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EU Must Commit to Free Trade With Ukraine

By Ulrich Speck

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The European Union suddenly and surprisingly changed its long and firmly held position that Russia has no right to interfere in its relations with Ukraine on Sept. 12. EU Trade Commissioner Karel De Gucht announced that an agreement had been reached between the EU, Russia and Ukraine to delay the implementation of a deep and comprehensive free-trade agreement (DCFTA) between the EU and Ukraine.

The original plan had been for the DCFTA to enter into force in November 2014, but the new agreement delays implementation until Dec. 31, 2015.

By postponing the DCFTA — the economic core of the association agreement meant to bring Ukraine closer to the union — some EU leaders apparently wanted to accommodate the Kremlin. The concession on the DCFTA gave Moscow an additional incentive to stick to a cease-fire in eastern Ukraine.

But delaying the DCFTA is a mistake. It gives Russia incentives to raise the pressure because it

opens a large window of opportunity to prevent the DCFTA from ever entering into force. And the delay puts at risk what should be the EU's longer-term response to the Ukraine crisis: a redoubled effort to help the country build itself up as a successful liberal democracy and market economy.

Both Ukraine and the EU have long been aware of the risk of Russian retaliation. And it has always been clear that implementing the association and free-trade agreements would come with considerable costs. Even so, the benefits of a transformation of the Ukrainian economy through the means of adapting EU rules and standards were seen as by far outweighing the costs. Postponing the DCFTA means that the transformation of the Ukrainian economy is likely to be postponed as well. The pressure and the incentives for difficult reforms are much weaker without the DCFTA.

Moscow has already clarified that what it wants to prevent is precisely the start of a reform process in Ukraine that would lead to an adaptation to EU norms and standards. In a recent letter to Ukrainian President Petro Poroshenko, Russian President Vladimir Putin warned that "changing national legislation to prepare for the EU-Ukraine trade deal ... would trigger an immediate response from Moscow."

Meanwhile, Ukraine and the EU have long insisted that Russia is not a party to the association agreement and has no right to veto it. In the run-up to the EU's Eastern Partnership summit in November 2013, German Chancellor Angela Merkel said in the German parliament: "Those [Eastern Partnership] countries decide alone about their future alignment. A veto right by third parties cannot exist."

At the same time, the EU has repeatedly offered Moscow opportunities to talk about Russian concerns over the DCFTA, especially the allegation that Russia would be negatively affected by free trade between the EU and Ukraine. But the Russian side seems to be uninterested in talking.

The drive for compromise seems to have come from the West. Reportedly, Merkel, French President Francois Hollande and U.S. President Barack Obama have put pressure on Poroshenko and EU Commission President Jose Manuel Barroso to find a compromise with Russia over the DCFTA. According to another account, "several EU countries" had said they would block the ratification of the association agreement in their parliaments if no compromise were found with Russia.

The compromise that has been found is the postponement of the DCFTA. This appeared to be the least-damaging solution. By deferring the agreement, the parties would not touch the substance of it, which is important to both the EU and Ukraine. In return, Russia would not take any immediate retaliatory measures. And the peace process in Ukraine would possibly be strengthened by accommodating the Russian side.

While the DCFTA has been postponed, the Ukrainian parliament and the European Parliament ratified the association agreement. Temporary implementation of the accord will begin on Nov. 1, with full implementation only after all 28 EU member states have agreed.

But without the DCFTA, the association agreement is unlikely to be very efficient. The EU side will have much less incentive to engage, particularly the European Commission, which is

responsible for the DCFTA. On the other side, Ukraine will have much less incentive to start a painful reform process.

The reaction in Ukraine was negative. Ukraine's Deputy Foreign Minister Danylo Lubkivsky resigned, saying that the delay "sends the wrong signal to everyone, to the aggressor, to our allies and, most importantly, to Ukrainian citizens."

There was criticism in the EU as well, especially from the European Parliament. Elmar Brok, head of the European Parliament's foreign affairs committee, said "nobody knows whether this will make Putin change his mind, or whether he will continue with his imperial politics"

The EU's decision to postpone the DCFTA seems to be high risk for several reasons.

First, compromising on the DCFTA sends a problematic signal to Ukraine. As one Ukrainian commentator said,"Ukraine will spend next year without key reforms," and the delay encourages the authorities "to put a brake on reform."

But reform of the Ukrainian state and economy is the EU's main goal in Ukraine: The union seeks to help the country become a self-sustaining and successful liberal democracy and market economy. It was this goal that triggered the Euromaidan protests. The DCFTA is the centerpiece of reform. Delaying it looks as if the EU is no longer fully committed to reform in Ukraine.

Second, the EU's tactics send a problematic signal to Russia by implicitly rewarding military action and providing an incentive to further undermine EU-Ukraine relations.

For years, the EU was clear that the association agreement and the DCFTA were strictly bilateral issues; Russia would have no veto power and no seat at the negotiating table. In postponing the DCFTA, the EU has admitted that by using military force in Ukraine, Russia's actions have significantly influenced EU-Ukraine relations.

And Russia clearly feels emboldened. It has already started to make new demands: Moscow said the trilateral group of Russia, Ukraine, and the EU should work on "amendments in the association agreement of Ukraine with the EU allowing for legally binding formulas to remove the concerns of the Russian side." In other words, Russia demands to reopen the negotiations and to become a party to them.

Moscow now has more than a year to increase pressure on Ukraine and the EU to dissuade them from concluding the DCFTA in its current form. It is not an accident that Russia is targeting the DCFTA. From the Kremlin's perspective, undermining the agreement is a way to undermine Ukraine's efforts to build closer ties to the EU. Only if the DCFTA does not enter into force does Russia have a chance to regain control of Ukraine: its ultimate goal.

What the EU should do now to limit the damage is to make clear to Russia that although it is postponed, the DCFTA's substance will not be changed. Regarding Ukraine, the EU should increase its efforts to stabilize the country within the framework of the association agreement and beyond.

Ulrich Speck is a visiting scholar at Carnegie Europe. This is a shortened version of an article

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