activities.
- Reform of the system of professional development for civil servants.

In 2008–2009 the main task of policy analysis groups was the development of the sectoral strategies to meet the obligations imposed by the future Association Agreement with the EU. These strategies defined objectives and steps of implementation of the Agreement, as well as resources needed to implement a strategy (financial, human, and institutional). The draft strategies, discussed with all stakeholders, will enable to prepare for implementation of future Agreement and strengthen the position of the Ukrainian party at the currently running negotiations with the EU.

Public discussions of policy options for solving sectoral problems will promote better understanding and support by the stakeholders of the government policy and provide a feedback for the government.

This year, the policy analysis groups have had a number of innovations. First of all, it is their inter-ministerial structure: representatives of the Ministry of Justice, the Ministry of Economy and the Secretariat of the Cabinet of Ministers participated in almost all policy analysis groups. Secondly, the number of involved public officials and authorities significantly increased comparing to previous years—130 civil servants from 20 central executive bodies as well as from the Secretariat of the Cabinet of Ministers and the National Bank of Ukraine took part in policy analysis groups. In addition, analytical support to members of policy analysis groups was provided by both international and local sectoral experts from the International Center for Policy Studies (ICPS) and the Ukrainian-European Policy and Legal Advice Centre (UEPLAC).

During the year members of policy analysis groups participated in trainings and seminars guided by the EU and Ukrainian experts. They mastered the methodology of development of policy documents and decision-making procedures according to the European standards. The groups organized public consultations aimed at discussion of proposed drafts strategic documents with representatives of NGOs, business community and experts. Considerable number of received comments and suggestions greatly improved the quality of the policy documents.

The key to successful implementation of this initiative was a permanent monitoring and evaluation of the results of policy analysis group's work. According to the survey, most participants consider such trainings in policy analysis as very useful and effective because they provided opportunity to get equipped with skills in policy analysis, cost-benefit analysis and effective communication in the context of the requirements posed by the process of adaptation of the Ukrainian legislation and norms to the EU norms and standards, taking into account national interests of Ukraine.

Moreover, activities of policy analysis groups generate a multiplication effect; they become a basis for the new quality civil service and new administrative capacity of the central executive bodies. Despite the fact that only about ten civil servants are official participants of the policy analysis group, the practice shows that the number of public officials involved into the process of development of strategic policy documents is actually bigger.

In 2008, the School of Senior Civil Service was established, the task of which is to create institutional conditions for developing leadership in the civil service and public administration reform. Given the fact that policy analysis groups have proved their effectiveness as a progressive form of the civil servants' on-the-job training, the follow-up initiatives relating to policy analysis groups are planned to be carried out on the basis of the School of Senior Civil Service. This will contribute to further development of both policy analysis groups' network and strengthening of the in-service training system of the civil servants.

Introduction

This document is developed to initiate public discussions with all stakeholders concerning the enhancement of the role of public authorities in improving the investments attractiveness of the agricultural sector of Ukraine at the international capital market.

The document was developed by the policy analysis group established by the Order of the Cabinet of Ministers of Ukraine, dated 30.12.2008 ¹ 43542/99/1-08. The group included Olexander Savchenko, Andriy Gaidutsky, Margarita Nesterenko, Svyatoslav Manzhulovsky, Olga Kozlova, Tatiana Sulyma, Andriy Svystun, Kateryna Ryazantseva, Iryna Konovalenko, Yvgen Grygorenko, Sergiy Biryuk, Olexiy Tarasenko and Svitlana Horoshavtseva – the representatives of the National Bank of Ukraine, Secretariat of the Cabinet of Ministers of Ukraine, State Commission on Securities and Stock Market, Ministry of Finance, Ministry of Justice and State Commission for Regulation of Financial Services Markets of Ukraine.

Presented points of view are purely for the discussion and may not be considered as the official point of view of the government bodies.

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For many countries of the world, the agricultural sector is a vital sector of the national economy, which provides the population with the food products. Currently, on the world-wide scale more than 80% of the consumption fund is formed by the agricultural production, therefore, further development of this sector of economy is an essential prerequisite for the existence of the mankind.

For Ukraine, which has advantageous geographical position and favorable nature and climate conditions, agriculture plays particularly an important role since it is one of the leading sectors of the economy. In Ukraine, agriculture provides 15% of GDP, it employs the third part of the working population and 12% of fixed assets. The share of the agricultural sector in the national economy of Ukraine is one of the largest among the national economies of Europe.

In the 1990-ties, Ukraine's agriculture has undergone a deep crisis. However, since 2000, due to reform of the agrarian sector, the certain stabilization of economic growth was achieved. Further development of the sector requires introduction of the major internal changes and external influx of the additional investments resources.

An important role in the market transformation of the agricultural sector, its economic growth could be played by foreign investments. The adherence to the market, innovations and entrepreneurial spirit are genetically inherent for such investments. Foreign capital effectively influences restructuring the agricultural sector, its market-oriented transformation, and growth of its competitiveness. All of these factors contribute to economic growth in this sector, strengthening of domestic and foreign markets position. In this regard, attracting foreign investments has been and still remains one of the most important tasks aimed at ensuring market transformation and further development of the agricultural sector. However, the enhancement of the

level of foreign investments involved into the agricultural sector requires radical improvement of the sector, because, despite the fact that it produces almost 15% of the GDP of this country, the sector has attracted only 2% of foreign investments, while the food processing sector, which produces only 5% of GDP, managed to attract almost 20% foreign capital investments.

The possibility and need to improve the state of affairs with the involvement of foreign investments into agricultural sector can be explained by several factors inherent in the economic situation in Ukraine. First of all, during 2000–2008, the industrial production of the country has been growing up, but in 2001–2008 the growth of agriculture has also been observed. The growth of GDP (Gross Domestic Product) exceeds the average rate of its growth in the Eastern Europe and the post-Soviet countries. From 2002 till 2008 real income, including pensions of the population grew up in a few times. It positively affected the purchasing power of the population and led to increased consumer demand in the domestic market.

Second, the agriculture sector of Ukraine is an export-oriented sector of the national economy with the pronounced forms of resource, infrastructure, fiscal, regulatory and economic competitiveness. Year by year, Ukraine occupies leading positions in respect to export of cereal crops. In connection with this, the problem of theoretical justification of the formation in the agricultural sector of a climate attractive for bringing-in foreign investments, introduction and implementation of effective organizational and economic forms and tools for development of investments activities, increase of competitiveness of the agricultural sector becomes more relevant.

The purpose of this document is to synthesize investments processes in the agricultural sector of Ukraine, study the causes of the low-level appeal of the agricultural sector, determine policy objectives aimed at increasing volumes of investments in agricultural sector and analyze policy alternatives enabling creation of favorable legal, institutional and economic preconditions for attracting investments and facilitating efficient activities of investors.

The main legal documents regulating the issue of investments into the Ukrainian agricultural sector are:

- The Land Code of Ukraine, Article 129 of which defines specific features pertinent to the issue of sale of land plots belonging to the state or municipal ownership to foreign states and foreign legal entities and which stipulates that such land sale is performed by the Cabinet of Ministers of Ukraine with the approval of the Verkhovna Rada (Parliament) of Ukraine (or by the state property privatization authorities with the subsequent approval of the Cabinet of Ministers). At the same time, the Item 15 of the Section 10 of this Land Code imposes a moratorium on sale and buying of the state and communal property land designated for agricultural purposes until the time when the laws of Ukraine on the state land cadastre and the Law on the land market will come into legal force;

- Article 206 of the Customs Code of Ukraine defines the list of goods, the permit for temporary import (export) with conditional full exemption from taxation may be granted for;
- The Law of Ukraine “On the evaluation of land”, which defines the legal framework for land evaluation and professional land evaluation activities dealing with land assessment in Ukraine;
- The Law of Ukraine “On Protection of lands”, which defines legal, economic and social principles of lands protection;
- The Law of Ukraine “On payments for land”, which determines the size and procedure of payment for the land use;
- The Law of Ukraine “On Value Added Tax”, provisions of which exempt from taxation the following operations: supply (sale, transfer) of land plots, land shares, except those that are under real estate property objects and the cost of such land plots is included into the value of the real estate property according to the law, fees for the rent of land plots which are owned by the state or territorial communities of citizens, if such rent fees are fully credited to the relevant budgets;
- The Law of Ukraine “On the lease of land”, which stipulates that foreigners and foreign legal persons may be tenants of land;
- The Law of Ukraine “On State Duty”, Article 3 of which determines the rates of state duties, including rent (sublet) of land – 0.01 % of the monetary value of land plot.

1. Problem Description

During the period of economic crisis in the agrarian sector of Ukraine (1991–2000) investments processes were virtually stopped. The share of investments, made in agricultural sector, considerably declined from 21.3% in 1990 to 3.7% in 2000. In late 2007, this figure rose to 4.9%. On the one hand, it shows a sharp decline in investments in the agricultural sector (investments crisis), on the other hand – it indicates that there is a great potential for attracting more investments in the agricultural sector. Investments capacity of the agricultural sector is one of the important pre-conditions for decisions by investors, especially foreign ones, to make relevant investments.

An assessment of investments needs and opportunities of the agricultural sector is of great importance. Dynamics of investments in agricultural sector can be a measure of the scale of the investments crisis in the agricultural sector. In 2000, investments in the fixed capital of the sector reduced by 13 times if compared to the investments

volume of 1990. Slowdown of investments in the agricultural sector was the largest one among other economy sectors. During 1991–2007 unsecured and sought for agricultural investments needs grew up to 150 billion UAH. This shows the magnitude of the investments market in the sector and its large investments capacity.

Another indication of the depth of the investments crisis, and, at the same time, large investments capacity of the agricultural sector is also the general structure of financial costs. Budgetary financing of investments in agricultural production is very low. Investments lending does not exceed 9% of the financial costs. The share of the own financial investments covers only 5% of total expenditures. Share of foreign investments is very small – only 1.3%. This figure, however, demonstrates the great potential of growth of the role of the attracted investments, especially foreign ones.

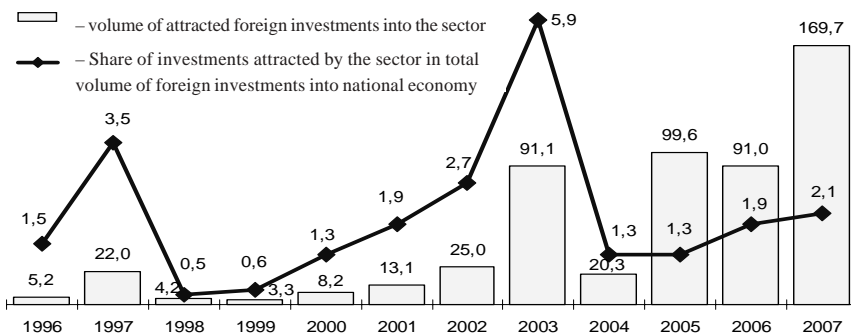
The depth of the investments crisis largely predetermines the scale of investments capacity, dynamics and nature of reproductive investments processes in the agricultural sector. Experts of the Institute of Agricultural Economics Academy of Agricultural Sciences of Ukraine argue that the cumulative deficit of investments in the agricultural sector can be compensated during 20 years, under condition that the sector will maintain current rates of its growth. At the same time, their calculations also show that the overall investments capacity of the agricultural sector is estimated in the annual range of 30 billion UAH (moderate investments) to 40 billion UAH (intensive investments).

An agricultural sector needs serious modernization. The share of basic agro machinery that has expired service life or its technical resource is more than 90% for harvesters and 80% – for tractors. A rate with which machinery is written-off is in 5–10 times higher than the rate of purchase of the new, replacement machinery. However, the main problem for technical modernization of the agricultural sector is the availability of funds. The minimum annual requirement in funds to maintain the technical condition in the sector at stable level makes up 2–3 billion UAH. For rapid upgrading of the existing machines and tractor park annual need for funding is estimated at 10–15 billion UAH.

For real recovery of the potential of agricultural production it is urgently needed to involve foreign investments to the sector. However, by the volume of foreign investments into the Ukrainian agricultural sector it is considerably lags behind the rates enjoyed by national economy as a whole, for which, in its turn, the level of involvement of foreign capital is also quite low compared to other countries. In 2007, agriculture attracted only US Dollars 169.7 million of foreign investments or only about 2.1% of their total in the country (See fig.1). Although these volumes are of the record level, it is still 3 times less than the amount of foreign capital inflow observed in 2003. This figure is not adequate to total input of the agricultural sector into the national economy. The volume of attracted foreign investments per one rural resident is also very low – less than 13 US dollars and the gap with developed countries is quite large. In total, the share of investments into agricultural sector is considerably lower than the investments share attracted by the other economy sectors especially if we take into account the share of the agricultural sector in other national macroeconomic indicators.

Only about 500 agricultural enterprises managed to attract foreign capital, representing only 2% of large enterprises of the sector that cultivate more than 1,000 hectares of agricultural lands. At the same time, it is only 3% of the total number of enterprises of the country having foreign investments.

Fig. 1. Volumes and share of foreign investments in-flow into the agricultural sector of Ukraine*



* Estimated on the basis of the data of the State Committee of Statistics of Ukraine.

In the cross-sector division of the national economy there is a significant imbalance in attracting foreign investments. Individual economy sectors (first of all, agriculture) have large investments attraction capacity, whereas some other economy sectors are already quite saturated with investments. Thus, the ratio of specific weight of foreign investments into agricultural sector and share of agricultural sector in GDP is 1.3:14, but the ratio of specific weight of foreign investments into the food processing sector, and the specific weight of this sector in national GDP – 15:5. The type of the foreign investments inflow also differs by economy sector. In agriculture, two thirds of the foreign investments are in cash and the rest are in the form of real estate. On the contrary, in the food processing sector only one third of the foreign capital was received in cash, the rest – in the form of property. In the agricultural sector, a significant portion of attracted funds is spent to finance current expenses, but in the food processing sector it is spent in order to purchase equipment.

Regional distribution of foreign investments in the agricultural sector is also uneven. The volume of foreign investments attracted per 1 ha of agricultural land ranges from USD 7.2 thousand (TransCarpathians region) to USD 0.9 thousand dollars (Zaporizhzhia and Mykolayiv regions) – the difference makes up 8 times. Similarly, there is a regional difference in the volume of foreign investments attracted per one employee of the agricultural sector.

Analysis of the distribution of foreign investments between the regions gives reason to conclude that it is not really directed to agricultural sector. The group of regions with the least amount of investments consists of purely agricultural regions. Agricultural investment phenomenon of Kyiv can be explained by the fact that registered in the capital city are many investment companies that successfully invest into agriculture of other regions of the country.

Distribution of foreign investments among other cities and rural areas is also uneven. Most of the investments are concentrated in cities – 85% of the total volume attracted but in the Chernigov, Poltava and Odessa regions and the Autonomous Republic of Crimea (all of them are leading agricultural regions) – practically 100% of foreign investments were in agricultural sector. Only in the Kyiv, Rivno, Sumy and Ternopil regions rural districts managed to attract more foreign investments than regional centers.

Thus, the agrarian sector of Ukraine, which during the 90-ties of the twentieth century had experienced difficult investments crisis, became quite weak from the point of view of its ability to attract foreign investments. Large capital requirements, especially for technical modernization, so far can not be provided through the use of the funds in possession of enterprises, bank loans and from the budget. Therefore, an important source of investment market for the agricultural sector is attraction of the foreign capital into the agricultural sector.

However, the volume of foreign investments to agricultural sector of Ukraine lags very much behind the national economy in general. Providing on average 14% of GDP, the agricultural sector in 2004 received only 1.3% of the total volume of foreign investments raised by Ukraine. The process of attraction of foreign investments into national agricultural sector has intensified only after radical acceleration of reform of this sector. During 2000–2003, the volume of raised investments increased by more than 8 times basically only due to rapid implementation of measures aimed at the market-oriented transformation of the sector and macroeconomic support from the state. But due to significant loss of investors in 2003 because of adverse weather conditions, the volume of investments attracted in 2004 again declined. This shows instability of the provision of foreign investments to agricultural sector.

However, the optimal level of foreign investments attraction into the Ukrainian agriculture is much higher. It should be compatible with specific share of the sector in the GDP structure of the country, i.e. to in the range of 13–14% of the total. This figure has been reached by Portugal and Greece. The maximum annual level of foreign investments into agricultural sector, which can be selected as a target one could be about USD 50–70 dollars per capita of rural population, on a short-term basis. This level was achieved by Estonia, Finland, and Kazakhstan. Investments attractiveness of the Ukrainian agriculture is in no way inferior to the investment attractiveness of the above countries. Therefore, this is the figure which should be used as a target and the investment climate and image presented by the agricultural sector of Ukraine should be aimed to. Organizational work with foreign investors and state investments attraction policy should also be oriented to the achievement of the above mentioned figure.

As it is proved by the surveys, the low image of the sector at all levels of its functioning is one of the causes of poor implementation of investments potential of the agricultural sector of Ukraine. The experience of developed countries shows that for a large-scale attraction of foreign investments in the agricultural sector of the economy it is necessary for a state to carry out effective investments policies aimed at the establishment and further improvement of the investments image of the sector at all levels – central and regional executive bodies of power and at the level of local self-government.

Main causes of the low level of investment attractiveness of the agricultural sector.

1. Lack of the fully developed land market.

Principal vector of achievement of investment attractiveness of the agrarian sector is the market-oriented transformation of land ownership relations that includes the following main areas: privatization, rent, mortgage, land selling and buying, inheritance of land, use of land as a gift, exchange of land plots, registration of property rights to land. These transactions with the land are very important for foreign investors in the context of safeguarding ownership rights in respect to invested financial means, securing profitability of investments, movement and re-investment of the invested capital.

But existing key mechanisms related to the land market actually do not function: agricultural land can not be bought or sold, to be privatized or used as a mortgage.

So far, land rent relations in Ukraine are mainly of the short-term character. In particular, one third of land related agreements is concluded for the period of up to 3 years, half of such agreements is concluded for the period of 4 – 5 years and the remaining ones – up to 10 years. Only 1.8 % of such agreements are signed for the period of more than 10 years. And the length of the land lease is an important factor in provision of investments.

Changes and additions to the Land Code, introduced in 2004, still include temporary limitation on sale of land shares (till 2007) and possibility of their inclusion into the statutory assets of businesses (till 2010). They also envisage that individual citizen of Ukraine can not own more than 100 ha of agricultural land. Moratorium on land sales has been extended and land property rights for foreign investors are not envisaged at all.

2. Absence of Land Cadastre of the country.

Absence of land cadastre of course does not help creation of the land market. Establishment and further development of the land market requires carrying out quantitative and qualitative assessment of land resources. Therefore, the development and introduction of land cadastre is very important.

Data of the public land cadastre should be necessarily taken into account when concluding contracts of sale or buying of land.

3. Lack of incentives for foreign investors, who work in this sector.

Situation regarding foreign investments in the agricultural sector is surprisingly paradoxical. As it was already noted, the share of agricultural sector in generating the country's GDP is equal to 14% but agriculture managed to attract, on average annual basis, only 2% of all investments. Under such conditions, investors need to be offered some new, very favorable conditions for active deployment of their investment potential in the agricultural sector. Benefits should be provided only to those investors who invest real capital (which are mainly direct investments), in excess of USD 100 thousand per one investment project. In order to reduce speculation, benefits should be granted only to investors who make so-called "green field" investments, that is such investments which fund creation of new or expansion of the existing agro-businesses.

The main benefits should relate to conditions of land allocation, registration of investments, materials, technical implements, etc.

4. Lack of legislative framework for insurance of agricultural business.

As the production cycle of agricultural sector is influenced by many factors (natural, financial, market, etc.), one of the criteria of the attractiveness of agricultural sector of the country for foreign investors is an opportunity to enter into insurance contracts and the cost of such contracts. When creating a legislative framework for insurance business in the agricultural sector it is necessary to identify the basic principles. These are insurance procedures, conditions, presence or absence of preferences for the enterprises of the agro-industrial complex in the process of concluding insurance contracts.

5. Absence of "Investment portrait" of the agricultural sector.

One of the reasons why the agricultural sector attracts moderate amounts of investments is the low level of awareness of investors about the benefits of the agricultural sector of Ukraine. Presence of several climatic zones and different conditions for growing diverse varieties of agricultural crops and running animal husbandry businesses for raising various species of livestock should be logically indicated at the "Investment Map of the Sector". A lack of promotional support to the agricultural sector compels more than 90% of investors to register their capital in Kyiv, and only after that they look for attractive regions for their investments.

2. Policy Objectives

As far as the enhancement of investment attractiveness of the agricultural sector of Ukraine is the subject of consideration by this policy document, the key policy objective which is planned to be achieved as a result of this policy implementation is to enhance investments attractiveness in the analysed area. The term "investments attractiveness" is defined by the authors of this document as following:

Investments attractiveness of an enterprise in the agricultural sector of Ukraine represents a level of satisfaction with financial, production, institutional and other requirements or interests of the investor in respect to specific agricultural enterprise (private/ large farm), which may be expressed or measured by values of relevant indicators.

Policy Objectives:

- to improve the investment attractiveness of Ukrainian agricultural sector;
- to increase inflow of foreign investments into agricultural sector;
- to enhance the rates of the agricultural sector development;
- to increase presence of the Ukrainian agricultural products in the world agricultural markets.

These objectives can be achieved through implementation of a number of specific auxiliary objectives:

Short-term sub-objectives (1-2 years):

- to make changes in the Land Code of Ukraine, which would stipulate that the land may be the subject of trade that is to be bought and sold;
- to create a legislative framework in the sector of agro business insurance so that it will envisage procedures, conditions, presence or absence of preferences for agro business enterprises when concluding insurance contracts;
- to amend the Law of Ukraine “On the regime of foreign investment activity”, which would obligatorily include a provision for simplified system of registration of foreign direct investments;
- to secure appropriate coordination of actions of all governmental regulation authorities and to improve their norms and regulations so that the current legal framework for regulation of foreign investments in Ukraine will provide a clear mechanism for implementation of safeguards and guarantees granted by the state to investors as it is required by the Law of Ukraine “On the regime of foreign investment activity”;
- to amend Article 7 of the Law of Ukraine “On taxation of profits of enterprises”, and, in particular, its section on “Peculiarities of profit taxation of enterprises with foreign investments”, as well as clearly define the conditions and procedure for repatriation of profits by the enterprises with foreign investments;
- to develop Land Cadastre (regulating assessment of the land value, availability of land, its quality, types of lands), the data of which should be obligatorily used in the process of conclusion of contracts for the sale or purchase of land which would encourage and stimulate formation of the land market;

- to create “investment portrait” of the regions, which would give detailed information about the state of agriculture in each region, including quantitative and qualitative data, capacity of the investment market in the region and future trends of its development as well, etc.

Medium-term sub- objectives (4-7 years):

- to improve investments attractiveness of the agricultural sector;
- to increase inflow of foreign investments in the agricultural sector by 5-7%;
- to raise the level of mechanization (to increase the quantity and quality of the park of agricultural machinery and mechanisms) in agriculture using investments made by foreign investors.

Long-term sub-objectives (7-10 years):

- to increase foreign investments in the Ukrainian agriculture to the level of contribution of the agricultural sector to national GDP, that is to 14% (nowadays, only 2% of the total investments volume are invested into the agricultural sector, but the contribution of the agricultural sector to national GDP makes up 14%);
- to improve the level of production in the agricultural sector as a whole and in its individual branches;
- in a case of achievement of the main objective – the improvement of investment attractiveness of the **Ukrainian agriculture, this policy will also have real positive results for:**

Population:

- increase of the level of average wages in the sector;
- improvement of the financial and material well-being of the agricultural sector employees;
- incentives for further development of farming as a family business.

For the real sector of economy:

- creation of new companies;
- implementation of new investment projects;
- increase of money lending to the agricultural sector and redistribution of credits in direction of getting more favorable, long-term credits;
- better availability to enterprises of operational capital;
- growth of the rates of agricultural production growth;

- further increase of rates of agricultural entrepreneurship development;
- reduction of dependence on imported products;
- development of the progressive forms of business such as: leasing, factoring, etc.

Macroeconomic stability of the country:

- creation and operation of land market;
- reduction of the cost of credit resources for the agricultural sector;
- improvement of technical level of the sector development;
- growth of tax revenues of the budgets of all levels;
- increase in competitiveness of finished products of the agricultural sector;
- increased presence of the Ukrainian agricultural products in the world agricultural markets;
- decrease trade of deficit and payment balance of the sector;
- sustainable economic growth of the sector.

3. Policy Alternatives

Given the relevance of the problem, 2 policy alternatives should be considered.

Alternative 1. Preferential treatment of investments into agriculture.

In order to implement this alternative option it is necessary to:

- significantly reduce the tax on investments in equipment and other assets for business in agriculture, which would be attractive and profitable for investors;
- introduce the principle of “single window” for investors, which would significantly simplify launching and implementation of investment activity;
- provide incentives for profits repatriation for those foreign investors, who operate in the sector of agriculture.

Uncertainly defined issue of repatriation of profits remains in Article 7 dealing with the “peculiarities of taxation of profit of enterprises with foreign investments” of the Law of Ukraine “On Taxation of Profits of Enterprises” and, not incidentally, Article 1 of this Law – “Definition of terms” does not mention at all the term “profit repatriation”.

Alternative 2. Transferring the right to use the land to investor.

In order to implement this alternative option it is necessary to:

- transfer the right for designated land use to investor and granting the right of purchase of the leased land after lifting the moratorium on the sale of agricultural land, which was again postponed until January 1, 2010 by the Verkhovna Rada of Ukraine.

The current legislation does not envisage any right for foreigners to own the land in Ukraine. In accordance with the paragraph 4 of Article 22 of the Land Code of Ukraine (1), “agricultural land can not be transferred into ownership of foreign citizens, stateless persons, foreign legal entities and foreign states”.

Under these conditions, the necessary for foreign investors legal guarantees and economic interests can be realized through:

- direct lease by foreign investors of the land shares of peasants, which is not prohibited to foreigners;
- acquiring by foreign companies of collateral from domestic agricultural enterprise in the form of rental rights for the land accompanied by the foreign company commitment to provide local agro enterprise with the investments or long-term loans;
- conclusion of sub-guarantee agreements of foreign investors with other foreign

investors who will acquire the right to buy land ownership;

- land and money relations development based upon collateral principle;
- pledge of shares of statutory funds of domestic agricultural enterprises, which will include land, to foreign companies in exchange of their pledge to secure investments or long-term loans.
- to introduce changes in the legislation:
 - to repeal the moratorium on the sale of agricultural land;
 - to adopt the draft law “On land market”;
 - to make changes to the Land Code envisaging the right of possible future purchase by foreign investors of agricultural land.

4. Criteria for Evaluation of the Policy Effectiveness

Weighing all advantages, shortcomings and possible positive impact of each alternative solution upon the country’s macroeconomy, with the due account for its economic, social and financial conditions, six most important (according to the authors of this document) criteria for evaluating the effectiveness which would confirm achievement of objectives of the policy and change (or positive moves forward) in the agricultural sector of the economy of Ukraine were selected.

The weight of each criterion (listed in parentheses), expressed in points, was also independently defined, with the assumption that the total weight of all criteria is 100 points. The criteria are presented according to their weight decrease and each criterion is accompanied by concise description and/or expected developments (expected results), namely:

1. Attractiveness for foreign investors (40) – this is the level of satisfaction of financial, production, institutional and other requirements and interests of an investor in respect of a specific agro-industrial enterprise, which may be determined or measured by applying values of the respective indicators, namely:

- transparency of the legislation provisions and lack of contradictions between legal norms and regulations applied by the regulatory authorities;
- simplified system of registration of foreign investments;
- simplified permitting system for registration of the sector enterprises (of any form of property);
- right to buy / sell land of agricultural purposes;

- right to use land as a collateral;
- availability of benefits of repatriation of profits.

2. Economic impact of the establishment and functioning of land market (20):

- lifting the moratorium on sale of agricultural land;
- rent of land for the designated use with the right to purchase this land in future;
- direct rent by foreign investors of land shares from farmers;
- land and monetary relations development using land as a collateral.

3. Financial impact of achievement of designated objective expressed in the monetary terms (15):

- increase of foreign investments inflow into agricultural sector;
- gradual increase of income tax payments by agricultural enterprises to budgets of all levels.

4. Social Impact (10):

- raise of wages in the agricultural sector, increase of income per one employee in agricultural enterprises;
- raising of the level of employment;
- increase of the number of farms.

5. Economic impact of the lending expansion to the agricultural sector (10):

- reduction of interest rates on loans granted to agricultural sector enterprises (lowering the cost of money lending);
- increase of the size of credits (loans) granted to enterprises of the sector and to private enterprises;
- better provision of agro-businesses with the working capital.

6. Resources needed to be invested in order to reach the objectives of the policy (5):

- availability in the budget of such income items that would compensate costs of provision of some benefits to investors;
- budget expenditures for elaboration and publication of legal acts;
- budget expenses for creation and support of operation of working groups (projects);

- participation of international experts and experts from the relevant ministries;
- costs of providing methodological assistance to specialists who deal with the introduction of the policy measures in the media, advertising, etc.

Each criterion of effectiveness was analyzed using the relevant point's scale that had been subjectively chosen by the authors of the document. Number of points for each criterion has been calculated by the following formulae:

$$\text{Sum} = \text{value} / \text{scale} \times \text{weight}$$

By adding the sums of all six criteria (separately for Alternative 1 and Alternative 2) the total sum for each alternative was found, namely:

Alternative solution 1 . “Preferential treatment of investments into agriculture”– 75.9 points;

Alternative solutions 2 . “Provision of land for use by investor” – 71.5 points.

The list of criteria for evaluating the effectiveness of alternative solutions, their weight, assigned scales, calculation of the sum of each criterion and total value of all criteria in respect to alternative solutions are summarized and presented in Table 1 1 – “Comparative Table 1 of proposed alternative solutions”, which is presented in Annex 1 to this Policy document.

For considered Alternative solutions 1 and 2 we developed an Action plan for their implementation which is presented in the summarized and concise format in the form of a comparative Table 1 2. Comparative Table 1 2 contains:

- a list of basic principles each alternative solution is based on;
- resources (human, administrative, financial, intangible, etc.) that will be necessary for implementation of each alternative solution;
- introduction tools for each alternative solution.

Comparative Table ¹ 2 of proposed alternative solutions

Problem: low level of attractiveness of investment climate in the agro-industrial complex (AIC)	
<p style="text-align: center;">Alternative solution 1</p> <p>“Preferential treatment of investment in agriculture”</p> <ul style="list-style-type: none"> • substantial reduction of duties on investment in the form of equipment and other assets for agrobusiness; • the principle of “single window” for investor; • benefits for repatriation of profits. 	<p style="text-align: center;">Alternative solution 2</p> <p>“Lease of land for use by investor”</p> <ul style="list-style-type: none"> • lease of land for designated use with the right of subsequent purchase of this land after lifting moratorium; • introduction of amendments to legislative acts of Ukraine.
<p style="text-align: center;">Resources</p> <ul style="list-style-type: none"> • qualified specialists; • partners, experts, consultants (+ partial budgetary funding); • knowledge; • financing of measures with the involvement and information of investors (brochures, exhibitions, etc.) 	<p style="text-align: center;">Resources</p> <ul style="list-style-type: none"> • qualified specialists; • partners, experts, consultants (+partial budgetary funding); • knowledge; • financing of measures with the involvement and information of investors (brochures, exhibitions, etc.)
<p>At the first stage, possible reduction in the budget revenue is possible</p>	<p style="text-align: center;">Expenditure connected with the preparation of the land for transfer to investor</p>
<p>Financial tool is applied</p>	<p>The tool based on legal norm is applied</p>

Using the results of comparison of two presented tables No. 1 and 2 it would be feasible to select the First alternative solution (Alternative 1).

However, for better transparency of alternative solution 1 and alternative solution 2 the authors of the draft policy document have developed an “Implementation Action Plan” for these two policy alternatives, summarized in the following tables.

Action plan for implementation of the Alternative solution 1 “Preferential treatment of investment in agriculture “.

Proposed action	Term	Result	Resources	Authority in charge of implementation (body of state power)
<p>1) To make amendments to the law of Ukraine “On regime of foreign investment”, which provides a simplified system of mandatory registration of the foreign direct investment.</p>	<p>2009–2010</p>	<p>Adoption of legislation that would simplify regime of foreign investment in agro-industrial sector</p>	<p>Wages of skilled professionals (staff employees CBEP), partners, experts, consultants</p>	<p>Verkhovna Rada of Ukraine, The Cabinet of Ministers of Ukraine</p>

2) To create a legislative framework in agro-insurance business which envisages relevant measures, procedures, conditions, availability or lack of preferences for enterprises of the agro-industrial complex in the process of insurance contracts conclusion.	2009–2010	Adoption of legislation that promotes development of insurance business in agro-industrial sector	(budget financing), financing of measures used in order to involve and inform investors (financed by the European Technical Assistance programmes)	Verkhovna Rada of Ukraine, The Cabinet of Ministers of Ukraine, Relevant CBEP institutions dealing with the sector's issues
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Action Plan for implementation of alternative solutions II “Providing land use investor with the further right of redemption after lifting the moratorium on land sales”.

Proposed action	Term	Result	Resources	Authority in charge of implementation (body of state power)
1) To make amendments to the Land Code of Ukraine, which would envisage that the land may be the subject of trade, that is to be bought and sold.	2009–2010	Adoption of legislation that guarantees the opportunity to obtain land ownership	Wages of skilled professionals (staff employees CBEP), partners, experts, consultants (budget financing), financing of measures used in order to involve and inform investors	Verkhovna Rada of Ukraine, The Cabinet of Ministers of Ukraine

<p>2) To develop a Land Cadastre (assessment of quantity, quality, and types of land), the data of which are necessarily to be used in negotiating contracts of purchase and sale of land.</p>	<p>2009–2010</p>	<p>Measures to obtain systemized data on existing land resources and their characteristics</p>	<p>(financed by the European Technical Assistance programmes)</p>	<p>The Cabinet of Ministers of Ukraine, relevant government bodies dealing with the sectoral issues, local state administrations</p>
<p>3) To create an “Investment portrait of the region”, which will contain detailed information on the status of agriculture in each region, the quantitative and qualitative factors, the capacity of the investment market in the region, and future trends of its development, etc.</p>	<p>2011–2012</p>	<p>Summary of information about potential of agro-industrial complex in each region</p>	<p></p>	<p>Relevant government bodies dealing with the sectoral issues, local state administrations</p>

5. Monitoring and Evaluation of the Effectiveness of the Policy Implementation

In order to evaluate the effectiveness of implementation of the policy on improvement of investment attractiveness of the agricultural sector proposed in this document, the relevant monitoring is also crucial. The main sources of information for this monitoring are the following:

Short-term monitoring:

- monitoring of the progress in terms of involvement of foreign investments into agriculture;
- analysis of activities of the public authorities in preparation of “investments portrait of the agricultural sector”.

Medium-term monitoring:

- to conduct personal survey of representatives of foreign companies, working in the sector, in order to assess achieved progress in facilitation of their ability to expand their business and creation of new trends in business development.

Long-term monitoring:

- study of specific share of products of the agricultural sector of Ukraine in international commodity (agricultural) market;
- analysis of growth of the share of the Ukrainian production in manufacturing the final products;
- study of changes in the investments attractiveness of the agricultural sector.

In order to achieve the planned indicators the on-going monitoring and evaluation of the degree of achievement of planned targets are to be conducted. In a case of detection of negative trends leading to failure of reaching planned indicators, the appropriate corrective and preventive actions should be developed and implemented in order to eliminate the reasons that caused the failure.

The proposed policy should be evaluated by using the following criteria:

- increase of investments inflow into the agricultural sector of the economy;
- increase of the share of foreign investments in the agricultural sector to the level of investments into the economy of the country as a whole;
- increase of the number of enterprises with foreign capital in the sector;
- increase of crops yields in plant growing sector of agriculture;
- increase of volumes of export of agricultural products to the world agricultural markets.

Appendix

Comparative Table ¹ 1 of proposed alternative solutions

Criterion	Scale	Weight	Preferential regime		Land – to investors	
			(Alternative 1)		(Alternative 2)	
1. Attractiveness for investor	0–5	40	5	40	3	24
2. Economic impact of creation and functioning of land market	0–3	20	1	6,9	3	20
3. Effect of the objective (in money terms)	0–10	15	8	12	7	10,5
4. Social impact (raise of wages, employment level, incentives to farm business)	0–10	10	7	7	8	8
5. Economic impact of expansion of loans availability, reduction of costs of borrowing credit resources for agricultural sector	0–10	10	5	5	8	8
6. Resources invested into policy implementation	0–5	5	5	5	1	1
		100		75,9		71,5

Sum= value / scale x weight

Information about the Activities of Policy Analysis Groups

The project “Development of a Network of Policy Analysis Groups in the System of Central Executive Bodies in Ukraine” is aimed at:

- promoting the development of democratic governance in Ukraine;
- promoting the strengthening of institutional capacity of central bodies of executive power for policy making;
- improving the coordination of public policy development;
- strengthening the strategic character and analytical support of decisions and enhancing the quality of overall government planning; and
- enhancing civil servants’ professionalism in developing policy proposals.

The legal basis for policy analysis groups functioning includes:

1. Order of the Cabinet of Ministers of Ukraine on “Activities of Policy Analysis Groups”, dated December 30, 2008 ¹ 43542/99/1-08.
2. Regulation of the Cabinet of Ministers of Ukraine “On approval of the year 2008 “EU – Ukraine Action Plan“, dated August 6, 2008 ¹ 1072-p.
3. Memorandum of Understanding between the Government of Ukraine and the Government of Canada concerning Ukrainian Civil Service Human Resources Management Reform Project, signed on May 26, 2008.
4. Regulation of the Cabinet of Ministers of Ukraine “On Ensuring Functioning of the Policy Analysis Groups in Central Executive Bodies and the Secretariat of the Cabinet of Ministers of Ukraine”, dated February 7, 2007 ¹ 32-p.
5. “Civil Service Development Program for 2005–2010”, approved by the Cabinet of Ministers of Ukraine on June 8, 2004 ¹ 746, with changes approved by the Cabinet of Ministers of Ukraine on September 3, 2008 ¹ 776.

The objectives of the project are the following:

- holding a series of practical target-oriented trainings and ensuring exchange of experience between the groups in respect to policy analysis, including methodology and practice of the comprehensive study of a situation and identification of a problem, assessment of its causes and implications, selection of alternative approaches to problem solution based on cost-benefit analysis and consideration of different stakeholders’ opinions;

- drafting policy documents relating to fulfillment of obligations imposed by the future EU – Ukraine Association Agreement with clear definition of tasks and steps for implementation of this Agreement;
- organizing public consultations aimed at discussion of proposed policy documents.

Policy documents developed by policy analysis groups in 2009:

- A policy on overcoming technical trade barriers: standardization and conformity assessment;
- Improvement of risk management in financial services sphere in Ukraine;
- Consultations on improving the investment climate of the agricultural sector of the Ukrainian economy;
- Dissemination of information on public procurement: adaptation of the Ukrainian legislation to the *acquis communautaire*;
- Strategy for the improvement of state sanitary and phytosanitary control and surveillance at state border crossing;
- Determination of optimal ways to reduce the level of piracy in Ukraine with respect to copyright and related rights in the course of circulation of copyright objects on tangible mediums;
- Harmonization of the national aviation safety system with European standards within the framework of the common aviation area Agreement. Participation of Ukraine in the European Aviation Safety Agency;
- Development of water resources management policy under the “Environment” Section of the EU Association Agreement;
- Priority efforts for the integration of unified power system of Ukraine into unified power systems of the European Union;
- Harmonization of Ukrainian legislation on the application of excise duty on alcohol and tobacco products in the context of the future Agreement on Association with the European Union.

Previous Initiatives on Policy Analysis

This project is a logical follow-up of the previous policy analysis initiatives carried out by the Main Department of Civil Service of Ukraine and international donors:

- “Public Policy Capacity Building” (1999–2003);
- “Establishing Policy Analysis Groups and an Information Resource Centre in the Government of Ukraine” (2000–2001);
- “The Activity of Policy Analysis Groups (PAGs) in Government Bodies in Ukraine” (2005–2006);
- “Strengthening the Institutional Capacity of Central Executive Power Bodies for Policy Making in the Context of the Concept Development of a Training and Consultative Center for the Highest Corps of Civil Servants” (2007–2008).

Firstly, such initiatives were funded by foreign donors, in particular, by the Canadian International Development Agency (CIDA) and the Swedish International Development Agency (SIDA).

Within the framework of the first project “Public Policy Capacity Building” (1999–2003) students of the National Academy of Public Administration under the President of Ukraine (NAPA) were engaged in the policy analysis training. The training included the internship in Canada and drafting of policy papers. Based upon project results, a course on policy analysis was included into the Academy’s curriculum, with practical assignments in drafting policy papers on selected topics.

The next project “Establishing Policy Analysis Groups and an Information Resource Centre in the Government of Ukraine” (2000–2001) was implemented as a joint initiative of the Cabinet of Ministers of Ukraine, International Center for Policy Studies (ICPS), Open Society Institute (OSI) and International Renaissance Foundation (IRF) with financial support from IRF under the tripartite agreement on cooperation between the Secretariat of the Cabinet of Ministers of Ukraine, ICPS and the IRF. The participants of this project were 49 governmental officials of higher and middle rank from the Ministry of Economy, Ministry of Finance and the Secretariat of the Cabinet of Ministers.

The outcome of these projects was inclusion into Regulations of the Cabinet of Ministers of Ukraine of a section that set requirements to policy documents (“policy decisions”), in particular, with regard to analysis of alternative solutions.

Upon the initiative of the Main Department of Civil Service of Ukraine, the efforts towards creation of policy analysis groups in central bodies of executive power continued in 2005. The projects were implemented by the Center for Adaptation of the Civil Service to the Standards of the European Union (the former name – Center

for Civil Service Institutional Development under the Main Department of the Civil Service of Ukraine), and were financed from the State Budget. List of policy documents developed by policy analysis groups during 2005–2008, is presented in Table 1.

In 2005–2006 the International Centre for Policy Studies implemented a project “The Activity of Policy Analysis Groups in Government Bodies in Ukraine”. The Department for International Development of the United Kingdom (DFID) and the Delegation of the European Commission to Ukraine provided assistance in engaging foreign consultants and trainers. The project results demonstrated the need to modify the training programs, to create policy analysis groups in other governmental bodies and to develop the network of policy analysis groups as a permanent forum for the articulation of new policy priorities and discussion of trends and prospects of social development.

The project “Strengthening the Institutional Capacity of Central Executive Power Bodies for Policy Making in the Context of the Concept Development of a Training and Consultative Center for the High Corps of Civil Servants”, which was implemented during 2007–2008, showed the importance of enhancing professional capacity of top civil servants in policy analysis and democratic decisions-making process. The need to acquire more knowledge and skills is emphasized in the context of participation of the government bodies in the Twinning projects.

Table 1. Analytical documents prepared by the policy analysis groups in 2005–2008

¹	Central executive body	Period of activity of PA groups	Subject of study
1.	Secretariat of the President of Ukraine	2005–2006	Strategy of democratic development of Ukraine and institutionalization of public policy tools in work of central bodies of executive government
2.	Secretariat of the Cabinet of Ministers of Ukraine	2005–2006	Democratization of decision-making process and compliance with the European requirements on applying democratic procedures in the decision-making process
3.	National Bank of Ukraine	2007–2008	Building the National Bank of Ukraine on the basis of independent, open and transparent activity
4.	Ministry of Economy of Ukraine	2005–2006	Policy and procedures for the preparation of state budget as the strategy for economic development of the country
5.	Ministry of Finance of Ukraine	2005–2006	State fiscal and taxation policy

6.	Ministry of Transport and Communication of Ukraine	2005–2006	State policy of Ukraine on integration of Ukraine to trans-European transport networks
7.	Ministry of Fuel and Energy of Ukraine	2007–2008	Creation of minimum supplies of oil and oil products
8.	Anti-Monopoly Committee of Ukraine	2005–2006	Policy in respect to liberalization of the domestic market and raise of competition at this market
9.	State Tax Administration	2007–2008	Improvements in tax information exchange
10.	State Committee of Ukraine on Technical Regulation and Consumer Policy	2005–2006	Policy of adaptation of the national legislation to norms and standards to requirements of the European Union
11.	State Nuclear Regulatory Committee of Ukraine	2007–2008	Increasing safety for resources of ionizing radiation in Ukraine
12.	State Agency of Ukraine for Investments and Innovations	2005–2006	Attracting foreign investments to Ukraine: problems and solutions
13.	State Commission on Securities and Stock Market	2007–2008	Increasing the level of corporate governance in joint-stock companies and ensuring of investors' rights
14.	National Electricity Regulatory Commission of Ukraine	2005–2006	Policy on regulation of the domestic electricity market
15.	National Space Agency of Ukraine	2005–2006	Policy on institutional development of the national space industry under market conditions
16.	Administration of State Border Service of Ukraine	2007–2008	Improvement of the system of border crossing in Ukraine for persons and transport vehicles
17.	State Department for the Execution of Punishment of Ukraine	2007–2008	Identification of the most optimal ways for minimizing the number of detainees in custody, and observance of norms for detention procedures in Ukraine

Information edition

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**Consultations on Improving the Investment Climate
in the Agricultural Sector of the Ukrainian Economy**

developed within the framework of the "Development of a Network of Policy Analysis
Groups in the System of Central Executive Bodies in Ukraine" project

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