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The negotiations on the EU-Ukraine Association Agreement and Russia

Wojciech Konończuk, Sławomir Matuszak

The negotiations between Ukraine and the EU on the Association Agreement (AA) and a Deep and Comprehensive Free Trade Area (DCFTA) have reached the final stage. Between 4 and 8 April negotiating rounds regarding both the AA and the DCFTA were held. In the part devoted to the free trade area, significant progress was made and the likelihood of completing the talks this year is increasing. A new factor is the strong pressure from Moscow who is trying to persuade the Ukrainian authorities to join the customs union of Russia, Belarus and Kazakhstan, established under the auspices of Russia. This would mean bringing an end to the negotiations with the EU. Russia is using the carrot and stick approach as it resorts to threats of introducing export limitations while it also declares its willingness to lower the prices of the natural resources it sells. Presenting the benefits of Ukraine's entry into the customs union was the main objective of Vladimir Putin's visit to Kyiv on 12 April.

Ukraine sees the signing of the Association Agreement with the EU as its priority and for this reason it has agreed to certain concessions to the EU's advantage; this has enabled the advancement of the negotiations. Ukraine treats offers of the customs union with a visible reserve. Nevertheless, if Russia comes up with a very advantageous offer (e.g. a large cut in the price of gas) for Ukraine, it could not be ruled out that Ukraine would decide to find a pretext for obstructing negotiations with the EU.

The negotiations with the EU

On 4–8 April the rounds of negotiations on both the political part of the AA and the DCFTA took place. As opposed to what was the case with previous rounds, the Ukrainian government adopted a negotiating position aimed at reaching a compromise with the EU and a swift signing of the free trade agreement.

The contents of the AA had largely been determined. However, during the last round Ukraine returned to the demand to include in the agreement a provision about prospective EU membership. This most likely is a negotiating tactic aimed at gaining concessions in other areas since there is no chance that the EU will agree on a similar provision.

Up to now it was the part on the free trade zone that had caused most trouble. Statements made by Ukrainian representatives prove that important progress in the talks has been made. Initially agreement was reached in the area of agriculture (this area has caused the most controversy up to now). Ukraine agreed on the low cereal export quotas offered by the

EU in exchange for larger preferences in meat exports. The two parties also reached agreement regarding the system of naming regional products produced in Ukraine as they decided on long transition periods and financial aid for entrepreneurs so they can change the names of the manufactured products. The two remaining contentious issues concern export customs (Ukraine will sustain losses after they are lifted) and energy. Another round of negotiations is scheduled for mid-June but the two questions require decisions on a political level and a related meeting is planned for the middle of May. When the involvement of the representatives of the highest-ranking officials in Ukraine (including the first deputy prime minister, Andriy Kluiev) is taken into consideration, reaching a compromise appears quite likely and this could lead to a swift conclusion to the negotiations and the signing of the Association Agreement by the end of this year, under the Polish presidency.

The Russian factor

Russia until recently has not publicly opposed Ukraine's EU aspirations (in contrast to Ukraine's potential membership in NATO) as it believed the admission of Ukraine to the EU was unrealistic in the foreseeable future. The Kremlin was however taken by surprise in the association negotiations between Ukraine and the EU and the announcement that the Association Agreement would be signed by the end of this year.

In recent weeks Russia has begun a media campaign aimed at persuading Ukraine to join the customs union of Russia, Belarus and Kazakhstan, which would mean a breach of negotiations on the Association Agreement. Furthermore, on 12 April Prime Minister Vladimir Putin came on an *ad hoc* visit to Kyiv, where he met Prime Minister Mykola Azarov and President Viktor Yanukovych. The head of the Russian government put forward the benefits of Ukraine's membership in the customs union (increasing the state's revenues by US$ 6.5 – 9 billion, which would translate into a rise in GDP by 1.5 – 2%) and also warned against the possibility of additional customs barriers if Ukraine established a free trade zone with the EU. The majority of the talks were held behind closed doors and no details on Russian offers were made public.

Earlier Russian politicians mentioned, among other issues, a possible reduction in the gas price (the current gas price of US$ 264 for 1000 $m^3$is relatively high and Kyiv has repeatedly sought to have it reduced) and a decrease in the oil price. Russian statements, both the positive (promises) and the negative ones (threats) are aimed not only at the Ukrainian government but also at Ukrainian oligarchs. Russia is hoping the oligarchs, anxious to maintain exports from the companies they own in Russia, will put effective pressure on the Ukrainian government.

Nor can it be ruled out that the objective of Putin's visit to Kyiv was to negotiate a certain “concession” for Russia's agreement on the free trade zone deal between Ukraine and the EU. Russia is the most interested in gaining some control over the network of Ukrainian export gas pipelines. The Ukrainian government considers the South Stream gas pipeline project a threat to Ukraine's status as the key transit state for Russian gas, therefore they may be inclined to seek a compromise with Russia in this area. Reaching agreement between Russia and Ukraine and Russia's guarantee of stable transit through Ukraine would also benefit Brussels. In the light of the former gas crises, the EU asked Ukraine about clear guarantees (including the introduction of an early warming mechanism that would monitor the stability of gas supplies to the EU into the Association Agreement) that Russian gas would be delivered through its territory.

Ukraine's position

So far the position taken by the Ukrainian government has been unequivocal. Signing the Association Agreement this year has been a priority; membership in the customs union was ruled out although declarations about the willingness to strengthen cooperation with Moscow have been made. However, recently statements made by lower-ranking representatives about the necessity of Ukraine joining Russia's integration projects have been heard. These voices are the most likely to reflect the opinion of this Ukrainian business elite which find it beneficial to strengthen cooperation with Russia (the chemical industry, manufacturers of electric machines, the steel industry).

Only recently has Viktor Yanukovych taken part in this discussion. On 7 April in an official speech in the Supreme Council the president talked about relations with the customs union in the “3+1” formula (three member states of the customs union plus Ukraine). The president's offer clearly shows that the Ukrainian government would like to avoid the necessity of making a clear-cut geopolitical choice. Ukraine would like to sign the Association Agreement with the EU and then conclude a cooperation agreement with the customs union that would not be contrary to WTO rules and the provisions of the DCFTA.

Prospects

Ukraine's formal membership in the customs union established around Russia is not incompatible with Ukraine's WTO commitments (Russia, Belarus and Kazakhstan are not WTO members). It seems however that now Russia's priority is not Ukraine's membership in the customs union but rather to break or at least prolong negotiations about the AA so that the EU becomes discouraged about this idea.

The Ukrainian government seems to prefer a closer institutional cooperation with the EU. However, it cannot be ruled out that if Russia puts forward a highly favourable offer (e.g. an important reduction in the gas price) Kyiv will lead to the obstruction of the negotiations with the EU on any given pretext and try to shift responsibility for it onto Brussels. Decreasing the gas price and guaranteeing the transit of Russian gas through Ukraine, which would bring several billion dollars of savings to the country, may be sufficient temptation for the Ukrainian government who are under heavy pressure from the gas lobby in Ukraine. On the other hand, given Ukraine's far better economic situation, high prices of energy resources are not such an urgent issue for Kyiv as they were in April 2010 when Ukraine agreed on the extended period of deployment of the Black Sea Fleet in exchange for a lower gas price.

Sławomir Matuszak, Wojciech Konończuk, cooperation: Marta Jaroszewicz