

INTERNATIONAL WEEKLY

№05

18.03.2014 – 02.04.2014



Foreign
Policy
Research
Institute

Friedrich Naumann
STIFTUNG
FÜR DIE FREIHEIT



UKRAINE – THE EUROPEAN UNION



KEY THEME ANALYSIS

SIGNING PART OF THE ASSOCIATION AGREEMENT BETWEEN UKRAINE AND THE EU: A COMPROMISE, SYMBOLIC SUPPORT AND IMPETUS FOR REFORMS

On March 21 2014 in Brussels the leaders of the European Union signed with Ukraine the political provisions of the Association Agreement and the Final Act of the EU-Ukraine Summit, in which the parties reaffirmed their commitment to sign the full text of the Agreement later.

Signing of certain sections of the Association Agreement (AA), and not the full text, has caused rigid criticism from a number of European and Ukrainian experts towards the EU, whose officials have been blamed for the "betrayal" of Ukraine and for the traditional fear of irritating Russia. At the same time, the sober assessment of the situation makes clear that **under the present circumstances the 'partial' format of signing the AA was the only possible way to gain a compromise between the wishes of the Ukrainian party and the political advisability of the European partners.**

What the Ukrainian side has got?

1. By the official signing of the so-called 'political' provisions of the AA, **the European Union has recognized de jure the legitimacy of the new Ukrainian government**, while Russia has defiantly refused to recognize it.

2. The EU has demonstrated its **political support for Kyiv**, without waiting for the results of the presidential elections and for radical reforms.

3. **The postponement of signing of the AA sections, relating to economic and financial cooperation, does not prevent the EU from providing financial assistance to Kyiv.** Moreover, EU officials have made it clear that the full text of the AA and DCFTA will be signed shortly after the presidential election and no later than November 1, 2014. **Till that time the EU has promised to abolish unilaterally duties on imports from Ukraine.** Such support would be especially important in case of the renewal of the 'trade war' by Russia.

What are the advantages for the European Union of signing the AA in such a format?

1. **The EU has managed to avoid a split among its members**, some of which insisted on the immediate signing of the AA and DCFTA with Ukraine, while others proposed waiting for the election of a new president.

2. The final signing of the AA and DCFTA by the legally elected Ukrainian President will leave **no formal reason to express any doubt as to the legal**

validity of the Agreement (either by Russia or by any Ukrainian government in the future).

3. By postponing the final signing of the AA, **the European Union encourages the new Ukrainian authorities to intensify the implementation of the rest of Kyiv's obligations** in the context of the AA and DCFTA, including the reforms in the sphere of justice, as well as economic reforms. The EU also encourages the Ukrainian authorities to prove their ability to handle the situation in the country, to neutralize the separatist groups and to disarm the 'self-defence' and 'Right Sector' groups.

4. **The EU encourages the Ukrainian authorities to conduct a fair and transparent presidential election** under the circumstances where a team of one candidate has significant administrative resources. The EU also deprives Timoshenko of the possibility to speculate on the signing of the AA in her election rhetoric by claiming such a signing as a victory of her team, namely, prime-minister Yatsenyuk and parliamentary speaker Turchynov.

5. **The EU leaves more room for negotiations with Russia**, in particular, on the terms of co-existence after the signing of the AA and DCFTA with Ukraine.

At the same time, the EU should take more responsibility for the situation in Ukraine and provide more decisive and effective aid, given that the time before the presidential election is critical to the survival of Ukraine as a sovereign country.

The EU should accelerate the provision of financial aid to Ukraine without waiting for the formal decision of the IMF. Brussels has to understand that pro-Kremlin candidates and media would speculate on the economic problems to strengthen the separatist protests in Ukraine.

The EU should send **a monitoring mission to Ukraine in the framework of the common security and defence policy (CSDP)** on the request of the Ukrainian authorities. Given the probability of the Kremlin's attempts to disrupt the presidential election in Ukraine, there is an urgent need for the constant monitoring of the situation by the EU in order to prevent Russia's possible interference in the election process. **The maximum possible number of observers and of the European media on the eve and during the presidential election** will help to prevent the implementation of the Kremlin's plans to produce artificial reasons for non-recognition of the election results.

There is a need for the wide presence of European representatives long before the official date of the elections, scheduled for May 25. **It is likely that the Kremlin has scheduled provocation and street clashes for May 9.** In recent years Russian agents have organized anti-Ukrainian actions on Victory Day and provoked clashes between false 'veterans' and false 'Bandera followers'.

The EU could put together with Ukraine a set of measures to protect the rights of the Crimean Tatars and ethnic Ukrainians in Crimea. Ukraine also needs help in accommodating the refugees who have been forced to leave Crimea because of Russia's aggression.

The EU is interested in helping Ukraine become less dependent on Russian gas. This issue is particularly important, given the denouncement by Russia of the 'Kharkiv agreements' and consequent possible increase by \$100 of the already high gas prices to Ukraine. Besides the assistance with gas reverse, Ukraine needs the EU's principle position on the need to revise all the Russian-Ukrainian gas agreements. **Russia's unilateral decision to denounce the 'Kharkiv agreements' of 2010 gives Ukraine a reason to denounce the unjust gas contracts of 2009.** With EU support Ukraine could insist on buying all the Russian gas on the Russian-Ukrainian border. Thus the Kremlin's usual 'cause' for the speculations over the stability of gas transit through the Ukrainian territory would disappear, because the issue of transit would become subject to agreement between the Ukrainian and European companies.

UKRAINE – NATO



KEY THEME ANALYSIS

DESPITE THE REAL MILITARY THREAT, NATO CONTINUES TO RELY ON 'SOFT' POWER

The Russian occupation of Crimea and possible intervention into the Eastern and Southern regions of Ukraine ***threaten the security of NATO member states:***

1. A precedent for the **possible aggression of Russia into Moldova (that might be a direct threat to Romania), as well as into the Baltic States** has been created. The self-proclaimed Transnistrian government has already addressed Russia with a request to annex it in a Crimean scenario. And the representative of the Russian Federation to the UN Council on Human Rights has expressed his 'concern' about the rights of the Russian-speaking residents of the border regions of Estonia.¹

2. **The balance of forces in the Black Sea is changing in favour of Russia.** Until now the total strength of the Black Sea Fleets of the NATO members (Turkey, Romania, and Bulgaria) has dominated the Russian Black Sea Fleet. However, given Russia's capture of the Ukrainian Navy, as well as putting into service six new frigates and six new submarines in the next few years will give Russia the opportunity to dominate in the Black Sea.

3. **Russia will probably place nuclear weapons in Crimea.** And in the case of aggression into Southern Ukraine, Russian nuclear weapons would be placed on the border with Romania.

4. **The legal and political frameworks of the current status quo in the sphere of the non-proliferation of weapons of mass destruction have been undermined.** Russia's violation of the Budapest Memorandum of 1994 and questionable performance of their obligations by the U.S. and Britain will strengthen the desire of a number of countries to produce weapons of mass destruction, including nuclear, chemical, and biological ones. The appropriate measures will look reasonable in the eyes of their own citizens and of the international community. In order to save face, Washington urged Kyiv to make a joint statement at the Nuclear Security Summit in the Hague; and the parties reaffirmed their commitment to the obligations of Nuclear Weapons Non-Proliferation.² However, this statement would hardly convince anyone if the U.S. fails to fulfil its obligations to protect the territorial integrity of at least the continental part of Ukraine.

Barack Obama's statement on the need to withdraw Russian troops from Ukraine's

¹ Moscow signals concern for Russians in Estonia. - <http://www.reuters.com/article/2014/03/19/us-russia-estonia-idUSBREA2I1J620140319>.

² США заручились обещанкою України зберегти без'ядерний статус. - <http://ukrainian.voanews.com/content/ua-non-nuclear-status/1878840.html>.

borders as a prerequisite for the detente³ is the right signal to Moscow. His warning to the Kremlin about the prospects of the Russian Federation going down in the world to the level of regional power is also a correct step⁴, because the prestige matters very much to Putin.

However, in general the NATO response still does not meet the scope of the Russian threat, and mostly consists of moral and political pressure, and some 'soft' economic sanctions. It is obvious that the U.S. and its allies hope they have enough time to wait for the collapse of the Russian economy. Even the current mild sanctions have led to the outflow of capital from Russia and to the deterioration of the forecasts for Russia's economic development by the World Bank and the leading rating agencies, including 'Moody's' and 'Standard & Poor's'.

But despite fair criticism of Washington because of the insufficient effective answer to the Russian aggression, it should be noted that the initiative in the U.S.-EU tandem is still on the American side, which is making efforts to convince Europe to act simultaneously. After all, only collective sanctions by the entire Euro-Atlantic community can be effective. At the same time, some European countries at the governmental level (Bulgaria, Slovakia, and Hungary) and at the level of big business (German 'Siemens' and 'Deutsche Bahn', and French 'Total') are sabotaging the sanctions against Russia.

The events of the end of March 2014 proved that **Washington had managed to press Russia's weak spot, namely, the possible fall in oil and gas prices**. No wonder Putin called Obama to discuss the Ukrainian issue during the visit of the U.S. President to Saudi Arabia – a country which had long ago played a key role in the fall of oil prices, undermining the economy of the USSR. **However, the talks of the U.S. Secretary of State John Kerry with the Russian Foreign Minister Sergey Lavrov on March 30 in Paris were not successful**. Russia still treated Ukraine as its colony, forcing on it the model of federalization, which might obviously lead to the collapse of the country.

The U.S. and NATO should not let Russia buy time by such fruitless negotiations while continuing the preparations for intervention into the continental part of Ukraine. **Without abandoning the negotiations, NATO should simultaneously take steps which would make potential Russian military aggression unacceptable because of the inevitable huge losses**.

Following the meeting with the U.S. President Barack Obama on March 26, the NATO Secretary General Anders Fogh Rasmussen made a statement, in which he promised to intensify the military cooperation with Ukraine, including helping the Ukrainians to modernise their armed forces.⁵ There is an urgent need to support this statement with real actions. **Technical re-equipment and modernization of the Ukrainian army and of its military-industrial complex, which had been announced by the new Ukrainian authorities, should be performed in close cooperation with NATO and in accordance with the Alliance standards**, regardless of Kyiv's decision to keep or to abandon its current neutral status.

The cooperation of the Ukrainian military-industrial complex with NATO is also important because of the need to strengthen the defence capabilities of Poland, Romania, and the Baltic States. These countries do not currently have enough financial capabilities to purchase a large amount of expensive Western military hardware, but they can sign the appropriate agreements with the

³ Обама: Росія мусить відвести свої війська з району кордону з Україною. - <http://ukrainian.voanews.com/content/obama-vs-russian-military/1881353.html>.

⁴ Обама: дії Росії в Україні – ознака слабкості. - <http://www.dw.de/обама-дії-росії-в-україні-ознака-слабкості/a-17519708>.

⁵ Statement by NATO Secretary General Anders Fogh Rasmussen following the meeting with the President of the United States, Barack Obama. - http://www.nato.int/cps/en/natolive/opinions_108351.htm.

Ukrainian military manufacturers. Thus ‘two birds would be killed with one stone’: the new NATO members would strengthen their defence capabilities in a relatively inexpensive way; and the Ukrainian defence industry would earn money to purchase the military hardware for the Armed Forces of Ukraine.

In that case that NATO doesn’t have a political consensus on providing Ukraine with modern military equipment (although it might be a strong signal to the Kremlin), the Alliance is still able to help with military ammunition (including for the Ukrainian National Guard), with military motor transport, and with equipment to enhance the security of the state borders.

There is a need for a more resolute NATO position on **joint military exercises in Ukraine in the near future** – and not only in the Lviv region (planned for July 2014), but in the Centre of Ukraine also (e.g. in Kyiv region), in the South (Odessa region), in the North (Chernihiv and Sumy regions), and in the East of Ukraine (Zaporizhzhya and Kharkiv regions).

NATO can send an important signal to the Kremlin, promising to simplify and accelerate the procedures for admission of new members into the Alliance if Russia continues its aggressive behaviour.



FOREIGN POLICY OF UKRAINE



KEY THEME ANALYSIS

REGARDING THE ADOPTION OF THE UN GENERAL ASSEMBLY RESOLUTION ON THE TERRITORIAL INTEGRITY OF UKRAINE

No significant changes have been made in the pre-declared tools and policy of Ukraine, aimed at protection from the existing and emerging threats to national security, territorial integrity and national sovereignty. At the same time, the effectiveness of such tools is being criticized. The key priorities are currently focusing on the diplomatic tools to protect sovereignty, territorial integrity and inviolability of borders, as well as at the de-escalation of existing tensions. In this context special attention is paid to the maximum possible use of the potential of the UN and of the other international organizations.

The adoption on March 27 2014 by an overwhelming majority of the UN General Assembly of the Resolution backing the territorial integrity of Ukraine, indicated the significant level of support for the territorial integrity of our country, as well as the non-recognition of the Crimean 'referendum' by the international community. This Resolution could be considered a positive outcome of the UN response after a number of unsuccessful attempts to get any decision of the international community concerning the Russian aggression and the annexation of part of Ukrainian territory. As for the content of the Resolution, we should note that unfortunately it does not refer to Russia as the main source of illegal actions in the international arena. At the same time, if compared to the corresponding UN Security Council draft Resolution, which had been vetoed by Russia, the UNGA Resolution clearly indicates the illegality of the referendum in Crimea and in Sevastopol.

Despite the fact that the mentioned Resolution is a political document and is not legally binding, it has created the necessary basis for the formation of the official position of the UN Secretariat concerning the course of events in Ukraine. In the absence of any other formal decisions and recommendations of the UN, the Resolution might serve as a 'lifesaver' for the further action of Ukraine in the international arena and for further searching for diplomatic ways to solve the current crisis. The priority list of such actions is based on international law and relates to the claims in the international courts concerning Ukrainian property, infrastructure, territory, military equipment, and etc., which was captured by Russia in Crimea, as well as the increasing efforts to get support from the other international organizations.

Against this background, the lack of legal preconditions and mechanisms limits the further contribution of the UN to the solution of the crisis. Given the impossibility of the

efficient functioning of the UN Security Council due to Russia's vetoes, the UN General Assembly remains the main mechanism for the formal response of the UN to the Ukrainian crisis. In order to use this mechanism more efficiently the Ukrainian side should exert efforts to include the specific recommendations on the management of the crisis, based on the existing norms and principles of international law, to the text of the relevant UNGA Resolutions. Such efforts would demand from Ukrainian diplomats an extremely high level of professional skills to get the support of the two-thirds majority of the UNGA. It might be important also to include in the text of the Resolution the formal appeal of the UN General Assembly to the UN Security Council concerning the crisis in Ukraine, which threatens international peace and security, and to recommend the Security Council to discuss the current situation.

Such recommendations might be useful in case of the escalation of the situation and further military aggression of Russia against the continental part of Ukraine.

