# Invest in Belarus Guidebook

Investment opportunities,
legal and economic environment

PREPARED BY

NATIONAL AGENCY OF INVESTMENT AND PRIVATIZATION

SORAINEN
ESTONIA LATVIA LITHUANIA BELARUS

DEAR READER,

Every year Belarus is getting more and more attractive for foreign business. This decade brought us a number of positive changes, which were warmly welcomed by the international community. Our business conditions made it possible for foreign investors to enjoy Belarus as a platform for further business development. Moreover, assisted by international organizations a number of large-scale public-private partnership infrastructure projects are being launched. Elevating borders and broadening the horizons for mutual cooperation, Belarus makes every single step to show its openness for everyone: this year we have introduced the 5-day visa-free regime for the citizens of 80 countries.

The National Agency of Investment and Privatization is a trustworthy partner for foreign business. Being the source of current information in regard of investment climate and business opportunities, we assist foreign investors in selection of trusted partners and investment projects in Belarus. We accompany projects on every step of their implementation, including post-investment support. All the practical aspects of doing business in Belarus, our competitive edges, the unique possibilities and preferences granted for foreign investors are presented in this Guide. It also ensures complete understanding of legal aspects with reference to operations in Belarus. We did the utmost to make this Guide a benefit for the business community.

Welcome to Belarus!

**Denis Meleshkin**
Deputy Director,
National Agency of Investment
and Privatization

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DEAR READER,

According to a report published by the World Bank, Belarus currently ranks 38th on its Ease of Doing Business scale . Belarus has progress in such areas as “Getting Credit” (11 positions up) and “Dealing with Construction Permits” (6 positions up). WB also noted improvements in Enforcing Contract, Protect-ing Minority Investors, Paying Taxes. None of other areas deteriorated significantly. In our opinion, this reflects Belarus Govern-ment’s consistent efforts to stay competitive in attracting investors, improving its legal framework for business, and modernizing the economy.

After an almost three year recession, the national economy is growing again. Some of the growth drivers are breakthrough projects such as High Tech Park (already nicknamed by some as “Silicon Valley of the Eastern Europe) and China-Belarus Industrial Park “Great Stone”, both of which recently saw explosive growth of the number of residents from many parts of the world and a notice-able boost in revenues.

In addition, Belarus has become one of the first countries in the world to create a legal framework for cryptocurrencies and initial coin offerings. Our jurisdiction has never offered more exciting opportunities to business than before.

Below, we are happy to offer you a digest of the key regulations on business activities in Belarus prepared by Sorainen lawyers.

Kind regards,

**Maksim Salahub,**
Partner at SORAINEN

# Investment Opportunities

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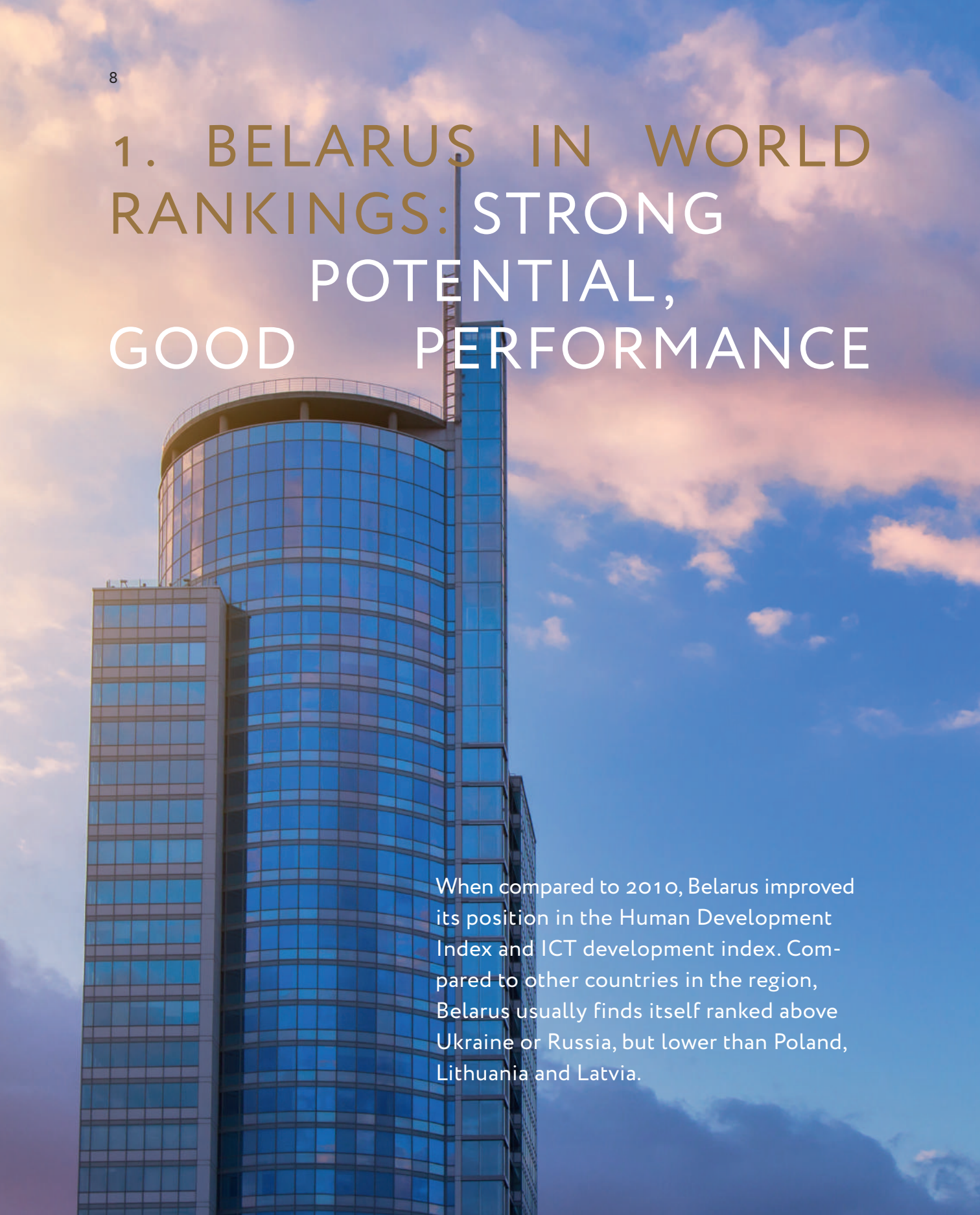
# 1. BELARUS IN WORLD RANKINGS: STRONG POTENTIAL, GOOD PERFORMANCE



When compared to 2010, Belarus improved its position in the Human Development Index and ICT development index. Compared to other countries in the region, Belarus usually finds itself ranked above Ukraine or Russia, but lower than Poland, Lithuania and Latvia.

## In the ranking Doing Business 2018, Belarus occupies 38th place.

In 2017 in terms of doing business Belarus strengthened access to credit by adopting two new decrees that establish a unified collateral registry.

In the report "Measuring the Information Society 2017", drawn up by the International Telecommunication Union, Belarus occupies 32nd place in the ranking on the index of information and communication technologies development. Belarus is the leader in ICT among the CIS countries. Russia ranked 45th, Kazakhstan ranked 52nd. Iceland took a lead. The ICT development index is developed on the basis of 11 indicators, which are reduced to a single criterion to compare the achievements of countries in ICT development at the global, regional and national levels. These indicators relate to ICT access, use of ICT and skills, that is, practical knowledge of these technologies by the population of surveyed countries. It is recognized that the level of ICT development today is one of the most important indicators of economic and social well-being.

In the world ranking of investment attractiveness International Business Compass 2016, Belarus is on the 89th place among 174 countries of the world. The rating has been making up by the Hamburg Institute of World Economy in cooperation with the auditing company BDO annually since 2012.

Belarus occupies the 34th place in the cat-egory of human potential and research and the 53rd in the category of business development in the Global Innovation Index-2018 list. The au-thors of the ranking referred to the strengths of Belarus such areas as education and innovation. The authors of the rating are Cornell University (USA), INSEAD Business School and World Intellectual Property Organization. The Global Innovation Index is published since 2007.

Also the transfer of Belarus in 2018 to the sixth OECD classification group (Organization for Economic Cooperation and Development), which reduced the cost of credit resources by foreign banks to Belarusian importing enter-prises, was a positive moment in improving the country's credit image.

According to the assessment of the ITU Broadband Development Commission at the beginning of 2017 the Republic of Belarus was ranked 16th in terms of the amount of fixed broadband subscribers among 196 countries, which took part in the study.

Belarus ranks 53rd out of 188 countries in the Human Development Index list. Belarus' HDI ranking for 2017 puts the country in the "high human development" group. Belarus ranks 65th out of 128 in the 2017 Social Progress Index. Belarus improved its' position in comparison with the previous results. Belarus has the highest scores on the following compo-nents of social progress: access to basic knowl-edge, nutrition and basic medical care, water and sanitation, shelter, personal safety.

According to the rating European cities and regions of the future 2018-2019, compiled by re-source fDi Intelligence (division of The Financial

Times), Minsk entered the top 10 BEST CITIES FOR COST EFFECTIVENESS in Europe. The rating European cities and regions of the future 2018-2019 is an analysis of European cities in terms of business and investment development by 96 indicators. The calculations were carried out according to leading experts of the publication Foreign Direct IInvestment and analysis of the economic potential, human resources, level of costs of doing business, living standards, quality of infrastructure, ease of doing business, strategy to attract foreign direct investment. The best city was determined in the overall ranking; each city also participated in its category (by population number): large, medium, small, micro-town.

Fitch Ratings has upgraded Belarus' Long-Term Foreign- and Local-Currency Issuer Default Ratings (IDRs) to 'B' from 'B-'. The Outlook is Stable. Near-term external financing risks have declined due to the pre-emptive government borrowing, and due to an increase in international reserves. The rating also factors in the improved terms of trade, the risks of the financial sector, the state of the state budget and the economic growth prospects.

The international rating agency Standard & Poor's raised the long-term sovereign credit rating of Belarus for foreign currency obligations to the level of "B" (previously - "B-"), the forecast is "stable". As stated on the Agency's website, the ratings have been changed "due to improved economic growth and external financing." In par-ticular, "thanks to the issuance of Eurobonds and the provision of official loans, the government has provided most of its financing needs for 2018".

**DOING BUSINESS** 2019

| Country | DB index ranking |
|---|---|
| New Zealand | 1 |
| Lithuania | 14 |
| Kazakhstan | 31 |
| Russian Federation | 28 |
| **Belarus** | 37 |
| Armenia | 41 |
| Kyrgyz Republic | 70 |
| Ukraine | 71 |

**ICT DEVELOPMENT INDEX**

| Country | Index ranking |
|---|---|
| Iceland | 1 |
| Korea (Rep) | 2 |
| Germany | 12 |
| **Belarus** | **32** |
| Lithuania | 41 |
| Russia | 45 |
| Poland | 49 |
| China | 80 |

**HUMAN DEVELOPMENT**

| Country | Index ranking |
|---|---|
| Norway | 1 |
| Poland | 33 |
| Russia | 49 |
| **Belarus** | **53** |
| Kazahstan | 58 |
| Turkey | 64 |
| Ukraine | 84 |
| Armenia | 84 |

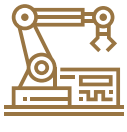
# 2. PROMISING SECTORS FOR FDI

The Resolution of the Council of Ministers Resolution No. 372 of 12 May, 2016 on the priority activities (sectors) for investment has determined a list of priority sectors of economy for investment. As a result, the priorities for investment activity are as follows:

## INVESTMENT OPPORTUNITIES

METALLURGY

MECHANICAL ENGINEERING



PRODUCTION OF ELECTRICAL EQUIPMENT

OPTICAL AND MECHANICAL

INSTRUMENT MAKING PRODUCTS

HOME APPLIANCES AND ELECTRONICS

INFORMATION AND COMMUNICATION TECHNOLOGIES

CREATION AND DEVELOPMENT OF THE LOGISTICS SYSTEM

RAIL AND AIR TRANSPORT

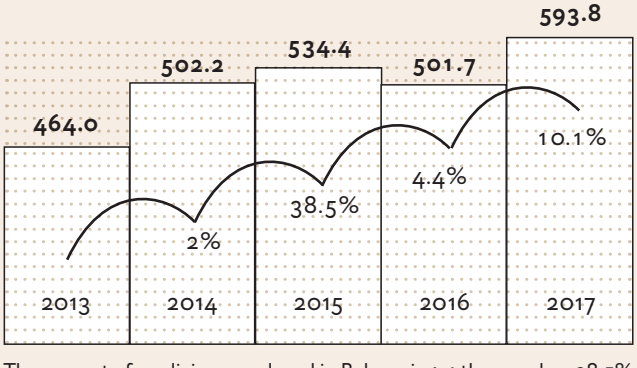
# 2.1 PHARMACEUTICAL INDUSTRY

Access to the large and dynamic market of pharmaceutical products manufacturing in Belarus provides duty-free access to the large and dynamic market of 5 member states of the Eurasian Economic Union (Russia, Belarus, Kazakhstan, Armenia and Kyrgyzstan).

## DEVELOPED HR POTENTIAL

Pharmaceutical industry of the Republic of Belarus employs more than 8.0 thsd. professionals of different levels of preparation and all with a wide range of skills. Each year, they are joined in large measure by an additional 500 graduates, which creates a stable basis for a personnel inflow into new manufactories and segments of the industry.

**PRODUCTION OF PHARMACEUTICAL PRODUCTS IN BELARUS**, USD MLN




The amount of medicines produced in Belarus is 1.4 thousand, or 28.5% (in 2008, the amount of medicines produced in Belarus was 550 titles).

## GOVERNMENTAL SUPPORT OF INVESTMENT PROJECTS IN THE SPHERE OF PHARMACEUTICS

A comprehensive state program has been passed for the development of the pharmaceutical industry in the Republic of Belarus. According to the program, the share of locally produced medicines consumed in the country should have accounted for 50% by 2015 (in 2012 this indicator made 30.6% in monetary terms).

The objectives of the Belarusian pharmaceutical industry for the period up to 2020 are the following:

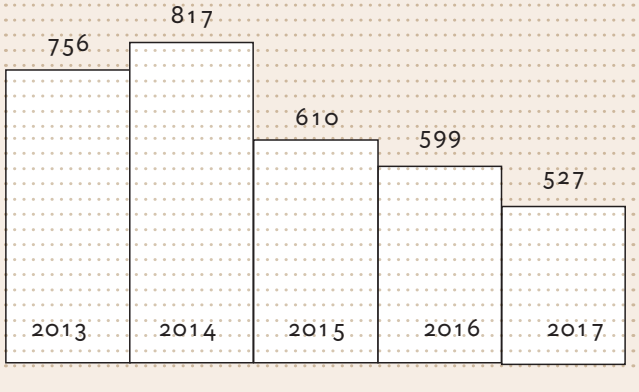
- the creation of a modern research infrastructure for development and production of innovative pharmaceutical products, including reconstruction of existing enterprises and construction of modern production facilities, which will meet international quality standards,
- cooperation with leading pharmaceutical manufacturers in organization of joint and foreign ventures.

In general, over the last years the Belarusian pharmaceutical market has had a positive trend significantly outpacing GDP growth (the pharmaceutical market downturn of 2016 in monetary terms happened due to the situation in the country's foreign exchange market).

The production of pharmaceutical products, as well as the pharmaceutical market has a positive dynamics: over the last four years the production has increased by 176.5% to USD 593.8 million. Positive dynamics in the production was also observed in 2017, the production was increased by % compared to 2016.

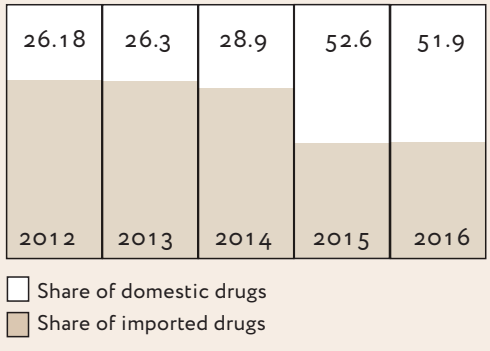
Household expenditure on medicaments and medical goods amounted to over 135 US dollars in 2016.

**IMPORT OF PHARMACEUTICAL PRODUCTION TO BELARUS**, USD MLN

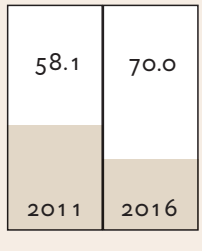



The geographical structure of import is quite diversified. Thus, the largest shares are from Russia (18.1%), Germany (12.9%), Lithuania (12.7), Hungary (7.6%), Poland (6.9%) and Austria (4.4%).

**SHARE OF IMPORTED AND DOMESTIC DRUGS** (IN VALUE TERMS, %)

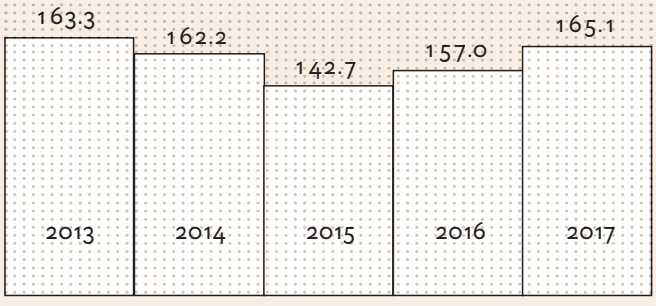



**SHARE OF IMPORTED AND DOMESTIC DRUGS** (IN PHYSICAL TERMS, %)




Belarus imported pharmaceutical products worth USD 599.0 million in 2016. The average annual growth rate of imports in 2004–2014 amounted to 14%. But in 2015 it dropped by 25.3% and in 2016 it dropped by 1.8%

**EXPORT OF PHARMACEUTICAL PRODUCTS FROM BELARUS**, USD MLN




Source: National Statistical Committee of the Republic of Belarus

In order to reduce dependence on import and increase domestic production, the Republic of Belarus has adopted the "State Program on development of import-substituting production of pharmaceutical substances, finished drugs and diagnostic tools for 2010-2014 and for the period until 2020". According to this program, the share of domestic drugs in the Belarusian pharmaceutical market should have reached 50% in value terms by the end of 2015. It should be noted that the domestic drugs captured 51.9 % of the market in value terms in 2016.

Implementation of the program of import substitution of the pharmaceutical industry is largely dependent on the raw materials and active pharmaceutical ingredients that are needed for medicine production, but that are not produced in Belarus. Thus, about 60 substances are synthesized in the country for the produc-tion of medicines and more than 800 are imported (2012 data). Generally, substanc-es are bought in countries with a significant competitive advantage of the production costs, namely India, Pakistan and China. Since the production of substances is very expensive and based on scale effect, and also has a low marginality, it is more appropriate to produce finished pharmaceu-tical products (FPPs) in Belarus. Exports of pharmaceutical products amounted to more than 165.1 million USD in 2017, having increased by 5% in relation to 2016.

The geographical structure of exports reflects the impact of the EAEU countries

(79.9% of the products are exported to the EAEU countries). More than 90% of export products are accounted for the CIS countries.

The mass segment and low prices are the main competitive advantages of Belarusian medicines producers.

Belarus has a high level of integration into the international system of preproduction testing and medicines quality control.

# 2.2 RENEWABLE ENERGY

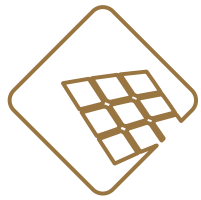
## HIGH RESOURCE POTENTIAL

The Republic of Belarus has at its disposal a significant resource potential for development of renewable energy sources (thereafter — RES). Estimated technical RES potential in Belarus accounts for around 80 mln tons of oil equivalent, which notably exceeds Belarus's total energy consumption.

- 1840 sites for potential wind farms locations with multiple grid connection points
- 1600 MW possible wind energy capacity
- 4.9-5.3 m/s is average background wind speed at the height of 10 m
- 3.9 MW total installed capacity in Belarus

- 850 MW possible hydroenergy capacity
- the largest hydropower potential is concentrated in Grodno, Vitebsk and Mogilev regions in the river basins of Neman, Western Dvina and Dnepr
- 33,4 MW total installed capacity of 49 existing hydropower plants

- large economic potential for the use of biogas and biomass, availability of the necessary raw materials (municipal solid waste, agricultural waste, waste water treatment facilities, etc.)
- 850 MW possible hydroenergy capacity
- 14,7 MW total installed capacity of biogas plants
- >600 MW total installed capacity of biomass plants



- potential effectiveness of the use of solar panels on the territory of Belarus is more than 10% higher than in Poland and the Netherlands and more than 17% higher than in Germany, Belgium, Denmark, Ireland, the United Kingdom due to favorable isolation conditions
- several investment projects on building solar power plants with total capacity of about 120 MW are at the implementation stage

# HIGH FEED-IN-TARIFFS

According to the current legislation, the state is obliged to buy energy produced by renewable power plants for the price that entails feed-in tariffs: an increasing coefficient for 10 years after the commissioning of the power plant and stimulating tariffs for the next 10 years. The cost per 1 kWh of energy, produced by different types of renewable power plants is provided in the table below*.

| Increasing coefficient (for 10 years after the comissioning) | | Stimulating tariff (for the next 10 years) |
|---|---|---|
| Wind biomass, biogas | 1.3 (0.17 USD/kWh) | 0.85 (0.11 USD/kWh) |
| Hydro | 1.1 (0.17 USD/kWh) | 0.85 (0.11 USD/kWh) |
| Solar | 1.1 (0.17 USD/kWh) | 0.85 (0.11 USD/kWh) |

*At prices as of 20 May 2015

## THE DECREE HAS INTRODUCED ALSO NEW RULES OF TARIFFS DETERMINATION

### Rule No. 1

**Increasing coefficient differentiation**

Increasing coefficient can be differentiated either by the source of renewable energy or by electric capacity, service life and other equipment characteristics.

According to the government, the service life criterion would limit the usage of second-hand power plants, imported from other countries (for instance, wind power plants, solar panels).

According to the Law, the Ministry of Economy is entitled to establish such feed-in tariffs. In the nearest future the regulations related to the tariffs determination should be adopted. For now, it is even difficult to estimate any particular coefficients.

### Rule No. 2

**Voluntary decrease of the coefficient**

The coefficient may be decreased on the initiative of a particular investor, who has an intent to build renewable power plant within quotas. It means that an investor can apply for a decrease of a feed-in tariff, while obtaining a permit from the authorities for construction of a renewable power plant.

In our opinion, a possibility to set lower coefficient will play into the hands of public authorities in negotiations with an investor.

### Rule No. 3

**Meeting the deadlines for the construction**

Investors may benefit from increasing coefficients only if they meet the declared construction deadline.

Since the maximum period of applying an increasing coefficient is 10 years, any delay apart the declared launch date will lead to the decrease of the 10-years beneficial period commensurately with the delay.

**New tariff rules will not apply to:**

- Power plants that have been commissioned before 20 May 2015,
- Power plants that are being constructed under investment agreements, which have been concluded and registered before 20 May 2015.

The said energy can be fed into the public grid according to the old rules. These entail the increasing coefficients, applicable before the new law's entry into force (please see the table below).

| Increasing coefficient (for 10 years after the comissioning) | |
|---|---|
| Wind biomass, biogas | 1.3 (0.17 USD/kWh) |
| Hydro | 1.1 (0.17 USD/kWh) |
| Solar | 2.7 (0.36 USD/kWh) |

*At prices as of 20 May 2015

# SUBSTANTIAL GOVERNMENTAL SUPPORT

Due to a high dependence on imported energy resources, development of the RES industry in Belarus is one of the government's priorities. Systematic work on development of the renewable energy sector is organized and supported by all level state authorities and is expressed in:

**a) providing legal guarantees**

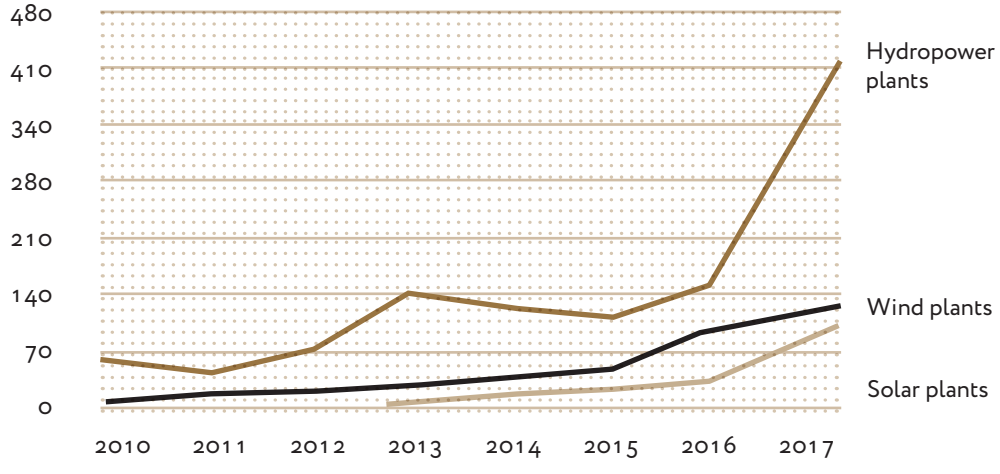
- guaranteed connection to the state electricity grid;
- guaranteed purchase by the state energy utility of all proposed energy produced from RES;
- guaranteed payment of all energy produced from RES at preferential tariffs.

**b) stimulating public policy**

- State Program for Construction of Biogas Plants in 2010-2015;
- State Program for Construction of Hydropower Plants in 2011-2015;
- National Program for Development of Local and RES in 2011-2015.

**c) inclusion of RES in the country's fuel and energy complex**

**ELECTRICITY PRODUCTION (MLN KW*H)**




Current use of renewable energy sources in the Republic of Belarus (by types of sources).

**As of January 1, 2016 the following sources operated in the Republic of Belarus:**

- 3265 local fuel power-suppliers with a total heat capacity of more than 6,000 MW, including 22 local fuel mini-CHPs with a total electric capacity of 129.1 MW and a total heat capacity of 345.6 MW;
- 16 biogas plants with a total electric capacity of about 22.4 MW;
- 50 hydroelectric power stations with a total installed capacity of approximately 35.1 MW;
- 56 wind turbines with a total installed capacity of approximately 43.2 MW;
- 118 heat pumps with a total heat capacity of about 10 MW;
- 29 photovoltaic power stations with a total electric capacity of about 13 MW;
- 287 solar water heating installations with a total heat capacity of about 3.8 MW.

**THE ENERGY SECURITY CONCEPT SETS THRESHOLD INDICATORS OF ECONOMIC INDEPENDENCE FOR THE PERIOD UNTIL 2035:**

- the ratio of the volume of production (extraction) of primary energy to the gross consumption of fuel and energy resources in 2020 is 16 %, in 2025 – 17 %, in 2030 – 18 %, in 2035 – 20 %;
- the ratio of the volume of production (extraction) of primary energy from renewable energy sources to the gross consumption of fuel and energy resources in 2020 is 6 %, in 2025 – 7 %, in 2030 – 8 %, in 2035 – 9 %.

**THE COMPLETED LARGE-SCALE PROJECTS IN THE FIELD OF ALTERNATIVE ENERGY**

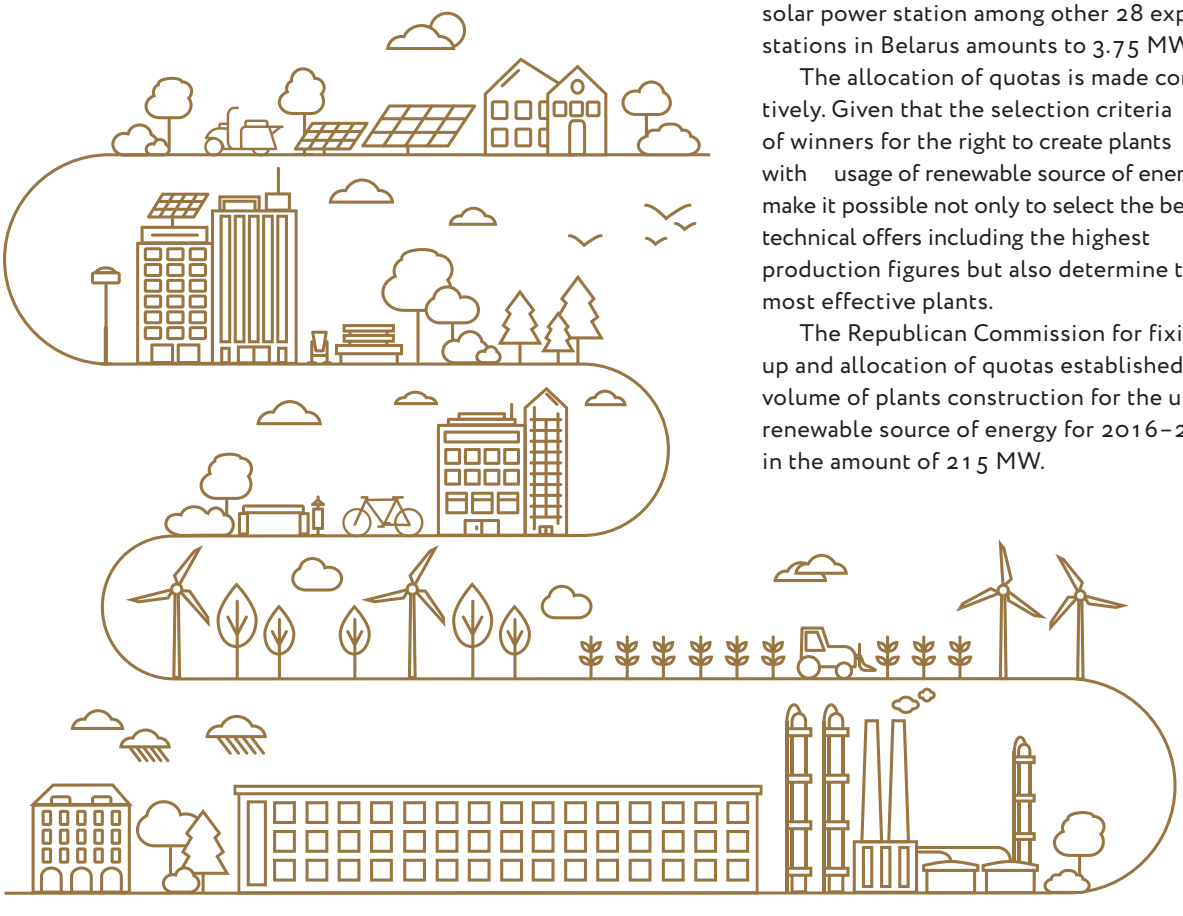
Over the last years, among the completed projects for the usage of local and renewable energy sources in state production association Belenergo the following ones can be noted: mini-CHPP (Central Heating and Power Plant) functioning with the help of local fuel types of Baran, the largest hydroelectric power station of Grodno HEPS with a capacity of 17MW, the wind turbine of 1.5 MW in Grabniky settlement, Novogrudok, Grodno region.

In 2015, in the Republic of Belarus the installed capacity of energy source using solar energy amounted to11.51 MW, electrical supply was 11 mln kWh.

At present the capacity of the largest solar power station among other 28 exploited stations in Belarus amounts to 3.75 MW.

The allocation of quotas is made competitively. Given that the selection criteria of winners for the right to create plants with usage of renewable source of energy make it possible not only to select the best technical offers including the highest production figures but also determine the most effective plants.

The Republican Commission for fixing up and allocation of quotas established the volume of plants construction for the use of renewable source of energy for 2016–2018 in the amount of 215 MW.



## DEVELOPED ELECTRICITY GRID & RICH LAND RESOURCES

The Republic of Belarus has a well-developed power supply system with the total installed capacity of 8,367 MW and the total length of the state electricity grid of more than 240 thousand kilometers, and the existing infrastructure is being developed at a significant pace (6 billion USD are to be invested in the development of the Belarusian energy system for 2011–2015).

The availability of free land resources make it possible to promptly select an appropriate land plot according to the requested characteristics (size, planned RE capacity to be fed in etc.). The density of the country's electricity grid coverage is considered as high, which significantly simplifies the procedure of determining a suitable grid connection point.

## ADDITIONAL INCENTIVES AND BENEFITS

Along with high resource potential and progressive legislative framework in RES sphere, the Republic of Belarus offers foreign investors a multiple number of unique advantages:

a) by concluding an investment agreement with the Republic of Belarus a foreign company:

- is exempt from import duties and VAT on imported equipment for its use within the framework of the investment project;
- is exempt from land tax or rent payment for the land plots being the state property, provided for the construction of the objects; — is entitled for renting a land plot of the required size without holding an auction;
- is entitled for the deduction of the full amount of VAT paid during the acquisition of the goods, property rights used for the project planning, construction, equipment of the objects provided by the investment project, etc.
- is entitled for determination without holding a tender of the general project organization, general contractor, subcontractor project, construction and other organizations, etc.

b) while doing business on the territory of small and medium towns and rural areas a foreign company is exempt from:

- import duties and VAT on imported equipment for its use within the framework of the investment project;
- profit tax for the first 7 years from the registration date;
- real estate tax, state duties for obtaining special permissions (licenses), contributions to innovation funds.

## QUOTAS

- Before the Decree, renewable energy in Belarus was regulated by The Law of the Republic of Belarus of 27 December 2010 №204-Z "On the renewable energy sources" (the Law). According to the Law, the state guarantees to the investor access to the public grid and purchases produced energy applying feed-in tariffs (increasing coefficients and stimulating tariffs).
- Until today there haven't been any restrictions for the construction of renewable plants. Any investor could construct such a power plant and start to sell energy to the state. But the Decree introduces quotas for building renewable plants.

**Quotas will apply to:**

- Construction of new power plants,
- Modernization and reconstruction of existing plants. Thus, to increase capacity or to add a new facility to an existing one, an investor should obtain a permission of a public authority.

**Quotas will not apply to:**

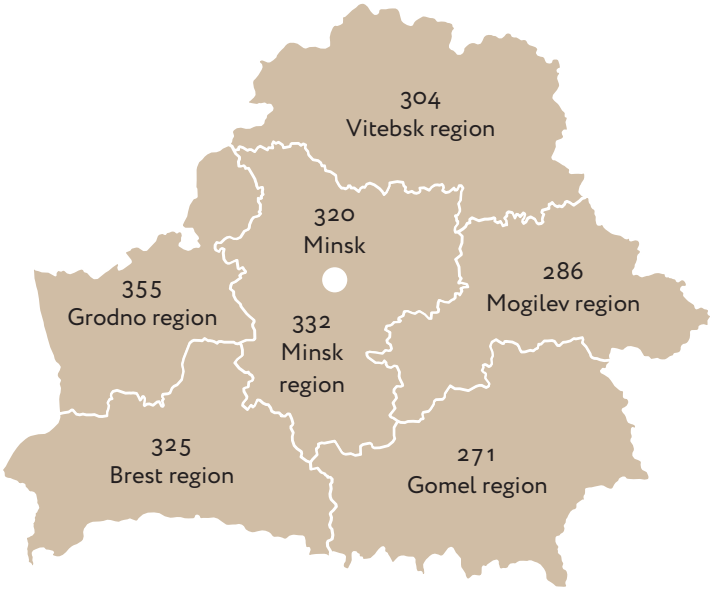
- Companies, which produce energy only for their own needs and not with the aim to supply to the public grid,
- Renewable power plants being built under investment agreements with the government of the Republic of Belarus concluded and registered before 20 May 2015.

# 2.3 AUTOMOTIVE INDUSTRY

**The industry is widely recognized for having a long-standing tradition and a high competence in machine building and manufacturing. Most companies in the sector originated as factories manufacturing equipment for the transportation of minerals, as manufacturers of tractors or as parts and components suppliers.**

The automotive industry is the 3rd biggest sector of the country's industrial activity, with focus on production of own designed superheavy, heavy and middle trucks mainly plus post-Soviet developed buses, trolley-buses and trams. The main assemblers in the country include MAZ, MAZ-MAN, BELAZ.

**NUMBER OF CARS PER EVERY 1000 OF THE POPULATION**




SOURCE: Ministry of intetnal affairs of the Republic of Belarus

Tractors and heavy commercial vehicles (trucks) are among the main industrial products manufactured, consumed within the country and exported.

Motorization degree ratio in Belarus is one of the largest among former Soviet states and accounts for 355 passenger cars per every 1000 of the population.

Having succeeded in automobile manufacturing in Belarus, German MAN cooperates with MAZ on continuing basis now. Geely and General Motors followed them and launched production of their cars by means of cooperating with Belarusian enterprises too.

The industry has consistently been a central aspect in legislation and in innovative policies. The most relevant targets of the policies to meet in the years 2011–2015 were the following:

- restructuring and creation of an integrated industry (considering national and foreign investment);
- radical renewal of the production equipment used and the introduction of innovative technologies;
- rapid renewal of fixed assets, production of high-quality, marketable products, including meeting the requirements of Euro V and Euro VI;
- granting tax and customs privileges to automotive entities related to the Ministry of Industry and exempting them from paying

import customs duties and value-added tax on imports of processed equipment and components for the production of automotive products;
- using in production modern machinery and equipment, bought only from domestic enterprises;
- upgrading public buses and trucks.

In total 26 190 new cars were sold by Belarusian dealers in 2015. According to the number of sold new cars at the end of 2015, Renault left competitors far behind. Second place was occupied by the representatives of the German automobile industry- Volswagen, and the third place went to the Japan automobile industry — Nissan.

# 2.4 FOOD INDUSTRY

The functioning of the Eurasian Economic Union of Belarus, Kazakhstan, Russia, Armenia and Kyrgyzstan opens entirely new prospects for foreign investors in Belarus. Belarus is the largest supplier of food products to the CIS countries and has a favorable geographical position to gain status as a leader in the region.

## GROWTH POTENTIAL

The growth potential of the food industry in the coming years will remain at a high level as the capacity of this segment is not fully disclosed and therefore represents good opportunities for domestic and foreign investors.

## RAW MATERIALS

The food industry plays a leading role in the structure of the industrial production in Belarus. Along with metallurgic production and fuel complex, the food industry is a leader in the production of industrial goods. Belarus has high potential for development of the food industry due to availability of raw materials and abundance of products produced by agriculture. Belarus labor and land resources in the countryside.

The agriculture sector plays a significant role in the Belarusian economy. The country is rich in good soils, qualified labor and has a fair agricultural potential. Belarusian agriproduction provides more than 90% of the food supply and ensures the national food security.

Occupying only 0.15% of the world's territory and with a population of 9.49 million, the Republic of Belarus accounts for 6.24% of flax fiber, 2.8% of potatoes, 0.9% of milk, 0.8% of sugar beet, 0.3 % of meat in carcass weight and 0.25% of grain produced worldwide.

The Republic of Belarus is the leader among the CIS countries in the production of dairy and meat products, as well as in growing potatoes.

| | Rank of Belarus among top 20 exporters by physical volume (2017) | Belarus' export share to export turnover of 20 top-exporters, % by physical volume (2017) |
|---|---|---|
| Meat of bovine animals fresh/chilled | 14 | 0.75 % |
| Cheese and curd | 11 | 3.1 % |
| Butter | 6 | 5.6 % |
| Dairy spreads | 9 | 18.8 % |
| Milk not concentrated nor sweetened (1–6% fat) | 16 | 2.0 % |
| Milk and cream not concentrated and unsweetened exceeding 6% fat | 14 | 0.6 % |
| Milk powder not exceeding 1.5% fat | 8 | 4.1 % |

# 2.5 IT INDUSTRY

Belarus is introducing one of the most progressive legal system in the world in the field of digital economy. Currently, legal conditions have been created for ICO, the use of cryptocurrency and the introduction of smart contracts. Belarus becomes the first jurisdiction in the world with comprehensive legal regulation of businesses based on blockchain technology. Conditions for the development of IT product companies in the country are provided.

**THE LIST OF ACTIVITIES FOR HTP RESIDENTS HAS BEEN EXPANDED.**

The new ones are the following:

- Design, development, support, sale, maintenance of software and (or) firmware based on or using the Blockchain, and distributed databases;
- Creation, training of neural networks and other algorithms in the specialised sections of Artificial Intelligence, and implementation of the results of this activity;
- Development, support, maintenance and production of unmanned vehicle driving systems;
- Development or separate development stages of medical technologies, biotechnologies as well as the implementation of the results of these developments;
- Business processes outsourcing activity;
- Software publishing and promotion;
- Mining, cryptocurrencies exchange activity, cryptocurrency converter activity, other activity using tokens;
- E-sport activity.

## UNPRECEDENTED REGULATORY ENVIRONMENT FOR THE CIRCULATION OF CRYPTOCURRENCIES AND TOKENS IS CREATED

- The rights of physical and legal entities in terms of token circulation are defined;
- Legal entities are entitled to possess tokens, create and list their own tokens through HTP residents, buy and exchange tokens, and perform other operations using tokens only through the cryptocurrency exchanges and cryptocurrency exchange operators;
- Individuals are entitled to possess tokens, perform mining, exchange tokens, buy and sell them for Belarusian rubles, foreign currency and e-money, as well as to present and bequeath tokens. The mining activity of individuals, tokens purchasing and sale shall not be considered entrepreneurial activity;
- Tokens and revenues from operations with them shall not be subject to declaration by the individuals;
- Turnovers, profits (income, proceeds) from various operations with tokens are not recognised as taxable items until January 2023.

## HTP RESIDENTS' ACTIVITIES ARE SIMPLIFIED

Residents shall have the right to:

- Conduct operations with e-money without a range of limitations;
- Open accounts in foreign banks and other credit and financial institutions, and to receive money into these accounts without the permission of the National Bank;
- Move capital through currency transactions if conducted after notifying the National Bank and with their permission;
- Execute primary accounting documents personally, when performing business transactions with non-residents of the Republic of Belarus.

Subsidiary liability for HTP residents is abolished.

## IT-EDUCATION

HTP residents are allowed to engage in educational activities in the field of ICT, according to the curricula approved by the Administration of the Park of High Technologies.

## INVESTMENT ACCORDING TO ENGLISH LAW IS ALLOWED

HTP residents are allowed to sign agreements with third parties that are actively implemented in international business. For example:

- Agreements on granting the right of the first refusal to execute contracts;
- Convertible loan agreements;
- Property loss indemnity agreements;
- Agreements, stipulating liability for labour pirating;
- Non-compete agreements with employees with payment of compensation for the period of non-compete obligations;
- Agreements to issue irrevocable power of attorney.

## CONDITIONS FOR ATTRACTING HIGHLY-QUALIFIED SPECIALISTS TO THE COUNTRY HAVE BEEN CREATED

- HTP residents no longer have to get permissions related to the employment of foreigners. Foreign employees will receive a temporary residence permit under the simplified procedure;
- Requirements for foreign employees and founders of the HTP residents to get visas are cancelled. The maximum time limit of their temporary stay is increased up to 180 days.

# 3. ONE-STOP SHOP FOR INVESTORS

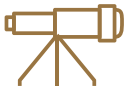
# NATIONAL AGENCY OF INVESTMENT AND PRIVATIZATION

The National Agency of Investment and Privatization aims to assist foreign investors to find a niche for doing business in Belarus. The Agency acts as a 'one stop shop' for foreign direct investors at no cost.

# 3.1 SERVICES

## INFORMATION SERVICES

- Handling investor enquiries
- Providing information on doing business conditions and investment climate in Belarus
- Priority FDI sector analysis
- Investment proposals
- PPP related data, including PPP projects



## ORGANIZING FACT-FINDING TRIPS TO BELARUS

- Visit arrangements (visa facilitation, accommodation, logistics)
- Meetings schedule development (negotiations with local authorities, private institutions, potential partners)
- Accompanying and assisting at meetings
- Follow-up

## SITE SELECTION SUPPORT

- Greenfield and brown field opportunities search
- Site visits
- Facilitation in liaising with local authorities

## AFTERCARE

In the framework of "aftercare" the Agency provides support to facilitate the re-investment and enterprise development, including:

- assistance in the selection of suitable land, real estate and investment projects
- search for business partners
- ensuring negotiations with local and state authorities
- assistance in solving problems when implementing an investment project
- providing information about obtaining investment incentives
- transfer investors' proposals on improving the investment climate to the Belarusian Government and etc.

## PROJECT MANAGEMENT

- Developing a road map of a project implementation
- Supplier, service provider and JV partner search and contact
- Liaising with state bodies and industry regulators
- Assistance in solving administrative issues
- Assistance in dealing with issues related to PPP projects

# 3.2 PILOT PRIVATIZATION PROJECT

# IMPLEMENTING BEST INTERNATIONAL PRACTICES

One of the main goals of the Agency is to launch and manage a case-by-case privatization process in the Republic of Belarus in accordance with international best practices.

Under the Grant Agreement signed between the Ministry of Economy of the Republic of Belarus and the International Bank for Reconstruction and Development (international technical assistance project No. 2/11/000466 dd. 28 April 2011), the Ministry of Finance of Austria established the Trust Fund in the amount of 3.6 million US dollars for duration of up to five years to support the Belarus Pilot Privatization Project implemented by the Agency. The project is executed under the supervision of the World Bank.

### A CASE-BY-CASE PRIVATIZATION PROCESS IS AIMED AT:

- attracting the best strategic investors of either domestic or foreign origin able to ensure further development of the company;
- generating revenues to the state budget as a result of successful sales;
- minimizing the potential negative social impact of these transactions.

The Agency has completed project activities with regard to the first eight State Owned Enterprisers representing construction, food and medicine industries.

Up to 20 Expressions of Interest (EOIs) were received for each enterprise showcasing sufficient interest from potential investors. Potential investors have represented well established reputable companies from all over the world, including Western and Central Europe, India, Singapore, CIS, and Baltic countries. On average, 2 investment bids have been received for each enterprise. 3 Sales and Purchase Agreements (SPA) and other relevant documents for negotiations have been drafted.

State Owned enterprisers to be included into the second round of the process are being identified by competent authorities.

Such industries as machinery, instrumentation and agriculture are considered to provide companies for a new Privatization list.

## THE PILOT PRIVATIZATION PROJECT INCLUDES THE FOLLOWING STAGES:

STAGE 1

### SELECTION OF COMPANIES

The careful selection of candidate companies for privatization is of great importance and shall take into consideration all possible economic, social and political risks. The Agency is collaborating with the State Property Committee, the Ministry of Economy and the World Bank in process of selecting companies for a case- by-case privatization according to the criteria specially designed for this Project especially: annual sales, profitability of companies, the amount of short- and long-term obligations, the number of employees, etc.

Approval of the list of privatization objects in relation to which the Agency performs the functions of privatization bodies is carried out on the basis of the resolution of the Council of Ministers of the Republic of Belarus approved by the President of the Republic of Belarus.

STAGE 2

### INVOLVEMENT OF FINANCIAL ADVISORS

A core component of the project includes the involvement of Financial Advisors (internationally reputable investment banks or advisory firms) to assist Agency to execute the privatization transactions, including all preparatory work, structuring the sale, implementing the actual sale and performing appropriate post-sale activities for the privatization of the State Owned Enterprises (SOEs).

The Agency is working with such consultants as Ernst & Young, KPMG, Mattig management partners, numerous local lawyers firms.

STAGE 3

### PREPARATION OF SOES

**Phase 1.**

**Preparation the company for sale:**

- Pre-build due diligence;
- Recommendations on actions to be taken to improve the attactiveness of the SOE;
- Valuation of the SOE based on international standarts and the Belarussian accepted methodology;
- Assessment of the market interest;
- Preparation of the financial reports in compliance with IFRS;
- Development of the Privatization Strategy for each SOE.

**Phase 2.**

**Launching the tender process:**

- Advertise the transaction in local and international media;
- Distribution of Teasers;
- Submission of the Expressions of Interest (EOIs) by the potential buyers;
- Short listing of the Potential Investors: the FA will assess and provide the Agency with the financial viability and strategic fit of investors who submitted EOIs;
- Due Diligence process: the due diligence process requires that the shotlisted potential buyers will be given a high degree of access to the SOE`s Data Room.

**Phase 3.**

**Negotiation and Closing.**

Once the due diligence is over, the buyers will submit their bids and the most attractive bid will selected.

STAGE 4

### INTEREST ANALYSIS

The Financial advisor jointly with the Agency undertakes the final stage. During the fourth stage, the team works closely with the short-listed potential investors through:

- Draw up and circulation of an information memorandum;
- Informing potential strategic investors;
- Inspection of strategic compatibility of the investors which have expressed their interest;
- Access of potential investors to the companies' Data Room required to carry out the procedure of complete inspection;
- Analysis and evaluation of the investment offers of the potential investors.

STAGE 5

### MAKING A PRIVATIZATION DEAL

On the final stage the Agency signs a contract with the strategic investor who went successfully through the tender process. After the contract is signed the Government receives a payment for the privatized enterprise.

# 3.3 PUBLIC PRIVATE PARTNERSHIP (PPP) PROGRAM

## PUBLIC PRIVATE PARTNERSHIP AS AN ALTERNATIVE INSTRUMENT OF INFRASTRUCTURE DEVELOPMENT

As of September 1st, 2016, the Agency is responsible for further step-by-step PPP development and implementation in the Republic of Belarus.

The Republic of Belarus is a new market for PPPs. Currently, the PPP Unit of the Agency in cooperation with the Ministry of Economy and other key stakeholders is actively working on further PPP legal and institutional framework, as well as PPP pilot pipeline development.

**PUBLIC-PRIVATE PARTNERSHIP**
is any legally executed, timeline-specific, mutually beneficial cooperation between a public partner and legal entities with the aim of pooling of resources and risk diversification.

**PUBLIC-PRIVATE PARTNERSHIP DEVELOPMENT AND IMPLEMENTATION PROCESS IS AIMED AT:**

- consolidation of material, financial, intellectual, scientific, technical and other resources,
- ensuring the balance of interests and risks of both public and private sides,
- raising extra-budgetary funds to implement investment projects, plans and initiatives aimed at infrastructural facilities development.

**PUBLIC-PRIVATE PARTNERSHIP DEVELOPMENT AND IMPLEMENTATION PROCESS IS AIMED AT:**

- rule of law;
- social focus in regulating the economic activity;
- prioritized public interests;
- transparency;
- fair competition;
- efficiency of public-private projects;
- ensured balance of interests and risks between parties to public-private partnership;
- equality between the parties to public private partnership;
- freedom of contracts;
- environmental protection.

**PUBLIC-PRIVATE PARTNERSHIP PROJECT SHALL INCLUDE THE FOLLOWING STAGES:**

STAGE 1

**PREPARATION, EXAMINATION AND EVALUATION OF THE PPP PROPOSAL:**

Within their scope of competence in the field of public-private partnership, state bodies and other government authorities, who initiate PPP projects, shall exercise preparation of a PPP proposal.

Preparation, examination and evaluation of PPP proposals must be conducted in the procedure defined by the Resolution of the Council of Ministers of the Republic of Belarus No. 532. All the requirements for the requested documents are considered by the Resolution of the Ministry of Economy of the Republic of Belarus No. 49.

Any offer on public-private partnership project implementation shall include the following: a feasibility study, public-private partnership agreement, any other related documents.

STAGE 2

**TENDER FOR CHOOSING PUBLIC PARTNER IN ORDER TO ENTER A PUBLIC-PRIVATE PARTNERSHIP AGREEMENT:**

Following the results of Stage 1, appropriate decisions on further PPP project implementation shall be made. The level of the decision depends on the project specificity and scale, as well as infrastructure object belonging. Thus, decisions shall be made by:

- The President of the Republic of Belarus or the Council of Ministers of the Republic of Belarus – if the public partner is the Republic of Belarus;
- The Local Councils of Deputies – if the public partner is an administrative-territorial unit.

One of the outstanding features of PPP in comparison with investment implementation procedure is tender. Tender is an obligatory stage of PPP project implementation apart from cases related to ensuring defensive power and national security of the Republic of Belarus and other cases provided by Article No. 17 of the PPP law.

Any tender shall include two stages – preliminary selection of bidders and selection of private partner via a tendering process.

To arrange and hold a tender, the authorized state body forms a special committee. The Tender Committee shall perform preliminary selection of the bidders that have sufficient potential and qualification required to perform the PPP agreement.

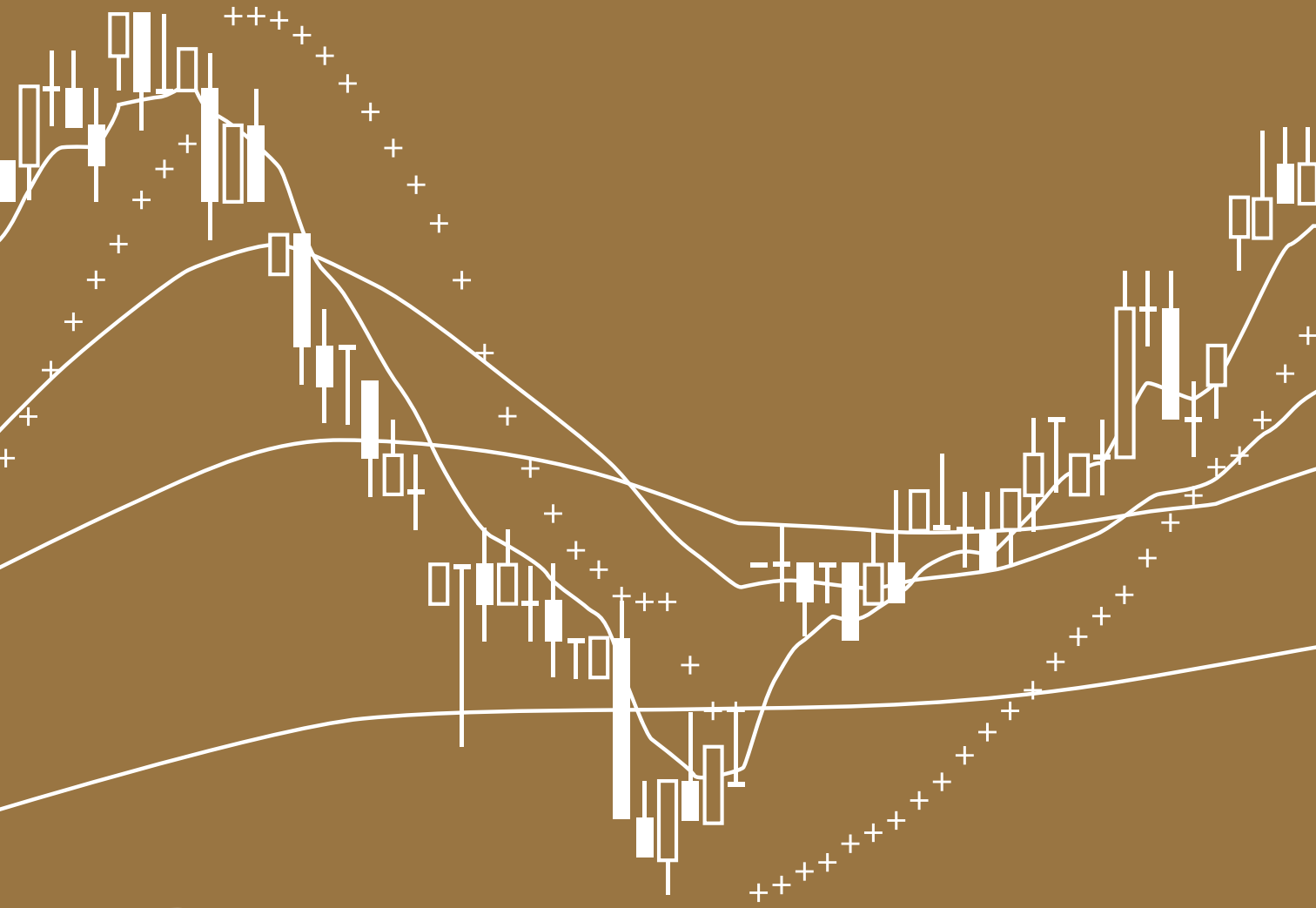
In the course of the tender only bids from participants who have passed preliminary selection shall be reviewed and evaluated. The winning bidder shall be the bidder whose offer, upon the decision of the Tender Committee, is deemed as containing the most beneficial terms and conditions compared to the bids of other bidders.

STAGE 3

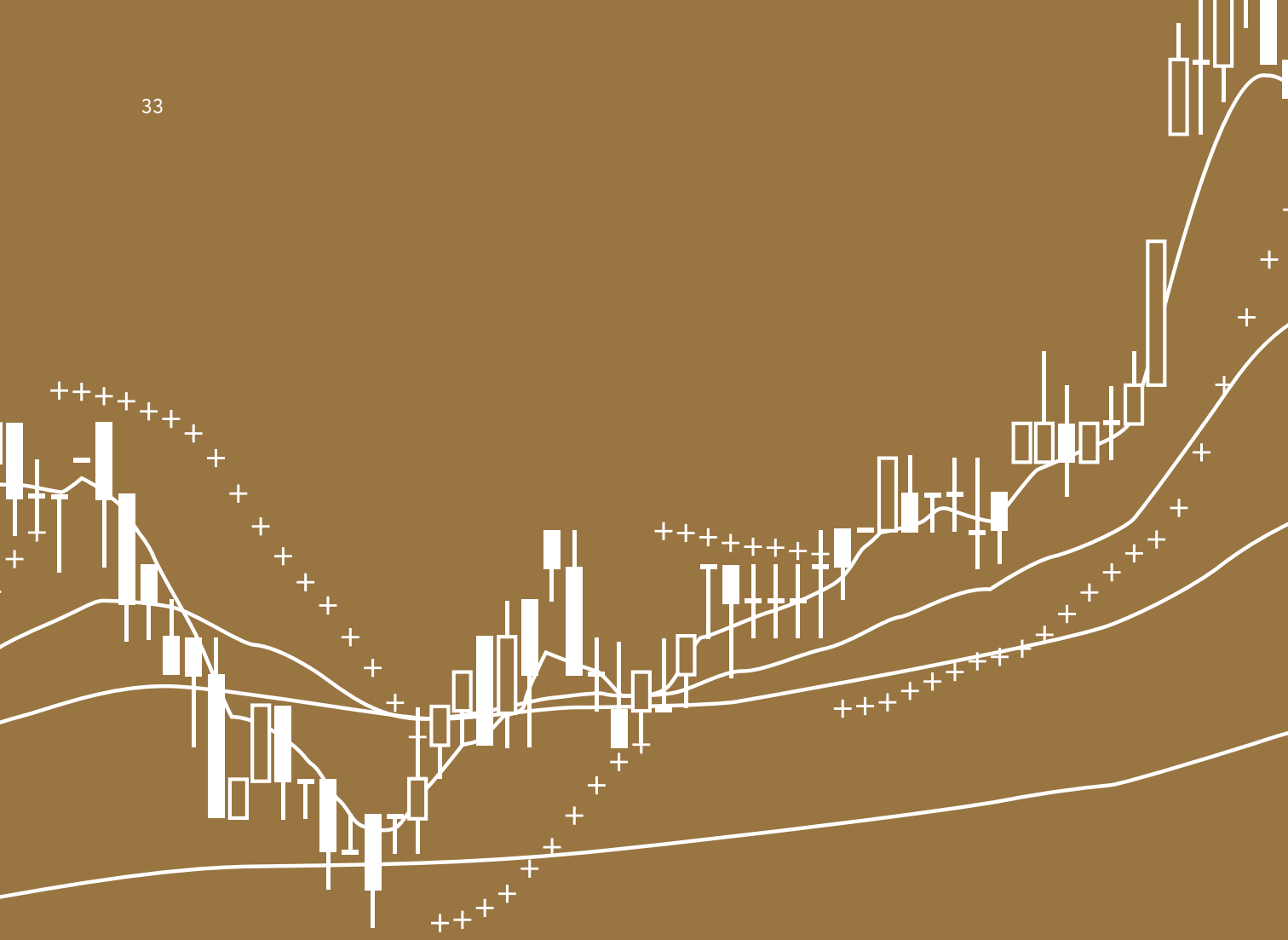
**EXECUTION AND PERFORMANCE OF A PUBLIC-PRIVATE PARTNERSHIP AGREEMENT:**

A PPP agreement shall be entered between any authorized state body and any private partner – any participant who had won the tender.

PPP UNIT OF THE AGENCY IS COLLABORATING WITH ALL THE INVOLVED IN THE PPP PROJECT STAKEHOLDERS, SUPPORT THEM WITHIN THE WHOLE PPP PROJECT CYCLE, APPRAISE PROJECT DOCUMENTS AND PROVIDE THE PROJECT INITIATOR WITH APPROPRIATE CONCLUSIONS WITHIN ITS COMPETENCE.



# Belarusian Economy

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# 4. ECONOMY OF BELARUS

## OVERVIEW

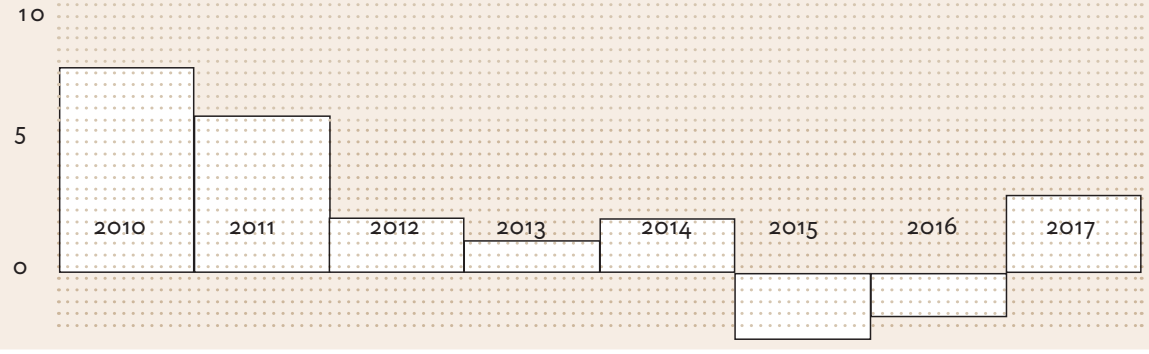
In 2017, after a two-year decline in the Belarusian economy, GDP growth is more than 2%. Industrial production (+ 6.1%) and agriculture ensured the bulk of the growth in the economy. Almost all branches of the manufacturing industry showed positive dynamics for the year. The positive dynamics of production and tight monetary policy of the National Bank of Belarus allowed the country's leadership to keep inflation at the level of 4.6%. The refinancing rate of the National Bank of Belarus has decreased to 10% (for the first time since 2007).

The Republic of Belarus is an export-oriented state with a developed service sector and agriculture. The potential of Belarus is in industry. The key sectors of the economy are machine building, metallurgy, metalworking, the production of agricultural machinery and tractors, the production of building materials, light and textile industries, the chemical and petrochemical industry, the production of electrical equipment and electronics, agriculture.

The sectoral structure of Belarusian industry has undergone some changes over the past 5 years. Structural shifts are associated with a decrease in the share of production of petroleum products, production of vehicles and equipment, as well as an increase in the share of the food industry, pharmaceutical products, chemical production.

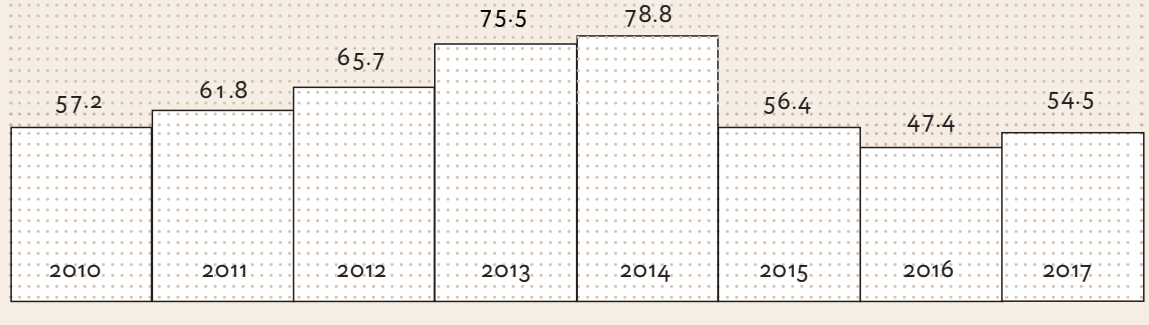
# 4.1 GROWTH OF REAL GDP

**GROWTH OF REAL GDP**, %




# 4.2. NOMINAL GDP

**THE HISTORY OF NOMINAL GDP**, USD BN

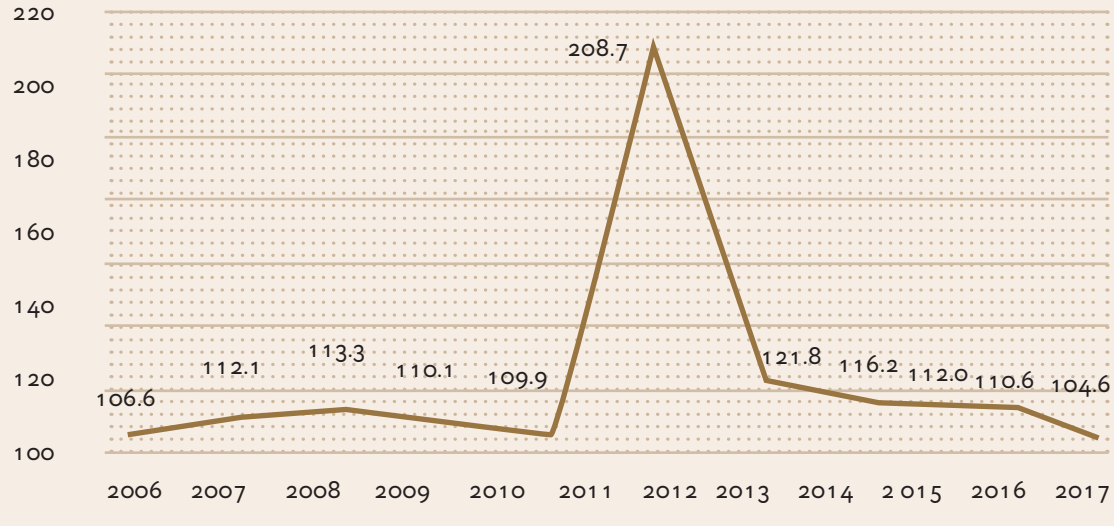



Source: National Statistical Committee of the Republic of Belarus

# 4.3 CONSUMER PRICE INDEX

As a consequence of the oil price shocks which put pressure on the nominal exchange rate of the Belarussian ruble, the broad money supply enlarged. That widened the gap between the growth of broad money supply and its target level. Nevertheless, due to the tight monetary and credit policy maintained inflation continues to decline, which also can be explained by low prices in the world commodity markets.

**CONSUMER PRICE INDEX**




Source: National Statistical Committee of the Republic of Belarus

# 4.4 INTERNATIONAL TRADE

According to the results of 2017, positive foreign trade balance amounted to 63.2 million dollars or 0.1% of GDP. The export of goods and services in 2017 amounted to 36.4 billion US dollars and grew by 6.5 billion dollars or 21.7%, compared with the results of 2016. The growth in the total volume of exports of goods and services was due to both an increase in exports of goods (124%) and services (113.9%). The main reasons for the high growth rates are the favorable conjuncture in the world oil market, as well as the growth of the economies of the trading partners.

Import of goods and services in 2017 amounted to 36.4 billion dollars and increased by 6.4 bn USD, or 21.2% compared to 2016. The growth was due to the growth in imports of goods (123.3%), import of services amounted to 109.3%.

Exports of goods in 2017 amounted to 29.2 bn USD, and increased by 5.7 bn USD (124.1% compared to 2016).In 2017, export growth was ensured for all large commodity groups. Exports of consumer goods increased by 15.6%, energy - by 33.5%, other intermediate goods - by 22.9%. Export of investment goods increased (131.5% by 2016).

Imports of goods in 2017 amounted to 34.2 bn USD, increased by 6.6 bn USD (124%), compared to 2016.

Export of services amounted to 7.8 bn USD in 2017 and exceeded the results of 2016 by 13.9% (+952.1 mln USD). The largest growth in exports is recorded in the following types of services: repair and maintenance services - 149% (+106.9 mln USD), services for handling material resoures belonging to other parties - 123.3% (+32.7 mln USD ), payments for the use of intellectual property - 117.5% (+4.8 mln USD), transportation services - 117.9% (+523.5 mln USD), telecommunications, computer and information services - 125.3% (+292.9 mln USD), services in the field of insurance and pensions - 121.9% (+3.9 mln USD), services to individuals and services in the sphere of culture and recreation - 117.8% (2.4 mln USD), other business - 115.7% (82 mln USD).

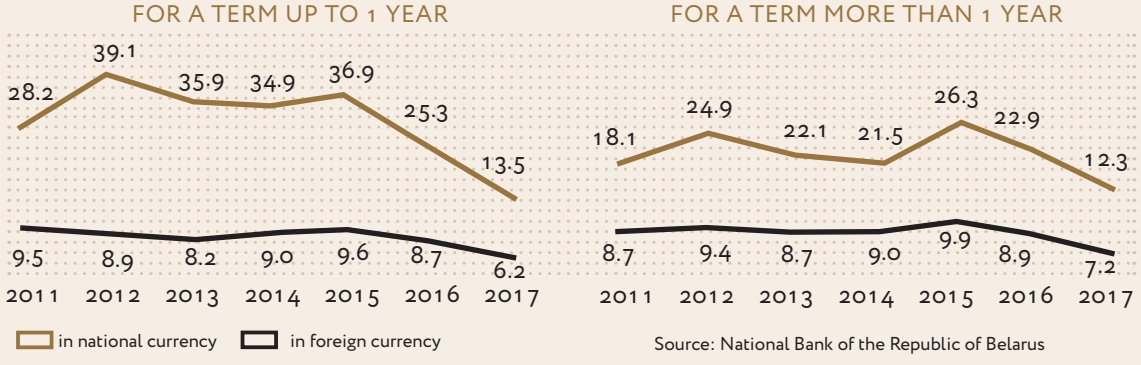
Transport services made up the largest share in the structure of exports of services in 2017 - 44.4% (2016 - 42.9%).The share of telecommunications, computer and information services in exports was 18.7% (2016 - 17%).

Import of services in 2017 amounted to 4.8 bn USD and increased compared to 2016 by 406.2 mln USD or 9.3%.The greatest decrease in imports was for other business services (80.2% or 113 mln USD). The balance of foreign trade in services in 2017 was positive at $ 3.0 billion, which is $545.9 mln USD better than in the same period in 2016.

# 4.5 CREDIT RATES FOR LEGAL PERSONS

The National Bank of the Republic of Belarus has kept the focus on financial and macroeconomic stability and deceleration of inflation in the formation of interest-rate policy.

**DYNAMICS OF INTEREST RATE ON NEWLY PROVIDED CREDITS FOR LEGAL PERSONS,** % PER ANNUM



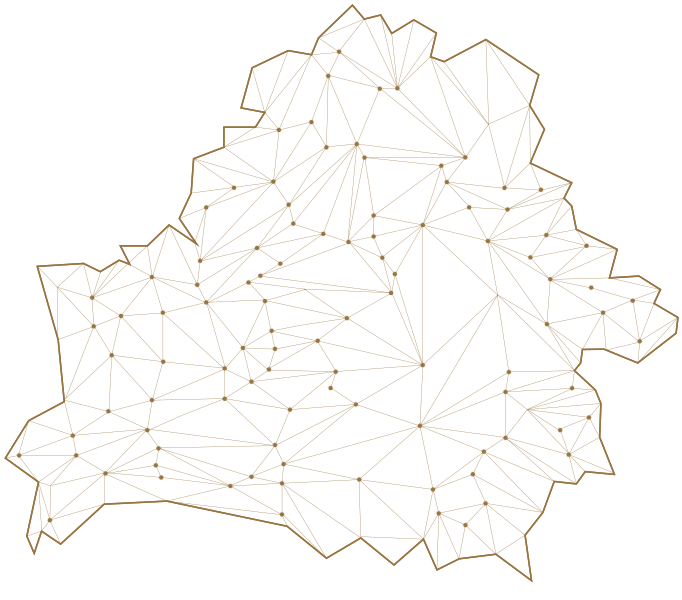

Source: National Bank of the Republic of Belarus

# 5. INTERNATIONAL COOPERATION AND FOREIGN CAPITAL IN BELARUS

The structure of the industry has identified a high degree of openness of the economy of the Republic of Belarus, its focus on foreign markets. More than 50 percent of goods produced in the country are delivered for export.

In the wake of the world financial downturn, the foreign trade of Belarus changed structurally. Today the country implements a trade policy to increase the share of high-tech products in exports and diversify supplies to foreign markets.

The Republic of Belarus traditionally implements a multi-vector foreign trade policy, supports trade contacts with foreign countries and actively participates in international integration processes.



Today Belarus has trade relations with more than 190 countries around the world.

The Russian Federation is the major trade partner of the Republic of Belarus, it accounts for 46,5% percent of export of goods and more than half of import. The European Union is the second largest trade partner of the Republic of Belarus, it accounts for more than 26,9 percent of export of goods and 19.3 percent of import. The main partners in the EU are Germany, Great Britain, Poland, the Netherlands, Lithuania.

44.4% of the total Belarusian export of services makes up transport services, reflecting favorable geographical position of the Republic of Belarus. Among the major export position, there are IT and construction services. The main trade partners of Belarus in export of service are the EU (about half of total exports) and Russia (a quarter of exports).

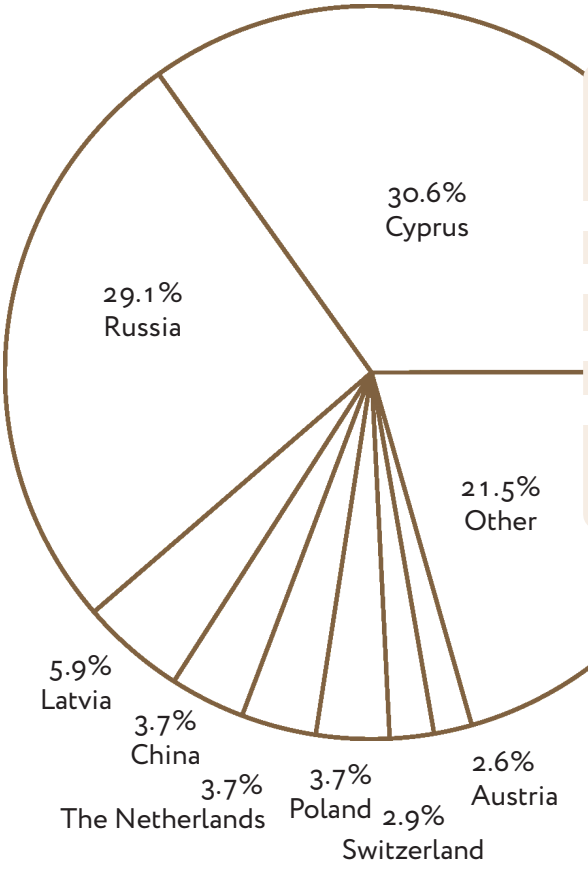
Belarus has been developing cooperation with partners in the integration associations and organizations of the post-Soviet countries: CIS, the Eurasian Economic Union and CSTO. The need to mitigate the aftermath of the global economic crisis and launch structural financial reforms prompted more cooperation with the key economic and financial organizations such as the International Monetary Fund, World Bank, European Bank for Reconstruction and Development, UN Economic Commission for Europe and UN Conference on Trade and Development (UNCTAD).

# 5.1 FDI ON NET BASIS

Belarus has a steady inflow of foreign investment.
In 2017, foreign investors invested 9.73 bln USD of gross foreign investments in the real sector of the economy of Belarus, including 7.63 bln USD of foreign direct investment (FDI).

In 2017 admission of foreign direct investment on a net basis (excluding debt to direct investor for goods, works and services) to the economy of the Republic of Belarus amounted to 1.25 bln USD.

The major FDI on a net basis investing countries in 2017 include:




TOP-10 DONOR-COUNTRIES OF FDI IN BELARUS

| | |
|---|---|
| Cyprus | 30.6% |
| Russia | 29.1% |
| Latvia | 5.9% |
| The Netherlands | 3.7 % |
| Poland | 3.7 % |
| China | 3.7% |
| Switzerland | 2.9 % |
| Austria | 1.3% |
| Other | 21.5% |

SOURCE: National Statistical Committee of the Republic of Belarus

As of January 1, 2017 in the Republic of Belarus there are 6575 registered companies with foreign capital, including 3446 of joint ventures, 3087 of foreign enterprises.

The total contribution of foreign investors in the authorized capital of enterprises with foreign capital amounted to 2325.9 mln USD (1070.7 mln USD in joint ventures, 1225.4 mln USD in foreign enterprises.

# 5.2 EURASIAN INTEGRATION

Within the framework of Eurasian integration, the Eurasian economic Union (EAEU) was established on the basis of the Customs Union of Russia, Kazakhstan and Belarus on 1 January 2015.

The Eurasian Economic Union member states are the Republic of Armenia (since January 2, 2015), the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic (since August 12, 2015) and the Russian Federation. The Eurasian Economic Union is aimed at comprehensive modernization and cooperation, as well as enhancing competitiveness of the national economies and creating conditions for sustainable economic development of its member states and improving living standards.

A land area of the EAEU exceeds 20 million square kilometers and has a population of more than 182.1 million people.

The creation of the Union allows the member states to coordinate their industrial policies, so as not to duplicate production, but arrange manufacturing chains and supply components for joint production. The opportunities for industrial cooperation and joint investment and innovation projects have been greatly expanded. Unlike the previous stages of integration, the EAEU aims at developing unified trade, monetary and tax policies, namely, the maximum possible economic integration.

The EAEU member states possess a great potential in the leading sectors of economy. The EAEU is ranked first in the world in oil and natural gas production, occupied the second place in mineral fertilizer production and railway length, took the third place in wheat and potato production, production of iron, took the forth place in electric energy and meat production, ranked fifth in total length of automobile roads and steel production.

More than 40 countries have expressed interest in creating a free trade zone with the EAEU. Thus, the regimes of free trade of integration association with the CIS countries and Serbia have been unified. The Generalized System of Preferences for developing countries is being widely used. The decision to start negotiations with China on trade and economic cooperation has been already taken. The Agreement on Free trade zone between EAEU, its member-states and Vietnam has been signed. Joint research groups to make a feasibility study of a free trade agreement between the states — the members of the EAEU and Israel, Egypt and India — have been established.

## THERE ARE OTHER VARIOUS OPPORTUNITIES FOR FOREIGN INVESTORS:

1. free movement of both domestic goods and goods from third countries within the common market of the Union,

2. common customs tariff and non-tariff regulation in trade with third countries to protect the interests of domestic producers, including foreign investment enterprises,

3. relief from customs duty on the importation of manufacturing equipment, raw materials to implement investment projects (if such raw materials are not produced in the member states),

4. tariff preferences to the goods imported from third countries as a contribution to the statutory fund of a company,

5. free access to the common large market of goods and services of the EAEU to foreign investors who invest in Belarus,

6. effective logistics projects with access to the EAEU and the EU markets due to favorable geographical location of Belarus,

7. legal guarantees for investors, including the right to reparation and use of investment income, as well as guarantee of the rights in expropriation, procedures for resolving investment disputes through arbitration and national court or the International Centre for Settlement of Investment Disputes,

8. joint measures to promote exports of goods of the member states to third countries contain a number of mechanisms to support exporters, such as insurance and export crediting, international leasing, brand promotion of "the EAEU good" and a uniform marking of the EAEU goods, exhibition and trade fair activities, advertising and image promotion activities abroad;

9. implementation of the single-window system within the framework of the Union will simplify and speed up procedures of foreign trade due to effective communication between the state bodies and participants of foreign economic activity.

# 5.3 BELARUS–EUROPEAN UNION RELATIONS

## LONG WAY FROM NEIGHBORHOOD TO PARTNERSHIP

Belarus is geographically, historically and culturally an integral part of Europe, situated at the crossroads of major transportation and trade routes that link various regions of the European continent.

Following the recognition of Belarus as an independent state in December 1991 by the European Community, EC/EU-Belarus relations initially experienced steady progress.

Since Belarus gained its independence, it has established diplomatic relations with practically all European states. 26 Belarusian diplomatic missions and consulates currently operate in the following 21 countries of Europe: Austria, Bulgaria, Belgium, the Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, the Netherlands, Poland, Romania, Serbia, Slovakia, Spain, Switzerland, Turkey and the United Kingdom.

Belarus is involved in the multilateral dimension of the Eastern Partnership and participates in several EU-funded regional projects. The major areas of cooperation are border management, environment, energy and transport. While presenting opportunities for regional cooperation and addressing issues of common concern, these projects sometimes fail to raise sufficient interest from Belarus, as many proposed activities are already addressed at the national level and the country is often more advanced in tackling the respective challenges than other countries in the region, particularly in the field of environment. New flagship initiatives and programmes under the Eastern Partnership's multilateral dimension, including support to the development of small- and medium-scale enterprises, disaster prevention, culture and youth, open up new avenues for Belarus from 2012 onwards to coordinate practices and policies in these new areas at the regional level.

Cross-border cooperation (CBC) programs where Belarus has been eligible to participate, such as Poland-Belarus-Ukraine, Latvia-Lithuania-Belarus and Baltic Sea Region, account for an important part of regional cooperation at a local level. From the start of these programs Belarus lagged behind in the uptake of available opportunities but over recent years increased its participation. CBC programs are increasingly seen as instruments to implement practical joint actions at a local level in different sectors, address issues of trans-boundary significance and promote people-to-people contacts.

Belarus is also actively involved in non-EU integration initiatives. In particular, it has taken part in all regional integration projects covering countries of the former Soviet Union and the Commonwealth of Independent States, including the Common Economic Space, the Union State, the Customs Union and the Collective Security Treaty Organization. The intensification of these integration efforts will require additional coordination within and outside Belarus between integration and cooperation programs driven from the East and from the West.

To a great extent, the internal logic of Belarus-EU relations was overshadowed by the crisis in Ukraine and its implications for Eastern Europe. The crisis had a noticeable impact on Belarus's domestic and foreign policy. The position of Minsk attracted the attention and appreciation of the EU, and served as a catalyst for a more active dialogue between Belarus and the EU.

Belarus-EU relations were strengthened by a sharp increase in working contacts between diplomats of all ranks after the prolonged diplomatic row of 2011-2012.

And, taking into account that in recent years Belarus has significantly improved its image in the international arena, and thus-become more attractive for investors and affordable for trade agreements, the European Union lifted sanctions against Belarus. That decision was made by the foreign ministers of the EU countries at a special meeting in Brussels on 15 February, 2016. It has become an important step towards full normalization of relations and opening new

opportunities for the expansion of diverse interaction between Belarus and the EU.

**BELARUS-EU ECONOMIC COOPERATION**

Mutual interests with the European Union member states are based first of all on economic cooperation. Because even against the background of difficult political relations the EU has remained one of the main trade partners, an important source of credit resources and investment.

In the year of 2008, the turnover in trade between Belarus and the EU amounted to 23.0 billion $, out of which 14.4 billion$ were exports and 8.5 billion $ – imports. The balance of trade was in favour of Belarus and amounted to 5.8 billion $.

Trade between Belarus and the EU suffered a 30% decline in 2009-2010 as a consequence of the world economic crisis.

In 2010 Belarus–EU turnover accounted for $15.1 billion $. Belarusian exports to the EU shrank to 7.6 billion $, down nearly 50 per cent compared to 2008. The balance of trade remained in favour of Belarus, but declined to 57.0 million $. However, the results of trade between Belarus and the EU in 2011 confidently exceeded the pre-crisis peak indicators of 2008. The turnover grew to 24.2 billion $, up 61.1% compared to 2010. Belarusian exports increased to 15.7 billion $, up 106.9% compared to equivalent last year's results. The trade balance in favour of Belarus reached 7.2 billion $.

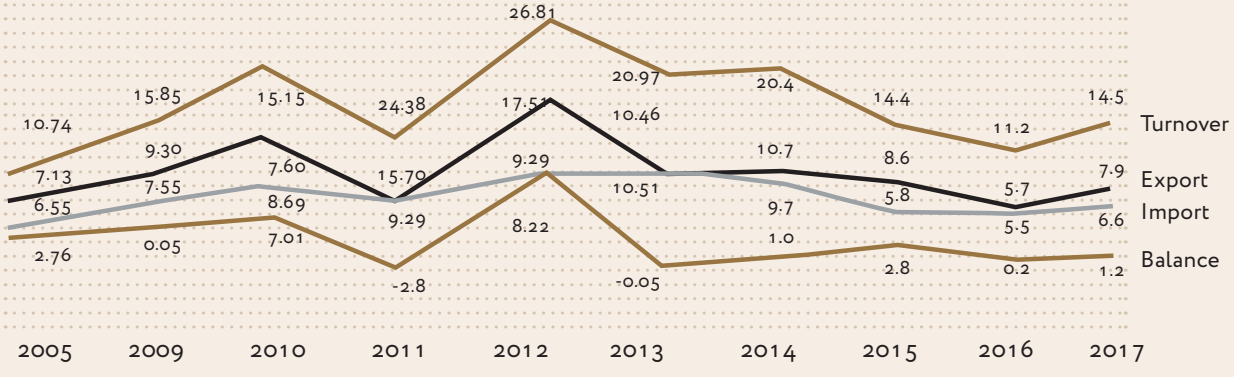
The positive dynamics of trade with the EU continued in 2012, setting new benchmarks in all trade indicators: turnover added 11.0% and reached 26.9 billion $, and exports increased to 17.6 billion $, up 12.0% compared to 2011. The trade balance in favour of Belarus stands at 8.3 billion $. In 2013 Belarus-EU trade experienced a slowdown: compared to 2012, turnover decreased by 21,8% and amounted to 21 billion US $, export was down 40,2% at 10,49 billion US $, import increased by 12,9% and amounted to 10,51 billion US $.

In 2017 the turnover between Belarus and the EU reached the amount of 14.5 bln dollars that accounted for 129.5% of the turnover of the same period of 2016.

European companies keep expanding their presence in Belarus and upgrading their external distribution and export-promotion networks. A number of European commercial and investment projects are under way Great Britain, Germany, Italy, Lithuania, Poland, the Netherlands, France, the Czech Republic and Estonia. Comprehensive cooperation with the European Union contributes crucially to the country's increasingly diversified foreign trade, investment activity, modernization and growing competitiveness of its econmy.

Belarus' business etiquette is also similar to that of Europe. Investment Forums organized by the Belarusian Government on a regular basis in recent years are an important way of advertising business opportunities in Belarus to the European community and attracting foreign investments to the country. The first Forum took place in London in 2008, the second one was held on 17 November 2010 in Frankfurt-am-Main during the Euro Finance Week. In addition, a number of regional business fora took place in 2011 in cooperation with Italy, Latvia, Lithuania, Poland, the Netherlands and Slovenia.

**BELARUS–EU TRADE IN GOODS**, 2005–2017, USD, BILLION




Ensuring compliance of Belarusian products with European quality standards is a vital element of the national export promotion policy in Europe. The national standards system increasingly harmonized with the EU norms and regulations is a key for better access of Belarusian goods to the European market.

One of priorities of Belarus' cooperation with the European Union is attracting European investments, first of all in research-intensive and high-tech sectors, agriculture, energy efficiency, alternative energy and transit areas.

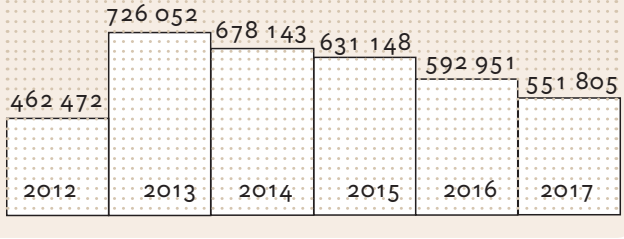
The EU is the largest source of FDI in Belarus. Statistical data show an increase in European investments in Belarus against backdrop of deteriorating Belarus-EU political relations. The FDI net inflow from many European countries was considerable in 2011-2015 despite the economic sanctions imposed by the EU. But the normalization of political relations between the EU and Belarus could contribute to further enhance of the cooperation in investment sphere.

Altogether, European countries invested 5.5 bn US dollars in Belarus in 2017. United Kingdom, Cyprus, Austria, the Netherlands and Italy are top investors in the Belarusian economy.

Leading European multinational corporations set up their affiliates or joint ventures in Belarus, including MANN (automobile production), SB Telecom, Alcatel SEL (mobile GSM systems and switching systems), Frezenius (production of medical instruments), AXA Group, Generali Group (insurance and financial services), Unilever, Danone Heineken Holding Carlsberg Henkel Group (beverages and dairy products), etc.

Belarus is geographically and mentally close to investors from Western Europe. Conducting business is relatively easy for European companies because the cultural environment, business practices, and customer expectations are similar.

**FDI NET INFLOWS FROM EUROPEAN UNION COUNTRIES**, USD THSD



# 5.4 BELARUS-CHINA: TOWARDS NEW LEVEL OF COOPERATION

The high level of the Belarusian-Chinese political relations serves as a solid basis for the development of bilateral trade ties.

China is one of the most important trade and economic partners of Belarus.

At the end of 2017, China was ranked third among the world's countries in terms of goods turnover, ninth — in terms of export turnover, second — in terms of import turnover to Belarus. In 2017 the trade turnover between Belarus and China (including Hong Kong, Macau and Taiwan) amounted to 3.1 billion US dollars (120.6 percent to 2016 ), the volume of Belarusian export was 399.4 million US dollars (78.2 percent to 2016), the import was 2740.4 million US dollars (129.1 percent to 2016). The balance was negative (2341 million US dollars).

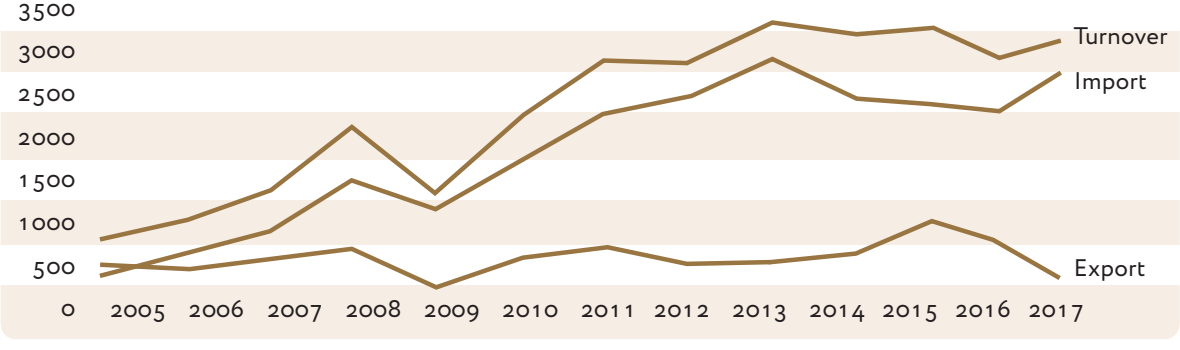
As for 2018 Belarus' export to China grew to 44.2 percent in January-May compared to the same period in 2017.

Import grew to 29,2 percent in January-May compared to the same period in 2017.

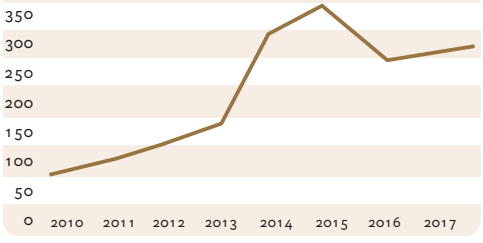
This bilateral investment cooperation is the core of the Belarusian-Chinese economic relations, with the volume of Chinese investments in the Belarusian economy constantly growing.

According to the National Statistical Committee of the Republic of Belarus, in January-December 2017, the Republic of Belarus received 271.8 million US dollars of investment from the People's Republic of China, of which on a net basis (excluding debt to direct investor for goods, work, services ) 38.8 million US dollars.

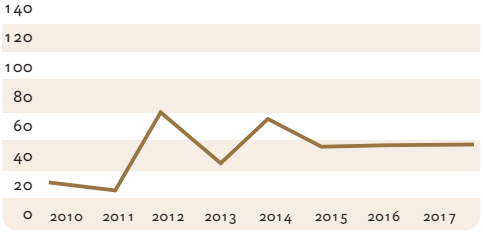
**BELARUS-CHINA TRADE IN GOODS**, 2005–2017, MLN USD



**INVESTMENT RECEIVED FROM CHINESE INVESTORS**, MLN USD




**FOREIGN DIRECT INVESTMENT ON A NET BASIS FROM CHINA,** MLN USD




The share of China in the total investment in Belarus in 2017 was 2.8% and increased by more than 2.5 times compared to 2013.

At the beginning of 2018, 92 companies with Chinese investments (including Hong Kong, Macau and Taiwan) were registered in Belarus: 29 joint ventures and 63 with Chinese capital.

For reference. At the beginning of 2017, 73 companies with Chinese investments were registered in Belarus: 25 joint ventures and 48 with Chinese capital.

A developed contractual legal framework for cooperation has been established between the Republic of Belarus and the People's Republic of China. More than 80 contracts have been signed. The most important are the joint declaration of Belarus and China on the establishment of trustworthy all-round strategic partnership and mutually beneficial cooperation, as well as agreements on trade and economic cooperation, on avoiding double taxation, on encouraging and mutual protection of investments.

Directive No5 has been signed by the President of the Republic of Belarus for the purpose of development of the bilateral cooperation and promotion of the active implementation of Belarus-China projects. The adoption of the Directive will favor the participation of Belarus in the initiative of the Silk Road Economic Belt. The Silk Road Economic Belt is an initiative to create a logistics infrastructure for the rapid movement of goods between Asia and the EU. It is expected that the project will involve 18 states with population exceeding 3 billion.

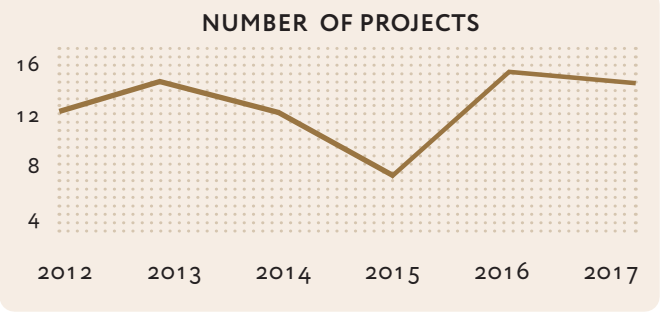
The initiative will promote the international business networking between Eurasian countries in the field of transport, trade, investment and finance. Great Stone Industrial Park should become a connecting link of the Silk Road Economic Belt.

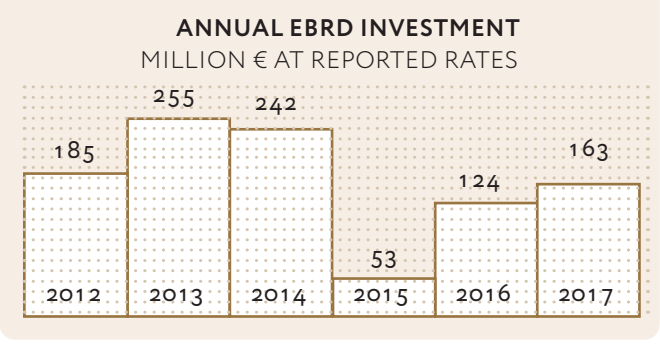
Being the most important project of economic and trade cooperation between China and Belarus, Great Stone Industrial Park will be one of the key points in the creation of the Silk Road Economic Belt and will play a significant role not only in China-Belarus economic cooperation, but also in global interworking between the countries of Eurasia. Great Stone Industrial Park is a place to nurture dreams. It is a territorial entity of approximately 91,5 sq. km with a special legal status for the provision of comfortable conditions for doing business. It is a special economic zone in Belarus, established within the framework of the China-Belarus intergovernmental cooperation and the relevant signed intergovernmental agreements.

This Industrial Park in Belarus is a major cooperative project for deepening economic and trade cooperation and establishing a strategic partnership between China and Belarus. The Industrial Park is situated in Smolevichy district, Minsk region, in the distance of 25 km from Minsk, the capital of the country. Advantageous geographic position allows an easy access to Minsk National Airport and the international highway M1 that extends to Moscow on the north (a distance of 700 km), and to Berlin on the south (a distance of 1000 km) as well as having access to Klaipeda seaport in the Baltic Sea (a distance of 500 km).

# 5.5 INTERNATIONAL ECONOMIC ORGANIZATIONS

During the period of its activity in Belarus, the European Bank for Reconstruction and Development (EBRD) participated in 95 projects. The cumulative EBRD investments to Belarus are estimated at €1,977 million. 82 % of all the investments are granted to the private sector.




## Annual bank investment and number of projects

Belarus became a member of IFC in 1992. IFC began operating in the country by pioneering advisory projects in privatization of small enterprises, and in small business development. Since then, IFC has expanded its advisory programs to help Belarus improve its business environment and investment climate, and introduce international best practices in food safety. IFC has so far invested about $445 million in 41 projects in the financial, general manufacturing, agribusiness, and services sectors.

## SELECTED IFC INVESTMENTS IN BELARUS

**INVESTMENTS FROM IFC**

| Financial Year | Project | IFC financing ($) | Description |
|---|---|---|---|
| 2015 | Alutech | 15 € million | To help strengthen and diversify its business and boost Belarus' sector growth |
| 2015 | A-100 Development Group | 20 € million | For the development of four real estate properties with a total built area of80000 m² in Minsk and Minsk region |
| 2015 | Strominvest | 17 € million | For the construction of an affordable housing complex |
| 2012 | Alutech | 45 € million | To support the company's growth and expansion of exports |
| 2011 | MTBank | 10 $ million | To finance SME energy efficiency projects |

The IFC is also implementing several advisory programs in Belarus, focusing on the following priority areas:

- helping the government expand the private sector and improve the investment climate through better regulatory policies;
- enhancing the competitiveness of Belarusian food producers by improving their food safety practices;
- advising on the corporate governance improvements for Belarusian private companies.

The IFC Advisory Services activities in Belarus are financed by the Swedish International Development Cooperation Agency (SIDA), the United States Agency for International Development (USAID), and the Ministry of Finance of Austria.

In Belarus the IFC committed $137 million to five banks as part of its Global Trade Finance Program, which broadens access to finance and reduces risks for local banks, in addition to a 7 million US dollars loan to boost financing for small and medium enterprises.

### MIGA

The Republic of Belarus became a member of the MIGA in 1992. The Agency comprises of 181 countries. The MIGA is one of the autonomous international institutions of the World Bank Group. It offers political risk insurance, provides guarantees against non-commercial risks to encourage foreign direct investment in developing countries.

On March 31, 2015, the MIGA issued a guarantee of 52.3 million euros (56.1 million US dollars equivalent) covering equity investments by Raiffeisen Bank International AG (RBI) in its subsidiary in Belarus, Priorbank J.S.C. (Priorbank). The coverage is for a period of up to three years against the risk of expropriation of funds.

The MIGA's guarantee will help RBI obtain relief from the capital adequacy requirements by reducing the risk weighting for the mandatory reserves maintained by RBI's subsidiary in Belarus. This will free up equity tied up for country riskpurposes and allow RBI's subsidiary to extend more credit, which will stimulate growth, generate employment, and reduce poverty in the country.

# Legal Environment for Foreign Investment

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# 6.1 INVESTMENT LAWS

Since independence, Belarusian investment laws have evolved con-sid-erably and now accommodate the needs of investment projects of differ-ent scales in various branches of the economy. Special regimes exist for investors in small towns and rural areas, residents of free economic zones, residents of the High Technology Park and the "Great Stone" Chi-na-Belar-us Industrial Park.

### 6.1.1 GENERAL GUARANTEES

Belarusian laws set the following basic guarantees for investors:

- the right to private property and its protection without discrimination;
- protection against unlawful acts by government authorities that violate investors' rights or cause losses, or both;
- equality of rights for national and foreign investors;
- free repatriation of profits; and
- protection of investments from nationalisation and requisitioning.

By law, nationalisation may be undertaken only based on public need and subject to proper compensation. Compensation for nationalised property should be paid promptly and comprise the value of nationalised property and other losses caused by nationalisation.

The law also establishes an exhaustive range of circumstances when requisitioning is possible – these mainly include emergency situations such as natural disasters, accidents, epidemics and epizootics, and also when public interest demands such measures.

### 6.1.2 INVESTMENT AGREEMENTS

An investment agreement may be concluded directly with the Republic of Belarus in order to obtain additional guarantees and incentives from the government. The state may be represented by a ministry, state committee, municipal authority, or state concern.

As of 1 October 2018 2,062 investment agreements were concluded. The government terminated some agreements where it considered that investors had materially breached the terms and conditions.

An investment agreement is used, for example, in the following cases:

- acquiring a state-owned enterprise or establishing a joint venture with a state-controlled company to secure a stable legal framework for a project;
- greenfield investment projects requiring arrangements for supplies of power and raw materials, prices for goods produced by a new enterprise (especially in the energy sector);
- large-scale development and construction projects.

Investment agreements may be conclud-ed (and benefits provided) only in respect to projects implemented in priority sectors of economy identified by the Council of Minis-ters. Currently, the sectors are, inter alia: in-formation and communication technologies, logistics, reconstruction and equipping of state border entry points, grain processing, metallurgy, mechanical engineering, produc-tion of electrical, optical, and mechanical, home appliances and electronics, sugar and confectionery production, canning industry, provision of public services, processing of secondary material resources.

The law lists the particular benefits and exemptions that may be granted under an in-vestment agreement, including those related to acquiring title to a land plot, construc-tion, and exemptions from certain taxes and customs duties. An investment agreement may additionally provide for waiver of the legal immunity of the Belarusian state. This is crucial for submission of disputes with the state to foreign courts and arbitral tribunals and enforcing judgments and arbitral awards outside of Belarus.

For large-scale projects an investor may be granted additional benefits, exemptions and legal guarantees not envisaged by law. These may include government obligations to provide a special tax regime, a steady supply of raw materials, and other conditions material for the investor, to issue all permits and approvals necessary for realisation of an investment project, or to guarantee a stable legal framework for an investment project. An investment agreement with additional benefits, exemptions, and guarantees re-quires a decision of the Council of Ministers approved by the President. An investment agreement may also specify additional investor obligations, such as employing and training Belarusian nationals, or use of new technologies.

Investors initiate an investment agreement with the authority responsible for

a certain region, enterprise or industry – normally, a municipal authority, a ministry, or a state concern. If the draft investment agreement provides benefits or exemptions, the respective authority negotiates the contents of the agreement with the investor and circulates the draft among other inter-ested state authorities such as the Ministry of Economy (pricing issues), the Ministry of Taxes and Duties (tax exemptions), the Ministry of Justice (legal clarity and com-pliance of the agreement with local laws). Negotiations and approval of the draft by all interested authorities may take several months.

### 6.1.3 CONCESSION AGREEMENTS

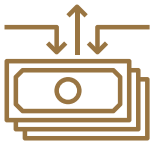
A concession is an agreement by the Republic of Belarus granting a temporary right to carry out a specific type of activity related to the exclusive competence of the state, or the right to use property (e.g., subsoil, waters, woods, land) owned by the state.

Concession agreements are of three types:

- full agreement (right of property to goods produced stays with the concessionaire);
- agreement on division of products (goods produced are divided between the concessionaire and the state under a procedure and in a proportion set by the agreement);
- concession agreement on services / work (the right to goods produced is transferred to the state; the concessionaire only receives remuneration for services (work) performed).

A concession agreement is concluded either by tender or following direct negotiations with the investor. Direct negotiations are possible for strategically significant objects or if information about the object is a state secret by the decision of the President of the Republic of Belarus.

The official list of objects offered for concession as of May 2017 includes 15 objects, inter alia, chalk, clay, and oil shale deposits, etc.



### 6.1.4 INVESTMENT ACTIVITY IN SMALL TOWNS

Since 1 July 2012, companies and individual entrepreneurs operating in all rural areas and towns[2] enjoy the following main benefits within seven years after registration:

- exemption from profit tax on sale of goods, work, services of own production;
- exemption from other taxes and duties, except for VAT, excise tax, offshore duty, land tax, ecological tax, natural resources tax, customs duties and fees, state duties, patent duties, and stamp duty;
- exemption from mandatory sale of foreign currency received from sale of goods, work, services of own production, and from leasing property; and
- no restrictions on insuring risks with foreign insurers.

[2] All cities and towns except for Baranovichy, Bobruisk, Borisov, Brest, Vitebsk, Gomel, Grodno, Zhodino, Zhlobin, Lida, Minsk, Mogilev, Mozyr, Molodechno, Novopolotsk, Orsha, Pinsk, Polotsk, Rechytsa, Svetlogorsk, Slutsk and Soligorsk.

The special legal regime does not apply to banks, insurance companies, investment funds, professional participants in the securities market, businesses operating under other preferential legal regimes (e.g. free economic zone, the High Technology Park) and certain other businesses.

### 6.1.5 FREE ECONOMIC ZONES (FEZs)

At present, Belarus has six FEZs (one for each oblast (region) administrative centre, including Minsk). As of March 2018, 407 companies were registered as FEZ residents.

In order to become a FEZ resident, an investor needs to meet certain criteria, such as:

- minimal investment of EUR 1 million or EUR 0.5 million provided that the investments are made within 3 years since the moment of concluding an agreement on the order of activities in FEZ; and
- FEZ residents should produce within FEZ territory import-substituting goods or goods oriented for export.

#### BENEFITS FOR FEZ RESIDENTS

- exemption from profit tax within five years of the date of first declaration of profit; afterwards the rate of profit tax decreases by 50% (i.e. currently 9%), provided that the goods (work, services) produced are either exported from Belarus or recognised as import-substituting goods, or sold to other FEZ residents. The FEZ residents registered after 31 December 2011 enjoy the initial profit tax exemption for ten years, instead of five, after the first declaration of profit. The FEZ residents registered before 1 January 2012 enjoy exemption from profit tax till 31 December 2021;
- exemption from payment of customs duties and taxes and from non-tariff regulation measures in relation to foreign goods imported into the territory of FEZ;
- exemption from compensation payments of value of removed plants in case of construction of objects provided in the investment project within the boundaries of FEZ;
- exemptions from land tax for any land plot within the FEZ territory until 31 December 2021 in case the resident sells goods under special FEZ tax regime, as well as for the land plots within the FEZ territory until commissioning of the last object constructed on these land plots, but not longer than five years after the registration as a FEZ resident; and
- buildings located within the FEZ are exempt from real estate tax.

Tax benefits apply if a FEZ resident provides the tax authority with a certificate of goods of own production issued by the Belar-

usian Chamber of Commerce and Industry.

The special legal regime does not apply to businesses in the area of catering, gambling, interactive electronic games, trade, and securities.

### 6.1.6 GREAT STONE INDUSTRIAL PARK

In June 2012 the China-Belarus Industrial Park (Industrial Park) was created for a term of 50 years. The Industrial Park comprises an area of over 9,000 hectares in the south-western part of Smolevichi district (close to "Minsk-2" national airport).

In the Industrial Park, a special regime applies to taxation, customs, administrative and other regulations. A "special economic zone" legal regime is intended to foster economic, trade, and investment cooperation between Belarus and China. Within the framework of the regime residents of the Industrial Park are provided with a wide range of benefits and preferences.

Recently a significant set of amendments in regard to the special regime of the Industrial Park was introduced by Decree of the President of 12 May 2017 No. 166. The amendments clarified the order for performing activities in the Industrial Park, including competence of its managing bodies, and provided for additional benefits to residents and investors of the Industrial Park.

The status of Industrial Park resident can be granted to legal entities registered and implementing investment projects there. The nationality of investors is not limited to China only. The priority industries expected to develop in the Industrial Park are electronics, pharmaceuticals, biomedicine, chemicals, mechanical engineering, logistics, big data, R&D, and some other. The amount of investment shall equal to USD 5 million, for R&D activities – USD 0.5 million. The same amount of USD 0.5 million applies to investments, which are made within 3 years since the moment of concluding an agreement on the order of activities in the Industrial Park.

It is also possible to obtain a status of an investor of the Industrial Park without registering as a resident. The investor status allows to receive land plots on the territory of the Industrial Park in order to finance construction or equipment of the objects on these land plots.

Industrial Park residents enjoy the following benefits:

- exemption from income tax on proceeds from sale of goods (work, services) of own production manufactured in the Industrial Park for ten years from the date of registration as residents; afterwards the rate of income tax is reduced by 50%;
- exemption from real estate tax on real estate objects located in the Industrial Park;
- exemption from land tax on land plots in the Industrial Park;
- for the first five years starting from the year when profit is first declared by a resident, the income tax rate on dividends paid by an Industrial Park resident to its founder amounts to 0%;
- until 1 January 2027 the income tax rate on royalties paid by Industrial Park residents to foreign organisations amounts to 5%;
- until 1 January 2027, the personal income tax rate for employees of Industrial Park residents is 9%;
- a full VAT refund is paid for imported goods (work, services), property rights used in the design, construction, and equipping of buildings and constructions

in the Industrial Park;
- exemption from customs duties and VAT on goods (manufacturing equipment, components and spare parts, materials and raw materials) imported into Belarus in order to implement investment projects in the Industrial Park;
- other benefits related to social security payments for employees of Industrial Park residents, terms of processing matters involving foreign labour immigration, and others.

In addition, legal acts specify features of construction of Industrial Park objects and infrastructure, in particular:
- investors and Industrial Park residents can choose contractors to construct Industrial Park objects and suppliers of goods for building and equipping them without tenders;
- design, adjustment of project documentation, construction and commissioning of Industrial Park objects may be carried out in accordance with technical legal acts similar to those adopted in China and EU countries if project documentation passes public examination in Belarus, safety of construction work and materials is guaranteed and necessary documentation is drawn up in Russian (Belarusian) or a translation of the documentation is provided;
- imported goods for the design, construction, and equipping of Industrial Park objects are not subject to mandatory conformity assessment in Belarus.

Legislation guarantees stability of the special legal regime throughout the lifetime of the Industrial Park.

Incentives and preferences of the Industrial Park do not apply to financial institutions, businesses in the area of lotteries, gambling, and interactive electronic games.

### 6.1.7 HIGH TECHNOLOGY PARK (HTP)

The HTP was created in 2005 to foster devThe HTP was created in 2005 to foster development of the IT industry. The HTP is an area in the eastern part of Minsk with a special legal regime. According to recent Decree of the President of 21 December 2017 No. 8 (Decree No. 8) the special regime of the HTP was prolonged up to 2049.

Decree No. 8 also introduced regulations of cryptocurrencies and tokens, as well as related activities, like mining and ICO. Until 2023 activities with cryptocurrencies and tokens are subject to wide tax and foreign currency benefits, including full exemption from the company income tax, personal income tax, VAT, tax under simplified taxation system, and some other benefits.

In addition, under Decree No. 8 the HTP will become a testing ground for approbation of some international legal mechanisms, like non-compete and non-solicitation agreements, convertible loan, option agreement, indemnification agreement, investment partnership agreement, irrevocable power of attorney. In future the listed mechanisms may be incorporated into general civil regulations of Belarus.

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;
- technical protection of information;
- IT consulting and a range of other activi-

ties.

Several additional types of activities were also introduced by Decree No. 8, including activities related to AI, self-driving cars development, cybersport, IT education, etc.

HTP residents enjoy the following main tax benefits:

- exemption from profit tax and VAT;
- WHT at the rate of 5 % for dividends, and 0% for interests and royalties from HTP residents;
- land plots within the HTP necessary for construction of buildings are exempt from land tax throughout the period of construction but no longer than three years;
- real estate on HTP territory (except leased real estate) is exempt from real estate tax; and
- dividends paid to shareholders registered in offshore zones are not subject to offshore duties.

Furthermore, certain exemptions concern personal income tax paid by employees in HTP, and social security payments. Foreign legal entities also enjoy benefits as to taxation of dividends, interest and royalties from HTP residents. These types of income are taxed at the rate of 5%, unless more favourable conditions are set by international agreements.

### 6.1.8 PUBLIC-PRIVATE PARTNERSHIP (PPP) OPPORTUNITIES

PPP in Belarus is regulated by the Law on Public-Private Partnership that came into force on 2 July 2016. According to it arrangements between the state (state partner) and a private business (private partner) are formalised with PPP agreements, conclusion of which becomes possible as a result of a bidding procedure organised by state authorities.

PPP projects are performed with respect to objects of engineering, manufacturing, social and transport infrastructure in specific sectors, including energy, owned by the Republic of Belarus, its administrative and territorial units, or constructed within PPP. Law allows private partners and state partners to incorporate business entities for implementing PPP projects in accordance with terms and conditions of the PPP agreements.

Within PPP private partner undertakes obligations of complete or partial designing, construction and (or) reconstruction, restoration, maintenance, modernisation, technical servicing and (or) operation of the infrastructure objects. In order to ensure performance of obligations by a private partner, the infrastructure objects can be transferred into its possession, use (including free of charge use), and land plots underlying the objects can be transferred to the private partner for lease, permanent or temporary use. Private partners are entitled to receiving state budget financing, as well as full or partial financing of their obligations on their own.

In addition to the above the following guarantees of private partners' rights may be provided:

- general guarantees offered to investors;
- non-interference into the activity of a private partner except for the cases provided in PPP agreements, legal acts, or in situations calling for protection of national security, public order, morality, health of the population, rights and freedoms of third parties;
- unimpeded profit transfer for foreign partners;
- protection of property and other rights.

Besides PPP agreements, it is possible to enter into an agreement on coopera-

tion. The latter can be concluded between a state partner, a private partner, creditors of the private partner and (or) other parties to regulate terms and conditions of their cooperation within implementation of PPP project.

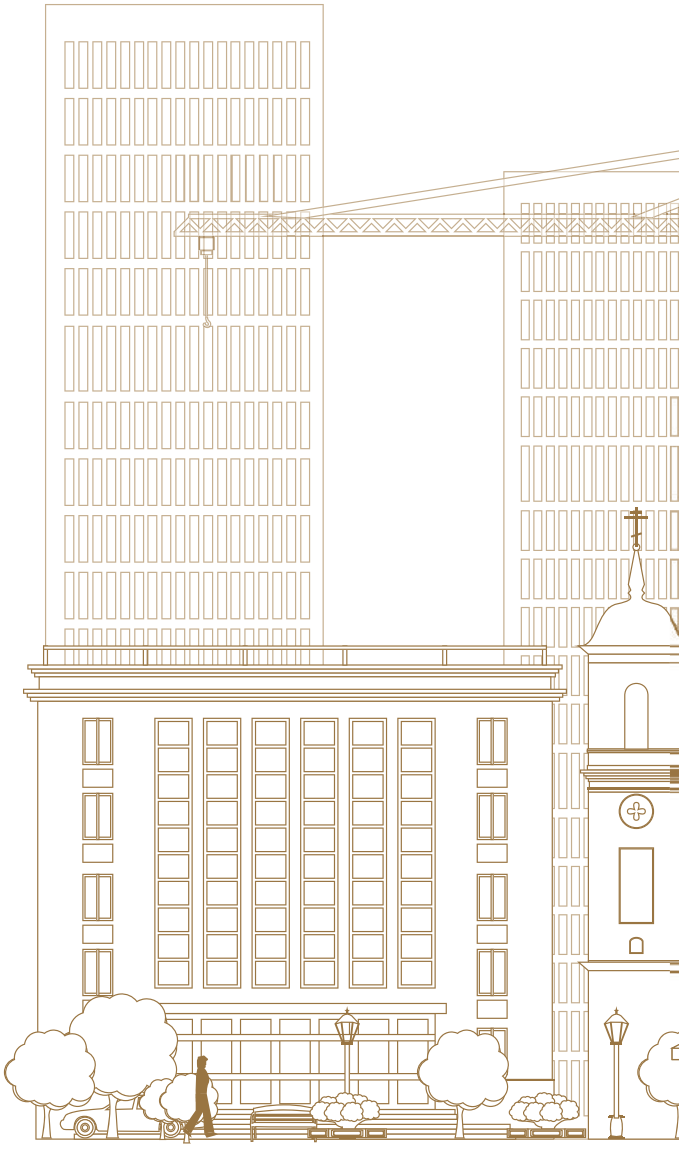
### 6.1.9 BILATERAL INVESTMENT TREATIES

Additional guarantees for foreign investors in Belarus are provided by a number of agreements on promotion and protection of investments.

Agreements on promotion and protection of investments currently bind Belarus with the following countries: Armenia, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cuba, Cyprus, the Czech Republic, North Korea, Denmark, Egypt, Germany, Finland, India, Iran, Iraq, Israel, Italy, Jordan, Cambodia, Kazakhstan, Kuwait, Kyrgyzstan, Laos, Latvia, Lebanon, Libya, Lithuania, Macedonia, Mexico, Moldova, Mongolia, the Netherlands, Oman, Poland, Russia, Qatar, Saudi Arabia, South Korea, Romania, Singapore, Slovakia, Slovenia, Sweden, Switzerland, Syria, Tajikistan, Turkey, Turkmenistan, Ukraine, United Arab Emirates, the United Kingdom, France, Venezuela, Vietnam, Serbia, Montenegro, Belgium and Luxembourg.

Belarus is also a party to a number of multilateral treaties on cross-border investment activity:

- 1965 International Convention on Settlement of Investment Disputes between States and Nationals of Other States;
- 1985 Convention Establishing the Multilateral Investment Guarantee Agency;
- 1993 Agreement on Cooperation in the Field of Investment Activity;
- 1997 Moscow Convention on Protection of Investors' Rights;
- 2014 Agreement on the Eurasian Economic Union (with Annexes).



# 6.2 CORPORATE LAW: SETTING UP A BUSINESS IN BELARUS

## MAIN ORGANISATIONAL AND LEGAL FORMS[3]

When establishing a presence in Belarus, foreign investors choose from a variety of corporate forms. The decision on corporate presence in the form of a representative office or local legal entity is usually influenced by the regulatory framework, the nature of the project, and strategic plans.

A representative office is a popular form at the initial stage of entering the Belarusian market. Due to flexible employment, currency control, and certain other regulations, representative offices have often been used at the initial stage of business operations in Belarus and for a certain time even alongside a local legal entity.

At the same time, starting from 1 January 2014 a foreign company may carry out only auxiliary or preparatory activity via its Belarusian representative office. This activity includes market research, exploring investment opportunities, incorporating a legal entity, and similar.

Representative offices are accredited by the Belarusian Ministry of Foreign Affairs. A permit for establishing a foreign representative office is issued for a fixed term of three years. A foreign company pays state duty equivalent to 65 basic units (approx EUR 650) for each year of accreditation of its representative office in Belarus. The number of foreign employees of a representative office is limited to five.

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

The main vehicles for foreign investment in Belarus are legal entities established under local law.

### 6.2.1 COMMERCIAL LEGAL ENTITY

#### (A) FORMS AND TYPES OF COMMERCIAL LEGAL ENTITY

The most common forms of commercial legal entity 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 one or more individuals / legal entities (shareholders). Shares in the JSC are securities issued by the company; their issue is registered with the Department of Securities of the Ministry of Finance

[3] For the purpose of this and subsequent sections the amount in euro has been calculated on the basis of the following rate: EUR 1 = BYN 2.42. From 1 January 2018 the amount of the basic unit is equal to BYN 24.50. The government may adjust the amount of the basic unit from time to time depending on the economic situation in Belarus.

or its relevant territorial subdivisions. Any issue / cancellation of shares or increase / decrease in their nominal value also require registration. Unless performed via the Belarusian Currency Stock Exchange, transactions with shares in a JSC must in most cases be registered with professional operators in the securities market (specialised licensed companies).

Under Belarusian law, a JSC can be of two types: open or closed. Shares in an open JSC may be sold freely to any person without the consent of other shareholders. In a closed JSC, shareholders have a pre-emptive right to acquire shares offered, or under its articles or shareholders' decision shares may be sold only to a limited range of persons. A closed JSC cannot offer its shares for public subscription.

A Unitary Enterprise (UE) is a commercial company established by a single owner. All assets of a UE are considered as the property of its owner. The authorised capital of a UE is not divided into shares. A UE may be sold or otherwise assigned as a whole asset complex, including buildings, equipment, inventory, raw materials, ready made goods, claims, debts, as well as trademarks and other exclusive rights of the UE. The asset complex is considered to be a real property object. In this regard, the asset complex plus related rights and transactions must be registered with the National Cadastral Agency.

A Limited Liability Company (LLC) is the most widely used form of business. A LLC is founded by one or more individuals / legal entities (any combination is possible). Shares in a LLC are often referred to as a "participation interest" and do not require separate registration. Par value of the participation interest, number of votes and share in profit are distributed between shareholders proportionally to the amount of a shareholder's contributions to the authorised capital of a LLC. However, the shareholders may agree on a different correlation between participation interests, number of votes, and shares in profit. Shareholders in a LLC enjoy a pre-emptive right to purchase a participation interest in a 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 (except for the sole shareholder) may, in contrast to a JSC, 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 participation interest.

### (B) MINIMAL AMOUNT OF AUTHORISED CAPITAL AND NUMBER OF SHAREHOLDERS

| Type/form of legal entity | Minimal authorised capital | Number of shareholders/owners | Declaration and formation of authorised capital |
|---|---|---|---|
| **Unitary enterprise** | 1 kopek | Only one owner of assets | Authorised capital should be declared in BYN and fully paid within 12 months after state registration of the company |
| **Limited liability company** | 1 kopek | Minimum one<br>maximum 50 | |
| **Closed joint-stock company (CJSC)** | 100 basic units<br>(approx EUR 1,000) | Minimum one<br>Maximum 50 | |
| **Open joint-stock company (OJSC)** | 400 basic units<br>(approx EUR 4,000) | Minimum one<br>Maximum unlimited | |

### 6.2.2 MANAGEMENT

Management structures are specific for each legal form of company.

#### (A) UNITARY ENTERPRISE

The owner of a UE is the supreme management body. Exclusive competence of the owner covers introducing amendments to the UE articles, increasing or decreasing authorised capital. The owner appoints and dismisses the director of the UE or outsourced manager. An owner who is a natural person may personally perform the duties of director or outsourced manager.

#### (B) JOINT-STOCK AND LIMITED LIABILITY COMPANIES

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

The general meeting of shareholders (Meeting) is the supreme managing body of the company. The Meeting convenes at annual and extraordinary sessions.

The Meeting can decide on issues of reorganising and liquidating the company, amending its articles, changing the amount of authorised capital, forming other managing bodies, and other strategic issues.

Establishing a Supervisory Board is mandatory only in an open JSC with the number of shareholders of more than 50. The competence of the Supervisory Board usually covers general management of the company. Specific powers may be granted by the Meeting within limits defined by law. Only natural persons may be members of the Supervisory Board; they may be elected not only from the shareholders of the company.

The company may be managed by a sole and / or collective executive body (the Director / Board of Directors) but there may not be several managing directors equal in status. The company may have both a Board of Directors and a Director. However, in that case their competence should be clearly distributed among the bodies and the Director should be elected in the capacity of Chairman of the Board of Directors. The functions of the executive body may be transferred to an outsourced organisation or manager. The executive body is in charge of managing the company's day-to-day activities.

A foreign citizen may be appointed as a Director / member of the Board of Directors in any company. In this case the Director is obliged to obtain a work permit and a member of the Board of Directors may be obliged to do so. Note that citizens of states which are parties to the Eurasian Economic Union do not need work permits by virtue of the respective international treaty.

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

### 6.2.3 SHAREHOLDERS' AGREEMENT

Belarusian law oprovides possibility to conclude a shareholders' agreement (in JSC) and an agreement on the exercise of the rights of company shareholders (in LLC) (hereinafter shareholders' agreement). These corporate tools aim to support shareholders in coordinating their activities as to participating in the management of a company, exercising their rights more efficiently and protecting their legitimate interests.

Under the law, a shareholders' agreement is an agreement on implementing rights certified by shares and/or on peculiarities of exercise of rights to shares. A shareholders' agreement is

[4] The Meeting is not created in commercial companies with one shareholder. The powers of the Meeting in such companies are exercised by the sole shareholder.

concluded in respect of all shares held by a party to a shareholders' agreement. The company itself cannot be a party to a shareholders' agreement, nor can all shareholders (at least one should not be a party). Breach of a shareholders' agreement cannot be a ground for invalidating decisions of the company's management bodies.

A shareholders' agreement may set the following obligations:

- to vote in a certain way at a general meeting of shareholders;
- to coordinate a voting option with other shareholders;
- to acquire or dispose of shares at a predetermined price and/or subject to occurrence of certain circumstances;
- to refrain from disposing of shares before the occurrence of certain circumstances; and
- to perform other concerted actions associated with the management of the company, company activities, reorganisation, and liquidation of the company.

Obligations of a party to a shareholders' agreement to vote according to the instructions of the management bodies of a company in respect of which the agreement has been signed cannot be the subject of a shareholders' agreement.

Although these amendments represent a considerable step forward in corporate regulation, certain issues are not addressed in the law and would have to be developed further either by practice or through subsequent amendment of the legal framework. Such matters include, for instance, eligibility of arbitration under shareholders' agreements plus the possibility to govern a shareholders' agreement by a foreign law where one of the parties is a foreign individual or company.

### 6.2.4 ESTABLISHING A COMPANY

Generally, incorporation of a company includes the following steps:

- choosing a name for the company and registering this with the municipal authority;
- choosing the future location of the company ("virtual addresses" are not allowed);
- executing the articles of the company and other incorporation documents;
- filing for registration of the company.

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

State registration takes one working day and the whole registration process (up to opening bank accounts) should not exceed one a week and a half.

# 6.3 PRIVATIZATION

The type of privatisation procedure depends on objects of privatisation, which include housing, state enterprises, leased state property, and state-owned shares. Potential investors can join the privatisation of state enterprises process at various stages:

- access as new shareholders during transformation of enterprises into open joint-stock companies;
- by acquisition of state-owned shares in existing open joint-stock companies;
- by acquisition of a state or municipal unitary enterprise as an asset complex.

Lists of open-joint stock companies in which shares are available for privatisation are published on the official website of the State Property Committee (http://www.gki.gov.by/ru/auction-auinf-auishares/).

These lists contain basic information on privatisation conditions, and sometimes a brief description of privatisation objects.

Investors are welcome to select privatisation targets from the list and send a brief letter of interest to the State Property Committee. Letters of interest are reviewed by a special commission that decides on the feasibility of preparing a decision of the President on privatisation of shares via tender, auction or direct sale.

The investor may also send a letter of interest in respect of objects that do not appear on the State Property Committee list. Basically, any object can be sold if an investor is interested and the state finds the conditions proposed by that investor interesting.

### 6.3.1 BECOMING CO-FOUNDER OF AN OPEN JOINT-STOCK COMPANY

Decisions on transformation of the unitary enterprises into open joint stock companies are made on a case by case basis by competent state authorities. The State Property Committee or its local divisions, depending on the size of the unitary enterprise which is to be transformed, may announce a contest to choose a private investor in addition to the state – the future shareholder of an open joint stock company. The winners are selected after the contest by a specially established commission, or may be directly negotiated if there is only one contest participant.

It is also possible to acquire a share in a transformed company at the stage of sale of shares.

### 6.3.2 ACQUISITION OF STATE-OWNED JSC SHARES AND ENTERPRISES AS ASSET COMPLEXES

The State Property Committee can also itself organise an auction or contest where state-owned shares or enterprises are sold to investors. The contest or auction is announced in the Belarusian mass media and on the Committee's official website www.gki.gov.by. To participate in a contest or auction the investor applies with a set of supporting documents. Contest participants should also file a tender proposal corresponding to the terms of the contest. The winner of the contest or auction becomes either the shareholder in the company or the owner of the enterprise as an asset complex.

# 6.4 MERGER FILING REQUIREMENTS IN BELARUS

In Belarus merger filing is mandatory in some cases. This means that some transactions may require prior clearance by the antimonopoly authority (the Ministry of Antimonopoly Regulation and Trade and the respective local subdivisions).

Under the effective Law the acquirer should apply to the antimonopoly authority for approval of an intended transaction with shares (participation interest) if the book value of the target's assets as of the latest reporting date exceeds 100,000 basic units (approx EUR 1.0 mln), or the amount of proceeds from sales for the previous financial year exceeds 200,000 basic units (approx EUR 2.0 mln), in the following cases:

**1. Transactions where the acquirer 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 (participation interest) in the target;
b. the acquirer and the target perform their activity in the same commodity market;
c. the acquirer is a business entity holding a dominant position in that market.

**2. Transactions with shares** (participation interest) **of a target holding a dominant position** (all of the following conditions should be met):

a. the intended transaction relates to acquisition of at least 25% of shares (participation interest) in the target;
b. the target is a business entity holding a dominant position in a certain commodity market;
c. the acquirer is a business entity or an individual.

**3. Acquisition of the ability to influence decisions of a target holding a dominant position** (all the following conditions should be met):

a. the intended transaction results in the acquirer's ability to influence decisions of the target;
b. the target is a business entity holding a dominant position in a certain commodity market;
c. the acquirer is a business entity or an individual.

**4. Acquisition of control over a material amount of shares (participation interest) of a target** (all of the following conditions should be met):

a. acquisition may take any form as long as control over disposal of shares (participation interest) is gained (e.g. purchase, trust management, agency); and
b. the acquirer is a business entity or an individual; and
c. the intended transaction results in the acquirer's right to dispose of more than 25% of the shares (participation interest) in the target, if before the transaction the acquirer has no right to dispose of the target's shares (participation interest) or has the right to dispose of not more than 25% of the target's shares (participation interest), or
d. the intended transaction results in the acquirer's right to dispose of more than 50% of shares (participation interest) in the target, and before the transaction the acquirer has the right to dispose of more than 25% but not more than 50% of the target's shares (participation interest).

**5. Acquisition of the right to participate in the executive bodies, supervisory board, and other managing bodies of two or more targets by the same acquirer** (all of the following conditions should be met):

a. the targets operate in the market for interchangeable (similar) goods;
b. the acquirer has an opportunity to set conditions for the targets' business activities;
c. the acquirer is a business entity or an individual.

On 3 August 2018 a new version of the Law on Counteracting Monopolistic Activity and Development of Competition will enter into force. It will establish additional requirements and procedures in regard to merger filings.

According to the new Law the above financial thresholds will be increased twice, i.e. book value of the target's assets shall exceed 200,000 basic units (approx EUR 2.0 mln) and the amount of proceeds from sales shall exceed 400,000 basic units (approx EUR 4.0 mln).

From 3 August 2018 there will be the following additional new cases in which the merger clearance is required:

1. Acquisition of the right to give mandatory orders in regard to the target's business activity or to perform functions of a management body of the target.

2. Conclusion of a simple partnership agreement (cooperative business agreement) on the territory of the Republic of Belarus (all of the following conditions should be met):

a. the parties to the agreement are individual entrepreneurs and/or business entities;
b. the parties to the agreement are competitors.

3. Acquisition of a title over a significant amount of property of a commercial entity (all of the following conditions should be met):

a. the acquired property is either fixed or intangible assets;
b. the acquired property is located on the territory of the Republic of Belarus;
c. the value of the acquired property exceeds 20% of total book value of the target's fixed and intangible assets;
d. the property is received into ownership, use, or possession.

The law may seem somewhat ambiguous as to the necessity to obtain approval for a foreign-to-foreign transaction, where the transaction has no direct local nexus. According to consistent practice of market players and the position thus far taken by the antimonopoly authority of Belarus, these transactions may be exempted from merger clearance in most cases. Based on analysis of current legislation and available practice one may conclude that transaction between foreign parties may be subject to Belarusian merger control if the transaction involves the direct transfer of shares in a Belarusian entity or it leads or may lead to prevention, restriction, or elimination of competition in the respective commodity markets of Belarus. In the latter case such affect may take place if the transaction involves indirect transfer of shares in a Belarusian entity, if a party to the transaction maintains a corporate presence in Belarus or operates (directly or indirectly) in the Belarusian market and holds a significant market share (approx 15% and higher) or the transaction will lead to a significant increase in its market share.

No filing fees are payable in Belarus for examining an application or approving a transaction.

# 6.5 FINANCIAL REGULATION IN BELARUS

### 6.5.1 BANK ACCOUNTS

Opening a bank account abroad by a Belarusian company requires a permit from the National Bank of the Republic of Belarus (National Bank), subject to some exceptions. Foreign companies may open settlement accounts in Belarusian banks both in local currency and in foreign currency.

In practice, pledges are not taken over Belarusian bank accounts because of enforcement issues. Instead, direct debit arrangements are sometimes implemented over bank accounts.

According to the Program on Social-Economic Development of the Republic of Belarus for 2016-2020 restrictions for opening back accounts abroad are planned to be cancelled completely by 2020.

### 6.5.2 CURRENCY OF SETTLEMENT AND CURRENCY EXCHANGE

Foreign currency can be used in settleme- Foreign currency can be used in settlements between Belarusian residents only in limited contexts. Settlements between a resident and non-resident may be both in local currency and in foreign currency if the National Bank has set the official exchange rate of the BYR against the other currency (the list comprises 78 foreign currencies, including USD and EUR). Certain limitations as to the use of foreign currency in settlements with foreign companies may be set in international treaties to which Belarus is a party.

On 11 April 2018 changes to legislation enter into force which allow Belarusian companies to freely exchange local currency to foreign currency regardless the purposes of such exchange and without necessity to obtain a permit from the National Bank.

If a Belarusian company receives income in foreign currency, in most cases it must sell 10% of the proceeds. State-run programs for liberalisation of Belarusian exchange system imply full phase-by-phase cancellation of mandatory sale of foreign currency in 2018.

### 6.5.3 REQUIREMENTS FOR OBTAINING A LOAN FROM A NON-RESIDENT

A Belarusian borrower requires a permit from the National Bank to obtain a loan from a non-resident, if any of the following criteria is met:

- the interest rate for a loan in USD or EUR exceeds 14% p.a., or for a loan in other currencies the refinancing interest rate of the respective central bank plus 5% p.a.;
- the default interest rate and penalties in aggregate exceed 0.01% per day (3.65% p.a.);
- the loan will not be repaid from the borrower's account;
- the creditor is registered in an offshore zone;
- the loan is disbursed to the account of a third party;
- additional payments (e.g. commitment fee, front-end fee, prepayment fee) are set by the agreement (this criterion is not applicable to loan agreements with foreign banks).

# 6.6 LEGAL STATUS OF LAND AND OTHER REAL PROPERTY

Under Belarusian law real property includes land plots, buildings and structures, objects of incomplete construction, parking places and other objects closely connected with land.

## 6.6.1 REGISTRATION OF REAL PROPERTY

Real estate objects are considered as created only after state registration.

Emergence, transfer, and termination of rights to and encumbrances on real estate as well as transactions with real estate require state registration (except for lease, sublease and free-usage transactions with buildings and structures and rights thereto). Real estate transactions requiring state registration enter into force from the date of state registration. Failure to comply with this requirement results in invalidity of the transaction.

Registration is performed by the local agencies of the National Cadastre Agency (NCA agency). From 22 July 2018 the following amendments to legislation regarding registration of real estate, rights thereto and transaction therewith will enter into force:

- real estate transaction can be registered with any NCA agency. Currently the registration is made only with the NCA agency where the real estate is located.
  Note: registration of real estate emergency will still be possible only with NCA agency where the real estate is located;
- application for registration of real estate, rights thereto and transaction therewith can be made through authorised agents (e.g. advocates, realters, notaries, etc.). Currently application is possible only in person.

All information on registered real estate is available in the Unified State Register of Real Estate, Rights thereto and Transactions therewith (Real Estate Register). Registration data are open for public access. Any person may request information (including information on ownership and other rights) on specific real estate object by its address and/or inventory/cadastral number. However, only title holders, their successors, government authorities and, in certain cases, notaries and advocates may access a list of all real estate objects belonging to a particular individual or legal entity.

## 6.6.2 LAND PLOTS

IIn Belarus, use of land plots is predetermined by their specific designation (e.g. agriculture, forest and water fund, inhabited areas, infrastructure).

Designation of land plots may be changed by decision of local authorities.

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

- right of property;
- right of permanent use;
- right of temporary use;
- right of lease (predominantly used title).

Land plots can be transferred into ownership of Belarusian legal entities at auction. The law sets an extensive list of exceptions when auctions may be avoided.

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

- agricultural organisations;
- non-governmental legal entities as to land plots used for servicing real estate objects owned by the state;
- legal entities for construction and operation of apartment houses, parking places and garages;
- legal entities as to resizing land plots granted for permanent use in connection with reconstruction of buildings located on them;
- legal entities for construction and maintenance of transport and engineering infrastructure facilities as well as roadside service facilities (except for construction of roadside service facilities in suburban areas of Minsk city and regional capitals), etc.

The above entities can also be granted a right of temporary use of a land plot. A land plot can be granted into temporary use for a maximum of ten years, with some exceptions.

The right of temporary use can also be granted to investors operating under concession agreements for a maximum period of 99 years.

Lease agreements can be concluded for a maximum of 99 years. The amount of lease payments should be set in such agreement.

The general rule is that land plots owned by the state are let based on the results of one of the following main types of auction:

- auction for the right to conclude an agreement for lease of a land plot;
- auction for the right to design and construct buildings.

Land plots are provided to lease without holding auctions in limited cases set by law.

Foreign legal entities can use the land plots only on the right of lease.

### 6.6.3 BUILDINGS AND CONSTRUCTIONS

Belarus has no codified legal act regulating the status of buildings and structures and construction activity. It is possible to distinguish two categories of buildings with different legal status – residential and non-residential.

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

- isolated premises (parts of a capital building registered and regarded as separate real estate);
- parking spaces (structures registered and regarded as separate real estate);
- objects of incomplete construction (conservated incomplete construction objects registered and regarded as separate real estate).

Buildings and constructions can be owned by foreign legal entities and individuals.

Rent rates for lease of a state owned building should be set according to special rules established by Presidential Edict and calculated in basic lease units (BYN 16,11, i.e. approx EUR 6.3).

Local authorities enjoy a pre-emptive right to acquire certain buildings and other real estate located within their jurisdiction. The list of these buildings and other real estate is set annually by local authorities. In practice this right is rarely exercised. However, sale-purchase agreements may be registered with the Real Estate Register and ownership may be transferred to the purchaser only after the local authority decides not to exercise its pre-emptive right to acquire.

In general legal entities also enjoy a pre-emptive right to acquire state property (excluding land plots) in case of leasing it for the period not less than 3 years with granting payment by installments for 5 years. In such case property alienation should be initiated by state authority owing the leased property.

### 6.6.4 MORTGAGE

Belarusian law allows use of real estate as collateral but some restrictions are applied.

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

- banks with a licence to place funds attracted in their own name and for their own account on condition of recurrence, interest payment, and maturity;
- the IFC, EBRD and the Eurasian Development Bank, if the mortgage of a land plot (pledge of lease right to a land plot) secures repayment of a loan to a Belarusian resident;
- the China Development Bank, the Export-Import Bank of China, IFC, EBRD, Eurasian Development Bank in respect of land plots located on the territory of the "Great Stone" China-Belarus Industrial Park if the mortgage of a land plot (pledge of lease right to a land plot) secures repayment of a loan to Industrial Park Development Company CJSC or its residents.

Only owners and tenants of a land plot may act as mortgagors (i.e. persons or entities holding land plots under the title of permanent or temporary use cannot mortgage land plots or rights thereto).

Mortgage of buildings as well as isolated premises located on an owned land plot is allowed only on simultaneous mortgage of the underlying land plot. Mortgage of buildings as well as isolated premises located on a leased land plot is allowed on simultaneous mortgage of the right of lease to the underlying land plot if payment for the right to conclude the lease agreement was made by the tenant. If payment was not made the building or the isolated premises may be mortgaged without simultaneous pledge of lease rights to land plots. Consequently, buildings or isolated premises located on an owned or leased land plot (provided that payment for the right to conclude the lease agreement has been made) may secure only repayment of bank credit agreements and loan agreements with the IFC, EBRD, the Eurasian Development Bank as well as with the China Development Bank and the Export-Import Bank of China (for land plots located on the territory of the "Great Stone" China-Belarus Industrial Park).

Types of liability that may be secured by mortgage of buildings or isolated premises located on land plots held under the title of temporary or permanent use are not limited. The same relates to buildings or isolated premises located on leased land plots provided that payment for the right to conclude the lease agreement has not been made.

Mortgage of real estate requires registration in the Real Estate Register.

## 6.7 INTELLECTUAL PROPERTY PROTECTION

Besides having fairly well developed national legislation on protection of intellectual property, Belarus is a party to many international IP agreements administered by the World Intellectual Property Organisation (WIPO).

Belarus is also a party to several regional IP agreements (e.g. the Eurasian Patent Cooperation within the framework of the CIS), and several bilateral cooperation agreements in the field of industrial property protection.

### 6.7.1 INTELLECTUAL PROPERTY (IP)

Belarusian laws provide for the following types of IP:

- scientific, literary and artistic works subject to copyright protection (including software);
- performances, phonograms, transmissions of broadcasting organisations (related rights);
- trademarks and service marks;
- geographical indications (appellations of origin and indications of source);
- corporate names;
- inventions, utility models, industrial designs;
- topologies of integrated circuits;
- selection achievements (plant varieties and animal breeds); and
- production secrets (know-how).

Copyright and related rights obtain legal protection due to the fact of their creation. No formalities are required to enable their protection.

Trademarks are protected in Belarus only if registered through international or national procedures.

Corporate names of Belarusian companies are protected on the basis of registration. Trade names of foreign companies are protected in Belarus without formalities if the trade name of the foreign company is registered in a member state of the Paris Convention or is generally acknowledged therein.

Appellations of origin are protected in Belarus on the basis of national registration while indications of source are protected on the basis of use.

The right to protect know-how from unlawful use arises irrespective of execution of formalities (e.g. registration). However, know-how is protected only if all the following criteria are met: the information is of commercial value due to its confidentiality, it is not freely accessible on a lawful ground, and the owner of the information takes certain measures established by law to protect its confidentiality (e.g. issues internal documentation, applies technological and/or organisational means). Under Belarusian law know-how can be neither assigned nor licensed. However, the owner of know-how can provide access to know-how under special agreement.

Rights to inventions, utility models, industrial designs and selection achievements are protected only if patents are granted for them.

Legal protection of topologies of integrated circuits depends on registration with the patent authority. Registration of trademarks, appellations of origin and topologies of integrated circuits is confirmed by certificates.

### 6.7.2 PATENT AUTHORITY AND REGISTRATION OF AGREEMENTS

The patent authority of Belarus is the National Center of Intellectual Property (NCIP). The official NCIP website is www.belgospatent.org.by. It contains databases of inventions, utility models, industrial designs, selection achievements, topologies of integrated circuits and trademarks registered in Belarus. These databases are updated every month with new registrations and intended for guidance only. Official data on applications filed (for some types of IP), registered IP, protection documents effective in Belarus, as well as changes made to state registers of industrial property are published in official NCIP editions. Upon request the NCIP prepares extracts regarding any IP objects, or issues information on agreements registered for a certain company.

Licences, assignments, pledges, and other agreements with regard to industrial property rights must be registered with the patent authority in order to be considered valid, and the same applies to changes to and termination of these agreements.

# 6.8 EMPLOYMENT SPECIFICS

Employment has a number of peculiarities in Belarus, including a dual agreement system and certain issues pertaining to employment of management.

### 6.8.1 EMPLOYMENT AGREEMENT

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

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

- the contract provides additional grounds for terminating employment relations upon the initiative of the employer;
- the contract cannot be terminated solely upon the employee's initiative, except for material breach by the employer or a good reason (moving to a different city and the like).

### 6.8.2 TERMINATION OF EMPLOYMENT

All grounds for termination of employment relations are set by law. The parties cannot set additional grounds for termination in an employment agreement.

### 6.8.3 NON-COMPETITION AND CONFIDENTIALITY

If performance of job duties requires access to trade secrets of the company, the employer may require the employee to sign a confidentiality commitment: refusal to do so justifies termination of employment at the employer's discretion. An employee's signature to a confidentiality commitment enables the employer to claim loss of profit in case of disclosure.

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

At the same time, Decree No.8 (please see p. 1.1.7. hereof) directly allows concluding non-compete agreements with the employees of HTP's residents. Maximum period of non-compete restriction is 1 year after termination of the employment agreement with HTP's resident. Employer must pay non-compete compensation for each month of compliance with such non-compete obligation after termination of the employment in the amount of not less than one-third of the average employee's monthly salary for the last year of the employment.

### 6.8.4 EMPLOYMENT OF THE DIRECTOR

Director's rights and obligations are set in an employment agreement and in the articles of association of the company. Directors of state-owned companies and companies with a state share of 50% or more cannot combine jobs, except for teaching, scientific work, art, and medical practice.

The director cannot participate in supervisory and controlling bodies of the company. The director bears full material liability for real damage caused to company's property.

For additional information about employment of the director, please see subparagraph 1.2.2(b) above.

### 6.8.5 OTHER FORMS

A natural person may work on the basis of a civil contract. In that case the contractor is not included in the company's staff list and may independently manage their work. The company should organise labour protection of the contractor as well as paying social security fees.

# 6.9 DISPUTE RESOLUTION

Following the judicial system reform in 2014, a unified system of common and commercial courts headed by the Supreme Court evolved in Belarus. The Supreme Court is the sole supreme authority in the court system and has several judicial panels for commercial, civil, criminal, and intellectual property matters.

Since 2014 a unified system of enforcement departments has also been in operation, consisting of the main enforcement department and regional departments of the Ministry of Justice. New Laws regulating enforcement procedures and enforcement officers' status and activity have been adopted recently.

The enforcement fee to be withheld from debtors constitutes 10 % of the amount collected based on proprietary claims. For non-proprietary claims the enforcement fee constitutes 5 basic units (approx EUR 50) for claims by natural persons and 10 basic units (approx EUR 100) for claims by legal entities. The enforcement fee for non-proprietary claims is paid for each execution order.

Belarusian national law recognises arbitration as a means of dispute resolution between private parties involved in commercial transactions. Some disputes cannot be referred to arbitration, for example:

- disputes involving rights to real estate located in Belarus;
- disputes over decisions by the bodies of a company registered in Belarus;
- disputes arising from administrative action;
- disputes related to state-owned property, including disputes related to privatisation of state-owned property and compulsory seizure of property for state needs;
- disputes related to recognition of records in state registers (cadastres) as null and void;
- 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 null and void;
- disputes related to release of arrested property where the property was arrested by a Belarusian state body.

Arbitration can proceed under either self-administered ad hoc or institutional procedures and rules. The International Arbitration Court at the BelCCI (Belarusian Chamber of Commerce and Industry) was established in 1994. Recently another international arbitration court was established: the Chamber of Arbitrators at the Lawyers' Association. Since 2012 more than 20 arbitration courts (not international) have been established in Belarus.

Awards by international arbitration courts in Belarus can be annulled by the Supreme 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 may refer disputes to a foreign court unless Belarusian courts hold exclusive jurisdiction (for example, a local subsidiary of a foreign investor is considered as a Belarusian resident and therefore cannot refer a dispute with a local company to a foreign court).

Under Belarusian law foreign court judgments may be recognized and enforced in Belarus, if:

- recognition and enforcement is provided by Belarusian law or by an international treaty to which the Republic of Belarus is a party, or

- reciprocity in recognition and enforcement of judgments exists between Belarus and the country whose court issued the judgment.

Under international treaties judgments of the courts of the following countries may be recognized and enforced in Belarus: Armenia, Azerbaijan, Bulgaria, China, Cuba, Cyprus, the Czech Republic, Finland, Georgia, Hungary, Iran, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Russia, Serbia, Slovakia, Syria, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam.

The existence of reciprocity with other countries can be checked through diplomatic channels.

Due to an increase of contentious matters in the area of intellectual property and information technology, in May 2015 the IT&IP Arbitration Court at the Association of Information Technology Companies began operation. The new tribunal considers disputes in the sphere of information technology and intellectual property, if an arbitration agreement exists between the parties. It may not consider disputes on which Belarusian state courts hold exclusive jurisdiction. More information may be found at www.akit.by.

Mediation as an alternative form of dispute resolution is gradually gaining popularity among businesses since the Law On Mediation came into force on 24 January 2014 and was followed by regulations on mediators' ethics, the mediation process and other matters.

Mediation can be used to resolve disputes in the fields of civil, commercial, labour and family law. Parties may refer their dispute to mediation either before, or after a case has been filed with a court. Judicial mediation (conciliation) is considered to be a part of court proceedings. Mediation agreements are enforceable by the courts, if they meet all the formal requirements established by law towards in-court settlement agreements.

# 6.10 VISA REGIME

As a general rule, the entry of foreigners into the territory of the Republic of Belarus is carried out subject to the visa of the Republic of Belarus.

Citizens of Azerbaijan, Armenia, Ecuador, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, and Ukraine to enter the territory of the Republic of Belarus for the purpose of work do not need to obtain a visa.

Visa-free entry is set to citizens of Brazil, Cuba, Israel, Macedonia, the Macao Special Administrative Region of the PRC, Mongolia, Montenegro, Qatar, Serbia, Turkey, Venezuela. But if the citizens of these countries plan to carry out labor, commercial or other income-generating activities in the Republic of Belarus, they are obliged to obtain a visa in advance.

According to the Presidential Decree, effective from July 27, 2018, foreign citizens of 74 countries can enter Belarus for up to 30 days and exit from the territory of Belarus through the State border checkpoint of the Republic of Belarus "Minsk National Airport". The list includes all European Union states, the US, Japan and other countries. These measures are intended to strengthen travelers of businesspeople, investors, tourists and individuals.

To work for the employer of the Republic of Belarus or in the Republic of Belarus a foreigner can receive the following types of visas.

# 7. TAXES

## 7.1 CORPORATE PROFIT TAX (CPT)

The standard rate is 18%. Reduced rates are 12% (for dividends); 5% (for members of the Science and Technology Association established by the Belarusian State University). For free economic zones the CPT rate is 50% of the standard tax rate (but not more than 12%), if certain specific requirements are met. Banks and insurance companies pay CPT at a rate of 25%.

# 7.2 WITHHOLDING TAX

## ON INCOME OF FOREIGN LEGAL ENTITIES NOT ENGAGED IN COMMERCIAL ACTIVITIES IN BELARUS THROUGH A PERMANENT ESTABLISHMENT (WHT)

Under Belarusian law, withholding tax is applied to the taxable income of foreign entities received in Belarus at the following rates:
5% for dividends, interest, royalties and licenses from HTP residents;
6% for cross-border transportation, forwarding and chartering fees;
10% for interest income retained from debt obligations;
12% for dividends and disposal of shares and stakes in companies;
15% for other types of income under the list stipulated by the Tax Code.

WHT rates may be reduced by Double Taxation Treaties (DTTs). WHT in Belarus is withheld by legal entities, individual entrepreneurs and individuals (for several types of income) accruing and (or) paying out a foreign entity's income (the "tax agent").

# 7.3 PERSONAL INCOME TAX (PIT)

The standard rate is 13%. A rate of 16% applies to income of individual entrepreneurs and applies to income drawn from commercial and public notary practice activities and advocacy.

A rate of 9% applies to income of individuals (except for employees who provide maintenance and security services with respect to buildings, premises, and land plots) drawn from residents of a High Technology Park under employment contracts as well as income earned by residents of the High Technology Park who are individual entrepreneurs. 4% rate is applicable to winnings from gambling.

# 7.4 SOCIAL SECURITY FUND CONTRIBUTIONS (SSFC)

SSFC are paid by employers, employees, and individuals who pay SSFC independently. Foreign citizens who work in Belarus pay SSFC on a voluntary basis. The employee rate is 1% of gross salary. For employers generally a rate of 34% on top of gross salary is applicable.

# 7.5 VALUE-ADDED TAX (VAT)

The standard VAT rate is 20 %. Reduced rates are:
0% e.g. for goods subject to export customs procedure;
10% e.g. for crop and farm production;
9.09% or 16.67% e.g. for goods sold at a regulated retail price;
25% for telecommunication services provided to subscribers.

Generally a single registration applies for all taxes, so no special VAT registration except for foreign companies paying digital VAT.

VAT recovery is delayed for 60 days for goods imported from non-Eurasian Economic Union countries and sold without change.

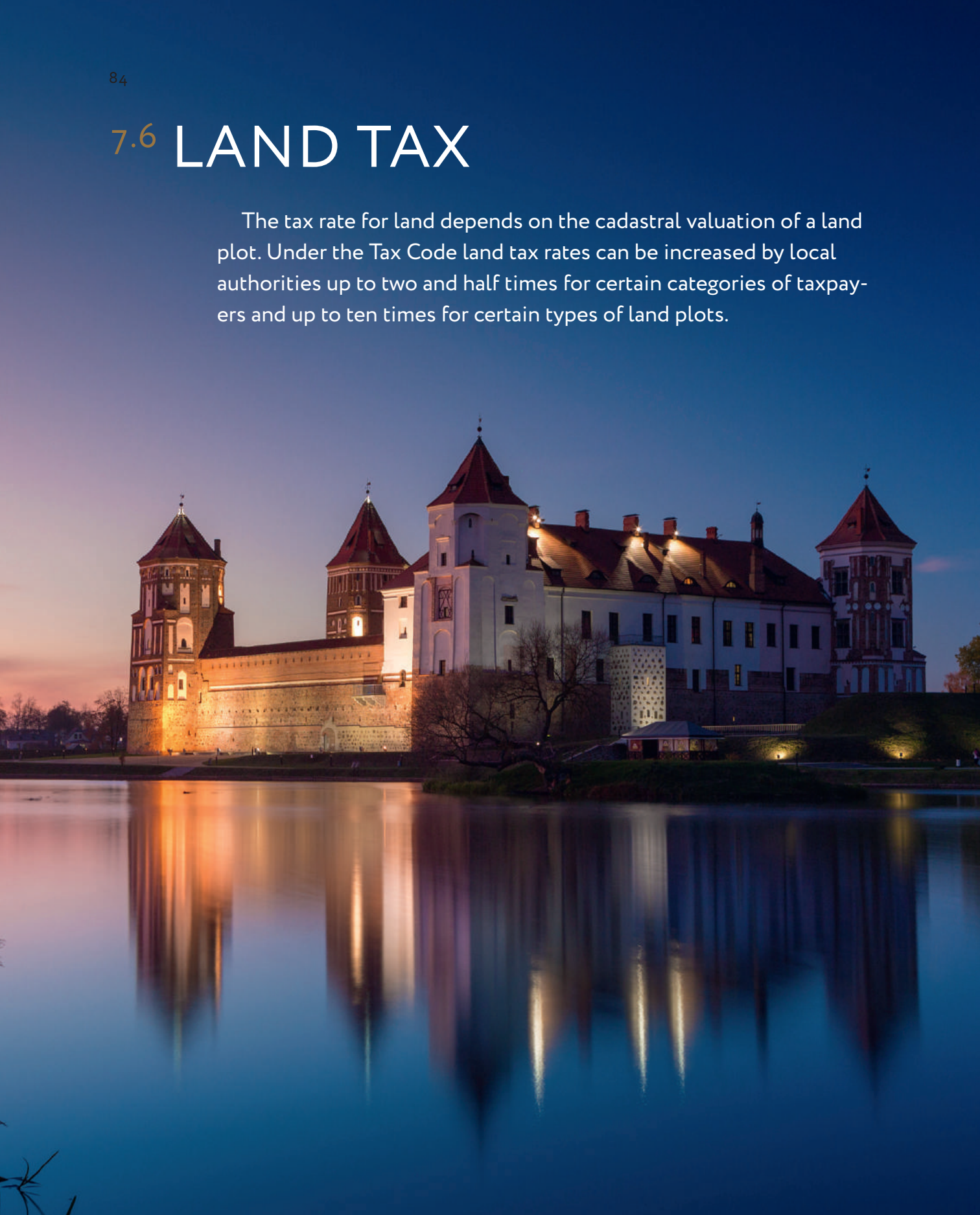
As a general rule, an electronic VAT invoice (EVI) is an obligatory document for all VAT payers. EVI is a basis for VAT calculations between sellers and buyers, as well as accepting for deduction the corresponding input VAT amounts. EVI is circulated via the EVI portal powered by the Ministry of Taxes and Duties. Please note that EVI is not regarded as a primary accounting document.

At the same time suppliers are not obliged to issue EVI, inter alia, in the following cases:

- goods, services (works), proprietary rights which are out of scope of VAT and their supply need not appear in tax returns;
- certain banking operations;
- insurance services;
- sales of VAT-exempt goods, services (works) or proprietary rights by foreign companies not registered with the Belarusian tax authorities;
- goods are imported to Belarus under commissioner (agency) agreements.

# 7.6 LAND TAX

The tax rate for land depends on the cadastral valuation of a land plot. Under the Tax Code land tax rates can be increased by local authorities up to two and half times for certain categories of taxpayers and up to ten times for certain types of land plots.



# 7.7 REAL ESTATE TAX (RET)

The standard RET rate is 1% for buildings and constructions and 2% for unfinished buildings and constructions. The tax rate for individuals and individual entrepreneurs is 0.1% and 0.2% a year.

Under the Tax Code RET rates can be increased by local authorities up to two and half times for certain categories of taxpayers and up to ten times for certain real estate objects.

# 7.8 OFFSHORE LEVY

Payments to tax havens by Belarusian entities and individual entrepreneurs are the base for calculation of the offshore duty. The rate of the offshore duty is 15%.

**THE FOLLOWING TRANSACTIONS ARE SUBJECT TO TAXATION:**

- transfer of funds by residents of Belarus to non-residents of Belarus registered in offshore zones, or to other persons under obligations to non-residents mentioned above, or to accounts opened in offshore zones;
- settlement of a non-cash obligation to a non-resident of Belarus registered in an offshore zone;
- transfer of property rights or obligations due to a change of parties' obligation when they comprise a resident of Belarus and a non-resident of Belarus registered in an offshore zone.

# 7.9 ECOLOGICAL TAX AND NATURAL RESOURCES TAX

Ecological tax is imposed on the volume of waste, emissions and waste-water discharges. Ecological tax rates vary and are stipulated by the Tax Code.

Natural resources tax is imposed on the volume of natural resources (e.g. water, oil, sand, clay, salt) used. Natural resources tax rates vary and are stipulated by the Tax Code.

# 7.10 TAXATION TREATIES

In 2016 Belarus has effective DTTs with 68 countries:

- Armenia
- Austria
- Azerbaijan
- Bahrain
- Bangladesh
- Belgium
- Bulgaria
- China
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Ecuador
- Egypt
- Estonia
- Finland
- France
- Georgia
- Germany
- Hungary
- India
- Iran
- Ireland
- Israel
- Italy
- Japan
- Kazakhstan
- North Korea
- South Korea
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lithuania
- Macedonia
- Malaysia
- Moldova
- Mongolia
- Netherlands
- Oman
- Pakistan
- Poland
- Qatar
- Romania
- Russian Federation
- Saudi Arabia
- Serbia
- Singapore
- Slovakia
- Slovenia
- South Africa
- Spain
- Sri Lanka
- Sweden
- Switzerland
- Syria
- Tajikistan
- Thailand
- Turkey
- Turkmenistan
- Venezuela
- Vietnam
- UAE
- Ukraine
- UK
- USA
- Uzbekistan

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# NATIONAL AGENCY OF INVESTMENT AND PRIVATIZATION

**The Agency is ready to assist foreign investors interested in doing business in Belarus in:**

- organisation of a fact-finding trip to Belarus, including visa;
- receipt of the information required about the country's investment opportunities, special regimes and benefits, state industry support program and development, the procedure of making investment decisions;
- selection of investment objects (investment projects, land plots, buildings) – consulting in selection of the optimal variant;
- collection and analysis of information about a certain investment object an investor is interested in, taking into consideration the regulations and norms about protection of undisclosed information;
- organisation of the meetings required to make an investment decision, including with market regulators, representatives of sector ministries, local authorities, key players of the market and potential partners;
- resolution of the issues arising during implementation of an investment project (solution provider);
- the Agency is also ready to render post-project support (aftercare).

Our services are free of charge for foreign investors.

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+375 17 200-81-75

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