

Russia is blocking a free trade area between the EU and Ukraine

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On 16 September, the European Parliament and the Supreme Council ratified the Association Agreement (AA) between the European Union and Ukraine, one element of which is the Deep and Comprehensive Free Trade Area agreement (DCFTA). But before that, after a meeting in Brussels on 12 September of representatives from the European Commission, Ukraine and Russia on the consequences of the AA for Russia, it was agreed to postpone the provisional implementation of the DCFTA agreement until 31 December 2015. This political decision, which resulted from confidential talks between Russia and Ukraine with the participation of the EU, came about under pressure from Russia, which threatened an escalation of the military conflict and the introduction of major economic sanctions. For Moscow, postponing the implementation of the DCFTA is an important success in its quest to draw Ukraine into its exclusive zone of influence. In turn Ukraine and the EU, by making concessions on the DCFTA, are trying to limit the areas of conflict with Russia. Ukraine's priority is to hold parliamentary elections in October, while the EU countries want to avoid further confrontation in relations with Moscow and the economic costs associated with such confrontation. However, the long-term consequence will be the creation of a precedent in which the EU recognises the right of Russia to influence the shape of EU relations with the countries of the former USSR.

What will be implemented, and when?

On 16 September, the European and Ukrainian parliaments ratified the entire Association Agreement between Ukraine and the EU, together with part of the DCFTA. Selected points of the AA (excluding the DCFTA) are to be temporarily implemented from 1 November 2014. This temporary implementation marks the coming into force of the agreement before the whole process of ratification by all 28 member states is completed, a process which may take up to a year (so far the AA with Ukraine has been ratified by Lithuania and Latvia). The part of the AA which is expected to be implemented this year covers political dialogue, support for political reform in Ukraine, cooperation on foreign policy, justice and security, and sectoral cooperation in specific areas (in various areas of interest to both parties, such as transport, health, education, research, energy, small and medium-sized enterprises, migration, etc.), among others.

However the European Commission's proposal of 12 September, which was agreed with the Russian and Ukrainian sides, but which must still be formally approved by the EU Council,

temporarily delays the implementation of the DCFTA by 14 months. The DCFTA agreement is a key element of the AA, and presupposes not only the establishment of a free trade area, but also the implementation by Ukraine of the necessary reforms and the adoption of EU legislation in the sphere of trade, and also partly in the sphere of investments, the financial sector, the activities of companies on the internal market, etc. Implementing these laws will ring about the close integration of the Ukrainian market with that of the EU. At the same time, the EU has extended the unilateral validity of Autonomous Trade Preferences for Ukraine (which came into force in April this year) until the end of 2015; these will abolish EU customs duties on about 95% of industrial products and for about 83% of agricultural and food products.

Russia's game

In order to bring about Ukraine's postponement of the implementation of the DCFTA, Russia took advantage of the tripartite format of the EU-Ukraine-Russia ministerial consultations created in July this year. The aim of these talks was to clarify to the Russian side that there would be no negative consequences of Ukraine adopting the DCFTA. In fact, however, the decision was taken during confidential negotiations between the leaders of Russia, Ukraine and the EU states, especially Germany. Russia's negotiating position has been greatly strengthened thanks to the success of its military offensive in the Donbas in August and early September. In the week before the last ministerial meeting, Moscow presented the EU and Ukraine with a document containing Russian proposals to amend the Association Agreement between the EU and Ukraine, in order to minimise the costs to the Russian economy (as reported by Russia) of the AA's coming into force. The document contains a number of demands for far-reaching changes to the already-signed AA/DCFTA. Russia has called for the plan to liberalise tariffs on over 20% of the goods categories to be dropped, and for changes in the provisions relating to policies on customs, energy, and standards which would give Russia and the Customs Union countries a privileged position in their economic relations with Ukraine. Such moves would give Russia the opportunity to influence Kyiv's economic policy, and would not preclude the further integration of Ukraine with the Customs Union or Eurasian Union. The Russian side also assumes that the period of suspension will see negotiations on Russia's demands for changes in the agreement between Ukraine and the EU.

In return for the concessions to the EU and Ukraine, Russia announced in a communiqué from the meeting in Brussels that Ukraine will benefit from the preferences of the CIS free trade zone by the end of 2015. However, Moscow wants the arrangements for postponing the implementation of the DCFTA to be specified and guaranteed by the adoption of relevant legislation by both the Ukrainian parliament and the EU Council, which will be included in the process of ratifying the AA/DCFTA. Moscow's ultimate goal is to block the process of Ukraine's association with the EU, and as a result, to cause political changes in Ukraine which will lead to its membership of the Customs Union.

Ukraine under pressure

In deciding to compromise with Russia on the issue of the DCFTA, the Ukrainian government wants to avoid an open trade war, and to prevent the escalation of military action. President Poroshenko is trying to play a game focused on easing relations with Moscow, which should at least allow the parliamentary elections in Ukraine in October to be held, as well as the possible reaching of agreements on other issues (mainly gas), and in the longer perspective, an end to the conflict on the most advantageous possible conditions for Ukraine (such as maintaining the *de jure* constitution of the unified state). In addition to the agreement to postpone the implementation of the trade agreement with the EU, this approach is demonstrated by the law adopted on 16 September by the Ukrainian parliament on the president's initiative, on the special status of the Donbas and an amnesty for the separatists.

Another important factor influencing Kyiv's position on the DCFTA was the need to incur high financial costs and a very large administrative effort in implementing this complex agreement. In the event of war, a deep economic crisis and domestic instability, this would be very difficult.

The EU countries' calculations

From the point of view of the EU, the decision to delay the implementation of the DCFTA is tactical in nature. It was based on a calculation of how to limit the points of conflict with Russia and to gain more time. In the face of Russian blackmail of Ukraine (the threats of a military escalation of the conflict and the introduction of economic sanctions), and the reluctance of states to enter into a strategic dispute with Russia, the EU's opportunities to have a real impact on the situation in Ukraine are limited. Moreover, the EU is aware of a number of Ukraine's internal weaknesses (the socio-political and economic situation, and the quality of the bureaucratic class) which would affect the implementation of the agreement.

What is left of the EU's eastern policy?

However, the consequence of the EU's decision to postpone Ukraine's implementation of the DCFTA will call into question its ability to accomplish its objectives in its neighbourhood policy. While the ratification of the AA can certainly be considered a success, the DCFTA agreement, on which negotiations started in 2008, and which constitutes the most important part, will not be implemented until at least the beginning of 2016. A dangerous precedent has been set, in which a third party obtains influence on the EU's bilateral relations. Russia will probably use it to further block the implementation of the AA with Ukraine, as well as with the other Eastern Partnership countries of Moldova and Georgia.

The fact that crucial influence on the decision was wielded by some individual member states increasingly undermines the community dimension of EU policy, which also includes the neighbourhood policy and the Eastern Partnership, and the importance of the EU institutions which supervise them.

The decision to postpone the implementation of the DCFTA's provisions does not mean that the Ukrainian government cannot implement a programme of social and economic reforms.

However, in reality, it delays the chance for a rapid programme of deep reforms, as strong external pressure will be lacking. So far, the Ukrainian authorities have not provided a coherent programme of state reform, and the reform measures are based on the implementation of programmes devised by the EU and the International Monetary Fund.

For Moscow, the postponement of the implementation of the DCFTA between the EU and Ukraine, and its forcing Kyiv and Brussels to commit to further talks on Russia's objections to the agreement, represents a political success, as it means that the EU has effectively granted Russia the right to take joint decisions on matters relating to the status of post-Soviet states. Deferring the implementation will not satisfy Russian expectations, and will harden Moscow's position in further negotiations. In light of the armed conflict in Ukraine, this diplomatic success will convince Russia of the effectiveness of its current policy of exerting pressure, including military, on neighbouring countries.