<u>ANNEX 3</u>

of the Commission Implementing Decision on the Annual Action Programme 2013 in favour of Ukraine

<u>Action Fiche for Second Phase of the Sector Policy Support Programme - Promoting mutual trade by removing technical barriers to trade between Ukraine and the European Union</u>

1. IDENTIFICATION

Title/Number	Second Phase of the Sector Policy Support Programme - Promoting mutual trade by removing technical barriers to trade between Ukraine and the European Union CRIS number: ENPI/2013/024-436		
Total cost	Total amount of EU budget contribution: EUR 55 million, of which: EUR 50 million for budget support EUR 5 million for complementary support		
Budget support			
Aid method / Method of implementation	Direct (centralised) management Sector Reform Contract		
Type of aid code	A02 – Sector Budget Support	Markers	BSAR
DAC-code	33110	Sector	Trade Policy and Administrative Management
Complementary support			
Aid method / Method of implementation	Direct centralised management – procurement of services		
DAC-code	33110	Sector	Trade Policy and Administrative Management

2. RATIONALE AND COUNTRY CONTEXT

2.1. Summary of the action and its objectives

The proposed Sector Reform Contract represents a second phase of the currently ongoing, as part of the ENPI Annual Action Programme for Ukraine 2008, programme aiming at the gradual integration of the country's economy into the European Union's Internal Market through the design and implementation of policy measures to remove technical barriers to trade between the EU and Ukraine. In the framework of the ongoing programme, as further explained in more detail in 2.3.1, a comprehensive reform of the technical regulation system has been initiated in Ukraine and has already resulted in the removal of serious conflicts of interests and reduction of opportunities for corruptive practices. Notwithstanding the progress made, Ukraine's path to the modernisation of the legal and institutional frameworks for technical regulation is not over. A follow-up programme will be indispensable to consolidate the situation that has resulted from the above mentioned major reform in the current technical regulation system and of the institutions necessary for its implementation. Furthermore, the approximation agenda as set out in the draft Association Agreement and Deep and Comprehensive Free Trade Area (DCFTA) is far more ambitious than that being currently supported by the ongoing programme. Consequently, Ukraine would need additional resources and assistance to comply with the Association Agreement and DCFTA obligations in the area of technical barriers to trade. Finally, significant economic and trade potential exists in Ukraine in the sectors not listed in the DCFTA agenda on Technical Barriers to Trade and regulated under the EU's "Old Approach". Among them automobiles, agricultural machinery, pharmaceuticals and fertilisers occupy a predominant place. The new SPSP would help Ukraine to enhance the approximation agenda to the "Old Approach" industrial sectors.

This rationale leads to the three-fold specific objective of the proposed sector reform contract:

− To support the national authorities in preparing, concluding and implementing the Association Agreement and DCFTA in the area of Technical Barriers to Trade;

− To extend harmonisation with the EU regulatory framework to the sectors covered by the EU's "Old Approach".

− To improve overall functioning of the technical regulation system and its institutional infrastructure for quality.

2.2. Country context

2.2.1. Main challenges towards poverty reduction/inclusive and sustainable growth

From 2000 to 2007, Ukraine's economic performance was strong and poverty decreased substantially, but the economic crisis hit Ukraine hard in late 2008. After experiencing one of the sharpest downturns in the region in 2009, real GDP growth reached 4.2% in 2010 and 5.2% in 2011, helped by export-oriented industries, particularly steel, but increasingly also by domestic demand. In 2012, however, Ukraine's economy was affected by a negative global environment as well as by a weak investment climate, and real GDP growth slowed to only 0.2% year on year (y/y). In the absence of a strong global economic recovery leading to higher external demand, real growth in 2013 is expected to remain sluggish between – 1 and -2.5%.

Ukraine scored 76th out of 187 in the 2011 Human Development Index (HDI), in the group of High Human Development. Inequality remains a major problem in Ukraine. Ukraine's per-capita income is about USD 3,600, or 10% of the EU level.

2.2.2. Fundamental values

Ukraine presents a mixed picture of developments on deep and sustainable democracy. Recent positive developments in the areas of legal reform and freedom of association have been overshadowed by selective justice, slow progress in critical reforms, a high level of corruption and the conduct of the parliamentary elections showing deterioration from previously set standards.

However, despite backsliding in several areas, Ukraine remains broadly committed to the protection and promotion of common fundamental values of democracy, human rights and the rule of law. The citizens of Ukraine have continuously shown their attachment to a democratic and pluralistic society, and the Ukrainian authorities should step up their efforts to strengthen democracy and pluralism.

The overall country's adherence to fundamental values is further reviewed as part of the enclosed risk assessment framework. The issues relevant to the sector are highlighted below.

The technical nature of regulation in the sector is neutral in terms of discriminatory practices, while the development of a quality infrastructure based on EU principles ensures transparency and inclusivity in decision making processes. The policy aims to create technical infrastructure environment based on competence and accountability. This inherently includes adoption of principles of good governance within the respective institutions. Furthermore, an upgraded quality infrastructure in Ukraine should lead to upgraded production methods, which would respond to the higher demand for quality that enhanced standards and technical regulations generate. This can lead to improved working conditions in factories, higher demand for skilled labour, better education and ultimately an increase of wages.

Similarly, the quality infrastructure services, such as standardization, accreditation and metrology have significant cross-cutting roles in respect to policy areas which have a technical impact. The most significant of these is perhaps the environmental sector, which makes use of standardization to codify good practices related to energy use, and requires accurate measurement and assurance of integrity and competence of laboratories to measure the implementation of policy goals.

An upgraded quality infrastructure in Ukraine along the lines of the EU regulatory system contributes to the promotion of the rule of law in Ukraine. The separation of regulatory and enforcement powers enhance transparency of administrative practices and inevitably reduces opportunities for illegal habits and arbitrary behaviour. It creates instead a demand for clarity, non-discrimination and motivation of administrative decisions, which are all core fundamental EU values. An enhanced quality infrastructure, which is based on market demand, also places all economic operators on equal footing, irrespective of ownership, size and sector.

Finally, the technical regulation is the sector where political objectives are balanced against the need to serve and protect the population, as the application of EU technical legislation and international standards will ensure safer and better quality products for the population. Access to redress by consumers will be ensured by the implementation of legislation related to liability for defective products and by the development of market surveillance capacities.

2.3. Eligibility for budget support

2.3.1. Public policy

Presently, the main document serving as the national development strategy is the Economic Reforms Programme 2010-2014 “Prosperous Society, Competitive Economy, Effective State”. It was developed aiming at the economic recovery, establishment of a professional and effective system of public administration, and eventually improvement of the wellbeing of Ukrainian nation. Since the adoption of this Programme, each year ""National Annual Action Plans" are published by President's Decrees, which identify specific planned regulatory and institutional changes, as well as the timeframes and responsible institutions.

The implementation of the National Annual Action Plans by the public authorities is controlled by the Cabinet of Ministers, which in its turn reports to the President's Administration and to the Co-ordination Centre for implementation of Economic Reforms. Furthermore, the Co-ordination Council on Economic reforms, headed by the President, meets on quarterly basis and decides on corrective actions in case the implementation of the annual action plans is found unsatisfactory. The required corrective measures are formalised through the orders by the Presidential Administration to the executive bodies. The Co-ordination Council performs also the annual assessments of the plans' implementation. The public control is executed through the mandatory participation of NGOs and professional associations in the working groups in charge of drafting new legal acts, and through the preliminary publishing of draft legislation for public consultation.

Sector policy and track record of implementation

Since independence in 1991, within the context of improving competitiveness of the economy, Ukraine has established a policy of removal of the technical barriers to trade (TBTs) in line with the general WTO concepts (the WTO TBT agreement) and more specifically the regulatory approximation with the EU through the adoption and implementation of the EU legislation related to the free movement of goods. These principles are embedded within Ukraine’s Economic reforms programme (see 2.1.2) which includes specific policy aims for the reform of technical regulation and the related quality infrastructure.

The current organisation of the system related to TBTs results from successive restructuring measures that continue till today, aiming to remove the conflicts of interest that have been embedded in the old system inherited from the Soviet times. Key milestone events in this effort are outlined below.

In the implementation of the reform plans, in 2010 Ukraine undertook a substantial overhaul of its system of central bodies of executive power, in line with recognised best practice, which resulted in a delineation between those bodies that are responsible for formulating public policy and may issue regulations (ministries) and those that implement various aspects of the approved public policy (services, agencies and inspectorates).

This overhaul also included the reform of the institutional set-up of quality infrastructure. On April 6, 2011 the monopolistic body (State Service for Technical Regulation and Consumer Policy known as DSSU), which encompassed functions of standardisation, conformity assessment, pre-marketing state inspection, and market surveillance, was dissolved. Its functions were transferred to the Ministry for Economic Development and Trade, the State Veterinary and Phytosanitary Service of Ukraine and the newly created State Inspectorate of Ukraine for the Issues of Consumer Rights Protection. This removed a major factor of conflicts of interest, created by the co-existence of incompatible functions within the same organization.

The subsequent enactment of the new Laws on “On State Market Surveillance and Control of Non-Food Products”, "On General Safety of Non-food Products" and "On Liability for Defective Products" eliminated further conflicts of interests between the former DSSU regional branches, which had previously practiced commercial activities (certification) and, at the same time, carried out surveillance of the compliance with mandatory requirements by manufacturers and wholesale suppliers. On June 1, 2011 by Resolution of the Cabinet of Ministers, all market surveillance authorities were appointed, and their areas of responsibilities defined. The surveillance activities according to the new legislation commenced in 2012.

Ukraine has also made progress in adapting its vertical/sectoral technical legislation that define the parameters that products must meet before they can be placed on the market. It has adopted circa 40 Technical Regulations, many of which are based on EU New and Global approach directives. While these are not yet fully compatible with the appropriate EU regulations, work started in 2012 and presently continues to align regulations.

Progress has also been made (although slowed down considerably in 2012-2013) in the revision of national standards and adoption of new ones based on the EU and international standards.

The mandatory pre-market certification of goods, which until recently had been the dominating tool for quality assurance, is being steadily crowded out. The list of products subject for such certification has been reduced considerably (by 65%). The formation of a single national standards body is planned to be accomplished in 2013, removing further conflicts of interest.

Overall, the track record of in implementation of policy/reforms in the area of technical barriers to trade can be assessed as consistent and steady, albeit slower than expected. One of the main reasons for slow pace relates to the difficulties being experienced in the process of concertation of draft legislation with all the concerned Ministries, who raise objections in cases where their powers and budgets might be affected.

The draft Association Agreement, including the Deep and Comprehensive Free Trade Area (DCFTA), initialled by Ukraine in July 2012, while not being, strictly speaking, a national strategy, nevertheless represents a strong evidence of political will and commitment in the area of technical barriers to trade. Once signed, the DCFTA commits Ukraine to a time bound programme of alignment of its technical regulation and quality infrastructure with those of the EU, which requires the completion of institutional reforms, institutional capacity building, and the alignment of horizontal and vertical (sectoral) legislation within the context of the EU legislative framework for the free movement of goods.

To plan further reforms in the concerned sector, the Ministry for Economic Development and Trade, with the involvement of an EU-funded technical assistance project, produced a draft Strategic Plan on the Reform of System for the Technical Regulation of Industrial Products 2013-2017. The document confirms the overall vision of the reforms, provides clear indicators of achievement, timelines for implementation and an inter-departmental allocation of responsibilities. On 18 June 2013, the Minister for Economic Development and Trade, by a letter to the EU Delegation, confirmed that the Ministry would make all possible efforts to have the strategy approved by the Government by the end of 2013.

Besides, a strategy for industry development is under preparation. Although the Concept currently available is not fully mature, key aspects include definition of priority industrial sectors and confirmation of the need for further alignment of the technical regulation system with international standards and practices. The other relevant new policy document is the plan for preparation for and the implementation of the future Association Agreement, including the DCFTA, to be formally adopted by the President's Decree.

Sector Budget

There is neither an overall medium term fiscal framework (MTFF) nor a medium term expenditure framework (MTEF) for the sector. The only data available on the sector financing are administrative allocations to different entities in different fiscal years, which are described below. According to the information provided by the Ministry for Economic Development and Trade, the allocated amounts are not always fully disbursed.

The key actor in the sector is the Ministry for Economic Development and Trade of Ukraine (MEDT), through two of its core Departments on Technical Regulation and Trade Development. Besides, there are other actors, (including the National Accreditation Agency of Ukraine, metrology and conformity assessment institutions) that are state-owned enterprises, operating largely on a self-sustaining basis and often providing unpaid services to the authorities. Several other ministries (e.g. Ministry of Regional Development, Construction and Public Utilities, Ministry of Agricultural Policy and Food) receive budget allocations for the scientific research and development of national standards in their sectors. The wage and non-wage expenditures are not properly balanced. The salaries of staff remain the dominating cost drivers in the budgets related to the technical regulation and market surveillance.

In the fiscal year 2012 the State Budget allocated UAH 318.771 million (EUR 31.2 million) for the maintenance of the MEDT apparatus, of which the two Departments in question are only a minor fraction. Scientific works in the areas of standardisation and conformity assessment, along with other research, professional training and development of scientific infrastructure, also in other areas for which MEDT is responsible, received UAH 42.962 million (EUR 4.21 million) (13.4% of the total budget). For more specific and focused purposes, like maintenance of the national measurement standards, functioning of metrological systems, standards development and alignment of national standards with international and European ones, the State Budget allocated UAH 17.359 million (EUR 1.7 million, or 2.4% of the total budget of the Ministry). UAH 2.194 million (EUR 215,329) was allocated to the state metrological surveillance (still within the competence of MEDT). The State Consumer Protection Inspectorate was allocated UAH 42.525 million (EUR 4.17 million), of which 83,8% was assigned to salaries and other maintenance of the apparatus and only UAH 6.874 million (EUR 674,612) to the exercising supervision.

The relevant allocations foreseen by the Law on State Budget 2013 are as follows: UAH 215,648 million (approximately EUR 20 million) for the maintenance of the MEDT apparatus; scientific works in the areas of standardisation and conformity assessment, along with other research, professional training and development of scientific infrastructure- only UAH 16890 million (EUR 1.56 million, or 0.8% of the total Ministry's budget). For the maintenance of national measurement standards, functioning of metrological systems, standards development and alignment of national standards with international and European ones, the State Budget is going to allocate UAH 4,730.6 million (EUR 0.44 million). The budget for the State Metrological surveillance remains the same UAH 2.194 million (EUR 0.2

million). The Ministries for Agricultural Policy and for the Regional Development and Construction will receive correspondingly UAH 117578.3 million (EUR 10.9 million) and UAH 12123.2 million (EUR 1.1 million) for the scientific and standardization activities in their spheres of competence. The State Consumer Protection Inspectorate is allocated UAH 42060.4 million (EUR 3.95 million), out of which 88% will be spent for the salaries and other maintenance of the apparatus and only 12% on the market surveillance and consumer protection activities.

While there was an increase in the budget allocations in 2012, in 2013 there are apparently cuts in the budget spending in all areas. This should not be considered as a policy-related development, as the reductions concern many areas, not only those of technical regulation. Despite the generally insufficient funding and budgetary cuts, there is still a significant potential for savings, notably in the field of standardisation.

Assessment of institutional capacity

The majority of the principal stakeholders have demonstrated a good commitment to the reforms still to be undertaken, a vision of future steps, and good co-operation with the EU Delegation and EU-funded assistance. However, the institutional capacity varies from one organisation to another (please see 3.6 below). The main stakeholder – the Ministry for Economic Development and Trade – experiences a frequent personnel turnover and still lacks capacity to effectively manage both the internal reforms agenda and the EU assistance. The noted capacity problems have not so far affected the general course of reforms, however resulted in the delays. Furthermore, resistance to reforms is still detected in several entities/units (notably dealing with legal metrology and certification of products), which may lose their current privileged positions. There are also vested interests.

Analytical basis and data quality

The State Statistics Service of Ukraine (SSSU), the main producer of official statistics in Ukraine, now enjoys full independence thanks to the recent Presidential Decree n° 634 dated 19 June 2012. From the recent (June 2012) Adapted Global Assessment conducted jointly by EUROSTAT, UNECE and EFTA, it appears that Ukrainian Statistical System generally complies with international standards, although many recommendations are made for a better respect of confidentiality and improved methods in specific sectors. The current reform plan is being implemented successfully and will be extended for five more years. The reliability of results is already satisfactory and improves continuously, including with the support of the on-going EU-funded Twinning project.

Some specialised statistical data (such as related to the standardisation) are managed by the responsible institutions (e.g. the Ukrainian Scientific, Research and Training Centre for Standardisation, Certification and Quality). For these institutions, further progress is required to collect and process reliable data. The lack of consolidation of the standardization function into a single body, and the differences in data provided from constituent sources represent particular difficulties, which will be taken into account in the definition of performance indicators, through clear specification of the data sources and background figures.

Conclusion on the eligibility

On the basis of analysis of documents, measures and reform process followed by the government in the course of recent 10 years, it can be concluded that sufficiently relevant, consistent and credible policy exists for budget support programme objectives to be largely achieved. The track record of implementation has demonstrated a political will and capacity to initiate substantial regulatory reform for aligning with the EU legislation and practices. The planning and strategic documents for the future period, albeit not yet formally endorsed, demonstrate a clear vision for further regulatory and institutional changes to be accomplished. The most significant evidence is the initialling by the Ukrainian side of the draft DCFTA with the ambitious requirements reflected in the chapter on Technical Barriers to Trade. The policy therefore can be supported by the Commission with the proposed budget support programme, on the condition that a strategy and action plan for the programme's implementation period will be formally endorsed prior to the signature of the Financing Agreement. On 18 June 2013, the Minister for Economic Development and Trade, by a letter to the EU Delegation, confirmed that the Ministry would make all possible efforts to have the strategy approved by the Government by the end of 2013.

2.3.2. Macroeconomic policy

Ukraine's economy was affected by a negative global environment in 2012 as well as by a weak investment climate. Following growth at 4.2% of GDP in 2010 and 5.2% of GDP in 2011, real GDP growth slowed to only 0.2% y/y in 2012. Ukraine's GDP real growth was negative at -1.3% y/y in the first quarter of 2013, implying that economic contraction continued without any major improvement in key economic sectors.

Ukrainian industry, which is heavily dependent on exports, suffered from restrained private investment, very weak foreign demand in the metals and machinery markets, from Russia’s introduction of a car utilization fee and from disruptions in domestic railcar production. As a result, industrial output declined by 1.8% y/y in real terms in 2012, causing a slowdown in the construction (-14% y/y) and cargo transportation (-7.6% y/y) sectors. Agricultural output fell below the 2011 record-high levels (-4.5% y/y). Among the key sectors, only retail trade turnover showed positive growth of 14% y/y last year (in line with 2011), manifesting still strong domestic consumption demand supported by government social spending ahead of the October 2012 elections. In the first quarter 2013, industrial output dropped by 5% y/y in real terms, showing no signs of recovery across the board (except in the food processing sector), and the reported growth in the retail trade sector (+13% y/y) hid a one-off surge in sales of imported cars ahead of the introduction of higher import duties which took effect in mid-April.

The first quarter of 2013 economic developments confirm that Ukraine’s prospects continue to be affected negatively by external headwinds and uneven policy implementation. Private consumption is expected to weaken in 2013 on tighter spending policy of the government, and investment activity will remain low. In April 2013, the IMF downgraded its GDP growth forecast for Ukraine to 0% y/y for 2013 and 2.8% y/y for 2014 from its previous projection of 3.5% for both years. World Bank worsened its forecast of Ukraine's GDP real growth to 1% y/y (from 3.5%) for 2013 and to 3% (from 4%) for 2014. EBRD for the second time this year downgraded the forecast for the development of the Ukrainian economy, expecting it to decline by 0.5% y/y in 2013 and grow by 2.4% y/y in 2014. Meanwhile, the Ukrainian government continues to underpin its planning by extremely optimistic economic projections, including for GDP growth, which is officially forecast to accelerate by 3.4% y/y in real terms in 2013 and by 3% y/y in 2014.

Low food prices (53% of the official consumer basket) brought inflation to its lowest level in a decade. Headline inflation reached -0.2% at year end, after 9.1% and 4.6% in December

2010 and 2011 respectively. In the first quarter of 2013, consumer prices continued declining as the Consumer Price Index (CPI index) was reported at -0.5% y/y. The key reason for this was strong domestic production of key food staples. Besides, the government further delayed increases in administratively regulated utilities tariffs (11.4% of the official consumption basket). The central bank was pursuing very tight monetary policies, which suppressed investment and economic growth. In 2013, the CPI dynamics will be largely dependent on the volumes of the agricultural harvest, any decision to implement utility tariff hikes, and foreign exchange policies (which might lead to the depreciation of the hryvnia). The official government forecast for the end-of-year CPI is 5% end-of-period. The low inflation rates observed for the past year have both positive and negative aspects. On the one hand, they support household real income and purchasing power. However, a prolonged period of zero inflation may discourage growth in domestically oriented sectors.

Ukraine's fiscal deficit (including the Naftogaz state oil and gas company) exceeded the IMF projection of 5.3% GDP and increased to an estimated 6% GDP (of which Naftogaz' deficit was 1.7% GDP) in 2012, up from 4.2% GDP in 2011 (of which Naftogaz' deficit was 1.5% GDP), mainly as a result of the authorities' refusal to increase gas tariffs for households and utilities to cost-recovery levels, but also because of increased government spending before the October 2012 elections. Neither the 2013 central budget deficit target of 3.2% GDP, nor the 2014 central budget deficit target of 3% GDP appear realistic, as both are based on optimistic real GDP growth estimates (see above). For 2013, the highest risks lie in the estimated collections of VAT on local products, due to expected slowdowns in domestic consumer demand and corporate income tax, stemming from weak corporate profits, sizable advances already paid and a reduction in the corporate income tax rate already in 2013. IMF experts insist on cutting tax benefits and privileges as an immediate remedy to help the government avoid a massive shortfall in revenue collection. Also, should the government continue to delay adjustments to gas and utility tariffs, Naftogaz Ukrainy's "structural deficit" will likely exceed the 0.8-1% GDP both in 2013 and 2014.

Ukraine's current account deficit increased to USD 14.4 billion in 2012, or 8.3% GDP, compared to 5.5% of GDP in 2011. Weak external demand combined with strong consumer and investment imports were the key factors behind the increase in last year's C/A deficit, while the energy import bill (the key reason for C/A deterioration in 2010-2011) declined by 8% y/y in 2012 (to USD 27 billion) as Ukraine cut gas import volumes to 33 bcm from 40 bcm in 2011, fully offsetting a 36% increase in the average gas price. A social spending hike ahead of the October 2012 parliamentary elections and state infrastructure projects related to the Euro2012 football championship caused non-energy imports to increase by 12% y/y, keeping overall merchandise import growth positive at +5.3% y/y. At the same time, exports increased by a mere 0.5% y/y in 2012 as strong grain and vegetable oil sales only partially offset weaknesses in metallurgy and machine building The share of food & agriculture exports increased to 26% in 2012, from 18% in 2011. The first quarter of 2013 C/A dynamics suggests that the full-year C/A deficit will remain high, with a slight improvement over the 2012 record (around 7.6% GDP in 2013 versus 8.4% of GDP in 2012) as the prospects for a global economic recovery remain slim.

The international reserves of the National Bank of Ukraine (NBU) stood at USD 24.5 billion as of end 2012, down 23% y/y or USD 7.3 billion compared to end 2011. This represented the equivalent of 2.8 months of imports, below the 3.0 month safety threshold and the lowest level since 2002. Since the start of 2013, the National Bank has continued to support the hryvnia via foreign exchange (F/X) market sale interventions which signals that pressures on the currency remain high.

The public debt volumes in 2011-2012 have remained constant: after a marked rise following the 2008-09 crisis, public debt has been at around 36-40% GDP in 2011-2012. In the first quarter of 2013, Ukraine's public debt increased by 3.9% (+ USD 2.9 billion) to USD 67.4 billion and reached 38% of the 2012 GDP. In 2013, Ukraine has taken advantage of the favourable conditions in external capital markets and placed more bonds than previously expected (USD 1.25 billion 10-year Eurobond at 7.5% yield in April and a USD 1 billion Eurobond placement at 7.625% in February), most likely letting the debt-to-GDP ratio rise above 40% GDP in 2013, despite the very high public F/X debt repayments (peaking at USD 10.5 billion in 2013). Overall, the Ukrainian government appears sufficiently financed to cover its F/X debt service, allowing Ukraine to "muddle through" without IMF financing.

In November 2008, the IMF board approved a USD 16.5 billion or Special Drawing Rights (SDR) 11 billion Stand-By Arrangement (SBA). However this SBA was interrupted in November 2009 due to slow progress in a number of agreed structural reform priorities. By that time, Ukraine had drawn some USD 10.6 billion under the programme. A new 29-month USD 15.2 billion SBA was approved in July 2010. Following the successful conclusion of the first review under the current SBA, Ukraine received the first tranche of USD 1.89 billion. The second review – originally scheduled for conclusion at end-March 2011– is yet to be completed. Ukraine received no disbursements under the IMF standby arrangement in 2012 (which lapsed in December 2012) and no new cooperation programme has been agreed up until the present moment, as authorities have not reached agreement with the Fund on gas prices, the budget parameters and the issue of exchange rate flexibility. No progress is likely until the yearend on the IMF front.

To summarise, Ukraine's macroeconomic performance worsened in 2012 and economic decline continued in the first quarter of 2013. Further ahead, the internal (related to the increasing fiscal deficit) and external vulnerabilities are significant, especially the growing fragility of the local FX market (due to the fixed exchange rate policy, high public borrowing needs in the F/X, and the on-going re-pricing of the emerging market assets on the back of growing expectations on reversal of the US monetary policies). As a result, they may endanger the 'muddling-through' approach of the Ukrainian authorities in the short-term and therefore need to be monitored closely.

2.3.3. Public financial management

The Public Expenditure and Financial Accountability (PEFA) Assessment 2011 for Ukraine (update of the 2006 PEFA Assessment) was published in July 2012. Ukraine scored 2.67 out of 4, above the worldwide average of 2.53. This indicates that the country has established fundamental Public Finance Management (PFM) systems but there is still considerable scope for improvement. Ukraine performs well on execution control as well as on accounting and reporting, however is lagging behind on credibility of the budget, policy based budgeting, external scrutiny and audit. Public procurement has been a difficult area with setbacks since 2011 further reducing competition and oversight of state purchases.

Overall, progress in PFM has been fragmented and not based on a comprehensive reform strategy. A Concept Note to develop PFM, formally approved by the Cabinet of Ministers in September 2012 was considered a "good start" by the EU, but the need for a real and consistent Strategy was also underlined. A draft Action Plan on PFM presented in October

2012, which responded only in a limited way to requirements, was withdrawn by the Cabinet of Ministers in January 2013. An Inter-Ministerial Working Group started working on a "Global Strategy for the Reform/Improvement of Public Finance Management" which is expected to take into account comments from the EU Delegation and SIGMA received at various stages in the process, and to be approved by September 2013.

The latest report by the Accounting Chamber of Ukraine was published in December 2012 for 2011. It concluded that the major part of budget law infringements, cases of mismanagement and inefficient spending of budget funds were of a systemic nature. In particular, there was no decrease in the rate of offences in the public procurement sphere.

Corruption continues to be an important problem in Ukraine. According to Transparency International's Corruption Perceptions Index (CPI), corruption in Ukraine was perceived to be higher in 2012 than it was in 2011. The CPI index published for Ukraine in December 2012 was 26 while it was 27 in December 2011 (fewer points mean higher corruption perception).

In summary, whereas fundamental PFM systems are in place, there is still considerable scope for improvement in several areas. Actions taken with regard to PFM in 2012 were more of a political than of a practical nature and corresponded in a limited way to what is needed. There is an urgent need to adopt a comprehensive PFM strategy document and action plan in 2013.

2.3.4. Budget transparency and oversight of the budget

The six indicators measuring Comprehensiveness and Transparency in the PEFA exercise have basically remained the same from 2006 to 2011 (2xA; 1xB+; 1xB and 2xD+). Public access to key fiscal information scores a B in the 2011 PEFA report (as in 2006). Ukraine's OBI score for 2011 is 54 out of 100, which is a little higher than the average score of 43 for all the 100 countries surveyed. Ukraine's score indicates that the government provides the public with only some information on the national government's budget and financial activities during the course of the budget year. This makes it challenging for citizens to hold the government accountable for its management of public money.

The most recent World Bank – EU report from 2011 on the effectiveness of state budget management confirmed that Ukraine provides the public with a significant amount of information. However, this information is not well-structured and transparent. For example, the comprehensiveness of end-year reports could be increased by an analytical explanation of key budget indicators. For the moment budgetary information is more of statistical nature.

An important negative development in 2012 was that, contrary to the requirements of the Budget Code, the budget proposal for 2013 was not published in September for consultation prior to adoption at the end of the year. It is expected that in 2013 the draft budget will be published in line with the law.

2.4. Lessons learnt

The independent review of the ongoing 1st phase SPSP was performed in February-March 2012, and the final version of the report was issued in May 2012. The review covered the policy developments in the technical regulation and quality infrastructure in Ukraine; the fulfilment of performance indicators, and measures for improving the performance of the programme. The review noted existence of high level commitment to the reforms and significant developments in the concerned areas. These conclusions have also been confirmed by the Results Oriented Monitoring (ROM) of the technical assistance component of SPSP in late 2012.

The independent review of 2012 also clearly identified the areas, where progress has been slower than anticipated, possible causes for the insufficient progress, and the actions to be taken. The review also included comments on each of the performance indicators, including the methods of assessment, and clearly brought to light certain deficiencies in formulation, leading to the ambiguities and different ways of interpretation. All those finding are taken into account both in formulation of the scope of for the 2nd phase of SPSP, and in definition of its performance indicators.

2.5. Complementary actions

The EU has continuously, since late 1990s, and through a series of technical assistance and Twinning projects, and a budget support operation, supported the reform of Ukrainian technical regulation system. The presently ongoing complementary actions are the following:

- The 1st phase SPSP "Promoting mutual trade by removing technical barriers to trade between Ukraine and the European Union started on 21 December 2009 and finishes on 21 December 2013, a one year time extension is currently under preparation. It comprises EUR 39 million of untargeted budget support, and EUR 6 million for complementary measures. Its performance indicators refer to the reform of the Ukrainian quality infrastructure, development and adoption of relevant horizontal and sectoral/technical legislation, harmonisation of Ukrainian standards with international and EU ones, establishment of the system of market surveillance and gradual; abolition of practice of pre-market control and certification of products.

- The Twinning operation for the National Accreditation Agency of Ukraine started on 6 October 2011, the duration is 27 months, and the budget is EUR 1.5 million. The project aims at aligning the NAAU's accreditation function with relevant international standards, strengthening its internal procedures and personnel's competence, achieving international recognition of NAAU's activities in several areas, increasing NAAU's visibility.

The activities by other donors in this sector have been few and of much smaller scale than those of the EU. The most recent examples include the SIDA-funded study on market surveillance, and some activities within the IFC project on enabling business climate.

2.6. Risk management framework

The risk assessment framework is included as an annex to this action fiche. The specific risks and assumptions relevant to the sector are highlighted below.

The existing up to date track record of the implementation of reforms in the sphere of technical regulation in Ukraine is the good indication that continuation of efforts in this sphere is potentially sustainable. Nevertheless, the budget support operation is a subject to assumptions and risks as follows:

Principal assumptions for effective and successful implementation include:

– The Government of Ukraine remains committed to developing and deepening relations with the EU, including among other adopting the necessary reforms towards the completion of the Association Agreement and the Deep and Comprehensive Free Trade Area;

- Continued government commitment to stability-oriented macroeconomic policy, and satisfactory progress on implementation of the programme to improve and reform public finance management, including public procurement; adequate budget transparency;
- Continued commitment by all stakeholders to fulfil respective obligations for the effective implementation of the programme;
- Consolidated efforts on the strategy front towards the development of a new sector strategy, along with an action plan for its implementation;

Possible risks involved that could have an impact on programme implementation include:

- Short-term economic considerations can possibly divert Ukraine's commitment from deepening relations with the EU and towards another direction of integration. Consequently, the Association Agreement the Deep and Comprehensive Free Trade Area may lose momentum.

  Mitigation: High-level political and policy dialogue; disbursement modalities (no fixed tranche, payment only on the basis of actual achievements).

- Continued pressures from lobbies and vested interests may obstruct the course of reforms.

  Mitigation: High-level political and policy dialogue; disbursement modalities (no fixed tranche, payment only on the basis of actual achievements). This risk will diminish in case the Association Agreement is signed.

- A new unified sector strategy on removing the technical barriers to trade and related action plan become postponed.

  Mitigation: This risk will be rather low in case the commitment to sign DCFTA is maintained. The DCFTA itself, if signed, could serve as a strategic planning document. There will be continued dialogue with and assistance to the Government and other stakeholders in the course of development, review and discussions on the strategy. Before the signature of the Financing Agreement, the sector strategy will be duly re-assessed. Disbursement modalities (no fixed tranche) will prevent payments in case the planning documents foreseen by the performance indicators are not delivered.

- The legislation needed for further reforms continues to be blocked by other Ministries, fearing losing parts of their powers and budgets.

  Mitigation: High-level political and policy dialogue; disbursement modalities (no fixed tranche, payment only on the basis of actual achievements). This risk will diminish in case the Association Agreement is signed. Besides, the EU technical assistance has proved instrumental in helping the Ministry for Economic Development and Trade to solve disputes with other Ministries in the area of technical regulation. Continuity of technical assistance will be of utmost importance to support sustainability of the reform process and effective approximation with the EU.

- The Government fails to achieve the expected improvements in the quality of public financial management.

  Mitigation: Policy dialogue with involvement of all relevant stakeholders, on-going technical assistance. Before the signature of the Financing Agreement , the PFM reform strategy/ action plan will be duly re-assessed.

- One or several of the ministries and agencies involved in the programme might either be reluctant or not have the capacity to cooperate in an expected manner.

  Mitigation: Policy dialogue with involvement of all relevant stakeholders, on-going technical assistance. A strong overall and continuous coordination function of the Ministry of Economic Development will be essential to ensure effectiveness and coherence of the reform process.

- The economic situation in Ukraine deteriorates to a point that it affects the financial and operating capacities of the main Programme's stakeholders.

  Mitigation: Consultations with the Government, follow up of the IMF dialogue with Ukraine. Continued dialogue with and technical assistance to the stakeholders. Before the signature of the Financing Agreement, the macroeconomic stability will be duly re-assessed.

- Insufficient co-ordination among the beneficiaries and stakeholders.

  Mitigation: Policy dialogue with involvement of all relevant stakeholders. The Joint Monitoring Group in the framework of the ongoing SPSP has proved instrumental to increase understanding and co-ordination among different stakeholders.

3. DETAILED DESCRIPTION OF THE BUDGET SUPPORT CONTRACT

3.1. Objectives

The overall objective of the proposed SPSP is to promote sustainable and inclusive growth and to contribute to economic reforms and the gradual integration of Ukraine’s economy into the European Union's Internal Market.

The Specific Objective is three-fold:

− To support the national authorities in preparing, concluding and implementing the Association Agreement and DCFTA in the area of technical barriers to trade;

− To extend harmonisation with the EU regulatory framework to the sectors covered by the EU's "Old Approach".

− To improve overall functioning of the technical regulation system and its institutional infrastructure for quality.

3.2. Expected results

The following Results, taken directly from the Government's approved documents, will be supported:

- Rendering all standards voluntary, with the exception of those standards referred to as an evidence base in the mandatory vertical/sectoral legislation – "technical regulations";
- Continuation of adoption of technical regulations on the basis of the EU legislation of the New and the Global Approach, as well as other EU legislation;
- Continuation of excluding the products subject to conformity assessment in accordance with technical regulations and low-risk products (services) from the list the products subject to compulsory certification in Ukraine.
- Elimination of remaining excessive and duplicative pre-market control requirements and further streamlining and optimisation of the institutional and regulatory aspects of the surveillance activities;
- Establishing methodologies for risk assessment for market surveillance activities.
- Ensuring the development of national standardization system in accordance with provisions of the Agreement on technical barriers to trade and the harmonization of EU standardization system;
- Continuation of harmonization of national standards with international and European standards, and elimination of conflicting standards;
- Improvement of national legislation, the legal and regulatory framework in the field of metrology in accordance with the EU standards and rules;
- Development and improvement of primary and secondary standards of units of measurement, national reference standards and reference samples in accordance with international rules;
- Preparation of and signature of Agreements on Conformity Assessment and Acceptance of Industrial Products (ACAA) in priority sectors.

The above listed Government's planned results, the requirements set out in the initialled Association Agreement and DCFTA, and the objectives reflected in the draft Ukrainian strategic plans, lead to the formulation of the following planned Results for this Sector Reform Contract:

- To complete the on-going regulatory approximation, to implement and maintain it in the context of Association Agreement and DCFTA.
- To extend the regulatory approximation to the new sectors of the EU's "Old Approach".
- The regulatory authorities, implementing agencies and quality infrastructure are capable to work adequately and in a coordinated way under the new legislation and rules and to provide good quality services to their clients.
- The business community has received sufficient information to operate under the new technical regulations.
- Increased awareness of and support to the new system of technical regulation among relevant stakeholders.

3.3. Rationale for the amounts allocated for budget support

The total amount allocated to the Priority Area 2: "Facilitation of the entry into force of the EU-Ukraine Association Agreement (including DCFTA) under the National Indicative Programme (NIP) 2011-2013 is EUR 128.05 million of which 39% is to be delivered under the present budget support programme. The allocated amount is based on:

– Financing needs of the partner country in the relevant sector. As explained above, the salaries of staff represent the dominating cost drivers in the budgets related to the technical regulation and market surveillance. Consequently, there is persistent lack of funding for development and scientific activities, which are indispensable to reach the policy objectives in the area of technical barriers to trade, as well as the international relations activities (e.g. development and maintenance of primary reference standards in fundamental metrology; establishment of information systems; upgrade of testing and conformity assessment facilities; information campaigns for market operators; development of risk assessment methodologies for market surveillance; participation in activities of relevant international and European organisations, etc.).

– Track record of past disbursements and their correspondence with the achievement of agreed objectives and performance indicators. For the ongoing programme with a comparable volume of budget support (EUR 39 million), the calculations performed by the Ukrainian Authorities have demonstrated that the addition of budget support to the national sector budget would allow performing the activities necessary to reach the performance indicators. Up to date, for the ongoing programme the achievement of performance indicators slightly surpasses the disbursement rate. For the proposed 2nd phase of the programme, the objectives and expected results are even more ambitious than those planned for the ongoing 1st phase.

Given the relatively large size of the Ukrainian economy the macroeconomic impact of budget support is limited. The EU national aid programme in the current financial perspective is equivalent to about EUR 150 million per year or 0.1% of GDP (or 0.3% of government revenue). Annual disbursements of budget support have varied substantially within this overall ceiling and are expected to reach about 0.05% of GDP in 2013, provided that budget support payments restart. That notwithstanding, the budget support of this sector reform contract would bring the significant value added in achieving the sector policy objectives.

3.4. Main activities

Main activities by the EU in the framework of the programme will include:

- transfer of EUR 50million over the fiscal years 2016-2018;
- continued political and policy dialogue with the Government with a particular focus on removal of technical barriers to trade between EU and Ukraine;
- a continued effort to reinforce Government's capacities in the area of PFM in the context of existing complementary support programmes;
- regular monitoring of budget support eligibility criteria:
  - monitoring of achievement of the sector's priority objectives will be undertaken on the basis of annual progress reports and other EU or development partners' reviews, supported by regular briefings for and discussions in the relevant sector working group;
  - monitoring of macro-economic developments will be performed in the context of the IMF missions and other relevant assessments;
  - monitoring of PFM eligibility will be done on the basis of the reviews of the government's PFM reform strategy and associated assessments or ad-hoc analysis;
  - monitoring of budget transparency will be undertaken through verifying public availability of appropriate documentation.

3.4.1. Budget Support

The proposed budget support programme is being prepared jointly with the Ministry for Economic Development and Trade, which has declared its full support to the planned policy objectives and the scope of results and activities of this sector reform contract. For preparation of the Financing Agreement, the Ministry has established a working group involving all the principal sector stakeholders presented in 3.6 below. The specific conditions described in 4.3 have been discussed and agreed preliminarily between the EU Delegation's and the Ministry's working group. The main issue to be clarified in the course of preparation of the Financing Agreement remains the selection of priority "Old Approach" industrial sectors with the involvement of relevant responsible authorities (e.g. Ministry of Agriculture, Ministry of Health, others).

The substantive activities to be implemented under this sector reform contract were defined basing on the objectives set both in the national policy for the sector, and in the initialled Association Agreement and DCFTA. They will be organised around five priority Components:

Component 1 – Further Regulatory Approximation in the context of Association Agreement and DCFTA.

This Component aims to complete the existing gaps in the legislation, and to bring the legislative and regulatory frameworks in line with the respective frameworks of the EU. It comprises three categories of interventions, for each a set of specific Activities will be planned:

- Horizontal Legislation - Complete the current framework legislation with the adoption of a number of pending Laws and implementing regulations in the areas of Standardisation, Metrology, Conformity Assessment and Consumer Protection, and remove any inconsistencies with other pieces of legislation, that may be created as a result of the adoption
- Harmonisation of vertical (sectoral) legislation - Harmonise Ukrainian Technical Regulations with the respective EU Directives and regulatory instruments (predominantly falling under the "New Approach" category) listed in the DCFTA chapter on technical barriers to trade. This activity will include achieving compatibility between bringing the already adopted or drafted Technical Regulation and into actual conformity with appropriate the EU Directives (including those being revised as part of the EU New Legislative Framework). The programme will also include, and the adoption of those required by DCFTA but not currently incorporated into the Ukrainian legislation (e.g. on building materials, high speed railways, telecommunication equipment, others). Evidence of actual implementation will be required, starting from adoption of an implementation plan for each of the Regulation.
- Development of standards – Adoption of international and EU standards along with the review and replacement of old standards.
- Evaluation of the results of approximation, to facilitate the conclusion of ACAA.

Component 2 – Extension of harmonisation to the new (not included in the DCFTA) sectors of the EU's Old Approach.

The Old Approach sectors include, inter alia, Chemicals, Detergents, Drug Precursors, Fertilisers, Cosmetics, Glass Products, Motor Vehicles, Agricultural and Forestry Tractors, Biocides, Pressure Vessels, Textiles and Footwear. It would be overly ambitious to expect Ukraine to fully adopt and implement all the legislation listed in the EU's "Pink Book" in the course of the proposed SPSP. It would be reasonable to expect selection and of up to five priority sectors. The main Activities will include:

- Selection of Priority Sectors;
- Transposition of the respective EU legislation into Ukrainian legislation;
- Establishment of an implementation plan for each of the respective Technical Regulation, covering as appropriate adoption of harmonised standards, market surveillance capacity, conformity assessment capability (where necessary, unless it is more practical to use the conformity assessment services by another country; Information provision to enterprises);
- Execution of the implementation plans.

Component 3 – Strengthening of the Quality Infrastructure

Actions under this component should address the strengthening of the human resources and working methods for the core elements of quality infrastructure. In certain cases, in particular for the new sectors, implementing infrastructure may need to be reorganised or even established from scratch. In particular this relates to the “Old Approach” Directives, for which the implementation is not, in general, based on the same methodologies of conformity assessment/market surveillance as the New Approach Directives. Activities under this Component will be both horizontal (aiming at improving the quality services in general for all sectors) and vertical (through execution of implementation plans for each of the relevant specific sectoral regulation) and will include:

- Standardisation: (i) abolition of remaining mandatory and outdated standards still in force; (ii) improvement of standardisation procedure and coordination of the activities of Technical Committees; (iii) integration of the National Standards Body in international and European organisations.
- Conformity Assessment: (i) strengthening of institutional and technical capacities of Conformity Assessment Bodies (CABs) including training of how to apply for designation, and training of designated CABs on ways of subcontracting activities to EU CABs; (ii) implementation of Inter-Laboratory Comparisons (ILC) and Proficiency Testing (PT) schemes; (iii) improvement of the working methods of testing, verification and calibration laboratories; (iv) enhance the knowledge of CABs' personnel on accreditation standards;
- Accreditation: Furthering collaboration with the European Co-operation for Accreditation (EA) through the signing of more Multi-Lateral Agreements (MLA) (Bilateral Agreements) with the European Cooperation for Accreditation as well as with the International Laboratory Accreditation Co-operation (ILAC). Moreover, auditors of the National Accreditation Agency of Ukraine (NAAU) should be further trained to acquire sectoral know-how to selected Directives.
- Metrology: Capacity building and technical modernisation of the National Metrology Centres, involving among other upgrade of the national base of measurement and reference standards and samples, development of testing methodologies and evidence base of standards for new Technical Regulations.

- Market Surveillance: (i) Institutional / organisational / technical capacity development for market surveillance authorities; (ii) full development and operation of the national market surveillance information system and of the system for rapid exchange of information on the products posing a serious risk; (iii) establishment of information services for market operators; (iv) establishment of a national market surveillance training force which would lead in the design and implementation of specialised and targeted training.
- Evaluation of the results of institution building, to facilitate the conclusion of ACAA.

Component 4 – Institutional strengthening of the Regulatory Authorities and Implementing Agencies.

The purpose of the component is to complete and strengthen the institution building started under the present programme and to extend it to new sectors.

- Enhance capacity of Ministry for Economic Development and Trade's Departments. This concerns primarily staff of the Departments of Regulatory Policy and Trade Development, in mastering the administrative duties associated with their functions, and especially the procedures and requirements for the appointment of Conformity Assessment Bodies (to become equivalent to the EU "notified bodies").
- Enhance capacities of Line Ministries and other competent Authorities in charge of technical aspects of implementation of New and Old Approach Directives under their competency.

Component 5 – Information campaign for market operators and other stakeholders

The purpose is to ensure that the reforms are embedded across key actors and stakeholders through actions of improving capacity and knowledge, including the market operators, civil society, professional associations, local authorities and general public. The information campaign will include the horizontal one as well as the information activities under each of the vertical/sectoral implementation plans. Under the sectoral implementation plans, detailed guidelines will be developed for market operators on how to work under the new technical regulations and on the requirements of market surveillance system. A regular structured dialogue between the government and the national and international business community on the reform process will be established. The effectiveness of information and awareness activities will be verified by surveys.

It is expected that the results and activities specified above will be implemented by the Government of Ukraine, supported, where needed, by the technical assistance within the complementary measure part of the programme.

3.4.2. Complementary support

The complementary support part will cover the technical co-operation to implement the activities listed in 3.4, independent reviews (regular assessment of general and specific conditions), communication and visibility and evaluation.

Following the Backbone Strategy's principles, the technical co-operation will be demand-driven and will support the partner country's programme rather than have its own separate objectives and scope. Therefore, the results of 3.2 and activities of 3.4 will be joint for the budget support and complementary components of the sector reform contract, and will be realised under the ownership and leadership of the Ukrainian authorities. The degree of technical assistance involvement may vary between activities. It can be expected that such involvement will be particularly intensive in the activities related to assessments of level of approximation of the Ukrainian and EU legislation, needs assessments, regulatory impact assessments, studies related to specific industrial sectors, capacity building and information campaign.

3.5. Donor coordination

The Donor co-ordination is formally ensured by the Government. Although the Government had set up the Government-donor co-ordination structure in 2006 and updated it several times since then, the Government-led donor coordination focuses on general coordination in the form of Government-donor meetings once or twice a year. An informal regular co-ordination exists among the donors in the form of a group of major development partners.

At the same time, the Government has not established the mechanism of regular donor coordination at sector level in a concerted and formalised manner. There has been only an ad-hoc co-ordination effort between the projects.

In 2011-2012, donors were continuously reaching the Ministry of Economic Development and Trade to resume the functioning of thematic sub-groups. At the moment, donors are keeping the dialogue on the way to set up regular and practical sector coordination mechanisms.

In the sector of technical regulation the EU is a lead donor, whilst the activities of others being of far smaller scale and of much more narrow scope. There is a co-ordination between the EU's and other donors' projects. For example, the International Finance Corporation (IFC) project on business enabling environment co-operated well with the EU-funded technical assistance, through joint public awareness events and joint support to relevant legal initiatives.

3.6. Stakeholders

The relevant stakeholders include:

The principal stakeholder is the *Ministry for Economic Development and Trade*, which is responsible for all major technical regulation functions, carried through two of its core Departments, namely the Department of Technical Regulation (responsible for the issues of standardisation, conformity assessment, metrology, legal drafting, technical regulations and international cooperation in the respective areas) and the Department of Trade Development (responsible, among other things, for consumer protection policy and market surveillance coordination and analysis). Both Departments were established following the above mentioned institutional reform of 2011. They both have demonstrated a good commitment to the reforms still to be undertaken, a vision of future steps, good co-operation with the EU Delegation and EU-funded assistance. Both Departments participate in the dialogue with the EU through the Sub-Committees. However, there is a lack of capacity to effectively manage both the internal reforms agenda and the EU budget support, resulting in the delays (e.g., in drafting of legislation, utilization of EU budget support funds, etc.). There are also frequent changes of the top management of Technical Regulation department.

Line Ministries and other authorities responsible for regulation of specific industrial sectors. The exhaustive list of such authorities can be established only after the choice of specific sectors is made. It is likely that the Ministry for Industrial Policy (liquidated in 2011 and recently re-established), the Ministry for Agricultural policy (for fertilizers, agricultural machinery) and the Ministry for Health would be involved.

Quality Infrastructure institutions:

Ukrainian Scientific, Research and Training Centre for Standardisation, Certification and Quality (known as UkrNDNC) – the planned future independent National Standardisation Body. It is currently characterised by certain weaknesses particularly regarding the co-ordination of the work of relevant Technical Committees. The major weakness in the standardization process is evidenced by much exaggerated cost of “harmonising” standards through a complicated, lengthy and costly procedures (rather than "adopting" the EU standards as they are).

With the exception of the National Standardization Body, for which arrangements have yet to be formalized, all the appropriate institutions have been established and appear to be largely mature. Further development is needed in specific areas:

Metrology institutions, including the National Scientific Centre "Institute of Metrology" in Kharkiv; State Enterprise "All-Ukrainian State Research and Industrial Center for Standardisation, Metrology, Certification and Consumers' rights protection (known as “UkrMetrTestStandard” - UMTS); the State Enterprise "Scientific and Research Institute for Metrology, Measurement and Control systems" (known as DPI "Systema") in Lviv; State Enterprise on Standards and Metrology in Ivano-Frankivsk. In the metrology sector, there is a need for transition from a system of verification of measures to the one based on calibration. The system for legal metrology needs to be enhanced.

The National Accreditation Agency of Ukraine (NAAU) has developed to a point where it has successfully passed a peer assessment process with European Co-operation for Accreditation (EA), resulting in bi-lateral agreements in a number of areas of accreditation, and in the status of an associate member. There is likely to be an ongoing need to develop capacities to assess the competency of Conformity Assessment Bodies against EU New Approach Directives, and for accredited calibration.

In the *Conformity Assessment* area, a network of conformity assessment bodies (CABs) has been developed for the majority of the adopted technical regulations. The key issue in this area is the changing geography, characterised by the expected emergence of a private sector in an area dominated by publicly owned enterprises. While the requirements set out in the Ukrainian legislation for designation of CABs have some similarities with the relevant EU reference provisions (Article R17 of decision 765/2008/EC) they are not fully compatible. Alignment of the requirements, as well as enhancement of their CABs' operating systems and practices will be needed.

Market Surveillance Authorities, including State Inspection for Consumer Protection, State Inspection for Marine and River Transport, National Commission for Radio and Telecommunication, State Veterinary and Phyto-sanitary service, State Inspection for supervision of mining industry; State Inspection for Architecture and Construction, State Inspection for Medicines and others. The recent (Autumn 2012) start of market surveillance activities according to the new legislation revealed substantial needs for further organizational and human resources development, as well as for risk assessment methodologies.

Civil Society (consumers' associations, business and professional associations), market operators, general public). Despite the past and ongoing awareness activities, a substantial effort is still required for these stakeholders to understand and accept the reform in the sphere of technical regulation. Nowadays, the support for reforms is very limited. Many market operators are not satisfied with the transition, as they fear increased competition from abroad and regard the technical barriers as an effective tool to protect their businesses. The consumer associations and the general public still believe that the State should guarantee not only the safety of products, but their quality, and regard the mandatory standards as a way to ensure such quality. As these attitudes have not changed, attempts to involve the civil society and business in the dialogue on technical regulation issues have often been counter-productive, and reforms in line with the EU practices were opposed.

Upon signature of the Financing Agreement, through the complementary measures/technical assistance component, a needs assessment for capacity building will be carried out both for the regulatory authorities and the quality infrastructure institutions. The needs assessment for further capacity building will consider both "Vertical" and "Horizontal" capacity, both of which are necessary for the successful implementation of the EU technical regulation. While the "Horizontal" capacity building will focus on the organization of Institutions and improvement of their interactions with clients, ensuring that they are objective, impartial and accountable, "Vertical" capacity building will focus on verifying to what extent the institutions are equipped with the technical skills and knowledge to ensure that products comply with regulations. Such capacity building will relate to specific Directives, and will be cross cutting between institutions.

3.7. Conclusion on the balance between risks (2.6.) and expected benefits/results (3.2.)

Ultimately, the proposed SPSP will achieve its results and address its goals only if actions foreseen for risks mitigations measures will be carried out as well as the Ukrainian Government remains committed to developing and deepening relations with the EU.

4. IMPLEMENTATION ISSUES

4.1. Financing agreement

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of the Financial Regulation.

4.2. Indicative operational implementation period

The indicative operational implementation period of this action, during which the activities described in sections 3.4. and 4.4. will be carried out, is 48 months, subject to modifications to be agreed by the responsible authorising officer in the relevant agreements.

4.3. Criteria and indicative schedule of disbursement of budget support

Disbursements of all tranches will depend on meeting *general conditions* related to:

- *Sector policy*: satisfactory progress in the alignment of Ukrainian legal and regulatory framework in the area of technical barriers to trade, and of the related institutional infrastructure with those of the EU.
- *Macroeconomic*: maintenance of a credible and relevant stability-oriented macroeconomic policy or progress made towards restoring key balances.

- *PFM*: satisfactory progress in the implementation of its programme to improve public financial management.
- *Budget Transparency*: satisfactory progress with regard to the public availability of accessible, timely, comprehensive, and sound budgetary information.

Specific conditions

Formal adoption of an overall Strategy for Reforming the system of Technical Regulation in Ukraine (presently available in a draft version under the internal consideration by the Ministry for Economic Development and Trade), along with an Action Plan, to be updated annually, represents a pre-condition for all disbursements of variable tranches.

The performance criteria and indicators, to be used for decisions on disbursement of further three variable tranches, follow the intervention logic of the programme (described in the sections 3.2 and 3.4 above). The criteria and indicators are fully coherent with, and sometimes directly taken from, the Government's already adopted and draft documents on the reform of Ukrainian system for technical regulation. They cover the following areas:

- Adoption and implementation of the horizontal (framework) and vertical (sectoral) legislation necessary to achieve the Specific Objectives stated above;

- Development of quality infrastructure institutions in four key directions:
    - standardisation,
    - accreditation,
    - conformity assessment,
    - metrology,
    - development of the market surveillance system.

For each of the listed directions, key measures and indicators of effectiveness are chosen to demonstrate the strengthening of capacities and quality of work.

- Increase in the enterprises' awareness and capability to operate under the new regulatory requirements.

Hence, the specific conditions for disbursement represent seven complex areas of assessment. As the programme targets the regulatory approximation, the process and output indicators would be the most appropriate to measure the effectiveness. Consequently, each of the areas will be assessed using a mix of process indicators, describing the regulatory actions taken (e.g. adoption of a new technical regulation) and output indicators measuring the immediate and concrete consequences of the measures taken (e.g. identification of non-conforming goods at the market).

The legislative area of assessment is particularly complex, given the vast volume of legislative and implementation effort necessary to fulfil the DCFTA requirements and to cover the industrial sectors beyond the DCFTA. As it would be impossible to plan precisely all the regulatory measures needed for all industrial sectors, the main assessment criteria to be applied will be the adoption and execution of an implementation plan for each of the sector. The table of indicators specifies the minimum requirements for such implementation plans.

Some of the areas, notably the standardisation, market surveillance, conformity assessment and awareness raising will be assessed in horizontal and vertical dimensions. For example, the overall pace of adoption of EU and international standards in Ukraine will be an indicator of effectiveness of the national standardisation system, whereas the availability of adopted EU standards as evidence base for conformity assessment for each of the concerned industrial sector will signal the stage of sector's approximation to the EU regulatory framework.

The disbursements will therefore depend on the degree of compliance with the general and specific conditions stipulated in the Financing Agreement. Amount of the variable tranches will be decreased in case of partial compliance or non-compliance, in proportion of the weight specified in the Financing Agreement for each condition. Assessment on the degree of compliance with the general and specific conditions will be performed by the EU Delegation (with possible external support, if there is a need). In the event of failure to fulfil a condition or achieve a quantitative target of indicator due to forces majeures it will be possible for the given condition or indicator to be neutralised as a determinant of the variable instalment.

The indicative schedule of disbursements is summarised in the table below (all figures in EUR millions) based on fiscal year of the partner country.

Country fiscal year	2016				2017				2018				
Type of tranche	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Total
Variable tranche		17				17				16			50
Total		17				17				16			50

4.4. Details on complementary support

4.4.1. Procurement (direct centralised management)

Subject in generic terms, if possible	Type (works, supplies, services)	Indicative number of contracts	Indicative trimester of launch of the procedure
Technical assistance to implement the activities listed in 3.4. Includes communication and visibility.	Services	1	First trimester of 2015
Technical assistance for assessment of performance indicators	Services	1	Third trimester of 2015
Evaluation	Services	2	Third trimester of 2016

4.5. Scope of geographical eligibility for procurement

Subject to the following, the geographical eligibility in terms of place of establishment for participating in procurement procedures and in terms of origin of supplies and materials purchased as established in the basic act shall apply.

The responsible authorising officer may extend the geographical eligibility in accordance with Article 21(7) of the basic act on the basis of the unavailability of products and services in the markets of the countries concerned, for reasons of extreme urgency, or if the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

4.6. Indicative budget

Module	Amount in EUR thousands	Third party contribution (indicative, where known)
3.3. – Budget support - Sector Reform Contract	50,000.00	N.A.
4.4.3. – Procurement (direct centralised)	4,700.00	N.A.
4.8. – Evaluation	300.00	N.A.
4.9. – Communication and visibility	Included in the Procurement	N.A.
Contingencies	N.A.	N.A.
Totals	55,000.00	N.A.

4.7. Performance monitoring

Performance monitoring will be exerted by a Joint Monitoring Group to be led by the Ministry of Economic Development and Trade. The Joint Monitoring Group will rely on official information provided by Ukraine and verify as appropriate. The Joint Monitoring Group will meet at least twice a year at technical level. High level meeting of the Joint Monitoring Group should take place at least once a year, including in the beginning and at completion of the programme. Additional mid-term meeting at high-level could be convened in case of the need to introduce changes in the policy objectives. The Joint Monitoring Group may include technical subgroups to follow-up specialised issues (e.g. specific industrial sectors, or specific areas of activities, such as the market surveillance, etc). The establishment, composition and schedule of activities of technical sub-groups will be decided by the main Joint Monitoring Group. The meetings of the Joint Monitoring Group will be documented by minutes. The minutes will be drafted and distributed to the participants for comments in three weeks after each meeting. In the absence of comments in three weeks after the distribution, the minutes will be deemed tacitly approved.

The Joint Monitoring Group will serve as a forum to follow the policy development, verify the achievement of performance indicators, identify problems and suggest solutions. It will present its opinion (or different opinions in case of major divergences between the members) to the European Commission. The responsibility for the final decision on the achievement of disbursement conditions will rest with the European Commission, which may use external support for this purpose.

The Government of Ukraine is expected to submit to the European Commission the annual reports on the achievement of general and specific conditions in the first quarters of the years 2015, 2016, 2017 and 2018. The reports are to be submitted regardless of the degree of achievement of conditions, and of the intention of the Government to request disbursement of budget support. The European Commission may hire independent experts to implement reviews of the programme in the second quarters of the mentioned years. The scope of the reviews will cover the implementation of agreed policy objectives in the area of technical barriers to trade, the status of performance indicators, recommendations on disbursement and suggested measures to improve performance. The review reports will be submitted for comments to the Government of Ukraine. Any feedback communicated by the Government will be either taken into account in the final version of the review report, or (in case of disagreement) commented upon in a separate note.

4.8. Evaluation and audit

Assessment of the results achieved will be reviewed and decided by the European Commission. In carrying out such reviews, the European Commission will, as appropriate, use the technical advice of external consultants to verify technical reports and data transmitted by the Government of Ukraine. Programme reviews and evaluations, whenever necessary, will also be decided by the European Commission and funded from the complementary measures part of the Programme.

The timing of evaluations – either mid-term, final or ex-post – will be decided in the course of implementation. Evaluation will be concerned with the extent and under what circumstances the programme, including the budget support component, was relevant, efficient, and effective in contributing to achieving sustainable impacts in the areas which are the focus of the objectives of the programme. In case of mid-term evaluation, validity of the monitoring system and performance indicators will be verified.

4.9. Communication and visibility

The programme will follow the orientations of the Communication and Visibility Manual for the EU External Actions. Proper communication and visibility of the action will be achieved via regular joint communication events on the occasion of the achievement of the disbursement criteria, as well as in connection with the important events related to the sector policy, and with the results/milestones of the technical assistance. A reasonable communication budget will be set aside for this purpose in the complementary measures.

Each project under this Programme will have its own communication and visibility component and budget, according to the EU Manual on Visibility of External Actions.