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Forging trade ties with Ukraine

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Commercial analysis: Luis González García, an international trade specialist at Matrix Chambers, considers the impact and context of the ratification of an EU-Ukraine association agreement which includes a Deep and Comprehensive Free Trade Agreement (DCFTA).

Original news

EU-Ukraine trade deal ratified by European Parliament, LNB News 16/09/2014 113

A new deal between the EU and Ukraine will allow mutual free market access and establish political association and economic integration between the two parliaments. The European Parliament gave its consent to the EU-Ukraine association agreement, which includes a DCFTA, on 16 September 2014, and the agreement was also ratified by the Ukrainian Parliament. MEPs backed the agreement with 535 votes in favour, 127 against and 35 abstentions.

What is the significance of this new agreement?

For Ukraine, the agreement means everything. It signifies the only possible counterweight to the political and economic dependence with Russia, the best route to improve the economic conditions of the country and the instrument which will help strengthen security. In other words, Ukraine's best tool available for economic growth. The good news for Ukraine is that the agreement provides the tools to achieve such goals. It is unique in its terms and arguably the most ambitious treaty ever negotiated by the EU. It covers all corners of EU-Ukraine relations, including:

- o security
- o justice
- o foreign policy
- o economic and political cooperation

Perhaps the most significant aspect of the agreement is the market integration conditionality imposed by the EU on Ukraine--the more effective implementation of the agreement, the more European integration. This is crucial because it is good to have an effective legal instrument, but what matters is that it is implemented. It provides for capacity building which is key for an effective implementation of any trade agreement. The agreement is also highly significant because it effectively becomes an insurance policy for locking in structural reforms in Ukraine--44 annexes of the agreement contain specific commitments on regulatory approximation to EU law. It goes beyond EU law. It requires Ukraine to ratify the Rome Statute of the International Criminal Court.

The agreement does not mean the possibility of EU accession. Reference to such possibility was deliberately excluded in the agreement.

From the EU perspective, the agreement will strengthen and intensify the political and economic ties with a key neighbour in the Eastern Europe region. It is also a tool to promote human rights and the rule of law in eastern European countries.

How, if at all, do the terms differ from those originally proposed before the protests?

The text remains the same as proposed before the protests. Obviously, the annexation of Crimea will have an impact on preferential treatment of goods. For this reason, the final act acknowledges Crimea as a 'temporary occupied territory'. The law on implementation of the agreement would clarify how companies and individuals from Crimea would be treated for purposes of the agreement.

What is the extent of the terms of the DCFTA?

The DCFTA focuses on agricultural and industrial sectors. It provides for full liberalisation of agricultural products over ten years and significant duty free quotas for key Ukrainian agricultural products, like grains, meat and sugar. On industrial goods, it provides for full liberalisation with transition periods for the automotive and textile sectors.

How will this affect trade and relations between the EU and Ukraine?

Preferential access to 27 countries, access to quality materials for the manufacturing industry and the locking in of reforms (legal certainty) could make Ukraine an attractive risk-return place to invest. For Ukrainian consumers, it could bring access to quality products at a good price. It would also release the pressure on Ukraine from its World Trade Organisation commitments, depoliticise trade disputes, and improve cooperation between the EU and Ukraine at all levels of government.

How does this fit into the broader issues facing the region?

It will set the stage for further integration for the rest of the Eastern European countries into the EU (the Eastern Partnership block) with Moldova and Georgia next. But Ukraine and the Eastern Partnership block would pay a high price in the form of economic and political pressure from Russia in order to cause macroeconomic and political instability in the region. Political instability is likely to affect Ukraine's capacity to take advantage of the benefits offered by the DCFTA. Political stability is the one thing the agreement does not and cannot offer to Ukraine or the region.

Interviewed by Alex Heshmaty.

The views expressed by our Legal Analysis interviewees are not necessarily those of the proprietor.