2001 Country Reports on Economic Policy and Trade Practices
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UKRAINE

Key Economic Indicators

(Billions of U.S. dollars unless otherwise indicated)

	1999	2000	2001	
Income, Production and Employment:				
Nominal GDP	31.57	31.79	24.79	1/
Real GDP Growth (pct) 2/	-0.4	5.8	10.8	1/
GDP by Sector:				
Agriculture	3.33	4.46	4.8	4/
Manufacturing	8.64	10.99	11.6	4/
Services	12.68	15.33	14.2	4/
Government	N/A	N/A	N/A	
Per Capita GDP (US$)	619	656.0	N/A	
Labor Force (millions)	22.7	23.13	N/A	
Unemployment Rate (pct) (Official Rate)	4.3	4.22	3.65	1/
Money and Prices (annual percentage growth):				
Money Supply Growth (M3)	41	45	19	1/
Consumer Price Inflation	19.2	25.8	3.3	1/
Exchange Rate (Hryvnia/US$ - annual average)	5.22	5.44	5.35	1/
Official	4.39	5.43	5.34	1/
Balance of Payments and Trade:				
Total Exports, FOB (State Statistics Committee)	16.2	19.52	9.71	4/
Exports to United States (US$ million) 3/	538	725.5	256.4	4/
Total Imports, CIF (State Statistics Committee)	15.2	18.12	7.98	4/
Imports from United States (US$ million) 3/	568	360.4	217.7	4/
Trade Balance	-0.48	1.4	1.74	4/
Balance with United States (US$ million) 3/	-30	365	38.7	4/
External Public Debt/GDP (pct)	39.4	32.6	26.3	5/
Fiscal Surplus (Deficit)/GDP (pct)	-1.5	-0.7	1.5	4/
Current Account Deficit/GDP (pct)	2.6	4.7	3.0	4/
Debt Service Payments/GDP (pct)	1.24	1.81	2.05	5/
Gold and Foreign Exchange Reserves	1.09	1.48	2.72	6/
Aid from United States (US$ million) 7/	195	185	169	
Aid from All Other Sources 8/	1.05b	N/A	525m	

1/ 2001 figure based on data available January through August. Source: International Center for Political Studies in Kiev and the Government of Ukraine.

2/ Percentage changes calculated in local currency, adjusted for inflation.

3/ Merchandise trade.

4/ 2001 figure based on data available January through June. Source: International Center for Political Studies in Kiev and the Government of Ukraine.

5/ 2001 figure based on data available January through July. Source: International Center for Political Studies in Kiev and the Government of Ukraine.

6/ 2001 figure based on data available January through September. Source: International Center for Political Studies in Kiev and the Government of Ukraine.

7/ Figures for 1999 and 2000 are actual FY expenditures. For 2001, assistance was focused on economic reform and privatization, small business development, energy and environment (including nuclear safety/Chornobyl), democracy and local government, legal reform, and health and social development.

8/ In September 1999, Ukraine fell out of compliance with IMF standards and disbursements under the EFF facility were suspended until December 2000. Ukraine went off track in January 2001 and completed the prior actions for the resumption of the Funds program in September 2001. In September 2001, the World Bank's Board of Directors confirmed that Ukraine had successfully completed conditions precedent to the first disbursement of the World Bank's Programmatic Adjustment Loan and voted to go forward with this new lending program. The next disbursement, currently scheduled for 2002, will require Board review to determine whether reform benchmarks were achieved. Until the resumption of the IMF's lending program, the World Bank had held off additional lending to Ukraine.

1. General Policy Framework

Since achieving independence in August 1991, Ukraine has followed a course of democratic development and slow economic reform. While significant progress has been achieved, particularly in the last few years, a tremendous amount of work still lies ahead. Ukraine ranks among the poorest countries in Europe. Basic prerequisites for sustained economic growth such as adherence to the rule of law and respect for market forces remain elusive. Until these basic weaknesses are addressed, Ukraine is unlikely to attract the volumes of foreign or domestic investment the country needs to raise living standards. The country's resources and economic strengths include rich agricultural land, significant coal and modest gas and oil reserves, a strong scientific establishment, and an educated, skilled workforce. After suffering a decade of annual economic declines, Ukraine's economy grew by six percent in 2000, triple the rate initially forecast for the year. While initial 2001 economic projections foresaw real growth of approximately 4 percent and inflation of 12.3 percent, actual results again greatly exceeded expectations. Real GDP growth for the first eight months of 2001 was estimated at approximately 10.5 percent. Inflation for the same period was only 3.3 percent.

The government has recently been successful in efforts to achieve macroeconomic stability, but Ukraine still has much progress to make in key structural areas such as pushing ahead with strategic privatization, widening the tax base, and improving contract enforcement. Past deficit financing of the budget was achieved through a combination of issuance of T-bills to domestic and foreign borrowers, borrowing from the National Bank of Ukraine (NBU), assistance from international financial institutions (IFIs), and accumulation of wage, pension, and energy arrears. Most of these practices have stopped; in particular, the government is

meeting its current wage and pension obligations and has paid off pension arrears. However, the value added tax (VAT) refund arrears have accumulated rapidly in 2001, reaching 4.5 billion hyrvnia in July. The Ministry of Finance has stopped offsets and barter transactions in executing the budget with virtually 100 percent of budget transactions are now in cash (as opposed to about 50 percent in 1999).

The Ukrainian government improved the quality of the 2001 budget and by limiting the deficit . The IMF voiced doubts about the government's ability to collect an expected 5.9 billion UAH from privatization in 2001. As a result, the government sequestered funds in the third and fourth quarters, when most privatization revenues were scheduled to flow in. Ukraine's better-than-expected fiscal position also was achieved by increased tax collection and higher than expected economic growth. A new Budget Code passed in March 2001 calls for further reform of the budget process and will be the guiding document for the formation of the 2002 budget. It is expected to further improve Ukraine's budget process. Ukraine was initially hit hard by the August 1998 Russian financial crisis, but has managed to weather the effects of this crisis relatively well since then.

For much of its history, Ukraine has relied upon various measure to support its national currency, the hryvnia, in the face of downward pressures brought about by internal forces such as high inflation and external shocks such as the 1998 financial panic, which resulted in a 23 percent depreciation of the real exchange rate. With the onset of economic growth in 2000, however, pressure on the hryvnia began to abate and the currency largely stabilized. Thus far in 2001, the hryvnia has appreciated against the U.S. dollar slightly to UAH 5.27 to the dollar. The strength of the hryvnia is mirrored in Ukraine's foreign reserve situation. As of September 2001, Ukraine's foreign reserves reached $2.72 billion, their highest level since independence. In response to the improved economic performance, lowered inflation and improved reserves, the National Bank of Ukraine has lowered its key discount rate four times thus far in 2001 and by September it stood at 15 percent.

Ukraine is an emerging market at the crossroads of Eastern Europe, Russia, Central Asia, and the Middle East, and holds great potential as a new market for U.S. trade and investment. Despite this promise, serious obstacles remain. Foreign direct investment (FDI) is $83 per capita and $4.064 billion overall. U.S. investment, at $689.3 million (through July 2001), is the largest single source of FDI in Ukraine. Private investment (including U.S. investment) is greatly hampered by rampant corruption, over-regulation, lack of transparency, high business taxes, an inability to enforce contracts, and inconsistent application of local law.

Ukraines's three-year, $2.6 billion IMF EFF program began in 1998 and stipulates that the government must take steps towards tax reform, a lower budget deficit, deregulation, and other measures to encourage private investment. From September 1999 to December 2000 and January through September 2001, the IMF halted programs due to slippages in project implementation. The EFF was restarted in September 2001 after Ukraine made substantial progress in meeting the IMF's macro-economic objectives and in ensuring greater budget/fiscal transparency, privatization, and overall economic reform. At the same time, the World Bank approved disbursement of the first tranche of its Programmatic Adjustment Loan (PAL) to Ukraine.

In August 2001, the U.S. Trade Representative revoked Ukraine's Generalized System of Preferences (GSP) privileges as a result of Ukraine's inability to protect intellectual property rights. At the same time, USTR published a list of products that could be targeted for sanctions should Ukraine not take serious steps to rapidly improve IPR protection. The goods targeted for sanctions include textiles, chemicals, and some steel products, all of which Ukraine exports to the United States in large quantities. While USTR has not announced the estimated cost of the potential sanctions, the Ukrainian government has estimated that Ukraine will lose $400 million in exports. The textile industry in Ukraine has estimated that the sanctions would force the industry to cut 40,000 jobs. USTR has given Ukraine until December 20, 2001 to make significant progress in IPR protection before a decision on sanctions will be made.

Despite some progress in deregulation, Ukraine still awaits a much-needed surge in new investment. Domestic and foreign investors remain discouraged by a confusing and burdensome array of tax, customs and certification requirements, corruption, and the absence of an effective system of commercial law. The situation in the private banking sector, rife with non-performing loans and lacking good lending opportunities, remains precarious. The parliament approved a new banking law in January 2001. By January 17, 2002, all commercial banks will need to be relicensed under the more stringent requirements of this law. The law introduces western-style capital adequacy requirements and structures to improve supervision of commercial banks. Since 1998, the number of banks in Ukraine has decreased to 155 from 186. Because of the new and more stringent licensing requirements, this number is predicted to shrink by an additional 15-25 instututions that will either have to merge, be bought out, or disappear entirely.

2. Exchange Rate Policy

Ukraine has taken several measures to maintain exchange rate stability. Although the National Bank of Ukraine (NBU) lifted most currency transaction restrictions in March-June 1999 (including lifting prohibition of advance payment on import contracts) and opened an interbank market for foreign exchange, enterprises are still obliged to sell 50 percent of their hard currency earnings. This requirement was slated for removal in the spring of 2000, but it is still in place. It is unclear whether the NBU will issue a resolution removing the requirement, which it continues to use as a measure to maintain exchange rate stability.

Foreign exchange related restrictions have produced hardships for U.S. firms doing business with Ukraine . U.S. exporters are reluctant to ship goods without prior payment, while U.S. businesses operating in Ukraine, many of which are highly dependent on imports, have had difficulties in getting inputs needed for their operations. Overall, Ukraine will need to introduce more flexible exchange rate policies, as this is key for underlying macroeconomic adjustment.

3. Structural Policies

Ukraine's burdensome and nontransparent tax structure remains a major hindrance to foreign investment as well as to domestic business development. Personal income and social

security taxes remain high. Tax filing and collection procedures do not correspond to practices in Western countries. Import duties and excise taxes are often changed with little advance notice, giving foreign investors little time to adjust to new requirements. A new tax code is currently being considered by the Rada. According to the proposed new code, a number of taxes and duties would be reduced and others, such as an innovation fund tax, some insurance fund taxes and some local taxes would be eliminated. The Value-Added Tax (VAT) eventually would be decreased by 3 percent, from 20 to 17 percent. A key issue will be to ensure that if the tax code substantively reduces taxes it must also increase the tax base by a commensurate amount to protect fiscal sustainability.

The regulatory environment is chaotic, and Ukraine's product certification system, though undergoing some positive changes, still remains an obstacle to trade, investment, and the development of domestic business. The regulatory environment is closely associated with corruption, which has worsened in recent years, according to Transparency International. They ranked Ukraine as the world's ninth most corrupt nation in 2001. Procedures for obtaining various licenses remain complex, unpredictable and subject to graft. This significantly raises the cost of doing business in Ukraine and encourages the maintenance of the shadow economy. In June 2000, the Rada passed a law on licensing which identified 70 types of business activity that require a license and established a procedure for licensing. The law is intended to coordinate and simplify previously conflicting rules on licensing. In addition, in May 2001 the Rada passed a law "On Recognition of Conformity," which greatly reduces the list of goods and services subject to compulsory certification. Compulsory certification is required for goods designated as potentially dangerous to humans or the environment.

4. Debt Management Policies

As of June 2001, Ukraine's foreign debt stood at $7.75 billion, or roughly 20 percent of GDP. This represented a decrease from the 2000 figure of $10.58 billion. External debt service as a percent of GDP was 4 percent in 2000 and is estimated to be 3.5 percent in 2001. The largest individual creditors are the IMF, World Bank, and other IFIs. In September 2000, general parameters for future state-debt policies (specifically 2001-2004) were issued to help curb the growing foreign debt. The parameters call for a more structured money borrowing policy, including the use of different lending sources from year to year. Ukraine has managed to restructure its private external debt in a comprehensive fashion and eased repayment crunches owing to the short-term nature of Ukraine's debts. As long as Ukraine stays on track with the IMF, it should use Paris Club restructuring to help smooth debt payments.

5. Significant Barriers to U.S. Exports

An array of taxes and duties remains a major obstacle to trade or investment. These taxes include VAT, import duties and excise taxes. Import duties differ and largely depend upon whether a similar item to that being imported is produced in Ukraine; if so, the rate may be higher. The maximum import duty in Ukraine is currently 20 percent, a reduction from 25 percent last year. Excise duty rates are charged in addition to import duties and range from 10

to 100 percent of the declared customs value. This can result in duties and fees amounting to over 100 percent of the declared value of the item. In July 2001, a new law "On Customs Tariff of Ukraine" entered into force. Under this law, the government cannot introduce or change import tariffs and duties without corresponding legislation from the Rada. Ukraine's tariff system now encompasses 97 product categories and lists over 10,000 products subject to import duties. A new law “On Introducing Changes in Certain Legal Acts Regarding Taxation of Excisable Goods” entered into force in January 2000. Under this law, the number of excisable goods has decreased. Goods still subject to excise taxes now fall into five main groups: alcohol, tobacco, oil products, automobiles, and jewelry. Previously there had been 20 categories of excisable goods. All imported goods are subject to VAT (currently 20 percent). Energy imports are technically also subject to VAT, but the rate has been set at zero.

Ukraine's domestic production standards and certification requirements are arduous but apply equally to domestically produced and imported products and can thus be seen as an impediment to business in general rather than just to U.S. exports. Product testing and certification generally relate to technical, safety and environmental standards, and efficacy requirements for pharmaceutical and veterinary products. Such testing often requires official inspection of the company's production facility at the company's expense. Unfortunately, testing is often done in sub-standard facilities and on a unit-by-unit basis rather than "sample" testing. In cases where Ukrainian standards are not established, country of origin standards may be accepted.

Import licenses are required for very few goods. Goods that need licenses include medicines, pesticides, and some industrial chemical products. The United States is urging Ukraine to enact licensing legislation for optical media production. These licensing requirements would help alleviate the severe CD piracy problem in Ukraine.

The significant progress made in the last few years on economic stabilization and the reduction in inflation have improved conditions for U.S. companies in Ukraine. However, foreign firms need to develop cautious and long-term strategies that take into full account the problematic commercial environment. The weak banking system, poor communications network, difficult tax and regulatory climate, prevalence of economic crime and corruption, non-transparent tender procedures, limited opportunities to participate in privatization, and lack of a well-functioning legal system, all serve to impede U.S. exports to and investment in Ukraine.

6. Export Subsidies Policies

Over the last several years, as part of its effort to balance the budget, the government has significantly reduced the amount of direct subsidies it provides to state-owned industries. Nonetheless, subsidies remain an important factor in Ukraine's economy, particularly in the coal and agriculture sectors. These subsidies, however, do not appear to be specifically designed to provide direct or indirect support for exports, but rather to maintain full employment and production during the transition to a market-based economy. The government does not target export subsidies specifically to support small business.

In October 2000, the Council of Ministers of the European Union gave Ukraine the status of a country with a market economy. In addition to moving Ukraine closer to WTO accession, the new status indicates that subsidies to exporters are fewer in the eyes of pro-market entities, such as the World Bank, and will allow Ukraine to better protect its interests. Furthermore, in-kind subsidies, in the form of reduced tax payment, have been significantly reduced.

As of 2001, there were eleven Special Economic Zones (SEZ) and nine priority investment territories (PIT) in operation, offering tax and import duty exemptions and other benefits to encourage investment and production of goods for export. The zones have been criticized for encouraging existing firms to relocate, rather than spurring new investments, and for being used to import finished consumer goods tax-free. There is a moratorium on creation of new SEZs until 2003. Nevertheless, such regions remain a significant factor in Ukraine's strategy for attracting investment, and no existing SEZs or PITS have been phased out. The IFIs, IMF and World Bank, have suggested that the zones be eliminated and have advised the government to focus instead on improving the overall investment climate in the entire country. The government has said that it will gauge the effectiveness of all SEZs and PITs to determine whether any should be eliminated.

7. Protection of U.S. Intellectual Property

Since gaining its independence, Ukraine has made progress in enacting legislation and adopting international conventions to protect intellectual property rights. Nonetheless, further changes in legislation and strengthened enforcement are necessary before Ukraine establishes a modern, internationally acceptable level of intellectual property protection as enshrined in the World Trade Organization's TRIPs agreement. Intellectual property rights violations range from petty trademark, geographic indication, and patent theft to industrial scale copyright infringements. In March 2001, the Office of the United States Trade Representative (USTR) designated Ukraine a Priority Foreign Country under U.S. trade law as a result of widespread piracy and export of optical media products. In August 2001, USTR published a list of Ukrainian exports to the United States, which could be subject to trade sanctions if Ukraine failed to take adequate steps to address the problem. At the same time, USTR revoked Ukraine's preferential duty-free treatment for certain exports to the United States under the Generalized System of Preferences (GSP). USTR will be forced to impose sanctions if Ukraine does not fulfill the requirements of the United States-Ukraine Joint Action Plan to Combat Optical Media Piracy, which was announced in June 2000. GSP privileges will be reinstated only after Ukraine passes legislation to combat optical media piracy and implements the provisions of the legislation.

As part of its commitments under the plan, Ukraine has taken measures to strengthen copyright protection while introducing criminal liability for copyright violations. In 2001, Ukraine passed *The Law on Copyrights and Neighboring Rights* and a Criminal Code, which introduces penalties for IPR violations. The Parliament has also passed a new Civil Code, which includes a book on intellectual property rights; the President has announced his intention to sign the Civil Code in the near future. The government has also committed itself to introducing a licensing regime for the manufacture of optical media products in order to adequately deal with

commercial scale CD piracy. The country's trademark laws are generally viewed as adequate. Enforcement, however, has been uneven, since police, prosecutors and judges have only recently started to increase the attention paid to intellectual property violations. Thus piracy of well-known consumer brand names is common business practice in Ukraine. Rules governing geographic indications are still believed to be inadequate to fulfill the WTO's TRIPs agreement.

Ukraine is a member of the Universal Copyright Convention, the Convention establishing the World Intellectual Property Organization (WIPO), the Paris Convention, the Madrid Agreement, the Patent Cooperation Treaty, the International Convention for the Protection of New Varieties of Plants, the Berne Convention, the Geneva Phonograms Convention, the Trademark Law Treaty, and the Budapest Treaty. Ukraine recently ratified the Rome Convention and the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. The country's political leadership has defined WTO ascension as an important policy goal of the country. A working group meeting was held in June 2000. The U.S. government has taken the strong position that Ukraine's IPR regime must be TRIPS-compliant at the time of accession, with no transition period.

8. Worker Rights

a. *The Right of Association:* The constitution provides for the right to join trade unions to defend "professional, social and economic interests." Under the constitution, all trade unions have equal status, and no government permission is required to establish a trade union. The 1992 Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. Despite these constitutional assurances, however, a new trade union law signed by the president in September 1999 introduced a requirement for unions to register with the Ministry of Justice. It also established categories of unions and limited the ability of newer unions to represent workers in nation-wide negotiations. This was brought before the Supreme Court of Ukraine, and in November 2000 the court struck down several restrictive provisions of the law.

In principle, all workers and civil servants (including members of the armed forces) are free to form unions. In practice, the government discourages certain categories of workers, for example, nuclear power plant employees, from doing so. The successor to the Soviet trade unions, known as the Federation of Trade Unions (FPU), often works independently of the government, but most FPU affiliates are closer to management. Independent unions provide an alternative to the official FPU unions in many sectors of the economy but are generally much smaller than FPU unions. The new 1999 trade union law, drafted with the help of the FPU, hampers the activities of independent unions. Although to date the consequences of the law have been mixed, it is potentially a dangerous hurdle for the development of free and truly independent worker representation. Specifically, Articles 11 (scope of union type) and 16 (registration) are criticized by independent unions and the International Labor Organization (ILO). In 1999, the ILO publicly stated that the law was not in compliance with its Convention 87 on the freedom of association, to which Ukraine is a party. In August 2000, the AFL-CIO

filed a petition with the United States Trade Representative to strip Ukraine of its GSP status, in part due to this law. In October 2000 the Supreme Court of Ukraine began consideration of a constitutional challenge to the law, and in November the court found several provisions of the law unconstitutional, prompting both a positive response from the ILO and the refusal by the USTR to consider the AFL-CIO's petition on Ukraine.

b. *The Right to Organize and Bargain Collectively:* The Law on Enterprises states that joint worker-management commissions should resolve issues concerning wages, working conditions, and the rights and duties of management at the enterprise level. The government, in agreement with trade unions, establishes wages in each industrial sector and invites all unions to participate in the negotiations. To participate in collective bargaining agreements, however, a union must obtain legal status through registration. In addition, to participate in nation-wide negotiations a union must meet requirements to be registered as a nation-wide union. Independent unions generally find the 1999 trade union law to be more restrictive than the old Soviet legislation because of difficulty in obtaining national status and registration. To acquire national status, a union must have representation in more than half of the regions of Ukraine, or at one third of the enterprises in a regionally based sector, or to have a majority of union members in the sector. Without a national level of registration the union cannot negotiate at the national level, in effect prejudicing the bargaining process against the independent unions and favoring the official unions. This aspect of the 1999 trade union law violates the ILO's Convention 87 on Freedom of Association and Collective Bargaining, to which Ukraine is a party. The law is further criticized by the ILO for its failure to amend an older collective bargaining provision whereby the largest unions (FPU) are permitted to represent all unions when a common bargaining strategy cannot be agreed upon. A new law, currently pending in parliament, would give proportional representation to all unions engaged in collective bargaining negotiations. In the meantime, the Ukrainian Supreme Court struck down the provisions of this law requiring that certain benchmarks be met for a union to be able to bargain collectively at different levels.

c. *Prohibition of Forced or Compulsory Labor:* The constitution prohibits compulsory labor, and it is not known to occur. Human rights groups, however, describe the common use of army conscripts and youths in alternative service for refurbishing and building private houses for army and government officials as compulsory labor. Student groups have protested against a Presidential Decree obliging college and university graduates whose studies have been paid for by the government to work in the public sector at government-designated jobs for three years or to repay fully the cost of their education. The extent to which the decree is enforced is unknown, but there have been no recent reports of complaints from university students.

d. *Minimum Age for Employment of Children:* The minimum employment age is 17 years. In certain non-hazardous industries, enterprises may negotiate with the government to hire employees between 14 and 17 years of age, with the consent of one parent. The government does not specifically prohibit forced and bonded labor of children, but the only reports of such practices involve girls trafficked for sexual exploitation.

e. *Acceptable Conditions of Work:* The Labor Code provides for a maximum 40-hour workweek, a 24-hour day of rest per week, and at least 24 days of paid vacation per year. The

law contains occupational safety and health standards, but these are frequently ignored in practice. Conditions are especially hazardous for miners. Mining accidents claimed the lives of 216 miners during the first half of the year. It is estimated that there are 5.2 deaths per million tons of coal extracted. In theory, workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment. Independent trade unionists have reported, however, that asserting this right would result in retaliation or perhaps dismissal by management. In addition to poor conditions, many workers go without pay for months due to the poor status of the economy and the inability of many older enterprises to earn income.

f. *Rights in Sectors with U.S. Investment:* Enterprises with U.S. investment frequently offer higher salaries and are more observant of regulations than their domestic counterparts. Otherwise, conditions do not differ significantly in sectors with U.S. investment from those in the economy in general.

Extent of U.S. Investment in Selected Industries -- U.S. Direct Investment Position Abroad on an Historical Cost Basis -- 2000

(Millions of U.S. Dollars)

Category	Amount	
Petroleum		0
Total Manufacturing		(D)
Food & Kindred Products	(D)	
Chemicals & Allied Products	0	
Primary & Fabricated Metals	0	
Industrial Machinery and Equipment	0	
Electric & Electronic Equipment	0	
Transportation Equipment	0	
Other Manufacturing	(D)	
Wholesale Trade		-46
Banking		0
Finance/Insurance/Real Estate		(D)
Services		0
Other Industries		54
TOTAL ALL INDUSTRIES		76

(D) Suppressed to avoid disclosing data of individual companies.
Source: U.S. Department of Commerce, Bureau of Economic Analysis.