



THE RESOLUTION OF ICBAC, THE INTERNATIONAL COUNCIL OF BUSINESS ASSOCIATIONS AND CHAMBERS OF COMMERCE IN UKRAINE, ON THE NEED FOR THE UKRAINE REFORM CONFERENCE ON 2 TO 4 JULY 2019 TO AGREE ON PROVIDING POLITICAL RISK INSURANCE FOR UKRAINE THROUGH MIGA*

We, the members of the International Council of Business Associations and Chambers of Commerce in Ukraine (ICBAC), confirm the urgent need for political risk insurance to become readily available to cover conflict and related political risk for investment and lending in Ukraine. Although further military coercion against Ukraine should be highly unlikely, the possible risk significantly discourages Ukrainian investment and lending. This risk needs to be covered by a suitable political/conflict risk insurance program, so that Ukraine can benefit economically from the much greater foreign as well as domestic investment and lending that should flow from the other reforms being proposed for the Ukraine Reform Conference to be held in Toronto, Canada on 2 to 4 July 2019.

To provide for this, we request that the countries attending the Ukraine Reform Conference support the creation of a special multilateral political/conflict risk insurance program for Ukraine through the World Bank's Multilateral Investment Guarantee Agency (MIGA), as has been done for most other countries subject to conflict, as well as for the West Bank and Gaza, to facilitate investment and lending despite any conflict risk. This should be based on the creation by the World Bank of a trust fund program, modeled on MIGA's program for the West Bank and Gaza, backed by donor standby guarantees, to:

(1) support MIGA to make much greater political/conflict risk insurance available in practice for foreign (cross-border) investment and lending into Ukraine, despite the conflict risk; and

(2) to give MIGA authority also to issue political/conflict risk cover to insure domestic, as well as certain existing, investment and lending in Ukraine.

Such insurance should be readily available at reasonable cost for all bona fide investments and lending in Ukraine (excluding the occupied Ukrainian

territories) to cover the risks ordinarily covered by MIGA, including from war, conflict and civil disturbance. Currently, without such special support, MIGA is generally unwilling to insure investments and lending, in particular for large projects, in Ukraine.

The Ukrainian Government should, to facilitate MIGA's providing this insurance cover, give a counter-guarantee to MIGA for loss claims due to anything that is under the Government's control, including improper exchange control actions, expropriation, etc. – basically guaranteeing everything other than conflict risk due to the actions of a third country.

Ukraine's economy should, based on such political/conflict risk insurance and the legal and anti-corruption reforms being proposed for the Ukraine Reform Conference, benefit from the much greater investment and lending required for its development.

Adopted on 27 June 2019 by: British Ukrainian Chamber of Commerce (BUCC)
Canada-Ukraine Chamber of Commerce (CUCC)
Chinese Commerce Association (CCA)
German-Ukrainian Chamber of Commerce and Industry (AHK)
Franco-Ukrainian Chamber of Commerce and Industry (CCIFU)
International Turkish Ukrainian Businessmen Association (TUID)
Swedish Business Association in Ukraine (SBA)
Ukrainian-Austrian Association (UAA)
Ukrainian Chamber of Commerce and Industry (UCCI)
U.S.-Ukraine Business Council (USUBC)

Executed by Alfred Praus, General Secretary, on behalf of ICBAC: _____

*Please see the Commentary on this Resolution on Page 3.



Photographs from the ICBAC Meeting on Political Risk Insurance held on 31 May 2019 with Daniel Bilak, Chairman of UkraineInvest, Alfred Praus, General Secretary of ICBAC, Bate Toms, Chairman of the BUCC and Morgan Williams, President of the USUBC, at which the ICBAC Resolution was discussed.



A COMMENTARY ON THE ICBAC RESOLUTION* ON THE URGENT NEED FOR GREATLY INCREASED POLITICAL/CONFLICT RISK INSURANCE FOR UKRAINE



The BUCC photograph above is from the Conference held by the BUCC at the InterContinental Hotel Kyiv on Prozorro and Other Reforms for Auctioning Oil and Gas and Other Assets by the Ukrainian Government, at which the Chairman of the BUCC, Bate Toms, spoke on the need for MIGA based political risk insurance in order to encourage foreign bidders to invest in Ukraine.

Ukraine urgently needs greater availability of political/conflict risk insurance. Billions of dollars in investment projects, including most of those previously considered by the boards of foreign companies for Ukraine since February 2014, could go forward if the risk from the unresolved conflict in eastern Ukraine could be covered by political/conflict risk insurance at reasonable cost, as is presently available for almost all other countries that are similarly affected by conflict. Potential investors in Ukraine need much greater availability of such political/conflict risk insurance.

Adequate political/conflict risk insurance is not presently available for Ukraine. The Multilateral Investment Guarantee Agency ("MIGA"), a branch of the World Bank that is the largest international organization providing political, including conflict, risk insurance globally, presently has a theoretical capacity of \$20 billion US dollars of political risk insurance cover available for Ukraine. However, MIGA has strict criteria for the level of risk that it is willing to accept, and consequently MIGA political risk insurance is generally available only for smaller Ukrainian investments in limited circumstances, i.e. generally for investments that are perceived to not be very susceptible to war risk (such as to insure a Porsche car leasing program, where the cars may be quickly removed from Ukraine). Obtaining MIGA political risk insurance currently is also a relatively long and difficult process, and only possible for new cross-border investments.

Turning to national political risk programs and private insurance, it is generally difficult to obtain such political/conflict risk insurance for investment in Ukraine, except in some special short term cases for high premiums.

The reform programs to be presented at the Ukraine Reform Conference in Toronto, Canada, on 2 to 4 July 2019, are very important, **but reforms by themselves will not result in enough new investment, so long as most potential investors, and their lenders, fear that conflict might completely destroy their investments.** While such destruction may be highly unlikely, most investors and their lenders need this risk to be insured as a condition for proceeding. The provision of adequate political/conflict risk insurance by itself should significantly encourage a much higher level of investment for Ukraine by mitigating the conflict risk.

To provide for such increased availability of political/conflict risk insurance by MIGA of foreign investment and lending into Ukraine, a multilateral trust fund

backing MIGA for Ukraine is needed based on stand-by guarantees by supporting countries. Such a trust fund structure could be funded by, among others, Canada, Japan, Sweden and the UK, with the European Investment Bank ("EIB"), similar to what they are already providing to permit political/conflict insurance by MIGA for most other conflict situations, including for the West Bank and Gaza.

No actual capital should ever need to be advanced, since assuming the conflict in Ukraine does not spread, the insurance would never actually need to be drawn on, so there would be virtually no cost apart from administrative expenses. These administration expenses should be minimal since the existing World Bank MIGA administrative structure and staff can be used to provide this expanded political/conflict risk insurance, and the documents for the West Bank and Gaza trust fund could serve as a model for documentation to be quickly created for a Ukrainian program.

To best respond to Ukraine's current situation, such political/conflict risk insurance should be modified from the traditional MIGA insurance as follows: (1) it should be readily available at a reasonable cost (i.e. based on the cost of political risk insurance for non-conflict countries) for all genuine investors and lenders and be available on an expedited basis - in order to provide greater support for the Ukrainian economy, investors and lenders should thus be encouraged to invest and lend on the same basis as if there was no risk from conflict; (2) it should be available for both foreign and domestic investment and lending; and (3) it should be available to cover existing investments where, as a consequence of such insurance, further investment and lending can be made and disinvestment will be discouraged. By creating such a program based on a special World Bank trust fund administered by MIGA, domestic Ukrainian investments, that MIGA cannot otherwise put on its books under its Convention, can also be covered, as has been done successfully by the World Bank, through MIGA, using trust funds for most other conflict affected countries as well as the West Bank and Gaza.

On the foregoing basis, the needed political/conflict risk insurance can be provided to significantly help promote the Ukrainian economy and create the right context for the Ukraine Reform Conference reforms, such as those for the fight against corruption, to stimulate economic development for Ukraine.

*Bate C Toms - Chairman of the British Ukrainian Chamber of Commerce (BUCC), 21 June 2019***



The above photograph is of UK Trade Secretary Liam Fox, MP, addressing the Ukrainian Week in London Conference held by the BUCC at the Savoy Hotel and the EBRD Headquarters in London, at which BUCC Chairman Bate Toms spoke on the need for MIGA political risk insurance to encourage investment in Ukraine.

*Please see the ICBAC Resolution on Page 2.

**Mr. Toms has been campaigning for political risk insurance for Ukraine since February 2014, publishing his first article on this in the Kyiv Post of 20 March 2014 (Statement by the Chambers of Commerce and Business Associations of Ukraine on the Need for Political Risk Insurance for Ukrainian Investments).