



EU-Ukraine

Association Agreement

“Guide to the Association Agreement”

++++ Background:

Relations between the EU and Ukraine are currently based on the Partnership and Co-operation Agreement (PCA) which entered into force in 1998. At the Paris Summit in 2008 the leaders of the EU and Ukraine agreed that an **Association Agreement** should be the successor agreement to the Partnership and Co-operation Agreement.

The **EU-Ukraine Association Agreement (AA)** is the first of a new generation of Association Agreements with Eastern Partnership countries. Negotiations on this comprehensive, ambitious and innovative Agreement between the EU and Ukraine were launched in March 2007. In February 2008, following confirmation of Ukraine’s WTO membership, the EU and Ukraine launched negotiations on a **Deep and Comprehensive Free Trade Area (DCFTA)** as a core element of the Association Agreement.

At the 15th Ukraine-EU Summit of 19 December 2011, the EU leaders and President Yanukovich noted that a common understanding on the text of the Association Agreement was reached.

On 30 March 2012 the chief negotiators of the European Union and Ukraine initialled the text of the Association Agreement, which included provisions on the establishment of a DCFTA as an integral part. In this context, chief trade negotiators from both sides initialled the DCFTA part of the Agreement on 19 July 2012. Both EU and Ukraine expressed their common commitment to undertake further technical steps, required to prepare conclusion of the Association Agreement.

++++ Political association and economic integration:

The Association Agreement will constitute a new stage in the development of EU-Ukraine contractual relations, aiming at **political association and economic integration** and leaving open the way for further progressive developments. The AA provides for a shared commitment to a close and lasting relationship, based on common values, in particular full respect for democratic principles, rule of law, good governance, human rights and fundamental freedoms.

> **Wide range of sector cooperation:** This ambitious and pioneering Agreement is a concrete way to exploit the dynamics in EU-Ukraine relations, focusing on support to core reforms, on economic recovery and growth, governance and sector co-operation in more than 30 areas, such as energy, transport, environment protection, industrial and small and medium enterprise (SME) cooperation, social development and protection, equal rights, consumer protection, education, training and youth as well as cultural cooperation.

> **Trade and Trade related matters (DCFTA):** Closer economic integration through the DCFTA will be a powerful stimulant to the country’s economic growth. Approximation of Ukraine to EU legislation, norms and standards, will be the method. As a core element of the Association Agreement, the DCFTA will create business opportunities in both the EU and Ukraine and will promote real economic modernization and integration with the EU. Higher standards of products, better services to citizens, and above all Ukraine’s readiness to compete effectively in international markets should be the result of this process.

> **Mobility:** The importance of the introduction of a visa free travel regime for the citizens of Ukraine in due course,

provided that the conditions for well-managed and secure mobility are in place is recognised in the Agreement.

++++ Content of the Association Agreement

The EU-Ukraine Association Agreement counts in total over 1200 pages and comprises of

- > A **Preamble** as an introductory statement of the Agreement, setting out the Agreement's purpose and underlying philosophy;
- > **Seven Titles** which concern General Principles; Political Cooperation and Foreign and Security Policy; Justice Freedom and Security; Trade and Trade related matters (DCFTA); Economic and Sector Cooperation; Financial Cooperation with Anti-Fraud Provisions, as well as Institutional, General and Final Provisions;
- > **43 Annexes** setting out EU legislation to be taken over by a specific date and
- > Three **Protocols**.

The Association Agreement in a nut-shell:

- > The AA aims to **accelerate the deepening of political and economic relations** between Ukraine and the EU, as well as Ukraine's gradual integration in the EU Internal Market including by setting up a DCFTA.
- > The AA is a concrete way to exploit the dynamics in EU-Ukraine relations, focusing on support to core reforms, on economic recovery and growth, governance and sector co-operation.
- > The AA constitutes also a **reform agenda for Ukraine**, based around a comprehensive programme of Ukraine's approximation of its legislation to EU norms, around which all partners of Ukraine can align themselves and focus their assistance.
- > The AA negotiations were **not a stand-alone exercise: EU assistance to Ukraine** is linked with the reform agenda as it emerges from the result of negotiations. The Comprehensive Institutional Building Programme (CIB) is particularly important in this regard.

++++ Preamble

The **PREAMBLE** is a selection of the most important areas/facts pertinent to EU-Ukraine relations. It sets out the ambition for a close and lasting relationship. Although it has a non-binding introductory character, it presents important references to common values and could be perceived as a "scene-setter" for the Agreement.

The elements which are set out in the Preamble include among others:

- > A reference to **common values** on which the EU is built – namely democracy, respect for human rights and fundamental freedoms, and rule of law – and which are shared by Ukraine.
- > A reference that Ukraine is recognised as a **European country** which shares a common history and common values with the Member States of the EU.
- > A reference to the **European aspirations of Ukraine**. The EU welcomes **Ukraine's European choice**, including its commitment to build deep and sustainable democracy and a market economy.
- > An acknowledgement that the **political association and economic integration** of Ukraine with the EU will depend on progress in the implementation of the Association Agreement as well as Ukraine's track record in ensuring respect for common values, and progress in convergence with the EU in political, economic and legal areas.

++++ Title I: General Principles

Title I defines the general principles which will form the basis for the domestic and external policies of the Association between the EU and Ukraine namely:

- > **Respect for democratic principles, human rights, fundamental freedoms and the rule of law.**
- > **The promotion of respect for the principles of sovereignty and territorial integrity, inviolability of borders and independence, as well as countering the proliferation of weapons of mass destruction are set out.**

Moreover, the principles of a **free market economy, good governance, the fight against corruption, the fight against different forms of trans-national organised crime and terrorism, the promotion of sustainable development as well as effective multilateralism** are central to enhancing the relationship between the EU and Ukraine and will underpin their relationship.

++++ Title II: Political dialogue and reform, political association, cooperation and convergence in the field of foreign and security policy

In **Title II**, the Association Agreement foresees the intensification of the EU-Ukraine political dialogue and cooperation in view of gradual convergence in the area of Common Security and Foreign Policy (CSFP) as well as Common Security and Defense Policy (CSDP).

> **Title II covers issues such as the aims of political dialogue, dialogue and cooperation on domestic reform as well as foreign and security policy.**

> **The Agreement foresees several fora for the conduct of political dialogue: the EU-Ukraine Summit will present the highest level of political dialogue. At ministerial level the dialogue will be conducted within the Association Council. The political dialogue will aim inter alia:**

>> to **deepen political association** and increase political and security policy convergence and effectiveness;

>> to promote **international stability** and security based on effective multilateralism;

>> to strengthen cooperation and dialogue on **international security and crisis management**, notably in order to address global and regional challenges and key threats;

>> to foster result-oriented and practical cooperation for achieving **peace, security and stability on the European continent**;

>> to strengthen respect for **democratic principles, the rule of law and good governance, human rights and fundamental freedoms**, including the rights of persons belonging to national minorities, non-discrimination of persons belonging to minorities and respect for diversity, and to contribute to consolidating domestic political reforms.

> **Title II dedicates a specific article on the International Criminal Court and calls on the cooperation of the EU and Ukraine in promoting peace and international justice by ratifying and implementing the Rome Statute of the International Criminal Court and its related instruments.**

++++ Title III: Justice, Freedom and Security

Title III covers issues concerning the rule of law and respect for human rights; protection of personal data; cooperation on migration, asylum and border management; treatment of workers; mobility of workers; movement of persons; money laundering and terrorism financing; cooperation on the fight against illicit drugs; the fight against crime and corruption; cooperation in fighting terrorism and legal cooperation.

> **The EU and Ukraine commit through the Association Agreement to increase their dialogue and cooperation on migration, asylum and border management. The importance of the introduction of a visa free travel regime for the citizens of Ukraine in due course, provided that the conditions for well-managed and secure mobility are in place is recognised in the Agreement**

> **The commitment to combating organised crime and money laundering, to reducing the supply of and demand for illicit drugs and to stepping up cooperation in the fight against terrorism is also reflected in the Agreement.**

> **The wish to enhance people-to-people contacts is explicitly set out.**

++++ Title IV: Trade and Trade-Related Matters

The EU is Ukraine's main commercial partner and accounts for 31% of its external trade, ahead of Russia (2010). Closer economic integration through the DCFTA will be a powerful stimulant to the country's economic growth. As a core element of the Association Agreement, the DCFTA will create business opportunities in Ukraine and will promote real economic modernization and integration with the EU. Higher standards of products, better services to citizens, and above all Ukraine's readiness to compete effectively in international markets should be the result of this process.

> **Hence the DCFTA Title IV of the Association Agreement is dedicated to Trade and Trade Related Matters. Through a Deep and Comprehensive Free Trade Area economic integration is envisaged.**

> **The DCFTA, linked to the broader process of legislative approximation will contribute to further economic integration with the European Union's Internal Market. This includes the elimination of almost all tariffs and barriers in the area of trade in goods, the provision of services, and the flow of investments (especially in the energy sector). Once Ukraine has taken over the relevant EU acquis, the EU will grant market access for example in areas such as public procurement or industrial goods.**

> **The DCFTA will provide for a conducive new climate for economic relations between the EU and Ukraine. New**

trade and investment opportunities will be created and competition will be stimulated. All these elements are factors crucial to economic restructuring and modernisation. As regards the impact of a removal of customs duties entailed by the DCFTA, experience has shown that this short-term loss of import charges will be more than compensated for by the increased revenue received by the state from indirect taxes paid by companies seizing new market opportunities and by the general boost to the economy. The budget spending on legal and institutional reforms in trade-related areas is or will be supported by the EU along with funds from International Financial Institutions. The DCFTA once in force will provide tariff cuts which will allow the economic operators of both sides to save around 750 millions euros per year in average (most of the customs duties being lifted)

++++ Title V: Economic and sector cooperation

Title V comprises 28 chapters in the fields of energy cooperation; macro-economic cooperation; management of public finances; taxation; statistics; environment; transport; space; cooperation in science and technology; industrial and enterprise policy; mining and metals; financial services; company law, corporate governance, accounting and auditing; information society; audio-visual policy; tourism; agriculture and rural development; fisheries and maritime policy; Danube river; consumer protection; cooperation on employment, social policy and equal opportunities; public health; education, training and youth; culture, sport and physical activity; civil society, cross-border and regional cooperation; participation in European Agencies and Programmes, based on **gradual approximation with the EU acquis** and also – where relevant – with international norms and standards.

++++ Title VI: Financial cooperation, with anti-fraud provisions

The European Union and its Member States continue to be the largest donor to Ukraine: since 1991, assistance provided by the European Union alone has amounted to over €2.5 billion. The European Neighbourhood Policy Instrument (ENPI) allocates € 470 million to Ukraine for the years 2011-2013. This goes to support action in three priority areas: good governance and the rule of law; facilitating the entry into force of the Association Agreement, and sustainable development, including energy and environment. This amount includes funding under the Eastern Partnership for the **Comprehensive Institution Building programme** (€ 43.37 million). The latter is designed to improve the administrative capacity of partner countries and their compatibility with EU institutions, for instance through twinning programmes, professional training and secondment of personnel.

- > **Ukraine will benefit from EU Financial Assistance through existing funding mechanisms and instruments in order to achieve the objectives of the Association Agreement.**
- > **The future priority areas of the EU Financial Assistance to Ukraine will be laid down in relevant indicative programmes reflecting agreed policy priorities between the EU and Ukraine. The indicative amounts of assistance will take into account Ukraine's needs, sector capacities and progress with reforms.**
- > **EU assistance will be implemented in close cooperation and coordination with other donor countries, donor organisations and International Financial Institutions (IFI), and in line with international principles of aid effectiveness. Through the Neighbourhood Investment Facility (NIF), to which Ukraine is eligible IFI investments could be leveraged. The NIF aims at mobilising additional funding to cover the investment needs of Ukraine for infrastructures in sectors such as transport, energy, the environment and social issues (e.g. construction of schools or hospitals).**
- > **The Agreement lays down that the EU and Ukraine will take effective measures to prevent and fight fraud, corruption and any other illegal activities.**

++++ Title VII: Institutional, general and final provisions

The Association Agreement foresees a tailor-made institutional set up for EU-Ukraine relations.

- > **At the top level, the EU-Ukraine Summit will be established:** The Summit will present the highest level of political dialogue and will be a platform for meetings between Presidents.
- > **At ministerial level, the dialogue will be conducted within the Association Council which could meet in any configuration. The Association Council will have the power to take binding decisions.**
- > **The Association Council will be assisted in the performance of its duties by an Association Committee. The Association Committee will create Subcommittees to implement sector cooperation. Meeting in a special format, the Association Committee will address the specific DCFTA issues.**
- > **The Association Agreement also foresees a parliamentary dimension, notably by establishing a Parliamentary Association Committee. It will be a forum for Members of the European Parliament and the**

Parliament of Ukraine to meet and exchange views.

> Another important element of the Association Agreement is the promotion of regular civil society meetings. Hence, a dedicated **Civil Society Platform** will be established. The Platform will be able to make recommendations to the Association Council.

In order to ensure the correct implementation of the Association Agreement, the Agreement texts sets out some general and final provisions. A selection of these provisions is set out below:

> One key provision underpinning the Association Agreement sets out the concept of **gradual approximation** of Ukraine's legislation to EU norms and standards. Specific timelines are set within which Ukraine should approximate its legislations to the relevant EU legislation. These timelines vary between 2 and 10 years after the entry into force of the Agreement.

> Another guiding provision sets out the concept of **dynamic approximation**. There was a need to set out this concept as the EU law and legislation is not static but under constant evolution. Thus the approximation process will be dynamic and should keep pace with the principal EU reforms, but in a proportionate way, taking account of Ukraine's capacity to carry out the approximation.

> In order to examine whether the commitments as set out in the Association Agreement are met, dedicated provisions related to **monitoring** were included in the Agreement. Monitoring means here to supervise the application and implementation of the Association Agreement, its objectives and commitments. It is a continuous appraisal of progress in implementing and enforcing measures and commitments covered by the Association Agreement. This monitoring process will be of a particular importance for the DCFTA as its positive result will be the prerequisite of any further market opening for the Ukrainian economic operators

> Monitoring will include the **assessments** of approximation of Ukraine's legislation to the EU acts (and where applicable international instruments) as defined in the Association Agreement.

> The Association Agreement also sets out a **Dispute Settlement Mechanism**. This mechanism would come into effect if obligations under the Association Agreement are not fulfilled by one of the Agreement Parties. For the DCFTA part, another binding trade specific Dispute Settlement Mechanism is set out in form of a dedicated protocol. This trade specific mechanism is inspired by traditional WTO dispute settlement mechanism.

> The **duration** of the EU-Ukraine Association Agreement is unlimited. At the same time the Parties will undertake a comprehensive review of the achievement of objectives under the Agreement within five years.

It should be noted that the text of the AA will be drawn up in 22 EU Member States languages as well as in Ukrainian.