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Compliance negotiations in EU external relations: the case of the EU-Ukraine Association Agreement

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ABSTRACT

The article advances the research on compliance negotiations in the context of the EU's external relations. It develops further the framework on EU compliance negotiations, introduced by Jönsson and Tallberg in 1998, and provides empirical evidence from a case study on the EU-Ukraine Association Agreement's implementation. The article suggests three arguments for the expansion of the original framework. Firstly, we add to the framework the case of pre-emptive compliance negotiations, i.e. negotiations in view of anticipated non-compliance. Secondly, it is suggested to supplement the original framework with the 'object of negotiations' category, as the issue at stake influences other variables in compliance negotiations, such as the power relations between the parties and the conflictive vs. cooperative nature of the negotiations. Thirdly, the article unpacks the role of multistakeholder networks in the dynamics of compliance negotiations in the EU's external relations.

KEYWORDS

Compliance negotiations; EU-Ukraine association agreement; Russia's war against Ukraine; compliance; bargaining; EU external relations

Introduction

States' compliance with international treaties, i.e. the abidance by rules after treaties' ratification, has been extensively researched both from the legal and political science perspectives (e.g. Simmons 2010). Like the general International Relations (IR) literature, the scholarship on EU external relations dedicates considerable attention to compliance, especially in the pre-accession context or with respect to the so-called *'integration without membership'* (e.g. Bolkvadze 2016; Zhelyazkova et al. 2019). The latter context can be exemplified by the EU's Association Agreements (AAs) with Ukraine, Moldova and Georgia before the European Council granted candidate country status to Ukraine and Moldova, and affirmed Georgia's membership perspective on 23 June 2022 (European Council 2022). The 'integration without membership' constellation has been of interest for the studies of compliance, because the associated Neighbours were expected to comply with far-reaching political and legislative approximation obligations stipulated in the AAs despite the absence of a membership perspective as a key incentive for reforms. Consequently, scholars repeatedly argued that the limitedness of the incentives the EU offered to the partner

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countries were likely to prevent their comprehensive compliance with EU rules, especially costly ones (e.g. Börzel 2021; Rabinovych and Pintsch 2022; Wolczuk 2019). Several contributions have shown that the selectivity of compliance with EU rules results from the partner governments' response to high reform costs and insufficient incentives (e.g. Bolkvadze 2016; Králiková 2022). However, one aspect that has so far received little attention in the literature on EU external relations, broadly, and the association relations with the Eastern Neighbours, specifically, is compliance negotiations, i.e. the 'process of bargaining between the signatories to an agreement already concluded, or between the signatories and the international institution governing the agreement, which pertains to the terms and obligations of this agreement' (Jönsson and Tallberg 1998, 372). This is deplorable as compliance negotiations are common in international relations and have an influence on states' compliance with treaty obligations.

The following article advances research on compliance negotiations in EU external relations by developing further the framework originally introduced by Jönsson and Tallberg (1998)[1] and by providing empirical evidence from a case study on the EU-Ukraine AA (EU-Ukraine 2014). The guiding research question of our analysis is how compliance negotiations[2] in the external relations context differ from those under the infringement procedure, i.e. the case analyzed by Jönsson and Tallberg (1998). Our findings suggest an expansion of the original framework in three aspects. Firstly, we show that compliance negotiations in external relations are likely to be pre-emptive, i.e. occur already before manifest non-compliance (e.g. before the implementation deadline). So far, the literature implies that only an existing instance of non-compliance can give rise to compliance negotiations and has only considered negotiations rectifying such existing violations of international law. Secondly, we find that the parties' power relations and, subsequently, the form and dynamic of compliance negotiations, depend on the issue at stake. We therefore supplement the original framework with the 'object of negotiations' aspect. Thirdly, we point to the importance of multistakeholder networks in compliance negotiations in the external relations context, while Jönsson and Tallberg (1998, 384) consider bargaining parties as 'monolithic' entities and only briefly mention the Commission's efforts 'to mobilize social and political pressure' on a non-complying party. With this, the article contributes to the literature on compliance and bargaining in EU external relations, as well as compliance negotiations in IR. Understanding compliance negotiations better significantly adds to the study of compliance beyond statically analyzing the difference between 'ought' and 'is' and allows drawing lessons for institutional design. With regard to EU-Ukraine relations, research on compliance negotiations leaves behind the notions of the EU as a rule-maker and Ukraine as a mere rule-taker, and instead directs attention to the *interactive* making of compliance. The importance of such research can be hardly overestimated in the context of the multi-element challenge of reinventing the European security order and offering security guarantees to Ukraine, Ukraine's EU accession and reconstruction (Sasse, 2023).

The article is structured as follows. First, it offers an overview of relevant literature strands and presents the analytical framework of compliance bargaining as first introduced by Jönsson and Tallberg (1998) and elaborated in their further contributions (Tallberg and Jönsson 2005). Following a section on case selection and methodology, the study presents an overview of compliance procedures under the EU-Ukraine AA. The

final part of the article distinguishes the peculiarities of compliance negotiations in the EU external relations context, suggests extensions to the original framework and highlights future research perspectives.

Compliance negotiations, European Union, and EU external relations

In their 1998 contribution, Jönsson and Tallberg point to the lack of cross-fertilization between the works on compliance and the literature on bargaining and negotiations within the disciplines of both International Relations (IR) and European Studies (Jönsson and Tallberg 1998, 373; Tallberg and Jönsson 2005, 79–80). Over fifteen years later, the literature strands remain largely unconnected. With regard to the EU, which served as empirical example in the original framework, the literature on negotiations and bargaining continues having a primary focus on intergovernmental negotiations preceding the key steps forward in the EU (dis)integration process (e.g. Durrant, Stojanovic, and Lloyd 2018; Schimmelfennig 2018; Trauner 2018). Notably, all respective contributions, as well as the broader IR literature on international negotiations, focus on negotiations that precede a deal, with some insights into post-agreement bargaining in the framework of the World Trade Organization's (WTO) dispute settlement mechanism (Jackson 2012; Smith 2006) or comparisons of the EU and the WTO dispute settlement process (Tallberg and Smith 2014) as an exception.

On the other hand, the works on compliance and enforcement in the EU barely touch upon negotiations and bargaining, primarily concentrating on explaining variation in Member States' compliance with EU rules and looking for ways for the EU to effectively enforce its rules and values (e.g. Börzel and Buzogány 2019; Jakab and Kochenov 2017; Zhelyazkova, Kaya, and Schrama 2017). While Börzel's, 2021 Power-Capacity-Politicization-model to compliance explicitly includes bargaining, the latter is restricted to the shaping stage of EU law-making. Batory (2016) raises the curtain over how the European Commission may disengage from costly conflicts by accepting Member States' symbolic or creative compliance with their rule of law obligations, yet does not theorize the Commission-Member States' interactions in this context.

Similarly, the literature on EU external relations offers only limited insights into negotiations accompanying the evolution and transformation of international agreements (e.g. Özer 2020). The scholarship on rule abidance in EU external relations, generally, and the EU's relations with the Eastern Neighbours, specifically, does not offer theoretical assumptions as to how the Commission and respective third states address compliance-related challenges and agree on what constitutes compliance. As mentioned in the introduction, the literature on third states' compliance with EU rules primarily focuses on the factors that enable the transfer of EU rules beyond its borders (e.g. Renner and Trauner 2009; Schimmelfennig and Sedelmeier 2004) and factors that prevent compliance (e.g. Králiková 2022; Nizhnikau 2017).

The works by Jönsson and Tallberg (1998, 2005) are thus, so far, the only elaborate source of theorizing compliance bargaining. Yet, as we show later, the evolution of EU external relations and the elaborateness of the EU's AAs with third countries prompt a critical review of this analytical framework.

As a starting point, Tallberg and Jönsson highlight three key reasons why compliance negotiations occur in international relations. The first reason is an action of

non-compliance by a signatory to an international agreement (Tallberg and Jönsson 2005, 81). From the enforcement theory's viewpoint, a state's failure to comply stems from its deliberate decision, based on cost-benefit considerations (Tallberg 2002) and compliance negotiations aim at persuading the non-complying party that the costs of non-compliance would outweigh the costs of fulfilling an obligation (Tallberg and Jönsson 2005, 81). As highlighted by the management theory, non-compliance may also stem from administrative or technical capacity constrains (Chayes and Chayes 1993). In this case, compliance negotiations may well focus on lowering the compliance bar and/or assisting a non-complying country to overcome capacity challenges. The second reason, also guided by the management theory, is unclear treaty language. The third reason deals with contingencies and the resulting need to address a 'mismatch between the coverage and formulations of the treaty and the practices it seeks to regulate' (Tallberg and Jönsson 2005, 81).

Secondly, the authors distinguish two ideal types of compliance negotiations: 'self-help' and 'third-party' (Jönsson and Tallberg 1998, 379–380; Tallberg and Jönsson 2005, 81).[3] Self-help means that compliance negotiations occur between the parties to a treaty under the lack of a common authority to enforce rules. By contrast, third-party bargaining presupposes the presence of an international institution 'which interacts with the signatories of an agreement in the interpretation of compliance and the settling of disputes' (Tallberg and Jönsson 2005, 81). Such an international institution can function as a 'judge', who is authorized to interpret treaty provisions, or an independent 'prosecutor' that establishes the fact of non-compliance and opens up the path for enforcement. Tallberg and Jönsson characterize compliance bargaining in the EU infringement procedure – i.e. legal action against an EU country which fails to implement EU law[4] – as 'essentially third-party and prosecutor-based' (2005, 84). The European Commission opens up and pursues cases against Member States that failed to implement EU law or rectify previously established violations 'in a hierarchical judicial system, where the ECJ [European Court of Justice, currently referred to as the Court of Justice of the European Union (CJEU)] has the ultimate power to adjudicate disputes and interpret existing rules' (Tallberg and Jönsson 2005, 84).

Thirdly, the framework considers the interplay of cooperative and conflictual elements at the different stages of compliance negotiations. Even though Tallberg and Jönsson do not explicitly elaborate on it, one could conceptualize a continuum from cooperative negotiations using persuasion and iteration (Jönsson and Tallberg 1998, 375) to conflictive negotiations with deterrence and threats (Jönnson and Tallberg, 1998, 381–382). In EU compliance negotiations, the 'parties share a preference for amicable solutions' (Tallberg and Jönsson 2005, 86). Cooperative dynamics are particularly strong during the initial, pre-litigation phase of the infringement procedure, where the Commission holds informal meetings with a non-complying Member State, and virtually absent after the case has reached the CJEU (Tallberg and Jönsson 2005, 86).

The fourth component of the framework is the distribution of bargaining power between the negotiating parties (Jönsson and Tallberg 1998, 381). The authors distinguish between structural power and behavioural power. The former may be both general and issue-specific, and relies on (traditional) resources such as economic and military strength and capabilities. Behavioural power, in turn, becomes relevant in the very process of negotiating as it refers to the tactics that an actor employs. With regard to the EU, Tallberg

and Jönsson (2005, 88–89) stress the power asymmetry between the Commission and a non-complying Member State: 'with a monopoly on the interpretation of EU law, the Commission and the ECJ enjoy extremely favourable positions . . . '. Other factors reinforcing the Commission's bargaining power include its unilateral control over the dynamics of the infringement procedure and its ability to raise financial and reputational costs of non-compliance (Tallberg and Jönsson 2005, 89–90). At the same time, neither the Commission, nor the Court can use force to exert compliance. Therefore, a Member State's core bargaining power lies in its ability to challenge the Commission with sustained non-compliance. Moreover, a Member State can draw bargaining advantages from the Commission's dependence on productive cooperation during the decision-making phase. The Commission may be thus seen as 'caught in a limbo' between the imperatives of preserving the homogeneity of EU law and ensuring constructive cooperation with the Member States.

Finally, Jönsson and Tallberg (1998, 384–387) highlight the effects of compliance negotiations, in particular on the level of compliance, the definition of compliance and the distribution of reputational costs. With regard to the first, they maintain that compliance negotiations may increase the overall level of compliance. However, they also point out that compliance negotiations may contribute to 'lowering the bar': 'The search for mutually acceptable solutions might entail compromises which do not fully conform with the letter of the treaty' (Jönsson and Tallberg 1998, 384). Thus, compliance negotiations may either safeguard or reconstruct an original treaty (Tallberg and Jönsson 2005, 91). The eventual level of compliance depends on the parties' bargaining power, which in turn is influenced by the form of the negotiations (Jönsson and Tallberg 1998, 385). Similarly, also the meaning of compliance can be negotiated by the parties and may, as a consequence, deviate from compliance as perceived at the time of the agreement to a treaty (Jönsson and Tallberg 1998, 385–386). Finally, compliance negotiations may decrease the reputational costs of non-compliant states in future pre-agreement negotiations (Jönsson and Tallberg, 1998, 386–387). With regard to the EU, Tallberg and Jönsson (2005, 94) conclude that 'compliance bargaining [. . .] has demonstrated a notable capacity to induce state conformance with EU rules'.

In sum, Jönsson and Tallberg 1998, 2005) offer a general framework for understanding the origin, forms, structure, bargaining powers and effects of compliance negotiations, which they demonstrate in the context of the infringement procedure, shaped by the interactions between a non-compliant Member State, on the one hand, and the Commission and the CJEU, on the other hand. We show that with this unique focus, the framework does not cover how compliance negotiations function under the different institutional setting of EU external relations, where the supranational institutions' counterpart is not a Member State but a third country.

Case selection and methodology

The analysis builds on a case study of the EU-Ukraine AA's implementation with a focus on the period preceding the start of Russia's full-scale war against Ukraine in February 2022 and the granting of EU candidate country status. Our choice of the EU-Ukraine AA is determined by the following considerations. The AA demanded costly domestic reforms in Ukraine, both in financial and political terms, with only remote benefits and no

membership perspective, which was making defection particularly likely. At the same time, despite a comparatively active civil society, the domestic compliance pressure from independent courts, media or non-governmental actors remained weak. Moreover, the extensive reform ambition of the AA exceeded Ukraine's administrative and financial capacity (e.g. Rabinovych and Egert 2023; Wolczuk 2018). We see the confluence of these challenges as prompting Ukraine to enter compliance negotiations with the EU in an attempt to lower the 'compliance bar'. At the same time, the EU was also likely to take up demands for negotiations and to make concessions. In light of Ukraine's hybrid war with Russia that started in 2014, the EU faced a trade-off between strictly insisting on the homogeneity of EU law across EU members and associated countries on the one hand, and concerns of stability and maintaining a pro-European orientation in Ukraine on the other. In addition, the dramatic worldwide publicity and politicization of the AA after the 2013/14 Maidan revolution in Ukraine, which it triggered, may have put pressure on the EU to present this relationship as a 'success story'. Ukraine therefore constitutes a most-likely case for studying compliance negotiations.

The focus on the pre-war dynamics makes our findings relevant for a broad range of EU external relations in which the partner countries lack candidate status and may encounter capacity challenges, when implementing EU rules (e.g. Georgia, Kosovo, Morocco, Tunisia). One may object that even the EU's pre-full-scale war security and stability concerns regarding Ukraine make this case unique. However, many EU partners experience security and stability issues, relevant for the EU's security, such as Russia's occupation of the Abkhazia and South Ossetia regions of Georgia and its destabilization activities in the Middle East (Borschevskaya, Fischman, and Tabler 2023). Thus, the EU faces a trade-off between the focus on compliance and maintaining close ties with partner countries' governments and popular support in many external relations contexts, especially amidst the intensification of geopolitical competition (Borrell Fontelles 2022).

At the same time, we think that our insights into compliance negotiations are also relevant for the pre-accession context, with the AA remaining the key legal basis for the Parties' relations. The granting of candidate country status to Ukraine and the EU's multi-aspect support to the country amidst the war evidently strengthened the EU's bargaining power in negotiations over compliance with Ukrainian authorities. As the only regional integration option, the EU also enjoys higher support among the population of Ukraine than prior to the invasion (European Integration Portal 2023). At the same time, for Ukraine, the war and the huge destruction it brought about exacerbates previously existing capacity issues. The awareness about such capacity issues and war-related security concerns may prompt the EU to look for realistic negotiated solutions to compliance challenges, despite its strong bargaining position. Furthermore, Ukraine's EU integration can be seen as both as a geopolitical imperative for the Union and an instance, where it risks getting 'entrapped' in its own rhetoric (e.g. Lippert 2022). Driven by these expectations, we include some empirical insights into how compliance negotiations have changed with the granting of EU candidate country status to Ukraine, yet stressing that further research is needed.

The study utilizes two methods. First, it uses the 'black letter law' analysis to highlight the institutional framework for compliance negotiations, offered by the EU-Ukraine AA. Second, the analysis is based on thirteen in-depth qualitative semi-structured interviews with EU officials and technical assistance project

representatives, Ukrainian state officials, and civil society and academic experts, who have either been immediately involved in the EU-Ukraine compliance negotiations at various levels or are acquainted with the topic due to expert activities. Interviewees were recruited with the help of the snowball method, and we specifically asked interviewees from the EU to recommend their Ukrainian counterparts and vice versa. Though the interview sample does not allow us to comprehensively map sector-based variation in the structure and effects of EU-Ukraine compliance negotiations, it offers a fruitful soil for distinguishing the key prerequisites behind such differences. As it stems from our case selection, our interviews focused on the pre-war dynamics. Interviews were conducted via Zoom between February and October 2022, recorded (if allowed by the interviewee), and transcribed manually. A list of interviewees is included at the end of the article.

The EU-Ukraine AA: structure, scope and institutional setting of monitoring compliance and compliance negotiations

Structure and scope of the EU-Ukraine AA

The AA consists of seven Titles dedicated to different fields of cooperation and founded on a set of common values that represent 'essential elements', such as respect for democratic principles, human rights and the rule of law (EU-Ukraine 2014, Art. 2). Additionally, Title I of the AA 'General principles' refers to further principles, such as market economy, good governance, and the fight against corruption as 'central to enhancing the relationship between the Parties' (EU-Ukraine 2014, Art. 3).

Title II of the AA represents the framework for the EU-Ukraine political association, which encompasses, *inter alia*, dialogue on domestic reform, and cooperation and gradual convergence on foreign and security policy. Title III supplements the Parties' political association by provisions on cooperating in the Justice, Freedom and Security domain, including the issues of migration, asylum and border management.

Title IV sets the foundation for the Deep and Comprehensive Free Trade Agreement (DCFTA), with nuanced provisions dedicated, *inter alia*, to market access for goods (Chapter 1), establishment, trade in services and electronic commerce (Chapter 6) and public procurement (Chapter 8). The latter two chapters are marked by detailed regulatory approximation obligations, supported by market access conditionality. This means that the EU's gradual opening of its markets for services and public procurement is made conditional on Ukraine's fulfillment of these obligations (Van der Loo 2016, 212). Besides, Title IV includes far-reaching provisions on trade and sustainable development, embracing environmental protection, and labour and social rights (Chapter 13).

Title V addresses economic and sectoral cooperation in multiple areas, such as macroeconomic cooperation, transport, statistics, as well as consumer protection, education and tourism. Title VI covers financial cooperation and anti-fraud provisions.

The institutional framework of the AA and the general provisions for compliance monitoring and dispute settlement are contained in Title VII, which is of relevance for

our study. The AA text also includes three Protocols and forty-three Annexes, which specify Ukraine's regulatory approximation obligations and deadlines.

Institutional setting of monitoring compliance and compliance negotiations

An important consequence of the AA ambitiousness and complexity is the multi-layered and multi-stakeholder institutional structure it employs to enable its implementation. As demonstrated in Table 1, there are multiple interconnected *fora* to address the challenges of the AA's implementation, including compliance issues.

Compliance negotiations and the EU-Ukraine AA's implementation

This part of the article discusses the origin, possible objects of negotiations, forms, hierarchy, conflictuality, the Parties' bargaining powers and effects of compliance negotiations in the context of the EU-Ukraine AA's implementation.

Origin of compliance negotiations

Whereas Jönsson and Tallberg (1998) point to an existing treaty violation as a reason for compliance negotiations, the empirical insight into the EU-Ukraine AA implementation demonstrates that compliance negotiations concern not only established but also potential non-compliance with EU law (Interviews 1, 2, 3). Compliance negotiations may thus be classified into those aimed at rectifying established violations of political commitments and pre-emptive compliance negotiations. In the latter case, the Parties' representatives come together to discuss how to address Ukraine's inability to fulfill a specific commitment by the given deadline (Interviews 3, 4).

Pre-emptive negotiations are explained by respondents as an instrument to deal with the 'commitment-capacity gap' in the AA implementation (Wolczuk et al. 2017, 25), especially in the environmental and transport domains, where the fulfillment of AA obligations requires significant investments (Interviews 5, 6 Rabinovych and Egert 2023). However, challenges do not only relate to the Government's administrative and technical capacity, but also to the institutions' ability to overcome vested interests and business' opposition to EU norms (Interviews 3, 5 and 7). While financial and administrative capacity arguments are likely to be raised during the pre-emptive phase, the vested interest challenges tend to be addressed with regard to both potential and existing violations (Interviews 8, 5). The latter can be exemplified by the case of Ukraine's much delayed and contested legislation on internal waterways, where the monopolist company has been using its lobby in the Parliament to block respective legislation for over five years to preserve its position at the market (Rabinovych and Egert 2023, 11). A similar situation is reported to underlie Ukraine's continuing non-compliance with EU norms in the waste management domain, as city authorities lobby against the closure of polygons for waste processing (Interview 5). Overall, the financial and administrative capacity and the vested interests challenges are reported to constitute the most salient reasons for compliance negotiations (Interviews 5, 3 and 6). In some politicized cases, such as Ukraine's commitment to ratify the Istanbul Convention Action against violence against women and domestic violence, which was pushed forward by the

Table 1. EU-Ukraine Association bodies.

Association Body/Level	Composition	Key compliance-related functions	Legal basis under the AA
EU-Ukraine Summit	• President of the European Council • President of the European Commission • President of Ukraine	• Forum for political and policy dialogue between the Parties at the highest level • Overall guidance of the AA implementation	Art. 460
Association Council	• Representatives of the European Council and the European Commission (usually the High Representative of the Union for Foreign and Security Policy, HR/VP) • Head and members of the Cabinet of Ministers of Ukraine	• Supervising and monitoring the AA's application and implementation • Power to adopt binding decisions • "Forum for exchange of information on European Union and Ukrainian legislative acts … enforcement and compliance measures" (Art. 463(2)) • Making decision on market opening after each stage of legislative approximation • Updating or amending Annexes to the AA (Art. 463(3)) • Final say in the dispute settlement procedure non-related to trade matters	Art. 461–463 Art. 475, 477
Association Committee	• Senior Commission officials • Deputy Ministers and heads of other executive authorities responsible for European integration • Trade representative of Ukraine	• Preparing meetings of the Association Council • Exercise of powers, delegated by the Association Council, including the adoption of binding decisions • Meeting in various configurations (e.g. the Trade Committee)	Art. 465
Subcommittees and clusters (provided for in the AA or established by the Association Council)[5]	• Commission officials • Sectoral specialists from the Ukrainian ministries and other executive agencies	• Assisting the Association Committee • Monitoring the approximation process (Art. 64, 74, 83) • Reviewing and amending Annexes to specific DCFTA chapters (e.g. Art. 211, 74) • Dispute settlement by the Trade and Sustainable Development Subcommittee (Art. 300)	Art. 465–466
Parliamentary Association Committee	Members of the European Parliament and Verkhovna Rada of Ukraine	• Forum to meet and exchange views • Acquiring information about the decisions and recommendations of the Association Council	Art. 467–468
Civil Society Platform	EU and Ukrainian civil society	• Making recommendations/providing input to the Association Council	Art. 469–470

Source: authors' own elaboration based on the EU-Ukraine AA (EU-Ukraine 2014).

EU through its political dialogue with Ukraine (Interview 1), political costs played a role as Ukrainian MPs feared traditionalists' concerns (i.e. due to the Convention's recourse to gender and LGBTQ issues) and failed to ratify the Convention in 2016 (Slavinska 2022). Our interviews show that there is not a strict 'watershed' moment and change of quality between pre-emptive negotiations and those aimed at rectifying existing violations of Ukraine's political commitments or EU law. In addition, compliance negotiations may stem from the ambiguity of AA provisions, especially if they contain broad and vague concepts, such as the rule of law or good governance. The Parties thus negotiate to 'translate' these broad commitments into specific priority steps Ukraine should implement (Interview 1).

While the war and the destruction of many important industrial objects in the South and East of Ukraine may change the vested interests' landscape, capacity issues are likely to remain a key reason for the Parties to continue engaging in compliance negotiations in the current pre-accession context.

Object of negotiations

As demonstrated in Table 2, the analysis of AA provisions enables us to distinguish four categories of issues that the EU and Ukraine can address through compliance negotiations.

Table 2. Objects of compliance negotiations.

Category	Characteristics	Instruments the EU can use to promote Ukraine's compliance
I. Political commitments under Titles I-II of the AA, such as democracy, rule of law, human rights, market economy and sustainable development	Vague commitments, which offer the Parties broad room to negotiate what constitutes compliance through political dialogue	Conditionality attached to political dialogue (e.g. the Commission's Opinion on Ukraine's EU membership application (European Commission 2022) or macro-financial assistance instruments (MFA) Capacity-building and technical assistance projects
II. Trade-related matters under Title IV, which do not envisage market access conditionality	Specific commitments, which can take either the form of standards, included into the AA, or Ukraine's regulatory approximation obligations	Sectoral dialogue Capacity-building and technical assistance projects
III. Trade-related matters under Title IV, which envisage market access conditionality	Specific commitments, which can take either the form of standards, included into the AA, or Ukraine's regulatory approximation obligations	Sectoral dialogue Market access conditionality, incl. monitoring of Ukraine's compliance with relevant EU acquis prior to each stage of the market opening
IV. Sectoral cooperation matters, which do not belong to either of the above categories	General commitments to cooperation or basic standards	Sectoral dialogue, incl. the EU's ability to emphasize particular issues' relevance for trade (e.g. transport and infrastructure) Capacity-building and technical assistance projects

Source: authors' own elaboration.

Below we show that the object of compliance negotiations influences the form of compliance negotiations and the interplay of cooperative and conflictual elements in their structure.

'Self-help' vs 'third-party' negotiations

In contrast to the infringement procedure, EU-Ukraine compliance negotiations can take place in the form of either 'self-help' or 'third-party' dependent on the object of the negotiations. In most cases the rules foresee 'self-help', and even the norms on 'third-party' dispute resolution offer the Parties a leeway to take recourse to 'self-help'. As a consequence, compliance negotiations in the context of the EU-Ukraine AA implementation offer broader room of the Parties' ownership of what constitutes compliance and by when compliance shall be achieved than the infringement procedure.

Self-help

Firstly, cases of pre-emptive negotiations about Ukraine's anticipated non-compliance are always 'self-help', which may take place not only within the institutionalized AA bodies, but also through informal networks, as we will highlight in more detail below (Interviews 8, 4, 3).

Secondly, 'self-help' in the form of negotiations or dispute settlement within the Association Council is the only avenue the AA offers to address compliance issues that do not concern trade and trade-related matters (Title IV), irrespective of whether an issue concerns anticipated or existing non-compliance. Art. 477 AA lays down the foundations for the settlement of disputes concerning 'the interpretation, implementation or good faith application' of the AA in the part that does not concern trade and trade-related matters. Under this article, the Association Council shall serve as a forum for both consultations and dispute settlement. If a compliance issue concerns Ukraine's political commitments under the AA, it is likely to be addressed through political dialogue outside the bodies created under the AA, rather than within them (Interviews 1, 4). An exception is represented by the EU-Ukraine Summit, which, despite having its legal foundations under Art. 460(1), serves as a forum for political dialogue on the most challenging and politicized issues, as well as stocktaking of earlier developments. The use of regular political dialogue with respect to political commitments and stocktaking at the Summit level makes sense, as it allows the Parties to operationalize broad and vague concepts, such as democracy or the rule of law, which lie at the heart of the EU-Ukraine political association.

The form of compliance negotiations may, however, considerably differ, when trade and trade-related matters are concerned, and Title IV applies. Negotiations over asserted non-compliance regarding trade and trade-related issues can combine 'self-help' and 'third-party' elements. The 'self-help' component is reflected in multiple DCFTA provisions on consultations in Subcommittees, the Association Committee in its trade configuration (Trade Committee) and, if an issue persists, in the Association Council (e.g. EU-Ukraine 2014, Art. 300, Art. 304–305). As emphasized by the interviewees, cluster and subcommittee meetings represent frequent *fora* for the resolution of compliance issues, especially if the matter concerns delays and challenges of the regulatory approximation process (Interviews with 5, 8, 4). An example are Ukraine's regulatory approximation activities in the transport and infrastructure sector (Category II), where, despite considerable delays

and approximation challenges, the EU did not take recourse neither to formalized consultations, nor the dispute settlement (Rabinovych and Egert 2023, 8–9). Such a reliance on 'self-help' can be explained by (i) the EU's in-depth insight into the progress and challenges in each specific domain, obtained both through dialogue with Ukrainian officials and the engagement of the EU Delegation and technical assistance projects (Rabinovych and Egert 2023; Interviews 3, 6) and (ii) the fact that a compliance issue at stake does not immediately disturb trade between the Parties. As noted by one of the Ukrainian respondents:

> If we speak about the norms not immediately related to markets and trade, there are usually no problems with partial compliance or non-compliance. There were significant partial compliance or non-compliance cases, addressed through dialogues, focusing on what needs to be done. Such dialogues tend to emerge at the stage of laws' implementation, when the EU Delegation and, if applicable, technical assistance projects' leadership can see how norms are implemented and point to challenges or the need to change an approach. (Interview 4)

With the shift to the enlargement context, the political room for compliance negotiations may shrink, given the new ambition of the relations and an increase in the EU's bargaining power (Interviews 7 and 13). Nonetheless, as long as the AA remains the key legal basis for the EU-Ukraine relations, the Parties will continue enjoying a broad room for 'self-help' even after Ukraine reaches full integration into the Single Market[6] (EU-Ukraine 2014, Annex XVII, Art. 5–7). As Art. 7(3) of the Annex stipulates the applicability of the dispute settlement procedure under Chapter 14 of Title IV 'Trade and trade-related matters' to respective compliance issues, the Parties are obliged to first try to address the dispute via consultations under Art. 305 AA.

Third-party negotiations

At least three manifestations of the 'third-party' form of negotiations are available if an issue at stake belongs to 'trade and trade-related matters' under Title IV. The first one deals with the design and practices of monitoring Ukraine's regulatory approximation, especially in cases concerned with market opening. While Art. 475(4–6) provides for the central role of the Association Council in assessing Ukraine's regulatory approximation progress and deciding on market opening, it is in practice the European Commission, which has the final say (Interviews 4, 2). As reported by Ukrainian representatives, though Art. 475 does not provide for an obligatory assessment of approximation by the EU's on-the-spot-mission prior to the decision on market opening, the Commission *de facto* made such an assessment obligatory (Interview 2). One of the interviewees referred to the EU-Ukraine Agreement on Conformity Assessment and Acceptance of industrial products (ACAA Agreement) to illustrate how the Commission (mis)uses its leeway over selecting the time when to send the mission in compliance negotiations with Ukraine (Interview 2). This case shows that the border between self-help and third-party scenarios can be quite blurred. While the European Commission is a third-party for the EU Member States, it is nevertheless likely that it considers the EU's interests first, and thus is not fully neutral when deciding on market opening.

Secondly, it is the arbitration procedure under Chapter 14 'Dispute settlement' under Title IV, which exemplifies third-party compliance negotiations (EU-Ukraine 2014, Chapter 14). Even though the arbitration panel is formed by the Parties, neither of the Parties itself can immediately influence the contents of the interim panel report and its final ruling (EU-Ukraine 2014,

Art. 308, 310). The arbitration panel can, therefore, be seen as a judge in 'third party' compliance negotiations. A similar role is exercised by the CJEU, if the issue at stake 'raises a question of interpretation of a provision of EU law' (EU-Ukraine 2014, Art. 322). However, even if the Parties have started with an arbitration, they can at any time take recourse to 'self-help' by reaching a mutually agreed solution (EU-Ukraine 2014, Art. 317).

Thirdly, the arbitration panel shall exercise the 'third-party' negotiations' form if the EU and Ukraine cannot agree on a reasonable time for compliance with the arbitration panel's ruling or whether an action taken by the Party complained against is in line with the AA and constitutes compliance (EU-Ukraine 2014, Art. 312, 316).

In sum, the EU-Ukraine AA offers the Parties much room for 'self-help', which will be sustained as long as the EU-Ukraine AA is the key legal basis for the EU-Ukraine relations even if the political room for compliance negotiations shrinks. We do not, however, expect that the EU will start using third-party bargaining more often, since it has a clear tendency to use self-help as long as possible and only take recourse to arbitration as a matter of last resort (Interview 4). Noteworthy, our analysis of the role of the European Commission in the case of market opening also shows that the borders between self-help and third-party negotiations can be blurred in cases of external relations.

Hierarchy and formality of compliance negotiations

The complexity of Ukraine's obligations under the AA and the significance of self-help in the compliance negotiations determine the multi-level and multi-stakeholder nature of such negotiations. EU-Ukraine 'self-help' compliance negotiations revolve at six levels (Interviews 5, 8, 4). A decision to address an issue at the next level is usually driven by a confluence of the following factors: (i) the Parties' failure to find a decision at the previous level; (ii) the need for executive acts or laws to be adopted in Ukraine and (iii) an issue's politicization (Interview 8).

Firstly, compliance issues are typically debated within the informal EU-Ukraine networks, which can be not only sector- but issue-specific (Interview 8, 4). The composition and sustainability of these networks depend on the issue or sector at stake (Interview 8). Informal networks typically bring together officials from Ukrainian ministries and the representatives of EU technical assistance projects, who report to the EU Delegation in Ukraine, or of the Delegation itself (Interview 2). Some discussions also involve representatives of the Government Office for Coordination on European and Euro-Atlantic Integration (GOCEEI) and Ukrainian civil society representatives, who are reported to be not only very active but knowledgeable in specific fields, such as energy and environment (Interviews with 2, 9). Informal networks are active in both pre-emptive discussions and the ones that emerge after established non-compliance in the law implementation process. They aim at bringing Ukraine's law implementation process in line with the EU ones (Interviews 8, 4). In pre-emptive discussions, the Parties may agree to lower the compliance bar already at this stage, e.g. through introducing transitional periods to the respective ministerial act (Interview 5). This does not constitute a challenge, unless an issue at stake seriously impedes markets and trade (Interview 4). When an issue concerns market opening, informal networks serve as a forum for the Parties to discuss how the EU will assess Ukraine's regulatory approximation efforts. As indicated before, this may include the decision to send or not to send an assessment mission,

which the EU may use as a tool to set additional conditions for Ukraine to comply with (Interviews 2, 3).

Secondly, both anticipated and existing compliance issues may be addressed through formalized bureaucratic networks, namely clusters under the Subcommittees of the Association Committee[7] (Interview 8). On the EU side, this level of negotiations involves individuals from relevant Commission Directorate Generals (DGs), who work on Eastern Europe and sectoral specialists from the Commission's Support Group for Ukraine (SGUA) and the EU Delegation in Ukraine. The Ukrainian side is represented by sectoral specialists from Ukrainian ministries and a Director General of the Directorate for European Integration and Strategic Planning (Interview 8). Clusters tend to address issues that require an act of the Cabinet of Ministers of Ukraine or the elaboration of a draft law (Interview 8). An issue's transfer from the level of informal networks to cluster level and next to the Subcommittee also involves compliance assessment conducted by external advisors, such as the Association4U project (Interview 5). Based on this assessment, the EU Delegation and a relevant Commission DG or DGs engage in consultations and develop the EU's negotiation position, which clearly distinguishes which compliance issues can be tolerated by the EU and which cannot (Interview 5). Discussions in clusters thus involve both problem-solving and bargaining components, whereby the latter is to a significant extent shaped by 'red lines', developed through consultations between EU stakeholders (Interview 5).

The third and fourth levels of negotiations take place at the Subcommittee meetings and the Association Committee, respectively, which bring together senior officials from the Commission and Ukrainian ministries. At these levels, the Parties zoom in on compliance issues that require the adoption or amendment of Ukrainian legislation (Interview 8). An important actor at this level is the European Integration Committee of the Verkhovna Rada of Ukraine, which plays a central role in developing and lobbying for laws required for the AA implementation (Interview 2). The European Integration Committee is reported to tightly cooperate with the GOCCEI, Ukrainian civil society and EU representatives to promote compliance (Interview 5). Though the European Integration Committee members have different political affiliations, 'leadership and the opposition are mostly on the same page when it comes to compliance, favouring speeding up the process and achieving 100% compliance, where possible' (Interview 5). While a draft law is negotiated in the Verkhovna Rada, the Head of EU Delegation to Ukraine may send letters to respective committees indicating some issues, and 'such letters luckily still work in Ukraine' (Interview 5). Very rarely, letters with warnings on compliance issues were sent at a higher level, by the Director General of a respective DG or even a Commissioner (Interview 5). Both levels three and four thus have a stronger element of bargaining, when it comes to the EU-Ukraine negotiations and the EU's informal pressure attempts but also bargaining within the Verkhovna Rada.

Fifthly, the Association Council takes stock of compliance negotiations at previous levels and can serve as a forum to address outstanding issues, which is seldom the case (Interview 8). The Association Council is also more likely to negotiate the ways to rectify existing violations of EU law, especially if they concern trade or energy (Interview 4). For non-trade-related issues, the Association Council is the last resort for the Parties to reach agreement. As mentioned above, for trade-related issues, there is a possibility for any of the Parties to launch an arbitration procedure.

Sixthly, it is the EU-Ukraine Summit, representing 'the highest level of political and policy dialogue between the Parties', where the Parties may address the most challenging

compliance issues that could not be resolved at lower levels (Interview 8). Moreover, the Summit serves as a forum for stocktaking and goal setting with respect to the AA implementation process. For the time being, it is unlikely that the hierarchy of compliance negotiations changes, as both the stakeholder landscape and the AA-based institutional structures remain relatively stable, with the only significant change probably relating to the fluid landscape of vested interests in war-torn Ukraine.

Conflictuality

The design of the EU-Ukraine AA and the practices of its implementation embed a multilevel semi-structured space for the Parties' representatives to negotiate on compliance challenges, irrespective of whether they are anticipated or existing ones. We find both dynamics of bargaining and problem-solving (Elgström and Jönsson 2000) in EU-Ukraine compliance negotiations, with the latter being reported to prevail in most cases (Interviews 5, 8 and 4). As reported by both the EU and Ukrainian interviewees, the discussions within the informal networks are clearly problem solving-oriented (Interviews with 5, 8, 4, 10, 11 and 18). When negotiations climb up the ladder of hierarchy, the bargaining component gradually becomes more salient. This is particularly relevant for cases where the implementation of Ukraine's obligations requires significant investments by the state and/or private actors, as with environmental reforms (Interview 12). 'The first thing which is argued [in such cases] is that we [the Ukrainian Party] do not have money or capacity' – stressed one of the respondents, yet mentioning that such arguments are usual for many countries that have to comply with EU environmental norms (Interview 12). In such cases, if the EU officials see Ukraine's interest in the reform, despite its costs and the mentioned capacity challenges, they may opt for switching to problem-solving mode again and discuss the mode and details of assistance needed (Interviews 11 and 12). The application of a problem-solving approach is thus not restricted to the negotiations within informal networks or experts' interactions within AA subcommittees and clusters but even within the Association Council (Interview 8). The conflictuality of compliance negotiations is thus largely context- and issue-specific, rather than determined by the level of negotiations. As Ukraine got candidate country status, and the EU's bargaining power increased, respectively, the conflictuality of negotiations on some issues, especially in the political domain may increase. In sectors where compliance merely depends on Ukraine's financial and technical capacity, the Parties are likely to continue preferring the problem-solving approach with low conflictuality.

Bargaining powers of the parties

In contrast to the third party-dominated infringement procedure, the design of the EU-Ukraine AA provides for a significant sector-by-sector differentiation of the Parties' bargaining power in compliance negotiations.

Due to asymmetric interdependence, the EU has the highest bargaining power in trade- and trade-related issues that are coupled with market access conditionality. Consequently, the EU has a leeway to decide whether and when to send a mission to Ukraine to assess its regulatory approximation progress (Interview 2). In other words, Ukraine will not get market access, unless the European Commission is satisfied with the compliance level it achieved. As for all trade-related matters, the EU also benefits from the CJEU having the final word as to how

EU law provisions shall be interpreted, if the dispute at hand concerns EU law interpretation (EU-Ukraine 2014, Art. 322(2)). In contrast to the infringement procedure, the Commission does not, however, have the sole power to navigate the arbitration procedure, as it is conducted by the independent arbitration panel. When it comes to compliance negotiations on non-trade related matters, the Commission has several sources of bargaining power at its disposal but cannot be seen as having a monopoly over interpreting the AA and even EU law provisions. The key source of the Commission's bargaining power lies in Ukraine's constitutionalized political commitment to European integration (Verkhovna Rada of Ukraine 1996, Preamble), and the all-party consensus about European integration as a sole option for Ukraine's regional integration. This aspect of EU's bargaining power became especially salient with Russia's war against Ukraine and the EU candidate country status granted by the European Council in June 2022. The latter event is particularly relevant for reinforcing Ukraine's compliance with its political commitments, which the Commission stressed in its 2022 Opinion on Ukraine's membership application (European Commission 2022). Furthermore, the EU can exercise pressure over Ukrainian authorities through mobilizing pro-European opposition and civil society (Interview 2). Finally, the EU can use conditionality attached to financial assistance to reinforce its bargaining position, especially when it comes to Ukraine's political commitments. As highlighted by an EU representative, the Commission tends to combine conditionality under political dialogue and financial assistance instruments to concentrate on Ukraine's compliance with several priority commitments once at a time (Interview 1).

Like the EU Member States, Ukraine has the final say as to whether it will comply with an obligation or rectify an existing violation of EU law. As underlined by both EU and Ukrainian interviewees regarding the pre-war dynamics, the Commission used to clearly delimit between compliance levels expected from a Member State and a third state as Ukraine, and may tolerate partial non-compliance or delays in the implementation process, if an issue does not concern sensitive trade and market issues (Interviews 2, 4). The war and the membership perspective to some extent reduced Ukraine's bargaining power not only because they consolidated the role of the EU as the single integration alternative but also because they increased Ukraine's dependence on various forms of aid. On the other hand, the war itself and the EU's unequivocal support for Ukraine amid the war enable Ukraine to ask for more concessions from the EU and use the war situation as a justification for non-compliance. Not least, the EU's bargaining power in Ukraine is constrained by its 'not-to-fail' imperative in this country with its thorny path of pro-EU Euromaidan protests in 2013/2014 and ongoing resistance to Russian aggression.

In contrast to the infringement procedure, EU external relations as exemplified by EU-Ukraine association relations demonstrate a considerable variation in the Parties' bargaining power dependent on whether an issue at stake concerns trade- and trade-related matters, and EU market opening in particular. Russia's war against Ukraine and Ukraine's acquisition of an EU membership perspective increased both Parties structural bargaining powers in various aspects, making the negotiations' effects largely dependent on each party's art to use its new benefits, i.e. behavioural power.

Effects

Jönsson and Tallberg (1998, 384–385) argue that each compliance negotiations case results either in safeguarding or reconstructing the original treaty. Both options are

possible in the case of the EU-Ukraine compliance negotiations. Yet, since the AA represents a mixed agreement, and any update to it would require ratification by all EU Member States, the Parties use alternative means to reconstruct the original agreement. In the case of political commitments, it is regular political dialogue and resulting official communiques, which translate and, if needed, retranslate broad and vague AA norms into specific reform steps to be taken and provide the assessment of outstanding challenges. In other cases, the Parties have two key avenues to reconstruct the original treaty: (i) through the decisions of the Association Council or (ii) making use of Ukrainian implementing legislation. The former avenue can be used, for instance, to change the scope of regulatory approximation Ukraine is obliged to undertake, since the Association Council has the authority to amend and update the Annexes to the AA, which specify Ukraine's regulatory approximation commitments (EU-Ukraine 2014, Art. 463(3)). As noted by interview partners, the latter avenue is widely used to address Ukraine's costly commitments, e.g. in the environmental domain (Interviews 5, 4). The legal techniques used to consolidate the results of compliance negotiations through Ukraine's domestic legislation include, *inter alia*, the use of transitional periods and the adoption of by-laws, which may change the scope of an original framework law (Interview 4). This testifies to the fact that, amid the AA's ambitiousness and complexity, the implementation process offers the Parties numerous avenues to reconstruct the treaty in a flexible way.

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In a nutshell, Table 3 summarizes differences between compliance negotiations between the EU and a Member State and the EU and Ukraine as a third state.

Table 3. Compliance bargaining in the EU vs the EU-Ukraine compliance negotiations.

	Compliance bargaining in the EU	EU-Ukraine compliance negotiations
Origin	• Ambiguity of the treaty language • Existing violation of EU law, stemming from a party's cost-benefit considerations or insufficient capacity to comply	Anticipated violation of the AA or EU law
Object of negotiations	Not specified under the original framework	• Political commitments, trade-related issues, trade-related issues with market access conditionality and all other issues, which belong neither to political commitments or trade- and trade-related issues
Forms	Third-party negotiations	• Self-help with respect to all non-trade-related matters • Combination of self-help and third-party negotiations in trade and trade-related matters, with a tendency of the actors to use self-help
Hierarchy and formality	Supranational four-step infringement procedure, incl. space for informal negotiations between the Commission and a Member State's government	Complex and flexible multi-layer and multi-stakeholder structure, offering space for informal negotiations at lower levels
Conflictuality	Cooperative dynamics in the early stage and bargaining	Bargaining and problem-solving approaches, with a tendency towards the latter
Bargaining power of the parties	• EU's high bargaining power based on its monopoly to interpret EU law and procedural discretion • Member State's sole discretion over compliance and the potential to disturb intra-EU cooperation	• EU's considerable bargaining power because of asymmetrical interdependence, especially salient following the outbreak of the war and the granting of candidate country status to Ukraine • Ukraine's bargaining power because of symbolic factors linked to 2013/2014 Euromaidan and geopolitical considerations
Effects	• Safeguarding the treaty • Treaty reconstruction	• Safeguarding the treaty • Treaty reconstruction, inter alia, through Ukraine's domestic legislation

Conclusion

The aim of this contribution was to unveil the peculiarities of EU compliance negotiations in the context of its relations with a third country, using the EU-Ukraine AA implementation as a case. Based on the investigation, we suggest revisions to the compliance negotiations framework by Jönsson and Tallberg (1998, 2005), developed on the case of the EU infringement procedure. Though the contribution looked at a single case, we expect the suggested revisions to apply to various cases of EU external relations, for instance, in the enlargement and neighbourhood policy contexts.

The empirical analysis reveals three important peculiarities of compliance negotiations in the context of the EU external relations. First, while the original framework considers existing non-compliance as a necessary foundation for compliance negotiations, such negotiations can also be pre-emptive, i.e. aimed to address anticipated non-compliance. Secondly, the analysis highlighted that the 'object of negotiations' is central to determining the form, hierarchy and formality, and the interplay of cooperative and conflictual elements in any compliance negotiations. Thirdly, the contribution revealed a pivotal role of multistakeholder networks in compliance negotiations, whereas the original framework conceptualized the Parties to the negotiations as monolithic entities.

These suggestions open several pathways for further research. Firstly, further studies may focus on preemptive compliance negotiations and their role in the achievement of the original treaty objectives. Secondly, a deeper insight into the operation compliance negotiations and the Parties' negotiation strategies can be acquired through a comparative analysis of compliance negotiations within and across various sectors marked by the variation in the available bargaining *fora* and the tools of channeling the Parties' bargaining powers. Ultimately, both political and legal approaches to European Studies would benefit from exploring traceable cases of EU law reconstruction through the counterpart's domestic legislation.

Notes

1. Following up on their initial contribution, the authors presented their framework in a book chapter, without significant changes (Tallberg and Jönsson 2005). This article refers to both sources.
2. Here and later throughout the article, we will use the term 'compliance negotiations', rather than 'compliance bargaining' as done by Jönsson and Tallberg (1998). Bargaining and negotiating have been used interchangeably in the literature and positions have been forwarded in favour of each term as being the more general one. We prefer the term negotiation in order to avoid any confusion with the bargaining mode of negotiation, which has been contrasted to the problem-solving and arguing modes. Furthermore, this notion captures better the role of the cooperative, problem-solving component in the EU-Ukraine compliance-related interactions in the EU AA implementation context, which is less salient in the analysis of respective interactions under the infringement procedure, as offered by Tallberg and Jönsson (2005).
3. Tallberg and Smith (2014) use a similar distinction into *interstate* and *supranational*. We keep the original formulation.
4. The legal basis for the infringement procedure is constituted by Art. 258 of the Treaty on the Functioning of the European Union (TFEU) and has not changed since the publication of the work by Jönsson and Tallberg (1998).

5. The EU-Ukraine AA explicitly provides for the creation of four Subcommittees: Sanitary and Phytosanitary (SPS) Subcommittee (Art. 64), Customs Subcommittee (Art. 83) Subcommittee on Geographical Indications (GI) (Art. 211) and the Trade and Sustainable Development Subcommittee (Art. 300). At the same time, the Decision of the Association Council No 2/2014 provided for forming two sectoral Subcommittees: Subcommittee on Freedom, Security and Justice and the Subcommittee on Economic and other Sectoral Cooperation, consisting of six clusters (e.g. cluster 1 'Macroeconomic cooperation, public finance management: fiscal policy, internal control and external audit, statistics, accounting and auditing, anti-fraud' or cluster 3 'Energy cooperation, including nuclear, environment, including climate change and civil protection, transport') (EU-Ukraine Association Council 2014).
6. As of today, Ukraine has not got market access yet in any of the areas, where this is possible under the DCFTA (e.g. trade in goods, trade in services, public procurement).
7. For the structure of clusters, see footnote 5 and/or visit https://eu-ua.kmu.gov.ua/en/association-committee.

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