

**Post-Election Ukrainian Foreign and Energy Policies: Two Hypotheses to be
Investigated in Seven Areas**

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Ukraine's ability to pursue European integration are prevented because of the deterioration in seven areas: manipulation of the Constitutional Court to return Ukraine to the 1996 presidential constitution, selective use of justice and imprisonment of opposition leaders, transformation of parliament into a rubber stamp institution, election fraud in the October 2010 local and October 2012 parliamentary elections, growth of corruption, censorship of the media and interference by the Security Service into civil society organisations. The pursuit of these seven factors have stalled Ukraine's European integration.

Ukraine's policies can be described as virtual which are routinely laid out in legislation, presidential decrees and official statement and rhetoric but are ignored by Ukrainian leaders. Virtual policies resemble Soviet style extortions to fulfill five year plans or the extensive human and national rights laid out in Soviet constitutions that were contradicted by actual policies and outcomes and the realities of everyday life for Soviet citizens. Democratization in Ukraine has twice been threatened during Kuchma's second term in office (2000-2004) and immediately following Viktor Yanukovich's election in 2010. Ukraine's inability to implement policies and changes, including those which Kyiv signs up to with international organizations, reduces the effectiveness of the West's engagement with Ukraine and the ability of Kyiv to pursue its declared foreign policy objectives (see Kuzio 2011a).

Partnership with Ukraine under Kuchma, Yushchenko and Yanukovych has therefore been followed by Disillusionment in Kuchma's second term, Viktor Yushchenko's third year and Viktor Yanukovych's second year in office. During the last two decades of Ukrainian independence Kyiv's relations with the West (here primarily understood as NATO and the EU) have gone through three cycles of disinterest, partnership, and disillusionment (see Table 1). Under Ukraine's first two Presidents, Kravchuk and Kuchma, Disinterest throughout the Kravchuk era (1991-1994) was followed by Partnership during Kuchma's first term in office (1994-1999) and Disillusionment in his second term (2000-2004) (see Kuzio 2003).

Since 2005 these cycles have been partially repeated in the case of Yushchenko and fully in the case of Yanukovych. Partnership with the West, particularly with the US and NATO, followed the 2004 Orange Revolution and Yushchenko's election but lasted only during his first two years as Ukrainian president. This was quickly followed by Disillusionment (often described as 'Ukraine fatigue') during his last three years in office. US Disinterest in Ukraine re-appeared in 2009 with the replacement of US President George W. Bush by Barack Obama. The Obama administration's Russia 'reset' policy resembles US prioritization of Russia (usually described as 'Russia-first') in the early 1990s under President George W. Bush. The EU has expressed Disinterest in Ukraine (and the CIS more generally) throughout the two decades following the disintegration of the USSR. The EU and Ukraine launched negotiations for an Association Agreement in 2007 and following Ukraine's entry into the WTO in May 2008, negotiated the Deep and Comprehensive Free Trade Agreement (DCFTA). This Partnership has developed into Disillusionment in 2011 in response to selective use of justice against the political

opposition and democratic regression more broadly and Ukraine's integration to the EU is frozen.

The West did not back either of the two main candidates (Yulia Tymoshenko and Yanukovych) in the 2010 Ukrainian elections (unlike in 2004 when the West largely sympathized with Yushchenko) giving President Yanukovych a honeymoon period until the end of that year. During the honeymoon period the West offered Yanukovych a Partnership based on the premise that he had transformed into a democrat since the 2004 elections, when he was associated with mass election fraud, and in the hope he was ready to play by the rules, not with the rules, in NATO Secretary General Xavier Solana's well-known words spoken to President Kuchma. In 2011 the honeymoon period with Yanukovych stagnated as Ukraine began to experience democratic regression and as a consequence relations between Kyiv and Brussels and Washington deteriorated. This culminated in a crescendo of NATO, EU, Council of Europe, US, Canadian and European condemnations of the sentencing of former Prime Minister and opposition leader Tymoshenko to seven years imprisonment on 11 October 2011. A short Western Partnership with Yanukovych of only one year was followed by Disillusionment in the Yanukovych administration that will last until the 2015 presidential elections. The West's Disillusionment in Ukraine is compounded by US Disinterest in geopolitical competition with Russia in Eurasia, a different strategy to that pursued by the Clinton and Bush administrations in 1994-2008.

The Yushchenko presidency was defined by two cycles of Partnership (2005-2006) and Disillusionment (2007-2010). US Disinterest emerged in 2009 but it was balanced by an emerging new EU Partnership with Ukraine (2007-2010). Under

Yanukovych three cycles cover a shorter time frame of Disinterest (since 2009), Partnership (2010) and Disillusionment (since 2011). The crisis in Ukraine's relations with the West that emerged in 2011 is deeper and will last longer than that during Kuchma's second term in office.

Partnership (2005-2006)

In April 2005, during Yushchenko's successful visit to Washington, Ukraine looked set to swiftly move towards NATO membership and after the visit, Ukraine was invited into NATO's Intensive Dialogue on Membership Issues. This was to be followed by an invitation into MAP (Membership Action Plan) at the November 2006 Riga summit of NATO. The fast-track membership strategy could have brought Ukraine into NATO in 2010-2012 by capitalizing on European and North American sympathy for Yushchenko and the Orange Revolution. Yushchenko, who had been poisoned in the 2004 election campaign, had toured the globe in 2005 collecting state and national awards. Following the March 2006 elections, Washington pressured Yushchenko to quickly establish an 'orange' coalition and government so that a NATO MAP could be presented as giving support to pro-Western reformers. President Bush was scheduled to visit Ukraine in June 2006 to give his personal support to a reformist government and 'orange' coalition ahead of the Riga NATO summit.

With Tymoshenko's eponymous bloc (BYuT) winning more votes than Yushchenko's Our Ukraine in the 2006 elections it was her political force that had the right to appoint a candidate for prime minister (according to an agreement made between opposition leaders). Nevertheless, Yushchenko, who had removed Tymoshenko as prime

minister in September 2005, was determined not to permit her to return as head of government and negotiations towards a coalition dragged out over three months. By June 2006, Yushchenko was inclined to support a grand coalition between Our Ukraine and the Party of Regions that would leave the head of Our Ukraine Yuriy Yekhanurov as Prime Minister. US pressure allegedly made Yushchenko switch to an 'orange' coalition with BYuT. An 'orange' coalition was eventually established in late June but it quickly collapsed and was replaced by an Anti-Crisis coalition formed by the Party of Regions, Communist Party of Ukraine (KPU) and Socialist Party (SPU). The new coalition appointed Yanukovich as prime minister in August 2006. Prime Minister Yanukovich told NATO that Ukraine was disinterested in joining a MAP and Ukraine did not receive a MAP at NATO's Riga summit.

President Yushchenko was unable to place the country's national interests (i.e. Ukrainian security and NATO membership) above that of his personal conflicts with Tymoshenko (a similar trait he possessed with Yanukovich who five years later prioritized imprisoning Tymoshenko over signing an Association Agreement with the EU). Four governments under Yushchenko each lasted only between 1-2 years making it difficult to construct a NATO information campaign to increase public support for membership. Improving low public support for NATO membership was a key criteria for obtaining Western European approval for Ukraine's NATO membership. Following the 2007 pre-term elections Anatoliy Hrytsenko was not re-appointed as Defense Minister sending another signal that NATO membership was not Yushchenko's priority. Hrytsenko, Defense Minister under three governments in 2005-2007 is highly respected in Brussels, Washington and other Western capitals as a committed military reformer

who is untainted by corruption. Yushchenko replaced Hrytsenko with his loyalist, Yekhanurov, who had no military experience.

There were two other reasons why the fast-track strategy to NATO membership failed, both of which could re-appear if Ukraine's NATO membership was again placed on the agenda. The first was the organization by the Party of Regions and its Russian nationalist and left-wing allies of anti-NATO and anti-American rallies in the Crimea leading to the cancellation of SEA BREEZE maneuvers in 2006 and 2009. The rallies raised the specter in some Western European NATO members that Ukraine could be destabilized if it joined NATO. Russian diplomats were expelled from Ukraine in 2009 after they were accused of covertly supporting Crimean separatists. The second factor, an outgrowth of an exaggerated fear of Ukraine's regional divisions as a threat to the country's territorial integrity, was fanned by Russian leaders. In his speech to the NATO-Russia Council at the Bucharest NATO summit President Vladimir Putin said that Ukraine was an 'artificial country' that would fall apart if it joined NATO. His warning came only five months before Russia invaded Georgia and recognized the independence of South Ossetia and Abkhazia. In raising Ukraine's alleged 'artificiality,' Putin was pointing to potential separatism in Russophone eastern Ukraine and the Crimea where support for potential NATO membership is very low (see Kuzio 2010).

Table 1. Ukrainian Foreign Policy Cycles, 1991-2011

Disinterest	Leonid Kravchuk	1991-1994
Partnership	Leonid Kuchma 1	1994-1999

Disillusionment	Leonid Kuchma 2	2000-2004
Partnership	Viktor Yushchenko	2005-2006
Disillusionment	Viktor Yushchenko	2007-2009
Disinterest	Viktor Yushchenko/ Viktor Yanukovych	Since 2009
Partnership	Viktor Yanukovych	2010
Disillusionment	Viktor Yanukovch	Since 2011

Under President Kuchma, EU-Ukrainian relations were guided by the Partnership and Cooperation Agreement (PCA) that provided little encouragement for Ukraine to undertake deep seated reforms. President Kuchma introduced wide embracing programs on integration with the EU in June 1998 and July 2000 decrees but these were never reflected in his domestic policies. In 2004-2005, when Ukraine underwent a democratic breakthrough, the EU was pre-occupied with enlargement to post-communist Central-Eastern Europe and the three Baltic States, and by the constitutional crisis after France and the Netherlands had rejected the European constitution in national referendums. The EU could not therefore develop a Partnership with Yushchenko's Ukraine similar to that developed by NATO and the Bush administration.

In 2005, the EU launched the European Neighbourhood Policy (ENP) that covered countries lying to the south and east of the EU; that is, countries both within and outside geographic 'Europe.' Ukraine's relations under the ENP were clouded by it being included together with countries in Northern Africa who could never join the EU because they are not geographically part of Europe. Ukraine implemented yearly Action

Plans under the ENP in 2005-2008. Two Tymoshenko led governments (2005, 2007-2010) lobbied parliament to adopt legislative reforms that would enable Ukraine to join the WTO. When the Party of Regions was in opposition (especially in 2005-2006) it voted with the left against legislative reforms required to join the WTO.

In May 2008, the Eastern Partnership was presented by the foreign minister of Poland with assistance from Sweden at the EU's General Affairs and External Relations Council in Brussels and inaugurated in Prague the following May. The Eastern Partnership complements the Northern Dimension and the Union for the Mediterranean by providing an institutionalised forum for discussing visa agreements and DCFTA within Association Agreements. The EU launched negotiations with Ukraine for an Associate Agreement in 2007, followed by negotiations with Georgia and Moldova in 2010-2011. Authoritarian Azerbaijan and Belarus (until the fraudulent December 2010 presidential elections when its membership of the Eastern Partnership was suspended), and semi-authoritarian Armenia are unlikely to sign Association Agreements with the EU. Russia is not a member of the Eastern Partnership.

In 2005–2007, the Ukrainian parliament adopted legislation necessary for Ukraine's accession to membership of the WTO. Of particular importance was legislation prohibiting the production and distribution of pirate compact discs of which the country had been a major production center. Ukraine was unable to join the WTO in 2005 and 2006 because of political instability and opposition from the Party of Regions and the left. The second Tymoshenko government (2007-10) laid the groundwork for Ukraine's membership of the WTO in May 2008 which subsequently opened up negotiations for an DCFTA. The DCFTA, if it is signed, 'will not be an achievement of the current

authorities. They are only following up on what was laid out by their predecessors, including me,' the head of parliaments committee on European Integration Borys Tarasiuk (2011) pointed out.

In November 2009, the EU-Ukraine Cooperation Council adopted the EU-Ukraine Association Agenda that replaced the former ENP Action Plan. The ENP Action Plan will prepare for, and facilitate entry into force, the new Association Agreement, of which the DCFTA is one component. A list of priorities for action was jointly agreed by Ukraine and the EU for 2010, Yanukovich's first year in office, although few of these were implemented (see later). Unlike Association Agreement's signed in the 1990s with Central-Eastern European countries, Ukraine's Association Agreement with the EU does not offer a membership perspective.

As Ukraine's relations with NATO went into decline in 2007-2008 those with the EU began to improve. The major difference between both international organizations was that entering MAP would have led to Ukraine's NATO membership whereas an Association Agreement would have opened up the EU's internal market but not offer Ukraine a membership perspective. Every Ukrainian president has sought to obtain a statement from the EU that outlined a future membership perspective, including Presidents Kuchma and Yanukovich who did not uphold European values at home. The EU would presumably be unable to offer a membership perspective to only Ukraine without offering it to all six Eastern Partnership countries.

Disillusionment (2007-2009)

Disillusionment with Yushchenko gradually emerged between summer 2006,

when Yanukovich unexpectedly returned to power, to spring 2007, when Ukraine experienced its third political crisis since 2005. President Yushchenko's dissolution of parliament in April 2007 created a political and constitutional crisis that was resolved by compromise pre-term parliamentary elections in September of that year. Ukrainian and Western legal experts doubted the constitutional right of the president to dissolve parliament even though there was sufficient provocation by the Anti-Crisis coalition in seeking to buy up opposition deputies to defect to them.

The Party of Regions agreed to compromise after Yushchenko offered them a grand coalition with Our Ukraine following pre-term elections. Yushchenko was again undertaking coalition negotiations simultaneously with the Party of Regions *and* BYuT. In the September 2007 elections orange political forces (BYuT and Our Ukraine-Peoples Self Defense) won a slim majority of 228 deputies (226 being the minimum for a coalition). The slim majority made it impossible for the Tymoshenko government, that came into power in December 2007, to rely on a stable parliamentary majority in the next three years. At least one third of Our Ukraine-Peoples Self Defense were out right hostile to Tymoshenko, including the Presidents Chief of Staff Viktor Baloha and the United Center Party, his new party established in 2008 by 15 Our Ukraine-Peoples Self Defence deputies.

The next two years (2008-2009) were dominated by public feuding between Tymoshenko and Yushchenko, presidential accusations of Tymoshenko's betrayal (August 2008), implosion of the orange coalition and its revival (September-December 2008), and collapse of negotiations for a BYuT-Party of Regions coalition (March-June 2009). As former US Ambassador to Ukraine Steven Pifer said, 'Yushchenko made the

chances of achieving a NATO MAP in December zero on October 8,' the day he disbanded parliament in autumn 2008. The Party of Regions aggressively blockaded the parliamentary rostrum to prevent the adoption of government policies and promoted populist legislation in November 2009 that de-railed the next tranche of the 2008 IMF Stand-by Agreement. The legislation was signed into law by President Yushchenko in the pursuit of his personal vendetta against Tymoshenko and her government.

The 2008-2009 global financial crisis, during which Ukraine's GDP collapsed by 15%, added to deep seated political instability making it impossible for Ukraine to pursue a coherent foreign policy. This was clearly visible in the 17-day January 2009 gas crisis when Ukraine's president and prime minister publicly quarreled over the strategy to pursue and over the contract that was eventually signed. Tymoshenko's 2009 gas contract became the basis upon which she was sentenced to seven years imprisonment in October 2011 and accusations of 'treason' in March 2012. Yushchenko, alone among opposition leaders, has supported the sentence.

By 2008 memory of the Orange Revolution had been replaced by Ukraine fatigue (Disillusionment), Germany was in its ascendancy in NATO and the EU (following the outpouring of German patriotism in the 2006 World Cup held in Berlin) while President Bush was approaching the end of his second term in office. By 2007-2008, Germany had taken over from France as the strongest Western European opponent of NATO and EU enlargement into the CIS (Rice 671-672).

Although Prime Minister Yanukovich had ruled out a NATO MAP in 2006-2007, President Yushchenko continued to seek Ukraine's entry into MAP. In January 2008 President Yushchenko, Prime Minister Tymoshenko and Parliamentary Chairman

Arseniy Yatseniuk signed a joint letter to NATO requesting the April Bucharest summit invite Ukraine into the MAP process. President Bush's visit to Ukraine was postponed to April 2008, when he gave his support to Ukraine entering MAP, timed to take place in the same month as the Bucharest NATO summit. With Germany particularly opposed to Ukraine receiving a MAP in Bucharest, NATO did not take this step and instead adopted a resolution stated that Ukraine and Georgia would become members one day without mentioning MAP. How this would happen or when membership would take place was not detailed in the resolution (RFERL 2008).

Despite being disappointed by the Bucharest summit, Yushchenko continued to lobby for a NATO MAP (Rice 67-672). He pointed out Ukraine has fulfilled yearly Action Plans with NATO since 2003 that do not radically differ in scope from MAPs. President Yushchenko said, 'We have in effect been functioning under a MAP for quite a long time. Ukraine completely fulfills annual target cooperation plans' (International Herald and Tribune 30 November 2008). Former Defense Minister Yevhen Marchuk said, 'In effect, the Action Plan is de facto a Membership Action Plan. Because nearly all of the types of activities outlined in MAP are in the Action Plan (Ukrayinska Pravda 2 December 2008).

In the second half of 2008, supporters of Ukraine's NATO membership did not give up either and proposed policies to bypass MAP. NATO General Secretary Jaap De Hoop Scheffer said after the December 2008 review meeting that, 'All elements – I repeat, all elements – of the decisions regarding Ukraine and Georgia taken by the NATO heads of state and governments in Bucharest still stand. All elements.' The General Secretary continued, 'And that includes, very much, that they will one day be members, if

they so wish, of course. And it is important to add, when they meet NATO standards.’ Pifer believed that a post-MAP ‘Plan B’ needed to be developed by NATO that should send a positive signal to Ukraine and Georgia while not conceding them to Russia’s sphere of influence (Pifer 2008). NATO, in Pifer’s view, should reiterate that it sees both countries as future members while at the same time not accepting President Medvedev’s demand for a Russian zone of ‘privileged interests’ in the CIS. In addition to this, NATO, Pifer believed, should deepen its existing cooperation with Ukraine and Georgia.

In 2008-2009, the US and Britain downplayed the significance of a MAP for Ukraine and Georgia to keep Ukraine on a membership path. The U.S. representative to NATO said that MAP had accumulated too much ‘symbolism’ and that it therefore could no longer be used. Assistant Secretary of State for European and Eurasian Affairs Dan Fried said that the MAP debate had taken ‘on a life of its own’ and that Ukraine and Georgia could be brought into NATO by other routes (New York Times 26 November 2008). Fried said, ‘MAP was never an end in itself’ and ‘that it is not the only way to get there’ (New York Times 1 December 2008) U.S. Secretary of State Condoleeza Rice discussed the idea of Ukraine and Georgia by-passing MAP through enhancing the role of the NATO-Ukraine commission established in 1997 (when Ukraine and NATO signed a Charter) and the new NATO-Georgia commission established after the 2008 war between Russia and Georgia.

France, Germany, Norway, Luxembourg, Spain and Italy were opposed to what they perceived as a policy of by-passing MAP. The U.S. and Britain argued that their proposal was merely an alternative way of implementing the Bucharest declaration supporting eventual NATO membership for Ukraine and Georgia. An American official

was exasperated by the German stance. ‘They’re clinging to MAP, but they refuse to use it. They will use it only when a country is already ready to become a NATO member, so why insist on it? They say they want to preserve it as a final hurdle. We say, ‘Let’s get out of this hamster ring, since everyone really is in agreement, and get on with it’ (New York Times 1 December 2008).

Ukraine’s Foreign Minister Volodymyr Ohryzko gave a positive diplomatic spin on the outcome of NATO’s December 2008 review meeting believing NATO had offered MAP to Ukraine through the backdoor. ‘At this stage we achieved the result that we sought,’ Ohryzko said. ‘Today, we de facto received an Action Plan to prepare ourselves for entry into NATO,’ adding, ‘In 2009 we begin our actual integration into the Alliance’ (www.mfa.gov.ua, 3 December 2008). The BBC (3 December 2008) also wondered, ‘Anyone standing outside the NATO bureaucracy might well ask what the fuss was all about. Georgia and Ukraine have a Membership Action Plan in all but name.’

Yushchenko and Ukrainian officials also stressed to NATO and US policymakers that Ukraine is a net contributor to security and would be a positive contributor to enhancing NATO security. Ukraine, for example, has participated in every NATO operation, including Afghanistan. Tarasiuk, head of parliaments committee on European Integration, pointed out that, ‘Among European countries Ukraine remains the greatest contributor of forces and resources to UN peacekeeping operations and Ukraine is the only country to participate in every peacekeeping operation under NATO command.’ Tarasiuk continued, ‘De facto Ukraine undertakes a lot more work in this sphere than certain Alliance members. This provides us with experience and increases the international authority of our state’ (Ukrayinska Pravda 5 November 2008). President

Yushchenko pointed to the, 'high assessment of Ukraine's contribution to numerous peacekeeping operations and missions conducted under the aegis of NATO and the United Nations' (International Herald and Tribune 30 November 2008). Ukrainian units operated in NATO and UN operations in Croatia, Bosnia-Herzegovina, Kosovo, Afghanistan, Liberia, Lebanon, Sierra Leone, Ethiopia and Eritrea, Democratic Republic of the Congo and Georgia. Ukraine is the tenth leading contributor of personnel and the third largest provider of strategic air transportation for UN operations. Ukraine's net contribution to peacekeeping operations, President Yushchenko believed, would, 'strengthen the role and security capabilities of the alliance' (International Herald and Tribune 30 November 2008).

Nevertheless, for the path outlined by Ohryzko to have remained on target would have required the election of a pro-Western candidate in Ukraine's 2010 election. But, when it became obvious in the latter part of 2009 that Tymoshenko and Yanukovych would be the two candidates who would inevitably enter the second round of the 2010 elections Yushchenko threw his support behind Yanukovych, the anti-NATO candidate. While Yanukovych had opposed Ukraine entering MAP since 2006, Tymoshenko, although not as adamant as Yushchenko in her support for NATO membership, had signed the January 2008 letter together with Yushchenko and Yatseniuk requesting MAP status. Yushchenko's support for Yanukovych over Tymoshenko in the 2010 elections was illogical as his election would undermine policies that were dear to him, such as promoting Ukraine's national identity, democratization and Euro-Atlantic integration. The only explanation is that Yushchenko's personal dislike of Tymoshenko and desire for revenge against her outweighed his support for Ukraine's national interests. In this regard

Yushchenko was little different to Yanukovych who in 2011 was ready to sacrifice Ukraine's Association Agreement with the EU by organizing a show trial of Tymoshenko and her imprisonment.

Disinterest (2009-)

Independent Ukraine has worked with four US presidents and these can be divided into two groups in terms of their policies and attitudes towards Ukraine. The presidents who sought to engage with Ukraine the greatest were Democrat Bill Clinton and Republican George W. Bush while the two presidents who pursued a 'Russia-first' and Russia 're-set' policies were respectfully Presidents Bush (senior) and Obama. Democrats and Republicans have therefore both been supportive of strong engagement with Ukraine (Clinton, George W. Bush [younger]) or prioritizing Russia (George W. Bush [senior], Obama). US policies toward Ukraine are dependent upon the personality of the president, domestic politics in Ukraine and Eurasia and the international geopolitical situation during the period of time the president is in office.

Presidents Clinton and George W. Bush, like Carter and Reagan, were also ideological presidents committed to enlarging NATO to post-communist Europe which they acquainted with expanding the zone of democracy from West to East. Post-communist states have used NATO as a stepping stone to join the EU. President George W. Bush was ideologically committed to democracy promotion, giving a 2003 speech on the twentieth anniversary of the National Endowment for Democracy (Bush 2004). President Obama is less committed to this objective, a change that has been welcomed by Russia which understands this as US withdrawal from Eurasia.

The Obama administration's Russia 'reset' policies towards Eurasia resemble those of former President George Bush (senior) in the early 1990s who had the misfortune to give what became known as the 'chicken Kyiv' speech to the Soviet Ukrainian parliament in July 1991 when he called upon Ukrainians to not push for independence from the USSR. Of course, the geopolitical situation is different for Obama, two decades later, whose Russia 're-set' policy has eclipsed US policies towards the non-Russian states of Eurasia. The US position has been advantageous to Russia because Obama, unlike his predecessor, does not actively support NATO enlargement and is not assertive democracy promotion. Ukraine is therefore less important to his administration whose priorities are the domestic economy, Afghanistan, Iraq, Syria, Libya and the Arab Spring.

The Obama administration's Russia 'reset' policy does not mean that Washington has fundamentally changed its stance towards Ukraine. After all, the US has – and will continue to be – the strongest Western supporter of Ukraine's independence, territorial integrity, energy independence and democracy. In addition, the greatest number of Ukraine experts in any Western capitol city are located in Washington DC (Kuzio and Deychakiwsky 2005). Indeed, since autumn 2010 the US has been a strong critic of democratic regression in Ukraine, as seen in the condemnation by the White House of Tymoshenko's imprisonment. The Obama administration has stepped back to permit the EU to take centre stage in developing relations with Ukraine and other countries in the Eastern Partnership. But, as most vividly seen during the Libyan crisis, the EU is adrift without US leadership and the EU's policies towards the Eastern Partnership have been incoherent and lacking in substance. Popescu and Wilson, Senior Fellows at the

European Council on Foreign Relations (ECFR), issued a lengthy analysis of EU policy towards the Eastern Partnership in which they called for, ‘sharpening the edge of its policies, defining clearer red lines and actively policing them, and investing more political capital in the neighborhood’ (Popescu and Wilson 2009).

The Obama administration’s ‘re-set’ with Russia and US geopolitical withdrawal from Eurasia may have opened a vacuum permitting Russia to export authoritarianism to Ukraine and Eurasia. Russia has been traditionally opposed to NATO enlargement into Eurasia but Moscow is also becoming increasingly vocal against EU enlargement, lobbying and pressuring Kyiv to choose the CIS Customs Union over a DCFTA. The Obama administration’s ‘re-set’ therefore does not respond to Russian strategic interests that are at odds with those of the US. The EU has limited resources and little geopolitical vision for Ukraine and the Eurasia region.

Partnership (2010)

The West did not sympathize with either of the two main candidates in the 2010 elections – Tymoshenko or Yanukovich. Indeed, judging from diplomatic cables from the US Embassy in Kyiv were very negative towards Tymoshenko and believed that Yanukovich had changed since 2004. In the 2010 elections, Tymoshenko was routinely depicted as a ‘populist’ and ‘chameleon’ by US cables from Kyiv and Western media (Kuzio 2011b). Timothy Snyder (2010) wrote of Tymoshenko’s ‘authoritarian tendencies’ and believed ‘it is Tymoshenko rather than Yanukovich who today draws comparisons with Vladimir Putin’ (see also Karatnycky 2010). The lack of Western favoritism towards either of the two candidates in the 2010 elections was different to 2004 when there was

clearly Western sympathy for Yushchenko.

US political consultants working for Yanukovich since 2005 lobbied the US Embassy in Kyiv in support of Yanukovich's allegedly new democratic profile (see Harding 2010). Yanukovich promised political stability and a changed (democratic) man and the West wanted to believe him. A Financial Times (2010) editorial wrote, "Only a stable Ukraine can achieve economic reform and recovery. Ms. Tymoshenko is the polar opposite of a stabilizing force. Mr. Yanukovich, for all his manifest faults, may prove the lesser evil" (see also Snyder 2010 and Karantnycky 2010 for praise of Yanukovich's new democratic politics).

The reality was different. In the 2010 elections Tymoshenko and Yanukovich's profiles, programs and foreign policy priorities were available as a guide to their future actions (see Kuzio 2009a and 2009b). Some of this mistaken optimism in regard to Yanukovich was understandable in the wake of a disappointing 5-year tenure by President Yushchenko. Ukraine fatigue emerged after years of political instability, constitutional crises, inter-elite fighting, and the experience of (together with Iceland, Hungary and Latvia) Europe's worst economic-financial recession, forcing the government to seek an emergency IMF Stand-by Agreement. An allegedly different Yanukovich, touted as now pro-democratic, seemed to represent a breath of fresh air.

At the same time, Yanukovich would be a different Ukrainian president on the foreign policy arena. In April 2010 the 'Kharkiv Accords' extended the Black Sea Fleet base in Sevastopol to 2042-2047 and in July 2010 a new foreign policy was adopted that no longer sought NATO membership. US Disinterest in Ukraine went along with Yanukovich's disinterest in the US (whom he believed was behind the Orange

Revolution and the denial of his 2004 election ‘victory’) and NATO. Yanukovych is the first of four Ukrainian presidents to not support Ukrainian membership of NATO. The Yanukovych administration sought to lobby Washington, maybe in the hope of encouraging it to turn a blind eye to democratic regression, by handing over highly enriched uranium during the April 2010 nuclear security summit in Washington DC.

The opposition opposed the extension of the Black Sea Fleet treaty and promised to annul the ‘Kharkiv Accords’ if they come to power. Both parliamentary committees on foreign policy and European integration voted to recommend to parliament to reject the ‘Kharkiv Accords’ while a third parliamentary committee on military and national security was split down the middle. Western policymakers criticized the agreement in terms of how it was adopted and Western governments and international organizations remain lukewarm towards the treaty believing it will negatively impact upon Ukraine’s integration into Europe. As NATO’s Parliamentary Assembly pointed out, ‘While the Ukraine’s democratically elected leadership has every right to make strategic foreign policy decisions, it would be preferable that the decisions of such long-term strategic importance were made after extensive and comprehensive public and parliamentary debate, rather than in a haste and without any attempts to engage the opposition’ (NATO Parliamentary Assembly 2011). During the vote only 211 deputies were registered and therefore 25 of the 236 votes in support of ratification were undertaken on behalf of deputies who were not present (a common occurrence in the Ukrainian parliament which has been nicknamed ‘piano voting’).

Extending the Black Sea Fleet treaty base was never included in Yanukovych’s 2010 election program and, if it had been, could have lost him elections that he barely

won by 3%. Although Yanukovych called repeatedly throughout the Yushchenko presidency for a referendum on entering a NATO MAP no referendum was offered by the Yanukovych administration for the extension of the Black Sea Fleet base. NATO membership and the Black Sea Fleet are controversial issues that divides Ukrainians (unlike EU membership). In a 2008 International Foundation Electoral Systems survey nearly half of Ukrainians supported the withdrawal of the Black Sea Fleet by 2017, as specified in the 1997 treaty. 24% were in favor of the Black Sea Fleet treaty being extended and 10% for the Fleet to be ordered to immediately withdraw (International Foundation Electoral Systems 2008).

Yanukovych's honeymoon with the West in 2010 encouraged Brussels and Washington to mute criticize of democratic regression in his first year in office. The US was pre-occupied with the Arab Spring and other conflicts while the EU only woke up to the lack of support for European values in the Yanukovych administration *after* Tymoshenko was sentenced to imprisonment. In 2010 there were many examples of Yanukovych's intention to build a 'managed democracy': such as the unconstitutional formation of parliamentary coalition (as in 2007), judicial reform that sidelined the Supreme Court, overturning of the parliamentary constitution introduced in 2006 and emasculation of parliament, arrests of opposition leaders and members of the 2007-2010 Tymoshenko government, fraud in the October 2010 local elections, return to KGB style tactics against civil society activists and journalists by the Security Service and resumption of censorship in Ukraine's media. Limited and unpopular reforms were undertaken under the July 2010 IMF agreement during Yanukovych's first year in office, increasing household utility prices and pension reform (raising the pension age of women

from 55 to 60). The unwillingness of the Mykola Azarov government to raise household utility prices for a second time in April 2011 led to the suspension of further IMF tranches and in 2011 Ukraine's relations with the IMF deteriorated.

Ukraine's implementation of the ENP in 2010 was abysmal by the EU's own admission in its report released on the same day as it outlined its new ENP policy. The EU audit of Ukraine's Action Plan in 2010 found that Ukraine had regressed in all five areas the EU believes to be crucial to a 'deep and sustainable democracy' (European Commission – External Relations, 2011). It is therefore surprising that Ukraine's Partnership with the EU lasted as long as one year in view of the numerous examples of attacks on Ukraine's democracy by the Yanukovich administration. A Wall Street Journal (2011) editorial pointed out, the sentencing of Tymoshenko 'shows that Yanukovich isn't the newly minted democrat of 2010, but the same man whose election team in 2004 hacked into Ukraine's central election commission computer (see also Harding 2011).

Throughout 2010, the EU and US tempered their criticism of democratic regression in Ukraine without clearly defining 'red lines' that could not be crossed and in the process giving the illusion of a partnership. The EU and Ukraine continued to negotiate the Association Agreement throughout the Yanukovich administrations attacks on Ukrainian democracy and only threatened to derail talks after Tymoshenko was sentenced. The 'red line' became too closely associated with Tymoshenko when in fact she was but the most well known of a large number of political activists who had been repressed. Former Interior Minister Yury Lutsenko had been in jail since December 2010

on flimsy charges of over-paying his chauffeur and was sentenced in February 2012. Riabchuk (2011) writes:

‘From the EU's point of view, Yanukovich has overstepped the mark. He ignored, in a rather arrogant way, all the signals. For Yanukovich, however, it was not so clear why this particular straw should have been the one to break the camel's back. After all, the West has tacitly accepted much heavier breaches of the democratic code – starting with the 2010 parliamentary coup. Why should this line really be red, since it has never been clearly defined?’

Disillusionment (2011-)

Yanukovich's foreign policy is different to that pursued by *both* ‘pro-Russian’ President Kuchma and ‘pro-Western’ President Yushchenko. In 1994-1999 the NATO card was used by President Kuchma to pressure Moscow to respect Ukraine's sovereignty and territorial integrity. Ukraine joined NATO's Partnership for Peace (PfP) in January 1994 and a NATO Documentation and Information center was opened in Kyiv in 1997, the second after Moscow. Under Kuchma, Ukraine became the most active PfP member from the CIS and developed extensive levels of cooperation with individual NATO countries, such as the UK and US. In order to balance against Russia and break out of international isolation, Kuchma sought NATO membership in July 2002. A year later Russia's threat to annex the Tuzla Island lying off the eastern coast of the Crimea reinforced the threat perception coming from Russia. In the same year President Kuchma authorized the sending of the largest contingent of troops from a non-NATO member to US-coalition forces in Iraq.

In contrast, Yanukovych and the Party of Regions have always adopted a multi-vector approach to NATO. The 2002-2004 Yanukovych government supported Kuchma's two requests to enter NATO MAP's at the Prague and Istanbul summits in 2002 and 2004 respectfully and his government backed the sending of Ukrainian troops to Iraq in 2003. The 2002-2004 Yanukovych government fulfilled two NATO Action Plans that differed little from a MAP. Parliament's approval of a 2003 law on national security that enshrined Ukraine's desire for NATO membership was adopted unanimously by parliament, including by Party of Regions deputies.

Nevertheless, in 2004, when Ukrainian troops were still based in Iraq, the Yanukovych presidential election campaign unleashed an anti-American campaign directed against Yushchenko whose wife is a Ukrainian-American (Kuzio 2004). In opposition in 2005-2006 and 2007-2009, the Party of Regions aligned with the extreme left and Russian nationalists to oppose security cooperation with NATO but when in power in 2006-2007 and since 2010 has supported cooperation. It is therefore disingenuous of Yanukovych to say that relations are 'comfortable for both Ukraine and NATO. They are open and honest, at least' (Interfax-Ukraine 8 October 2010). There has never been honesty in Yanukovych's and the Party of Regions relationship with NATO.

Although Prime Minister Yanukovych had supported NATO membership President Yanukovych moved quickly to remove it from the agenda. In April 2010 the National Centre for Euro-Atlantic Integration, which assessed the implementation of annual Action Plans, and the Euro-Atlantic coordination body under the Cabinet of Ministers were both abolished. In the same month, during Yanukovych's visit to the US, he nevertheless said, 'The relations between Ukraine and NATO are not going to change'

and ‘They will stay on the same level and with the previous attention’ (Diehl 2010). In July 2010, the Ukrainian parliament voted for ‘The Fundamentals of Domestic and Foreign Policy’ law that dropped the goal of seeking NATO membership. As with the April 2010 Black Sea Fleet base extension, the law was railroaded through parliament after ignoring 420 proposed changes by the opposition and parliamentary committees. Our Ukraine deputy Vyacheslav Kyrylenko described the vote on such an important issue of national security as a ‘farce,’ adding ‘[Parliament’s] hall is a pure profanation of the democratic process’ and parliament had become a ‘rubber stamp body’ (Ukrayinska Pravda 1 July 2010). The vote was timed to occur before US Secretary of State Hillary Clinton’s arrival in Kyiv on the following day.

Ukraine’s ‘non-bloc’ neutrality can be criticized on three grounds. Firstly, it is not supported by any increase in the defense budget which has in fact been slashed. Neutral Sweden and Finland spend between \$608-745 per citizen on defense while Ukraine spends only \$26 per citizen. Secondly, neutral countries do not host foreign military bases while Ukraine has agreed to a long-term foreign military base. Thirdly, Yanukovych allegedly supports Ukraine’s membership in the EU which is also a bloc that has an evolving and expanding European Security and Defense Policy (ESDP). Yanukovych’s non-bloc status is therefore a product of traditional Soviet anti-NATO sentiments rather than backing for European-style neutrality.

Yanukovych has been intensively pressured by Russia to drop his support for European integration and join the CIS Customs Union between Belarus, Kazakhstan and Russia in exchange for a ‘discounted’ price on gas. Kyiv’s official response has been that Ukraine as a WTO member cannot join a Customs Union with three countries who are

not WTO members. In addition, the EU has warned that countries can only join one Customs Union and therefore Ukraine should decide whether this would be the CIS Customs Union or the DCFTA with the EU. Yanukovich has supported the DCFTA over the CIS Customs Union while at the same time undermining 'European values' at home that are incompatible with Ukraine's integration into Europe.

Yanukovich's aim is to obtain the trade and economic benefits of a DCFTA without pursuing the political requirements of the 1993 Copenhagen Criteria for EU membership. At the 2010 YES (Yalta European Strategy) summit, Yanukovich never once mentioned Ukraine's desire to join the EU, stating Ukraine, 'will choose the speed, form and methods of integration that conform to its national interests (Ukrayinska Pravda 4 October 2010). Yanukovich is the first of four Ukrainian presidents to be perceived in Brussels and Strasbourg as weak on EU membership, as reflected in remarks made at the YES summit by Elmar Brok, member of the European Parliament's Committee on Foreign Affairs (Kyiv Post 4 October 2010). On the eve of Yanukovich's October 2010 visit to France, French experts reached similar conclusions (Ukrayinska Pravda 6 October 2010).

The EU and US face a dilemma in forming policies to Yanukovich. On the one hand, the West has been critical of democratic backsliding under Yanukovich, as seen in the condemnation of Tymoshenko's imprisonment without this has translating into 'sticks;' that is, Belarus-style sanctions. The EU uses both 'carrots' and sticks' when offering membership of the union but is reluctant to use 'sticks' when only offering enlargement-lite; that is an Association Agreement and DCFTA. The European Council on Foreign Relations (ECFR) lamented the fact, 'The EU approach has been based on

offering some carrots and using almost no sticks’, except in the case of Belarus (Popescu and Wilson 2011). The only Eurasian country against whom there are EU and US sanctions is Belarus and sanctions are not applied against six other authoritarian regimes in the CIS. Visa denials to Ukrainian officials are possible but these are unlikely to be drawn up until after the 2012 elections if they are denounced as not having been compatible with democratic standards.

Ukraine and the EU were moving towards the DCFTA and Association Agreement at the same time as Ukraine is consolidating an authoritarian regime (as most vividly seen by Freedom House’s demotion of Ukraine in 2011 from a ranking of ‘Free’ to ‘Partly Free’). Until Tymoshenko’s imprisonment the EU was sending a signal that there would seem to be no incompatibility between growing authoritarianism and Ukraine’s Association Agreement and DCFTA. EU policy would seem to be to encourage democratization in ‘enlargement-heavy’ (membership) and be willing to accept semi-authoritarianism in ‘enlargement-light,’ at least until Tymoshenko’s arrest.

Anchoring Ukraine inside a DCFTA and Association Agreement, while not the same as EU membership, would bring immense benefits to Ukraine but these should not come at the expense of turning a blind eye to the very ‘European values’ that the EU espouses. In May 2011 the EU unveiled ‘A new and ambitious European Neighborhood Policy (ENP)’ in which it stated: ‘A functioning democracy, respect for human rights and the rule of law are fundamental pillars of the EU partnership with its neighbors.’ The EU’s new policy guidelines define ‘deep and sustainable democracy’ as including ‘free and fair elections; freedom of association, expression and assembly and a

free press and media; the rule of law administered by an independent judiciary and right to a fair trial; fighting against corruption; security and law enforcement sector reform (including the police) and the establishment of democratic control over armed and security force' (New and Ambitious Neighborhood Policy, 2011).

Under Yanukovich a virtual dialogue between both the EU and Ukraine was clearly seen when on *every* occasion Ukrainian President Yanukovich, Foreign Minister Kostyantyn Gryshchenko, Prime Minister Azarov and senior Party of Regions deputies brushed aside Western criticism of democratic regression and selective use of the judiciary. Party of Regions deputies have routinely lambasted Western criticism using Soviet style language. The most prominent example of the lack of dialogue in 2010-2011 was continued use of 'selective use of justice' to intimidate Ukrainian society, policies condemned in European Parliament resolutions adopted on 9 June and 27 October 2011 (European Parliament, 2011). Politically inspired criminal charges were not halted, as the West demanded, and instead added new criminal charges were added to existing ones against Tymoshenko. Despite widespread Western condemnation of the Tymoshenko imprisonment on October 11, 2011 the Security Service launched three new charges against her in the following week and parliament accused her of 'treason' in March 2012. While the 2009 Ukrainian-Russian gas contract was poorly drafted, political decisions by outgoing administrations should not be the subject of politically inspired criminal charges. The European Parliament resolution: 'Reminds the Ukrainian authorities that the principle of collective responsibility for the decisions of the government does not permit the prosecution of individual members of the government for decisions that were taken collegially.' Ukraine's

energy sector is full of skeletons in very many closets and such charges could be applied against most members of Ukraine's elites.

If the Ukrainian authorities are unwilling to heed any EU and Western criticism of democratic failings when Ukraine is outside the DCFTA and Association Agreement there is no likelihood they would do so when Ukraine is inside the agreement. There is no mechanism for suspending or expelling countries from the Association Agreement and therefore it is important to lay the ground rules *before* Ukraine joins. EU members believe it would have been better to ensure Romania and Bulgaria got it right *before* they joined the EU in 2007. The seven year sentence and three years ban from official positions against Tymoshenko is intended to prevent her from standing in the next four elections and to intimidate the opposition in general. The OSCE and Council of Europe will be unable to define Ukraine's elections as having been held in accordance with democratic standards if opposition leaders are in jail.

Ukraine's signing of the Association Agreement and its ratification by the European Parliament and parliaments of 27 EU members are frozen because democratic regression inside Ukraine continues unabated. With NATO and EU membership closed, Russia will have achieved its objective of ensuring Ukraine's only integration option is within the CIS. Moscow received one of three major strategic objectives in Ukraine when the 'Kharkiv Accords' extended the 1997 Sevastopol treaty as a base for the Black Sea Fleet until 2042-2047. A second objective was to remove NATO membership as a goal of Ukrainian foreign policy and end Ukraine's integration into Europe. Russia's third strategic objective is to gain control over Ukraine's gas pipelines through a consortium

that would be controlled by Moscow.

Conclusions

During the last two decades Ukraine has experienced cycles of Disinterest, Partnership and Disillusionment that have become shorter. Under Kravchuk (1991-1994) there was Western Disinterest in Ukraine coupled with a 'Russia-first' US policy to Eurasia. The EU continued to pursue Disinterest with Ukraine and the CIS until 2008-2009 when Ukraine joined the WTO and Poland and Sweden lobbied the EU to launch the Eastern Partnership. During Kuchma's first term (1994-1999) Ukraine experienced its longest Partnership with the US and NATO and the Partnership turned to Disillusionment during Kuchma's second term in office (2000-2004). Following the Orange Revolution and Yushchenko's election a promising Partnership opened up with the US and NATO that gave Ukraine the possibility of Ukraine joining a Euro-Atlantic organization, NATO. The Partnership quickly evaporated into Disillusionment in 2007 with the onset of Ukraine's third political crisis since 2005, return of Yanukovich to head the government and feuding between orange leaders.

At the same time, the election of Obama changed US policies towards Ukraine and Eurasia leading to a resumption of Disinterest found in the early 1990s. US Disinterest, brought on by pre-occupation with the state of the American economy and other foreign crises and military commitments, was deepened by Ukraine fatigue under Yushchenko and the disinterest in NATO membership by Yanukovich and his innate suspicion of the US. The EU's Partnership with Ukraine, which had led to successful negotiations for an Association Agreement in 2007-2010 evaporated in the face of

democratic regression in 2011. Partnership with Yanukovych in 2010 had been based on the illusion that he had become a democrat and would bring stability to Ukraine that the country had lacked under his predecessor, Yushchenko. The honeymoon the West gave Yanukovych disintegrated into Disillusionment in 2011 as Ukraine's democracy came under sustained threat and relations deteriorated with the West. Disillusionment will be compounded by the conduct of the 2012 parliamentary elections and the inability of opposition leaders to participate in them will further isolate Ukraine from Euro-Atlantic structures ahead of the 2015 presidential elections. President Yanukovych has again shown that curtailing democracy in six areas (return to the 1996 presidential constitution, selective use of justice, rubber stamp parliament, election fraud, censorship and interference by the Security Service) and permitting corruption to flourish are more important than Ukraine's declared foreign policy objective of European integration.

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