

etc.) on the one hand, and ways of combating them, or unification/minimization of their impact on international trade, etc., on the other hand.

The abolition of the non-tariff restrictions in the EU for goods from Ukraine is provided for in Articles 34-35 of Part 3 “Non-Tariff Measures” of Title IV of the Association Agreement. It should be noted separately that there is a significant number of individual provisions in the Agreement and its annexes/supplements regarding different groups/types (quantitative, hidden and financial) of non-tariff restrictions, in particular as for technical barriers (Article 53-58). However, the parties have not waived their right to apply the trade protective measures in some cases.

In the framework of the Association Agreement (Article 54), Ukraine and the EU countries have undertaken to strengthen their cooperation in the field of technical regulations, standardization, market surveillance, accreditation and conformity assessment procedures with a view to increasing mutual understanding of their respective systems and facilitating access to their respective markets. Accordingly, to this end, the Parties to the Association Agreement may initiate a dialogue on regulatory legal issues at both horizontal and sectoral (vertical) levels (paragraph 1 of Article 55). At the same time, this cooperation involves: – reinforcing regulatory cooperation through the exchange of information, experience and data; – scientific and technical cooperation with a view to improving the quality of their technical regulations, standards, testing, market surveillance and accreditation; – encouraging cooperation between their respective organizations responsible for metrology, standardization, certification and accreditation; – fostering the development of the quality infrastructure for standardization, accreditation, and conformity assessment systems in Ukraine; – promoting the participation of Ukraine in the work of European organizations; – seeking solutions to overcome barriers to trade; – coordinating their positions in international trade and regulatory organizations (the WTO, and UN-ECE (in particular, for example, UN-ECE on the use of ISO standards<sup>47</sup>)) (paragraph 2 of Article 55)<sup>48</sup>.

The Cabinet of Ministers of Ukraine, by the Resolution No. 1106 of 25 October 2017, approved the Action Plan, the implementation of which is intended to demonstrate the performance by Ukraine of the obligations assumed, availability of the information about the performance of its obligations, clarity of response mechanisms and taking appropriate measures<sup>49</sup>. The fulfillment of

<sup>47</sup> Note: ISO published 22969 international standards. [online]. Available at: <https://www.iso.org/standards.html>

<sup>48</sup> *Uhoda pro asotsiatsiiu mizh Ukrainoiu, z odniiei storony, ta Yevropeiskym Soiuzom, Yevropeiskym spivtovarystvom z atomnoi enerhii i yikhnimy derzhavamy-chlenamy, z inshoi storony* vid 27.06.2014 r. [online]. Available at: [http://zakon2.rada.gov.ua/laws/show/984\\_a11](http://zakon2.rada.gov.ua/laws/show/984_a11). (in Ukrainian).

<sup>49</sup> *Pro vykonannia Uhody pro asotsiatsiiu mizh Ukrainoiu, z odniiei storony, ta Yevropeiskym Soiuzom, Yevropeiskym spivtovarystvom z atomnoi enerhii i yikhnimy derzhavamy-chlenamy, z inshoi*

the Action Plan envisages, inter alia, making amendments to regulatory legal acts, and developing new documents in order to approximate the Ukrainian legislation to the EU law in accordance with the obligations under the Association Agreement. The analysis of the provisions of the Action Plan makes it possible to distinguish those that relate primarily to the investigated issue: – mechanisms and actions on the part of Ukraine in terms of achieving the compliance with EU technical regulations, and EU standardization, metrology, accreditation, conformity assessment procedures and market surveillance systems. The Ministry of Economic Development, Trade and Agriculture (former – the Ministry of Economic Development and Trade)<sup>50</sup>, which quarterly publishes reports on the performance by Ukraine of its obligations under the Association Agreement<sup>51</sup>, shall be responsible for implementing the action.

The performance of obligations to implement the EU *acquis* provisions in the national legislation of Ukraine, to carry out the necessary administrative and institutional reforms, and to introduce the effective and transparent administrative system (paragraph 2 of Article 56) takes place in accordance with the schedule set out in Annex III to the Association Agreement (paragraph 3 of Article 56). In addition, Ukraine must inform the EU once a year about the implementation of measures, and in cases where the actions listed in the timetable have not been implemented within the applicable time frame, a new timetable for their completion should be defined (paragraph 4 of Article 56)<sup>52</sup>.

Ukraine has undertaken the obligations, in paragraph 1 of Article 56 of the Association Agreement, to follow the principles and practices laid down in the EU Decisions and Regulations on technical barriers, in particular with regard to

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*storony: Postanova Kabinetu Ministriv Ukrainy* vid 25.10.2017 r. № 1106. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/1106-2017-%D0%BF>. (in Ukrainian).

<sup>50</sup> *Ministerstvo rozvytku ekonomiky, torhivli ta silskoho hospodarstva Ukrainy*. [online]. Available at: <http://www.me.gov.ua/?lang=uk-UA>. (in Ukrainian).

For research topics (“Cooperation between Ukraine and the European Union”, “Technical Regulation”) see [online]. Available at: <http://www.me.gov.ua/Tags/DocumentsByTag?lang=uk-UA&id=10ca8da3-169d-419b-a6f2-d42635f92b8b&tag=SpivrobitnistvoMizhUkrainoiuTaYevropeiskimSoiuzom>; <http://www.me.gov.ua/Tags/DocumentsByTag?lang=uk-UA&tag=TekhnichneReguliuвання>. (in Ukrainian).

<sup>51</sup> See the Quarterly Monitoring of Fulfillment in the Ministry of Economic Development and Trade for 2018/2019 of the Action Plan for Implementation of the Association Agreement between Ukraine and the EU [online]. Available at: <http://www.me.gov.ua/Documents/List?lang=uk-UA&id=f1bdcc6c-abc8-46dc-9648-ed56b2fcea1c&tag=ImplementatsiiaUgodiproAsotsiatsiiuMizhUkrainoiuTas>. (in Ukrainian).

<sup>52</sup> *Uhoda pro asotsiatsiiu mizh Ukrainoiu, z odnii storony, ta Yevropeiskym Soiuzom, Yevropeiskym spivtovarystvom z atomnoi enerhii i yikhnimy derzhavamy-chlenamy, z inshoi storony* vid 27.06.2014 r. [online]. Available at: [http://zakon2.rada.gov.ua/laws/show/984\\_a11](http://zakon2.rada.gov.ua/laws/show/984_a11). (in Ukrainian).

the Regulation of the European Parliament and of the Council No. 765/2008/EC of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing the Regulation (EEC) No. 339/93<sup>53</sup> and the Decision of the European Parliament and of the Council No. 768/2008/EC of 9 July 2008 on a common framework for the marketing of products, and repealing the Council Decision 93/465/EEC<sup>54</sup>.

Of great importance for the development of trade between Ukraine and the EU is the signing of the Agreement on Conformity Assessment and Acceptance of Industrial Products (hereinafter – the ACAA Agreement, (ACAA)), as a Protocol to the Association Agreement (paragraph 3 of Article 57), which will simplify access of Ukrainian industrial products to the European market, but only after the full harmonization of sectoral and horizontal legislations, institutions and standards of Ukraine with European counterparts. We note that the ACAA Agreement may initially cover one or more industrial sectors, with a gradual extension to all 27 sectors/categories of industrial (non-food) products/goods (Annex III) envisaged in the Association Agreement; after this, Ukraine and the EU have undertaken to consider the possibility of its extension to other categories of industrial products. The ACAA Agreement is called the “industrial visa-waiver”, underlining its potential for the development of foreign trade relations between Ukraine and the European Union, and modernization of the Ukrainian economy, as well as its validity as a factor in the path of the European integration. It should be noted that the issue of concluding the ACAA Agreement between the EU and Ukraine has already had a continuous history, since December 2005, long before the beginning of negotiations on the future Association Agreement.

In accordance with the provisions of the Association Agreement, in order to conclude the ACAA Agreement, Ukraine shall<sup>55</sup>:

- Make its own national legislation, both horizontal (framework) and vertical (sectoral) full compliant with the European one – paragraph 1 of Article 57;
- Adopt the European harmonized standards for relevant types of products as national ones;

<sup>53</sup> *Pro vstanovlennia vymoh do akredytatsii ta rynkovoho nahliadu, poviazanykh z realizatsiieiu produktiv, ta pro skasuvannia Rehlementu (IeES) № 339/93: Rehlement Yevropeiskoho Parlamentu i Rady (IeS) vid 09.07.2008 r. № 765/2008.* [online]. Available at: [http://zakon5.rada.gov.ua/laws/show/994\\_938](http://zakon5.rada.gov.ua/laws/show/994_938). (in Ukrainian).

<sup>54</sup> *Pro spilni ramky dlia realizatsii produktiv ta pro skasuvannia Rishennia Rady 93/465/IeES: Rishennia Yevropeiskoho Parlamentu i Rady vid 09.07.2008 r. № 768/2008/IeS.* [online]. Available at: [https://zakon.rada.gov.ua/laws/show/994\\_b42](https://zakon.rada.gov.ua/laws/show/994_b42). (in Ukrainian).

<sup>55</sup> LUTSENKO D. *Uhoda ASAA: intehratsiia Ukrainy do rynku promyslovykh tovariv YeS. V ramkakh proektu “Hromadska synerhiia”.* Sichon 2019, S. 3. [online]. Available at: <https://www.civic-synergy.org.ua/analytics/ugoda-asaa-integratsiya-ukrayiny-do-rynku-promyslovyh-tovariv-yes/>. (in Ukrainian).

- Bring all its own national conformity assessment infrastructure (the national standardization body, the national accreditation body, metrological institutions, conformity assessment bodies) as well as state market surveillance infrastructure (market surveillance bodies and procedures) in line with the European requirements;
- Abolish all regulatory regimes (the major part of which exists since the Soviet and post-Soviet times), which contradict, duplicate and/or are complementary to the European requirements for relevant types of products (first of all, sanitary norms and rules and regulatory legal acts in the field of labor protection).

The obligations to adapt the horizontal (framework) legislation have been implemented in Ukraine in the form of regulatory legal acts, in particular these are the Laws of Ukraine “On General Safety of Non-Food Products”<sup>56</sup>, “On Accreditation of Conformity Assessment Bodies”<sup>57</sup>, “On State Market Surveillance and Control of Non-Food Products”<sup>58</sup>, “On Technical Regulations and Conformity Assessment”<sup>59</sup>, “On Metrology and Metrological Activity”<sup>60</sup>, “On Liability for Damage Caused by a Defect in Products”<sup>61</sup>, etc. In addition, in order to align the infrastructure with the European requirements, the Law of Ukraine “On Standardization” has also been adopted in Ukraine<sup>62</sup>. As all of these legislative acts have been drafted in accordance with the relevant EU regulatory legal requirements and some of them were previously analyzed by European experts, they are generally in line with the European requirements, but this does not exclude the need to amend them (for example, the Laws of Ukraine “On Standardization” and “On State Market Surveillance and Control of Non-Food Products”).

Article 56 of the Association Agreement provides for the gradual achievement by Ukraine of the compliance with EU technical regulations, standardization, metrology, accreditation, conformity assessment and market surveillance systems (Annex III), as well as gradual implementation of European standards (EN) as

<sup>56</sup> *Pro zahalnu bezpechnist nekharchovoi produktsii: Zakon Ukrainy* vid 02.12.2010 r. № 2736-VI. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/2736-17>. (in Ukrainian).

<sup>57</sup> *Pro akredytatsiiu orhaniv z otsinky vidpovidnosti: Zakon Ukrainy* vid 17.05.2001 r. № 2407-III. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/2407-14>. (in Ukrainian).

<sup>58</sup> *Pro derzhavnyi rynkovyi nahliad i kontrol nekharchovoi produktsii: Zakon Ukrainy* vid 02.12.2010 r. № 2735-VI. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/2735-17>. (in Ukrainian).

<sup>59</sup> *Pro tekhnichni rehlementy ta otsinku vidpovidnosti: Zakon Ukrainy* vid 15.01.2015 r. № 124-VIII. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/124-19>. (in Ukrainian).

<sup>60</sup> *Pro metrolohiuu ta metrolohichnu diialnist: Zakon Ukrainy* vid 05.06.2014 r. № 1314-VII. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/1314-18>. (in Ukrainian).

<sup>61</sup> *Pro vidpovidalnist za shkoduu, zavdanuu vnaslidok defektu v produktsii: Zakon Ukrainy* vid 19.05.2011 r. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/3390-17>. (in Ukrainian).

<sup>62</sup> *Pro standartyzatsiiu: Zakon Ukrainy* vid 05.06.2014 r. № 1315-VII. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/1315-18>. (in Ukrainian).

a national standard, including technical requirements to the marking and labeling, which should be met by products/goods imported to the EU (Article 58). In accordance with paragraph 8 of Article 56 of the Association Agreement, Ukraine shall progressively transpose the corpus of European standards (EN) as national standards and, at the same time, abolish the “conflicting national standards, in particular the application of interstate standards (GOST/ГОСТ) developed before 1992”, according to Annex III. The responsibility for implementing this action is borne by the National Standardization Body, SE “UkrNDNC”<sup>63</sup>. The program of the national standardization works in Ukraine for 2019 has been approved by the Order of SE “UkrNDNC” of 25 February 2018 No. 33<sup>64</sup>. At the end of 2019, the National Standard Fund amounted to 22682 standards, of which: 7110 – those harmonized with international standards; 7790 – those harmonized with European standards, and the level of harmonization was 65,7%. The Program 2019 includes 288 topics for drafting national standards to replace GOST developed before 1992; also it envisages 1964 topics for drafting national standards identical to relevant harmonized European standards, for the purposes of acts of the European law (paragraph 213<sup>65</sup>).

Therefore, despite some difficulties in the implementation of certain tasks in the field of standardization, we conclude that Ukraine is performing its obligations to harmonize the standardization system with the EU norms. The prospects of the sectoral (vertical) development of the Ukrainian standardization law include, first of all, continuing the process of reforming and harmonizing the technical regulation system. The objective need to unify and harmonize national state standards with international and European ones is particularly urgent. We agree with the opinion of scientists that the norm for the implementation at the national level of 80% of standards in force in the EU requires to accelerate the pace of harmonizing the national regulatory framework of Ukraine with EU standards<sup>66</sup>. However, as Yu.Y. Harasym specifies, the question of the existence

<sup>63</sup> *Derzhavne pidpriemstvo «Ukrainskyi naukovo-doslidnyi i navchalnyi tsentr problem standartyzatsii, sertyfikatsii ta yakosti», DP «UkrNDNTs»*. [online]. Available at: <http://uas.org.ua/ua/>. (in Ukrainian).

<sup>64</sup> *Prohrama robit z natsionalnoi standartyzatsii v Ukraini na 2019 rik: Nakaz DP “UkrNDNTs” vid 25.02.2018 r. № 33*. [online]. Available at: <http://uas.org.ua/ua/services/standartizatsiya/prohrama-robit/>. (in Ukrainian).

<sup>65</sup> *Zvit shchodo vykonannia Uhody pro asotsiatsiiu mizh Ukrainoiu, z odnii storony, ta Yevropeiskym Soiuzom, Yevropeiskym spivtovarystvom z atomnoi enerhii i yikhnyimi derzhavamy-chlenamy, z inshoi storony za IV kvartaly 2019 roku*. Monitorynh vykonannia v Minekonomiky v IV kvartali 2019 roku planu zakhodiv z vykonannia Uhody pro asotsiatsiiu mizh Ukrainoiu ta YeS. [online]. Available at: <http://www.me.gov.ua/Documents/List?lang=uk-UA&id=f1bdcc6c-abc8-46dc-9648-ed56b2fcea1c&tag=ImplementatsiiaUgodiProAsotsiatsiiuMizhUkrainoiuTas>. (in Ukrainian).

<sup>66</sup> LYTUVNSKA, S. Harmonizatsiia ukrainskykh natsionalnykh standartiv serii «Informatsiia ta dokumentatsiia» z mizhnarodnymy i yevropeiskymy: zdobutky i perspektyvy. *Ukrainian Scientific*

of duplicate regimes in terminology remains unresolved: technical regulations (as a regulatory legal act) and technical regulation (as a process)<sup>67</sup>, as opposed to English, in which there is a single term “technical regulation” as a process, etc.

For the purpose of signing the ACAA Agreement, in order to determine the priority sectors of industrial products (Article 57, Annex III of the Association Agreement), the term has been set: -- until September 1, 2022<sup>68</sup>, and the work in this area is ongoing and consists of: ensuring that the legislation, standards and infrastructure are reviewed in terms of the compliance with the EU requirements, which will allow increasing the competitiveness of domestic products and expanding the export capabilities of Ukraine<sup>69</sup>. It can be argued that Ukraine is moving ahead in the matter of performing the “homework” in the preparation for concluding the ACAA Agreement<sup>70</sup>, but the near-term perspective of its signing

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*Journal of Information Security*, 2012, vol. 2, s. 44. (in Ukrainian).

<sup>67</sup> *Pro vykonannia Uhody pro asotsiatsiiu mizh Ukrainoiu, z odnii storony, ta Yevropeiskym Soiuzom, Yevropeiskym spivtovarystvom z atomnoi enerhii i yikhnimy derzhavamy-chlenamy, z inshoi storony: Postanova Kabinetu Ministriv Ukrainy* vid 25.10.2017 r. № 1106. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/1106-2017-%D0%BF>. (in Ukrainian).

<sup>68</sup> *Pro vykonannia Uhody pro asotsiatsiiu mizh Ukrainoiu, z odnii storony, ta Yevropeiskym Soiuzom, Yevropeiskym spivtovarystvom z atomnoi enerhii i yikhnimy derzhavamy-chlenamy, z inshoi storony: Postanova Kabinetu Ministriv Ukrainy* vid 25.10.2017 r. № 1106. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/1106-2017-%D0%BF>. (in Ukrainian).

<sup>69</sup> See: *Zvit pro diialnist natsionalnoho orhanu standartyzatsii za 2017 rik*. [online]. Available at: <http://uas.org.ua/wp-content/uploads/2018/02/Zvit-na-KR-NOS.pdf>. (in Ukrainian); *Zvit pro vykonannia Prohramy robit z natsionalnoi standartyzatsii na 2019 rik*. Hruden, 27.12.2019 r. [online]. Available at: <http://uas.org.ua/ua/services/standartizatsiya/programa-robit/>. (in Ukrainian); *Zvity shchodo vykonannia Uhody pro asotsiatsiiu mizh Ukrainoiu, z odnii storony, ta Yevropeiskym Soiuzom, Yevropeiskym spivtovarystvom z atomnoi enerhii i yikhnimy derzhavamy-chlenamy, z inshoi storony za I-IV kvartaly 2018 roku*. Monitorynh vykonannia v Minekonomrozyvtyku v I-IV kvartalakh 2018 roku planu zakhodiv z vykonannia Uhody pro asotsiatsiiu mizh Ukrainoiu ta YeS. [online]. Available at: <http://www.me.gov.ua/Documents/List?lang=uk-UA&id=f1bdc6c6c-abc8-46dc-9648-ed56b2fcea1c&tag=ImplementatsiiaUgodiProAsotsiatsiiuMizhUkrainoiuTas>. (in Ukrainian); *Zvit shchodo vykonannia Uhody pro asotsiatsiiu mizh Ukrainoiu, z odnii storony, ta Yevropeiskym Soiuzom, Yevropeiskym spivtovarystvom z atomnoi enerhii i yikhnimy derzhavamy-chlenamy, z inshoi storony za IV kvartaly 2019 roku*. Monitorynh vykonannia v Minekonomiky v IV kvartali 2019 roku planu zakhodiv z vykonannia Uhody pro asotsiatsiiu mizh Ukrainoiu ta YeS. [online]. Available at: <http://www.me.gov.ua/Documents/List?lang=uk-UA&id=f1bdcc6c-abc8-46dc-9648-ed56b2fcea1c&tag=ImplementatsiiaUgodiProAsotsiatsiiuMizhUkrainoiuTas>. (in Ukrainian).

<sup>70</sup> See: *Zvit pro diialnist natsionalnoho orhanu standartyzatsii za 2017 rik*. [online]. Available at: <http://uas.org.ua/wp-content/uploads/2018/02/Zvit-na-KR-NOS.pdf>. (in Ukrainian); *Prohrama robit z natsionalnoi standartyzatsii v Ukraini na 2019 rik: Nakaz DP “UkrNDNTs”* vid 25.02.2018 r. № 33. [online]. Available at: <http://uas.org.ua/ua/services/standartizatsiya/programa-robit/>. (in Ukrainian); *Zvit pro vykonannia Prohramy robit z natsionalnoi standartyzatsii na 2019 rik*. Hruden, 27.12.2019 r. [online]. Available at: <http://uas.org.ua/ua/services/standartizatsiya/programa-robit/>. (in Ukrainian); *Proekt Chastyiny I «Novi temy» do proektu Prohramy robit*

is not foreseen; it would be appropriate to consider the possibility to temporarily simplify procedures or mitigate requirements for the assessment and documentary certification of conformity and acceptability of certain industrial products of the Ukrainian origin for the EU requirements.

The Ministry of Economic Development, Trade and Agriculture of Ukraine is the institutional center for reforming the technical regulation system and preparing for the conclusion of the ACAA Agreement. It is responsible for the formation of state policies in this area, performs regulatory and/or coordinating functions in the field of the horizontal legislation (technical regulations and conformity assessment, standardization, metrology, market surveillance), and with regard to the vertical (sectoral) legislation, it is also the regulator that develops technical regulations in the defined sectors. Other central executive authorities perform functions of the regulator, or inspection (supervisory) functions in the defined sectors<sup>71</sup>.

One of the components of the institutional reforming and harmonization of standardization, according to Article 11 of the Law “On Standardization”, is the establishment of the National Standardization Body (NSB)<sup>72</sup>, whose functions are entrusted to the State Enterprise “Ukrainian Research and Training Center for Problems of Standardization, Certification, and Quality” (SE “UkrNDNC”)<sup>73</sup>, in accordance with the Decree of the Cabinet of Ministers of Ukraine of 26 November 2014 No. 1163-2014-p “On Definition of a State-Owned Enterprise that Performs Functions of the National Standardization Body”<sup>74</sup>. Therefore, the significant step on the transfer of functions of the National Standardization Body from the State (represented, for example, by the State Consumer Standard) to the enterprise (even if it is the state-owned one) has been made.

At the same time, we should agree with the statement that the State is not able to promptly respond to changes and developments in new technologies<sup>75</sup>. That

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*z natsionalnoi standartyzatsii na 2020 rik*. [online]. Available at: <http://uas.org.ua/ua/services/standartyzatsiya/programa-robit/>. (in Ukrainian).

<sup>71</sup> LUTSENKO, D. *Uhoda ASAA: intebratsiia Ukrainy do rynku promyslovykh tovariv YeS*. V ramkakh proektu “Hromadska synerhiia”. Sichen 2019, S. 4. [online]. Available at: <https://www.civic-synergy.org.ua/analytics/ugoda-asaa-integratsiya-ukrayiny-do-rynku-promyslovykh-tovariv-yes/>. (in Ukrainian).

<sup>72</sup> *Pro standartyzatsiiu: Zakon Ukrainy vid 05.06.2014 r. № 1315-VII*. [online]. Available at: <https://zakon.rada.gov.ua/laws/card/1315-18>. (in Ukrainian).

<sup>73</sup> *State Enterprise “Ukrainian Research and Training Center for Problems of Standardization, Certification, and Quality”, SE “UkrNDNC”*. [online]. Available at: <http://uas.org.ua/ua/>. (in Ukrainian).

<sup>74</sup> *Pro vyznachennia derzhavnoho pidpriemstva, yake vykonuie funksi natsionalnoho orhanu standartyzatsii: Rozporiadzhennia Kabinetu Ministriv Ukrainy vid 26.11.2014 r. № 1163-2014-r*. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/1163-2014-%D1%80>. (in Ukrainian).

<sup>75</sup> KOVALOVA, M. L. Osoblyvosti systemy standartyzatsii ta sertyfikatsii v Ukraini. *Biznes ta intelektualnyi kapital*. Intelpekt XXI, 2016, vol. 4, s. 69. (in Ukrainian).

is why in the European countries, private entities are engaged in the elaboration of standards, in particular the indicative example is the German Institute for Standardization DIN – a non-profit association, whose members are enterprises, unions, state organizations, trade firms, scientific institutes, etc. Thus, the Terminology DIN Standards Committee consists of 47% of the industry representatives, 44% of scientists and researchers, and only 8% of participants from the public sector. Such a committee structure is an effective mechanism for creating market standards that, first of all, have credibility as well as undoubtedly promote global trade, encourage rationalization, and contribute to ensuring quality and improving security and communications<sup>76</sup>.

In addition, according to paragraph 7 of Article 56 of the Association Agreement, Ukraine fully ensures the participation (or cooperation) of relevant national bodies not only in international world organizations<sup>77</sup>, but also in European ones, in particular in: – the European Committee for Standardization (CEN), which brings together national standardization bodies of 34 European countries<sup>78</sup>; – the European Committee for Electrotechnical Standardization (CENELEC)<sup>79</sup>; – the European Telecommunications Standards Institute<sup>80</sup> (the European Telecommunications Standards Institute, ETSI)<sup>81</sup>, etc.

<sup>76</sup> *The German Institute for Standardization, DIN*. [online]. Available at: <https://www.din.de/en>

<sup>77</sup> Which have already been discussed.

<sup>78</sup> *The European Committee for Standardization, CEN*. [online]. Available at: <https://www.cen.eu/about/Pages/default.aspx>.

For more details, see [online]. Available at: <http://uas.org.ua/ua/zagalni-vidomosti-pro-dp-ukrndnts/kerivnitstvo/generalniy-direktor-dp-ukrndnts/pershiy-zastupnik-generalnogo-direkto-ra-direktor-institutu-standartizatsiyi/viddil-mizhnarodnogo-regionalnogo-mizhderzhavnogo-spivrobotnytstva/spivrobotnitstvo-z-mizhnarodnimi-organizatsiyami/>. (in Ukrainian); <https://standards.cen.eu/>

<sup>79</sup> *European Committee for Electrotechnical Standardization, CENELEC*. [online]. Available at: <https://www.cenelec.eu/aboutcenelec/whoweare/index.html>

For more details, see [online]. Available at: <http://uas.org.ua/ua/zagalni-vidomosti-pro-dp-ukrndnts/kerivnitstvo/generalniy-direktor-dp-ukrndnts/pershiy-zastupnik-generalnogo-direkto-ra-direktor-institutu-standartizatsiyi/viddil-mizhnarodnogo-regionalnogo-mizhderzhavnogo-spivrobotnytstva/spivrobotnitstvo-z-mizhnarodnimi-organizatsiyami/>. (in Ukrainian); [https://www.cenelec.eu/dyn/www/f?p=104:11:1958283374840701:::FSP\\_ORG\\_ID:5777](https://www.cenelec.eu/dyn/www/f?p=104:11:1958283374840701:::FSP_ORG_ID:5777)

<sup>80</sup> Also called the European Telecommunications Standards Institute

<sup>81</sup> *European Telecommunications Standards Institute, ETSI* [online]. Available at: <https://www.etsi.org/>.

For more details, see [online]. Available at: <http://uas.org.ua/ua/zagalni-vidomosti-pro-dp-ukrndnts/kerivnitstvo/generalniy-direktor-dp-ukrndnts/pershiy-zastupnik-generalnogo-direkto-ra-direktor-institutu-standartizatsiyi/viddil-mizhnarodnogo-regionalnogo-mizhderzhavnogo-spivrobotnytstva/spivrobotnitstvo-z-mizhnarodnimi-organizatsiyami/>. (in Ukrainian); <https://www.etsi.org/>; <https://www.etsi.org/newsroom/news/394-news-release-25-may-2012?highlight=WyJ1a3JhaW51llo=>



The institutional legal changes may also include the measures for possible gaining by Ukraine, before the end of 2020, of the membership in the International Organization of Legal Metrology (OIML), which are still ongoing, and signing of the Metre Convention in order to participate to the full extent in the Mutual Recognition Arrangement for national standards and calibration and measurement certificates issued by national institutes of metrology (CIPM MRA) (Article 56 of the Association Agreement).

On August 7, 2018, Ukraine became a full-fledged member of the International Bureau of Weights and Measures (BIPM, Fr.: Bureau International des Poids et Mesures)<sup>82</sup> (before that, since 2002, it was an associate member of the General Conference of Weights and Measures), following the adoption of the Law of Ukraine of 23 May 2018 No. 2445 “On Accession of Ukraine to the Metre Convention”<sup>83</sup>. The said events open for Ukraine the possibility to ensure comparison of benchmarks and to strengthen its national infrastructure/quality institution, the basis of which is exactly metrology; accordingly, this gives the right to the future full membership in the International Organization of Legal Metrology (OIML).

Within the framework of implementing the Association Agreement, the Trade and Sustainable Development Council was established<sup>84</sup>, which consists of representatives of public authorities, business, employers, trade union organizations, environmental NGOs, etc. The Council has the status of an advisory and consultative body, and its activities are primarily aimed at resolving the issue to prepare recommendations and proposals for the establishment of an institutional component within the framework of implementing the provisions of Chapter 13 “Trade and Sustainable Development” of the Association Agreement between Ukraine and the EU, namely regarding: the organization of work of the Consultative Group on sustainable development issues; and the selection of candidates for the Expert Group. The first meeting of the Trade and Sustainable Development Council was held on September 10, 2018.

Another priority element of the institutional legal reforming/adaptation of the technical regulation system is to bring the accreditation system of Ukraine in line

<sup>82</sup> Bureau International des Poids et Mesures, BIPM. [online]. Available at: <https://www.bipm.org/en/about-us/>

For more details, see [online]. Available at: <https://www.bipm.org/en/about-us/member-states/ua/>

<sup>83</sup> *Pro pryiednannia Ukrainy do Metrychnoi konventsii: Zakon Ukrainy vid 23.05.2018 r. № 2445-VIII.* [online]. Available at: <https://zakon.rada.gov.ua/laws/show/2445-19>. (in Ukrainian); *Metrychna konventsiiia vid 20.05.1875 r., m. Paryzh.* [online]. Available at: [https://zakon.rada.gov.ua/laws/show/250\\_001-75#n2](https://zakon.rada.gov.ua/laws/show/250_001-75#n2). (in Ukrainian).

<sup>84</sup> *Pro utvorennia Rady z pytan torhivli ta staloho rozvytku: Postanova Kabinetu Ministriv Ukrainy vid 13.06.2018 r. № 478.* [online]. Available at: <http://zakon5.rada.gov.ua/laws/show/478-2018-p>. (in Ukrainian).

with the requirements of the European Accreditation of Certification<sup>85</sup> (European Accreditation of Certification, EA)<sup>86</sup> and to sign relevant bilateral recognition agreements with EA. In this regard, the Law of Ukraine “On Accreditation of Conformity Assessment Bodies”<sup>87</sup> is of the exceptional importance, with the adoption of which the conformity assessment (certification) and accreditation functions have been separated. The result of these actions was the formation of the National Accreditation Agency of Ukraine (hereinafter – NAAU)<sup>88</sup> in 2002.

The NAAU’s activities are recognized in the European Union and across the globe; it is a member of a number of international and regional accreditation organizations: an associate member of the European Accreditation of Certification (EA)<sup>89</sup>, which ensures the mutual recognition of accreditation results of conformity assessment bodies on the basis of the Bilateral Recognition Agreement, (EA BLA) in the areas of accreditation of testing and calibration laboratories, product certification bodies, management system certification bodies, personal certification bodies and inspection bodies.

The EA acknowledged that the areas of the NAAU’s activities are in line with the European accreditation regulatory requirements. The NAAU is a full-fledged member of the International Laboratory Accreditation Cooperation<sup>90</sup> (International Laboratory Accreditation Cooperation, ILAC)<sup>91</sup> and a signatory to the Mutual Recognition Arrangement (ILAC Mutual Recognition Arrangement, ILAC MRA) in the areas of accreditation of testing and calibration laboratories and inspection bodies<sup>92</sup>.

In August 2016, the NAAU applied for the membership in the International Accreditation Forum (IAF)<sup>93</sup>, as a result of which in June 2017, the NAAU joined

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<sup>85</sup> Sometimes called the European Accreditation of Certification. See [online]. Available at: <http://www.ukrcsm.kiev.ua/index.php/en/services-ua/standard-ua/inter-org-standard-ua>. (in Ukrainian).

<sup>86</sup> *European Accreditation of Certification, EA*. [online]. Available at: <https://european-accreditation.org/>.

<sup>87</sup> *Pro akredytatsiiu orhaniv z otsinky vidpovidnosti: Zakon Ukrainy* vid 17.05.2001 r. № 2407-III. [online]. Available at: <https://zakon.rada.gov.ua/laws/show/2407-14>. (in Ukrainian).

<sup>88</sup> *National Accreditation Agency of Ukraine.NAAU*. [online]. Available at: <https://naau.org.ua/?lang=en> *Natsionalne ahentstvo z akredytatsii Ukrainy*. [online]. Available at: <https://naau.org.ua/>. (in Ukrainian).

<sup>89</sup> For more details, see [online]. Available at: <https://european-accreditation.org/ea-members/directory-of-ea-members-and-mra-signatories/>

<sup>90</sup> Sometimes called the International Laboratory Accreditation Cooperation, See [online]. Available at: <http://www.ukrcsm.kiev.ua/index.php/en/services-ua/standard-ua/inter-org-standard-ua>. (in Ukrainian)

<sup>91</sup> *International Laboratory Accreditation Cooperation, ILAC*. [online]. Available at: <https://ilac.org/>

<sup>92</sup> *ILAC MRA Annual Report 2018*. [online]. Available at: <https://ilac.org/ilac-mra-and-signatories/>

<sup>93</sup> *International Accreditation Forum, IAF*. [online]. Available at: <https://www.iaf.nu/>

the IAF<sup>94</sup>. In August 2017, the NAAU received the status of a signatory to the Multilateral Recognition Arrangement in the areas of accreditation of product certification bodies, personnel certification bodies, and certification bodies of quality management systems, the environment, information security, food safety, as well as quality management systems for medical products and energy management systems (IAF MLA (Multilateral Recognition Arrangements))<sup>95</sup>. In September 2017, the NAAU and IAF signed the agreement on the use of a mark, which provides the accredited product, personnel and management system certification bodies with the opportunity to use the combined mark of IAF MLA on their own documents, subject to signing of a separate agreement with the NAAU.

Therefore, the accreditation provided by the NAAU in the above areas is equivalent to the accreditation provided by national accreditation bodies – parties to ILAC MRA and IAF MLA in more than 80 countries of the world<sup>96</sup>. The perspective tasks concerning the NAAU's activities, first of all, include developing and deepening the international cooperation within the framework of EA, ILAC and IAF, as well as the further cooperation with national accreditation bodies of different countries for the mutual recognition of accreditation.

By determining overall prospects for the development in the field of technical regulations and standardization, metrology, accreditation, conformity assessment procedures and market surveillance systems, the priority remains to work on the further and full performance by Ukraine of its obligations under the Association Agreement not only in regard to institutional and legal (framework, organizational) aspects, but also their strict observance, implementation/application, as well as monitoring.

## 5. Conclusions

It's worth approaching the technical barriers subject in an integrated, prudent and responsible manner as it covers various spheres of socio-economic and public life, in particular, for example, foreign economic (foreign trade and customs) aspects; the equality of the goods made by national producers with the goods originated in other countries on states' internal markets, states' social responsibility for the current and prospective health of their population, national economic (including food) security; as well as legal confirmation/legalization (including

<sup>94</sup> See: [online]. Available at: [https://www.iaf.nu/articles/IAF\\_MEM\\_Ukraine/502](https://www.iaf.nu/articles/IAF_MEM_Ukraine/502)

<sup>95</sup> *IAF MLA Committee Members*. IAF Secretariat. 13 November 2019. P. 31. [online]. Available at: <https://www.iaf.nu/upFiles/MLA%20Member%20List.pdf>

<sup>96</sup> See: <https://naau.org.ua/mizhnarodna-diyalnist/>. (in Ukrainian); <https://european-accreditation.org/ea-members/directory-of-ea-members-and-mla-signatories/#UKRAINE>

harmonization, adaptation and coordination) of all the above mentioned matters both on the national and the international level.

Technical barriers to international trade (the institutional and legal (regulatory) manifestation of which is technical regulations, standardization, metrology, accreditation, conformity assessment procedures and market surveillance systems) can be used by States both to improve the quality and safety of goods/products and to fight against unwanted competitors. Thus, on the one hand, there is a need to align (including to unify, to adapt) technical barriers to trade and regulate their application within the framework of international cooperation (world and regional, multilateral and bilateral), and on the other hand, the countries themselves (at national and domestic levels) must protect their own economic and security interests, their commodity producers, consumers and the environment. Due to the socio-economic importance and ambiguity of the application of technical barriers to trade, States actively cooperate on issues of either their limitation, or transparent regulation/application, without ignoring also the unification and adaptation processes of regulatory legal, organizational, documentary and procedural aspects with regard to technical regulations, and standardization, metrology, accreditation, conformity assessment procedures and market surveillance systems, etc.

Firstly, the need to regulate technical barriers is addressed in the WTO system multilateral international agreement: – the Agreement on Technical Barriers to Trade (TBT), the references to the provisions of which are also contained in regional international agreements, in particular in the Association Agreement between Ukraine and the EU 2014. Certainly, any international treaties with the same participants should not contradict one another with regard to provisions enshrined in them and, accordingly, obligations arising from them. Having compared the content of the TBT Agreement and the Association Agreement, one can argue about their interdependence, interrelation, consistency with each other, influence (first of all, the TBT Agreement), and in some cases, interchangeability, as well as relevance and correlation of their basic provisions. As a rule, international treaties with fewer participants (regional or bilateral) are more specific by reason of their sense in terms of entrenching their parties' special/sectoral obligations, as well as more effective and stricter in their performance, as it is observed in the context of Chapter 3 “Technical Barriers to Trade” (Articles 53-58, Annex III) of the Association Agreement.

The European Union and its Member-States have a long-standing practice of international and national institutional and legal support and regulation of technical barriers as non-tariff means of international trade; thus, the use of their experience and achievements in this field is reasonable and appropriate, both in theoretical and practical terms, especially for countries with the European

integration vector. For example, the Regulation (EC) No. 765/2008 and Decision No. 768/2008/EC contain the essential elements of the modern integrated regulatory framework for the effective work on safety and compliance of products/goods with the requirements adopted to protect different public interests, and for the proper functioning of the single market within the EU Member-States and deep and comprehensive free trade area between Ukraine and the European Union.

Within the framework of the Association Agreement, the focus is predominantly put on harmonization (adaptation) of the regulatory environment of Ukraine with relevant EU standards. In the field of technical barriers, Ukraine has undertaken a number of institutional and legal obligations (namely: to take necessary steps in order to achieve the conformity with the EU technical regulations, and EU standardization, metrology, accreditation, conformity assessment procedures and market surveillance systems; to adhere to the principles and practices outlined in the EU decisions and regulations), the performance of which can be now observed at both domestic and international levels. The national regulatory legal activity in the investigated area may primarily include adopting or updating of legislative and non-legislative acts of Ukraine (in particular, the Laws of Ukraine “On Accreditation of Conformity Assessment Bodies”, “On State Market Surveillance and Control of Non-Food Products”, “On Technical Regulations and Conformity Assessment”, “On Metrology and Metrology Activities”, “On Standardization”, etc.), as well as the large-scale work on the gradual implementation of European standards (EN) in relevant harmonized/adapted national technical regulations and standards. As concerns the domestic institutional and organizational activity of Ukraine in performing its obligations regarding technical barriers of the Association Agreement, it is necessary to point out the formation of the National Standardization Body represented by the State Enterprise “Ukrainian Research and Training Center for Problems of Standardization, Certification, and Quality” (SE “UkrNDNC”) and the National Accreditation Agency of Ukraine (NAAU). Within the framework of international (world and regional) cooperation of Ukraine in various formats, the attention is paid to the cooperation (or its attempts) with the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC), the European Telecommunications Standards Institute (ETSI), the European Accreditation of Certification (EA), the International Bureau of Weights and Measures (BIPM, Bureau International des Poids et Mesures), the International Organization of Legal Metrology (OIML), the International Organization for Standardization (ISO), the International Standardized Testing Organization (ISTO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU), and the International Laboratory Accreditation Cooperation (ILAC), etc.

Stability and predictability in international trade relations can be ensured, to no small degree, through a system of rules/norms recognized by most countries of the world, which enters into force by its implementation and application, first of all, at the national (domestic) level. (Although, in the modern world predominantly, this is driven by external and international factors). Despite the certain progress of Ukraine in the adaptation and institutional and regulatory provision, at domestic and international levels, of some aspects related to technical barriers to international trade, a whole lot of things remain to be done on the way of reforming and harmonizing the national technical regulation system. In summary, the attention should be paid to the need for a more active integration of Ukraine into the world economy, including through: the implementation of commitments resulting from the WTO membership and participation in the Association Agreement with the EU; the further liberalization of foreign trade and domestic economic policies; the simplification of export-import procedures and optimization of regulating the non-tariff barriers to trade, etc.

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