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UKRAINE – THE EUROPEAN UNION



KEY THEME ANALYSIS

THANKS TO JOINT EFFORTS OF INTERESTED AND EVEN DISINTERESTED PARTIES UKRAINE IS MOVING TOWARDS SIGNING THE ASSOCIATION AGREEMENT WITH THE EU

In the first half of August Kyiv has managed to get closer to its goal – the Association Agreement with the EU. An appropriate contribution was made by all the interested parties: Ukraine has been reforming its legislation and made some progress in the negotiations on the fate of Yulia Tymoshenko, while the EU has helped through close consultations, mitigating the requirements and gained a sense of losing Ukraine. But the most significant contribution was made by another ‘interested’ party – Russia, whose undisguised economic pressure and intimidation made all the Ukrainian community united and made EU officials indignant and more decisive to support Ukraine's European choice.

In early August, the Ukrainian government transferred to the Venice Commission a draft law on prosecution reform. Viktor Yanukovich personally informed the President of the European Parliament Martin Schulz about this, in a telephone conversation on August 7. It is expected that the Venice Commission would make its recommendations, and then a draft law would be sent to the Ukrainian Parliament. V. Yanukovich also instructed the Ministry of Justice to study the issue of readiness of other draft laws, necessary to sign an Association Agreement with the EU, "taking into account the position of international experts."¹ First Vice Prime Minister Serhiy Arbutov said that Ukraine has also fulfilled the requirement of the EU to "harmonize the strategy of public financial management",² he also told the 'Frankfurter Allgemeine Zeitung' about some progress in negotiations on the possibility of treating Yulia Tymoshenko in Germany³.

The seriousness of the European integration intentions of the Ukrainian authorities is also indicated by the energetic work of the Ministry of Agrarian Policy and Food on the adaptation of national legislation to EU requirements. Its aim is to make it possible for Ukrainian agricultural products to enter the European market immediately after the launch of the Free Trade Area. The ministry has already

¹ Президент доручив опрацювати питання готовності законопроектів, необхідних для підписання Угоди з ЄС - Олена Лукаш. <http://www.president.gov.ua/news/28456.html>

² Україна виконала ще одну вимогу ЄС. <http://eu.prostir.ua/news/258735.html>

³ Україна веде переговори з Євросоюзом щодо Тимошенко. <http://www.u-e-p.eu/news/2013/august/ukrana-vede-peregovori-z-vrosouzom.html>

developed 9 documents relating to the issues of agricultural cooperation, organic foods, and product quality and safety⁴.

A significant favorable factor for Kyiv is a change in Berlin's position, transforming from the opponent into a supporter of the European integration of Ukraine. In response to a query from 'Deutsche Welle', the German government spokesperson said that Germany hopes to sign an Association Agreement at the Vilnius summit of the Eastern Partnership in November, of course subject to Kyiv fulfilling the criteria formulated by the EU, including selective justice, namely Tymoshenko's case⁵.

German representatives in the European Parliament also took an active role in supporting Ukraine in the customs conflict with Russia. Chairman of the European Parliament Committee on Foreign Affairs *Elmar Brok* (Germany) in a joint statement with the head of Group of the European People's Party in the EURONEST Parliamentary Assembly *Saryusz-Wolski Jacek* (Poland) said: "By blocking imports from Ukraine, Russia is waging a trade war with Ukraine. Pressure is increasing to deter Ukraine from entering into the Association Agreement /DCFTA with the EU. The EU, as a concerned party in the conflict, has to act to defend Ukraine, challenged by Russia's action, while Ukraine should do everything that is required in order to sign the Association and DCFTA Agreement with the EU"⁶.

One could say that Russia by its trade war has done for the European integration of Ukraine even more than the Ukrainian government itself. MEPs and European officials sympathize with Ukraine, which has suffered for its European aspirations, but still has not abandoned its goal, despite the hard pressure of Russia. Leader of the Progressive Alliance of Socialists and Democrats in the European Parliament *Hannes Swoboda* called the actions of the Russian authorities towards Ukraine 'utterly unacceptable': "It is obvious that Russia wants to deter Ukraine from strengthening its relationship with the EU ... And the EU must support Ukraine's ambition for closer ties."⁷

Russian attempts to force Ukraine to refrain from rapprochement with the EU made the protection of the weaker partner a 'matter of honour' for Europe, as well as protecting the EU's own right to negotiate on association with those whom Brussels determines, not Moscow. The dependence of the Russian economy on trade with the EU would deter Moscow from the escalation of tension with European capitals, and this might enhance the negotiating position of Kyiv.

While in foreign relations with Moscow the Ukrainian government can count on the support of its EU partners, Kyiv will have to solve on its own **the problem of internal sabotage of European integration.** And it is not about the Ukrainian opposition, represented by the parties "Batkivshchyna", "UDAR" and "Svoboda", it is about the pro-Russian forces within the ruling Party of Regions, which more and more openly show their orientation towards the Kremlin rather than towards Bankova str. Thus, *a member of the parliamentary faction of the Party of Regions Vadym Kolesnychenko has registered a draft law aimed at abolishing the provisions of Ukrainian legislation which refer to European integration, including the Presidential Decree 'On Approval of the Strategy of Ukraine's integration into the European Union', as well as the Government's directives concerning European integration*⁸.

⁴ Експерти: Законодавство у сфері АПК найшвидше гармонізували з вимогами ЄС. <http://eu.prostir.ua/news/258861.html>

⁵ Берлін закликає Росію поважати право України торгувати з ЄС. <http://www.dw.de/берлін-закликає-росію-поважати-право-україни-торгувати-з-єс/a-17035281>

⁶ Russia-Ukraine trade war: EU must act and defend Ukraine. <http://www.eppgroup.eu/press-release/Russia-Ukraine-trade-war%3A-EU-must-act-and-defend-Ukraine>

⁷ Russian action on Ukraine imports 'utterly unacceptable'.

<http://www.publicserviceeurope.com/article/3966/russian-action-on-ukraine-imports-utterly-unacceptable>

⁸ Євроінтеграція відміняється – в Раде зареєстровано законопроект. <http://r-u.org.ua/?p=2899>

UKRAINE – NATO



KEY THEME ANALYSIS

ANNUAL NATIONAL PROGRAMME OF UKRAINE-NATO COOPERATION: ASPIRATIONS FOR THE MAXIMUM RESULTS WITHIN EXISTING MECHANISMS

Approved by the Presidential Decree on the Annual National Programme of Ukraine-NATO cooperation 2013 (hereinafter – the Programme) clearly reflects the current realities of our partnership with the Alliance: attempts to achieve the highest possible practical cooperation, without changing the existing political and legal provisions of non-alignment. This aim is fixed in the text of the Programme: *"to provide for the **maximum efficiency** of the Ukraine-NATO partnership **within existing mechanisms and instruments** of cooperation."*⁹

Despite the official abandonment of the goal to join the Alliance, an extremely wide range of mutual cooperation issues, outlined in the Programme (which covers almost all areas of the countries' functioning) reflects Kyiv's desire to actually implement all NATO standards, or at least to achieve maximum compatibility with them. Besides the already traditional measures concerning reforming the Ukrainian armed and security forces, improving their effectiveness and compatibility with NATO standards, participation in peacekeeping operations and joint exercises, **the Programme-2013 also includes priority tasks which may indicate the intention of the Ukrainian government to strengthen its political cooperation with NATO.**

Thus, the Programme-2013 among its priority tasks defines the following: **"to intensify political dialogue and practical cooperation between Ukraine and NATO on all issues of mutual interest"; "to enable the informing of Ukrainian society, using the capabilities of the NATO-Ukraine Partnership Network for Civil Society Expertise Development, on the results of the implementation in Ukraine of joint programs and projects supported by NATO."** It is likely that Kyiv is going to stop the practice of concealing its cooperation with NATO, and perhaps it even intends to start an information campaign that might change the public attitude to cooperation with the Alliance for the better.

Of great importance are the provisions of the Programme concerning **"training the special unit of the Security Service of Ukraine to participate in NATO operations in order to achieve the objectives of the Partnership," "improving combativity of the special unit of the Security Service of Ukraine, and its**

⁹ Указ Президента України № 371/2013 Про затвердження Річної національної програми співробітництва Україна - НАТО на 2013 рік. <http://www.president.gov.ua/documents/15898.html>

interoperability with special units of the Alliance member-states." Such experience of the SSU special unit might turn out to be useful, especially in the context of the growing probability of provocations by the opponents of the European integration of Ukraine.

The Programme also includes a task to **"ensure the participation of representatives of the Ministry of Defence and of the Armed Forces of Ukraine in the main measures of NATO and its working bodies."** Interest in such participation, given the close practical cooperation and moving towards achieving standards of compliance, may indicate Kyiv's intention to approach de facto association-like status, although such a status does not exist in the Alliance.

Insignificant at first glance, but indicating the high level of mutual confidence is the Programme's provision to continue *"the compilation of Ukrainian topographic maps in scale 1:250000 according to NATO standards."*

Recognizing **the interconnection of co-operation with NATO and European integration**, Ukraine plans in term of the annual Programme *"to take steps to optimize the cooperation with the EU on foreign and security policy, particularly in the framework of the Common Security and Defence Policy"*, as well as *"to proceed with the possible extension of military and political dialogue between Ukraine and the EU, including the participation of the Minister of Defense of Ukraine in informal meetings of defense ministers of the EU member states."*

Therefore, the Programme of Ukraine-NATO cooperation 2013 could eliminate several disadvantages, pointed out by experts of the 2nd Working Group of the NATO-Ukraine Partnership Network in their analysis of the previous annual programs. In particular it relates to the public informing about the cooperation with NATO and intensification of non-military components of cooperation. As experts rightly noted, *"today Ukraine is the only country that takes the commitments to transform the full range of political and security relations, without claiming membership in NATO."*¹⁰

The measures of cooperation fixed in the Programme are actively implemented in practice. In July, in Odesa, massive Ukrainian-US exercises 'Sea Breeze 2013' took place; representatives of other countries (including Turkey and Romania) also participated. 1,700 personnel, 15 ships, 10 aircraft, 35 armored vehicles took part in those exercises. International exercises 'Rapid Trident 2013' successfully took place near Lviv; more than 1,300 soldiers from Ukraine, the USA, Canada, the UK, Germany, Poland, Norway, Sweden, Denmark, Romania, Bulgaria, Georgia, Azerbaijan, Moldova, Serbia and Armenia participated. In August, in Brussels a Technical agreement for joint participation of Ukrainian national staff and contingent of the Armed Forces of Italy in the *International Security Assistance Force in Afghanistan* was signed. On 6-9 August, despite the pro-Russian organizations' protests, the Ukrainian authorities managed to provide for the U.S. Navy destroyer 'Bulkeley' a safe and comfortable visit to Sevastopol. In addition to protocol events in Sevastopol city state administration, destroyer's crew visited the training center of the Ukrainian Navy, and Ukrainian militaries visited the 'Bulkeley'.

So it is not surprising that commenting on the level of cooperation between Ukraine and NATO, Director of the NATO Liaison Office in Ukraine *Marcin Kozhiel* said that Kyiv's declaration of non-alignment "had no practical impact on the content of our cooperation ... the substantial core of ANP remained unchanged."¹¹

¹⁰ Особливості виконання Україною РНП НАТО // <http://euroatlantica.info/statti/510-osoblyvosti-vykonannia-ukrainoiu-rnp-nato.html>

¹¹ Глава Офісу НАТО: Україна - важливий контрибутор міжнародної безпеки // <http://eu.prostir.ua/library/258821.html>

FOREIGN POLICY OF UKRAINE



KEY THEME ANALYSIS

'TRADE WAR' AS MOSCOW'S 'ARGUMENT' AGAINST UKRAINE-EU ASSOCIATION AGREEMENT

Being sure that Kyiv's intention to sign an Association Agreement with the EU is not just a means of pressure on Russia in gas negotiations, but a real goal, and that this time the EU intends to take steps towards Ukraine; the Russian authorities have decided to exert massive pressure – both economic and political.

Measures of economic pressure. Counting on the vulnerability of the clan-oligarchic nature of Ukraine's political and economic realities, *in July and August 2013 Russia made an attack on the export of enterprises, associated with the influential Ukrainian politicians and media moguls.* In such a way Moscow hoped to persuade Ukrainian oligarchs to pressure the authorities with a demand to abandon European integration plans and to join the Customs Union, and to change accordingly the information policy of the media:

- in July Victor Pinchuk's 'INTERPIPE' (V.Pinchuk is also associated with the TV channel 'STB', 'ICTV', 'Novyi', newspaper 'Facts' and some other popular media) was deprived of duty-free quotas in the Customs Union's countries, thus "INTERPIPE" production was imposed with an additional duty of 19-20%;

- in July the Russian Federal Consumer Rights Protection and Human Health Control Service ('Rospotrebnadzor') banned the import of products of the most famous Ukrainian confectionery company 'Roshen', whose owner Petro Poroshenko is a well known pro-European politician, who has a group of influence in the Ukrainian Parliament and owns TV company 'Channel 5';

- on August 14 the Russian Customs Service, under the pretext of additional inspections, de-facto blocked imports from Ukraine, primarily on products of companies owned by businessmen and politicians close to the authorities who have influential media assets: Rinat Akhmetov, Dmytro Firtash, Borys Kolesnikov and others. Import of goods of large Ukrainian state owned enterprises like 'Turboatom' and 'Artemsil' were also blocked. *Russian presidential advisor Sergei Glazyev didn't conceal the reasons for this 'customs war': "It was a one time check ... Now the situation has returned to normal, but just in case we are preparing to tighten customs procedures should Ukraine suddenly make this suicidal step of signing the EU Association Agreement."*¹² By the way, Chairman of the CIS Affairs Committee in the

¹² Росія готує реакцію на "самовбивчу" асоціацію України з ЄС.
<http://www.pravda.com.ua/news/2013/08/18/6996231/>

Russian Parliament Leonid Slutsky has hinted that Moscow is ready to discuss Ukrainian participation in the CU according to the '3+1' formula (previously Russia has rejected such a variant): "Although we have a Free trade area agreement (in the CIS), for some goods questions are solved in a more complicated way than it might be if Ukraine joined the Customs Union at least according to the '3+1' formula¹³;

- head of the Russian Migration Service Konstantin Romodanovskii threatened to deport 700 000 Ukrainian labour migrants, who work in Russia "without proper documents."¹⁴ K.Romodanovskii apparently has not taken into account that Ukraine was far less dependent on financial income from labor migrants than Central Asian countries (Moscow has got used to pressing Central Asian countries with similar threats).

Measures of political pressure included the following actions:

- deputy head of the ruling Party of Regions' faction in the Ukrainian Parliament Oleg Tsarev, apparently relaying the Kremlin's opinion, said to 'Forbes Ukraine': "I guess that at the last meeting of the presidents in Sevastopol Putin made it clear that **Russia will not support Yanukovych if he signs the Association with the EU.**" O.Tsarev also said that the Kremlin can support another, more pro-Russian candidate, such as Victor Medvedchuk. But in case of rejection of Association with the EU, Russia might give Ukraine a \$15 billion interest-free loan for the purchase of gas¹⁵;

- during his visit to Ukraine to celebrate the anniversary of the christianization of Rus, V.Putin after a 15-minute conversation with V.Yanukovych left him and took part in a conference, organized by longtime foe of the Ukrainian President – V.Medvedchuk, who has campaigned for the Customs Union during the last two years;

- pro-Russian Communist Party leader Petro Symonenko said that in September his party will begin collecting signatures for a referendum on joining the Customs Union.

Besides the economic and political pressure, **Russia has also conducted a demonstrative strength action:** on July 17, a Russian border patrol ship in the Azov Sea rammed a Ukrainian fishing boat, 4 fishermen were drowned while the 5th one was detained and accused by the Russians of fishing within Russian waters, although the maritime border in the Azov Sea had not been delimited.

Russian provocative actions turned out to have an antithetic effect to that which Moscow had expected. **For the first time in recent years the entire Ukrainian establishment including the authorities, oligarchs and opposition, demonstrated solidarity in commitment to the course of European integration.** Opposition leaders in their statements strongly condemned Russia's pressure. Arseniy Yatsenyuk called the ban on Ukrainian import to Russia "a pressure to force Ukraine to join the Customs Union," also adding that "Ukraine has already made the choice", and "at the Vilnius summit of the Eastern Partnership the Association Agreement between Ukraine and the EU must be signed"¹⁶. Ukrainian oligarchs have expressed their critical attitude towards Moscow's actions through the press-releases of

¹³ У Росії підтвердили, що проблеми з експортом через Митний Союз.

<http://www.pravda.com.ua/news/2013/08/15/6996067/>

¹⁴ Українцям грозить депортація із Росії. http://www.ng.ru/cis/2013-06-27/8_ukraina.html?print=Y

¹⁵ Советник Азарова: Путин может выставить своего кандидата против Януковича //

<http://forbes.ua/nation/1356267-sovetnik-azarova-putin-mozhet-vystavit-svoego-kandidata-protiv-yanukovicha#print>.

¹⁶ Яценюк засуджує блокування Росією українських товарів. <http://www.rbc.ua/ukr/news/politics/yatsenyuk-osuzhdaet-blokirovanie-rossiey-ukrainskih-tovarov-15082013102700>.

the organization under their control (for example, led by D.Firtash's Federation of Employers of Ukraine, which has released a critical statement).¹⁷

The Ukrainian authorities didn't want to escalate the conflict, but still made it clear that the European integration course wouldn't be changed. Minister of Justice Olena Lukash sharply criticized as 'meaningless and absurd' the anti-European statements of MP O.Tsarev, while another MP from the Party of Regions V.Oliynyk said that O.Tsarev's words do not reflect the views of the party¹⁸. O.Lukash, in a letter to Russian Minister of Justice O.Konovalov, was urged to withdraw accusations against Ukrainian fishermen, detained in the Azov sea, because there is no reason to consider that incident to have occurred within Russian territorial sea¹⁹. At the same time, the Ukrainian government did not dare to address a complaint to the WTO concerning the 'trade war', and also did not accuse Moscow of violating the terms of the Budapest Memorandum of 1994 on the non-nuclear status of Ukraine, in which Russia had made commitments not to use economic pressure.

Trying not to exacerbate relations with Moscow on the eve of the Vilnius summit, V.Yanukovych and M.Azarov preferred telephone conversations with their Russian counterparts.

Forecasting further development of Ukraine-Russia relations, one can assume that *Russia will have to weaken the trade war, at least temporarily*, because:

- the EU representatives have begun to express their concern about the conflict, and this threatens to deteriorate the already difficult relations between Moscow and Europe;
- current and potential members of the Customs Union have refused to support Russia in the conflict: Belarus, Kazakhstan, Moldova and Tajikistan, who previously had suffered from cooked-up charges of 'Rospotrebnadzor', indicated that their experts had not found any harmful substances in 'Roshen' sweets²⁰;
- Russian consumers of Ukrainian products, including gas and oil companies which buy Ukrainian pipes, also suffer from Moscow's politically motivated actions²¹;
- if the conflict continues, Ukraine might respond with reciprocal measures, for instance concerning such strategically important areas of Russian exports as automobiles, nuclear fuel, etc.

On August 20, the press-service of the Ministry of Income and Fees of Ukraine said that during the negotiations with the Russian Customs Service the parties agreed to return to normal customs clearance of Ukrainian goods²². It remains to be seen how long it will last.

Anyway, the Ukrainian authorities should be prepared for possible further steps by Russia to prevent Ukraine's European integration. Presumably, **Moscow will encourage the pro-Russian lobby in the Party of Regions to disrupt the voting of the laws necessary for the Association Agreement.** The Ukrainian

¹⁷ У Фірташа кажуть, що Росія оголосила війну: блокує український експорт.

<http://www.pravda.com.ua/news/2013/08/14/6996036/>

¹⁸ У Лукаш до регіонала Царьова одне запитання: Хто вас попросив це сказати?

<http://www.unian.ua/news/588374-u-lukash-do-regionala-tsarova-odne-zapitannya-hto-vas-poprosiv-tse-skazati.html>; Існування «партії Путіна» в парламенті України суперечить Конституції – експерт.

<http://www.radiosvoboda.org/articleprintview/25068215.html>

¹⁹ Українські рибалки, яких протаранили, не перетинали російського кордону?

<http://ukrainian.voanews.com/content/ua-fishermen/1728873.html>

²⁰ Чотири країни фактично підтвердили, що якість українських цукерок визначають у "кремлівській лабораторії". <http://tyzhden.ua/News/86349>

²¹ Квоты вылетели в трубу. Россия обещает отменить беспошлинный ввоз украинской трубной продукции. <http://www.kommersant.ua/doc/2235405>

²² Росія повернулася до штатного розмитнення укртоварів – Міндоходів.

<http://www.pravda.com.ua/news/2013/08/20/6996355/>

authorities also should not count on the Communist Party's votes, so the only way is to negotiate with the opposition.

Ukrainian government and security services should also be prepared for **possible information provocations against Ukraine**, for instance something like the scandal with 'Kolchuga' (former President Leonid Kuchma has been accused in sales of 'Kolchuga' to Iraq, although no evidence was found). On the eve of the Vilnius summit **some protests may occur** in the regions with strong pro-Russian sentiment, particularly in Crimea or in Odessa. It is possible that pro-Russian movements may demand local authorities to take decisions, potentially threatening the territorial integrity of Ukraine (probably something like 'territory free of the EU').

