



FOURTH UKRAINE-EU ASSOCIATION COMMITTEE IN TRADE CONFIGURATION

BRUSSELS, 18-19 NOVEMBER 2019

Joint Report

1. The fourth meeting of the EU-Ukraine Association Committee in Trade Configuration (ACTC) was held on 18-19 November 2019 in Brussels. Ukraine was represented by the Ministry for Development of Economy, Trade and Agriculture of Ukraine (META) and the EU by the Directorate General for Trade of the European Commission.
2. The ACTC was constructive, informative and allowed for a good discussion on bilateral trade issues and provided a good overview on implementation of the Deep and Comprehensive Free Trade Area (DCFTA). The increase in bilateral trade over the last years shows that the DCFTA is delivering results and the preliminary figure for 2019 indicates that bilateral trade is set to increase by 13% compared to 2018.
3. The four Sub-committees on Sanitary and Phytosanitary (SPS) measures, Customs, Geographical Indications (GI) and Trade and Sustainable Development (TSD) had held their annual meetings and reported to the ACTC on progress in their sector and future work programme. The Customs, GI and TSD Sub-committees met for the third time in 2019 while the SPS Sub-committee held its fourth meeting on 18 November immediately prior to the ACTC.
4. Concerning technical barriers to trade, Ukraine provided an overview of progress and state of play on legislative and institutional reforms and on the prerequisites needed for an ACAA (Agreement on Conformity Assessment and Acceptance of Industrial Products). The Ukrainian side will ensure the implementation of the provisions of the horizontal and sectorial legislation, approximated to the European one. After the adoption of the amendments to market surveillance law, in line with EU acquis, the European side will carry out a preliminary assessment of the readiness of the Ukrainian quality infrastructure institutions to work according to the norms. Further discussion on technical barriers to trade will continue as part of the annual High Level Industrial Dialogue foreseen in 2020.

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5. As regards customs, Ukraine provided an extensive overview of legislative and implementation steps in this area. Ukraine has recently adopted important pieces of legislation, including on the Authorised Economic Operator (AEO) Programme; on integrated transit procedure and on IPR Customs enforcement. Ukraine was moving ahead with actions that could lead to its accession to the conventions on a common transit and simplification of formalities probably in 2020. Discussions on the mutual recognition of the AEO programme could start late 2020 or early 2021 once Ukraine's AEO programme would have been tested and functioning for some time. The recent adoption of the IPR customs enforcement law was positive but success would depend on proper implementation and enforcement. According to the Ukrainian side, the draft law on criminalisation of smuggling was underway and this should be an effective tool in fighting smuggling of goods. Ukrainian intention was to introduce criminalization of smuggling only for goods subject to excise duties and with applied caps. The EU reiterated the need to effectively address and persecute smuggling and create an environment that would discourage any illegal actions. Ukraine still needs to submit a proposal to amend Annex XV on aligning its customs code to that of the EU. Ukraine also informed about their efforts to increase transparency in customs valuation procedures.
 6. The 4th SPS Management Sub-Committee had held its meeting on 18 November. Ukraine informed that it would reply to the EU letter of October 2019 in relation to mechanically separated meat and reminded of its request on cereal seed equivalence. Both sides gave their agreement to the SPS Strategy for which monitoring and approximation will continue in 2020 with assistance and support from the EU.
 7. On public procurement, Ukraine informed about progress in aligning its public procurement legislation. The completion of Phase 1, which entails implementation of articles 150(2) and 151 and adoption of the reform strategy in Article 152, should be finalised in early 2020 and then formalised by a decision of the ACTC. Once the requirements for each of the 5 Phases have been fulfilled and formalised this will lead to more mutual market access in the area of public procurement in different stages. Legislative alignment is also moving forward in relation to the fulfilment of Phases 2 and 3. Phase 2 implies approximation and implementation of the basic elements of Directive 2014/24 and Directive 89/665 and Directive 2014/25 and Directive 92/13 for Phase 3. The law on concessions adopted in October 2019 is still to be assessed by the Commission.
 8. In the area of intellectual property rights (IPR), both sides had exchanges on intellectual property sector reform, implementation and enforcement as well as on the ongoing legislative process. EU noted that there were still concerns about the law on collective management organisations (CMOs) related to tariff setting, retransmission, accreditation of CMO's and non-payment of royalties. The EU welcomed recent adoption of the pieces of legislation on semiconductors, geographical indications and Customs IPR enforcement. The large number of intellectual property related draft laws submitted to the Rada complicates effective

analysis and the possibility of providing timely input in order to ensure that the legislation finally adopted respects and complies with Ukraine's DCFTA and international commitments. Therefore, both sides agreed to set-up a monitoring mechanism that will aim at ensuring better tracking of the legislation and real-time response from Ukraine to the input from the Commission. Ukraine debriefed about the envisaged institutional reforms, including a proper set up of the National IP office and progress with the launch of the Higher Court on IPR.

9. In the four services sectors (financial services, telecommunications, postal and courier and international maritime transport) Ukraine presented an overview of the approximation process and the efforts taken by Ukraine in this regard. There was also progress in relation to the updating of Annex XVII that contains a list of EU legislation for approximation in the four services sectors. This update should be finalised in 2020. Concerning telecommunications, Ukraine provided feedback to EU's assessment of the digital roadmap while the on-site assessment of Ukraine's regulatory framework will continue in 2020. The EU will continue the on-site assessment (phase II) of transposition and implementation of Ukrainian legislation and regulatory capacity/preparedness in the area of the digital economy. Ukraine briefly presented its self-assessment of the Ukrainian Trust Services - eID legislation (Law 2155-VIII), and related implementing decisions in view of the eIDAS EU regulation prepared by the Ministry of Digital Transformation. The EU took this into account and suggested to examine this self-assessment during 2020.
10. On competition, Ukraine made a presentation on progress with the approximation of its rules on antitrust, mergers and state aid. The EU acknowledged the progress but stated that there are still improvements required in the legal framework. Some of the remaining issues relate to the independence of the anti-monopoly committee, how it applies competition law to individual cases and the quality of decisions of the competition authority. Ukraine provided some background on two antitrust cases where the EU raised concerns in the past.
11. The 3rd Trade and Sustainable Development Sub-Committee and the civil society organisations met in Brussels on 6-7 November 2019 discussing labour rights, sustainable forestry and renewable energy. At the Sub-committee, on labour, amongst other actions, both parties agreed on the need to modernise Ukrainian labour legislation and in this regard the EU welcomed the decision by Ukraine to adopt a new Labour Code in early 2020 that would address legal gaps identified by the ILO and with regard to Association Agreement obligations. It was agreed to deepen and intensify discussions on forestry governance and both sides committed to discussing outstanding issues in depth in early 2020 so that issues identified can be addressed by the end of 2020.
12. The bilateral arbitration panel on the wood export ban should be set-up in early 2020 with the hearings to take place in Kyiv.

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- 13.** Concerning the ongoing safeguard investigations on fertilizers conducted by Ukraine, the EU reiterated that these investigations must strictly comply with the WTO criteria for imposing safeguard measures. The EU also expressed its concern about the draft law proposing a temporary export restriction on amber in order to combat illegal mining in Ukraine and mentioned that other policy options, compatible with the DCFTA, should be considered. Ukraine expressed its concerns regarding the safeguards and anti-dumping measures against Ukrainian steel products. The EU explained the current situation and outcome of the review in relation to the safeguard measures on steel. Ukraine briefly referred to the consultations conducted on 20 November 2019 in relation to the possible imposition of additional surcharges to the current export duties on copper waste scrap metal.
 - 14.** The EU reiterated its concerns on the legal provision according to which, to import samples of unregistered crop protection products (CPP) into Ukraine for the purposes of state trials and research, an importer must submit a confirmation of such product's state registration in the country of manufacture. Ukraine said that there is broad support to cancel the requirements and that the relevant law will be adopted by March 2020.
 - 15.** Both sides gave an overview of the ratification process regarding the poultry agreement in the form of an exchange of letters that was signed by both sides on 30 July 2019 in Kyiv. Ukrainian side explained that the President has now submitted the poultry agreement to the Rada for ratification, which it expects will take place in the next session of 2-6 December. Formal notification to the Council Secretariat will follow. The Commission informed that the European Parliament is expected to give its consent on 25-26 November and that the Council decision on conclusion could subsequently be adopted in early to mid-December.
 - 16.** Ukraine made a general presentation of its approach on the review of the DCFTA in view of the overall objective of the agreement and in light of the changes and evolution of bilateral and global trade patterns.
 - 17.** On the issue of the lack of value added tax (VAT) refund for some exporters of soybeans and rapeseed, Ukraine clarified that amendments to the law are planned to be adopted in December, which would reintroduce refunds for soybeans and rapeseed as of 2020.
 - 18.** Ukraine raised its concern about the number of road transport permits being issued and both sides agreed to continue discussions notably when the final number of road permits for the entire year is known and confirmed.

19. The EU provided an overview of ongoing and future technical assistance and support with the objective of assisting Ukraine with the implementation of the DCFTA.