

Oleksandr SUSHKO

## Ukraine-EU Relations: Assessment and Prognosis

*Summary: In 2005-2006 Ukraine achieved progress in its relations with the European Union. In the political sphere it held fair and democratic parliamentary elections on March 26, 2006. In the economic sphere it completed the adjustment of national laws according to the WTO standards. In the field of foreign policy it aligned itself with EU positions in most of critical international issues, and actively cooperated with the Republic of Moldova in customs and border-related matters. At the same time, prospects look uncertain, as parties have different conceptual approaches to further relations, including new enhanced agreement to be concluded.*

### Implementation of a Ukraine-EU Action Plan

In 2005 – 2006, the joint preliminary review of the *Action Plan* implementation was carried out at the Ukraine-EU summits (December 1, 2005, October 27, 2006), at the sessions of the Cooperation Council (June 13, 2005, September 14, 2006), at the sessions of the Cooperation Committee (October 19, 2005), and meetings of Ukraine-EU subcommittees.

Independent monitoring was conducted by NGOs and think-tanks. In particular, on March 2, 2007 Kyiv based independent think-tank, The Razumkov Center, presented preliminary outcomes of public monitoring of an *EU-Ukraine Action Plan* implementation, available in No. 2/2007 of *National Security and Defense* magazine.

---

*Oleksandr Sushko* is director of the Center for Peace, Conversion and Foreign Policy of Ukraine (CPCFPU), a Kyiv based NGO.

It proceeds from the text of the CEC Communication entitled *On Strengthening the European Neighborhood Policy* (published on December 4) that in Brussels' opinion (although it is not stated directly that way) the best country engaged in the *European Neighborhood Policy* (ENP) is Morocco and not Ukraine, as Kyiv has expected, at least in the economic component of the integration. An African country was commended for liberalization of its economy, systemic reforms in the field of transport, environment and the financial sector in compliance with the *EU-Morocco Action Plan*<sup>1</sup>.

Ukraine's accomplishments are also indicated, although less enthusiastically, but in particular, by the progress made in consolidating respect for human rights and the rule of law that are the long-term results of the Orange revolution. It is mentioned that only initial steps have been taken in the fight against corruption. CEC commended cooperation in the field of foreign and security policy, in particular cooperation with the EU and Moldova in border management and customs-related issues. It mentioned finalization of adjustment of the national law with the WTO standards and completion of negotiations with the EU on visa facilitation and readmission<sup>2</sup>.

The web-site of the Cabinet of Ministers contains the *Position Paper on a Ukraine-EU Action Plan* implemented by the Ukrainian Side in 2005 – 2006 (drafted for public discussion)<sup>3</sup> with assessments that the Ukrainian government will report about, in reference to the Action Plan implementation.

## Political Dialogue and Reform

The main argument in favor of the progress in this sphere is holding free and democratic elections on March 26, 2006.

Official reports refer to the OSCE/ODIHR report on the parliamentary elections of 26 March: the parliamentary elections on March 26, were held generally in accordance with commitments taken within the OSCE, CE framework, and other international standards of democratic elections.

The Position Paper of the Ukrainian government says that the "Pursuant to the amended Constitution of Ukraine, in August 2006 the coalition of

---

<sup>1</sup> Commission Staff Working Document Accompanying the: *Communication From The Commission To The Council And The European Parliament On Strengthening The European Neighbourhood Policy*. [http://ec.europa.eu/world/enp/pdf/sec06\\_1504-2\\_en.pdf](http://ec.europa.eu/world/enp/pdf/sec06_1504-2_en.pdf).

<sup>2</sup> *ENP Progress Report Ukraine*. Brussels, December 4, 2006 SEC(2006) 1505/2. [http://ec.europa.eu/world/enp/pdf/sec06\\_1505-2\\_en.pdf](http://ec.europa.eu/world/enp/pdf/sec06_1505-2_en.pdf).

<sup>3</sup> [http://www.kmu.gov.ua/kmu/control/uk/publish/article?showHidden=1&art\\_id=41025748&cat\\_id=17976903&ctime=1152113113668](http://www.kmu.gov.ua/kmu/control/uk/publish/article?showHidden=1&art_id=41025748&cat_id=17976903&ctime=1152113113668).

parliamentary groups formed the Government as a political body responsible to the President of Ukraine and Verkhovna Rada of Ukraine and under control of the Verkhovna Rada of Ukraine". Nevertheless, nothing is said about serious difficulties with implementation of the new constitutional model that led to apparent problems in carrying out a single domestic and foreign policy of Ukraine after August 2006 and to permanent confrontation between the presidential and prime-ministerial components of the executive branch.

In regards to the fight against corruption, the European side stated that efforts in that area were at the initial stage. The Ukrainian document mentions that according to the Corruption Perception Index by Transparency International in 2006, as compared with 2005, the ranking of Ukraine in the fight against corruption has improved by 14 positions (Ukraine has moved from the 113<sup>th</sup> to the 99<sup>th</sup> position).

---

*According to the Corruption Perception Index by Transparency International in 2006, as compared with 2005, the ranking of Ukraine in the fight against corruption has improved by 14 positions. Ukraine has moved from the 113<sup>th</sup> to the 99<sup>th</sup> position.*

---

Ukraine ratified the *Civil Law Convention on Corruption* (the Law of Ukraine No. 2476). On January 1, 2006, Ukraine became a full member of the Group of States against Corruption (GRECO). With a view to establish criminal liability for misuse of computer systems and data the *Convention on Cyber Crime* and *Supplementary protocol* thereto were ratified (the Law of Ukraine, adopted on September 7, 2005 No. 2824; the Law of Ukraine, adopted on July 21,

2006 No. 23). On October 18, 2006, Ukraine ratified the *UN Convention against Corruption*, the *Criminal Law Convention on Corruption* (Council of Europe) and *Supplementary Protocol* thereto (laws of Ukraine No. 251, 252, 253).

In the field of *human rights* the European assessments mention not only positive changes, but also problems existing in the law-enforcement agencies (tortures applied to detainees), as well as the incident of February 6, 2006 when a group of Uzbek nationals were deported from Ukraine without legal grounds after they had asked for political asylum from political persecutions in their own country following the developments in Andijan.

## **Foreign Policy, Regional Issues**

Since April 2005 Ukraine has been eligible to align itself with *EU Common Foreign and Security Policy* statements. As of March 2007 Ukraine aligned itself

with more than 800 such statements, which is about 92% of all CFSP statements issued within this period. This is an evident success which demonstrates real political solidarity between the EU and Ukraine based upon recognition of common values.

Another tangible success in the Ukraine-EU relations is fruitful cooperation on border and customs-related matters in the Ukraine-EU-Moldova triangle. Launching of the EU Border Assistance Mission at the Ukraine-Moldova border (December 2005) and establishing the new customs regime by Ukraine and Moldova on March 3, 2006 became the first example of such successful multilateral cooperation under the EU's sponsorship. However, the fundamental objective of this cooperation – settlement of the Trans-Dniestrian problem – has not been achieved so far, and lack of progress in that issue gives rise to reasonable questions if the joint efforts by EU, Ukraine and Moldova have been sufficient. The increasing role of the EU in the settlement of the Trans-Dniestrian problem demonstrated serious differences in positions of EU and Russia on that issue that also affected the climate of Ukraine-Russia relations.

In July 2006, the EU Border Assistance Mission expanded its presence: a new office and analytical center were opened in Illichivsk and Odessa respectively, staff of the mission was increased by 40 persons, and CEC allocated additional finances in the amount of 6 million EURO.

The Mission's mandate expires at the end of 2007. For it to be extended, Ukraine and Moldova should without delay (in view of EU lengthy internal procedures) address the European Commission requesting extension of the Mission's mandate for the next two years.

### **Visa Facilitation**

On October 27, 2006, the visa facilitation and readmission agreements were initiated at the Ukraine-EU summit in Helsinki. The visa facilitation agreement could be considered the biggest achievement in Ukraine-EU relations of 2006 (CPCFPU published a separate Occasional Report devoted to provisions and effects of this agreement).

Ukraine became the second country after Russia that has completed visa facilitation negotiations (Moldova is now at the initial stage of the negotiating process, no talks are underway with any other neighboring countries so far). Nevertheless, the visa facilitation and readmission agreements will enter into force at the beginning of 2008 at the earliest, as they still have to be officially signed and ratified. After that, some technical aspects pertaining to implementation of these agreements are to be concurred.

## Readmission

At the initiation of the readmission agreement, the Ukrainian side managed to make an accord on the 2 year-long transition period. Although this term is shorter than the one Ukraine has been seeking, it is longer than the period initially proposed by the European Union. Prior to that, the Ukrainian side indicated that it was discriminatory on the part of EU to demand a one year-long transition period in conditions when the three year-long period was granted to the Russian Federation. Eventually, the parties reached a compromise that would give the Ukrainian side some additional time to technically develop the relevant infrastructure and conclude negotiations on the readmission agreement with Russia, so that it could enter into force simultaneously with the one concluded with the EU, thus preventing Ukraine from turning into an accumulator of illegal migrants from third countries.

## Economic and Social Reforms and Development

On December 30, 2005, the European Union recognized Ukraine as a market economy (it was excluded from the list of 'economies in transition' in the framework of the EU's anti-dumping laws).

In 2006, the U.S. government decided to grant Ukraine market economy status. On March 23, the U.S. President signed the law abolishing the Jackson-Vanick amendment.

On October 25, 2006, the Fitch international rating agency improved its outlook for Ukraine in regards to issuer default ratings in foreign and local currencies from 'stable' to 'positive'.

On November 10, 2006, the *Moody's Investment Service* international rating agency revised its outlook for Ukraine's B1-rated medium and long-term government bonds in foreign and national currency and its 'B-2'-rated foreign currency bank deposit ceiling to positive from stable. The rating outlook for Ukraine's Ba3 foreign currency country ceiling for bonds was also changed to 'positive' from 'stable'.

Analyzing the situation in regards to the improved investment climate in Ukraine, the government document states that according to the World Bank in 2005 Ukraine ranked among the top ten European states according to the criterion of time needed to register an enterprise.

## **Twinning**

To start the *Twinning* instrument for the first time envisaged by the EU policy vis-à-vis Ukraine:

- the Chief Department of Civil Service was empowered to guide and coordinate the preparation and implementation of the *Twinning* program in Ukraine;
- *The Twinning Administrative Office* started its operation in Ukraine;
- several acts of the Cabinet of Ministers of Ukraine on foreign training of civil servants and the activity of foreign advisors were amended.

The first *Twinning* projects were launched in the fields of regulation of power engineering, competition, standardization and civil aviation safety.

## **Accession to WTO**

Completion of domestic procedures (on December 13) required for Ukraine's accession to the WTO was the biggest achievement for Ukraine in the field of implementation of the economic part of the Ukraine-EU Action Plan.

In October-November, the Ukrainian government submitted and the Verkhovna Rada adopted the package of 20 bills adjusting Ukrainian laws to bilateral protocols signed during negotiations with the Working Group member-countries.

However, on December 18, when the Working Group met in Geneva, it did not consider the laws in question, as most of them had been submitted to the WTO governing body after the deadline date of November 23. It appears that the Working Group will consider the laws' conformity to Ukraine's earlier commitments in February 2007 at the earliest. If the Working Group finds that the laws do not fully comply with the reached arrangements, the parliament will have to amend them.

In March 2007 the Working Group made a conclusion that most of the legislation approved by the Ukrainian Parliament conformed to Ukrainian obligations and WTO rules. However, some laws need to be amended. Taking this fact into account the decision by the WTO General Council regarding Ukraine's accession should be expected not earlier than autumn 2007.

---

*The decision by the  
WTO General Council  
regarding Ukraine's  
accession should be  
expected not earlier than  
autumn 2007.*

---

## Trade

There are statistical discrepancies between EUROSTAT data and the data of the *State Committee of Statistics of Ukraine*.

According to the State Committee, the foreign trade turnover with the EU member-states in 2005 amounted to USD 21.1 billion, that is by 10.0% more than in 2004. The volume of commodity exported to the EU member-states shrunk by 5.9% and amounted to USD 9.2 billion, while the import from these states to Ukraine grew up by 26.6% and amounted to USD 11.9 billion. The EU member-states' share in Ukraine's foreign trade was 29.9%

In January – September 2006, the foreign trade commodity turnover of Ukraine with the EU member-states amounted to \$ 18.48 billion. During this period the volume of exported commodities from Ukraine to the EU member-states increased by 14.1% (USD 7.84), while the import from the EU to Ukraine increased by 27.9% and amounted to \$ 10.64 billion. The EU member-states' share in Ukraine's foreign trade was 30.9%.

According to *Eurostat* data, foreign trade turnover between Ukraine and the EU in 2005 increased by 16.6% comparing to 2004 and amounted to EUR 20.68 billion, in January – March 2006 it constituted EUR 5.65 billion, which is 28.9% greater than in the same period of 2005.

## Prospects for Ukraine – EU Talks on a New Enhanced Agreement

The EU Council has authorized the European Commission to negotiate the new agreement with Ukraine. The position of principle on that issue was declared by the Ukrainian side as well. At this stage, the positions of the parties are evidently different on certain conceptual issues.

The Ukraine wants the new agreement envisaged in association with prospective membership in the EU, whereas the EU, at this stage, does not seem to be willing to grant Ukraine such prospects. In early 2007, the Ukrainian position regarding the new agreement was formulated as 'political association and economic integration'.

The EU's conceptual approaches are now influenced by the 'deep free trade' concept. This concept envisages both lifting the tariff restrictions and taking essential steps in adjustment of Ukrainian laws to European ones.

In terms of framework, the EU's position is based upon the *European Neighborhood Policy*. The new agreement, according to the EU approach, should be developed in the frames of ENP. At the same time ENP is strongly criticized in Ukraine for its inability to conform to Ukraine's expectations

regarding recognition of membership perspective on the basis of Article 49 of the *European Treaty*.

Official talks on the new agreement started in Brussels on March 5, 2007. The talks are going to be difficult. They will not have been completed by the time when the *Partnership and Cooperation Agreement* (PCA) expires (March 2008), so as to ensure a direct transition from PCA to the new agreement.

It means that in March 2008 a certain legal vacuum will surface in the relations between Ukraine and the European Union, as both the *Partnership and Cooperation Agreement* and the *Action Plan* will expire, whereas the new agreement will not be ready for implementation. The most evident way-out is to extend the *Partnership and Cooperation Agreement* for 2 years.

## References

*Commission Staff Working Document accompanying the Communication From The Commission To The Council And The European Parliament On Strengthening The European Neighbourhood Policy.* [http://ec.europa.eu/world/enp/pdf/sec06\\_1504-2\\_en.pdf](http://ec.europa.eu/world/enp/pdf/sec06_1504-2_en.pdf).

*ENP Progress Report Ukraine.* Brussels, December 4, 2006 SEC(2006) 1505/2. [http://ec.europa.eu/world/enp/pdf/sec06\\_1505-2\\_en.pdf](http://ec.europa.eu/world/enp/pdf/sec06_1505-2_en.pdf).