

UKRAINE AND EUROPE

A short guide



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A trilogy of short guides: Understanding the EU's Association Agreements and Deep and Comprehensive Free Trade Areas (DCFTAs) with Georgia, Moldova and Ukraine

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This booklet is an abbreviated version of a larger study aimed at understanding the EU's Association Agreement and Deep and Comprehensive Free Trade Area (DCFTA) with Ukraine. The longer study, entitled *Deepening EU-Ukrainian Relations: What, why and how?*, was prepared by two teams of researchers (listed on the inside back cover of this booklet), from independent think tanks: the Centre for European Policy Studies (CEPS) in Brussels and the Institute for Economic Research and Policy Consulting (IER) in Kyiv.

Founded in Brussels in 1983, CEPS is a leading think tank on European affairs, with a strong in-house research capacity and an extensive network of partner institutes throughout the world. IER is a leading Ukrainian think tank focusing on economic research and policy advice in such spheres as international trade, fiscal, social and monetary policies, regional development, financial markets, energy and infrastructure.

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The authors are most grateful to the Swedish International Development Agency (Sida) for its kind support of this project.

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ISBN 978-94-6138-537-6

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SUMMARY



The Association Agreement between the European Union (EU) and Ukraine is a comprehensive treaty covering Ukraine's political and economic relationship with the EU. The trade-related content establishes a Deep and Comprehensive Free Trade Area (DCFTA), which is an important part of the overall Agreement.

The Agreement was negotiated during several years of the presidency of Viktor Yanukovich. It was initialled in March 2012, and was due to be signed at the EU's Vilnius summit in November 2013. But at the last minute President Yanukovich decided not to sign it, thereby triggering the Maidan uprising and ultimately Russia's aggression in annexing Crimea and the hybrid war in the eastern Donbas region. The signing of the Agreement therefore took place later in two stages, first for its political content in March 2014 by Prime Minister Arseniy Yatsenyuk, and then for its economic content in June 2014, by the newly elected President Petro Poroshenko. The Ukrainian Parliament, *Verkhovna Rada*, and the European Parliament ratified the Agreement in September 2014, and the EU member states followed in the course of 2015 and early 2016 (with one member state still to complete ratification).

The provisional application of the Agreement started in November 2014, except for the DCFTA, which entered into force 'provisionally' in January 2016, after a one-year delay at the request of Russia.

While much of the contents of the Association Agreement and DCFTA are highly technical, its signing in 2014 was an act of strategic and geopolitical significance in the history of Ukraine. It became emblematic of a vital struggle, to both replace the Yanukovich regime at home and to resist the attempt by Russia to deny Ukraine its 'European choice' as a democratic, independent state. The costs of this struggle have been tragically high in terms of territory, the economy and human life, but these losses must strengthen the country's resolve to succeed.

The political and economic objectives of the Agreement are fundamental for the future of Ukraine as an independent and secure European state, and can be simply defined.

The political purpose is to deepen the realisation of Ukraine's 'European choice'. This means making a reality of fundamental European values, namely democracy, the rule of law and respect for human rights and norms of the European security order. Membership of the European Union is not prefigured in the Agreement, but neither is it excluded in the longer run.

The economic purpose is to help modernise Ukraine's economy, by boosting trade with the EU and internationally and by reforming economic regulations in line with best European practice. Combined with an improving business climate, Ukraine has the potential to become a good location for foreign and domestic investment, producing exports for the EU and international markets.

Ukraine does not have to 're-invent the wheel' in many technically complex areas, where the choice of regulations and standards that differ from tested international practice would be costly and inefficient. Still, this normative alignment is far more than a technical matter, and it goes to the heart of the urgent task of establishing sound, corruption-free governance.

**PART I. POLITICAL PRINCIPLES,
RULE OF LAW AND FOREIGN POLICY**

1. POLITICAL PRINCIPLES



The Agreement is premised on a commitment to pursue and respect “...the common values on which the European Union is built – namely democracy, respect for human rights and fundamental freedoms, and the rule of law – [which] are essential elements of this Agreement.”

After the change of government that followed the Maidan protests, Ukraine resumed its pursuit of democratic reforms. The most resilient component of the democratic system in Ukraine has been the ballot box. Although many of the elections in the 1990s and 2000s were not considered to be completely free and fair, they were still able to ensure a sizeable representation of the political opposition in the Parliament. The scope of reforms since the Euromaidan has been limited, however, and their pace slow. The reforms focused primarily on the decentralisation and independence of the judiciary, and less on contentious issues such as electoral rules.

Ukraine’s human rights record is now relatively positive overall, while still needing improvements. In practice, the majority of those rights and freedoms are generally protected. Notable exceptions concern the right to a fair trial. The National Human Rights Strategy of Ukraine was approved by the president in August 2015, addressing 24 strategic areas that include the entire spectrum of human rights, in particular anti-discrimination and the protection of national minorities.

On the other hand, Crimea and the eastern Donbas, which are not controlled by the government, see a return to authoritarianism and systematic human rights violations. The Russian administration in Crimea initiated criminal proceedings against a number of Tatars on fabricated charges, and shut down media outlets. The rule of law is virtually absent in the eastern Donbas territories controlled by insurgents.

2. RULE OF LAW AND MOVEMENT OF PEOPLE



The rule of law is the weakest component of democratic governance in Ukraine. Success in improving the rule of law and anti-corruption policy is universally considered to be indispensable to the overall success of the Association Agreement and Ukraine's economic future.

Significant reforms were at last underway by mid-June 2016, notably for the judiciary and prosecutor's office. For example, according to the new legislation, judges will henceforth be selected on a competitive basis by the High Council of Justice. Regarding corruption, over the last 15 years Transparency International's Corruption Perception Index has consistently ranked Ukraine very unfavourably. The judiciary, police and public administration have largely been perceived as the most corrupt institutions in the country. The situation has not improved since the revolution of 2013-14, but the authorities have launched a series of reforms aimed at enhancing the rule of law and curbing corruption.

The objective for Ukraine to obtain visa-free access for its citizens to travel to the EU is of the highest political and practical importance, and the official criteria for granting visa-free access have been fulfilled. In December 2015, the European Commission formally recommended to the Council of the European Union that the EU apply the visa-free regime to Ukrainians with biometric passports for short trips to the EU. It is now up to the Council of the EU and the European Parliament to give their final backing for visa-free travel.

Border management has become a matter of increasing and indeed strategic significance for Ukraine, for which the EU has introduced specific programmes. The Agreement sets the stage for comprehensive dialogue and cooperation on legal and illegal migration, trafficking and smuggling of people, border management, asylum, return policies and the movement of people.

3. FOREIGN AND SECURITY POLICY



The Association Agreement aims to facilitate the gradual alignment of Ukraine's foreign, security and defence policies with those of the EU at bilateral, regional and multilateral levels. Cooperation between Ukraine and the EU in the foreign and security domains has been building up for over a decade.

Since 2014, however, Russia's annexation of Crimea and its hybrid war in the Donbas region have dramatically changed the focus for joint cooperation efforts in the foreign and security policy domains.

The 'Minsk' peace process was launched with the support of the EU. Active diplomatic efforts by the EU and its member states, combined with sanctions imposed on Russian individuals and entities, contributed significantly to the reduction of hostilities. This should in principle lead towards a peaceful resolution of the conflict, but progress remains elusive.

Ukraine supports the EU's sanctions imposed on Russian targets and considers them as a tool to curb aggression. It joined in certain EU decisions by imposing several sets of sanctions, which included travel bans and asset freezes on individuals and entities responsible for action against Ukraine's territorial integrity; an embargo on the import and export of certain goods from/to Russia, including arms and related materials; and the banning of flights of Russian airlines to the country. Ukraine also advocates tightening international sanctions against Russia.

Increased alignment with EU foreign and security policies will reframe Ukraine's relations with Russia and the rest of the world. Ukraine intends to advance proposals for joint EU-Ukraine positions based on a monitoring of the security situation in Eastern Europe.

PART II. DEEP AND COMPREHENSIVE FREE TRADE AREA

4. MARKET ACCESS FOR GOODS



Tariff liberalisation is the basic starting point for a free trade area. The DCFTA almost completely liberalises trade in goods between the EU and Ukraine, but with a significant asymmetry in that the EU has already liberalised totally and immediately for most products, whereas Ukraine will liberalise for many products over 3 to 7 years. This means exceptional opportunities for Ukrainian producers to boost their exports to the EU market before facing full competition on the home market.

Due to political pressure by Russia, the EU and Ukraine postponed the provisional application of the DCFTA to 1 January 2016. However, the EU liberalised access to its market in April 2014 by providing Ukraine with special ‘autonomous’ measures.

These measures have so far only had a limited impact on Ukraine’s exports to the EU due to the suspension of production in the occupied territories, logistical problems and downward price trends for world commodity markets.

The EU’s share in Ukrainian exports and imports has increased because of a sizeable fall in trade with Russia, however. The structure of exports to the EU has shifted towards machinery, fats and oils, prepared foods and animal products.

For many agricultural products tariff-free treatment is still to be limited by tariff rate quotas. These will not be the primary constraint on Ukrainian exports until EU food safety standards are met.

There are continued safeguards for Ukraine’s car industry, which are a major source of protection, which will help Ukrainian producers in the short run, but at the expense of their integration into competitive European supply chains, and with costs for consumers.

5. TRADE REMEDIES



The DCFTA includes rules on ‘trade defence’ measures that the EU and Ukraine can take against imports from the other party that cause or threaten to cause injury to the domestic industry, notably anti-dumping, anti-subsidy, and safeguard measures. These DCFTA provisions essentially incorporate the relevant rules of the World Trade Organization.

The key instrument is for anti-dumping measures. If a company exports a product at a price lower than the price it normally charges on its own home market, it is considered to be ‘dumping’ the product. This allows the government of the importing country to act where there is a ‘material’ injury to the competing domestic industry. The importing country may then impose an anti-dumping duty to correct damage to its industry.

Until 2005, several Ukrainian exports to the EU were subject to anti-dumping measures, mainly metallurgical and chemical products, in which Ukraine has large production capacities that until recently have benefited from artificially low energy input costs. More recently the energy costs for industry have been brought into line with international market prices. As a result, the number of EU anti-dumping cases against Ukraine has decreased. Currently, the EU is applying anti-dumping measures on certain Ukrainian steel pipes, tubes, ropes and cables.

6. CUSTOMS SERVICES



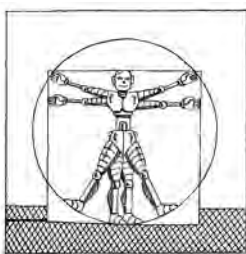
For the DCFTA to work well there have to be high quality customs services at the frontiers with efficient and speedy facilitation of traffic, avoiding delays and corruption with long queues of heavy trucks. Moving products across the border of Ukraine remains a cumbersome and costly process, compared with neighbouring countries. Frequently, vehicles are forced to queue at border crossings for hours, or even days for commercial trucks, waiting for customs clearance and other controls.

The EU and Ukraine adopted a strategic framework for customs cooperation in 2012. This initiative identified various priority areas, most of which are carried over into the DCFTA. One initiative relates to safe and fluid trade lanes to achieve maximum trade facilitation and enable reliable business, with customs acting as a link in the supply chain. For example, the EU and Ukraine intend to create fast lanes to move pre-approved eligible goods across the border quickly. Recognition of ‘authorised economic operators’ (AEOs) could be part of this process. In the EU, enterprises can apply for AEO status to benefit from reduced controls and simplified customs procedures.

Corruption scandals have recently stimulated the government to advance reforms to the customs service. In August 2016, ‘single customs windows’ are due to be launched, the duration of controls reduced and additional monitoring equipment introduced to ensure transparency and accountability.

Ukraine is progressing towards fulfilling its legislative commitments, with its Customs Code broadly aligned with EU legislation, although several amendments are still required. The main task for Ukraine is to ensure the efficient implementation of existing legislation.

7. TECHNICAL STANDARDS FOR INDUSTRIAL GOODS



Since import tariffs between the EU and Ukraine are set to disappear almost completely, non-tariff barriers such as technical standards will become the main obstacle to trade. In order to tackle these barriers, Ukraine will adopt the relevant EU legislation, standards and procedures. This will be a long and complex process, but one that is fundamental to modernising and making Ukraine's industry internationally competitive.

The European standards system has two tiers: first, EU harmonisation laws, which cover the general methodology and institutional framework, and around 30 directives covering broad sectoral product groups such as machinery; and second, around 5,000 product-specific 'harmonised standards' that provide the technical means to comply with the essential health and safety requirements.

Ukraine has adopted a strategy to eliminate technical barriers in trade with the EU by 2020. It is making good progress in adopting the first level of EU relevant directives, and in progressively adopting the huge number of European standards.

More precisely, as of 1 January 2016 there were 17,889 national standards in Ukraine, including 10,964 aligned with international and European standards. Compared to previous years, two major changes occurred. First, the total number of standards was reduced by 40% from 29,600 in 2014, mostly due to the abolition of 14,000 obsolete and conflicting GOST (former Soviet) standards. Second, the number of national standards harmonised with European and international ones increased by 24% compared to a year before, and their share doubled from 30% to 60% in total.

8. FOOD SAFETY REGULATIONS



Food safety standards, officially entitled ‘Sanitary and PhytoSanitary Measures (SPS)’ are required to facilitate trade in agricultural and food commodities and plants covered by SPS regulations, and safeguard human, animal and plant life or health.

Ukraine commits to do this comprehensively through alignment with a mass of 255 product-specific EU regulations. There is nothing unusual about this large number of regulations (Russia and the US have similar numbers); the big advantage of EU-based regulations is that it assures not only high health standards, but also access to European and international markets. This should contribute dramatically to the development of Ukraine’s agriculture and food industries.

Implementation of this ambitious programme will be spread over several years until 2021, and requires a modern infrastructure of laboratories for testing and checking products. In view of the substantial cost of these measures the Association Agreement allows Ukraine to exempt very small farms and various traditional products from comprehensive conformity. In addition, there are procedures for export-oriented agri-food enterprises to allow their individual supply chains to be certified for conformity with EU standards for specific products such as poultry, before the whole of the Ukrainian poultry sector becomes compliant with the new rules.

The EU supports some major technical assistance projects to help improve the food safety control system ‘from farm to fork’.

9. SERVICES



Development of a dynamic and competitive service sector is of huge importance for the modernisation of Ukraine's economy. In this regard the DCFTA provides for a comprehensive and extremely detailed liberalisation of establishment and trade in services, still subject to reservations - more by the EU than Ukraine.

The services in question are extremely diverse, including financial, business, distribution and retailing telecommunications and postal services, tourism, health, transport, recreation and sports. This means that the regulations governing international trade in services is also a highly complex matter.

The provisions of the agreement are organised under three headings: i) establishment, meaning the right to set up business in the other party; ii) cross-border supply of services, for example outsourced IT software and iii) the temporary presence in the other party of individuals, such as consultants for business purposes.

In general terms, the parties undertake to treat service providers of the other party no less favourably than their own, which is a rule applied at the level of the World Trade Organization. Yet there are many reservations limiting the application of this rule, which are detailed in annexes to the DCFTA.

For several services sectors, such as finance and telecommunications, the DCFTA envisages the full integration of Ukraine into the EU's internal market. However, this far-reaching provision is conditional upon Ukraine's adoption of relevant EU legislation.

10. PUBLIC PROCUREMENT



Public procurement is of great economic importance to both the EU and Ukraine; it accounts for around 18% of GDP in the EU and offers an enormous potential market for Ukrainian companies. The DCFTA provides for the gradual and reciprocal liberalisation of the parties' public procurement markets under the strict condition that Ukraine implements the EU's key public procurement rules.

Ukraine has to ensure that the public purchase of goods, works and services are transparent and fair, guarantee sound competition, tackle corruption and get the best value for taxpayers' money.

The DCFTA also defines basic standards regulating the award of contracts, which are derived directly from EU public procurement law and include the principles of non-discrimination, equal treatment, transparency and proportionality.

Ukraine has to designate a central executive body that will also be responsible for the implementation of the rules. It also has to establish a separate, impartial and independent body that will review decisions taken by contracting authorities or entities during the award of contracts.

Public procurement policy reform has been a government priority for several years and remains so, given the general government deficit and the need for fiscal consolidation and greater efficiency in public spending.

Overall, current government policies comply with the schedule of public procurement reform envisaged in the DCFTA. A new law on public procurement was approved in 2015 and the roadmap for reform was adopted by the Cabinet of Ministers in February 2016.

11. INTELLECTUAL PROPERTY RIGHTS



In our knowledge-based economies the protection of intellectual property rights (IPRs) is important, not only for promoting innovation and creativity, but also for developing employment and improving competitiveness. The DCFTA requires Ukraine to modernise its IPR system. These reforms will contribute to a stable legal environment in Ukraine for the protection of IPR, which is crucial for attracting foreign investment.

The IPR system covers several domains: copyrights, trademarks, designs and patents and 'geographic indications' (i.e. protection of traditional brands such as champagne, although Ukraine secured a long transition period of 10 years to phase out the use of some well-known European brand denominations, including champagne). Ukraine is a member of the main IPR-related international organisations.

Despite substantial legislation and infrastructure, IPR protection in Ukraine is quite poor, as shown in evaluations undertaken by the US and the EU. The major IPR problems in Ukraine are:

- unfair and non-transparent administration and collection of copyright fees,
- widespread use by government agencies of illegal software,
- failure to combat the widespread online infringement of copyrights and
- non-payment of royalties by state broadcasters.

Ukraine's IPR system has some gaps in relation to the best European and international practices, which will be addressed by forthcoming legislation. The major improvements will focus on strengthening the enforcement of industrial property rights; institutional and organisational changes for protecting geographic indications; mechanisms to increase the protection of rights and interests of copyright holders; and a unified procedure for collecting fees due under copyrights.

12. COMPETITION POLICY



An effective competition policy that controls monopolistic behaviour by companies and trade-distorting subsidies by the government is essential for the sound functioning of a modern economy. It assures a level playing field for economic operators, lower prices for consumers with better quality and wider choice, and reduces the scope for corruption.

EU competition law deems illegal: i) concerted practices by undertakings, which have the object or effect of impeding, restricting, distorting or agreements, ii) the abuse by an undertaking of a dominant position, or; iii) concentration between undertakings, which results in monopolisation or a substantial restriction of competition.

The provisions in the DCFTA for competition policy are substantial and strong in terms of legal commitments, requiring Ukraine to reform control of monopolistic behaviour and state subsidies in line with established EU practices.

Ukraine has already largely aligned its competition legislation with EU and international standards, and further legislative and institutional reforms are envisaged. The adoption of the Law on State Aid marks a significant achievement. While Ukraine's anti-monopoly legislation is relatively well developed, enforcement has remained very poor.

Effective implementation and enforcement of these and other envisaged competition laws will be the key challenge. This requires a competent and more independent Anti-Monopoly Committee.

13. STATISTICS



A modern and internationally comparable statistical system is indispensable for informed policy-making and for the work of the business sector and civil society. All the post-Soviet states have had to face the same challenges of radical reform to their statistical systems, notably to move from systems that essentially served the needs of the state to systems that serve the private sector and society as a whole.

More technically, there has to be a greater use of sampling methods rather than exhaustive data collection.

Ukraine has a relatively well-developed statistical agency. Programmes for harmonisation with European methodologies are extensive and broadly proceed as planned.

Current progress and plans for the implementation of EU standards cover an extensive range of statistical series, including business sentiment, structural statistics, a labour force survey, household survey, education statistics, gas and electricity prices, agricultural holdings, fisheries, livestock and meat statistics, and pesticide statistics. For these series implementation is at various stages of completion. Overall, Ukrstat is likely to be able to implement EU standards on statistics as scheduled, as no major increase in scale or complexity of data gathering is required. A shortage of resources holds back some important census and survey operations, however.

There remain several serious technical challenges:

- The website of Ukrstat is antiquated and navigation can be difficult for new users.
- Ukrstat.gov.ua is not searchable, either internally or through search engines (except through unofficial sources).
- There is no interface to download data series.

PART III. ECONOMIC COOPERATION

14. MACROECONOMICS AND FINANCIAL ASSISTANCE



In the first decade of the post-Soviet period, Ukraine suffered a more dramatic recession than many of the other transition economies. Despite progress in privatisation and price liberalisation, many structural reforms were postponed.

Economic recovery started in 2000, led by a global commodity price boom for metals. Real GDP grew by 6.9% on average between 2000 and 2008. But in 2009 these gains were partly reversed because of the global financial crisis. And then in 2014-15 Ukraine suffered a very severe recession and losses of infrastructure as a result of the war with Russia over the eastern Donbas, on top of the effects of the global recession. Recovery from the recession is beginning, but slowly.

The EU is supplying significant financial assistance to help economic recovery through multiple channels, including macroeconomic loans alongside the IMF, budget grants and investments from the EIB and EBRD. For the period 2014-20, the EU announced a package of possible financial measures totalling €11 billion, including grants from the EU budget and investments by the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD).

The EIB expects to increase its investments in Ukraine in the period until 2020 to €3 billion, up from the €2.4 billion invested between 2010 and 2014. New commitments made in 2015 amounted to €857 million, devoted to the energy, transport and environmental sectors.

The EBRD is also stepping up its activity in Ukraine, planning up to €5 billion of investments up to 2020. It will concentrate on energy efficiency and energy security, industry, quality infrastructure and the financial sector. Projects approved in 2015 include several in agri-business and municipal environment and infrastructure.

15. FINANCIAL MARKETS



The DCFTA envisages the comprehensive adoption by Ukraine of the European system for regulating banks, insurance and securities markets. After a series of major financial crises, the priority now is for the financial markets to be safe and efficient for consumers, and systemically sound for the economy.

The global financial crisis of 2008-09, with the collapse or near-collapse of major banks of systemic importance, has led to a radical strengthening of the capital reserve requirements of banking systems. In addition, Ukraine's financial system was hit by another major crisis in 2014-15 as a result of the conflict with Russia. Consequently, at the starting point of the Agreement, Ukraine's financial sector was in the midst of extreme tensions regarding the stability of the banking system and the servicing of external debt, following a major financial crisis.

Nevertheless, the government is proceeding with a comprehensive, long-term programme for regulatory modernisation, anchoring on EU legislation, which is a crucial part of the general economic modernisation process.

The DCFTA sets out precise conditions for Ukrainian banks and other financial institutions to be granted "full internal market treatment" by the EU, *meaning* no restrictions on the freedom to establish agencies, branches or subsidiaries in the EU (and vice versa for EU financial institutions), and similarly no restrictions on freedom to provide services. The conditions amount to full compliance by Ukraine with EU legislation.

16. TRANSPORT



Transport has been a key sector for the EU's internal market development. As a result, the EU has a well-established body of law and policies on transport. The Association Agreement aims to expand and strengthen Ukraine's cooperation with the EU in the field of transport to promote efficient, safe and secure systems with greater interoperability.

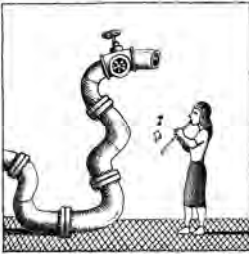
This will be fundamental to integrating Ukraine's industries into the European supply chain, and to boosting contact between people, especially when visa-free travel becomes possible.

The DCFTA sets out the EU's detailed standards and regulations for road, rail, inland waterways, sea and intermodal transport, which Ukraine will progressively adopt. These concern the qualifications of transport operators, the technical safety of vehicles and vessels, and the activities of inspection bodies.

Air transport is regulated in a separate EU-Ukraine Civil Aviation Area Agreement, which is pending full ratification and will in due course open the air transport market to low cost competition. Ukraine's aviation sector has developed very quickly in recent years. This is partly thanks to the visa-free regime for EU nationals to travel to Ukraine, visa facilitation for Ukrainian citizens to travel to Europe, and investments in infrastructure for the Euro 2012.

Ukraine occupies a pivotal place in the Pan-European Corridors for road and rail connections. The EBRD and EIB are supplying investment funding for improvements in these and other major transport infrastructures.

17. ENERGY



The reform and modernisation of Ukraine's energy sector is a challenge of the utmost priority, for both economic and geopolitical reasons. Ukraine is currently the most wasteful energy user in the industrialised world. If it approached average European energy efficiency standards it would no longer need to import gas. The provisions of the Association Agreement are highly relevant for the necessary policy reforms in the energy sector.

Ukraine's energy policy is now finally undergoing radical and long overdue reforms, centred upon the alignment of energy prices with import costs and the unbundling of gas distribution structures in line with IMF and EU requirements.

Unfortunately, the implementation of provisions of the Association Agreement through the linked Energy Community Treaty is behind schedule.

Gas supplies are now being diversified away from the former total dependence on Russian supplies, with the aid of reverse-flow pipelines linking to neighbouring EU states.

Energy-savings programmes, in line with EU standards, are vital to achieving independence of gas supplies. But there are still major obstacles to large-scale investment in energy saving in the household sector; collective action by housing associations is very difficult in the many apartment buildings, where people living on state welfare and pensions cannot afford the investments.

The major programme of building a sarcophagus to secure the destroyed nuclear reactor site in Chernobyl is proceeding, with major funding from the EU, the EBRD and other international donors.

18. ENVIRONMENT



The environmental provisions of the Association Agreement are very ambitious and commit Ukraine to cooperation over the whole landscape of environmental policy issues. Implementation will be a long and difficult process, given Ukraine's starting point, but it will ultimately mean a radical transformation of environmental quality and the modernisation of key heavy industries in the country.

The effective implementation of the ambitious environmental provisions of the Agreement would upgrade Ukraine to the top 30 countries in terms of global environmental performance indicators.

This huge improvement of environmental standards is only likely to be observed in the long run because just the legal transposition of EU directives will take several years, while their technical implementation will take up to 18 years in certain cases.

Some directives are straightforward acts of policy modernisation and will help establish effective environmental quality and resource management systems. Others are very challenging in terms of economic costs, for example for large combustion plants and industrial emissions.

The EIB and EBRD are among the major financial institutions capable of making substantial contributions to the funding of necessary investments, leveraging in other public and private sources. These investments in environmental quality will generate payback in terms of improved production efficiency and health benefits for both present and future generations.

If timetables for the implementation of specific EU laws prove to be too fast it is possible for them to be extended, if agreed by the two parties in the Association Council.

19. THE DIGITAL SECTOR



The ‘digital’ family of provisions of the Association Agreement cover electronic communications and postal services, the information society, and audio-visual policy.

Ukraine is already showing encouragingly positive trends in this broad sector of strategic importance for an internationally competitive economy. Ukraine’s IT industry employs 74,000–100,000 people, with the majority of specialists working in IT outsourcing.

Overall, 44% of Ukrainian citizens have access to the internet, 148 universities train IT specialists, and there is almost complete coverage of the territory of Ukraine by mobile networks. Every year Ukrainian universities graduate about 15,000 IT specialists. Ukraine is a popular destination for IT outsourcing due to a large number of skilled developers and moderate costs compared to the US or Western Europe. To develop the industry, Ukrainian IT companies are creating IT clusters in major Ukrainian cities (Lviv, Kharkiv, Lutsk, Dnipro and Odesa). These clusters aim to increase the quality of IT education in local universities, offering programming courses and conducting advocacy and popularisation campaigns.

The Agreement provides for comprehensive alignment on EU regulatory practices, mostly within four years. The approximation programme is progressing well.

The provisions on electronic communications fall under the special category of service sectors that are treated in the Agreement as having a specific roadmap for securing “full internal market treatment”, which means that when the alignment with EU legislation is complete Ukrainian enterprises in this sector will be treated exactly the same as EU enterprises in the EU.

20. CONSUMER PROTECTION



EU legislation is intended to ensure a high and consistent level of protection for the health and safety of consumers by means of strict common safety rules and standards for products and services circulating within the internal market. Many EU policies directly affect consumers. This is especially the case in areas such as telecommunications, digital, energy, transport, and food. This trend of mainstreaming consumer protection is reflected in the Association Agreement, which integrates the interests of consumers into its policies.

Although a system for the protection of consumer rights in Ukraine was first set up more than 25 years ago, further efforts are necessary to ensure that the system is effective, efficient and aligned with EU regulations. Ukraine's obligations in the area of consumer protection under the Agreement can be divided into several categories. First, general commitments related to information exchange and the improvement of information provided to consumers; second, obligations related to product safety; and third, institutional and administrative procedures for the protection of consumers and the enforcement of consumer rights.

For Ukraine, the key task is to find a proper balance between enhanced consumer rights protection, a reduction in the administrative burden on businesses, and the elimination of corruption incentives associated with state control functions. For instance, in 2016, a moratorium on state inspections of entrepreneurs with a turnover below UAH 20 million was introduced. This decision was welcomed by businesses, while being lambasted by representatives of consumer rights protection organisations, who claimed that it undermined consumer safety.

21. COMPANY LAW



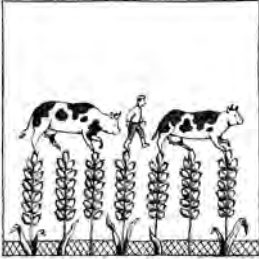
To further support Ukraine's transition to a fully functioning market economy and to create a stable environment for investment, the Association Agreement includes provisions on company law, corporate governance, accounting and auditing.

Ukrainian legislation complies with most if not all the EU's rules of company law, taking into account revisions of the law by the Parliament in 2014 and 2015. Ukraine has thus actually moved to adopt EU standards relatively quickly. This should improve its business climate and help create a transparent environment for companies, including an appropriate level of protection for company shareholders and creditors.

Ukraine is to harmonise its legislation with that of the EU for annual accounts of certain types of companies and consolidated accounts. Recent EU legislation simplifies and reduces the administrative burdens for firms. Ukraine will also need to adopt international accounting and financial reporting standards. These measures will facilitate greater cross-border comparability of accounts.

The EU and Ukraine agreed to cooperate on the further development of corporate governance policy in line with international standards. This includes recommendations for the appropriate remuneration of directors of listed companies, and on the role of non-executive or supervisory directors and the committees of the supervisory board. After the 2008-09 financial crisis new recommendations were developed to require a balance between fixed and variable remuneration. Termination payments ('golden parachutes') should also be subject to various limitations. Listed companies should publish statements on these aspects of their remuneration policy.

22. AGRICULTURE



Sometimes referred to as ‘the bread basket of Europe’, Ukraine’s expanses of rich black earth endow it with both a huge capacity and potential in the agricultural and food sectors. Necessary reforms to the farm sector were slow to get under way in the post-Soviet period, but are now progressing well.

The contribution of the Association Agreement is essentially through policy dialogue, supported by technical assistance and investment finance. The Agreement contains many references to EU agricultural legislation, but there is flexibility in the extent to which this should be applied, with no binding timetables.

In 2014-15, several important reforms were undertaken. They were guided by the Coalition Agreement drawn up in compliance with a memorandum of understanding with the IMF. Also, in 2015 the Ministry of Agrarian Policy and Food, with the support of Ukrainian and EU experts, developed a strategy and action plan for 2015-20 to guide agricultural reforms over the next five years.

Deregulation measures dominated the agricultural reforms of 2014-15, cancelling much unnecessary legislation with immediate effect and mostly without creating new regulations.

Nevertheless, some aspects of agricultural policy in 2015 were controversial. One of the most notable was the prolongation of the moratorium on land sales until 2017. As a result, farmers are still unable to use their land as collateral security for loan finance and therefore have restricted access to financing. According to the 2020 strategy documents, there should be a land market pilot project in 2016. Its implementation remains to be seen.

23. EMPLOYMENT AND SOCIAL POLICY



The Association Agreement sets out a comprehensive agenda for the gradual alignment of Ukrainian practice to EU legislation under three basic headings: labour law, anti-discrimination and gender equality, and health and safety at work.

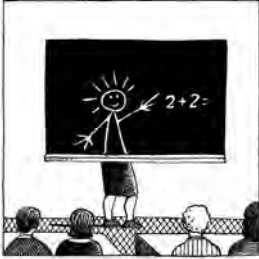
A major reform of Ukraine's Labour Code is long overdue, to modernise the Code inherited from the Soviet period.

The existing code has remained very rigid, providing *de jure* little flexibility on the labour market. It focuses on rights and guarantees for employees, while paying little attention to employers (dismissal of employees is very difficult).

There have been heated debates on the approval of new Labour Code for many years, but a law taking account of the new realities of the market economy and modern labour market requirements is before the parliament for adoption. The new draft law envisages more flexibility in labour relations and more rights provided to employers, and will be largely in line with EU legislation. The major differences with the current version of the Labour Code include:

- Written contracts are to become compulsory.
- Employers will be able to dismiss employees for well-defined reasons.
- The working week is to be limited to 40 hours, or 44 hours if agreed.
- There will be regulation of flexible work schedule and home work.
- There is a provision against gender discrimination.
- The list of reasons for fixed-term contracts is to be extended.
- The redundancy payment is to be increased.

24. EDUCATION, TRAINING AND CULTURE



The Association Agreement sets out basic aims for the education system, notably its reform, modernisation and convergence in the field of higher education with the Bologna Process, and the enhancement of the quality and relevance of higher education.

Several indices reveal that Ukraine's educational standards and human capital endowment performance is 'high', comparable to that of its immediate neighbours Poland, Hungary and Slovakia. This suggests a solid human capital basis for a major recovery in economic performance.

The EU's largest direct contribution is through the Erasmus+ programme for educational exchanges, training, youth and sport. In the field of higher education, Erasmus+ supports the following main actions:

- joint Masters degrees promoting the mobility of students and staff;
- capacity-building projects to modernise higher education institutions;
- support to policy dialogue in the Higher Education Reform Expert network;
- teaching and research in the field of European Union studies.

During the 2014-20 period, more than 4,000 young Ukrainians are expected to benefit from university exchanges, and 7,000 Ukrainians will have the opportunity to take part in youth exchanges under the European Voluntary Service programme.

Cultural cooperation between Ukraine and the EU is based on the promotion of exchanges and the mobility of arts and artists. Ukraine participates fully in the EU's Creative Europe programme for cultural and creative sectors.

25. SCIENCE, TECHNOLOGY AND SPACE



The Association Agreement sets out wide-ranging objectives for cooperation in the area of science and technology. This has already been followed up by a landmark operational agreement signed in March 2015 for Ukraine's full participation as 'associated country' in the Horizon 2020 programme.

Horizon 2020 is the centrepiece of the EU's scientific research activity, endowed with very substantial funds (€80 billion) for the period 2014-2020. The areas eligible for project funding cover both the natural and social sciences. Ukraine's associate membership of Horizon 2020 allows it to participate on the same basis as an EU member state.

In the EU's preceding research programme, Ukraine was ranked among the top-ten most performing third countries, having successfully participated in 274 projects in several priority areas (environment, climate change, transport, aeronautics, nanotechnologies, materials technologies, biotechnologies, food and agriculture and space). Its enhanced status now in Horizon 2020 should open the way for an even stronger performance.

The EU's most important body for space exploration is the European Space Agency (ESA), with which Ukraine has a cooperation agreement. The ESA focuses on cooperation in satellite systems, earth observation and global monitoring, and space science and applied space technologies. In July 2015, the Ukrainian State Space Agency and ESA started consultations on cooperation between Ukrainian rocket-and-space industry enterprises and European companies within ESA projects. Possible directions under consideration for bilateral cooperation include Earth Remote Sensing (ERS) and rocket carriers.

26. EU AGENCIES AND PROGRAMMES



The EU operates as many as 46 agencies, which are semi-autonomous and specialised bodies funded and controlled by the EU, with the objective of supporting the functioning of EU policies. There are also around 45 programmes, most of which are funded and administered by the European Commission. Of these around half are open to participation by Ukraine.

Such participation offers a useful means of in-depth integration of professional experts and administrative organisations with EU counterparts and aids reform processes.

The agencies of most interest to Ukraine include the following:

- European Aviation Safety Agency (EASA)
- European Maritime Safety Agency (EMSA)
- European Agency for Safety and Health at Work (EU-OSHA)
- European Defence Agency (EDA)
- European Union's Judicial Cooperation Unit (EUROJUST)
- European Police Office (EUROPOL)
- European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX)
- European Environment Agency (EEA)

Membership of an agency requires negotiation of a specific international agreement and a decision on the financial contribution of the partner. To ease the financial burdens on Ukraine temporary rebates can be negotiated.

Membership of the agencies and inclusion in programmes gives full access to their infrastructure and governing bodies.

27. CROSS-BORDER COOPERATION



Ukraine shares 1,152 km of land borders with EU members Poland, Slovakia, Hungary and Romania, and about 1,000 km of border with EU associate Moldova, which offers extensive opportunities for enhanced cooperation at the cross-border regional level. The Association Agreement calls for cross-border cooperation in general terms, and in specific sectors such as transport, energy, education, tourism and health, and the modernisation of cross-border emergency services.

Ukraine's border regions have common history, traditions, and strong personal and business ties to their EU counterparts. To maintain these ties Ukraine has signed agreements with them that establish special provisions for local cross-border relations.

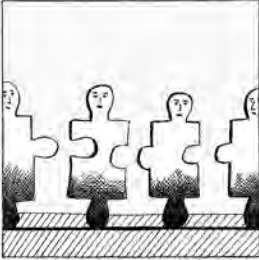
In December 2016 a new programme for Poland-Belarus-Ukraine for the years 2014-2020 was adopted with a budget of €183 million from the EU, aiming, inter alia, to promote local culture and preserve historical heritage.

The Hungary-Slovakia-Romania-Ukraine 2014-20 programme focuses on the promotion of local culture and the preservation of historical heritage, environmental protection, climate change adaptation and disaster management, with a budget of €81 million.

A programme for Romania-Ukraine 2014-20 will see joint investments in education, economic development, culture, infrastructure and health, with a budget of €60 million.

Ukraine is also part of the Black Sea Basin cross-border cooperation programme for 2014-20, which aims to improve environmental protection in the coastal regions.

28. CIVIL SOCIETY



Civil society in Ukraine has long been at the forefront of change, from the Orange Revolution (2004) to the Maidan uprising (2013-14). Ukrainian civil society has consistently shown a great sense of unity and determination in its quest for democracy.

The EU has itself long supported Ukrainian civil society, including financial assistance (€10 million in 2014). The NGOs have functioned both as a watchdog to provide input to the EU on the progress of reform in Ukraine, and as a pressure group vis-à-vis the government, thus acting as a driver of change. The Association Agreement establishes joint civil society platforms and advisory groups to address issues arising under the Agreement.

Ukrainian civil society experienced rapid growth after the Maidan uprising. An example of a civil initiative arising during the Maidan was the Reanimation Package of Reforms (RPR), which unites different NGOs with the aim of monitoring and stimulating reforms in the country. The most active are expert groups where the NGOs have expertise in areas such as anti-corruption, judicial and media reform.

To influence European policy-makers, in March 2014 Ukrainian think tanks organised the Ukrainian Think Tanks Liaison Office in Brussels. The Office helps think tanks to organise conferences and expert discussions on topical Ukrainian issues in Brussels and in EU member states, to present and promote its members' research and establish communication channels between members and EU institutions. Think tanks are important for promoting reform in Ukraine. They are more flexible than the state research centres, are more trusted by society, and they generate new ideas.

PART IV. LEGAL AND INSTITUTIONAL PROVISIONS

29. DISPUTE SETTLEMENT



The Association Agreement has well-developed legal mechanisms to handle disputes that may arise over the implementation of the Agreement. Since there will be so much political and economic business conducted between the two parties it is inevitable that issues will arise over the interpretation of specific provisions of the Agreement and its implementation.

There are two basic dispute settlement mechanisms: a 'general' one applicable to all parts of the Agreement except the DCFTA and a second one applicable to the DCFTA itself.

The general mechanism relies on the two parties finding a mutually agreed solution in the Association Council, failing which the aggrieved party may take 'appropriate measures'.

For DCFTA-related disputes there is a more elaborate system that provides two alternative tracks: either binding arbitration, or softer mediation for consensual solutions.

There is also provision for the special case of violation of the 'essential elements' of the Agreement (i.e. basic political principles), which can lead to suspension of the entire Agreement.

In practice these procedures are rarely used, as the EU for its part generally tries to find diplomatic solutions to problems that may arise.

30. INSTITUTIONAL PROVISIONS



The Association Agreement establishes a comprehensive institutional framework to oversee its monitoring and implementation process.

An annual EU-Ukraine summit, at presidential level, provides overall political guidance and an opportunity to discuss any bilateral or international issues of mutual interest.

Below the summit level the key institution is the Association Council, composed of members of the EU Council and Commission on the one hand, and members of the government of Ukraine at ministerial level on the other. The Association Council has broad powers to amend many details of the Agreement (in its annexes), but it cannot change the main body of the Agreement since, being a treaty, this would require the complex procedures of ratification.

The Association Council is assisted by an Association Committee at senior official level, with other specialised committees such as for trade matters, and sub-committees. These joint institutions are also responsible for the continuous updating of the Agreement, in particular in light of the relevant legislative developments in the EU itself.

The Agreement established a Parliamentary Association Committee, consisting of Members of the European Parliament and the *Verkhovna Rada*, as well as a Civil Society Platform.

The Handbook on which this booklet is based is entitled *Deepening EU-Ukrainian Relations: What, why and how?*, edited by Michael Emerson and Veronika Movchan. It is available for free downloading at www.3dcftas.eu/ in both English and Ukrainian and can be purchased in paperback, hardback or electronic form from the publisher, Rowman and Littlefield International at www.rowmaninternational.com/books/the-eu-ukraine-association-agreement-and-dcfta

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The new relationship between Ukraine and the European Union is the focus of this accessible, non-technical short guide. This relationship is based on a complex treaty: an Association Agreement with extensive political, economic and legal content, signed and entering into force provisionally in 2014 (in 2016 for a trade part). The Agreement includes a Deep and Comprehensive Free Trade Area (DCFTA).

This booklet is a summary of the Handbook entitled *Deepening Ukraine-EU Relations – What, why and how?*, which explains the contents of the treaty in much greater depth. The Handbook, like the present booklet, is freely available at www.3dcftas.eu in both English and Ukrainian. Both publications follow the same chapter structure, which allows readers who wish to dig deeper into the subject to readily find their way in the longer Handbook.

This short guide is produced as part of a project supported by the Swedish International Development Agency (Sida) and is one of a trilogy, with comparable companion texts also published on Georgia and Moldova.

