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What on Earth Is Happening in Ukraine?

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Summary

President Yanukovych probably dropped his negotiations with the EU on 21 November and turned to Russia instead, because the EU's requirement for democracy and the rule of law, combined with the IMF's condition for painful economic reforms, lengthened the considerable odds against him being re-elected democratically President in March 2015. In return, the Russians have offered him assistance free of any requirement for political and economic reform. Instead, however, they have exacted prices of another sort: placing substantial sectors of Ukrainian industry including the gas transit line from Russia to Western Europe under joint control, and enlarging the Russian presence in the Crimea. In order to enforce their stipulations, the Russians have put the reduction of the price of gas they have granted Ukraine, and the payment of tranches of the loan of \$15 billion they have consented on a quarterly basis.

In immediate reaction to the decision of the President to abandon the negotiations with the EU, protesters occupied the central square in Kyiv the Maidan Nezalezhnosti, and have so far resisted several attempts to dislodge them. The demonstration in Kyiv has had echos in western Ukraine but has produced only a muted response in the east and south of the country.

In pursuit of his goal of winning the next presidential election, Yanukovych is likely to continue his efforts to suppress dissent and to rig the election. He will find it very hard to suppress the strong opposition to his rule that has developed in Central and Western Ukraine. The political unrest, the likelihood of increased repression, and a deepening economic crisis, and the uncertain loyalties of Yanukovych's hitherto allies, make any predictions about the coming months in Ukraine difficult.

The fate of Ukraine remains important to the West. If Ukraine

should come under Russian control, it will change the balance of power, and likely lead to a more aggressive Russian foreign policy. It will prevent the return of either Ukraine or Russia to democracy in the foreseeable future. It will also create a barrier to understandings or any reconciliation with Russia.

In order to dampen the repression in Ukraine and to encourage the reformist forces, the EU and Canada should follow the United States' lead in imposing targeted sanctions against persons suspected of human rights violations. Western countries should support the Ukrainian civil society and exchanges with Ukraine. They should encourage movement between Ukraine and the West with relaxed visa provisions and sympathetic treatment of political refugees.

Presentation

During the last two months, Ukraine has been shaken by three events:

- President Yanukovich postponed the signature of the Association and Free Trade Agreement with the EU.
- He has concluded an understanding with Russia of unknown but apparently far-reaching scope
- The country has been rocked by a series of continuing demonstrations in protest against the abandonment of the agreement with the EU.

I will examine these developments and comment on where Ukraine is heading and what should be the Western response.

Suspended Negotiations with the EU

In March 2010, the EU offered to conclude with Ukraine an Association and Free Trade Agreement in return for political and economic reforms.

The EU posed, and the President accepted, three conditions:

- The adoption of a democratic Election Code, with balanced media access for all political parties,
- An end to politically motivated convictions, including reforming the judiciary and the police,
- reforms severing the link between politics, business, and crime.

For postponing the signature of the Association and Free Trade Agreement on 21 November, eight days before it was due to be signed, Prime Minister Azarov and President Yanukovych provided three different and partially contradictory explanations to the public:

- Prime Minister Azarov initially claimed that the government needed time to assess how to offset losses in production, and in trade with Russia arising from the Agreement.
- A day later, he blamed the IMF for posing excessively harsh conditions to its offer of a \$14.3 billion credit.
- President Yanukovych then claimed that Ukraine would need up to €160 billion (\$219 billion) to re-orient Ukrainian trade to European markets.
- For Azarov the EU should pay €20bn more.

Ukraine had never raised either of these sums with the EU. The EU replied that it had in fact budgeted a amount of around €20bn for transition costs. The EU had neglected, however, to inform Ukraine of this money during the negotiations.

Concern about the effect that the EU Agreement would have on trade with Russia represented a complete shift from the position Ukraine had taken in August. Then, Russia had temporarily blocked the import of all Ukrainian goods. President Putin's chief economic adviser, Sergey Glazyev, stated that Ukraine could expect worse if it went ahead with the EU Agreement. Russia takes about one quarter of Ukrainian exports. Since the summer, Russia has selectively blocked various categories of Ukrainian goods. Gazyev also threatened Ukraine with dismemberment.

In August, President Yanukovych's response was to reject Russian pressure, and announce that Ukraine would meet all the conditions for the Association Agreement. Parliament then passed many of the bills considered as prerequisites, but not some of the key ones.

This selective response of the Ukrainian Parliament leads us to the second, but unspoken reason for dropping the negotiations with the EU – The EU's conditions for concluding an Agreement.

President Yanukovych's policies are dominated by two overriding goals:

- to enrich himself and his Family, and
- to be re-elected by fair means or foul in March 2015 in spite of his growing unpopularity.

President Yanukovych had apparently initially believed that EU's conditions of democracy and a free market were not serious, and could be got around, and that Western pressure on the IMF would lead it to relax its conditions. He therefore adopted a duplicitous course of promising the requisite reforms, while pursuing a contrary policy of increased repression, tempered by occasional concessions to domestic and international public opinion.

- he has emasculated the judiciary,
- cowered the lawyers,
- thrown a few leading figures of the opposition, including his principal rival in the presidential election of 2010, the former Prime Minister, Yuliya Tymoshenko, in jail,
- fixed elections,
- hobbled the media,

In consequence, in October, the European Parliament, whose approval was necessary for signing the Agreement, declared that Ukraine had not met all the EU's conditions in the area of selective justice, and electoral and legal reform.

Then, the IMF re-iterated its terms for a credit of \$14.3 billion: Ukraine needed to devalue its currency, and reduce its deficit, notably by the

unpopular measure of removing the subsidy on household gas. President Yanukovych refused to comply because he feared that the removal of the gas subsidy would have dealt a further blow to his popularity.

Ukraine's refusal to comply with the IMF's terms left, however, because of President Yanukovych's disastrous economic policies, the country in the imminent danger of a currency collapse and sovereign default.

If the money could not come from the West, Russia was the alternative. Speaking to EU diplomats after a meeting with the President on 10 December, Baroness Ashton, the foreign policy chief of the EU, said she thought that Yanukovych was interested only in an immediate cash infusion without reform, something available only from Russia. She added that she believed that Yanukovych's decision not to sign the EU's free-trade deal was not a "last-minute decision" but that he had, instead, been following a plan. In my view, there is good reason to believe that the charade of negotiations with the EU and the IMF over the past few months had merely been to strengthen Yanukovych's bargaining hand with the Russians.

Yanukovych told Ashton that the relationship with Russia, not EU, will be economic priority for next two years. Since then, possibly as a result of public pressure, the Ukrainians have indicated that they wish to resume negotiations with the EU this spring,

The Agreement Reached with Russia

A leaked Russian policy document suggests that it has long been the Russian goal to block any agreement with the EU and to bring Ukraine into the Russia-led Customs Union of some former Soviet republics by the Ukrainian presidential elections in 2015.

In turn, in 2015, the Customs Union is to be transformed into the Eurasian Economic Union with an institutional structure like that of the EU. Moscow wants furthermore to make it into a supranational political body to which the member states would transfer a part of their sovereignty. In the past, Moscow has suggested that the Eurasian Economic Union would have a common foreign policy and a common economic policy.

On the defence side, Moscow has established the Collective Security Organization which it would like to see be able to intervene militarily in member states to restore stability. Moscow wants to see Ukraine join this body as well. It is safe to assume that Ukraine would become a subordinate body rather than an equal partner with Russia in such organizations.

The information that has come available on the understanding concluded with Russia is fragmentary. According to apparently well-informed Russian and Ukrainian sources on the negotiations, the talks were as much concerned with Yanukovych's family interests as they were with Ukraine's:

- Putin was unable to persuade Yanukovych to give up on the Association Agreement with the European Union and join the Customs Union.
- Putin promised Yanukovych and his Family access to some highly profitable schemes for making money.
- Although Putin had been quietly supporting a relative of his, Viktor Medvedchuk, as a candidate in opposition to Viktor Yanukovych in the presidential election, Putin agreed to desist, and also to promote international recognition of the legitimacy of Yanukovych's re-election.

Putiin is not known for keeping his promises to Yanukovych.

Only parts of the over fifteen documents signed between the two men have been made public:

- the purchase in tranches, possibly on a quarterly basis, by Russia of \$15 billion of two year Ukrainian bonds, so as to carry Ukraine through to the presidential elections,
- a temporary one-third cut in the price of Russian natural gas, from \$400 per thousand cubic meters to \$268.50, to be reviewed every quarter,
- "convergence of technical regulations of the Customs Union and Ukraine
- developing interaction between law enforcement and intelligence

- prohibiting unilateral actions in import substitution,
- deepening co-operation in secondary education
- a common industrial policy and joint ventures in strategic areas of Ukraine's economy such as gas, aerospace and aeronautics, nuclear energy, shipbuilding, transportation. agriculture, defence, and construction,
- a strengthening of Russian presence in the Crimea through increasing Russian involvement in the socio-economic development of areas where Russian installations are located, the removal of obstacles to the maintenance and re-equipment of Russia's Black Sea Fleet, or to its deployment, and the construction of a bridge over the Kerch Strait between Ukraine's Crimea and Russia's Krasnodar Krai..

In addition to these publically announced provisions:

- Viktor Medvedchuk, Putin's relative and erstwhile presidential candidate, has become President Yanukovich's head of administration.

The understanding has been greeted with skepticism to put it mildly:

- Without formally joining the Customs Union, President Yanukovich has agreed to wholesale economic integration with Russia
- The prohibition on unilateral import substitution effectively blocks any bilateral agreement between Ukraine and the EU or for that matter with Canada. Russia has stated that henceforth Ukraine's negotiations with the EU will be conducted on a tripartite basis, involving Russia.
- Critics note that the purchase by tranche of very short-term Ukrainian bonds and the quarterly review of gas prices put Ukraine on a very short leash.
- The Yanukovich Administration will likely use the Russian loan for electoral purposes, and not for reform, leaving Ukraine vulnerable

when the loan comes due after the next election.

- The reduction in the price of gas effectively blocks Ukraine's efforts to diversify its sources of gas so as to escape its dependency on Russia.
- Co-operation in broad sectors of the Ukrainian economy sounds like the proposal made by the Russians, and at that time rejected by the Ukrainians, in March 2010. That Russian initiative would have seen large swathes of the Ukrainian economy coming under joint control, but falling under the jurisdiction of Russian courts.
- Co-operation in education essentially means aligning Ukrainian textbooks, especially those on history with Russian manuals.

President Yanukovych, and especially his confederates, must feel uneasy about the agreements with Russia. They have spent much of their careers defending the autonomy of their industrial sectors against Russian intruders.

Popular Reaction

Any unease over the Russian deal would pale in comparison with the fury that the refusal to sign with the EU has unleashed in much of the public in Western and Central Ukraine.

While the rejection of the EU has been the catalyst, popular anger has apparently been building up for some time. Ukraine suffers from deep-seated social and economic imbalances. The social security system is in tatters. The economic policies of the Administration have contributed to put Ukraine in recession for the last couple of years. In order to conserve the country's disappearing foreign currency reserves and to maintain the high value of the Ukrainian currency, the Hryvnya, the Ukrainian government has imposed strict currency controls and maintained high interest rates. The effect has been to kill investment and force the economy to contract.

At the same time, press reports have appeared about official corruption and judicial malfesance. Journalists have reported that the president's extended Family and unofficial entourage have appropriated

more than \$6.5 billion in the last couple of years. In fact, the amount may be up to three times that sum. Ukraine's very high level of corruption places it 144 out of 177 countries, tying with Nigeria, Iran and the Central African Republic.

In reaction to the decision of the President not to sign the EU Agreement, demonstrators occupied the central square in Kyiv, the Maidan Nezalezhnosti. They are still there. Their numbers have varied from generally a few thousand during the week to hundreds of thousands on the weekends. The numbers are however gradually declining. The demonstrators have also carried out almost daily smaller protests in front of government buildings. They have driven columns of cars to demonstrate before the private residences of President Yanukovich and top officials.

Attempts to dislodge them or especially blatant forms of oppression have repeatedly caused their numbers to swell. I invite you to take a look at a short video of the numbers of demonstrators on Sunday 8 December in reaction to two efforts at a crackdown on the preceding weekend. The numbers of demonstrators on this occasion have been estimated from several hundred thousand to up to one million.

Last Sunday, 19 January, around one hundred thousand turned out in response to the approval by parliament on 16 January, in an apparently rigged vote, of an omnibus piece of legislation that could be used to usher in a dictatorship. We will look at this legislation later. During the nights from Sunday to Monday clashes with the police broke out. The police were defeated when they sought to stop the demonstrators from marching on parliament.

The demonstrations in Kyiv have had echoes especially in western Ukraine. Demonstrations took part in many cities. Officials in the western cities of Lviv, Ivano-Frankivsk and Ternopil announced they were going on strike and called on their residents to turn out for protests. Lviv's mayor told the police in his city to defend the city if the central government sent

reinforcements. The special forces of the Ministry of the Interior in Western Ukraine have refused orders to disperse demonstrators. The events in Kyiv, have however, produced only a muted response in the East and South of the country.

Some of the oligarchs have provided financial and other support to the demonstrators. So have smaller businesses and citizens groups. The oligarchs gave a balanced coverage to the events on their television networks until the administration clamped down. Ukraine's three former presidents early made a joint show of support for the mass protests.

Apart from the gestures of the oligarchs, the resignation of the President's chief of staff, and about three parliamentarians changing sides, the Yanukovich political system has, however, so far held firm.

A feature of the protests has been their initial spontaneity and loose structure. No one, not even the opposition parties, is in control. The degree of consensus between the parties moreover appears limited. Two results of the lack of clear leadership is that there has been only limited control on the actions of the demonstrators and their demands are unrealistic. While the demonstrators generally resisted being provoked into fighting by the government, there have been running combats since last Sunday. The opposition party leaders have called not only for Ukraine to sign the Association Agreement, but also for Prime Minister Azarov and President Yanukovich to resign and new elections to be called. The broad nature of these demands has made it easier for the President to ignore them.

President Yanukovich's strategy has been to wear the protesters down through assaulting them and launching politically motivated criminal investigations against them.

The Administration has also legally equipped itself for a major crackdown. The laws that parliament passed on 16 December in the opinion of a former deputy minister of justice of Ukraine, Dmytro Kotliar, "contradict Ukrainian Constitution and Ukraine's international commitments and obligations as Council of Europe, OSCE and UN member, European Convention of Human Rights and other international treaties of Ukraine." Among these measures:

- Broadly defined "extremist activity" is criminalized.

- So is defamation, which seems to include any criticism.
- Sanctions against likely activities by protesters have been increased.
- The violation of “established procedure” for organizing and holding assemblies is penalized even though there is no established procedure.
- Internet media to be controlled.
- Telecommunications companies have to be equipped to record communications.
- NGOs receiving foreign funding are to be registered as “foreign agents”, and face an 18% income tax levy and cumbersome reporting obligations.
- NGOs and religious organizations leading “extremist activity” will be banned. The Cultural Ministry has already threatened to ban the Greek Catholic Church.
- The immunity of MPs is undermined.

This law provides a sombre introduction to a consideration of what the future holds for Ukraine.

What the Future holds for Ukraine

We can form some idea of what may come in the months preceding the next presidential election by looking at the state of the country and the forces at play.

The discontent in the country, and thus the turmoil, is likely to persist.

Yanukovych is likely to continue his efforts to suppress dissent and to rig the election in his favour. To do otherwise, would be to risk defeat, and imprisonment or exile. Support for Yanukovych lies in the mid-teens. Any one of the possible opposition contenders would beat him in the second round.

The forces that might be able to dislodge him are the political opposition, Yanukovych’s allies, or the Russians.

The opposition parties are disunited and may find it hard to agree on a common strategy, programme, or candidate. Furthermore, Yanukovych has already disqualified one of the three possible opposition candidates for the presidency, Vitali Klitchko of the Udar party for having paid income tax

abroad. Yanukovych has now set his sights on Arseniy Yatseniuk, the interim leader of Batkivshchina, allegedly for having tried to stage a coup through the current demonstrations. That leaves Oleh Tiahnybok of the far right wing party, Svoboda, a party that was initially nurtured by Yanukovych's Administration. Ukrainian presidents have a tradition of being re-elected by eliminating all opposition candidates except for the one least likely to receive votes. If all else fails, the President has started to lay the legal groundwork for having himself re-elected by parliament and not by the electorate.

Some of the oligarchs must feel uneasy at the abandonment of the Association Agreement with the EU, the unrest in the country, and the understanding with the Russians. For the time being, however, what unites them -- the desire to remain in power -- will likely remain more important than what divides them.

Should the political turmoil in Ukraine not, however, quickly or easily abate, blocking progress with the EU and possibly leading to Western targeted sanctions against Yanukovych, his Family, and his confederates, then, some oligarchs may be moved to try to abandon Yanukovych. One such scheme failed a year ago, and it is not certain a future one will succeed.

The Russians are now in a position to intervene strongly in Ukraine's domestic and foreign policy. With their man Medvedchuk acting as chief of staff to Yanukovych, they will be fully informed and able to intervene in Ukrainian affairs.

The Russians have effectively now blocked any negotiations with the EU, for the EU has refused to negotiate with Ukraine on a tripartite basis.

By suspending their loans and raising the price of gas, the Russians can precipitate an economic crisis in Ukraine. Finally, Putin can easily renege on his apparent promise to Yanukovych not to support Medvedchuk as a candidate in next year's presidential election. Putin and Yanukovych reportedly hate each other.

The danger is that the forces wishing to change the course that the President has set for Moscow, may not singly be strong enough, nor capable of coming together to bar his way, leaving the Russians, with Yanukovych in tow, alone in the field.

Importance of Ukraine to the West

The fate of Ukraine remains important to the West. In extent, Ukraine is the largest purely European state. With its forty five million people, it is the fifth largest European country in population.

Zbigniew Brzezinski has maintained that an independent Ukraine is a guarantee of Russia's non-imperial future and Europe's security. Ukraine's subordination to Russia would initially at least represent a triumph of authoritarian crony capitalism, in Edward Lucas' phrase, over democracy. Ukraine's absorption into Putin's power structures would likely give Putin a political boost at home. Needless to say, it would slow the return of either country to democracy.

It could also lead to a more aggressive Russian foreign policy. There would be a shift in the balance of power in Europe. Ukraine had a third of the population and 37% of the military- industrial complex in the old Soviet Union. Through Ukraine, Russia could again gain broad access to the border with Central Europe and the Balkans.

Ukraine's incorporation by Russia in its system would likely produce instability and perhaps outright revolt in Western and Central Ukraine. The financial and political burden that a Ukraine in turmoil could place on Russia could in turn eventually bring about instability and increased repression in Russia, itself.

Russia's acquisition of Ukraine could also create a barrier to understandings or reconciliation between the West and Russia. Any revolt and its repression, in Ukraine would bother our consciences. A resurgent Russia would provoke fear and enmity in the rest of Europe.

What the West Might Do

The fate of Ukraine therefore is sufficiently important to us that we should remain engaged:

- In order to dampen a likely growing repression in Ukraine and to encourage the reformist forces, the EU and Canada should follow the United States lead in imposing targeted sanctions against persons suspected of human rights violations. Targeted sanctions have proved

to work in the past.

- There may be nothing the West can do in the trade area. If anything can be done, so as to provide a balance to the increasing involvement of Russia in the Ukrainian economy, the EU should consider negotiating free trade arrangements in return for economic reforms. Canada should resume its own free trade negotiations with Ukraine at an appropriate moment.
- Western countries should encourage exchanges between Ukraine and the West and offer sympathetic treatment of political refugees. As a starter, the EU might maintain its offer of visa-free access.
- Western aid policies should be maintained in spite of increasingly difficult circumstances, so as to continue to support the civil society.
- The West should seek to support freedom of information to counteract any increased controls of the media.