

ANNEX 4

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

Action Fiche for the Framework Programme in support of EU-Ukraine Agreements

1. IDENTIFICATION

Title/Number	Framework programme in support of EU-Ukraine agreements CRIS number: ENPI/2013/024-446		
Total cost	Total estimated cost: EUR 21 million Total amount of EU budget contribution: EUR 21 million		
Aid method / Method of implementation	Project Approach Direct centralised management: <ul style="list-style-type: none">- grants – call for proposal;- grants – direct award;- procurement of services- supplies Joint Management with the NATO Support Agency – NSPA		
DAC-code	15110	Sector	Public Sector Policy and Administrative Management

2. RATIONALE AND CONTEXT

2.1. Summary of the action and its objectives

The action aims at supporting the implementation of the key EU-Ukraine agreements, namely, the future EU-Ukraine Association Agreement (AA), including a Deep and Comprehensive Free Trade Area (DCFTA), the EU-Ukraine Association Agenda, the Framework Agreement on the general principles for the participation of Ukraine in Union programmes and the Cooperation Agreement on a Civil Global Navigation Satellite System. This action will also provide support to Ukraine with regard to destruction of stockpiles of PFM-1 anti-personnel mines under the Ottawa Treaty.

The action will therefore focus on the following areas:

- capacity building in the area of state aid control and, where appropriate, in the area of steering and implementation process for the future AA and DCFTA;
- capacity building in priority areas of the EU-Ukraine Association Agenda; a special attention will be paid to governance issues, private sector development, transport and energy;
- support for Ukraine's inclusion in the European Geostationary Navigation Overlay Service (EGNOS) coverage area in line with Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS);

- support for Ukraine's participation in Union programmes in line with the above-mentioned Framework Agreement between the EU and Ukraine;
- support for destruction of Ukrainian stockpiles of PFM-1 anti-personnel landmines.

2.2. Context

2.2.1. Country context

2.2.1.1. Economic and social situation and poverty analysis

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 limited amount of external investments. 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.

2.2.1.2. National development policy

The EU-Ukraine Association Agreement (AA), which will include a Deep and Comprehensive Free Trade Agreement (DCFTA), was initialled in 2012. Its signature is expected after the EU conditions related to justice and elections law reform and progress in key reform areas are met by Ukraine.

The EU-Ukraine Association Agenda that entered into force on 24 November 2009 defines key reforms and cooperation areas with a view to prepare for and facilitate the entry into force of the above-mentioned AA, including a DCFTA.

The Association Agenda specifically foresees cooperation in addressing common security threats, including destruction of anti personnel land mines. Ukraine signed the Anti-Personnel Mine Ban Convention in 1999. Its declared stockpile of PFM-1 anti personnel mines is 6,000,000 units. In 2013, destruction of 300,000 PFM-1 mines has been carried out by the NATO Support Agency – NSPA (NSPA) at the Pavlograd Chemical Plant.

This Action will provide further assistance for destruction of the remaining stockpile of PFM-1 anti personnel mines. Based on the above mentioned successful experience, a joint management with the NSPA is envisaged.

The Comprehensive Institution Building (CIB) programme under the Eastern Partnership aims at improving capacity of the institutions that play a central role in preparing ground for and implementing the future AA and DCFTA. In Ukraine, the CIB programme addresses four reform challenges: a) steering and implementation process for the AA and DCFTA; b) sanitary and phyto-sanitary capacity; c) capacity in state aid control; d) capacity in the field of migration.

In line with the CIB concept, the Government adopted the Institutional Reform Plans (IRP) in the above-mentioned reform areas. This Action is aimed to support selected measures of the IPR in the area of state aid control

In November 2010 a Framework Agreement on the general principles for the participation of Ukraine in Union programmes was agreed between the EU and Ukraine¹⁹. This action will support Ukraine's participation in selected EU programmes and agencies.

In December 2005, a Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS) between the EU and Ukraine was signed, which is expected to enter into force soon. The agreement aims at extending the EGNOS coverage to Ukraine. This extension would significantly improve Ukrainian access to GNSS applications and would also improve EGNOS coverage in eastern EU territories.

The national development policy is defined by the Economic Reform Programme for 2010-2014²⁰ (ERP), adopted in June 2010. The ERP covers important policy goals related to sustainable economic development, improving social services, improving the business climate, modernising the infrastructure, improving efficiency of public administration.

The ERP also aims at preparing the ground for implementation of Ukraine's obligations under the future AA and DCFTA, including those sectors covered by the CIB programme.

The National Action Plan for the ERP implementation in 2013 was adopted by the President on 12 March 2013 by decree No. 128. It covers key reform priorities targeted by the ERP, including the CIB areas, namely, steering and implementation process for the AA/DCFTA (sections 113-117 of the NAP) and state aid control and monitoring (section 3 of the NAP).

2.2.2. Sector context: policies and challenges

Specific sector context related to the CIB areas is provided in the sub-sections below.

Steering and implementation process for AA and DCFTA

The National Action Plan for ERP implementation in 2013 includes a number of measures aimed at preparing ground for the AA implementation:

- development and setting up of a national coordination system for AA implementation;
- development and approval of an Implementation programme for the AA and DCFTA.

The IRP in the area of implementation of the future AA was adopted by the Government on 10 October 2012 (decision ref. 767). The Ministry of Foreign Affairs is in charge of the overall coordination of this IRP. The IRP envisages the following three reform areas:

- establishment and a national coordination mechanism for AA implementation;
- development of a draft AA implementation programme, as well as an information and communication strategy;
- improvement of human resources management in the field of European integration, as well as improvement of Ukraine's system of EU assistance management and implementation.

¹⁹ Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:018:0003:0006:EN:PDF>

²⁰ Unofficial translation into English: http://www.usubc.org/site/files/Ukraine_Program_of_Economic_Reforms_2010-2014.pdf

These above-mentioned measures reflect Ukraine's clear will to improve institutional set-up and policy making framework in the area of European integration.

State aid control

Reform of Ukraine's state aid system is directly linked to the fulfilment of Ukraine's future obligations under the DCFTA. State aid reform will also increase transparency of state aid system, minimize negative impact on competition and increase efficiency of the public finance management.

In line with the National Action Plan for ERP implementation in 2013, the Government has to submit to the Parliament a draft law "On state aid to economic entities" by August 2013. The adoption of this law is a key pre-condition for a comprehensive reform in the area of state aid.

On 4 March 2013, the Government adopted an IRP in the area of state aid control and monitoring. It includes a number of measures aimed at creating a state aid monitoring system, establishing a national state aid inventory and building capacity of concerned institutions.

2.3. Lessons learnt

The past EU assistance to Ukraine was often characterised by limited capacity of the beneficiary institutions in terms of strategic management, instability of senior and middle level civil servant, and strong dependence of the projects' outputs on the approval of new legislation/regulations by the Government or the Parliament. Consequently, political support at a high level is a crucial factor for the successful implementation of assistance projects.

For technically and politically complex actions such as mine destruction experience has shown that specific expertise and capabilities are needed, and that a successful track record is of importance. In this regard, the NATO Logistics Agency NSPA is a preferred organisation to manage the destruction of Ukrainian stockpile of mines, particularly, through joint management.

Concerning some CIB areas experience shows that the lack of coordination, unclear division of tasks and insufficient budget allocations to the sector may affect greatly the progress of reforms.

It will therefore be crucial for the success of this Action to ensure that each assistance project is directly linked to clearly identified reform needs which are translated in an IRP or in other relevant policy documents.

2.4. Complementary actions

This programme will complement actions that will be launched under similar framework programmes funded out of 2011 and 2012 Annual Action Programmes for Ukraine. The involvement of other donors in the areas covers by the CIB programme is still limited to narrow short-term missions.

The Sigma Programme will be engaged in institutional assessment and targeted support related to policy making, administrative legal framework and civil service reform.

2.5. Donor coordination

The existing Government-Donor coordination mechanism will be used for the overall coordination of this programme. This mechanism is led by the Ministry of Economic Development and Trade (for technical assistance) and the National Agency on Civil Service (for Twinning).

In the framework of the CIB programme donor coordination will be ensured through specific steering committees (one per IRP), led by the principal beneficiary institution and involving the European Commission, the EU Member States and other donors.

3. DETAILED DESCRIPTION

3.1. Objectives

Overall objective:

To effectively raise Ukrainian institutions' capacities in the preparation and implementation of the EU-Ukraine Association Agreement, including the DCFTA and visa dialogue/VLAP, as well as in meeting the objectives of the EU-Ukraine Association Agenda, the Framework Agreement on the general principles for the participation of Ukraine in Union programmes and the Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS).

Specific objectives:

- To improve policy making system and institutional framework with a view of preparing the ground for and implementing the future AA, including the DCFTA;
- To support the establishment and implementation of a state aid control system in Ukraine in line with EU standards;
- To enhance capacities of relevant Ukrainian institutions with an aim to allow them to comply effectively with the commitments set forth in the EU-Ukraine Association Agenda;
- To extend the EGNOS coverage area to Ukraine in line with Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS);
- To support participation of Ukrainian administrations in selected EU programmes in line with the relevant framework Agreement between the EU and Ukraine;
- To ensure preparatory, monitoring, evaluation and audit work necessary for timely and efficient launch and implementation of actions in priority sectors in line with EU-Ukraine Association Agenda;
- To support Ukraine's efforts with regard to destruction of stockpiles of PFM-1 anti personnel landmines in line with the Ottawa Treaty and the EU standards in this area.

3.2. Expected results and main activities

The expected results are the following:

- further progress on the EU-Ukraine Association Agenda commitments and overall reform process is achieved by closer EU-Ukraine cooperation;

- improved capacity of the Ukrainian administration for strategic planning and policy making in line with national reform agenda and priorities of the regulatory approximation process with the EU;
- selected institutions have the capacity to implement the undertaken commitments under the EU-Ukraine agreements;
- the state aid system in Ukraine is fully operational and the control over public funds is improved;
- further progress in GNSS cooperation through implementing EGNOS extension in Ukraine;
- selected institutions are able to effectively participate in the Union programmes;
- assistance to Ukraine under ENPI annual programming in the priority sectors is relevant and timely, and project implementation is monitored and evaluated.
- Ukrainian stockpile of PFM-1 anti personnel landmines destroyed in line with the Ottawa treaty and the EU standards in this area.

To meet its objectives and results above, the Action will have the following components:

1. Component I - Support to the implementation of selected measures of Institutional Reform Plans (CIB programme)

Steering and implementation process for the AA and DCFTA

Main activities:

- establishment of an effective institutional and policy-making framework for the AA and DCFTA coordination and implementation;
- capacity building of the institutions involved in the steering and implementation process for AA and DCFTA (strategic management, procedures, human and technical capacity);
- monitoring and evaluation of the AA and DCFTA implementation, including impact assessment, awareness raising and information provision.

State aid control and monitoring

Main activities:

- improvement of the legal and institutional framework;
- review of the policy making system, including budgetary, industrial and competition components in line with the requirements of the state aid control legislation;
- establishment of the state aid inventory, including an IT system;
- development of methodological and technical support to state aid system;
- capacity building of state officials in the institutions concerned;
- creation of mechanisms for ensuring accountability, transparency and stakeholder involvement in state aid monitoring and control.

2. Component II - Support to implementation of the EU-Ukraine Association Agenda, including Cooperation Agreement on a Civil Global Navigation Satellite System concerning EGNOS extension and destruction of PFM-1 anti personnel land mines

Main activities:

- *building capacity of the Ukrainian administration in implementing EU standards, and in adapting Ukrainian legal and institutional framework to the requirements stemming from bilateral agreements;*
- *providing systemic approach towards legal approximation to achieve in due time the critical mass of approximated legislation required by the bilateral agreements;*

- *carrying out measures necessary for implementing EGNOS extension in Ukraine in line with Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS);*
- carrying out measures related to implementation, monitoring and evaluation of actions in the areas and sectors recognised as priorities with the Ukrainian authorities.
- carrying out measures necessary for ensuring destruction Ukrainian stockpiles of PFM-1 anti personnel landmines.

3. Component III - Support to implementation of the Framework Agreement on the general principles for the participation of Ukraine in Union programmes

Main activities:

- capacity building of Ukrainian administration with a view to facilitate their participation in Union programmes, including awareness raising about the EU agencies and programmes concerned and, if necessary, bringing the relevant Ukrainian legislation and approaches in line with the best European practices;
- provision of financial support for Ukraine in terms of its contribution for Union programmes.

3.3. Risks and assumptions

Ukraine's political commitment to the AA/DCFTA progress will strongly depend on Ukraine's capacity to address the EU pre-conditions for the signature of the agreement, adopted in December 2012. Moreover, the AA implementation may not be adequately followed-up without an appropriate coordination mechanism and detailed sectoral strategies and policies.

Therefore, the main risks are linked to the policy follow-up, the political fragility and the instability of administrative structures potentially benefiting from assistance under this Framework Programme. Political support from the Government will be needed for approval of the IRP in the area of state aid. The biggest risk at the moment, the IRP on state aid will not be approved, which would imply a cancellation of this component.

Lack of improvement of the general economic situation in Ukraine could lead to shortage of public funds to implement the foreseen reforms, and to co-finance the CIB programme.

These risks will be mitigated through continuous monitoring of the relevant sectors as well as through regular policy dialogue with Ukrainian stakeholders and involved implementing agencies.

This programme shall be based on the following assumptions: a) Ukraine pursues its objective of improved relations and economic integration with the EU, maintains its trend of increased co-financing of EU-funded assistance projects, and pursue its efforts to improve its public administration based on European principles; b) the Government enhances its donor coordination effort and supports improvement of decision-making processes in line with European principles; c) twinning and technical assistance projects are designed taking into account its prioritisation and further proper sequencing.

3.4. Cross-cutting issues

Good governance, human rights and the rule of law are essential elements of the future Association Agreement between the EU and Ukraine and will therefore constitute an

additional horizontal priority for the CIB programme in Ukraine. The following two main outcomes are expected in this regard: increased knowledge of EU standards and practices will raise democratic standards, involvement of civil society organisations will be a guarantee for an efficient and stable surveillance of the reform progress in main area covered by this Framework Programme.

Integrity of public administration: actions envisaged under this Programme shall include measures aimed at improving transparency of the administration and at eliminating or minimising opportunities for corruption and the misuse of public funds

Other issues: in implementation of this Action attention will be paid to ensure equal opportunities, sustainable environment as appropriate.

3.5. Stakeholders

The key stakeholders will be the concerned ministries and implementing agencies, relevant civil society groups and also, though indirectly, the donor community. This Framework Programme will primarily impact on the policy-setting and implementing agencies, particularly, in the areas covered by the future AA and the DCFTA, including those involved in the CIB programme.

On the Ukrainian side, this programme will be coordinated by the Ministry of Economic Development and Trade acting as National Coordinating Unit for the EU assistance, as well by the National Agency on Civil Service acting as the Coordinator for Twinning/TAIEX/Sigma programme and the CIB coordinator.

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 3.2. and 4.3. will be carried out, is 60 months, subject to modifications to be agreed by the responsible authorising officer in the relevant agreements.

4.3. Implementation components and modules

4.3.1. Grants: call for proposal under the Twinning programme (direct centralised management)

- (a) Objectives of the grants, fields of intervention, priorities of the year and expected results

Grants will be provided in the framework of the Twinning programme with a view to support the implementation of the EU-Ukraine Association Agenda (component II of the Action).

- (b) Eligibility conditions

Essential eligibility criteria for applicants will be established in line with the Twinning manual applicable at the date of the call for proposal.

- (c) Essential selection and award criteria

The essential selection criteria are financial and operational capacity of the applicant.

The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

- (d) Maximum rate of co-financing

In line with the Twinning manual the maximum possible rate of co-financing for grants under this call is 100 % of the eligible costs of the action.

- (e) Indicative trimester to launch the call

The calls for proposals for twinning projects are launched in line with the quarterly programming.

- (f) Use of lump sums/flat rates/unit rates

Twinning contracts include a system of unit costs, defined in the Twinning Manual, for the reimbursement of the public sector expertise provided by the selected Member States administrations. This system of unit rates exceeds the amount of EUR 60,000 per beneficiary of a Twinning contract.

4.3.2. Grant: direct award (direct centralised management)

- (a) Objectives of the grant, fields of intervention, priorities of the year and expected results

This type of grants will be provided with a view to support participation of Ukrainian administration in selected Union programmes (Component III of the Action)

- (b) Justification of a direct grant

Under the responsibility of the authorising officer by delegation, the grant may be awarded without a call for proposals to Ukrainian public bodies participating in Union programmes in

line with the Framework Agreement on the general principles for the participation of Ukraine in Union programmes.

In particular, the financial support to the contribution of Ukraine for participating in Union programmes and agencies will take the form of a reimbursement of up to 50% of the corresponding accession fee(s). The reimbursement will take the form of an ad hoc grant contract to be signed with the institution that will pay the fees and will be made after receiving evidence of the payment of the total fee.

(c) Eligibility conditions

Grant through direct award may be received by the Ukrainian state bodies participating in the Union programmes on the basis of evidence of the payment of the relevant accession fee(s).

(d) Essential selection and award criteria

The essential selection criteria are financial and operational capacity of the applicant, including provision of evidence of the payment of the total fee(s) for participation in Union programmes.

The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

(e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 50 % of the eligible costs of the action (accession fee(s) for the relevant Union programme.

(f) Indicative trimester to contact the potential direct grant beneficiary

Third trimester of 2015

(g) Exception to the non-retroactivity of costs

n/a

4.3.3. 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
Component I Support to the implementation of selected measures of Institutional Reform Plans (CIB programme)	Services	2	First quarter of 2015
	Supplies	2	
Component II Support to implementation of the EU-Ukraine Association Agenda, including Cooperation Agreement on a Civil Global Navigation Satellite	Services	5	Second and third quarter of 2015
	Supplies	3	

System concerning EGNOS extension and destruction of PFM-1 anti personnel land mines			
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4.3.4. *Joint management with the NATO Support Agency – NSPA*

Measures related to destruction Ukrainian stockpiles of PFM-1 anti personnel landmines under the Component II of this Action will be implemented in joint management with the NATO Support Agency – NSPA.

This implementation is justified because of technical character of this process and successful experience of the NSPA in destruction of mines and other conventional weapons. Joint management with this international organisation in accordance with Article 53d of Financial Regulation 1605/2002 is possible because the project is elaborated jointly between the NSPA and the Commission. Furthermore, following the four-pillar assessment of the NSPA, which was undertaken between December 2012 and April 2013, the NSPA is able to comply with the requirements detailed in 53d of the Financial Regulation No 1605/2002.

The NSPA will manage the process of destruction of Ukrainian stockpiles of PFM-1 anti personnel landmines in cooperation with relevant Ukrainian stakeholders. The project is expected to destroy 3,000,000 landmines. The maximum amount of EU contribution is estimated at €1.8 million. This project is co-financed by the German Government.

4.4. **Scope of geographical eligibility for procurement in direct centralised and decentralised management**

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 ENPI 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.

4.5. **Indicative budget**

Component	Amount in EUR thousands	Third party contribution
Component I		
Support to the implementation of selected measures of Institutional Reform Plans (CIB programme) composed of		
- Call for proposals under the Twinning programme (direct centralised)	3 000	0
- Procurement (direct centralised)	6 200	0
Total Component I	9 200	

Component II		0
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Support to implementation of the EU-Ukraine Association Agenda, including Cooperation Agreement on a Civil Global Navigation Satellite System concerning EGNOS extension and destruction of PFM-1 anti personnel land mines		
- Call for proposals under the Twinning programme (direct centralised)	4 500	0
- Procurement (direct centralised)	5 000	0
- Joint Management with the NAPA Support Agency – NSPA	1 800	300 ²¹
Total Component II	11 300	
Component III Support to implementation of the Framework Agreement on the general principles for the participation of Ukraine in Union programmes		0
- Grant: direct award (direct centralised management)	500	0
Total Component III	500	
Totals	21 000	

Under the Component I (CIB programme), in case supply of EU norms driven equipment is agreed, Ukraine is expected to co-finance (in kind) and/or cover 20% of total cost of such equipment.

4.6. Performance monitoring

The monitoring of this Action will follow standard procedures, based on benchmarks to be agreed during the preparation of each of the sub-projects to be defined under the Programme, in co-operation with the Ukrainian government and other stakeholders and, in the case of twinning, based on the mandatory results agreed during the project preparation phase.

The sub-projects under this Action will be monitored throughout their implementation by Results-Oriented Monitoring System of Projects and Programmes of External Co-operation. For overall monitoring of the CIB programme, it is envisaged to set up Steering Committees at the level of each IRP, to involve all national stakeholders and donors, as well as all relevant project representatives and civil society. For Twinning and TA contracts, separate Steering Committees will be set up.

4.7. Evaluation and audit

Each of the actions to be defined under this Action will undergo expenditure verifications, as foreseen by the standard procedures, which foresee that such audit be properly budgeted under each of such actions. Audits of specific actions will be carried out based on risk assessment.

A mid-term and final evaluation of the CIB programme implementation is envisaged.

²¹ The project related to destruction of PFM-1 anti personnel landmines is co-financed by Germany

4.8. Communication and visibility

Proper communication and visibility of the measure will be achieved via widespread dissemination of project achievements and results, as well as international visibility of twinning and technical assistance projects, for which a specific budget will be allocated (section 4.3).

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