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THE PSA INTERAGENCY COMMISSION IS RESTORED

The Law "On Amendments to the Law of Ukraine "On Production Sharing Agreements" Concerning the State Regulation of the Conclusion and Performance of the Agreements" (the "**PSA Commission Amendments Law**") was recently signed by the President and took effect on 21 July 2013.

The main purpose of the PSA Commission Amendments Law is to restore the PSA Interagency Commission (the "**PSA Commission**"), which was surprisingly abolished as of December 2012, replaced at various degrees with "the central body of executive power in the sphere of geological study and rational use of subsoil", which at present is the State Service for Geology and Subsoil of Ukraine ("**Derzhgeonadra**") and with the Ministry of Ecology and Natural Resources ("**Ministry of Ecology**"). The PSA Commission was stipulated from the start in the original 1999 Law "On Production Sharing Agreements" (the "**PSA Law**"), and was the only institution, which consolidated various representatives of the Government and coordinated the PSA issues. Abolishment of the PSA Commission created a vacuum since there was no other institution within the Cabinet of Ministers, apart from the Cabinet of Ministers itself, which would coordinate the PSA issues among various key Ministries, State Agencies, and bodies of Local Self-Government. It was highly unlikely that the Cabinet of Ministers itself would take over the role of the internal coordinator, so in practice the Derzhgeonadra, the Ministry of Ecology and the Ministry of Energy were coordinating PSA issues within the Government.

Olimpiysky Center
72, Velyka Vasylkivska Street
Suite 14, Kiev 03150
Ukraine
Phone: [380] (44) 207-1060
Fax: [380](44) 207-1064

4056 Mansion Dr., N.W.
Washington, D.C. 20007
USA
Phone: [1] (202) 338-1182
Fax: [1] (202) 338-4237

Restoration of the PSA Commission is a welcome development, which assures investors that there is indeed one institution within the Government formally responsible for all key PSA issues. In practice, however, it is expected that most of the PSA issues will remain in the domain of the newly emerged triumvirate, formed within past few months under homogenous leadership: the Derzhgeonadra, the Ministry of Ecology and the Ministry of Energy (in the past the Ministry of Ecology/Derzhgeonadra on the one hand, and the Ministry of Energy on the other hand, had not been known to coordinate their positions).

The PSA Commission Amendments Law gives the Cabinet of Ministers broad discretion on forming the PSA Commission, establishing procedures and rules for its functioning, and appointing the Working Body for the PSA Commission (the latter in practice will do all the administrative and some substantive work). There is also a possibility provided in the PSA Commission Amendments Law for the Cabinet of Ministers to allocate some responsibilities to the unnamed “central body of executive power”.

There are a few other significant amendments introduced by the PSA Commission Amendments Law to the PSA Law:

- A new provision is added to Article 5 (part two) explicitly allowing the parties to the PSA to allocate management and coordination of their PSA to the Management Committee or another body created by the parties.
- Amendments to Article 13 (part three) eliminated the possibility for the parties to give priority in their PSA to the English version of the PSA in case of conflict between the Ukrainian and the English versions. Now it is a mandatory rule of the PSA Law that the Ukrainian version of the PSA prevails in case of a conflict with the English version.
- Amendments to Article 28 prescribe regular inspections of the PSA implementation by the Cabinet of Ministers, which inspections must be carried out at least once in five years.

English translation of the PSA Commission Amendments Law is available at <http://www.rulg.com/psa.asp>

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