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### **A4U DCFTA Studies and Business Consultations №25**

### **Fourth Mission Report Inputs for Industrial Dialogue under DCFTA based on Analysis and Business Consultations**

Prepared by Stefan F. Moser, STE of the A4U EU Project. It reflects views of the STE only and not the official position of the Project, let alone the EUD.

(Key Expert: J. Zakonyi)



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## 1. The context

Under Component 3 of the project, this assignment has focused on developing inputs for the Government of Ukraine for “Industrial Dialogue under the DCFTA”. The main concept for this assignment is to contribute to informed policy making in the government through: better understanding of the wider issues and implications of DCFTA implementation and; consideration of the opinions and effects on wider stakeholders including Parliament as legislators, line ministries and executive agencies as implementers, business as those who have opportunities, as well as facing cost of compliance and, civil society as beneficiaries of greater integration with the EU.

To understand better the constraints faced by Ukrainian producers and reasons for their under- or weak performance in the EU market despite the DCFTA, business consultation took place with industry associations as well as representative businesses between February and April 2018. The A4U project carried out five business consultation rounds (workshops) in Zaporizhia (26 Feb 2018), Dnipro (28 Feb 2018), Kharkiv (1 Mar 2018), Sumy (2 Mar 2018), L'viv (19 Apr 2018) as well as one in Kiev at the Ukrainian Chamber of Commerce and Industry (UCCI; 6 Mar 2018). Further contacts were held with Government institutions (EPO, MEDT) and private business operators and associations in Kiev.

## 2. Assignment

The terms of reference about “**A3.2.4 DCFTA analyses and policy papers & A3.3.7 Developing Inputs for Industrial Dialogue under DCFTA based on Analysis and Business Consultations**” demand the following activities to be carried out:

- Support the Verkhovna Rada Committee on Industrial Policy and Entrepreneurship to identify key stakeholders in each of the eight sectors and develop a consultation plan based on priorities (essentially rank the sectors for investigation);
- Organise, under the auspices of the Committee, at least **5 round table discussions** with stakeholders and assist in the preparation of briefing paper detailing issues;
- Where appropriate **assist industry bodies** such as trade associations or chambers of commerce to research, compile and articulate problems and needs of the sector;
- Based on the **briefing paper**, research and investigate the highlighted issues both to **validate and gather supporting evidence** (could include inputs from industry, surveys, statistical analysis and other research as appropriate);

- **Following submission to the Government of Ukraine from the Committee**, of analytical papers on the constraints to trade under the DCFTA for each industrial sector, **support Government in formulating a response** (either GOEEI or MEDT) which could include written responses, meetings with the Committee and/or industry and should include a choice of solutions to the problems identified including policy options, remedies and industrial dialogue with the EU;
- Based on the Government response, the Committee (either jointly with Government or independently) to present and discuss the Government response/proposals with stakeholders to obtain validation/buy in;
- Establish **action plan** monitoring by Committee to track commitments and progress and provide reports to stakeholders (holding government to account on actions promised) and;
- For sectors not completed within life of the assignment, prepare and agree a future workplan on industrial dialogue under the DCFTA with the Verkhovna Rada Committee on Industrial Policy and Entrepreneurship.

During the assignment it became evident however, that the way through the Verkhovna Rada is too complicated and would not lead to the expected results of mobilising the GoU responses in useful time.

Thus, the **approach was modified to involve directly the lead Ministry responsible for the economy development (MEDT)** instead (which would include also the Export Promotion Office EPO) and eventually, GOCEEI (Government Office for the Coordination of European and Euro-Atlantic Integration).

Furthermore, at the end of July 2018, upon recommendation and discussion of Mr. Janos Zakonyi, TL A4U, and the EU Delegation, the undersigned agreed to expand the coverage of the current mandate to include the following Project component:

**“A3.3.5 Consultations with Businesses and Private Sector Representatives”**

The expansion makes sense as the industrial dialogue also directly affects how GoU interacts with businesses and private sector representatives. The Project delivery requires to **review the existing mechanisms for public-private consultations at priority ministries, identify recommended changes and dialogue systems.**

Just before the start of the fourth mission, the TL suggested another additional task targeting “**creative industries**”, in the framework of a planned assistance to the Ministry of Culture.

### **3. Delivery of the mandate**

The expert carried out a first mission in December 2017 (6 WD). The expert held the second mission from 22 January to 8 March 2018 (34 WD). The third mission was held from 16 April to 18 May 2018 (23 WD). **The fourth and last mission was held from 25 August to 17 September 2018 (17 WD).**

The **five draft studies** in the new, revised layout were submitted on 18 July 2018 by the expert to the A4U TL who subsequently sent the studies to the GoU, on 2 August 2018:

- Pumps for liquids (HS 8413)
- Electric motors and generators (HS 8501)

- Taps, cocks, valves (HS 8481)
- Machinery, plant or laboratory heating equipment (HS 8419)
- Radar Apparatus (HS 8526)

The **fourth and last mission** focussed on:

- ✓ Briefing, introducing to the new tasks and leading two newly appointed associate fellows that contribute to the two main outputs mentioned above;
- ✓ Participating in as many public events as possible to gather more impressions on participation from private sector stakeholders but also Government units, thus participation in:
  - Conference about IoT cluster development at MEDT (Industry 4.0) on 29 August 2018;
  - Second National Consultation on Export Strategy Development on the cross-sector level (4-day event, by ITC), from 4 to 7 September 2018;
  - “Ukraine Now” event (about creative industries), 3 September 2018;
  - TAIEX Creative Industries Seminar, 18 September 2018.
- ✓ **Several meetings** with Government stakeholders together with the two A4U Fellow experts, Mrs. Maryna Kozlovska and Mr. Sergiy Sherbina, especially at:
  - Federation of Employers of Ukraine (FRU), Mr. Grygorii Dashutin;
  - International Chamber of Commerce - Igor GRES;
  - Public Regulatory Services, Mrs. Xenia Lyapina, The Head of Public Regulatory Services, and Oleksandr Barbeluyk, Head of the Department of Legal Work, State Oversight and Control.
  - State Regulatory Services (DRSU; ДЕРЖАВНА РЕГУЛЯТОРНА СЛУЖБА УКРАЇНИ) – Additional meetings with Civil Society representative Oleksandr Krasovskiy, member of the Civic Counsel under State Regulatory Services and participation in a Meeting of DRSU with State Fiscal Services: Mykola Chmyruk, Director of the Department of Revenuer Monitoring vs. civil representative Yulia Drogovoz, Vice-President of Ukrainian League of Industrialists and Entrepreneurs and member of the Civic Counsel under State Fiscal Services;
  - Two meetings with Methodological Counsel (division of National Accreditation Agency of Ukraine) and a member of Technical Committee under State Standardization System, Mr. Yuriy Kabakov, and also Mr. Peter Kalita, President of the Ukrainian Association for Excellence and Quality;
  - Ministry of Education and Science, Mrs. Yulia Likhachova, Senior expert of the Department of Vocational Education and Vitaliy Chernuyk,

Head of the Expert Group on Communications and Strategic Planning of the Directorate of Innovation and Technology Transfer;

- Institute of Personnel Training of the State Employment Service of Ukraine, Mrs. Radmila Voytovisc, the Rector;
- Ministry of Ecology and Natural Resources - Reform Support Team, Ms. Olga Cemkiv, Project manager Emission Reduction for large Combustion Plants and Correspondent Support in Implementing EU Industrial Directive.
- Department of Industrial Development (MEDT), Mr. Oleksandr Chernykh, Head;

Due to the additional tasks, and the lack of clear Government responses yet to promulgate, it was not possible to hold further business events. Additionally, the lack of budget would have prevented to plan such events in other oblasts.

## 4. Recap: Barriers to Trade of underperforming Sectors and Products

### a. Identification of sectors

To understand better the constraints faced by Ukrainian producers and reasons for their under- or weak performance in the EU market despite the DCFTA, business consultation took place with industry associations as well as representative businesses between February and April 2018. During the period under review, the A4U project carried out five business consultation rounds (workshops) in Zaporizhia (26 Feb 2018), Dnipro (28 Feb 2018), Kharkiv (1 Mar 2018), Sumy (2 Mar 2018), L'viv (19 Apr 2018) as well as one in Kiev at the Ukrainian Chamber of Commerce and Industry (UCCI; 6 Mar 2018). Further contacts were held with Government institutions (EPO, MEDT) and private business operators and associations in Kiev. About 45 interested companies and institutions participated in the events. Relevant questionnaires were distributed to the companies. The 13 returned forms provided as well relevant information about constraints for business community in Ukraine.

### b. Five Analytical Studies

Five analytical studies have been produced recapitulating the most urgent problems to be addressed. **The analytical studies were submitted separately on 18 July 2018** and form integral part of this report.

Main constraints identified concern mostly Ukrainian, market internal problems, but not only. The rapid switch towards the EU, away from Russia, brought quite a lot of convergence issues, i.e. technical standards. A short recap of the issues flagged (or identified by the expert):

- **EU Technical standards.**
- **Access to finance (cost, availability, conditions)**
- **Marketing errors**
- **DCFTA and PEM Convention Rules of origin**
- **Inefficiency of management and marketing skills, low productivity, low qualification of workforce, labour migration (brain drain)**
- **Problems with the application of the current VAT scheme and lengthy reimbursement procedures up to two years.**
- **Access to the Public Procurement market in the EU**
- **Lengthy customs/export procedures**
- **Adequate export support institutions and instruments still missing**
- **Electricity/energy deficiencies/weak infrastructure**
- **Technologies used are out-dated and lagging the European industry**
- **General mistrust in Government and Associations which leads and exacerbates resolution of above-mentioned problems.**

### **c. Possible Government interventions**

The five studies already outlined some possible solutions that needed to be tested against Government actions taken in the meantime. Main lead for implementing actions and coordinating their achievements should be at the Ministry of Economic Development and Trade (MEDT). The five analytical studies highlight, among others, the following possible government actions:

- ✓ Support the machinery sector comply with EU technical regulations;
- ✓ Continue and intensify the High-level Industrial Dialogue with the EU;
- ✓ Implement immediately the "Law of Ukraine on Providing for Large-Scale Export Expansion of Goods (Works, Services) Originating in Ukraine through Insurance, Guarantees and Cheapening of Export Credits"<sup>1</sup> adopted on 20 December 2016;
- ✓ Encourage Research & Development across industrial clusters (i.e. spending in EU amongst machinery sector is 5-6% according McKinsey) to allow industries to close the technological gap with European competitors;
- ✓ Establish measures of validation and alignment of education and training curricula with sector needs and requirements;
- ✓ Favour the introduction of more liberal rules of origin in the Paneuromed Convention, to favour light industries and assemblers to better meet the value-added criteria in the PEM (and thus in the DCFTA);
- ✓ Continue opening other potential markets through negotiating FTAs (i.e. FTA with Korea, Japan, Vietnam, Mexico), also for attracting further investment into Ukraine;
- ✓ Evaluate the achievements of existing export promotion tools as well as propose new tools to put on equal footing Ukrainian exporters vis-à-vis European competitors (Export risk guarantee can cover a multitude of trade risks);
- ✓ Set-up Ukrainian business hubs in key countries in Europe (i.e. the UK, Germany, France, Italy);
- ✓ Encourage intra-industrial dialogue and cooperation between, for example European Associations in the specific sectors, but also EU Members' associations and relevant Ukrainian institutions and key clusters;
- ✓ Enhance intra-governmental coordination and enhance a common Government language towards industrial dialogue and communication (i.e. "answer toolkit" or "text modules") with private sector about common issues raised.

## **5. Analysis and recommendations**

### **a. Business consultations**

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<sup>1</sup> <http://zakon5.rada.gov.ua/laws/show/1792-19>

In parallel to the **Analytical study on business consultations** in the framework of the additional mandate for component 3.3.5, some main impressions gathered during the several missions in Ukraine leave the following picture to me.

❖ **The Government has two basic laws on performing his duties:**

1. <http://zakon.rada.gov.ua/laws/show/950-2007-п> CMU's Rules of Procedure, which underwent several amendments;
2. <http://zakon.rada.gov.ua/laws/show/1861-17> VRU's Rules of Procedure, which underwent several amendments too;

❖ **Government activities (executive branch):**

Communication and consultation are a complicated, multi-tasking duty of the Government, which is not always easy to fulfil.

Against some prejudices heard, the Government (meaning the “executive branch” in the classic sense of division of powers) is in general very active to discuss with the private sector, at different levels and for a myriad of issues.

- Example 1: The Ministry of Education and Science is reviewing the Vocational Education and Training (VET) in Ukraine. The Ministry held several meetings with private sector representatives, also in other parts of Ukraine, not just in Kiev to review the current VET and adapt it to the needs of the industry, still under due consideration to protect the apprentices and trainees.
- Example 2: During the “Second National Consultation on Export Strategy Development”, every day I could experience representatives of the Export Promotion Office (EPO) participating and actively taking the floor. However, some other offices were not clearly visible to the private sector participants, thus it would be more difficult to involve them into the discussions.
- Example 3: “Ukraine Now” forum on Creative Industries, with high-level representation by the Deputy Minister of Culture.
- Example 4: During the TAIEX Creative Industries Seminar, the Minister of Culture as well as the Deputy-Minister of Culture were both present. In principle, Ministry of Culture is very actively working with all stakeholders, i.e. on the definition of “creative industries”.
- Example 5: As they informed us, the team of A4U experts, the Ministry of Education and Science made several consultation rounds, in Kiev and provinces (oblasts) to define and realign the Vocational Education and Training (VET) system in Ukraine. Indeed, Ministry of Education and Science well heard the complaints from private sector and is committed to level-up the VET system, i.e. by allowing more practice-oriented apprenticeship programs.

❖ **Government activities (legislative branch):**

During the last mission, as this wouldn't be part of the current mandate, SIGMA (Support for Improvement in Governance and Management)<sup>2</sup> presented a detailed report on the public administration in Ukraine. It can be remembered that business complained mostly about the Government in Kiev, lack of response and missing consultation of private sector. It might well be, that the complaint is generic but targets also the legislative branch of the Government, meaning the Parliament.

I can agree with the SIGMA Report that some problems of Governance come from the hasty, almost uncontrolled submission of laws to the Verkhovna Rada, mostly not well discussed with the private sector, as the Government has to rush certain laws to meet the tough implementation schedule of the Association Agreement. When certain laws are approved with over 500 amendments out of 700 requested in the Verkhovna Rada, this means that quality of the initial draft is poorly coordinated and consolidated before being submitted to the Parliament.

On the other hand, the executive branch of the Government has little choice than to implement the laws as adopted. This might also lead to the situation where executive branch tries to find a way around certain laws or feels a low motivation to implement them correctly.

#### ❖ **Dialogue, communication and stakeholders**

As explained earlier, it looks like the Government (executive branch) is communicating actively with the private sector, except, eventually, on certain law proposals, where more quality could be sought. Ministries and other central governmental bodies are discussing draft laws through electronic consultations. For example, Ministry of justice provides announcements about conducting public discussions of drafts of normative legal acts<sup>3</sup>.

Discussions of the draft laws, strategic documents, initiatives, proposals seem to take place, but the results of consultations are not always announced or even known. Initiatives are widely discussed with the community.

The most sensitive parts of the dialogue are the reforms in business opportunities, investment climate, privatisation followed by general poverty growth, discussions around responsibility of the government for the corruption fight collapse, lack of transparency, security problems, gas prices, reduction of unemployment and brain drain, health care system.

The Ukrainian chapter of Transparency International has clear recommendations to city councils, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine on how to improve the situation with accountability of authorities in Ukrainian cities<sup>4</sup>.

The main problems of the interaction of government bodies with civil organizations in Ukraine are:

- attempts to use civil society organizations in political process;
- imitation of public initiatives;

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<sup>2</sup> SIGMA Baseline Study 2018

<http://www.sigmaweb.org/publications/Baseline-Measurement-Report-2018-Ukraine.pdf>

The SIGMA Report and the way forward was also discussed during the International Conference of EU4PAR "Improving the Methodology, Practice and Quality of Legislative Process and Legal Drafting in Ukraine" on September 17, 2018

<sup>3</sup> [https://minjust.gov.ua/section\\_352](https://minjust.gov.ua/section_352)

<sup>4</sup> <https://ti-ukraine.org/en/research/transparent-cities-analytical-report/>

- limited financial, personnel and organizational capabilities of civil society organizations;
- fictitious nature of large number of civil society organizations;
- ignorance of local authorities in decision making, etc.

**Government Interaction can have a multitude of forms, among others:**

- Central Gov – Kiev and all industrialists and associations;
- Through helpdesks at Ministries;
- Business Ombudsman Council;
- Civil councils;
- State Regulatory Service (DRSU), in framework of review of Ministries' regulations;
- Clusters and cluster networks
- Central Government - Regions G2G, G2B, and then regional G2B;
- Oblasts (as well official and private side);
- Local groups (interest groups, i.e. Taxpayers association Sumy);
- Private sector associations;
- NGOs;
- Chambers of Commerce and Industries
- Showcasing success stories – attraction for new folks to join;
- Ad-hoc groups and interest representations;
- All other forms, i.e. online platform or other forms of grouping interested stakeholders/parties

**How:**

- Physically, in person when possible;
- By written or orally (letter or phone basically); by phone a written note should be produced;
- Electronic – by written: SMS, Email, Push messages, Viber, Whatsapp, etc.;
- Online – Homepage, online messages and announcements (used often);
- Social media: FB, Messenger, LinkedIn, Twitter, other forms;
- Professional networks and membership pages;
- Announcements;
- Newspapers;

- Other forms of communication and interaction.

However, throughout the meetings and following the different events, one major issue appears:

**Who or where is THE private sector?**

**Who represents whom?**

**Who talks for whom?**

**Where is the lead from private sector side?**

Ukraine is certainly not an easy country to overview, as there are many organically, some even unstructured, grown organisms that emerged after the failure of the communist system. Many reports point the finger at oligarchy, large swath of economy dominated still by state-owned enterprises, but still there is a large number of private enterprises, above all SMEs, which would merit a stronger representation.

During the consultations on rules of origin as well as on industrial dialogue, it was not easy to identify key actors on the private sector side! Who speaks for the textiles industry? Is it only one federation or are there several? Who speaks for the machinery sector? Do heavy and light industries speak with the same voice? If not, why are they fragmented?

It appears strongly that Government has the same **struggle in identifying valid partners**, which would have earned good reputation among their own industries. It is important that Government should stay neutral, thus consulting as large as possible, but there is a physical barrier to this: human resources on both sides plus the missing ability or even the missing mandate for the Government to figure out which position is the best for the private sector.

**The Government should focus on his main duties and not playing the organiser, coordinator and judge for issues, that the private sector should sort out first by himself.**

- Example 1: Creative industries has no overarching association grouping the very different cultural activities under one roof or has no clear vision when they turn their cultural activity into a business activity.
- Example 2: The machinery sector has no single representation nor association but is scattered into several smaller and bigger “representations”. Despite being a big sector, the pumps and valves association is left in rumbles, represented by one company in Dnipro, which is not ideal for conducting nationwide consultations or substantially commenting Government policies.

And, the private sector should speak with one voice, not with one hundred or even one thousand. Fact is that many so-called associations at the moment are more representatives for a small number of big enterprises or represent a platform for single business actors. Not to be misunderstood, there are some associations, which have weight and are good interlocutors, i.e. the European Business Association, the American Chamber of Commerce in Ukraine, the Ukrainian Chamber of Trade and Commerce, the Federation of Ukrainian Employer’s, the Ukrainian League of Industrials and Entrepreneurs and the Association of Customs Brokers of Ukraine. But again, it is not complete and business is not always recognising those associations as a their representation.

It is also symptomatic that many associations work “under the poverty line”, in other words, they try at their best to represent a certain sector, but the membership base is very narrow thus limiting drastically the options for

private associations. Many enterprises are not willing to pay membership fees and prefer to act as “free riders”, which would entail then the discussion if the Government should build up sector-specific associations with **mandatory membership** which per se is also a disputed solution with many pros but also cons, but eventually necessary at the beginning.

Another way would be that the Government could build upon certain established associations, i.e. the Federation of Employers of Ukraine (FRU) or the Ukrainian Chamber of Commerce and Industry (UCCI), which have large distribution networks throughout the country. Upon personal experience however, chambers of commerce are usually not very strong into representing sector specific interests as they should stay neutral as well towards their Members.

The GoU (executive branch) can favour associations and thus build up their reputation but will expose himself also towards critics of favouritism. But to these critics the GoU is exposed daily as private industry is waiting for the GoU to decide on all opinions and positions submitted, and that’s almost impossible then to do it right for everybody.

Thus, one main recommendation would be that **not the Government, but the private sector takes his own responsibility to build up capacities to respond consistently and on a high-quality level to Government consultations**. This process could be facilitated if helpdesks could be supported by international donors, which will be established in specialised associations. Through such helpdesks, the associations could build up know-how, consult companies at first hand and gain the latter’ trust and confidence. This would also lead to a relief of the strain on the Government.

## **b. Reform Activities**

A large part of the Government is under scrutiny as Ukraine committed to implement Public Administration Reform. The PAR has far reaching implications on Government work and on how Government interacts with private sector at the end, above all when PAR is linked to decentralisation. Thus, the consultation levels, if built up, will be disrupted until the new Government units have taken office.

The Reforms Delivery Office (RDO) is an advisory body to the Cabinet of Ministers of Ukraine, headed by the Minister of the Cabinet of Ministers of Ukraine, with focus on ensuring consistency of delivery of reforms across ministries and Public Administration Reform, in particular. RDO Consultants are a group of Ukrainian professionals (non-civil servants) funded by donors on a temporary basis to provide targeted technical support and assistance to the Secretariat of the Cabinet of Ministers of Ukraine and to the respective ministries in the course of design and implementation of the sectoral strategies and priority reforms.

Senior Campaigns Manager lead activities of the communications team of the Reforms Delivery Office, ensure visibility and high quality of reforms communication, overall coordination and support of reforms communications<sup>5</sup>.

Speaking from personal experience, reforms are indeed needed, but deprive many times Government actors of their initiative or courage to advance delicate questions, in the sense “better not to do anything, instead of doing something wrong”.

Thus, one suggestion would also be to give to the Government some more time and not to rush everything at the same time. Capacities are not created or maintained by

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<sup>5</sup> [https://eeas.europa.eu/delegations/ukraine/50205/9-vacancies-communications-team-reforms-delivery-office\\_en](https://eeas.europa.eu/delegations/ukraine/50205/9-vacancies-communications-team-reforms-delivery-office_en)

continuing menacing people of being reorganised or moved to other departments or even Ministries. ,.

### **c. Industrial Dialogue and status of problem resolution**

As mentioned earlier, several problems surfaced during the consultations with private sector. **MEDT should take an active role in defending the economic interests of the business community**, inside the GoU and beyond. MEDT should make sure that all legal acts that concern business would be circulated and consulted with MEDT. Main aim is to lower all burden in doing business. In assisting the MEDT to find solutions, where necessary, consultations were held during the last mission. Independently, the Government relentlessly worked on solving some of the pending issues, which is overall a positive evolution:

- **Problems with the application of the current VAT scheme and lengthy reimbursement procedures up to two years.**

The A4U experts that the unique opportunity to talk with SFS representatives on the side-lines of the meeting at the DRSU. Mr. Mykola Chmyruk, Director of the Department of Revenue Monitoring, SFS, was pleased to state that SFS solved the problem of reimbursements of the VAT through the online application window, where all businesses are welcome to log their claims for reimbursement. The claims will be processed swiftly by SFS.

Only disputed debts of UAH 400m remain unsolved as they are under scrutiny and cannot be freed up. Overall, this remaining stumbling block is small compared to the total VAT claims that can now be reimbursed, if the claims are approved.

The VAT issue looks almost solved, however, the general VAT scheme looks to be extremely cumbersome for business operators, as mostly they have first to pay VAT in any case, and then log the claim for reimbursement. This would call for a general revision of the VAT “closed” system, where VAT-registered business operators will not pay VAT if they sell to another VAT-registered operator. Obviously, the general mistrust into business operations remains the stumbling block for SFS to switch to such a system. In August 2018, the Prime Minister however expressed the clear intent of the Government, that business should be trusted first, instead of mistrusted, and policies of Government realigned with this primary goal. In October, he announced new tax holidays intended to simplify life for small businesses and eliminate barriers to growth<sup>6</sup>. One of the measures would be to introduce a single-registry VAT compensation system.

- **Inefficiency of management and marketing skills, low productivity, low qualification of workforce, labour migration (brain drain)**

VET system under revision, which should address one of the major concerns. Better skills would mean also better salaries and motivation, but could lead also to brain drain, as qualified people find jobs abroad easier.

- **Electricity/energy deficiencies/weak infrastructure**

The energy market in Ukraine is one of the most critical issues at stake for the current Government, and for long-time, an unfinished business. On 24

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<sup>6</sup> <http://www.eu4business.eu/news/prime-minister-groysman-announces-small-business-tax-holidays>

July 2018, the supervisory boards of Ukrainian state-owned Naftogaz and Main Gas Pipelines of Ukraine reached agreement on a Memorandum of Understanding (MOU), committing to separate the production and transmission portions of Naftogaz, Ukraine's state-owned gas company. This reform is consistent with market-oriented policies encouraged by the EU, the United States, and the international community. The MOU sets a course for the creation of a gas transmission system operator that will function under anti-corruption and corporate governance standards.

On June 28 2017, at the Assembly of the European Network of Transmission System Operators (ENTSO-E), Vsevolod Kovalchuk, CEO of national TSO "Ukrenergo", signed an agreement on the conditions of the future accession of Ukraine to the pan-European electric power grid. Full integration with ENTSO-E by 2025 is now set as a target, with far-reaching implications for the entire power industry.

Many questions however remain to be addressed and solved. To date, financial mechanisms for the implementation of the National Emission Reduction Plan and provisions of the Industrial Emissions Directive (2010/75/EU) – Ukraine's obligations under the Energy Community Treaty – are still undefined, connected to the issue of toxic air pollution and its impact on health. Very poor environmental performance and unreliability of Ukraine's depreciated coal power plants make them unfit for fair competition in the EU's power market after full synchronization with ENTSO-E. As well, the faith of the thermo-nuclear power generation remains open as well, above all remembering the catastrophic event in Chernobyl.

- **EU Technical standards.**

On a good way, Technical Committee on October 2018

- **Access to finance (cost, availability, conditions)**

Reforms in banking sector

Non-performing loans as big burden for the whole sector

- **Marketing errors, outdated business practices, etc.**

Kalita

Education

Technical assistance

- **DCFTA and PEM Convention Rules of origin**

MEDT looks to be relatively inactive, however, much depends on EU, EFTA and other PEM convention partners

- **Access to the Public Procurement market in the EU**

MEDT should raise this issue with the EU and obtain transition period under which Ukrainian companies might access EU public procurement without having to comply with all requirements, if they conform with Ukrainian laws. Thus, it should be the aim of MEDT to avoid a retrospective application of EU accounting rules by the backdoor of their Public procurement requirements.

- **Lengthy customs/export procedures**

Customs procedures are one of the crucial problems identified by Business Ombudsman Council as well. The BOC then provides detailed

recommendations to state bodies on the basis of individual cases and in accordance with published systemic reports<sup>7</sup>.

The introduction of principles deriving from the WTO Trade Facilitation Agreement and electronic single-window processing should slowly remedy the situation<sup>8</sup>.

- **Adequate export support institutions and instruments still missing**

It is very sad that MEDT and GoU were not yet able to finally set up a functioning and reliable Export Credit Guarantee,

- **Technologies used are out-dated and lagging the European industry**

Industrial upgrading to be considered in the implementation of the Industrial Strategy of Ukraine.

- **General mistrust in Government and Associations which leads and exacerbates resolution of above-mentioned problems.**

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<sup>7</sup> <https://boi.org.ua/en/publications/systemicreports/1165-sistemnij-zv-t-aktualn-problemi-b-znesu-u-mitn-j-sfer-2018/>

<https://boi.org.ua/en/recommendations/>

And slightly older publication: [https://boi.org.ua/media/uploads/sysrep\\_trade\\_eng\\_pdf.pdf](https://boi.org.ua/media/uploads/sysrep_trade_eng_pdf.pdf)

<sup>8</sup> Draft Law of Ukraine “On Introducing Amendments to the Customs Code of Ukraine and Certain Other Legislative Acts of Ukraine Regarding Introduction of a “Single Window” Mechanism and Optimization of Control Procedures When Transferring Goods Across Customs Border of Ukraine” No.7010, dated July 27, 2017.

## 6. Output monitoring

The project ToR requests the following contribution to the GoU:

- ✓ 5 business consultation events in five priority sectors to identify constraints limiting exports under the DCFTA (Kiev, Sumy, Kharkiv, Dnipro, Zaporizhe;
- ✓ 5 Analytical studies providing evidenced based constraints as well as suggestions for addressing those constraints;
- At least 3 follow up consultation events with solutions/responses from government [One consultation event held in L'viv however];
- ✓ Guideline for government responses to industrial development submissions (integrated into the analytical studies);
- ✓ Mission reports submitted after each mission (4 missions and reports);
- ✓ Analysis for the Government of Ukraine [MEDT in lieu of Verkhovna Rada] to monitor progress Action plan (resolution plan) for Government responses (including monitoring);
- ✓ Analysing and drafting a guideline for a standard approach towards business consultations, meaning business consultation mechanisms under Activity A3.2.4 DCFTA analysis and policy papers, 3.3.5 G2B dialogue & A3.3.7 Industrial Dialogue.

## **7. Annexes**

**a. The five analytical studies have been submitted separately on 18 July 2018 and form integral part of this final report.**

### **b. September Consultations – stakeholder list**

- State Regulatory Services (DRSU; ДЕРЖАВНА РЕГУЛЯТОРНА СЛУЖБА УКРАЇНИ), Mrs. Xenia Lyapina, The Head of Public Regulatory Services, and Oleksandr Barbeluyk, Head of the Department of Legal Work, State Oversight and Control.
- State Regulatory Services (DRSU) – Additional meetings with Civil Society representative Oleksandr Krasovskiy, member of the Civic Counsel under Public Regulatory Services and participation in a Meeting of DRSU with State Fiscal Services: Mykola Chmyruk, Director of the Department of Revenues Monitoring vs. civil representative Yulia Drogovoz, Vice-President of Ukrainian League of Industrialists and Entrepreneurs and member of the Civic Counsel under State Fiscal Services;
- Two meetings with Methodological Counsel (division of National Accreditation Agency of Ukraine) and a member of Technical Committee under State Standardization System, Mr. Yuriy Kabakov, and also Mr. Peter Kalita, President of the Ukrainian Association for Excellence and Quality;
- Ministry of Education and Science, Mrs. Yulia Likhachova, Senior expert of the Department of Vocational Education and Vitaliy Chernuyk, Head of the Expert Group on Communications and Strategic Planning of the Directorate of Innovation and Technology Transfer;
- Institute of Personnel Training of the State Employment Service of Ukraine, Mrs. Radmila Voytovisc, the Rector;
- Ministry of Ecology and Natural Resources - Reform Support Team, Ms. Olga Cemkiv, Project manager Emission Reduction for large Combustion Plants and Correspondent Support in Implementing EU Industrial Directive.