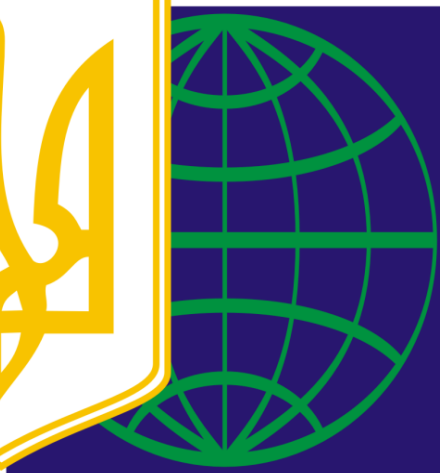


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UKRAINE – THE EUROPEAN UNION



KEY THEME ANALYSIS

EU POSITION ON A MEMORANDUM ON DEEPENING COOPERATION BETWEEN UKRAINE AND THE EURASIAN ECONOMIC COMMISSION

The EU reaction to the signing of a Memorandum between Ukraine and the Eurasian Economic Commission was reasonable, pragmatic and firm. Avoiding harsh public assessments of the document, not binding in terms of international law, the EU forced Kyiv to explain its actions. Besides, the EU made it clear that such kinds of steps would not force it to recede from the requirements for signing the Association Agreement.

One of the main messages of the EU representatives to the Ukrainian authorities was that **strategic partners should inform each other of important foreign policy steps before signing such documents**. Respected Ukrainian newspaper Dzerkalo Tyzhnya ('Mirror of the Week') reported, that the EU had officially addressed the Ukrainian side with a proposal to start a dialogue and to hold consultations at expert level to understand clearly Kyiv's plans and possible commitments to the Customs Union and the Eurasian Economic Union. Thereafter Viktor Yanukovych in a telephone conversation assured the President of the European Commission Jose M. Barroso that the new model of cooperation with the Customs Union (CU) is not contrary to Ukraine's strategic course of European integration. V. Yanukovych also gave similar assurances to Vice President of the European Parliament Jacek Protasevych during his visit to Kiev. The same was said by Head of Presidential Administration Main Office for International Affairs Andriy Goncharuk and Ukraine's Envoy for external political and integrational processes Kostiantyn Yelisieiev at the meeting with representatives of diplomatic missions accredited in Kyiv.

Kyiv could easily have avoided an uncomfortable position that looked like excuses if it had properly informed its European partners in advance (as well as own citizens) on its foreign policy agenda, stressing that it wasn't contrary to the strategic course of European integration and Ukraine's corresponding commitments. It is hard to disagree with Minister of Foreign Affairs of the Republic of Lithuania Linas Linkevicius who said: "I'd like to read and study it (the Memorandum) before signing since the EU has agreed with Ukraine to consult on such matters. Of course we can read the Memorandum in the internet after its signing, such an option exists. But perhaps we should work in some other way."¹

¹ Линас Линкявичюс: возможность подписания договора об ассоциации существует, но гарантии нет.
<http://kommersant.ua/doc/2204111>

Emphasizing the understanding of Ukraine's need to cooperate with Russia and expressing respect for Kyiv's right to choose the forms of this, the EU's representatives firmly reminded Kyiv that **such cooperation should not contradict with Ukraine-EU agreements**. Foreign Minister of Lithuania L.Linkevicius in his interview with the Kommersant-Ukraine newspaper said: *"If you decide to cross a line in relations with the Customs Union, you will not be able to sign the Association Agreement with the European Union."*² It is important to note that **the EU position is based on not political, but legal arguments**, since delegation of Ukraine's powers to set tariffs to some supranational body (as it works in the CU) would lead to the legal inability to implement the Deep and Comprehensive Free Trade Agreement with the EU.

John Clancy, spokesperson for EU Trade Commissioner Karel De Gucht, reminded Ukraine that **"there is a major difference between the FTA and Customs Unions – in the latter, a member loses its trade sovereignty, as a Customs Union goes further than an FTA."** "For example, no EU member state can conclude an FTA with Russia or Ukraine on its own: it has lost its trade sovereignty, now handled at the EU level, exactly as Ukraine would lose its trade sovereignty if it were to be a member of any Customs Union."³

The EU is obviously aware of Kyiv's desire to play the card of 'tugging between East and West', and **EU representatives made it clear that blackmail would not force them to recede from the requirements** for signing the Association Agreement. Minister of Foreign Affairs of the Republic of Poland Radoslaw Sikorski said that the signing of the Association Agreement is important to the EU, but "Kyiv must fulfill its promises". Poland has done a lot for Ukraine, "but there is a limit to everything".⁴ Lithuanian Foreign Minister L.Linkevicius made it clear that the EU is favorable and "is trying to find some signs of improvement," but Ukraine must fulfill at least the minimum level of its commitments. Currently, the EU sees no progress on the issues of judicial reform and selective justice, particularly concerning the matter of Yulia Tymoshenko, which is 'a symbol and a litmus test of law' for some European capitals."⁵

Thus, Kyiv's possible intention to use the 'oriental vector' as a pressure on the EU to ease requirements for signing the Association Agreement was met with a balanced and firm EU position. Its essence was concisely and correctly expressed by well-known analyst Anders Aslund, who said that *Ukraine should focus on the fulfillment of conditions for the Ukraine-EU Association Agreement, instead of unsuccessful attempts to draw the wool over its neighbors' eyes.*⁶

² Линас Линкявичюс: возможность подписания договора об ассоциации существует, но гарантии нет.
<http://kommersant.ua/doc/2204111>

³ В Еврокомиссии напомнили, что Украина не может одновременно быть членом ТС и создавать ЗСТ с ЕС.
http://rus.newsru.ua/finance/28may2013/ts_es.html

⁴ Польща багато зробила для України, але є межа (європейська преса).
<http://www.radiosvoboda.org/articleprintview/25006890.html>

⁵ Линас Линкявичюс: возможность подписания договора об ассоциации существует, но гарантии нет.
<http://kommersant.ua/doc/2204111>

⁶ Меморандум з Митним союзом не має жодної ваги - Андерс Аслунд.
<http://ukrainian.voanews.com/articleprintview/1672325.html>

UKRAINE – NATO



KEY THEME ANALYSIS

UKRAINIAN OFFICERS SHOW SIGNIFICANT INTEREST IN NATO'S AND THE EU'S EXPERIENCE AND STANDARDS IN SECURITY AND DEFENSE

In the second half of May 2013 a number of events designed to inform the Ukrainian military about NATO's and the EU's security and defense policy took place at the National Defence University of Ukraine (NDUU).

May 20-24, 2013 at the NDUU, with support of the NATO Defense College (Rome) and NATO School (Oberammergau), the *International Week 'North Atlantic Treaty Organization after the Chicago Summit of 2012'* took place. The joint group of NATO Defense College experts was headed by the Dean Dr. Richard D. Hooker (US), Director of Academic Operations Brigadier General Patrick Desjardins (France), and Commandant of NATO School Colonel Mark D. Baines. Among the key speakers of the event were the following: Commandant of NATO Defense College Lieutenant General Arne Bard Dalhaug (Norway), Dean of Academics of NATO School Colonel Stephen A. Rose (US), Commandant of the National Defence University of Ukraine Lieutenant General Vasyl Telelym, and Director of the Foreign Policy Research Institute of the Diplomatic Academy of Ukraine Professor Grygoriy Perepelytsia.

The program was structured so as to focus on practical issues of immediate interest to the Ukrainian armed forces. In particular, under discussion was the reforming of NATO towards smaller but more efficient structures; the Ukrainian Armed Forces are currently facing a similar task. The Ukrainian military might also be interested in programs for strengthening NATO's abilities to interact with its partners, particularly in the context of Smart Defence. The Comprehensive Approach to Civil-military Crisis Management would increase the civil component of cooperation and therefore would open more opportunities to attract non-aligned partners such as Ukraine. Ukrainian officers also had an opportunity to get acquainted with current issues of the NATO Response Force activity, peacekeeping operations, and development of NATO-Ukraine relations.

May 28, at the NDUU, with support of the NATO Liaison Office in Ukraine, the *International Conference 'Modern tendencies of forces transformation and the experience of implementing Euro-Atlantic standards by countries of Central and Eastern Europe'* was held. The main purpose of the event was to study the experience of implementing NATO standards in the countries of Central and Eastern Europe. The conference was attended by representatives of the Defence Ministries and General Staffs of Ukraine and EU countries, of Allied Joint Force Command Brunssum and JFC Naples.

In the second half of May a two-week 'Course on EU Security and Defence Policy' was also held at the NDUU. During the course the officers of the Ministry of Defence, the General Staff and the Armed Forces of Ukraine studied EU Common Security and Defence Policy, especially the issues of military operations, and development of EU-Ukraine relations in the military sphere.

NATO attention to informing Ukrainian officers as future elite of the Armed Forces about the main trends and standards of the Alliance indicates that the latter is looking forward to close cooperation with Ukraine in the future, despite the temporary freezing of political cooperation. NATO has obviously made conclusions from the situation of 2005, when Ukraine was ready for a political decision to apply for membership, but was not ready technically. *NATO assistance in reforming the Ukrainian Armed Forces and education of the officers actually helps to prepare Ukraine technically for possible future membership in the Alliance.* However, in order to prevent complications in practical cooperation, NATO emphasizes the recognition of the proclaimed neutral status of Ukraine. Head of the NATO Liaison Office in Ukraine Marcin Koziel on May 28, at the conference at the NDUU said: "We respect the neutral status of Ukraine and appreciate the constructive role played by your country in the system of collective security."⁷

Focusing on practical issues of technical preparation of Ukrainian Armed Forces for compatibility with NATO standards, including military officers' awareness of the Alliance's aims, structure, institutions, procedures for decisions' adoption and implementation, - **is the most rational strategy at the present stage**, when leaders of both Ukraine and NATO (particularly in the context of Barack Obama's policy of avoiding deterioration in relations with Russia) do not have the political will to formalize Ukraine's preparation for membership.

Current transformation processes in the Alliance offer a lot of opportunities for cooperation with Ukraine since they coincide in certain ways with the tasks of the Ukrainian Armed Forces, including reduction of quantity with increasing efficiency; initiatives within Smart Defense; and new policy of partnership.

Ukrainian authorities can't but understand that cooperation with NATO, even under conditions of freezing the political component, is necessary for successful reform of the Ukrainian Armed Forces in the context of its transition to a professional army (in this respect, Russia even theoretically can't assist Ukraine because it does not have a professional army itself). Joint military training and missions with NATO member states, given the permanent underfunding of the Ukrainian Armed Forces, remain essential elements of professional skills improvement. *Cooperation with NATO also contributes to the officially proclaimed European integration of Ukraine* as the military standards of NATO and the EU are almost identical and the security institutions of both develop in close cooperation.

Therefore, one can expect that practical cooperation between Ukraine and NATO will be developed. Herewith *Kyiv should pay more attention to those spheres in which Ukraine can be not a recipient but a contributor*. Particularly, through the activity of the Ukrainian-Polish-Lithuanian battalion, which should be established soon according to the protocol decision; also participation of the 'Hetman Sahaidachny' frigate and of Ka-27 helicopter in NATO counter-piracy operation Ocean Shield with subsequent accession to the EU operation Atalanta. Becoming an integral and active component of the new security architecture in Europe and in the world, Ukraine will thereby strengthen its own security.

⁷ В Національному університеті оборони України розпочала роботу міжнародна конференція з питань сучасних тенденцій трансформації Збройних сил.
<http://www.mil.gov.ua/index.php?lang=ua&part=news&sub=read&id=29271>

FOREIGN POLICY OF UKRAINE



KEY THEME ANALYSIS

STATEMENT ON UKRAINE'S PARTICIPATION IN THE EURASIAN INTEGRATION PROCESS AND A MEMORANDUM BETWEEN UKRAINE AND THE EURASIAN ECONOMIC COMMISSION – GAME OF KYIV OR MOSCOW?

It is hardly a coincidence that Viktor Yanukovich's meeting with Vladimir Putin in Sochi (May 26) and his visit to Astana to take part at the Supreme Eurasian Economic Council session (28-29 May), as well as signing by the Ukrainian President of *the Statement on Ukraine's participation in the Eurasian integration process* and signing by the Prime-Minister of *the Memorandum on deepening cooperation between Ukraine and the Eurasian Economic Commission*, occurred almost immediately after the adoption by the European Commission of the proposals for the Council's Decision on the EU-Ukraine Association Agreement. The question is – what are these events mostly caused by: Ukraine's desire to reassure Moscow that the rapprochement with the EU would not come at the expense of relations with Russia; or the Ukrainian government's attempts to blackmail the EU; or Moscow putting pressure on Kyiv to prevent the signing of the Association Agreement at the Vilnius summit?

The legal basis of the Memorandum does not contain any binding provisions, which is explicitly stated in paragraph 5: "This Memorandum is not an international treaty and does not create rights and obligations regulated by international law." Therefore, **the Memorandum should be assessed mostly in the political sense and here it reflects the Russian position more than the Ukrainian one**. Previously Dmitry Medvedev stated that observer status would not enable Ukraine to influence the decision-making process in the union, while Mykola Azarov claimed the right to an advisory vote⁸. Finally *the Memorandum gave Ukraine neither the right to an advisory vote, nor even observer status*. Only the Preamble contains a reference to Ukraine's desire to "obtain in future observer status in the Eurasian Economic Union." Ukraine also does not have a right but the possibility of being invited to the open sessions of the Supreme Eurasian Economic Council, the Council and the Board of the Eurasian Economic Commission "without the right to participate in decision-making".

⁸ В каком статусе "воздух нюхать" будем? <http://gazeta.zn.ua/international/v-kakom-statuse-vozduh-nyuhat-budem-.html>

In return, *Ukraine unilaterally declared its "intentions to adhere to the principles fixed in the documents that form the legal basis of the Customs Union and Common Economic Space and to refrain from actions and statements against the interests of the Customs Union and Common Economic Space"*. At the same time, the Eurasian Economic Commission didn't declare any similar intentions concerning Ukrainian interests.

Obviously **the conditions for Ukraine obtaining observer status in the future will be set forth somehow in a separate document later**. Russian demands can be assessed by the statement of Russian presidential advisor Sergei Glazyev's, that *"observer status is granted only to countries that want to join our integration associations"*, and that *"it is impossible to simultaneously sign the Association Agreement with the European Union and participate in the Customs Union"*⁹. It is worth noting the statements by Mykola Azarov that Ukraine was not going to be constrained by CU observer status but was also ready to join a number of agreements that constitute the legal basis of the CU and the CES. In this context, Director of the Foreign Policy Research Institute Grygoriy Perepelytsia cites the **model of Ukraine's joining the CIS**, where Ukraine de jure is not a member but de facto is an active participant. G.Perepelytsia remarks that observer status does not envisage the right to participate in decision making. Thus, the implementation of the plans announced by M.Azarov require actual membership in the CU, and observer status may become just the first step on this path¹⁰.

The need for Ukraine to develop relations with Russia and headed by it integration associations is evident. The problem lies in different visions by Kyiv and Moscow of such cooperation. Ukraine needs a framework that would enable exclusion from the Customs Union's discriminatory policies, but would neither lead to a sovereignty restriction nor would contradict the European integration course. But the desired framework officially announced by Kyiv for cooperation with the CU, based on the '3+1' formula, was not accepted by Moscow. *The purely economic component of integration within the Customs Union does not constitute significant value for Russia*, as its imports and exports with the CU countries make only about 6-7% of its foreign trade, while turnover with the EU is about 50%. Ukraine's accession to the CU would not significantly change the situation, as its share in Russia's foreign trade turnover is only about 5%. *The potential benefits of the CU for other of its members are even more equivocal*. Exports from Kazakhstan to Russia and Belarus in 2012, compared to 2011, even decreased by 9.8%. Although the share of CIS countries in total foreign trade turnover of Ukraine is still high – at 36%, a significant percentage are raw materials (gas and oil constitute 55-60% of Russian imports), while our high-tech import and export products are oriented mainly towards the EU – at 40% and 37% respectively¹¹.

Thus, it is clear that the **main reasons for CU integration are beyond the economic sphere**. Russia is interested in the short term to prevent the signing of the Ukraine-EU Association Agreement, with the maximum aim to include Ukraine in the integration project, which de facto is a part of Putin's geostrategy for reincarnation of the USSR.

Moscow could reasonably count on the signing of the Declaration and the Memorandum to **expose Kyiv as an unreliable partner of the EU**, especially given that Ukrainian authorities neither held consultations with European partners nor even

⁹ Интеграция Украины в Евразийский экономический союз делает невозможным подписание ею соглашения об ассоциации с ЕС – Глазьев. <http://interfax.com.ua/news/political/154820.html>

¹⁰ Статус спостерігача в Митному Союзі – де-факто членство. <http://glavcom.ua/articles/11797.html>

¹¹ Україна і Митний союз: проблеми інтеграції. http://dt.ua/columnists/ukrayina-i-mitniy-soyuz-problemi-integraciyi-119273_.html

informed them. This factor casts doubt on the version that the Memorandum signing was a part of Kyiv's smart game of appeasement of Moscow on the eve of signing the Association Agreement with the EU.

Anticipating the prospects for Ukraine's relations with the MC, one should note that **the instinct for self-preservation would force Ukrainian authorities to be cautious of Russian integration initiatives**. This is because, firstly, V.Yanukovych is unwilling to voluntarily transfer his powers to supranational bodies controlled by Moscow; secondly, Ukrainian oligarchs are not going to share their assets with their Russian counterparts; and thirdly, in the case of joining the CU and introduction of its high external customs tariffs Ukraine would suffer from increasing consumer prices for a number of product groups (as it has already happened in Belarus and Kazakhstan), and V.Yanukovych surely would not want such a perspective ahead of the presidential election.

In such circumstances, **V.Yanukovych is likely to continue attempts to use the CU only as leverage in negotiations** on Association with the EU and on gas prices with Russia. Although one should not exclude that part of the president's team could play its own game, more coordinated with the Kremlin than with Bankova.

