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UKRAINE – THE EUROPEAN UNION



KEY THEME ANALYSIS: What One Can Expect from a New EU Ambassador to Ukraine Jan Tombinski

On 1 September 2012 a new Ambassador of the European Union to Ukraine Jan Tombinski took up his position. As far back as 17 May the order was signed by the EU High Representative for the Common Foreign and Security Policy Catherine Ashton who approved new heads of the EU missions in 15 countries. So, Mr. Tombinski will replace Jose Manuel Pinto Teixeira who has been holding this position since October 2008, and who now works in the Republic of Cape Verde according to diplomatic rotation. Jan Tombinski seems to be a really good candidate both for the foreign political office of the EU and Ukraine. He is a career diplomat who has twenty years experience of diplomatic service, starting with the generation of the Polish “Solidarity”.

This situation looks very positive for Kyiv because the Teixeira, who considered his mission in Eastern Europe as a constant confrontation with the reality which he was not accustomed to, has been replaced by a Pole, who is well aware of the post-Soviet present and dilemmas of Ukrainian independence. He understands perfectly the EU and Western Europe, as well as the problems of Ukraine. Moreover, taking into account his origin and the attitude of Poland to the Ukrainian State at the official level, one can suppose that he will become a reliable partner both for the EU leaders to be represented by him, and for the authorities and society of our country. It was not in vain that the President of Ukraine Viktor Yanukovich personally met Mr. Tombinski in the ambassadors’ circle, when they presented their credentials on 10 September. It was really a gesture towards the European Union and the Ambassador himself because he got such an opportunity almost in the first day of the performance of his duties, but similar situations are very rare.

However, in this respect, first of all, one should remember that today, according to the statements of the officials of the European Union, Brussels considers relations with Kyiv as those with which to have neither a pause, nor to compromise its values. So, even if Tombinski demonstrates to the Ukrainians the example of his own country, that properly organized political work consisting of the consensus of the main political forces for a European strategy can be successful, all the same he will not represent his own country, which is one of the most active “advocates” of Ukrainian interests not only on the European continent, but the EU as a whole.

Therefore, he has to make contacts with all the political forces in the state, the Government, the groups that will participate in the elections to the Verkhovna Rada of Ukraine on 28 October, the representatives of churches, etc. That’s why, following his predecessor, Tombinski immediately proved that he doesn’t digress from the official course of the organization he represents. The declaration of *the “conditions” to recognize Ukraine as a democratic state* and, as a result, of its European aspirations, became one of his first statements.

Firstly, it is transparent parliamentary elections which should renew a mandate of confidence in the new Verkhovna Rada and those persons who represent there ordinary Ukrainians. **Secondly**, it is the application of legal norms that helps to destroy the notion concerning the existence of selective justice against persons who performed political functions in Ukraine. The legal and political systems of the state do not have the mechanisms to solve cases of such a type, and criminal sanctions imposed on former officials arouse suspicion about their selectivity. And finally, **thirdly**, Ukraine is required to continue reform of the judicial system. So, the EU expects the Ukrainian Government response to the signals it sent before. Therefore, it is too early to talk about any sanctions or comparisons of our country with neighbouring Belarus because it is easier to impose any sanctions than to lift them, and they do not necessarily improve the situation in the country.

In addition, Jan Tombinski noted that, together with some negatives, Ukraine doesn't have strict censorship; there are all the opportunities for expression. But, on the other hand, the television channels don't educate citizens but rather voters who vote for the owners of the TV channels. The energy sector of our country also received a positive assessment: as it is known, the International Energy Agency published a review of the energy policy of Ukraine where it noted the huge potential of our country both in the transportation and production of energy. Accordingly, the EU supports Ukraine's membership of the European Energy Community, and it would also welcome Kyiv joining the Extractive Industries Transparency Initiative (EITI). It doesn't simply promote greater energy independence for Ukraine, strengthening its competitiveness and helping to improve energy efficiency, but also allows it to attract foreign investment in the Ukrainian energy sector and helps Kyiv to cope with its modernization.

Accordingly, one can notice some changes. But the real attitude of the European Union to the national officials will be obvious only after parliamentary elections and the next EU – Ukraine Summit which, according to the new Ambassador, takes place according to the fact of the completion of the necessary EU conditions by our state. Incidentally, only after the parliamentary elections will the European Commission allocate the next financial tranche of credit to support reforms in Ukraine, totalling EUR 610 million, and even if the observers recognize them as democratic. That's why one can vainly hope that, unlike the expressive Teixeira, Jan Tombinski remains a simple Pole who is not going to give advice to the Ukrainian authorities or criticize them. The position of the European Union regarding Ukraine may now be declared in a slightly softer way. *However, the basic conditions of parties' rapprochement will remain inviolate.*

UKRAINE – NATO



KEY THEME ANALYSIS: Anniversary Meeting of the NATO – Ukraine Commission Wasn't Marked by a High Level of Representation and Effectiveness

Taking into consideration the “mutual desire” and interest in the maintenance of the bilateral political dialogue, as well as the role of Ukraine as an important contributor to Euro-Atlantic security, one can say that the relationship of Kyiv and the North Atlantic Treaty Organization is maintained at the steady level of its formalization. *The anniversary meeting of the NATO – Ukraine Commission at the ambassadorial level, held on 25 September 2012 at the NATO Headquarters in Brussels*, became an important step in this interaction. In the light of the 15th anniversary of the Charter on a Distinctive Partnership signed in Madrid in 1997 between NATO and Ukraine, the parties discussed the main aspects and prospects for bilateral cooperation.

Firstly, today Ukraine is interested in the continuation of the participation of its contingent in the international forces in Afghanistan even after 2014 (i.e. after the official date of the withdrawal of the International Security Assistance Force in the Islamic Republic of Afghanistan (ISAF) from the country). *Secondly*, Ukrainian servicemen continue to support the operation of NATO forces in Kosovo (KFOR) and the anti-piracy operation of the Alliance “Ocean Shield”.

The parties will also continue their cooperation within the framework of other existing projects including the professionalization of the Armed Forces, and the disposal of ammunition and small arms. In connection with this, Ukraine was involved in the work of the newly established NATO Support Agency (NSPA). The main areas of cooperation with this structure are logistical support, the maintenance of NATO initiatives regarding the establishment of Trust funds in the NATO “Partnership for Peace” (NATO/PfP) Programme Member States, the assistance for strategic transportation, as well as the contribution to the NATO disaster and crises response operations. Being a member of the NATO “Science for Peace and Security” Programme, our state strives to combine its efforts with NATO in order to withstand new challenges and threats in the energy sphere, cyberspace and in the fight against terrorism. So, Kyiv aspires not only to take advance measures and actions for prevention, but also to develop new, more effective mechanisms for response and elimination of consequences that could be caused by destructive actions.

During the NUC meeting the Head of the Mission of Ukraine to NATO, Ambassador Igor Dolgov reported the officials about the state of the pre-election campaign to the Verkhovna Rada of Ukraine, taking into account the special attention to that issue of the members of the NATO – Ukraine Commission. Another important issue, that was interesting to the

representatives of the Euro-Atlantic community, became **the priorities of the foreign policy of Ukraine**. Despite the fact that today our state announced its non-block status, it should still define the main priorities and directions of its foreign policy. Therefore, the “east bias” of the Ukrainian politicians against a background of the removal from the EU prerogatives does not look too optimistic for the Alliance Members most of which also represent the interests of the EU. Thus, during the NUC meeting the parties emphasized the importance of the European integration of Ukraine and its cooperation with NATO.

Particular attention was paid to the priorities of Ukraine’s Chairmanship of the OSCE in 2013 and to the establishment of conditions for more effective execution of the main functions of the organization. It is known that in the military and political sphere Ukraine will support the efforts to restore an effective regime of conventional arms control in Europe, non-proliferation and strengthening of confidence measures in the military sphere that is also very important for NATO Member States. In addition, Ukraine will make every effort to strengthen the role of the OSCE in the implementation of the idea of the “security community of the OSCE” which should be free from dividing lines, conflicts, spheres of influence and zones with different levels of responsibility. Speaking at the Plenary meeting of the 67th session of the UN General Assembly on 26 September 2012, the President of Ukraine Viktor Yanukovich also underlined that Ukraine, as a non-block state, “couldn’t but disturb the erosion of the regime of the Treaty on Conventional Armed Forces in Europe” because this international legal document is the cornerstone of stability on the continent, and therefore the participating states should make all the efforts to restore its full and effective functioning. Therefore, within the framework of its Presidency of the OSCE Ukraine plans to pay special attention to the way out of the crisis which has arisen around this Treaty.

So, the regular meeting of the NUC can optimistically be called the evidence for the continuation and development of Ukraine – NATO relations. However, the conditions under which the parties considered the issues, and, in particular, the selection of topics for discussion, make clear the fact that NATO is ready to discuss with Ukrainian officials only the issues concerning the interests of the West, or those that need to be resolved urgently in order for our state not to be entrapped by Russia.

FOREIGN POLICY OF UKRAINE



KEY THEME ANALYSIS: Ratification of the Agreement on the CIS Free Trade Area with the Shade of the Russian Geopolitics

Against a background of the economic reforms to be actively implemented in our state, as well as the constant expansion of contacts with new foreign trade partners, it seems that the further development of familiar markets of the CIS Member States also looks as extremely important from the financial, trade and, at first, political points of view. The geographical expansion of domestic exports is one of the main tasks of the Ukrainian Government, because it will not only allow to increase revenues to the state budget, but also to establish contacts of the Ukrainian business with other foreign partners. It seemed that the other step towards achieving the goal should become the next ratification of the Agreement on the CIS Free Trade Area which ***was adopted by the Senate (the upper chamber) of the Parliament of Kazakhstan at its plenary session on 4 October 2012***, and which will come into force after signing by the President of the state Nursultan Nazarbayev and publishing of its text in the official media.

It's known that the Agreement, signed by eight countries (Russia, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan and Ukraine) on 18 October 2011 in St. Petersburg, was elaborated to finish the establishment of a comprehensive free trade regime provided as a priority direction of the Concept of further CIS development. Therefore, the purpose of the document is to create conditions for free movement of goods between the CIS Members, and to improve the legal framework of the international relations based on the WTO principles.

However, the letter of explanation of the core committee of the Senate, published simultaneously with the approval of the Agreement, states that its provisions define the duty-free trade almost in all the goods with the exception for their particular kinds. In particular, there will be duties on the imports of white sugar and vodka from Ukraine. In addition, Kazakhstan will assign the right to apply export taxes on some kinds of goods, including the oil products, ferrous and nonferrous metals scrap, rape and sunflower seeds, natural and other gases, etc. *In fact, Kazakhstan reserved the right to apply export duties on products which can be considered as the goods of critical imports for Ukraine.* So, one can observe the situation when the Agreement on the CIS Free Trade Area didn't change the trade regime in the territory of the organization and, moreover, would not change it even after the further ratification of this document by the other state signatories.

The Agreement which, in fact, applies only to 30 % of mutual trade turnover between the CIS countries, actually brings to nothing the possibility to create a normal free trade area within the Community without exceptions and limitations. That's why it is too early to say that the Agreement allows to improve the balance of payments of Ukraine because the statement of

fact that Ukraine's GDP could increase by 2.5 % (according to the most optimistic prognoses), the profitable part of the the state budget would increase by UAH 9.4 billion, and there would be created 166 thousand of new working places, is, unfortunately, only the suggestion of the Ukrainian officials. For example, Russia has unambiguously tipped to all its partners that it is not interested in free trade with its neighbours. According to the FTA Agreement, there is the agreed list under which Russia leaves export duties on energy in the amount of 30 % in its mutual trade. So, the ratification of the Agreement on the CIS Free Trade Area would not help to solve the "gas issue" with Russia.

In addition, it is assumed that starting from 2013 the parties should settle the regime of rail deliveries. In fact, they should establish the uniform rules and uniform tariff policy for transportation. After the ratification of the FTA Agreement with the CIS countries, the parties presumably lift a number of restrictions on the supplies of domestic pipes, and within six months from the date of the document's entry into force it would be signed a supplementary agreement on the access to pipelines, which gives Ukraine access to oil and gas transportation systems of the CIS Members. But, it is alerting that transit deliveries have already become the point at issue and legal regulation within the framework of the Customs Union (CU) of Russia, Belarus and Kazakhstan, that clearly shows a separate economic scheme of relations within the CIS FTA which can be joined only with new members of the CU.

In addition, under the FTA Agreement, if the participation of one of the parties to this document leads to the growth of its imports in such amounts that harm or threaten to harm the industry of the Customs Union, the State Members of the CU, after having appropriate consultations, reserve the right to enter a duty on imports of proper products in the amount of the most-favoured-nation treatment rate. Thus, Belarus, Kazakhstan and Russia have imposed a duty on the Ukrainian white sugar imports in the amount of about USD 340 per tonne for an indefinite period, but Armenia, Kyrgyzstan and Tajikistan haven't done it. Ukraine also imposed export duties on steel and non-ferrous metals within the free trade area with the CIS States in the amount of 21 % but only for 2012. So, ***making our country suffer losses, the CU Member States, in fact, use the FTA within the CIS as the other tool to attract the official Kyiv to this community.*** And, taking into account the short-term prospects, Ukraine's accession to the CU looks really favourable: for example, currently Belarus buys the gas were less than USD 170 per one cubic meter, while our state is forced to pay USD 521.

This is confirmed with the fact that one month and a half after Ukraine ratified the Agreement on 30 July 2012, Kyiv and Moscow appeared in a state of the full-fledged trade conflict because on 1 September 2012 Russia introduced the utilization duty on imported cars which directly affects the lion's share of Ukrainian automobile exports to the RF. Paying the Northern neighbour back in its own coin, Kyiv again found itself in the situation when the Russian consumer supervision authority prepares new restrictions on the imports of Ukrainian milk and meat. As a result, the two countries are simply making circles in their economic relations. However, unlike Russia, Kyiv is not supported either by Kazakhstan, or by Belarus. So, even the creation of so-called "grain pool" between Ukraine, Russia and Kazakhstan on 12 October 2012, that allegedly allow countries to coordinate their marketing policies in the world grain market, looks, at least, strange against a background of the existence of the Customs Union. It is unlikely that Kazakhstan, which stands for some other grain markets in the world space, could involve our state to the process of pricing for this product by itself. But the association within the CU looks profitable. And, first of all, it is not for Astana.

Therefore, the further ratification of the Agreement on the CIS Free Trade Area or talks about the accession of new countries (in particular, Uzbekistan) to it will mean for our state exactly nothing but the further involvement to the Russia's geopolitical snare. It is not in vain that the official Kyiv has already received an unambiguous signal from the West: it must make a choice between the Customs Union and the EU, because it is impossible to implement both two scenarios of the integration simultaneously.