



EU-Ukraine relations: a snapshot

Commentary

Dmytro Shulga

In 2017, the EU fully ratified the Association Agreement (AA) with Ukraine, including the Deep and Comprehensive Free Trade Area (DCFTA), and introduced a visa-free travel regime for Ukrainian citizens. However, Ukraine has not (yet) been offered an EU membership perspective because of the lack of consensus among the EU member states.

In an attempt to deepen Ukraine’s integration with the EU beyond the AA, in 2017, President Petro Poroshenko suggested “five unions” (association with the Schengen Area, the Customs Union, the Energy Union, the European Common

Aviation Space and the Digital Single Market), providing a vision for a full-scale *de facto* sectoral integration to the European Single Market. In 2018, however, the Ukrainian government decided to reconsider its approach and demand sectoral integration not beyond but within the AA framework. Indeed, the AA/DCFTA with Ukraine foresees not only tariff liberalisation (a “simple” FTA), but also various provisions on sectoral integration; that is, abolishing barriers to Ukrainian businesses operating in the EU market (and vice versa), on the condition that Ukraine does its “homework” by aligning with EU norms and standards.

The AA contains these kinds of provisions in 15 sectors/areas:

Technical barriers to trade in industrial goods	Conclusion of the Agreement on Conformity Assessment and Acceptance of Industrial Goods (ACAA)
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Sanitary and phytosanitary measures for agro-food goods	EU decisions on recognition of equivalence in different sectors of agro-food products
Customs procedures for all goods	Joining the common transit system (NCTS), mutual recognition of authorised economic operators (AEO)
Public procurement	Gradual (in five stages), mutual access to the market
Financial services	Granting internal market treatment
Telecommunication services	
Postal and courier services	
International maritime transport	
Aviation transport services	Common Aviation Area agreement (CAA)
Road transport services	Possibility of concluding an additional special agreement on mutual liberalisation
Railway transport services	
Inland water transport services	
Natural gas market	(not explicit) Interconnection agreements between transmission system operators of Ukraine and EU MS
Electricity market	(not explicit) Synchronisation of Ukraine's electricity grid with the EU (ENTSO-E)
Education/labour market	(not explicit) Mutual recognition of qualifications and skills

According to the timeframes in the AA, Ukraine is supposed to have done its homework in all these sectors by the end of 2023. In fact, Ukraine has progressed with its homework but is still behind schedule. There is also a problem with the EU's readiness to proceed with monitoring and assessment, and making subsequent decisions on the recognition of equivalence, internal market treatment, and so on. As of late 2021, progress on EU decisions on sectoral integration within the AA has been limited to recognising the equivalence of seed certification, interconnection agreements between gas transmission systems operators, and signing the Common Aviation Area agreement. There has been significant mutual opening of the public procurement

market, but within the WTO framework, rather than based on the AA.

In early 2021, the EU and Ukraine agreed to conduct a "comprehensive review of the achievement of the AA's objectives", start consultations on the further review of trade liberalisation for goods as part of the DCFTA, and continuously update the relevant Annexes to the AA. This process of reviewing or updating the AA actually concerns the Annexes; the main body of the AA will most probably remain intact, so that EU MS do not have to ratify it. The Ukrainian government expects this process to 1) further liberalise trade (i.e. increase the tariff quotas established for agro-food goods) and to 2) reinforce the EU's commitment

to support and make reciprocal decisions on sectoral integration when Ukraine completes its homework in the above-mentioned areas.

Ukraine and the EU are holding consultations on Ukraine joining the European Green Deal. Ukraine's second National Determined Contribution (NDC) as part of the Paris Agreement was to reduce emissions by 65% by 2030 compared to 1990 and to become climate neutral by 2060. State-owned power stations are due to phase out coal by 2035 and private ones by 2040. The most problematic issues in dialogue with the EU seem to be financial support (the Ukrainian government estimates that investments needed for the green transition will amount to EUR 104 billion by 2030) and CBAM (which obviously affects market access, as provided for by the DCFTA).

Of all the sectors, energy is the most important, as it also concerns security. Ukraine has implemented the EU's third energy package in the gas sector, but the future of the gas transit route is being questioned and its energy security is being threatened by Nord Stream 2. Moreover, remaining synchronised with the post-Soviet electricity grid makes Ukraine vulnerable, so it needs to proceed with synchronisation with the EU grid (ENTSO-E).

By launching the Eastern Partnership (EaP) in 2008–2009, the EU extended what it had already offered and negotiated with Ukraine – political association and economic integration in the form of the AA/DCFTA – to other five countries. The EaP therefore added little value to Ukraine-EU bilateral relations. As time has shown, the multilateral “EU+6” format has offered little value added either, as only two of the other countries (Moldova and Georgia) share Ukraine's goals when it comes to relations with the EU and have a similar agenda for implementing their AAs.

At the EaP Summit in Brussels in late 2017, participants agreed to introduce an “enhanced dialogue on AA/DCFTA implementation” between the EU and its associated partners. However, this never

happened, though two informal DCFTA ministerial meetings (between three ministers of trade and the economy and the EU Commissioner for trade) took place in 2018–2019. Since late 2019, three ministers of foreign affairs have sent several joint letters to the EU High Representative for Foreign and Security Policy calling for increased sectoral integration and dialogue in an additional “EU+3” format, without jeopardising the existing “EU+6”. In May 2021, three ministries for foreign affairs signed a memorandum of understanding on establishing enhanced cooperation on European integration – the “Association Trio”.

Yet the EC/EEAS Joint staff working document on the EaP's post-2020 priorities, which was published in July 2021, remained silent on the Trio¹. It provided virtually no differentiation when formulating expected policy targets and allocating EU investment funds among the partner countries, except for recognising that Belarus recently suspended its participation in the EaP. It is expected that, at the upcoming EaP Summit in December 2021, the EU will not recognise the Trio. Maintaining the “inclusive” EaP framework and architecture will send a discouraging signal to the more advanced and ambitious partners.

Ukraine's effective dialogue with Brussels requires cooperation with EU MS. Poland's role here is uniquely, strategically important on many levels:

- Bilateral cooperation within the AA framework (as the AA is not between Ukraine and the EU/EC only, but also with the EU MS), in particular, to increase connectivity: relevant inter-agency, etc. bilateral agreements on customs cooperation, border facilitation, infrastructure interconnections, etc.;
- Political support within the EU institutions for Ukraine's integration with the Single Market: liberalisation of tariff quotas for

¹ *Joint Staff Working Document. Recovery, resilience and reform: post 2020 Eastern Partnership priorities*, European Commission 2021, https://eeas.europa.eu/sites/default/files/swd_2021_186_f1_joint_staff_working_paper_en_v2_p1_1356457_0.pdf.

agro-food products, supporting sectoral integration by sending EU monitoring and assessment missions, and rapid adoption of EU decisions after Ukraine has done its homework;

- Joint efforts against Nord Stream 2 and to increase regional energy security;
- Support for the recognition of the Trio (Ukraine, Moldova, Georgia) within the EaP,

identification of ambitious new EaP “deliverables”, and allocation of significant EU financial resources to support their achievement;

- Joint efforts with other EU MS (including as part of the Weimar Triangle) to advocate an EU membership perspective for Ukraine.

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Edited by Annabelle Chapman
Warsaw, November 2021
ISBN 978-83-66544-16-1