

BELARUS

Investment Guide 2010



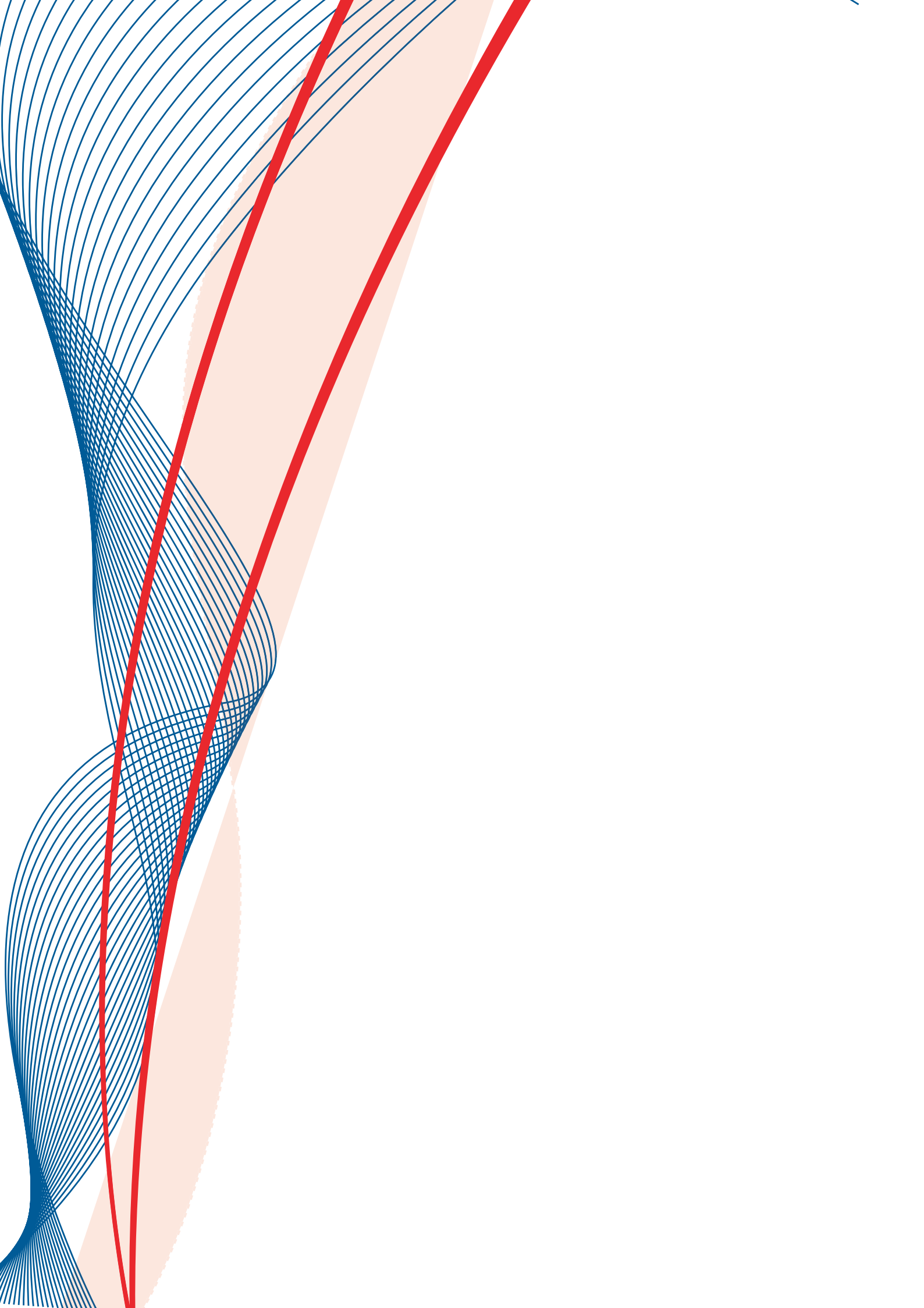


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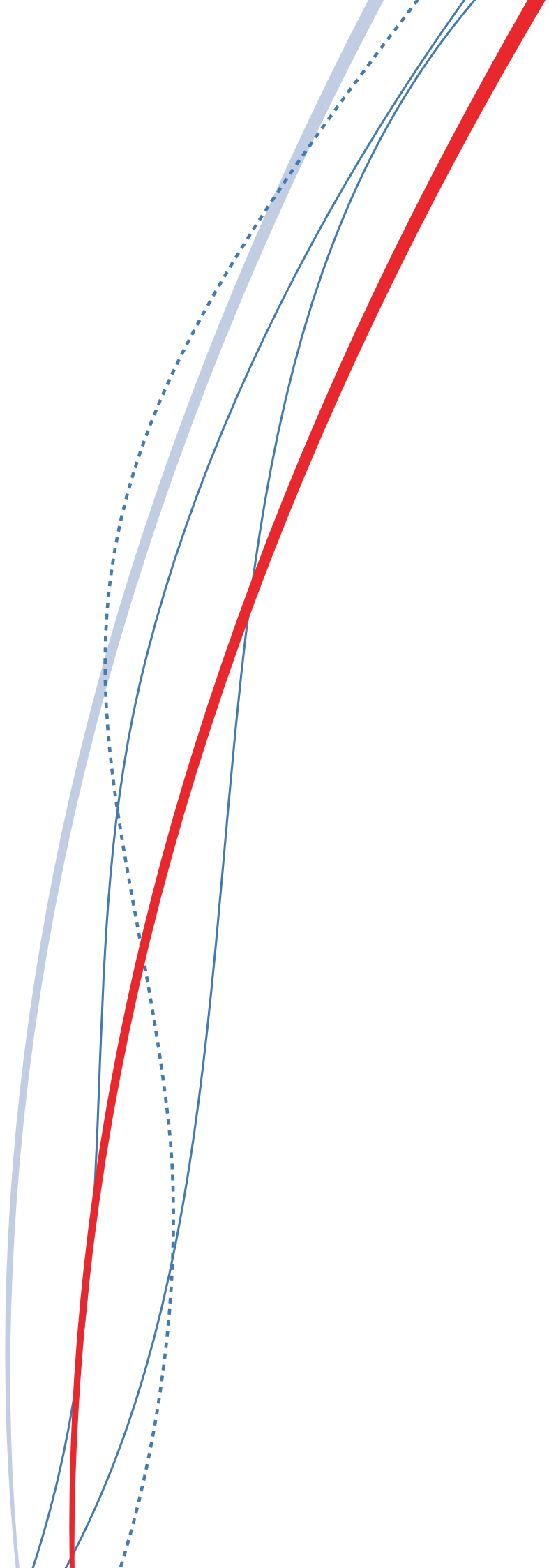
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Belarus Investment Environment

Please note that this section was compiled by Alfa-Bank Belarus for general information purposes only, free of obligation and free of legal responsibility and liability. It does not take the form of professional advice and does not cover all laws or reflects all changes in legislation, nor are the explanations provided herein exhaustive.

Therefore we recommend that you contact Alfa-Bank for further information.



1. Putting Belarus on the map

1.1. The Belarusian economy at a glance

The Republic of Belarus:

- lies in Eastern Europe and offers a favorable geographical position as a transit country
- possesses well-developed traditional industries that remain a key driver of economic growth
- occupies leading positions in machine building, oil processing, and food processing, and metalworking on Russian and global markets
- operates an open, export-oriented economy: external trade turnover to GDP ratio exceeds 1 over the last 10 years
- depends heavily on supplies of Russian natural resources and raw materials, and on exports to Russia of value-added products
- has 70% of national GDP generated by state-controlled enterprises with share in total exports exceeding 80%

Key highlights (2009):

- Territory - 207 600 sq. km (ranked 86 in the world)
- Population – 9.49 million (ranked 88 in the world)
- Population density - 45.6 people per sq. km.
- Workforce – 4.6 mln.
- Literacy - 99.6%
- Capital – Minsk (1.81million)
- Regional centers: Gomel (480 000), Mogilev (390 000), Vitebsk (360 000), Grodno (320 000), Brest (300 000)
- Nominal GDP - US\$ 48.8 billion.
- Real GDP growth rate – 0,2%;
- GDP per capita (\$) - 5140
- Inflation rate - 10.1%
- Exports – US\$ 24.8 billion (44,9% of total external trade turnover), imports – US\$ 30,3 billion (55,1%)
- Exports to CIS – 43.7% of total exports, to other countries – 56,2%
- Imports from CIS – 63.7% of total imports, from other countries - 37.3%
- Imports / GDP ratio = 0.62; Exports/GDP ratio = 0.50
- Unemployment Rate - 1% (officially); 8.1 - 9%(independent estimates)
- Current Account Deficit (% GDP) - 11.4%
- FDI inflow (% GDP) - 3.85%
- Gross Foreign Debt (% GDP) - 45.1%
- Year-average government bond yield - Not issued
- Moody's Rating - B1(Stable), S&P – B+ (Negative)
- Average exchange rate: (EUR/BYR) - 3983.4
- Average exchange rate: (USD/BYR) - 2803.2

1.2. Geographical position

Belarus enjoys a highly favorable and advantageous economic, geographical, and geopolitical position. It lies at the crossroads of major railways and highways, oil, gas, and product pipelines, and communication systems between Western Europe, regions of Russia, and Asian countries, as well as between the Baltic Sea and the Black Sea.

Several important transport corridors cross its territory:

- Pan-European transport corridor II (Berlin – Warsaw – Minsk – Moscow – Nizhniy Novgorod)
- Pan-European transport corridor IX (Helsinki – St. Petersburg – Moscow/Pskov – Kiev – Kishinev – Bucharest – Dimitrovgrad – Alexandroupoulos)
- Pan-European transport corridor IXB (Kiev – Minsk – Vilnius – Kaunas – Klaipeda/Kaliningrad)



Belarus borders on Poland, Lithuania, Latvia, Russia, and the Ukraine. The total length of the state border comes to 2,969 km.

Distances between Minsk and the capitals of neighbouring states are as follows: Vilnius - 215 km, Riga - 470 km, Warsaw - 550 km, Kiev – 580 km, Moscow - 700 km.

1.3. Human and labour resources

The population of Belarus is 9,493 million people, as of January 2010;

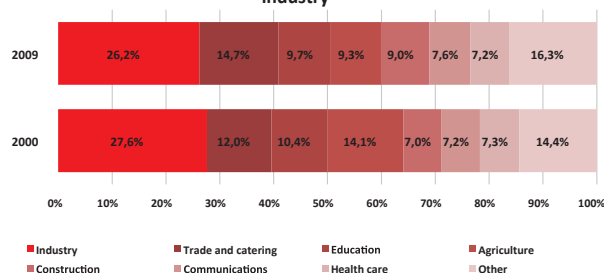
Its urban population constitutes 73.8% of the total;

According to national statistics, 99.6% of the total population in Belarus is literate. The country possesses 57 higher educational establishments, including 28 Universities and 8 Academies. The student resident ratio of 340 per 10,000 stands among the highest in Europe;

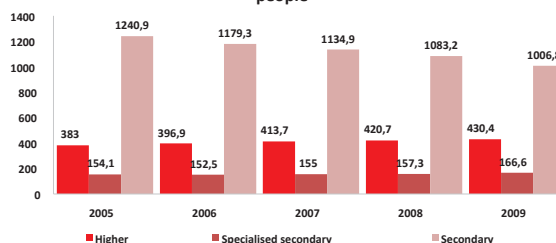
The proportion of workforce, or economically active individuals, among the total population is estimated at 46.3%;

Retirement age in the country depends on gender: 55 for women, and 60 years for men.

Workforce allocation dynamics in Belarus, % by industry



Number of students at different levels, thou. people



2. International political and economic cooperation

2.1. General overview

- The Republic of Belarus is a UN member since 1945;
- Since 1954 the country is a member of ILO (International labor organization);
- The Republic of Belarus joined IMF in 1992;
- In 2005 the country became a member of FAO;
- Since 1992 the Republic of Belarus is a member of World Bank Group;
- Since 1993 the country has a status of observer in WTO.

In general, the Republic is a member of 46 different international organizations.

The Republic of Belarus is also an active participant of organizations for regional cooperation:

- OSCE – since 1992;
- EBRD – since 1992.

The Republic of Belarus acts as an active initiator of a

local cooperation on the Post-Soviet territory and CIS.

- Since 1997 the Republic of Belarus is a member of the Union State with Russian Federation;
- Since 2000 the Republic of Belarus participated in EURASEC;
- In December 2009, the Republic of Belarus together with the Russian Federation and Kazakhstan became a co-founder of Custom Union.

Since the very beginning of its independency, Belarus declared MultiVector foreign policy, thus the key objective is to develop strong, equal and mutually beneficial relations with all countries and unions across the Globe.

However, it is obvious, that historically strongest and most developed relations the Republic has with its closest neighbors: Russian Federation and European Union, which are currently among the leading centers of power from the Atlantic to the Pacific Oceans.

2.2. Belarus and Russia

Belarus and Russia's political and economic relations are the most advanced among Post-Soviet countries.

Due to the structure of Belarusian industry, Belarus relies heavily on Russia both for export markets and for the supply of raw materials and components. The introduction of free trade between Russia and Belarus in mid-1995 led to a spectacular growth in bilateral trade, which was only temporarily reversed in the wake of the financial crisis of 1998. The framework for the Russia-Belarusian Union was set out in the Treaty On the Formation of a Community of Russia and Belarus (1996), the Treaty on Russia-Belarus Union, the Union Charter

(1997), and the Treaty of the Formation of a Union State (1999). The integration treaties contain commitments to monetary union, equal rights, single citizenship, and a common foreign and defense policy. They also have established a range of institutions modeled after the EU.

At the end of 2009 Belarus, Russia and Kazakhstan signed a Custom Union treaty. Despite of the strong historical and social background of mutual relations currently Belarus-Russia relations are in crisis. 2006 became a turning point in relations, as the Russian Federation started gradually cutting oil and gas price preferences.

2.3. Belarus and EU

Mutual relations were initially established after the European Union recognized Belarusian independence in 1991. However, since 1994, the relationship between the Republican Authorities and the EU deteriorated and has remained cold and distanced.

Relations have started to improve since October 2008. In 2009, the Republic became a member of Eastern Partnership program. The program is aimed at enhancing relations between EU and countries of the former USSR: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.

The program implies new association agreements including deep and comprehensive free trade agreements with

those countries willing and able to enter into a deeper engagement and gradual integration in the EU economy. It would also allow for easier travel to the EU through gradual visa liberalization, accompanied by measures to tackle illegal immigration.

The Partnership will also promote democracy and good governance, strengthen energy security, promote sector reform and environment protection, encourage people to people contacts, support economic and social development and offer additional funding for projects to reduce socio-economic imbalances and increase stability.

2.4. Belarus and International organizations

Relations between the Republic of Belarus and International Economic were established since the country's independence announcement. Over the period this partnership and participation was not easy. Before 2009, relations between IMF, WB, EBRD and the Belarusian State bodies were restricted by both sides, mainly due to political reasons.

However, with the beginning of gradual liquidation of the Russian subsidies since 2007 and global economic turmoil, the republican authorities had to seek for the financial support.

In 2009 Belarus signed a stand-by loan agreement with IMF

2.4.1 Stand-by agreement with IMF

IMF-Belarus Stand-by cooperation Timeline	
October 22, 2008	The Belarusian authorities have requested financial assistance from the Fund under a program that could be supported by a Stand-By Arrangement. The amount of Fund financing under a Stand-By Arrangement has yet to be determined
December 31, 2008	An IMF staff mission and the Belarus authorities have reached agreement, subject to approval by IMF Management and the Executive Board, on an economic program to be supported under a 15-month Stand-By Arrangement for SDR 1.62 billion (about US\$2.5 billion).
December 31, 2008	Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding was signed by the Head of the National Bank of the Republic of Belarus Mr. Prokopovich and Prime-Minister of the Republic of Belarus Mr. Sidorsky and Mr. Dominique Strauss-Kahn Managing Director International Monetary Fund
January 12, 2009	The Executive Board of the International Monetary Fund (IMF) approved a 15-month SDR 1.62 billion (about US\$2.46 billion) Stand-By Arrangement for Belarus in support of the country's efforts to adjust to external shocks. The approval makes an amount equivalent to SDR 517.8 million (about US\$787.9 million) available immediately. The Stand-By Arrangement entails exceptional access to IMF resources, amounting to 418.8 percent of Belarus's quota.
January 30, 2009	IMF issued a Financial System Stability Assessment—Update, including Report on the Observance of Standards and Codes on Banking Supervision. Key findings of the report were the following: 1) The Belarusian financial sector had so far weathered the ongoing turmoil well; 2) The regulatory and supervisory framework has improved since the 2004 FSAP, though concerns remain in some crucial dimensions.
March 10, 2009	An International Monetary Fund (IMF) team visited Minsk to meet with the authorities and discuss recent economic developments in the context of Belarus's IMF-supported economic program. The following statement of the Mission Head was made.
May 12, 2009	An International Monetary Fund (IMF) mission led by Mr. Chris Jarvis has visited Minsk to conduct discussions on the first review of Belarus's Stand-By Arrangement.
June 10, 2009	The IMF reached staff-level agreement with the Belarusian authorities on the conclusion of the first review under the SBA, completing the work carried out by the mission in Minsk during April 29-May 13. The staff recommended to IMF Management and the Executive Board an increase in IMF financial support for Belarus by SDR 651.4 million (about US\$1 billion).
June 22, 2009	IMF supported the decision of the National Bank of the Republic of Belarus (NBRB) to widen the exchange rate band from $\pm 5\%$ to $\pm 10\%$. The widening of the band increases the flexibility of the exchange rate regime, which will make it easier for Belarus to absorb external shocks.
June 29, 2009	The Executive Board of the International Monetary Fund (IMF) completed the first review of Belarus's performance under a program supported by a Stand-By Arrangement (SBA) and increased the financial support to SDR 2.27 billion (about US\$3.52 billion), equivalent to 587 percent of Belarus's quota or 7 percent of its GDP. These decisions enable the disbursement of SDR 437.93 million (about US\$679.2 million).
September 3, 2009	The IMF mission reached staff-level agreement with the Belarusian authorities on the conclusion of the second review under the SBA. The completion of this review would release a tranche of SDR 437.93 million (about US\$683 million).
October 21, 2009	The Executive Board of the International Monetary Fund (IMF) today completed the second review of Belarus's performance under an economic program supported by a Stand-By Arrangement (SBA). This decision enables the disbursement of SDR 437.93 million (about US\$699.5 million).
December 18, 2009	The Executive Board of the International Monetary Fund (IMF) today completed the third review of Belarus's performance under an economic program supported under a Stand-By Arrangement (SBA). The completion of the third review enables the immediate disbursement of SDR 437.93 million (about US\$688 million), bringing total disbursements under the program so far to an amount equivalent to about SDR 1.83 billion (about US\$2.88 billion).

Case study: Belarus-EBRD cooperation

1. Historical background

Since 1996 the Bank's activities in the Republic of Belarus have been limited by the country's slow progress in democratic and market-oriented transition. Previous Country Strategies have highlighted inconsistencies in the Belarusian authorities' commitment to and application of the principles of multiparty democracy, pluralism and market economics, as contained in Article 1 of the Agreement Establishing the Bank. As a result of the difficult operational environment created by these inconsistencies, the Bank's engagement with Belarus has been constrained.

The Bank remains concerned about the slow pace of reform in Belarus. Elections are not fully free and fair and the development of political pluralism, free media and civil society has a way to go before meeting the standards of a mature democracy. The state continues to dominate the economy and the use of production targets, wage restrictions, price controls and directed lending remain common. However, towards the end of the last Strategy period there have been encouraging signs of progress on both the political and economic fronts that, if continued and intensified, would provide a basis for deeper engagement with the Bank.

During the course of 2008, Belarus implemented some democratic reforms, including the release of political prisoners, the partial liberalisation of print media distribution, and showed greater tolerance towards the political opposition.

There were also several economic reforms implemented in recent years. The golden share provision was abolished across all industries in 2008 and a number of privatisations via sales to foreign investors took place. In the financial sector, improvements in regulation and supervision have been accompanied by the removal of lending interest rate caps. The simplification of the

taxation regime has benefited small and medium-sized enterprises as well as companies operating in small towns. Notable progress has been made in the area of deregulation. As a result, Belarus has made impressive progress on the World Bank's Doing Business indicators in recent years, rising from the 115th ranked country globally in 2008 to 82nd in 2009 and to 58th in 2010. Further advancement of privatisation and price liberalisation are among the key stated commitments under the IMF programme agreed in January 2009.

At the same time, the macroeconomic environment has become more demanding. The Belarusian economy grew rapidly in recent years, at 8.2 per cent in 2007 and 10 per cent in 2008. However, as an open industrialised economy, Belarus has been severely hit by the global economic crisis, primarily through the external demand channel. The economy has been simultaneously exposed to negative terms of trade shocks on both the import and the export sides: while the price of Russian gas continued to increase, the price of its key commodity export, potassium, fell sharply from its 2008 peak. As a result, economic growth slowed from 10 per cent in 2008 to 1.2 per cent in the first four months of 2009 (year-on-year), despite the rapid accumulation of stocks of unsold industrial output. Belarus is one of the few countries in the transition region still showing positive growth in 2009.

The Belarusian authorities have become more open to cooperation with the international financial institutions with regard to the development and implementation of market-oriented reforms. The combination of a positive direction of change and the greater willingness from the authorities to work with the international community on ways to address outstanding issues on the transition agenda is a basis for a modified strategic approach.

2. New country strategy – indicator of upcoming openness

By cautiously increasing its level of engagement, the Bank will seek to enhance the effect of programmes recently introduced by other organizations with a similarly strong interest in moving the Belarusian transition forward.

In its Strategy, the Bank will work together with private sector investors, the Belarusian authorities and other IFIs and donors to address the following key transition challenges:

- Development of private sector micro, small, and medium-sized businesses, in particular through enhanced access to finance for MSMEs located outside Minsk and the regional centres.

- Implementation of a transparent privatisation programme across various sectors of the economy, including further commercialisation of operations and privatisation of large state-owned banks.

- Liberalisation of trade and adequate provision of trade finance.

- Improvements in energy efficiency across various sectors of the economy, particularly in Belarus' large and highly inefficient manufacturing industry.

- Commercialisation of municipal infrastructure as well as improvements in environmental standards.

The Bank's activities in addressing these challenges will continue to be guided by its mandate and its adherence to the principles of Article 1. The focus in all its operations will be on finding private sector solutions and preserving market discipline. The operational priorities in the present Country Strategy build on the foundations laid in recent years on developing the MSME sector and attracting foreign investors to Belarus.

The Strategy therefore outlines a calibrated strategic approach that will allow the Bank to increase its engagement with Belarus on the basis of concrete implementation of sector-specific reforms designed to promote the further development of a market economy. The objectives in Belarus over the Strategy period will include the following, with certain areas of activity to be phased in as progress in meeting sector conditions is documented:

- Expansion of existing credit lines for micro, small and medium-sized enterprises via established privately owned partner banks, including the Belarusian Bank for Small Business. The Bank will also consider expanding its SME credit lines to commercially oriented state-owned banks with credible privatisation prospects in order to increase the geographical reach of its credit lines into the Belarusian regions and to support future privatisation efforts.
- Provision of technical assistance and, potentially, financial support to pre-privatisation and privatisation measures. These activities will focus in the first instance on technical assistance for the establishment of a Privatisation Agency and the pre-privatisation of a number of medium-sized and large state-owned firms, in line with Belarus' Stand-by Agreement with the IMF and Development Policy Loan with the World Bank.
- Promotion and financing of activities aimed at increasing energy efficiency, by working with local financial intermediaries to develop dedicated energy efficiency credit lines. The Bank will also work with private operators and foreign strategic investors to support the development of sustainable energy sources. The development of both energy efficiency credit lines and renewable sources of energy will require the Belarusian authorities to develop an appropriate regulatory framework to foster long term investments in this sector.
- Expansion of the Bank's Trade Facilitation Programme (TFP) to promote cross-border activities. TFP for existing Bank clients will be increased for on-lending to private sector clients. In addition, the Bank will consider the step-by-step expansion of the TFP programme to allow private sector partner banks to provide trade finance to selected state-owned clients and make TFP available to selected state-owned banks, with similar requirements in terms of commercial nature of operations and privatisation prospects as in the MSME credit line case for on-lending to private sector clients.
- Provision of support for the reform and technical upgrade of the environmental infrastructure and municipal services sector in cities and smaller urban areas to reduce pollution, improve energy efficiency, and improve standards for basic services including provision of clean drinking water, sustainable processing of waste and waste water, and enhancing energy efficiency of district heating and other urban infrastructure. Where possible the Bank will work alongside partners such as the NDEP, NIB and EIB to achieve these mutually shared objectives.

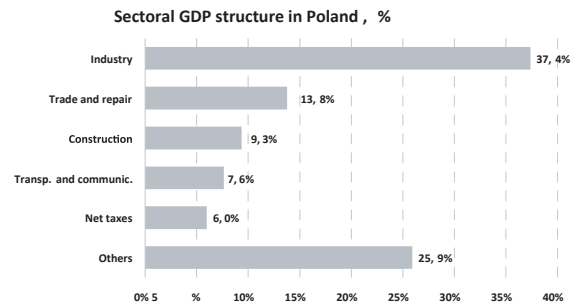
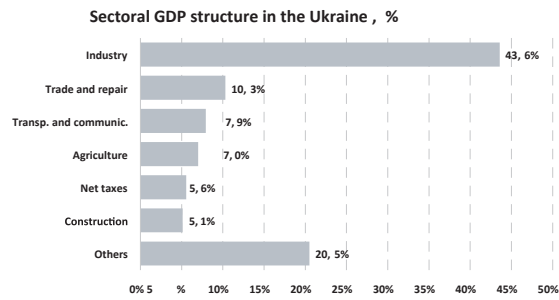
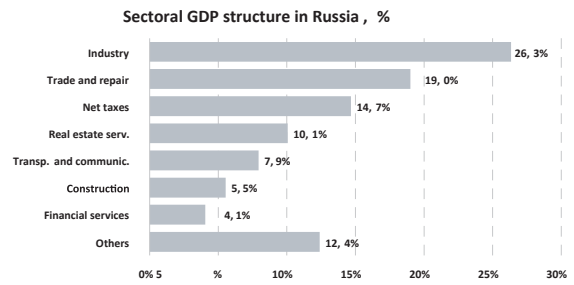
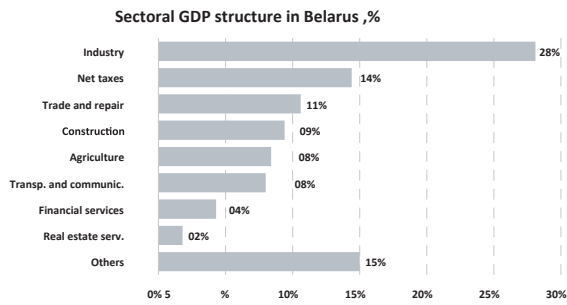
3. The Belarusian economy

3.1 Historical Background

Belarus played the role of an "assembly plant" in the Soviet Economy. Due to limited natural resources and raw materials, the country was one of the largest recipients of funds channelled to industrial development. During the USSR's last 20 years, the value of capital assets in real terms in Belarus grew 4,1 times, compared with 3,4 times average growth in other Soviet Republics. Between 1970 and 1989, Belarusian national income growth rates stood 1,7 percentage points higher than the Soviet average. Thus, a very substantial and to some extent unique industrial

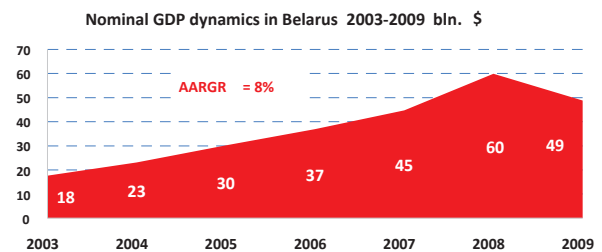
base was created in Belarus, dominated mainly by the traditional industries (49% of GDP in 1990).

Even during the Soviet era, the Belarusian economy was export-oriented. In 1990, the Total Exports / GDP ratio amounted to 50%, far higher than in other Soviet Republics. Exports outside the CMEA came to 5,5% of GDP – in second place behind Russia, which exported mainly natural resources. Thus, even during Soviet times Belarus held certain niches on the global market.

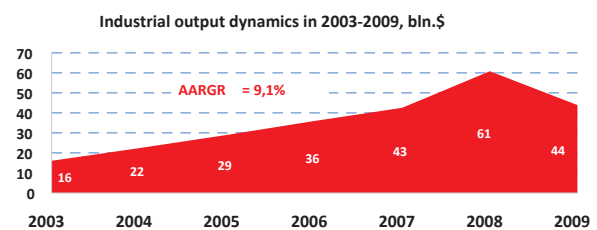


3.3.2. Macroeconomic: Internal factors

In 2009 GDP nominal volume in dollar terms composed \$ 48.8 billion and reduced by 18.5% in comparison with 2008. However, in 2009 GDP volume in real terms in Belarus increased by 0.2%. This situation is caused, first of all, by a first-stage and then gradual national currency devaluation. The main GDP growth-promoting factor was the maintenance of investment dynamic in the fixed assets, what connected with the state support of the construction sphere construction field.

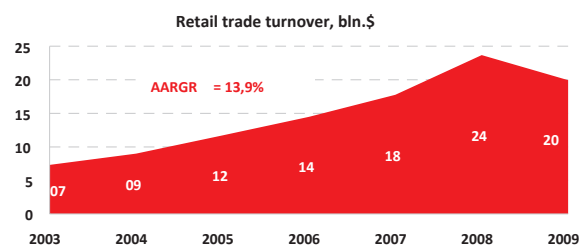


In 2009 industrial output volume in Belarus amounted to 44 billion USD and reduced in dollar nominal terms by 27.7%, however, the real decrease composed 2.8%. It is essential to note, that given real decrease looks good in comparison with the same performance in neighbor countries. This can be mostly explained by the Belarussian industry «for storage» functioning.

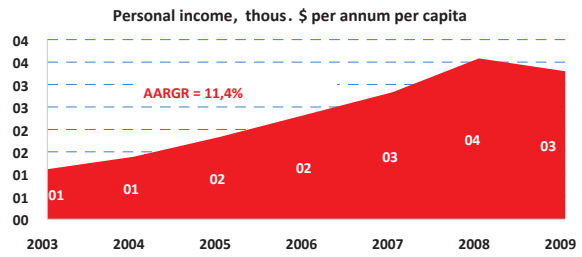


In 2009 incomes of population in dollar terms fell by 8.3% and amounted to \$ 3.3 thousand per capita per annum, however, the real growth composed 2.8%.

Nominal incomes decrease was mainly the result of the national currency devaluation. Moreover, in 2009 the State practically froze salary increase regarding budget organizations and pensioners. Budget expenses optimization – the main requirement of IMF.

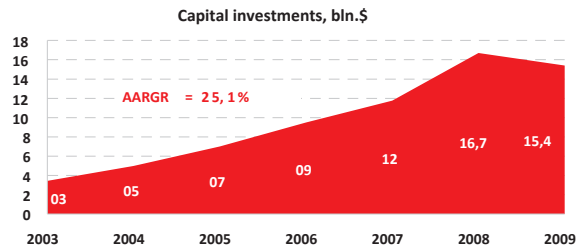


In 2009 in Belarus the investment volume of the main capital formed \$15.4 billion and reduced by 7.8 % in dollar terms in comparison with 2008. Nevertheless, the real investment growth composed 8.6%. Its share in GDP reached 31.5% and increased by 3 pct in comparison with 2008. In general, since 2003 the average real annual growth rate of capital investments made 25.1%.

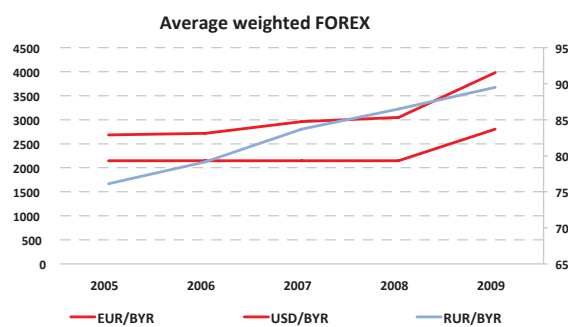
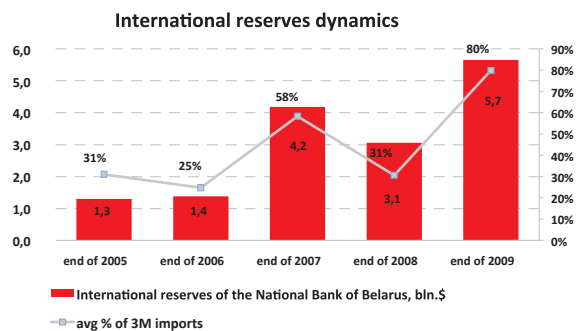
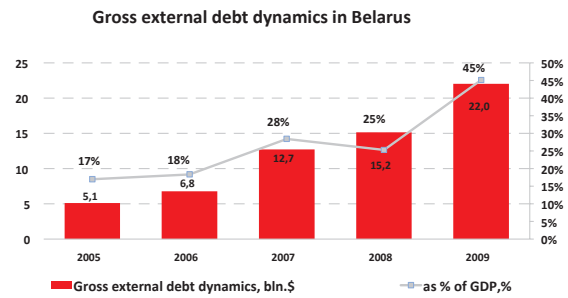
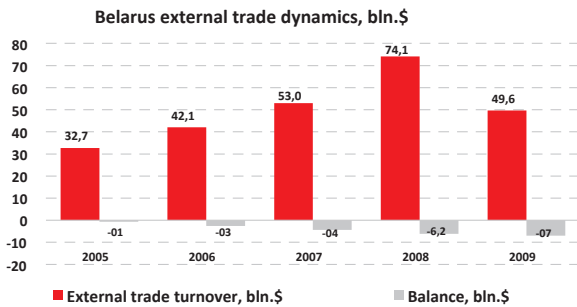


In 2009 the Belarusian retail trade turnover amounted to 19.9 bln.\$ and experienced a sharp 16% fall in dollar terms compared to 2008 results.

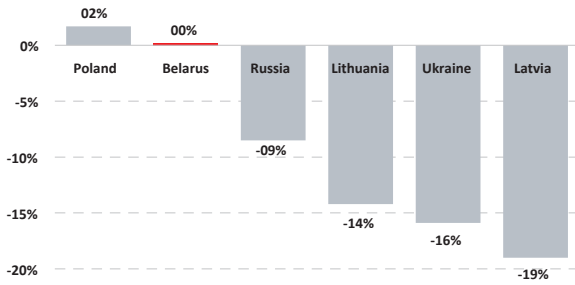
Despite of the hard last year, retail trade turnover in Belarus in dollar terms between 2003-2009 was growing by 13.9% per annum, reflecting consumer confidence based on the domestic consumption stimulation from the side of the state



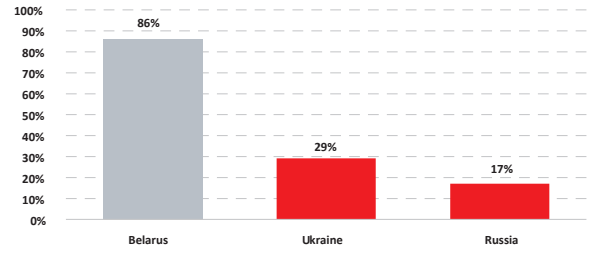
3.3.3. Macroeconomic development: External factors



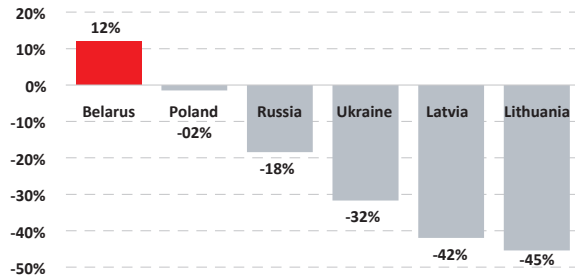
Real GDP growth in 2009 (country comparison), % yoy



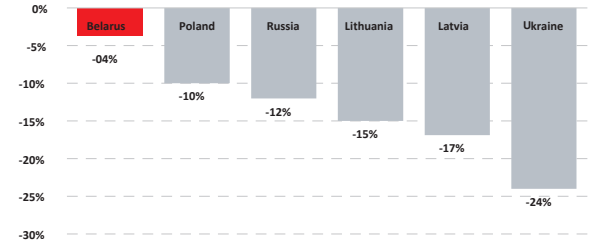
An average stocks of goods (country comparison), % of monthly production



Gross capital formation growth (country comparison), % yoy

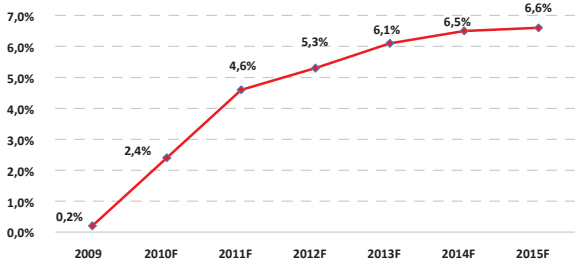


Industrial output growth in 2009 (country comparison), % yoy

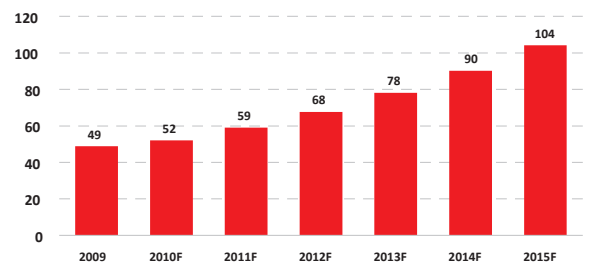


3.3.5. Macroeconomic forecast

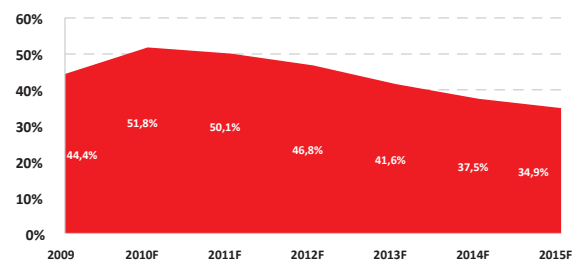
Real GDP growth forecast, %



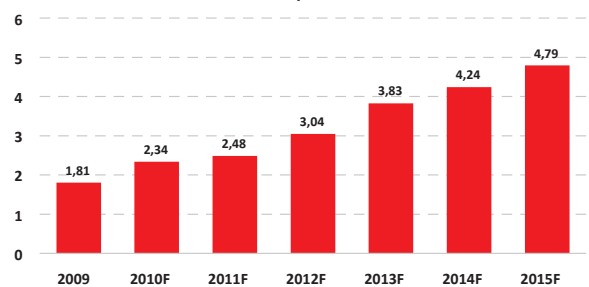
Nominal GDP, bln. USD



External debt as % of GDP



Overall FDI, bln.\$ per annum



4. Investment Environment

4.1. Recent developments

- TOP- Priority task set by the President to attract FDI in Belarus (Belarus should be among TOP-30 of the most investment attractive countries);
- Belarus became a Top 10 reformer (moving up from rank 85 to rank 58) in the World Bank's Report "Doing Business 2010";
- 70% of GDP is still produced by state-controlled enterprises, including petrochemical, oil-refining, raw materials, automotive and machinery, agriculture and food industries;

Government takes clear steps towards liberalization of the stock market and privatization:

- I. abolishment of "golden share";
 - II. phase-out of the moratorium on circulation of shares acquired during preferential privatization;
 - III. lists of hundreds of enterprises to be reorganized into open joint stock companies and list of companies ready for selling to investors;
 - IV. governmental program encompassing 52 clear steps towards further simplification of Doing Business in Belarus (taxation, business administration etc..)
- In 2008 the Belarusian Government issued a list of enterprises to be reorganized into open

joint stock companies (505 enterprises) and to be privatized (144 enterprises) in 2008-2010;

- Moreover, privatization plans of the leading companies in the financial sector (banks and insurance companies) were declared. In addition, the Government is lifting limitations on sale of shares obtained by individuals during privatization in 1990s.

Thus, in the beginning of 2010 privatization plans included:

- I. 1 leading Belarusian Banks (# 5): sale of a majority stake to the strategic investor;
- II. 2 large insurance companies: sale of controlling stake to strategic buyers or IPOs in the foreign capital markets;
- III. 1 large and 1 small state-owned Belarusian breweries: sale of controlling stakes to strategic buyers;
- IV. Leading pharmaceuticals manufacturers: sale of controlling stakes to a strategic buyers, JVs;
- V. Refinery— readiness to negotiate investment opportunities for "Polimir" JSC – "Naftan" JSC;
- VI. Energy and Green projects: JVs (energy generation and waste treatment) ;
- VII. Under stand-by agreement with IMF a pilot privatization of 5 enterprises.

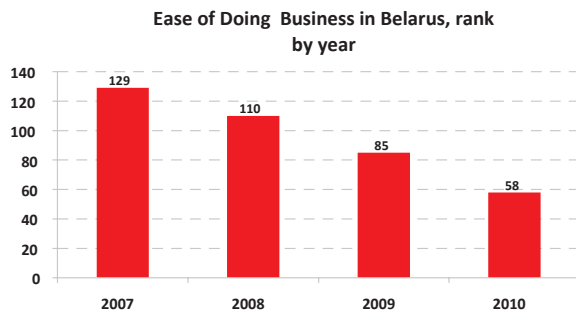
4.2. Progress in Doing Business

Over the past several years, Belarus made some progress in structural reforms. Following the abolition in 2006 of the golden share provision—the right of the state to take over management of privatized enterprises—in the financial sector, the golden share was abolished across all industries in 2008. Alongside the ongoing program of corporatization of state unitary enterprises, a number of one-off privatizations took place, including the sales of two mobile telecom operators, a number of medium-sized banks, and a small number of medium-sized industrial enterprises to foreign investors. The commodity exchange, which opened in late 2005, has been expanding its operations gradually. A program to simplify the taxation regime has benefited small and medium-sized enterprises in particular, as well as companies operating in small towns. In the financial sector, improvements in regulation and supervision were accompanied by the removal of lending interest rate caps. 12

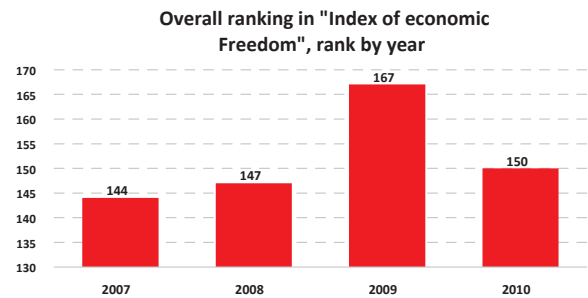
Progress has been notable in the area of deregulation, with the streamlining of real estate registration rules in 2008 and the introduction of a one-day registration policy for enterprises and individual entrepreneurs from February 2009. As a result of these reforms, Belarus climbed 57 positions in the World Bank's Doing Business indicators, from 115th place in the 2008 survey to 82nd in 2009 and 58th in 2010, having achieved high scores in the categories "starting a business", "registering property", and "enforcing contracts". The government is committed to implementing further improvements to the regulatory environment, and further progress in the areas of privatization and price liberalization are among the key stated commitments under the IMF program.

Despite of evident improvements of the regulation environment and state dedication to further liberalization of macroeconomic and business conditions, perception of measures taken by different international organizations is still varying greatly:

Progress with World Bank



Progress with Wall Street Journal



	2007	2008	2009	2010
Ease of Doing Business	129	110	85	58
Starting a Business	148	119	98	7
Dealing with:				
Licences	84	94	-	-
Construction Permits	-	-	63	44
Employing Workers	31	43	40	32
Registering Property	96	94	13	10
Getting Credit	117	115	109	113
Protecting Investors	142	98	105	109
Paying Taxes	175	178	183	183
Trading Across Borders	113	137	134	129
Enforcing Contracts	36	16	14	12
Closing a Business	91	69	74	74

	2007	2008	2009	2010
Overall ranking	144	147	167	150
Business Freedom	102	89	94	65
Trade Freedom	110	145	131	75
Fiscal Freedom	48	54	73	37
Gov't Spending	105	123	160	160
Monetary Freedom	150	140	158	160
Investment Freedom	149	149	169	158
Financial Freedom	152	152	173	172
Property Rights	144	143	163	161
Freedom from Corruption	116	150	160	158
Labor Freedom	52	50	50	19

5. Privatization and M&A

5.1. Privatization

In 2008, the Belarusian authorities declared its plans for upcoming large-scale privatization. The key obstacles on the way were:

- Large share of a fully state owned non-public enterprises and plants;
- Share trading moratorium (in action until 2011).

These formal barriers were removed in 2008-2010. According to the governmental documents and presidential decrees, the Republic will be fully ready for privatization in 2011. However, the Belarusian President and Prime Minister told many times, that there are no grounds to expect an overall privatization, as it was in Russia, Poland or other CEE countries. The State will continue to use a case-by-case approach.

Today, privatization process in Belarus remains quite bureaucratic. Creation of the national privatization and Investment Agency, as it was required by IMF had to revitalize the process.

Current typical privatization process in Belarus can be described as the following:

The process lacks structuring due to the absence of positive track record and relevant experience.

(i) Just at the beginning of 2010 under the frame cooperation with IMF, the Belarusian government developed the infrastructure for Privatization Agency, which is according to statutory documents should be the central state body responsible for the whole privatization process.

(ii) The role of key decision makers, so-called "curators or supervisors" is very important;

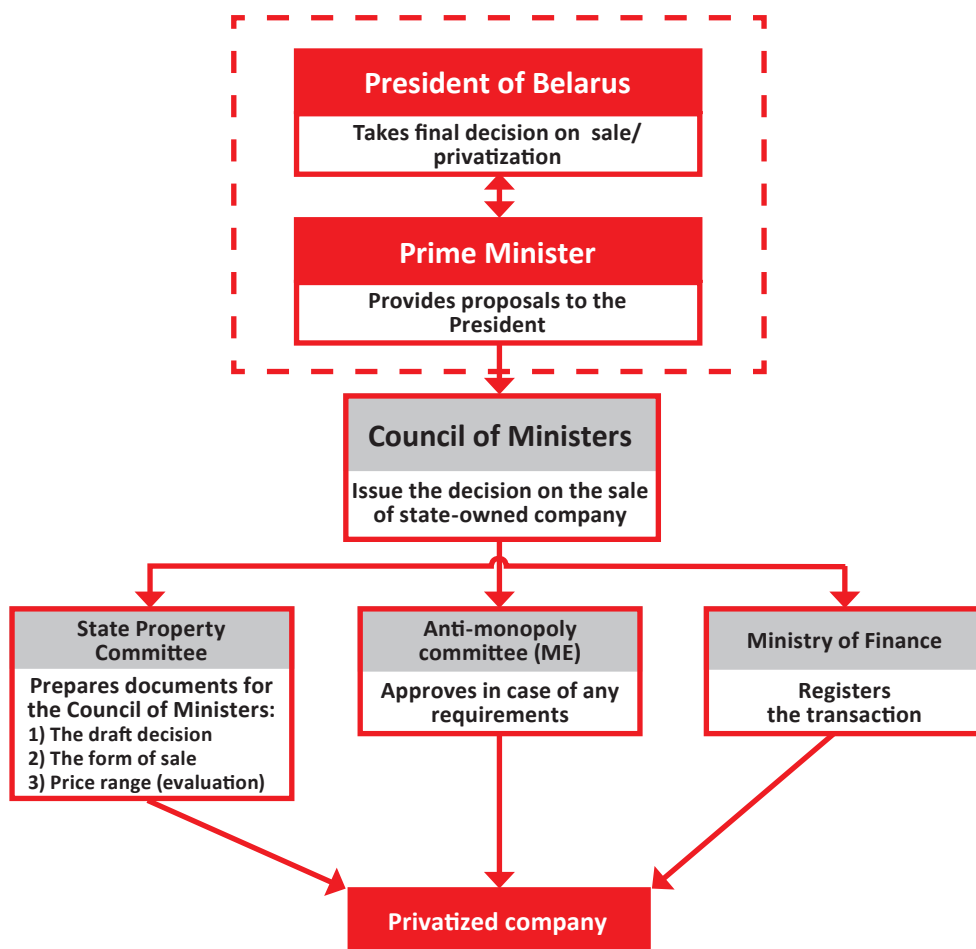
(iii) Usually, the sale of shares of the privatized company is carried out without any public tender / competition. It is performed on the basis of direct negotiations and, finally, basing on a special decision of the President (Decree of the President);

(iv) As the analysis of practice of privatization in 2007-2009 showed, often privatization ideas could be

initiated by potential buyers / investors. In this case the Government of Belarus is rather flexible in defining possible terms of privatization and in amending lists of companies to be privatized;

(v) The description of the decision making process is presented below and is based on analysis of latest large privatization deals. However, the process in each case was different.

Typical decision making privatization process in Belarus:



5.1.1 Privatization perspectives

In recent years the Belarusian government and state property committee undertook several attempts to draw up an exhaustive list of companies to be privatized in Belarus, however, no one of them became final. The last attempt was made under the pressure of IMF. According to the stand-by program requirements the national authorities had to establish National Investment and Privatization Agency and launch a transparent and competitive procedure of privatization of 5 enterprises.

Thus, there are three major lists of companies, that can become private within the coming years:

List N 1. Companies to be transformed during 2008-2010 from “State Unitary Enterprises” to “Open Joint Stock Companies” with up to 100% share belonging to the State.

- The list was named as “List of companies for privatization” but actually it was the list of companies to be transformed into OJSC;
- The list comprises more than 500 unitary enterprises across different industries and sectors;
- There is still no decision on privatization of these companies but negotiations can be initiated by the investors. For reference, see

http://www.gki.gov.by/Investors/on_privatization/

List N 2. Companies to be privatized during 2008-2010. The list includes about 130 companies for privatization in 2008-2010. However, the majority of the companies are small or medium sized with sales not exceeding \$ 50 m. Moreover, in most cases the State offers just minority stakes to investors. For reference, see

http://www.gki.gov.by/Investors/on_privatization/

List N 3. Pilot privatization project of 5 plants via Privatization Agency (was created at the beginning of 2010 under stand-by agreement with IMF). The first tender was appointed on 18th of August 2010 (was not successful despite of participation of specially selected local investment banking facilitators).

Targets for privatization through Privatization Agency					
Target	State share,%	Share for sale,%	Sales, mln.\$	Initial price, mln.\$	Comments
JSC "Lida casting and mechanical plant"	99,5%	99,5%	6,1	4,1	important supplier (producer) of cylinder sleeves for the largest CIS engine producers
JSC "Bobruisk machinery plant"	99,2%	50%+1	9,5	10,7	specializes in production of pumps with sales in Russia
JSC "Barkhim"	99,4%	99,4%	8,9	11,2	largest national producer of detergents
JSC "Rechitskiy textile"	97,6%	97,6%	8,3	8,1	medium sized textile producer
JSC "Volmet"	48,9%	48,9%	3,8	1,5	small producer of door locks

5.2. M&A and FDI in Belarus

5.2.1. General Overview

In 2009 disclosed M&A transactions volume in Belarus composed 289.9 m USD. The main volume was formed due to the purchase of Belarusian BPS-Bank by Sberbank for 280.8 m USD.

During 2009 the transactions volume reduced in 2.8 times.

Except the transaction with Sberbank, the following events were momentous:

1. The purchase of the Belarusian producer of dry construction materials "Tajfun" by the large Polish producer "Atlas" for 4 m USD;
2. The creation of joint ventures by large Russian producer of milk products "Unimilk" with a) Shklov milk plant b) Pruzhany milk plant;
3. Ingman Ice Cream and "Gomel Ice Cream Plant" created JV with 3 mln.\$ of the total amount of Finnish investments

Also it was announced that Danone considers the opportunity to enter the Belarusian market.

Moreover, during the year the participants of retail market in Belarus continued their development. The Russian project "Belmarket" bought network shops in Mogilev, the local retail operator "Euroopt" purchased the Mozyr network "Nelli".

In general, it is essential to mention, that M&A market in Belarus as all over the world was not in the best condition, but according to the results of 2010-2011 it is expected the revitalization of the investors, particularly within announced privatization.

Summary M&A table for Belarus in 2007-2009 looks like the following:

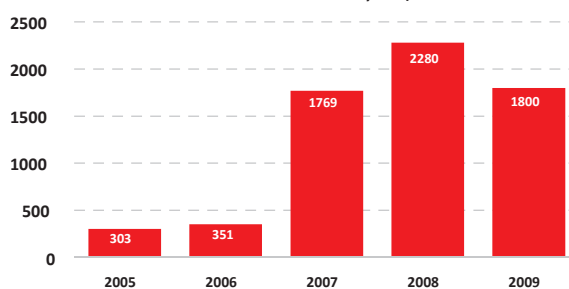
See table on the next page.

Industry	M&A number			M&A value, m \$		
	2007	2008	2009	2007	2008	2009
Banking sector	7	6	1	87	175	280,8
Insurance	2	5	1	N/A	N/A	N/A
Leasing	0	2	0	N/A	N/A	N/A
Retail	3	1	3	N/A	N/A	N/A
Machine-building	1	1	0	7	6	0
Transport	0	1	0	0	6	0
Food&Beverages	1	3	3	N/A	133	5
Telecoms	1	2	0	350	500	0
Construction materials	0	0	1	0	0	4
Total	15	21		444	820	289,9

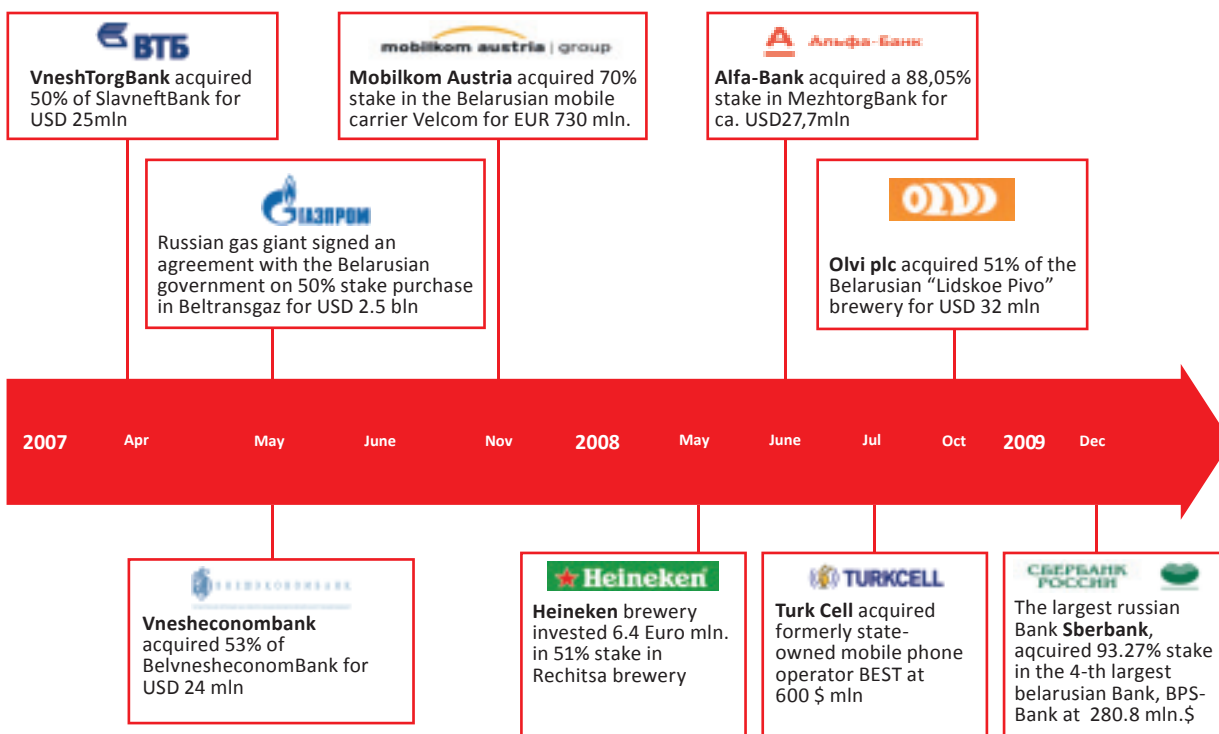
In 2009 the Belarusian economy attracted 1.8 billion USD of direct investments, what was by 21% less than in 2008. Moreover, since 2009 FDI calculation methodology has been changed.

Thus, in 2009 the major investment in Belarus became the payment of "Gazprom" JSC for the next 12.5% of shares in JSC "Beltransgaz".

FDI flow in Belarus 2001-2009, m.\$



5.2.1. Milestone deals



5.2.2. Deals by sector

Transactions in the banking sector					
Year	Target	Bidder	Country	Stake acquired	Deal value, \$ mio
Completed					
2009	BPS-Bank	Sberbank	Russia	93,27%	280,8
2008	RRB-Bank	EBRD	UK	25%+1	6,3
2008	Priorbank	Raiffesen Bank	Austria	13,50%	50,0
2008	Golden Taler	Fransa-Bank	Libya	98,93%	12,0
2008	Mezhtorgbank	Alfa -Bank	Russia	88,05%	27,7
2008	SomBelbank	Getin Holding	Poland	75%	6,6
2007	MTB	Horizon Capital	USA	32%	21,0
2007	International Reserve Bank	Dogmat	Ukraine	90%	7,0
2007	Atom-Bank	Delta Bank	Ukraine	100%	20,0
2007-2008	Belvnesheconombank	Vnesheconombank	Russia	92%	44,9
2007	Slavneftebank	VTB	Russia	50%	25,0
2006	Lorobank	Home Credit Bank	Czech Republic	100%	7,0
2005	AstanaExim Bank	Turan Alem Bank	Kazakhstan	50%	N/A
2003	Priorbank	Raiffesen Bank	Austria	50%	30,0
Expected transactions					
2010	Paritetbank	N/A	N/A	Controlling	
2010-2011	Belinvestbank	N/A	N/A	Controlling	
2011-2014	Belarusbank	N/A	N/A	Minority stake	
2011-2014	Belagroprombank	N/A	N/A	Minority stake	

Transactions in the insurance sector					
Year	Target	Bidder	Country	Stake acquired	Deal value, \$ mio
Completed					
2008	Pensionnye Garantii	Nikolai Lagun	Ukraine	100,0%	N/A
2008	Benir	Nikolai Lagun	Ukraine	27,0%	N/A
2008	BASO	Ergo Group	Latvia	60%	N/A
2008	BNSPF	Private Investor	Belarus	35%	N/A
2007	Alvena	Reso	Russia	100%	N/A
2005	Viktorija	Vienna Insurance Group	Austria	100%	N/A
2002	Kupala	Vienna Insurance Group	Austria	94,5%	N/A
2000	Brolli	Reso	Russia	N/A	N/A
Expected transactions					
2011-2014	Belgosstrakh	N/A	N/A	Controlling	
2010-2011	B&B Insurance	N/A	N/A	Controlling	

Transactions in telecommunications					
Year	Target	Bidder	Country	Stake acquired	Deal value, mio
Completed					
2008	ZAO "Best"	Turkcell	Turkey	80,0%	500 \$
2007	Velcom	Mobilkom Austria	Austria	70,0%	730 EUR
Expected transactions					
2011-2014	Beltelecom	N/A	N/A	Controlling/Minority	
2010-2011	MTS-Belarus	MTS	Russia	2%-51%	

Transactions in Food and Drinks					
Year	Target	Bidder	Country	Stake acquired	Deal value, mio. \$
Completed					
2009	Gomel Ice Cream	Ingmann Ice Cream	Finland	60,0%	3,9
2008	Lida Beer	Olvi	Finland	51,0%	32
2008	Syabar Brewery	Heineken N.V.	Netherlands	100,0%	91
2008	Rechitsa Brewery	Heineken N.V.	Netherlands	51,0%	9,9
2007	Alivaria	BBH	Sweden	30,0%	18,5

Expected transactions					
2010-2012	Krynitsa Brewery	N/A	N/A	Controlling	
2010-2011	Brest Brewery	N/A	N/A	Controlling	

Transactions in Retail					
Year	Target	Bidder	Country	Stake acquired	Deal value,mio.\$
Completed					
2009	TC Atlant (Mogilev)	Evroopt	Belarus	N/A	N/A
2009	Nelli (Mozyr')	Evroopt	Belarus	N/A	N/A
2009	Chain in Mogilev	Belmarket	Belarus/Russia	N/A	N/A
2008	Dednovo	NTS	Belarus/Ukraine	94,1%	10,93
2007	OMA	Kesko	Finland	51,0%	N/A
2007	Fokus	Svyaznoy	Russia	51,0%	N/A

Transactions in infrastructure					
Year	Target	Bidder	Country	Stake acquired	Deal value,bln.\$
Completed					
2007-2010	Beltransgaz	Gazprom	Russia	50%	2,5

Transactions in construction materials					
Year	Target	Bidder	Country	Stake acquired	Deal value,mio.\$
Completed					
2009	Taifun	Atlas	Poland	51%	4

5.3. Sectors with prime appeal and potential

Key highlights:

- In 2003-2009 the Belarusian economy grew with an AAGR of 8%;
- In 2009 crisis year the Belarusian economy unlike neighboring once avoided collapse and even grew by 0,2% in real terms;
- Due to a strong support from the side of government, many sectors of the Belarusian economy demonstrated very strong results amid global crisis.

Among other appealing factors are:

- ⇒ 70% of GDP is still produced by state-controlled enterprises, including petrochemicals, oil-refining, raw materials, automotive and machinery, agriculture and food industries;
- ⇒ Government is taking clear steps towards liberalization of the stock market and privatization: abolition of the "golden share",

issuing lists of hundreds of enterprises to be reorganized into open joint stock companies or sold to investors;

- ⇒ The republican authorities are in close cooperation with the largest and most influential international financial organizations like IMF, WB, IFC, EBRD and have to react on their initiatives in the sphere of privatization and liberalization;
- ⇒ Deterioration of Belarusian terms of trade (growth in energy prices and tension of competition in traditional industries and markets in Russia) leading to a search for external sources of financing for the Belarusian economy (issue of the first sovereign Eurodollar debt in 2010 expected);
- ⇒ Very low level of competition in the majority of sectors, industries and markets

Financial sector	Most developed in terms of corporate governance; Huge potential for development ; Insurance sector has a very low level of penetration compared to peer countries.
Telecommunications	Less affected by the world crisis; Room for privatization (Beltelecom, MTIS – cable networks); Low penetration of telecom services if compared to peer countries (Cable Networks, Internet).
Pharmaceuticals	Good production base in generics; Strong position at the local market (Pharma market size is \$500 m in retail prices); Privatization declared
Food processing	Sizeable domestic market ; High-quality local resource base (agricultural sector heavily supported by the State); Low level of industry consolidation in some sub-sectors (milk and cheese production, meat processing); Open niches (juices).
Retail trade	Comparatively high level of personal income, together with the lack of strong national chains
Wood processing	Rich local resources base (woods) if compared to EU countries; Excellent exports potential (EU markets)
Logistics	Transit opportunities; Underdeveloped logistic industry (by now - no logistic centers of “A” class operating)
IT&Innovations	Cheap and properly educated labour force. TOP-100 in Global Outsourcing Report. High Technology Park (benefits to investors); more than 300 scientific institutes; 24 technology transfer centers; 5 innovative centers
Construction materials	Heavy (100%) state domination in the sector; Strong domestic demand, strong exports potential due to closeness to Russian market
Machinery	Strong position at the large CIS market (tractors and agricultural machinery, road building machines, equipment and machines for mining)
Petrochemicals	Solid industrial base created in the Soviet times (yarns and fibers, PET, basic petrochemical products, oil refining); Close oil and oil products transporting facilities links with the Russian Federation (main supplier of petroleum)
Energy/Clean energy	Underdeveloped sector, a serious restructuring is needed; Supported by the state due to reasons of the national energy security

Legal Environment for Foreign Investments

Please note that this section was compiled by SORAINEN Belarus for general information purposes only, free of obligation and free of legal responsibility and liability. It does not take the form of professional advice and does not cover all laws or reflects all changes in legislation, nor are the explanations provided herein exhaustive.

Therefore we recommend that you contact SORAINEN or your legal advisor for further information.

6. Legal Environment for Foreign Investments

In 2010, Belarus rose from 82nd to 58th place in the global ranking of ease of doing business published by the World Bank. The country became one of the top 10 reformers in 2008/2009 in the spheres of starting

business, dealing with construction permits, employing workers, registering property, paying taxes and trading across the borders.¹

6.1. Investment Laws

During the years of independence, Belarusian investment laws have evolved remarkably and can now accommodate the needs of investment projects of different scales in various branches of economy. Apart from

basic incentives granted to all investors, special regimes exist for investors in small towns, residents of free economic zones, residents of high technology parks.

6.1.1. General guarantees

Investment laws of Belarus establish the following basic guarantees for the investors:

- guarantee of the right of private property and other titles acquired legally, and protection of these rights without any discrimination;
- protection against unlawful acts of government authorities. These acts can be appealed against in court if they violate investors' rights or cause losses for the investors. Damages caused to the investor are subject to compensation at the expense of the respective treasury;
- equality of the rights granted to the investors;
- stability of the investors' rights in the course of their business activity and at termination of such activity;
- free disposal of the property and outcomes of the investment activity; and

- protection of investments, which may not be nationalized, requisitioned, or subjected to measures of similar effect without a timely and full compensation paid to the investor for nationalized or requisitioned property and other damages incurred.

Under the law compensation for nationalized or requisitioned property should be equal to the market value of the property. The compensation should include interest charged on the basis of the official exchange rate of Belarusian national rouble against the respective foreign currency, from the date of actual nationalization or requisitioning until the date of actual payment of compensation. The interest rate should in any event be not lower than current LIBOR. Compensation to the foreign investor should be paid in the same currency in which the investment was made.

6.1.2. Investment Agreements

An investment agreement is a special type of the civil contract concluded by an the investor directly with the Republic of Belarus in order to obtain additional guarantees and incentives from the government. The republic may be represented by a ministry, state committee, municipal authority, state concern.

During 2010 popularity of the investment agreements has increased, and as at October 2010 over 250 of them were concluded by the investors, most via municipal

authorities. The investment agreement is used in the following cases, inter alia:

- acquisition of a state-owned enterprise or establishment of a joint venture with the state-controlled company, in order to secure a stable legal framework for the project;
- green field investment projects, which require firm arrangements on power and raw materi-

¹ World Bank's "Doing Business 2010" report: <http://www.doingbusiness.org/~media/FPDKM/Doing%20Business/Documents/Annual-Reports/English/DB10-FullReport.pdf>

als supplies, prices for goods produced by the new enterprise (especially in the energy sector);

- large scale development projects.

Material terms and conditions of the investment agreement are:

- object and volume of the investment activity;
- period of investment;
- period of validity of the agreement;
- rights and obligations of the investor, including those concerning compliance with the environment and natural resources laws, labour laws and labour safety regulations;
- additional legal guarantees provided by the Republic pertaining to tax and customs regime, ecological standards and other conditions material for the investor, as well the government's obligations to issue to the investor all permits and approvals necessary for realization of the investment project;
- liability of the parties for failure to perform under the agreement;
- procedure of and the body for resolution of disputes which may arise from the agreement; and
- compensation for damage arising from unlawful acts by government officials, and dispute resolution (which may be referred to a foreign court, international arbitral tribunal, etc.).

Besides the above listed mandatory terms and conditions, the investment agreement may also contain:

- mutual obligations of the parties concerning development of the manufacturing and social infrastructure of the region;

- procedure of amendment of the agreement;
- guarantee of investor's right to export from Belarus goods and profits (incomes) received as a result of performance under the agreement;
- investor's obligation to employ and train Belarusian nationals, terms of technology use, as well as investor's obligation to train the employees of the created company after completion of the investment project; and
- other terms and conditions based on the specifics of the project.

Investment agreement with foreign investors may provide for waiver by of Belarusian state's legal immunity, immunity with regard to security of the claim and enforcement of a court decision and (or) an arbitral award.

Investors initiate conclusion of the investment agreement with the authority responsible for certain enterprise or industry – normally, a municipal authority, a ministry, or a state concern. The same authority negotiates contents of the agreement with the investor and also circulates the draft among other interested authorities, which may include Ministry of Economy (pricing issues), Ministry of Taxes and Duties (tax exemptions), Ministry of Justice (legal clarity and compliance of the agreement with mandatory local laws), and others. The state authorities tend to use the template developed and recommended by the national government, and sometimes using a different draft may be difficult. Negotiations and approval of the draft by the government may be accomplished in several rounds which may take more than few months. As at October 2010, not a single investment agreement has been tested in court or international arbitration tribunal.

6.1.3. Concession Agreements

A concession is an agreement concluded by the Republic of Belarus with an investor granting the latter a temporary right to carry out a specific type of activity related to the exclusive competence of the state, or the right to use property (subsoil, waters, woods, land and other) owned by the state.

There are three types of concession agreements:

- full concession agreement (right of property to the produced goods remains with the concessionary);
- agreement on division of products (produced goods are divided between the concessionary

and the state under the procedure and in the proportion established by the agreement);

- concession agreement on rendering services / performance of work (the right to goods produced is transferred to the state; the concessionary only receives remuneration for services rendered (work performed)).

In early 2008 the first list of objects offered for concession was approved by the Belarusian Government. It includes ironstone deposits, gypsum and clay fields. However, so far concessions have not become widely used in Belarus.

6.1.4. Investment Agents

The concept of investment agent exists in Belarus from August 2009. An investment agent is a natural person or a legal entity experienced in implementing investment projects (including non-residents of Belarus), appointed as such by the Council of Ministers of Belarus.

On the basis of an agreement with the Government the investment agent undertakes to attract foreign invest-

tors on a free-of-charge basis in the interests of the state. The investment agent is also to service investment projects by providing marketing, legal, consulting, and other services.

As at the beginning of October 2010, the Government had appointed 7 investment agents, both local and foreign companies.

6.1.5. Investment activity in small towns

Any company created after 01 April 2008, located and operating in towns with population less than 50,000 inhabitants enjoys the following benefits:

- exemption from profit tax for 7 years after incorporation in case of realization of goods, work, services of own production;
- exemption from other taxes and duties, except for VAT, tax levied upon incomes from transactions with securities, excise duties, land tax, tax charged for usage of natural resources, customs duties and fees, government fees for 5 years after incorporation;
- exemption from mandatory sale of foreign currency received from realization of goods,

work, services of own production, including lease of property;

- freedom of choice of suppliers and customers of goods, work, and services of own production;
- freedom of prices for goods, work and services of own production; and
- freedom to insure property interest with foreign insurers.

This special legal regime established does not apply to banks, investment funds, insurance companies, gambling business, companies operating in the stock market, and certain other businesses.

6.1.6. Free Economic Zones

At present, there are 6 free economic zones in Belarus (one per each region administrative centre, including Minsk). The total number of the registered residents as of October 2010 is above 300.

In order to become a resident of the free economic zone, an investor needs to meet certain criteria. First of all, the amount of investment should comprise the equivalent of at least EUR 1 million.

Secondly, major tax and other benefits apply only in case the resident sells:

- outside of Belarus to the foreign customers goods (work, services) of own production, produced in the zone;
- on the territory of Belarus goods of own production, produced in the zone, which are import-substituting according to the list approved by the Belarusian Government; or
- goods (work, services) of own production supplied to the other zone residents.

The special legal regime does not apply to catering, gambling, organization and conducting of electronic interactive games, trade activity, and transactions with securities.

Subject to conditions described above, residents of the free economic zones enjoy the following basic tax benefits:

- Rate of profit tax comprises 50 % of the commonly applicable rate;
- residents are exempt from the real property tax with regard to the permanent assets (objects of incomplete construction) located on territory of the zone;
- Profits earned from realization of goods (work, services) of own production are exempt from profit tax for 5 years from the date of declaration of profit;
- Only 50 % of the amounts of VAT charged under the commonly applicable rates with regard to realization on the territory of Belarus of the goods of own production produced on the territory of the zone and belonging to the import-substituting goods, are payable. VAT amounts released this way are not a taxable income.

6.1.7. High Technology Park

High Technology Park (HTP) was created in Minsk in 2005 to foster development of IT industry. The HTP is an area in the eastern part of the Belarusian capital with a special legal regime that is to exist for 15 years from the time of its creation.

The status of HTP resident can be granted to a Belarusian company (including those with foreign investments) whose business is:

- analysis, design, and software support for information systems;
- data processing;
- fundamental and applied research, exploratory developments in the field of natural and engineering sciences; or
- other types of business activity approved by the Government.

The residents of HTP enjoy the following tax benefits:

- exemption from profit tax and VAT;
- exemption from land tax with regard to land

plots necessary for construction of buildings, throughout the period of construction but not longer than for 3 years;

- exemption from real property tax levied upon fixed assets and objects of incomplete construction located on HTP territory;
- exemption from offshore duties levied upon the dividends paid to the shareholders (founders); and
- exemption from customs duties and VAT levied by customs authorities on imports of technology equipment.

Furthermore, certain exemptions concern personal income tax paid by the employees in HTP, and social security payments. Foreign legal entities also enjoy certain tax benefits with regard to profit gained from the HTP residents as dividends or under promissory notes, royalty or licence agreements. Mentioned profit is taxed at rate 5%, unless more favourable conditions are set by international agreements.

6.2. International treaties facilitating and protecting foreign investments in Belarus

Additional guarantees for the foreign investors in Belarus are provided by a number of bilateral agreements on avoidance of double taxation as well as agreements on promotion and protection of investments.

As of October 2010 Belarus has agreements on avoidance of double taxation currently in force with 61 countries of the world: all CIS countries (Georgia excluded), Austria, Bahrain, Belgium, Bulgaria, China, Croatia, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Egypt, Estonia, Finland, France, Germany, Hungary, India, Iran, Ireland, Israel, Italy, Japan, Kuwait, Latvia, Lebanon, Lithuania, Macedonia, Malaysia, Mongolia, the Netherlands, Oman, Pakistan, Poland, Romania, Republic of Korea, Republic of South Africa, Qatar, Kingdom of Saudi Arabia, Slovakia, Spain, Sweden, Switzerland, Syria, Thailand, Turkey, United Arab Emirates, United Kingdom, United States of America, Venezuela, Vietnam, Yugoslavia.

Agreements on promotion and protection of investments currently bind Belarus with the following countries: Armenia, Austria, Bahrain, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cuba, Cyprus, Czech

Republic, Democratic People's Republic of Korea, Denmark, Egypt, Germany, Finland, India, Iran, Israel, Italy, Jordan, Kuwait, Kyrgyzstan, Latvia, Lebanon, Libya, Lithuania, Macedonia, Mexico, Moldova, Mongolia, the Netherlands, Oman, Poland, Qatar, Republic of Korea, Romania, Singapore, Sweden, Switzerland, Syria, Tajikistan, Turkey, the Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Vietnam, Yugoslavia.

The Republic of Belarus is also a party to a number of multilateral treaties which concern cross-border investment activity:

- International Convention on Settlement of Investment Disputes between States and Nationals of Other States of 1965;
- Convention Establishing the Multilateral Investment Guarantee Agency of 1985;
- CIS Agreement on Cooperation in the Field of Investment Activity of 24 December 1993;
- CIS Convention on Protection of the Investors' Rights of 28 March 1999.

6.3. Corporate Laws: Setting up a Business in Belarus. Main organizational and legal forms¹

When setting up business in Belarus, foreign investors choose from a variety of corporate forms offered by local law. Decision on corporate presence is usually influenced by regulatory framework, nature of the project, and strategic plans.

For example, a popular form for local distribution business is a representative office – in fact, a branch of a foreign company with certain number of employees whose functions include soliciting local customers, procuring orders, arranging for conclusion of contracts. Such offices grow comparatively large by headcount and their functions become very complex. Actually, this is where the risks begin to outweigh the main benefits. The office in fact itself makes contracts, invoices customers, collects debts and undertakes other actions which lead to emergence of permanent establishment.

This requires registration of the mother company as tax resident of Belarus; if done too late, severe penalties may be levied by the tax inspection, taxes may be collected retroactively, and sometimes management of the repoffice is held personally accountable. Therefore, representative offices are a form of limited presence of the company, and the range of its functions established by the local law (described below) should be at all times respected.

Due to flexible employment, currency control, and certain other regulations pertaining to representative offices the latter are often used at the initial stage of business operations in Belarus and for certain time alongside with a local legal entity.

More often, the main vehicles for foreign investments in Belarus are legal entities under local laws.

6.3.1. Representative Office

A foreign legal entity may open a representative office in Belarus in order to carry out marketing, promotional, and other auxiliary activities on its behalf.

When opening a representative office in Belarus, one should take into account that any activity is always conducted by the office on behalf of the foreign company (i.e. non-resident of Belarus). Some activities under Belarusian law can be conducted by Belarusian residents only. Furthermore, a representative office cannot import goods for further sale (for own needs only).

The main advantages of a representative office are related to employment matters, especially:

- salary formation for employees of the representative office is not regulated, unlike commercial companies;

- hiring foreign personnel does not require a license, as is the case with commercial companies.

As a rule, representative offices are set up by foreign companies only for marketing, product promotion, and advertising purposes, without involvement in business operations.

Representative offices are accredited by the Belarusian Ministry of Foreign Affairs. A foreign company pays state duty equivalent to 65 basic units (special amount approved and adjusted from time to time by the Council of Ministers) for each year of accreditation of its representative office in Belarus (approximately EUR 540).

Accreditation of a representative office is issued within 10 days after filing the necessary documents. Post-accreditation procedures take at least 2.5 weeks and end with opening representative office bank accounts.

6.3.2 Commercial Legal Entity

6.3.2.1. Forms and Types of Commercial Legal Entities

The most common forms of commercial legal entities in Belarus are joint stock companies, limited liability companies, and unitary enterprises.

A Joint Stock Company (JSC) under Belarusian law is a commercial company founded by two or more individuals / legal entities (shareholders). Shares in the JSC are securities which are issued by the company; the

¹ For the purpose of this and subsequent sections the amount in Euro have been calculated on the basis of the following rate: EUR 1 = BYR 4,200. The amount of the basic unit is equal to BYR 35,000.

issue is registered with the state. Furthermore, any issue / cancellation of shares or increase / decrease of their nominal value are subject to registration with the State Committee on Securities. Transactions with shares of JSC are subject to registration with professional operators in the stock market (specialized licensed companies).

Under Belarusian law, a JSC can be of two types, open and closed one. Shares of an open JSC may be sold freely to any person without consent of other shareholders. In a closed JSC, shareholders have a pre-emptive right to acquire offered shares, or under articles shares may be sold only to a limited range of persons. Closed JSC is not allowed to offer its shares for public subscription.

Unitary Enterprise (UE) is a commercial company established by a single owner. All assets of a UE are considered to be the property of its owner. Assets of a UE may not be divided into shares. A UE may be sold or otherwise assigned as a whole asset complex. This complex includes assets of different kinds used in business, including buildings, equipment, inventory, raw materials, ready made goods, claims, debts, as well as trade marks and other exclusive rights. The asset complex is considered to be a real property object. In this regard, the asset complex, rights thereto and transactions therewith are subject to state registration with the National Cadastral Agency.

Limited Liability Company (LLC) is the most popular and usually the most recommendable from the legal point of view form of business. LLC is founded at least two foreign or local individuals or legal entities (any combination is possible). Shares in a LLC are not

subject to registration. The amount of each share (par value) is usually equivalent to the amount of shareholder's contributions to the authorized capital of the LLC. Shareholders in the LLC have a pre-emptive right to purchase shares of the LLC offered to third persons by other shareholders. If none of the shareholders exercises this right, the pre-emptive right passes to the LLC itself. Shareholders in a LLC, in contrast to a JSC, may at any time declare their exit from the LLC and after exit receive part of the property of the LLC proportional to the amount of their share in the authorized capital.

Legal entities founded by foreign investors may declare the status of a commercial organization with foreign investments (COFI). The status may be declared when foreign contributions amount to at least USD 20,000.

Until 2005 the law used to provide material tax and customs benefits for COFIs, but today only the following substantial privileges remain:

- possibility to employ a foreigner in the capacity of the COFI's managing director without obtaining any special licences and work permits;
- possibility to form the authorized capital gradually: 50% should be contributed during the 1st year, and 50% – during the 2nd year after incorporation;
- liquidation is possible only upon the decision of shareholders or court decision.

6.3.2.2. Requirements concerning minimal amount of authorized capital and number of shareholders

Type / form of legal entity	Minimal authorized capital	Number of shareholders / owners	Formation of authorized capital
Open joint-stock company (OJSC)	400 basic units (approximately EUR 3,350)	minimum 2 maximum is unlimited	Authorized capital should be paid fully by the date when application for state registration of the company is filed
Unitary enterprise	BYR 1	only 1 owner, owner of assets	Authorized capital should be paid fully by the date when application for state registration of the company is filed, unless the company has a COFI status.
Close joint-stock company (CJSC)	100 basic units (approximately EUR 840)	minimum 2 maximum 50	
Limited liability company	BYR 1 by each shareholder	minimum 2 maximum 50	

6.3.3. Management

Management structures are specific for each of the above described legal forms.

6.3.3.1. Unitary Enterprise

A UE's owner is the supreme management body of the UE. Exclusive competence of the owner concerns introduction of any amendments to the UE Articles, increase or decrease of its authorized capital, approval of its annual reports, and decisions on distribution of net profits. The owner appoints and dismisses the director of the UE and defines his powers in the Articles. In case the owner is a natural person he/she may personally

perform duties of the director. The outsourced organization or manager may be also appointed in the capacity of the UE's director.

Accountant (in-house or outsourced) should be appointed in any legal entity / representative office. The exception to this rule includes directors of UEs who may keep accounts of the UE, unless otherwise established by the UE Articles.

6.3.3.2. Joint-stock and Limited Liability Companies

Structure of managing bodies of a commercial company other than UE may include the general meeting of shareholders, the supervisory board, and the director (board of directors).

General meeting of shareholders (Meeting) is the supreme managing body of the company. The Meeting convenes at annual and extraordinary sessions. The Annual Meeting is conducted within three months after the end of each calendar year. The Annual Meeting approves the company's annual reports, balance sheets, profit and loss accounts, and distribution of the Company's profits and losses. Extraordinary Meetings convene to decide on some current issues referred to the competence of the Meeting by the company's Articles.

The Meeting is entitled to decide on issues of reorganization and liquidation of the company, amendment of its constituent documents, changing the amount of the authorized capital. The Meeting elects and terminates other managing bodies, and decides on remuneration for them or their members. The competence of the Meeting also extends to deciding on the Company's entering into transactions in which the Company's affiliated persons may be interested. All these issues pertain to the exclusive competence of the Meeting and thus may not be referred to the competence of other managing bodies of the company.

Establishment of a Supervisory Board is mandatory only in open JSC. The competence of the Supervisory Board usually covers matters of general management of the company. Specific powers may be granted by the Meeting within the limits of the Board's competence defined by law.

Only natural persons may be members of the Supervisory Board. A member of the Supervisory Board may not be a shareholder in the company. Members of the Board of Directors, except for its Chair, may also be members of the Supervisory Board. However, they may

not comprise more than one-fourth of the total number of members of the Supervisory Board. The Chair of the Board of Directors, as well as a Director, may attend the meetings of the Supervisory Board and propose draft resolutions on the issues reviewed at these meetings, but may not vote.

The company may be managed by a sole or collective executive body. The Director / Director General is the sole executive body (Director), while the Board of Directors is the collective executive body of the company (each separately referred to as the Executive Body). If both Director and Board of Directors are established in the company, the Director becomes Chair of the Board.

The Executive Body of a company is in charge of managing its day-to-day activities, resolving all matters not related to the exclusive competence of the Meeting and the Supervisory Board. The Executive body is accountable to the Meeting and the Supervisory Board, and is in charge of executing decisions of these bodies.

The Board of Directors becomes legally capable if more than half of its members are present at the respective meeting. The constituent documents of the company may establish a higher quorum. Assignment of a vote by a Board member to other persons is not allowed.

There may not be several managing directors equal in status. Even if there is a Board of Directors in the company, a Director General or Chair is also appointed, and has a prevailing power.

A foreign citizen may be appointed a Director / member of the Board of Directors in any company. However, the company would have to obtain a license from the Ministry of Internal Affairs to hire a foreign employee (until 2011 when this type of license is abolished) and a working permit.

Appointment of foreign citizens to a Supervisory Board requires no special permits or licences.

6.3.4. Establishment of a company

Generally, incorporation of a company includes the following steps:

- choosing a name for the company and its registration with the authorities;
- choosing future location (business address) of the company (please note that “virtual addresses” are not possible in Belarus);
- executing the decision on incorporation and agreement on structure and formation of all bodies of the company;
- executing the constituent documents of the company;
- opening an accumulation account and contributing initial capital (not compulsory for COFI);
- filing for registration of the company with the

Unified State Register of Legal Entities and Individual Entrepreneurs.

The registration of the company itself is effective from the date when the documents are filed for registration. Registration with tax authorities, social security fund, statistics body, and relevant insurance body is accomplished without involvement of the applicant during the next 5 business days. Other post-registration procedures include production of the corporate seal, appointment of the Executive Body and the chief accountant, opening of bank accounts.

If all information and documents necessary for registration are collected promptly and contents of the constituent documents of the company do not take more than 1 working day, the whole registration process (up to the opening of the bank accounts) should not exceed 1.5 weeks.

6.4. Privatization

The type of privatization procedures depends on objects of privatization, which include housing, state enterprises, leased state property, state-owned shares (stock).

State enterprises, as well as state-owned shares (stock), are probably the most attractive objects of privatization from the investors’ point of view. Potential investors can join the privatization process at various stages:

- Becoming the owners of an open joint-stock company established on the basis of a state unitary enterprise;
- Acquiring state-owned shares in existing open joint-stock companies.

6.4.1. Becoming owners of the open joint-stock company

One of the principles of privatization of state-owned enterprises in Belarus is granting of certain social guarantees to the employees of such enterprises. Thus, transformation of state-owned enterprises into joint-stock companies is carried out on the ground of proposals made by employee collectives of these enterprises. At the same time, transformation upon the initiative of state authorities is also possible.

The privatization procedure under Belarusian laws may be briefly described as follows.

During the first stage, a meeting of employees of the enterprise is held, an initial decision on privatization is made, and terms of privatization are approved by relevant government authorities. National and foreign investors can become co-founders of an open joint-stock company alongside with the Belarusian state. To become the co-founder, an investor should win a special contest. Actually, this stage presumes close cooperation with

employee collective and management of the company as well as with relevant government authorities. The main criterion during the selection is the benefits of the investment plan provided by the investor.

It is also possible to acquire a share in a privatized company at the stage of sale of stock. State-owned shares in the authorized capital of the companies established in the course of privatization are sold in first turn to the employees of such enterprises on privileged terms. Consequently, at this stage it is more difficult to enter the company in the capacity of a strategic investor. Only after “privileged” sale of shares to employees shares are sold to the legal entities and individuals who have presented investment projects for the joint-stock company.

However, there is a number of enterprises the shares whereof cannot be sold to employees on beneficial terms. The list of such enterprises was approved by the President in the end of 2008 and is changed from time to time.

6.4.2. Acquiring state-owned shares in existing open joint-stock companies

The procedure is selected in each case individually. The sale initiated by potential buyers looks as follows:

- Potential investor notifies the Belarusian State Property Committee of his intention to purchase shares of a particular open joint-stock company by providing an information letter.
- The Committee analyses the information letter and, if satisfied, prepares the draft of the decision on selling the state-owned shares in the company in question.
- The draft decision is approved by respective government authorities.
- The President of Belarus makes the final decision and issues the decision on selling the shares.
- The Committee arranges for valuation of the shares.
- The tender at which the shares are sold takes place.

On the average, the procedure may take about 6 – 12 months.

6.4.3. Change of legal framework for privatization

Privatization in Belarus in 2009 – 2010 has been prompted by IMF in exchange for the financing the Fund has provided. In line with IMF requirements, the draft of a new Law on Privatization, as well as the draft of a new Law on the Objects Which Can be Owned Only by the State, are being prepared (as at October 2010, still not in effect). New National Agency on Investments and Privatization was established recently on the basis of the National Investment Agency.

From 2008 the moratorium on transfer of shares in public companies created in the course of privatization is being gradually abolished. The moratorium which

actually froze up a large sector of the Belarusian stock market has been in existence since 1998. It applied to the transactions with shares purchased in the process of the so-called voucher privatization. From June 2008 moratorium was abolished with regard to the shares of the public companies without government capital and companies with the government share in their capital equal to 75% and more. From January 2009 the moratorium was lifted with regard to the public companies in which the government held 50% of the shares and more. From 1 January 2011 restrictions are to be removed completely.

6.5. Merger Filing Requirements in Belarus

In Belarus merger filing is mandatory in a number of cases. This means that transactions may not be put into effect prior to clearance by antimonopoly authority (Department of Price Policy of the Ministry of Economy of the Republic of Belarus or departments of price policy of committees of economy of local executive committees).

The buyer should apply for approval of the intended transaction to the antimonopoly authority in the following cases:

1. Transactions where the company and the target operate in the same commodity market (all of the following conditions should be met):
 - a. the intended transaction relates to acquisition of shares (pays) of the target;
 - b. the acquirer and the target perform their activity in the same commodity market;
 - c. the acquirer's activity covers more than 30 per cent of a certain commodity market;
 - d. the acquirer is a business entity or an individual entrepreneur.
2. Transactions with shares of the target holding dominant position (all of the following conditions should be met):
 - a. the intended transaction relates to acquisition of shares (pays) of the target;
 - b. the target holds a dominant position in any commodity market;
 - c. the acquirer is a legal entity or an individual or a foreign state or an international organization or their bodies.
3. Acquisition of right to influence the decisions of the target holding dominant position (all of the fol-

lowing conditions should be met):

- a. the intended transaction leads to possibility for the acquirer to influence feasibly the making of decisions by the target;
 - b. the target holds dominant position in any commodity market;
 - c. the acquirer is a legal entity or an individual or a foreign state or an international organization, or their bodies.
4. Acquisition of control over the target (all of the following conditions should be met):
- a. the intended transaction allows the acquirer to determine feasibly conditions of carrying out business activity of the target or to perform functions of the managing body;
 - b. the acquirer is a legal entity or an individual, or a group of legal entities and/or individuals or a foreign state, or an international organization, or their bodies.

Apparently, a great number of transactions could be regarded as acquisition of control over the target due to ambiguous wording of law. However, from January 2010 certain materiality thresholds were established.

The law now provides for a limited number of conditions when the acquirer is considered to obtain control over the target's business activity, namely:

- the intended transaction relates to acquisition of 20 per cent of shares or stock of the target;
- the transaction is based on one of the following agreements: contract of sale, contract of trust management, joint cooperation agreement, or commission agreement, and
- the book cost of the target's assets for the latest reporting date exceeds 100,000 basic units (approx. EUR 835,000), or the amount of proceeds from sales for the previous financial year exceeds 200,000 basic units (approx. EUR 1,670,000).

In case particular transaction meets the above criteria, approval of the antimonopoly authority should be obtained before a merger or acquisition of control is undertaken. Otherwise, if the transaction leads to occupation or strengthening of the dominant position and/or to competition blocking, it can be found invalid.

No filing fees for examination of the application or approval of transaction should be paid in Belarus.

6.6. Legal status of land and other real property

Belarusian laws provide for a special regime of real property and its disposal. Real property includes land plots,

buildings and structures, objects of incomplete construction, and other objects closely connected with land.

6.6.1. Registration of real property

Real property objects are considered to be created only after their state registration.

Establishment, transfer, and termination of rights to and encumbrances on real property are subject to state registration as well. Some of the transactions with real property should also be registered, including transactions on alienation and mortgage of real property objects. Real property transactions subject to state registration enter into force from the date of state registration. Failure to comply with the requirement results in invalidity of the respective agreement.

Since December 2008 agreements on lease of permanent structures (building and installations) and isolated premises as well as the right of lease are not subject to state registration. The landlord is obliged to

notify the territorial agency of the National Cadastral Agency (NCA) that agreement was concluded.

The registration is performed by the local agencies of the NCA. All information on registered real property can be found in the Unified State Register of Real Property, Rights thereto and Transactions therewith (Real Estate Register). Registration data is open for public use. The data includes not only details of each real property object, but also details of the owner and ownership, information about actual rights and encumbrances concerning the object, information on the title holders. At the same time, it is impossible to get a list of all real property objects which belong to a particular individual or legal entity as access to such data is given only to the title holders, their successors, and government authorities.

6.6.2. Land plots

In Belarus, the use of land plots is predetermined by their specific designation (agriculture, forest and water fund, inhabited areas, infrastructure, etc.).

The designation of land plots may be changed by decision of the local authorities.

Belarusian legal entities (including those with foreign investments) can hold the following rights and titles to the land:

- lease (after adoption Land Code 2008, a dominant title to land plots)
- right of property;
- right of permanent use;
- right of temporary use.

According to the new Land Code land plots can be transferred into ownership of Belarusian legal entities at an auction. However, according to the effective laws, such an auction can be conducted only in cases, determined by law, while the list of such cases has not been yet introduced.

Auction on transferring land plot into ownership is not required in case the land plot is granted to the legal entity for the purpose of servicing the building owned by this legal entity and located on this land plot. Other exceptions may be determined by the President.

A right of permanent use of a land plot presumes the right to own and use the land plot for the designated purpose without limitation of period of such use. Only certain types of commercial legal entities can enjoy the right of permanent use of the land plots, including:

- agricultural organizations;
- non-governmental legal entities with regard to the land plots used for the purpose of servicing of real estate objects owned by the state;
- gardening associations;
- cooperatives for construction and operation of parking places and garages.

The above-mentioned entities can be also granted the right of temporary use of the land plot. This right can be also granted to national and foreign investors carrying out their activity under concession agreements.

The land plot can be granted into temporary use for a maximum of ten years with a few exceptions. The maximum period of temporary use of the land plots allocated under concession agreements is 99 years.

Lease agreements can be concluded for the maximum period of 99 years. The amount of lease payments should be determined in the lease agreement.

The general rule is that land plots owned by the State are let based on the results of one of the following auctions:

- auction for the right to conclude agreement on lease of the land plots;
- auction for the right to design and construct buildings.

Land plots are provided without holding auctions in certain cases. For example, simplified procedure is established for residents of the free economic zones which intend to lease the land plot for the purpose of construction on the territory of free economic zone.

6.6.3. Buildings and constructions

Belarus has no codified legal act regulating the status of buildings and structures and the construction activity. It is possible to distinguish two categories of buildings with different legal status – residential and non-residential buildings. Non-residential buildings can be further divided by types into, for example, public, trade, industrial, warehousing buildings.

Apart from buildings and constructions (permanent structures) the law treats the following objects as real property objects:

- isolated premises (parts of the building which are registered and regarded as separate real property);
- objects of incomplete construction.

Buildings and constructions can be owned by foreign legal entities and individuals. Residential premises can be purchased under sale-purchase agreements by Belarusian and Russian citizens as well as by foreigners permanently residing in Belarus and performing labour or entrepreneur activity.

Since 2009 rent rates for the lease of state owned building should be determined according to the special rules established in the Edict on Lease of Property and calculated in basic units. The general rule is that the state owned buildings may be granted for lease only via auction.

To protect tenants at the retail premises, rent rates for these premises, whether private or state owned, are also regulated, while additional payments compensated by the tenant of retail premises to the landlord

(e.g. heating, water supply, etc.) are limited. Charging other payments which are not directly provided by law should be additionally agreed with local authorities.

Local authorities have a priority right to buy real property located on the territory of their jurisdiction. Particular rules of first offering of real property to the local authorities have not been approved yet. However, the practice is that the owner offers the real property at the same as that offered to the third persons. If the au-

thority refuses to execute the priority right, real property can be sold to the third parties. In practice, the authorities very seldom choose to exercise their priority right.

Since August 2009 simultaneous design and construction of real estate objects is allowed. Decision on simultaneous design and construction can be made either by customer or by developer and should be fixed in project statement.

6.6.4. Mortgage

Belarusian law allows use of real estate as collateral, though certain restrictions are applicable.

Only the following organisations are allowed to be the mortgagees of land plots and lease rights to the land plots:

- banks, provided that they have the licence on placement of attracted funds in own name and for own account on the condition of recurrency, interest payment, and maturity;
- IFC and EBRD, if the mortgage of the land plot (pledge of lease right to the land plot) secures repayment of loan extended to Belarusian resident.

Only owners and tenants of the land plot may act as mortgagors (i.e. persons holding land plots under the

title of permanent or temporary use cannot mortgage land plots).

Mortgage of the buildings located on owned or leased land plot is allowed only in case of simultaneous mortgage of the underlying land plot or mortgage of the right of lease to the underlying land plot. Consequently, buildings located on owned and leased land plots may secure only repayment of the bank loans and loan agreements with IFC and EBRD. Range of liabilities which may be secured by mortgage of buildings located on land plots held under the title of temporary or permanent use is not limited.

Mortgage of real estate requires respective registration with the Real Estate Register.

6.7. Intellectual Property Protection

Besides having a fairly well developed national legislation on protection of intellectual property, Belarus participates in many international IP agreements administered by the World Intellectual Property Organization (WIPO), in particular:

- Berne Convention for the Protection of Literary and Artistic Works;
- WIPO Copyright Treaty;
- WIPO Performances and Phonograms Treaty;
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations
- Paris Convention for the Protection of Industrial Property;
- Patent Cooperation Treaty;
- Madrid Agreement Concerning the Inter-

national Registration of Marks and Madrid Protocol Thereto;

- Strasbourg Agreement Concerning the International Patent Classification;
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks;
- Locarno Agreement Establishing an International Classification for Industrial Designs;
- International Convention for the Protection of New Varieties of Plants,

Belarus is also a party to a number of IP agreements concluded within the framework of the Commonwealth of Independent States (e.g. Eurasian Patent Cooperation), and a number of bilateral agreements on cooperation in the field of industrial property protection.

6.7.1. IP objects

Belarusian laws provide for the following IP objects:

- scientific, literary and artistic works (copyright objects);
- performances, phonograms, transmissions of broadcasting organizations (neighbouring rights objects);
- trade marks and service marks;
- geographical indications (appellations of origin and indications of source);
- trade names;
- inventions;
- utility models;
- industrial designs;
- topologies of integrated circuits;
- selection achievements; and
- undisclosed information (including know-how).

Copyright and neighbouring rights objects are subject to legal protection due to the fact of their creation and since the moment of their creation. There is no need to register them or obtain any other documents enabling their protection. The right to protect undisclosed information from unlawful use also arises irrespective of execution of any formalities (e.g. registration, obtaining of certificates). Trade marks, service marks and appel-

lations of origin are protected in Belarus if they are registered with the Belarusian patent body or if they have passed international registration under international treaties to which Belarus is a party. Legal protection of topologies of integrated circuits is provided on the basis of registration with the patent body. Registration of trade marks, service marks, appellations of origin, and topologies of integrated circuits is confirmed by respective certificates. The rights to inventions, utility models, industrial designs, and selection achievements are protected only in case of grant of patents thereto by the patent authority.

If the IP object is subject to registration with the patent body, the licence, assignment, pledge, and other agreements with regard to such IP object must also be registered. Otherwise such agreements are considered invalid. The exception applies to agreements with regard to trade marks and service marks, the registration of which is not required by Belarusian laws. However, the parties must notify the patent body of conclusion, change, and termination of such agreements.

Know-how, as well as other undisclosed information, is protected only in case several conditions are met: such information must be of value to the company due to its confidentiality, it shall not be freely accessible on a lawful ground and the owner of such information must take certain measures (issue internal documentation, apply technological and/or organizational means) to protect its confidentiality. Under Belarusian law know-how can not be assigned, only licensed.

6.7.2. Patent body and registration of agreements

The body which is responsible for legal protection of IP rights and which performs the functions of the patent body in Belarus is the National Centre of Intellectual Property (NCIP). Official website of the NCIP is www.belgospatent.org.by. Among other information it contains databases of inventions, utility models, industrial designs, trade marks and service marks protected in the territory of Belarus. These databases are intended for guidance only. Official data on submitted applications, registered IP objects, protective documents effective in the territory of Belarus, as well as changes made in state registers of industrial

property objects is published in official editions of the NCIP.

Licence, assignment, pledge and other agreements with regard to certain IP objects, as well as franchise agreements must be registered with the patent body. Otherwise such agreements are considered invalid. The exception, inter alia, applies to agreements with regard to trade marks and service marks, the registration of which is not required by Belarusian laws. However, the parties must notify the patent body of conclusion, change and termination of such agreements.

6.8. Employment Peculiarities

Employment has a number of peculiarities in Belarus, including dual contract system, calculation of salaries, certain issues pertaining to employment of management.

6.8.1. Employment agreement

Employment relations in Belarus should be formalized by employment agreement. The most common type of employment agreements in Belarus is the employment contract.

Employment contract is a very specific type of the employment agreement which can be concluded minimum for one year and maximum for five years. It is more employer-friendly and is widely used in Belarus for several reasons, including the following:

- the contract provides the employer with more tools related to motivation of the employee (possibility to decrease or deprive bonuses, decrease vacation time);
- the contract provides for additional grounds for termination of the employment relations upon initiative of the employer;
- the contract cannot be terminated solely upon the employee's initiative, unless there is material breach by the employer or a good reason (moving to a different city and the like);
- the contract provides for higher payment conditions and better social benefits for the employee.

6.8.2. Salary Calculation

The remuneration of the employee is defined by mutual agreement of the parties taking into consideration law regulations.

The salary can not be lower than minimal salary level which is established by the Council of Ministers.

Currently this level is approximately EUR 95 as of 1 November 2010. Since 1 June 2010 private companies are entitled to approve their own internal regulations on rules of calculation of the salary. However, in any case the salary should be calculated taking into account the job title, personal skills, and experience.

6.8.3. Termination of the employment

All grounds for termination of the employment relations are determined by laws. The parties are not allowed to set additional grounds for termination in employment

agreement. The laws provides for more grounds for termination upon discretion of the employer in case the employment contract is concluded.

6.8.4. Non-competition and confidentiality

Belarusian laws do not explicitly forbid the clause prohibiting competition (e.g. prohibition to be employed in the same business or in a particular organization after leaving the company). However, it is not widely applied in Belarus because its enforceability is disputable. It could be argued that restriction of employment may conflict with general principles laid down in the Labour Code and the Constitution of Belarus.

Confidentiality clauses may be included in the employment agreement or can be formalized by a separate confidentiality agreement. The latter option is highly advisable as in this case the confidentiality undertakings of the employee survive the employment agreement.

6.8.5. Employment of the Director

Director's rights and obligations are established in the employment agreement and in the Articles of Association of the company. Director is prohibited to combine his/her job with any other paid job as employee of the other company, except for teaching, scientific work, art, and medical practice.

Director is not allowed to participate in the supervising and controlling bodies of the company. Employment relations with the director cannot be formalized by the employment agreement concluded for indefinite period of time. The director bears full material liability for real damages caused to the company's property.

6.8.6. Other forms of employment

A natural person may perform work also on the basis of the civil contract. In such case the contractor is not included in the company's staff list and may independently manage his / her work. The company

should organize labour protection of the contractor as well as should pay social security fees. Remuneration is determined by the mutual agreement.

6.9. Dispute Resolution

Judicial system of Belarus includes Constitutional Court, common courts, and commercial courts. According to the general rule, commercial disputes are resolved by commercial courts unless jurisdiction of common courts is expressly established by law. For example, commercial courts cannot resolve commercial disputes in the sphere of intellectual property as such disputes are subject to jurisdiction of Supreme Court of the Republic of Belarus.

Belarusian national law recognizes arbitration as a means of dispute resolution between private parties involved in commercial transactions. Some of the disputes cannot be referred to arbitration, inter alia:

- disputes involving rights to the real estate located in Belarus;
- disputes over decisions made by the bodies of a company registered in Belarus;
- disputes arising from administrative actions;
- disputes related to state-owned property, including disputes related to privatization of state-owned property and compulsory seizure of property for state needs;
- disputes related to recognition of records in state registers (cadastres) as invalid;
- matters related to insolvency (bankruptcy) of companies and individual entrepreneurs registered in Belarus;
- disputes related to recognition of non-normative legal acts of state bodies and local authorities as invalid;

- disputes related to release of arrested property in case the property was arrested by the respective Belarusian state body.

Arbitration can be conducted under either self-administered ad hoc or institutional procedures and rules. The International Arbitration Court of International Chamber of Commerce and Industry was established in 1994 to administer commercial arbitrations in Belarus. Awards of international arbitrations courts located in Belarus can be appealed at the Supreme Commercial Court.

Belarus is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958). Foreign arbitral awards are recognized and enforced in Belarus by commercial courts.

Parties are free to refer dispute between them to the foreign court, unless there is mandatory competence of Belarusian courts over such disputes (for example, local subsidiary of a foreign investor, considered to be a Belarusian resident, would not be able to refer a dispute with another local company to a foreign court).

Under Belarusian laws decisions of foreign courts may be recognized and enforced in the territory of Belarus, if:

- such recognition and enforcement is provided by Belarusian acts of or an international treaty on recognition and enforcement of court decisions between Belarus and the country whose court issued the decision;
- reciprocity exists between Belarus and the country whose court issued the decision.

According to the international treaties decisions of courts of the following countries may be recognized

and enforced in Belarus: Armenia, Azerbaijan, Bulgaria, China, Cuba, Czech Republic, Finland, Georgia, Hungary, Iran, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Russian Federation,

Syria, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Viet Nam.

Existence of reciprocity with other countries can be inquired through diplomacy channels.

6.10. Main Legal Acts

- Civil Code of the Republic of Belarus of 07 December 1998;
- Investment Code of the Republic of Belarus of 22 June 2001;
- Code of the Republic of Belarus on Land of 23 July 2008;
- Labour Code of the Republic of Belarus of 26 July 1999;
- Decree of the President of the Republic of Belarus No.10 of 6 August 2009 on Creation of Additional Conditions for Investment Activity in the Republic of Belarus;
- Regulations on State Registration and Liquidation (Termination of Activities) of Legal Entities and Individual Entrepreneurs adopted by the Decree of the President of the Republic of Belarus No.1 of 16 January 2009;
- Decree of the President of the Republic of Belarus No.24 of 19 December 2008 on Certain Issues of Lease of Permanent Structures (Buildings and Installations) and Isolated Premises;
- Decree of the President of the Republic of Belarus No.1 of 28 January 2008 on Promoting Production and Sale of Goods;
- Decree of the President of the Republic of Belarus No.12 of 22 September 2005 on the High Technology Park,
- Decree of the President of the Republic of Belarus No.29 of 26 July 1999 on Additional Measures of Improvement of Labour Relations, Strengthening Labour and Executive Discipline;
- Decree of the President of the Republic of Belarus No.3 of 20 March 1998 on Denationalization and Privatization of Government Property in the Republic of Belarus;
- Edict of the President of the Republic of Belarus No.518 of 23 October 2009 on Certain Issues of Lease and Free Use of Property;
- Edict of the President of the Republic of Belarus No.703 of 31 December 2007 on Certain Issues of Taxation of the Residents of the High Technology Park;
- Edict of the President of the Republic of Belarus No.667 of 27 December 2007 on Withdrawal and Allocation of Land Plots;
- Edict of the President of the Republic of Belarus No.513 of 24 August 2006 on Patent Fees;
- Edict of the President of the Republic of Belarus No.262 of 9 June 2005 on Certain Issues of Activity of Free Economic Zones in the Republic of Belarus;
- Law on Mortgage of 20 June 2008;
- Law on Patents for Inventions, Utility Models, and Industrial Designs of 16 December 2002;
- Law on State Registration of Real Property, Rights thereto and Transactions therewith of 22 July 2002;
- Law on Geographic Indications of 17 July 2002;
- Law on Free Economic Zones of 9 September 1999;
- Law on Legal Protection of Topologies of Integrated Circuit of 07 December 1998;
- Law on Copyright and Related Rights of 16 May 1996;
- Law on Patents for Varieties of Plants of 13 April 1995;
- Law on Trade Marks and Service Marks of 05 February 1993;
- Law on Divestment and Privatization of Government Property in the Republic of Belarus of 19 January 1993;
- Law on Commercial Companies of 09 December 1992;
- Resolution of the Belarusian State Committee for Property No.15 of 21 March 2007 on Approval of Legal Acts on the Issues of Disposal of the Shares owned by the Republic of Belarus;
- Instruction on Choosing Founders of Open Joint Stock Companies Established in the Course of Privatization approved by the Resolution of the Belarusian State Committee for Property No.61 of 19 December 2006;
- Resolution of the Council of Ministers No.929 of 22 July 1997 on Procedure for Opening and Conducting Activity in the Republic of Belarus by Representative Offices of Foreign Organizations.

Information on Contributors

Alfa-Bank. Investment Banking

Worldwide presence of Alfa-Bank

Russia



Alfa-Bank

- ▶ The largest private bank in Russia by assets
- ▶ More than 39 th. corporate clients
- ▶ Assets - US\$19.3 bln. loan portfolio - US\$14.7 bln., equity - US\$2.6 bln.
- ▶ Alfa-Bank is the leading Russian financial advisor by volume of M&A transactions in 2008

Ukraine



Alfa-Bank Ukraine

- ▶ One of the Top-10 Ukrainian banks
- ▶ Regional network – appr. 100 offices

Alfa Capital Ukraine

- ▶ One of the most active investment companies in the country
- ▶ Numerous awards from PFTS, Euromoney, Central European

Belarus



Alfa-Bank Belarus

- ▶ Alfa-Bank is represented by the head office in Minsk and 17 regional branches
- ▶ Corporate bank clients include leading Belorussian companies
- ▶ One of the leading broker in Belarus

Kazakhstan



Alfa-Bank Kazakhstan

- ▶ One of the most reliable and rapid growing banks in Kazakhstan
- ▶ Network includes Astana branch and three representative offices in Karaganda, Ust-Kamenogorsk and Ekibastuz
- ▶ Assets - US\$246 mln., liabilities - US\$183 mln., equity - US\$63.1 mln.

London



Alfa Capital Markets

- ▶ Alfa Banking Group's London-based international investment banking business
- ▶ Plays a key role in attracting international investors to the Russian equity market
- ▶ One of the leading European brokers

The Netherlands



Amsterdam Trade Bank

- ▶ Amsterdam Trade Bank N.V. is a fully owned subsidiary of Alfa-Bank (since 1994)
- ▶ Provides full range of banking services to Alfa-Bank clients overseas, encourages foreign investments in Russia and the CIS

New-York



Alforma Capital Markets

- ▶ Alforma Capital Markets is a FINRA and SIPC member and an affiliate of Alfa-Bank's international equities business
- ▶ Alforma Capital Markets provides brokerage and investment services to US, Canada and Latin America institutional clients investing in Russia and the CIS

Cyprus



Alfa Capital Holdings (Cyprus) Ltd











- ▶ One of the largest investment companies in Cyprus

Corporate finance - leader in CIS M&A

Alfa-Bank has advised on more than 40 M&A transactions, including those involving debt restructuring, with a combined value exceeding US\$36.5 bln.;

by volume of M&A transactions in 2008 Alfa-Bank is one of the top leading financial advisors according to mergermarket.com research portal;

Best M&A Deal in the CIS, 2008 AWARD by EMEA Finance;

 <p>US \$ 350 mln. Sale of Donetsk metallurgical plant 2010</p>	 <p>US \$ 404 mln. Exclusive financial advisor to Goldentelecom on the acquisition of 49% of Corbina Telecom 2008</p>	 <p>Exclusive financial advisor on the acquisition of ISTIL by Estar Group shareholders 2008</p>
 <p>US \$ 180 mln. Acquisition of bank "Severnaya Kazna" by Alfa-Bank 2008</p>	 <p>US \$ 1,200 mln. Financial advisor on the sale of controlling stake of Maxi-Group to NLMK 2007</p>	 <p>Exclusive financial advisor to the selling shareholders on the sale of Kartontara to SFT Group 2007</p>
 <p>US \$ 92 mln. Exclusive financial advisor to Agromash holding on the acquisition of Dunham-Bush (Malaysia) 2007</p>	 <p>Undisclosed sum Acquisition of a controlling stake in EMA-Atom Exclusive financial advisor 2007</p>	 <p>US \$ 71 mln. Exclusive financial advisor on the sale of Pharmacy chain O3 to Protek 2006</p>
 <p>US \$ 4,800 mln. Exclusive financial advisor to the Mittal Steel on the acquisition of Krivorizhstal 2005</p>		

Ranking of M&A advisors by volume, 2008

N	Company	Deals Value* (USD mln.)
1	Troika Dialog	10 841
2	Deutsche Bank	7 291
3	Alfa Bank	5 823
4	Merrill Lynch	5 463
5	Renaissance Captal	4 416
6	Morgan Stanley	4 319
7	Dresden Kleinwort	4 127
8	JPMorgan	3 817
9	UBS Investment Bank	3 786
10	Royal Bank of Scotland	2 200

Source: mergermarket.com advisory of target companies













2004 – 3rd in M&A financial advisor rating (based on volume and number of transactions), «Mergers and Acquisitions» magazine



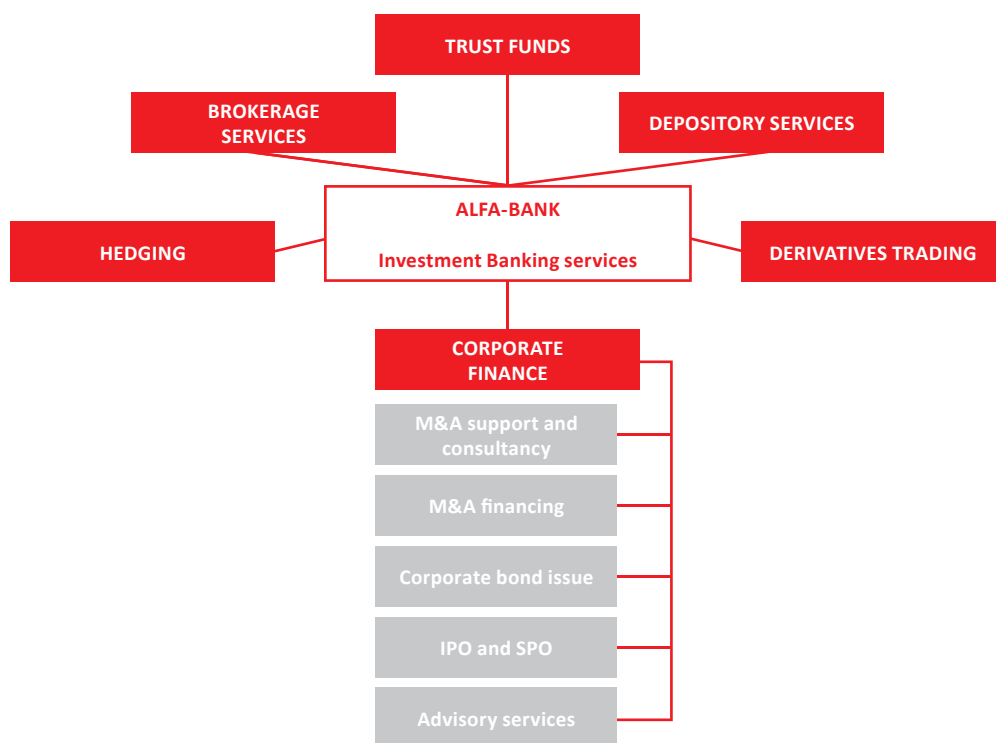
2003 – 2nd in M&A financial advisor rating (based on volume and number of transactions), «Mergers and Acquisitions» magazine

Alfa-Bank – the fastest growing bank in Belarus

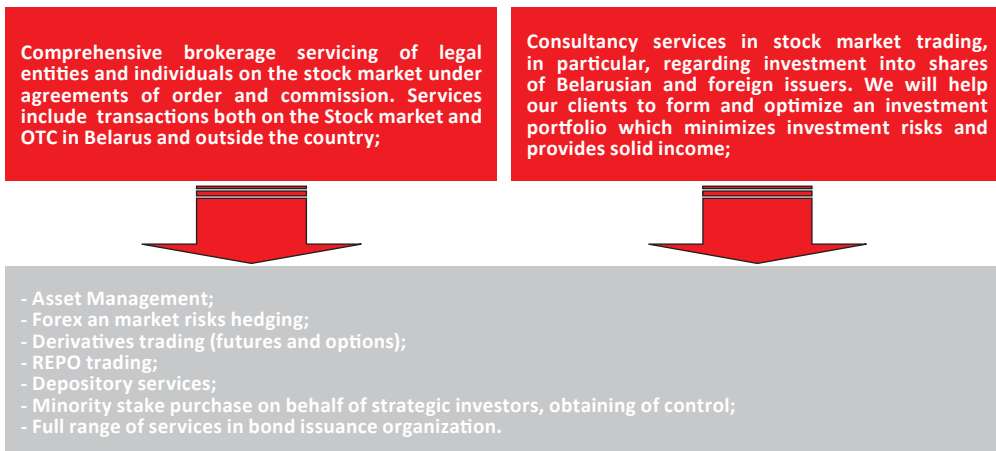
In 2008-2010 total volume of investments of Alfa Group in Belarus amounted to 75+-800 mln. \$

		<p>Alfa-Bank Belarus. In July 2008 Banking Group Alfa acquired majority stake in CJSC «Mezhtorgbank». In November 2008 the Bank was renamed to “Alfa-Bank” Closed Joint Stock Company. Currently, total assets of the bank reached 420 mln.\$.</p>
		<p>EVROSET. Is the largest cell phones and accessories retail operator. “Vimpelcom ltd.” Is the owner of 49,9% of the retailer.</p>
		<p>Life:) The largest 3G operator in Belarus. The 3rd largest GSM operator. In 2008 Turkcell acquired 80% stake in the operator at 600 mln.\$. Currently, total assets of the operator are estimated at 509 mln.\$.</p>
		<p>BELMARKET. The second largest food retail operator in Belarus. The chain was established in 2007 by A1 investment company together with IFC. Total assets of the chain amount to 20 mln.\$.</p>
		<p>THK-BP WEST. The company was registered in 2009. The key operating activities of the company are oil extracting and refining. The company processes oil on the Mozyr Oil Refinery.</p>

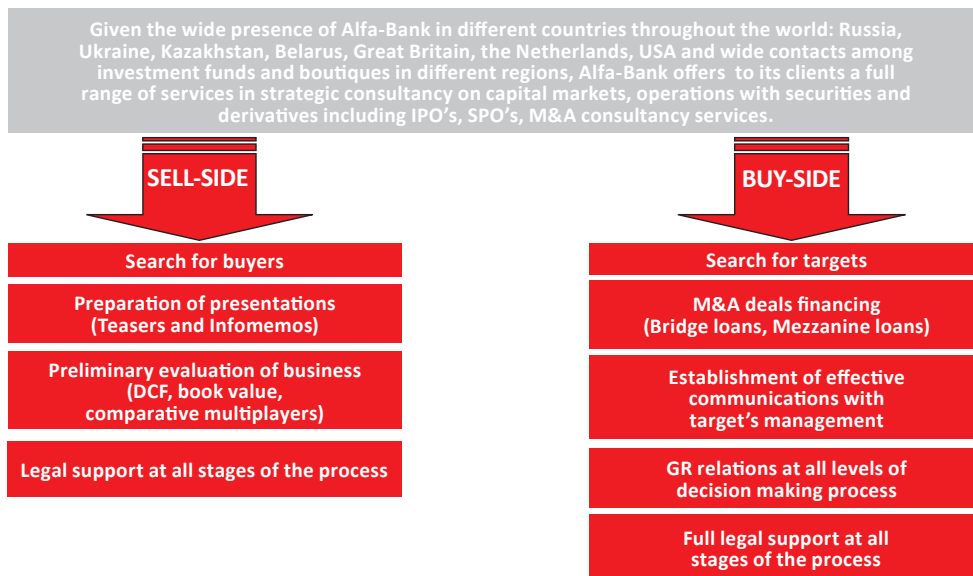
Alfa-Bank Investment banking services



Brokerage and depository services



Mergers and acquisitions



Our credentials 2010

 <p>LLC "NTS"-3 BYR 15 bln.</p> <p>Bond issue Lead manager September 2010</p>	 <p>JC "EURO TRADE BREST"-1 USD 13.5 mln.</p> <p>1-st bond issue Lead manager August 2010</p>	 <p>JC "EURO TRADE BREST"-2 USD 16.5 mln.</p> <p>Bond issue Lead manager August 2010</p>	 <p>JSC "Grodno Azot"-2 BYR 30 bln.</p> <p>Bond issue Underwriter August 2010</p>	 <p>RUE "VitebskEnergo"-2 BYR 40 bln.</p> <p>Bond issue Underwriter March 2010</p>	 <p>Alfa-Bank-4 BYR 30 bln.</p> <p>Bond issue Lead manager June 2010</p>
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Our team

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SORAINEN

Belarus



SORAINEN is a leading regional business law firm with fully integrated offices in Estonia, Latvia, Lithuania and Belarus. Established in 1995, today the firm numbers more than 100 lawyers advising international and local organisations on all business law issues involving the Baltics and Belarus. SORAINEN has advised on over 400 company acquisitions and investments in the Baltics and Belarus with a value exceeding EUR 10 billion.

SORAINEN's arrival in Belarus was a landmark event in the local legal market because the law firm was among the very first Western European professional service firms starting business in the republic. Notably, the opening of SORAINEN Belarus coincided with the Belarusian Government's commitment to liberalise the country's economic and legal framework in order to attract more foreign direct investment. This step, which the firm sees as historic, was preceded by three years of researching the Belarusian legal and business environment in addition to servicing a growing number of clients in connection with their operations in Belarus.

SORAINEN supports clients in successfully accomplishing all matters related to business law in Belarus and is able to provide a full spectrum of legal services to local and foreign clients doing business in Belarus. Major practices of the SORAINEN Belarus office are:

- Mergers & Acquisitions (M&A) and Privatisation
- Banking & Finance
- Corporate Advisory
- Dispute Resolution
- Commercial Contracts
- Real Estate & Construction
- Intellectual Property
- Tax and Customs
- Competition and Regulatory
- Insurance
- Restructuring and Insolvency.

SORAINEN Belarus office has been rated as a top-tier service provider in Belarus by a number of leading surveys and legal directories, including:

Chambers Global

"The team works in close co-operation with the firm's three Baltic offices and is noted for its client base of big international companies".

IFLR 1000

"SORAINEN is quite possibly the most serious and involved of the foreign firms in the market. It has a big team of 15 lawyers that has won the seal of approval from clients such as the European Bank for Reconstruction & Development (EBRD) and the International Financial Corporation (IFC), and is the only firm with the Lloyds Register Quality Assurance".

The Legal 500

"SORAINEN has made strong inroads since opening [...]. The firm's three partners, Toomas Prangli, Maksim Salahub and Kiryl Apanasevich are "focused on the needs of the clients, they are real advisors and not just consultants." The office as a whole is praised for its "superb responsiveness and highly professional internal structures."

SORAINEN Belarus transaction experience

Since opening, SORAINEN Belarus has advised on banking and finance, M&A deals, real estate and construction projects. Highlighted below are some recent transactions where we have advised.

M&A AND PRIVATISATION

Advising **Baltic Beverages Holding AB** (member of the **Carlsberg Group**) on acquisition of shares (including antimonopoly clearance and tax advice) from minority shareholders in OJSC Brewery Alivaria, that is one of the largest breweries in Belarus. It was one of the first major international share purchase deals in the Belarusian market which were implemented based on the new legislation requiring all share transactions, to be accomplished at the Belarusian Currency Stock Exchange. It resulted in increasing BBH shareholding in Alivaria up to 47% and thereby strengthening market position and improving business prospects of Carlsberg as one of the key players on the Belarusian beer market.

Advising **Unimilk**, the leading Russian dairy company, in a transaction where the business of Unimilk is merged with Danone's Fresh Dairy Product business in the CIS area. Spanning operations in Russia, Ukraine, Kazakhstan and Belarus, the merger covers all dairy products and will make Danone-Unimilk the leader of dairy products in the CIS area as a whole. The new entity will generate annual sales of approximately EUR 1.5 billion and count over 18,000 employees.

Advising **Bayer**, a global pharmaceutical concern, in an acquisition on the Belarusian market involving establishing a subsidiary and accrediting a second representative office.

Advising **Ingman Ice Cream** (currently the fourth largest ice cream manufacturer in Belarus) on the privatisation of Gomel Ice Cream Factory.

Advising the **European Bank for Reconstruction and Development** (EBRD) on equity investments (acquisition of a 25.5% stake) in Commercial and Industrial Group West-Ost Union, the largest children's goods retail chain in Belarus consisting of 11 supermarkets located in the biggest Belarusian cities and operating under the "Buslik" trademark. EBRD investment will be directed towards further expansion of the chain in Belarusian regions, including

opening five new supermarkets and implementing international management and accounting standards in the company.

BANKING & FINANCE

Advising **International Finance Corporation** on acquisition of 19,99% stake in Belaruskyy Narodny Bank, the commercial bank controlled by Bank of Georgia. SORAINEN team was involved into structuring of the transaction, review and commenting of transaction documents in the light of mandatory Belarusian legislation, and advised on local securities and tax regulations. That was first ever acquisition of the equity stake in Belarusian privately-owned bank by IFC.

Advising the **Czech Export Bank**, a specialized banking institution for state support of exports, in connection with project financing of Grodnoenergo for supply of a full set of hydroengineering equipment for construction of a hydropower station in Grodno. Czech Export Bank opened a credit line in the amount of EUR 10.8 million secured by pledge of equipment and by suretyship from Belenergo. The SORAINEN Belarus team headed by partner Kiryl Apanasevich advised the client on structuring the transaction and commented on drafts of the loan and security agreements.

Acting as legal counsel for the **European Bank for Reconstruction and Development** in connection with a EUR 15 million loan to Pinskiy Holding Company in Pinsk, Belarus. The loan is being made available to upgrade manufacturing facilities, and to implement new energy-saving and environment-friendly technologies.

CORPORATE ADVISORY

Providing full scope advice to **Algol Chemicals** in connection with the client's entry to the Belarusian market. Services included "turn-key" registration of Algol Chemicals subsidiary in Belarus, advice on

employment, financing matters and issues related to building a local distribution network. Algol Chemicals offers a wide range of chemicals for industry in Finland, Scandinavia, Estonia, Latvia, Lithuania, Russia, Ukraine and now in Belarus.

OTHER

Advising **ITERA-Invest-Stroy** (Russian Federation), a prominent international developer operating in Russia and the CIS countries, part of ITERA International Group of Companies, in connection with the “Minsk City” development project which the company is currently realising in the capital. Under this project, ITERA-Invest-Stroy is developing the area of the present Minsk-1 city airport, constructing a significant number of business centres, hotels, residential premises, entertainment and catering facilities and necessary infrastructure. SORAINEN also advised ITERA-Invest-Stroy in connection with another development project involving erection of business and residential buildings in Minsk downtown. Estimated value of the two projects is USD 738 million (approx EUR 542 million). SORAINEN carried out legal due diligence

of the client’s subsidiaries in Belarus prior to their corporate restructuring needed to accommodate project needs.

Advising international consultants **SWECO International**, a company providing qualified engineering services with high knowledge content. SWECO has been chosen to prepare a feasibility study on municipal sludge treatment involving potential construction of a biogas factory in Minsk. The tender was organized by “Minskvodokanal”, a Municipal Unitary Enterprise subsidiary of Minsk City Executive Committee. The feasibility study was financed by the Swedish International Development Cooperation Agency (Sida). SORAINEN advised SWECO on possible corporate project structures, taxation issues and investment and regulatory matters related to incorporating and operating the joint venture, including bio-gas plant construction and energy distribution.

Providing complex legal advice with regard to business activities in Belarus of Bayer Consumer Care AG, **Czech Airlines**, **Polskie Linie Lotnicze LOT** (Polish Airlines), **Aizkraukles banka** and **Toyota Material Handling Europe**.

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