

# **SELLING TO THE EU UNDER THE DCFTA**

**Explaining the Benefits  
of the Deep and Comprehensive  
Free Trade Agreement (DCFTA)  
between Ukraine and the EU**

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# DCFTA Explained

## What is the DCFTA?

The Ukraine EU DCFTA is a comprehensive, broad and meaningful trade agreement which aims at reducing and eliminating the tariffs applied to each other's products, liberalising access to services markets, and also at aligning Ukraine's business related rules and regulations with those of the EU, with a view to ensuring that products can be traded freely between the two countries and Ukrainian companies, products, services and institutions treated equally with those of the EU.

## What's in it for Ukraine?

In the long run, it has been estimated<sup>1</sup> that the Ukraine EU DCFTA will result in an increase in the GDP in Ukraine of 0.5% per annum and overall welfare gain to its citizens of 1.2% per annum<sup>2</sup>. In terms of economic indicators, exports to the EU would rise by an estimated 6.3%, imports of EU goods would increase by 5.8% and average wages in Ukraine would rise by 5.5%.

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- 1 ECORYS (2008): Trade Sustainability Impact Assessment for the FTA between the EU and Ukraine within the Enhanced Agreement
  - 2 German Advisory Group Institute for Economic Research and Policy Consulting (2011): Quantitative Assessment of Ukraine's Regional Integration Options

## What will the DCFTA cover?

The DCFTA is much more than a tariff liberalisation agreement. The DCFTA consists of 15 Chapters, 14 annexes and 3 protocols. It covers a wide and complex range of topics including:

- Market access (tariffs): the EU and Ukraine will eliminate the import duties charged on the majority of imports from each other.
- Rules of origin: Ukrainian products entering the EU duty free can use inputs from Ukraine, EU and selected Mediterranean countries to source competitively.
- Technical regulations: Ukraine will align EU regulations and procedures so that certified products will be assumed to comply with EU requirements with no further checks.
- Sanitary & phytosanitary measures: Ukraine will align with EU agriculture and food safety measures so that certified products will be assumed to comply with EU requirements with no further checks.
- Trade in services: Ukrainian business will be able to sell selected services to EU countries on better terms than any other countries and in some cases, be accorded national treatment. The agreement provides for a right of establishment of Ukrainian services providers (subject to a number of reservations) and extends automatically to new services in the future.
- Public procurement: Ukraine will apply EU rules on Public procurement. In return, Ukrainian businesses can compete for government contracts and be treated exactly the same as EU companies.
- Trade facilitation: Co-operation between customs authorities to simplify documentation and procedures at the borders whilst still having adequate measures in place to prevent fraud.

- Other issues:
  - Trade-related energy issues
  - Trade defence and safeguard measures
  - Intellectual property
  - Competition policy
  - Movement of capital
  - Transparency
  - Trade and sustainable development

## What are the Common Misconceptions?

### **Signing the DCFTA will prevent Ukraine from trading with other countries**

#### **Incorrect**

It has been said that Ukraine will have to change or cancel all its existing trade agreements to comply with the DCFTA with the EU and this would adversely affect Ukraine's relations with its traditional trading partners. This is not true. Ukraine's existing FTA agreements are tariff based and the preferences granted under these agreements will still stand. At the same time, EU products will gain access to Ukraine's markets with the same or better tariff rates than those of Ukraine's existing preferential trading partners. In this way, Ukrainian consumers may elect to buy from the EU rather than existing sources. However, since the EU already trades with Ukraine's traditional trading partners, there is nothing to prevent Ukraine's trade continue as it aligns with EU rules. As Ukraine adopts more of the EU rules for products, these other trading partners will have to comply with these rules if they wish to continue to sell into the Ukrainian market.

## **Signing the DCFTA will remove Ukraine's sovereignty over its trade policy**

### **Incorrect**

The DCFTA will only apply to trade between the EU and Ukraine, without creating a customs union and without delegating trade policy functions to supranational bodies. Ukraine will therefore be free to set its own trade regime and policy with all other countries of the World. Therefore, Ukraine's existing free trade agreements and ongoing trade negotiations with for example EFTA, CIS, Canada and Turkey will still be valid.

## **Opening up to the EU will cause economic collapse in Ukraine**

### **Incorrect**

Some in Ukraine fear that the DCFTA will open Ukraine's door to a flood of imports from the EU and mean increased competition with Ukrainian products. However this is not the case. Firstly, DCFTA is reciprocal so that there are equal opportunities for Ukrainian business in the EU market as there are for EU companies in the Ukrainian market. In fact since under the DCFTA, the EU will open access to its market more quickly than Ukraine, Ukraine will enjoy better access to the EU than the EU will get in Ukraine in the first few years of the agreement. Secondly, EU products are already widely accepted in the Ukrainian market already with de facto few barriers to entry to the market except for tariffs. Even for tariffs, the barriers are relatively low with average tariffs on imports from all markets of 5% for non-agricultural and 11% for agricultural products. Average applied tariffs on actual imports from the EU are even lower so this means the impact of tariff liberalization for EU products will be very limited.

## **Changes will happen immediately**

### **Incorrect**

It is often believed that Ukraine will have to adopt all the EU rules immediately after conclusion of the negotiations which will lead to huge costs immediately to both the Ukrainian government and Ukrainian business. However, this is not the case. The FTA will be implemented progressively, with Ukrainian business rules' changing gradually over a period of time, for some measures, Ukraine has 15 years to adjust. Therefore, Ukrainian business will have time to adjust and adapt its operations before it has to comply with new rules.

## **The DCFTA will only benefit big business**

### **Incorrect**

Although there will be huge opportunities for large producers, aligning Ukraine's laws with those of the EU will mean that all businesses (large, medium and small) will have to adopt and apply these rules. This means that small and medium sized producers will be ready to trade into the European market at any time, when the opportunity presents itself. Moreover, the agreement will also cover other areas which will provide further opportunities such as access to EU services markets.

## **The DCFTA is more important to the EU than to Ukraine's Trade**

### **Incorrect**

The EU is Ukraine's largest trading partner accounting<sup>3</sup> for approximately 30% of all Ukraine's exports whereas exports to Ukraine from EU account for only 1% of overall EU exports.

## **The DCFTA will only affect exporting businesses**

### **Incorrect**

Many people think that the FTA will not affect them as they are not involved, and do not want to be involved in trade with the EU. However, FTA and closer links with the EU will affect all businesses and consumers as Ukraine aligns many EU laws and procedures and then applies these nationally throughout Ukraine.

This will have a number of benefits for all businesses in Ukraine. Firstly, it will establish the clear and transparent business rules and procedures in many areas which are currently complicated. This means that all Ukrainian businesses will have a business environment enabling them to effectively plan and grow their businesses. Also, because these new rules will be transparent and understandable and will be implemented in accordance with the EU standards, there will be less scope for unfair abuses in the system which simply raises the costs for legitimate business.

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3 IMF Direction of World Trade Statistics

## What are the benefits?

### Improve access to a large market

The European Union is the largest single market in the world with 28 countries and a population 11 times that of Ukraine and over 500 million consumers, each with average income of US\$39,000<sup>4</sup>. For Ukraine to easily and effectively sell to this market, product regulations and health standards must be aligned with those of the EU. Following the alignment and implementation of the DCFTA, closer economic integration will provide Ukrainian products with greater access to an EU market.

### Lower Import Duties for Ukrainian Goods

One of the biggest impacts for business of the DCFTA will be the immediate elimination of import duties on over 97% over all products exported from Ukraine to the EU, including agricultural products.

Only 3% of exports (certain agricultural products) will not see a total elimination of import duties. Even for these products, a proportion of exports under the tariff quotas will enter duty free. However, this proportion of restricted exports (referred to as tariff rate quotas) is fairly generous and as a result, it has been calculated<sup>5</sup> that as soon as the DCFTA comes into effect, more than 99% of existing Ukrainian exports to the EU will enter duty free.

The following table provides details on tariff savings under the DCFTA for Ukraine's top export products (accounting for almost 60% of all exports to the EU):

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4 Eurostat Database

5 Calculated by Authors based on an analysis of tariffs and TRQs for the top 100 exports in 2012, which account for 60% of total exports.

## Agricultural Exports to EU

Products	Current EU Duty paid by Ukraine	Duty/Quota under DCFTA
Vegetables, fruits and nuts (HS 0713, 0802, 0811)	Up to 20.8% + 8.4€/100kg/net	0%
Wheat (HS 1001)	Up to 186€	0% for first 950,000 tonnes, increasing to 1 million tonnes over 5 years Exports in 2012 – 1.522 million tonnes
Maize and Corn (HS 1005)	Up to 94€	0% for first 400,000 tonnes, increasing to 650,000 tonnes over 5 years Exports in 2012 – 1.182 million tonnes
Soya beans, seeds and seed oil (HS 1201, 1204, 1205, 1206, 1207, 1507, 1512, 2306)	Up to 9.6%	0%
Chocolate products (HS 1806)	Up to 43%	0% for first 2,000 tonnes, increasing to 3,000 tonnes over 5 years Exports in 2012 – 45,000 tonnes
Fruit juices (HS 2009)	Up to 33.6% + 20.6€/100kg/net	0% for first 10,000 tonnes, increasing to 20,000 tonnes over 5 years Exports in 2012 – 42,560 tonnes
Alcohol (HS 2208)	Up to €1/%vol/hl +6.4€/hl	0% for first 27,000 tonnes, increasing to 100,000 tonnes over 5 years Exports in 2012 – 11,000 tonnes

## Non-Agricultural Exports to EU

Products	Current EU Duty paid by Ukraine	Duty/Quota under DCFTA
Mineral products (HS 25-27)	Up to €2.6/t/net	0% transition period up to 3 years
Chemical products (HS28-38)	Up to 17.3%	0% transition period up to 7 years
Plastics (HS 3907, 3920, 3923)	Up to 6.5%	0% transition period up to 3 years
Wood and Wood Products (4401-3, 4407, 4410, 4412, 4415, 4418)	Up to 10%	0% transition period up to 5 years
Textile and clothing (HS 5601, 6303, 6307)	Up to 12%	0%
Machinery and electrical appliances (HS 84-85)	Up to 14%	0% transition period up to 7 years
Transport vehicles and equipment (HS 8606, 8708, 8802, 8901)	Up to 7.7%	0%
Medical equipment (HS 9018, 9401, 9403)	Up to 5.6%	0%
Sports equipment (HS 9506)	Up to 4.7%	0%

## Access to EU Government Contracts

Harmonisation of public procurement legislation and procedures will provide opportunities for Ukrainian businesses to participate on equal terms in EU public works, supply and services tenders at an EU, national and regional level which total almost US\$ 2,500 bn.

### Increased Production

	Ukrainian Production
Agriculture, fisheries, forestry	+1.1%
Cereals/oil seeds	+1.1%
Meat	+2.2%
Sugar/sugar confectionary	+4.7%
Animal/Vegetable Fats	+5.5%
Fruits and nuts	+3.8%
Machinery and Electronics	+7.4%
Motor vehicles/parts	+4.7%
Transport equipment	+3.3%
Ferrous Metals	+2.6%
Metal Products	+5.8%

Studies<sup>6</sup> have identified a number of sectors in Ukraine with potential for increased production resulting from alignment with EU rules and regulations. These include:

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6 CEPS, IFW & ICPS (2006): The Prospects of deep free trade between the EU and Ukraine and; ECORYS (2008): Trade Sustainability Impact Assessment for the FTA between the EU and Ukraine within the Enhanced Agreement

## **Reduced Prices and Increased Living Standards**

Ukraine will also lower its tariffs on imports from the EU. This will lead to increased imports from the EU providing wider choice to consumer and reduced prices. This will also apply to industrial inputs so producers in Ukraine will also have access to a wider range and cheaper inputs and equipment.

Moreover, better health and safety standards will benefit Ukrainian consumers as they will be assured of the quality of the products on sale and reduce the risk of harm to all.

## **Improved access to third country markets**

Improved access to markets of the third countries will be ensured through harmonization of technical regulations and standards with the EU and thus acquisition of internationally acceptable standards through the EU's Mutual Recognition Agreements, which will also open up a possibility for acceptance of Ukrainian products in the US, Japanese, Canadian and Korean markets for selected products.

## **Anchor for Reforms**

Aligning Ukraine's business legislation in many areas with that of the EU according to a defined programme set out in the DCFTA will set a timetable for improving the domestic investment climate to a more transparent set of business rules that would make the domestic economic environment more attractive for foreign and domestic investors. This would reduce costs and business risk, increasing certainty of investing in Ukraine.

## Next Steps

The benefits from the DCFTA will not however, accrue automatically. The Government of Ukraine, Verkhovna Rada and business also need to work together to implement the agreement, identify areas of opportunities and ensure that business makes the most of the opportunities provided within the DCFTA.

### **Government of Ukraine Obligations**

The DCFTA requires Ukraine to align much of its business legislation and procedures to those of the EU. This will require the Government to review its laws and administrative procedures and change these to comply with those of the EU. The expected benefits of the DCFTA can only be realised through this process. For example, reduced costs and increased certainty through the improvement of business administration.

This means the Government must plan, coordinate and implement a comprehensive programme of reforms across government which will require technical skills and leadership to drive forward compliance with Ukraine's obligations under the DCFTA.

Whilst assistance from the EU, its member states and international organisations will certainly be required, the government needs to show political will in implementing the DCFTA in accordance with its timetables.

## **Verkhovna Rada**

Comprehensive reforms will require introduction and reform of much of Ukraine's business laws which fall within the competence and responsibility of Ukraine's Parliament. In fact some of the market opportunities for Ukraine's business will only come into effect when the required legislation is in place. For example, Ukrainian business will only gain access on equal terms to EU public procurement opportunities when Ukraine itself has adopted EU directives on public procurement.

Therefore, a comprehensive package of reforms will have to be passed into Ukraine's law over the next few years that mirrors that of the EU. Moreover, to maintain the benefits of the DCFTA, Ukraine's legislation will have to be continually revised to reflect changes in EU directives in the areas covered by the DCFTA.

Therefore, cross party cooperation, coordination and analysis of the commitments, obligations and compliance of existing and new legislation is required by the Verkhovna Rada and its members to ensure that Ukraine's legislation aligns with the obligations of the DCFTA in order that business and wider society can benefit.

To do this, systems and understanding within the Verkhovna Rada need to be improved to be open to the changes and be efficient in ensuring both compliance and exercising of their duties to the country in protecting national interests in the adoption of such legislation.

## **Business**

International trade agreements and an effective domestic business environment are important ingredients for economic growth and development but alone, do not produce any real benefits. The benefits from trade come from business taking advantage of the opportunities.

Therefore, business has to prepare, plan and make strategies to take advantage of these opportunities. So what can business and business organisations in Ukraine do?

1. Better understand the agreement and all the relevant provisions (breaking down legal text into business speak)
2. Assess the general and industry-specific opportunities within the FTA (including timetable)
3. Research the market requirements to match these opportunities (provision of information) eg EU market for products where tariffs are no longer applied
4. Assess changes by sector required over time to trade with the EU or domestically when Ukraine's legislation is aligned e.g. compliance with EU standards
5. Plan strategically to take advantage as appropriate in the short, medium and long term
6. Investments as necessary in firms to meet the needs of domestic and EU market
7. Continued monitoring and promotion of opportunities eg distribution of EU public procurement notices to interested firms

### **For Further Information**

Business can contact EU Cooperation Department of the Ministry of Economic Development and Trade of Ukraine

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