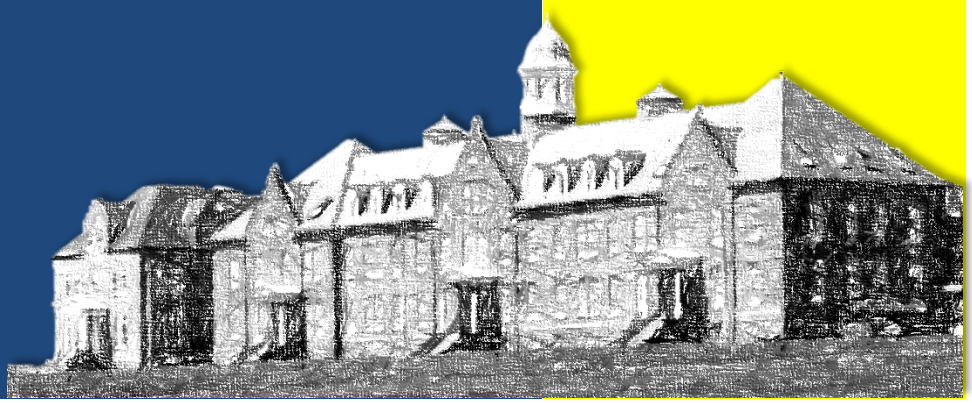
UKRAINE

US Naval War College Joint Maritime Operations Students present their thoughts and approaches to one of the world's most pressing national security problems.

Fall 2016



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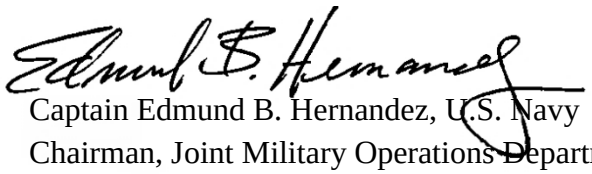
For the century ahead, the use of military and naval power and their inter-relationships with the political, diplomatic, economic, and informational instruments of national power will remain essential to achieving desired end states. During the Fall 2016 trimester 209 Joint Military Operations students representing all five United States military services, 12 government agencies, and 49 countries studied how to wield the military instrument of power, in peace and in war, to achieve national policy goals. They examined relationships of national power at two levels—operational and theater-strategic, including the varying perspectives of the Executive Branch leadership, Congress, the Joint Chiefs of Staff, combatant commanders, Joint Task Force commanders, and component commanders.

The Joint Military Operations trimester refines students' critical and creative thinking skills under the aegis of military problem solving. As such, the course is presented in a series of integrated sessions, each drawing on the preceding sessions and reinforcing those that follow. The trimester flows from the simple to the more complex and culminates in a synthesis event where students display their understanding of the course concepts and demonstrate critical and creative thinking skills.

This Capstone synthesis event emphasizes design as a methodology for addressing ill-structured problems. The exercise synthesizes course material through rigorous discourse and practical application in a realistic staff environment. Through the development of a broad operational approach addressing a series of problems students apply the principles and concepts studied throughout the trimester.

In preparation for the synthesis event each of this year's 209 students wrote a research paper focused on Ukraine. The paper required independent thought, thorough research, and competent writing. Student exploration and research in the assigned topic area enabled students to serve as subject matter experts, albeit with a narrow focus, in the synthesis event. Presented here are 17 of the best papers submitted this year and provide a concise, yet in depth and detailed, examination of the issues the United States faces in Ukraine.



Captain Edmund B. Hernandez, U.S. Navy
Chairman, Joint Military Operations Department

Solving the Ukraine Identity Crisis

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Introduction

"Your pride for your country should not come after your country becomes great; your country becomes great because of your pride in it."[1] – Idowu Koyenikan, Bestselling Author

Ukraine is on the verge of greatness and collapse. As international consultant and best-selling author, Idowu Koyenikan, contends above, national pride provides the impetus for greatness. But globalization, multiculturalism and pluralism challenge national identity. Two and a half decades since the sudden disintegration of the Soviet Union, Ukraine still faces this challenge. According to Dr. Michal Wawrzonek, Assistant Professor in Ukrainian Studies at Jagiellonian University in Poland, the collapse of communism left an "ideological void" in Ukraine because it had "systematically destroyed everything around".[2] This void evolved into an identity battleground between pro-European, Western Ukraine and pro-Russian Eastern Ukraine.[3] Ukraine became immersed in an ideological proxy war between Europe and Russia; or more simply, a post-Cold War construct of "West" vs "East".

The significance of this "West" vs "East" concept is it highlights a division, a lack of cohesion and exclusivity within the Ukraine. On a macro, nation-state level there needs to be a unifying concept, force and purpose – a national identity. According to Herbert Kelman, renowned professor of Social Ethics at Harvard University and former Director of the Program on International Conflict Analysis and Resolution, "national identity is a psychological conception, which cannot be dictated or prescribed by outsiders."[4] A national identity must develop from within. The Ukrainian government must work to forge a national identity to ensure Ukraine's sovereignty, sustainability, and ultimately, its survival.

Establishing a Ukrainian national identity has national and regional benefits. It enhances the legitimacy of the democratic government and its supporting institutions. This is critical because Ukraine is "still in the processes of the institutionalization and legitimization of the new order after the collapse of the Soviet Union."[5] National identity is a macro sense of belonging and inclusiveness. It serves to mobilize the collective will of the people, to affect change, and progress toward common goals. National identity development is vital for Ukraine because it lingers in a vulnerable state of "ill-liberal democracy – a partial mixture of democracy with illiberalism."[6] According to Dr. Stephen Velychenko, Chair of Ukrainian Studies at the University of Toronto, "People with a fluctuating identity and only a vague idea of their country's optimal choices are highly susceptible to 'brainwashing', and are quite naturally targeted by official propaganda, authoritarian blackmail and political manipulation".[7] Russia's recent ethno-imperial invasion of the Donetsk and Luhansk regions highlights this susceptibility and targeting identified by Dr. Velychenko.

Establishing a Ukrainian national identity contributes to and reinforces political legitimization of democratic processes and institutions, thereby providing momentum and political will to transition to a liberal democracy.[8] This, in turn, enhances regional stability by solidifying the sanctity of Ukrainian sovereignty, its governance and deterring further ethno-imperialism. A distinct Ukrainian national identity also provides the international community with further justification to directly or indirectly support Ukraine's struggle against the stranglehold of Russian suzerainty. While there are undeniable benefits to forging a Ukrainian national identity, it is imperative to examine the historical context of this geo-strategic region to truly understand the complexity and difficulty of this challenge.

Ethnographic History of Ukraine

Ukraine's extensive history has been plagued by invasions, cultural clashes, and imperial subjugation. Although its history dates back to the 4000-2000 B.C. era, Slavs began arriving in Ukrainian lands in the 6th century.[9] The Slavs eventually separated and migrated throughout the Euroasian region, which "resulted in Eastern Slavs settling in Ukrainian, Belarusian, and Russian lands."[10] By the 9th century, the state of Kievan Rus had been established, with a cultural, religious, and political epicenter of Kiev (or Kyiv) – also the modern day capital of Ukraine.[11] This regionally dominant state of Kievan Rus was finally over-run and left in ruins by the Mongols in the 13th century.[12] Consequently, adjacent empires picked up the pieces and the 13th through 17th centuries were dominated by Polish and Lithuanian rule.[13] From the 18th century until World War I, Ukrainian lands were contested and partitioned by the Russian and Austro-Hungarian empires.[14] On the verge of World War I, Ukraine was a physically, culturally, and politically fractured state.

World War I ushered in the era of total war, and "Ukraine's geographic location and its natural resources, especially foodstuffs, enhanced its role as a critical geopolitical pivot".[15] In the aftermath of the Bolshevik Revolution and World War I, the West Ukrainian People's Republic joined the eastern state of the Ukrainian National Republic, "unifying the Ukrainian lands in one state for the first time in modern history" – a union that lasted a mere eight months.[16] According to Daniel Hamilton, Director of the Center for Transatlantic Relations at Johns Hopkins University, and Gerhard Mangott, professor of political science at the University of Innsbruck, during the interwar years, Ukrainians lived an oppressed reality in the Soviet Union or Poland and developed a "national consciousness…in response to the perceived twin evils of Polish and Russian rule."[17] Most notably, under Stalinist rule, Ukrainians endured an intentional and unimaginable famine in 1932-1933 known as the Holodomor, meaning "extermination by hunger", to "weaken Ukrainian nationalism and gain control over Ukrainian agricultural lands.[18] This famine, regarded as "the greatest tragedy in Ukrainian history", killed between 7-10 million eastern Ukrainians.[19] The second World War would be as equally unforgiving to the Ukrainians.

The defeat of Germany in World War II did "reunite" Ukraine under Soviet rule, but not after "Germans killed by bullets, bombs, gas or starvation 6.5 to 7.4 million men, women, and children (most of whom identified themselves as Ukrainians)."[20] The Soviet Union methodically and systematically integrated western Ukrainian lands to "conform to a Soviet ideological and socioeconomic framework", suppressing any nationalist movement "perceived by the central government as a threat to the concept of a common Soviet identity".[21] Although the de-Stalinization period and Glasnost policy did allow "space for expressions of national consciousness and their subsequent political changes", it was more or less confined and controlled within the vacuum of communism.[22] When the Soviet Union dissolved, it left Ukraine without a national identity.

Since 1991 Ukraine has been in transition amidst spheres of external influence with numerous political parties emerging and "vying for political gains and resources" – satirically, well on its way to becoming a democracy.[23] In 2004, an outbreak of peaceful protests, known as the Orange Revolution, was a manifestation of political and ideological rivalry, specifically between Yushchenko (pro-European) and Yanukovych (pro-Russian). Although both served as President of Ukraine, Yushchenko from 2005-2010, and Yanukovych from 2010-2014, Ukraine's economic and political progress were sluggish under both regimes due to elitism, corruption and oligarchical governance.[24] The Euromaiden events of 2013-2014, arguably a continuation or sequel to the Orange Revolution, indicated the population's dissatisfaction with the political system. However, Euromaiden was somewhat overshadowed by the convenient Russian annexation of Crimea.

As illustrated by Ukraine's volatile evolution as a nation-state, there have been many groups, cultures and ethnicities within and around its current national boundaries. Therefore, before addressing how the government can take steps to forge a national identity, it is imperative to briefly examine key terms and ethnic theories to frame the scope of analysis.

Identity Theories

Much work has been accomplished over the last two decades to understand identity issues and how they relate to conflict. The depth and complexity of this issue far exceeds the scope of this paper. However, it is critical to distinguish some key terms as they relate to identity and basic theories. According to conflict focused anthropologist, Jack Eller, ethnicity is "consciousness of difference and the subjective salience of that difference."[25] Culture, often incorrectly used interchangeably with ethnicity, may be among the differences. But this is a critical distinction and best illustrated by using the terms together, "Ethnicity is, thus, subjective, even while it is based on, refers to, or invokes 'objective' or shared cultural or historical markers."[26] An ethnic group shares common ethnicity and is defined as "a type of cultural collectivity, one that emphasizes the role of myths of descent and historical memories, and that is recognized by one or more cultural differences like religion, customs, language, or institutions".[27] The cultural commonalities used to distinguish ethnic groups, however, can

vary.[28] In this respect, an identity, to include a national identity, can be broad or narrow, and therefore as inclusive or exclusive, as the people who choose to define it.

Ethnicity and identity, therefore, can somewhat evolve and change over time based on a level of consciousness or awareness of similarities or differences. According to Dr. Henry Hale, Professor of Political Science and International Affairs at the Elliot School of International Affairs and chair of the editorial board of *Demokratizatsiya: The Journal of Post-Soviet Democratization*, an ethnicity-as-conflictual theory of separatism is based on an evolution of a "national consciousness" – as a rise of national consciousness develops within a group, so does the drive to have its own territory.[29]

Another theory presented by Dr. Vamik Volkan, international conflict expert and a founder of the International Society for Political Psychology, common triumphs or humiliations among groups boost a group's collective "we-ness."[30] Dr. Volkan terms these powerful and emotional events as "chosen glories" and "chosen traumas."[31] This theory has conceptual relevance and significance to a heterogeneous Ukraine with a traumatic history.

A final theory relevant to ethnicity and identity comes from the "human-needs" theory, which contends that states are ultimately responsible for the basic human needs, human rights and protection of their citizens.[32] Dr. Kelman, renowned professor of Social Ethics at Harvard University and former Director of the Program on International Conflict Analysis and Resolution, summarizes this state responsibility in the following discourse:

They [the state] must therefore address the security, development, and identity needs of ethnic minorities as well as majorities, allowing members of each group to share equally in the benefits of the state and to preserve their own identity and cultural values. The needs of one group – even the majority – cannot be met in ways that undermine or threaten the well-being and safety of other groups.[33]

The subtle, yet complex, differences in terminology and theories are critical for the Ukraine government to comprehend and leverage as it utilizes a holistic approach to forge a national identity. Regardless of theory subscription, as international ethnic conflict expert, Dr. Donald Horowitz, asserts "ethnicity is at the center of politics in country after country, a potent source of challenges to the cohesion of states and of international tension."[34]

Counter-Arguments

Based on Dr. Horowitz' assertion that ethnic diversity challenges national cohesion, is it even possible to forge a national identity in Ukraine? And if so, does one already exist?

Is It Possible to Forge a Ukrainian National Identity?

A quick case study helps evaluate and assess whether a national identity is even plausible in Ukraine. The Baltic states, Latvia, Lithuania, and Estonia, were previous Soviet Republics

like Ukraine, and experienced a similar "sudden existence" as independent nation-states after 1990. As previously discussed and reinforced by Horowitz, a country's ethnic and cultural composition plays a pivotal role in successful governance and national identity. Table 1 depicts the top three highest ethnic percentages within the population in Ukraine and several Baltic States. Table 2 depicts the highest percentage of two cultural variables, language and religion, for a basic cultural comparison. Language and religion were used as culturally definable variables since the previously defined terms of ethnicity and ethnic groups utilized those as recognizable "cultural differences" – and therefore discriminators or indicators of cultural diversity. Note Latvia and Estonia have an even higher Russian ethnic population than Ukraine. However, it is reasonable to conclude Ukraine is comparable to these other former Soviet Republics in terms of ethnic and cultural composition ratios.

Table 1- Ethnic Composition of Ukraine and Baltic States[35]

Country	Ethnic Group 1	Ethnic Group 2	Ethnic Group 3
Lithuania	84.1% Lithuanian	6.6% Polish	5.8% Russian
Estonia	68.7% Estonian	24.8% Russian	1.7% Ukrainian
Latvia	61.1% Latvian	26.2% Russian	3.5% Belarusian
Ukraine	77.8% Ukrainian	17.3% Russian	0.6% Belarusian

Table 2- Cultural Composition of Ukraine and Baltic States[36]

Country	Language 1	Language 2	Religion 1	Religion 2
Lithuania	82% Lithuanian	8% Russian	77.2% Roman Catholic	4.1% Russian Orthodox
Estonia	68.5% Estonian	29.6% Russian	54.1% None	16.7% Unspecified
Latvia	56.3% Latvian	33.8% Russian	63.7% Unspecified	19.6% Lutheran
Ukraine	67.5% Ukrainian	29.6% Russian	~67% Orthodox	~10% Greek Catholic

According to Freedom House, a United States based non-governmental organization (NGO) advocating democracy and human rights, the average 2016 aggregate freedom score for the Baltic States was 90 (nearly identical to the United States, which had a score of 91).[37] Freedom score is a cumulative assessment of how "free" and "democratic" a nation is, from 1 to 100 – where a higher number equates to more "free" and "democratic". Ukraine had an aggregate freedom score of 61.[38] Additionally, the gross domestic product (GDP) per capita for each of the Baltic States in 2015 was between $16,000 and $20,000, compared to the Ukraine at

$3,082.[39] This comparison highlights that the Baltic states average a freedom score equivalent to the United States and have an average GDP per capita more than five times that of Ukraine.[40] While this does not conclusively prove the Baltic states have a national identity, it supports the possibility that a heterogeneous or ethnically diverse population within former Soviet Republics can successfully assimilate to form a democratic governance with a positive economic outcome. Admittedly, some nations may have a more homogenous composition or geostrategic location for national identity formulation than others, but it is reasonable and beneficial for the Ukraine government to pursue one.

Does a National Identity Already Exist in Ukraine?

While some may argue that a Ukrainian national identity already exists, historical evidence suggests Ukraine only reached a level of "national consciousness" throughout its oppressive history. This was exemplified by its brief formation of the Ukrainian Peoples' Republic at the end of World War I and "in response to the perceived twin evils of Polish and Russian rule" during the inter-war years.[41] The Holodomor in 1932-1933 that caused the deaths of between 7-10 million Ukrainians epitomizes Dr. Volkan's "chosen trauma" concept. Nevertheless, identity theories involving concepts like "chosen trauma" and national consciousness never had the opportunity to legitimately evolve into a national identity because of imperial repression and communism.

Despite over two decades of independence, political, economic and social upheaval, complicated by ideological and territorial interventionism, have stymied the ability of Ukraine's national consciousness to evolve into a cohesive national identity. While Ukraine may have been on the brink of this transition, Russian annexation of Crimea and conflict in the Donbas region clearly undermines this effort. Fundamentally, it is now more important than ever for the Ukraine government to forge this national identity amidst a plethora of challenges to ensure its sovereignty, sustainment and ultimately, its survival.

Way Forward for Ukraine

The Ukraine government must be a catalyst, advocate, and facilitator of this national identity effort through strategic communication, political reform, and socio-economic reform. Strategic communication, political reform and socio-economic reform not only help to forge a national identity, but also reinforce the effectiveness and value of the national instruments of power. The most vital of these, strategic communication, is examined first, as it informs the underlying message and pervades all other aspects of domestic and foreign policy.

Strategic Communication

Words matter. They are especially critical during challenging times for a country – much like the current political and socio-economic environment in Ukraine. The Gettysburg address by President Abraham Lincoln was a mere 272 words and lasted less than three minutes, yet was arguably the most influential strategic narrative of American history.[42] Ukraine's president,

Petro Poroshenko, must utilize strategic communication from a top-down approach to portray a consistent, unifying, influential strategic narrative to Ukrainians – one that exudes a "chosen glory", leveraging Dr. Volkan's previously discussed identity theory.[43] While this concept of "chosen glory" is beyond the scope of this paper, historical examples demonstrate a powerful unifying force behind them. Dr. Volkan, renowned expert on ethnic conflict and theory articulates: "Positive change in a country's political system or a cultural revolution can become an important aspect of a group's identity."[44] The Orange Revolution and Maiden events are positive steps leading to Ukraine's "chosen glory" of a legitimate, liberal democracy, freedom from Russian suzerainty, and domestic stability, security and prosperity for all Ukrainian citizens.

The challenge for Poroshenko and the Ukraine government to construct this Ukrainian strategic narrative is complex with interwoven history with Russia and a heterogeneous culture. This challenge is summarized in the following discourse by Dr. Stephen Velychenko, Chair of Ukrainian Studies at the University of Toronto:

Ukrainians and Belarusans are effectively elided (even in a proto-national sense) as discrete cultural actors and their activities (or activities on their territories) are subordinated to the primacy of a 'Russian' national narrative and framed in terms of 'Russianess'. The problem, then, to reiterate, is not with the actual notion of Russian 'national' culture (whose existence can hardly be denied), but with the fact that, as an analytic category, it appropriates, rather indiscriminately, all East Slavic processes, thereby becoming virtually meaningless for differentiating nationality and identity.[45]

Defining Ukrainians as "Little Russians" and Belarusans as "White Russians" exemplifies this mindset and serve as subtle reminders of the Russian narrative.

Utilizing strategic communication, Poroshenko and the Ukraine government must counter these derivative identity definitions through a Ukrainian strategic narrative without alienating its undeniable Russian roots. There must be an appreciation of a diverse past, but a focused strategic vision on an inclusive, Ukrainian future – one that civil society has demonstrated it's ready for based on the Orange Revolution and Maiden events. As Herbert Kelman, professor of Social Ethics at Harvard University and former Director of the Program on International Conflict Analysis and Resolution, concludes, "identities are commonly reconstructed, sometimes gradually and sometimes radically, as historical circumstances change, crises emerge, opportunities present themselves, or new elites come to the fore."[46] The Orange Revolution, Maiden events, and recent Russian interventionism have presented opportunities for Ukraine's national leadership to leverage strategic communication to forge a collective, inclusive national identity. The Ukraine government must seize the opportunity to make words matter.

Part of this strategic initiative means investing in and leveraging Ukraine's future potential through the education system. Education has a large role in promoting cultural

awareness, national self-awareness, and individual mobilization. The national strategic narrative has to permeate through the education system to inform and mobilize current and future generations, and inspire a transcendent national identity. The Ukrainian flag and Ukrainian national anthem, symbols of a proud nation and revered at sports venues must be visible and pervasive throughout the country. Ukrainian must be the utilized and celebrated national language, while still offering Russian language as an additive in the educational curriculum. These are all subtle ways to plant the seeds of Ukrainian pride and nationalism in the socio-economic realm with a focused vision on the future, while still acknowledging a complex history. As Dr. Velychenko, Chair of Ukrainian Studies at the University of Toronto, observed from several national surveys since 2000, "Ukrainian self-awareness (not language-use) is the hallmark of national identity and suggest only limited commitment to cultural and linguistic revival."[47] Ukrainian self-awareness must be inspired and reinforced through the education subsystem, as both a strategic communications medium and as a clear signal in the investment of a bright, collective Ukrainian future.

Political Reform

Political reform is the second avenue through which the Ukraine government can forge a national identity. Yet, it is closely related to the strategic communication initiative. Effective strategic communication from the government hinges on its legitimacy. According to Freedom House: "The main obstacle to effective governance in Ukraine is corruption, and the vast majority of citizens were deeply disappointed with the government's slow progress in combating it during 2015."[48] The pervasiveness of corruption within the Ukraine government is beyond the scope of this paper, but it must be aggressively and overtly addressed to decrease corruption and increase transparency, thereby increasing the legitimacy of the Ukrainian government. Dr. Anders Aslund, economist and resident senior fellow in the Dinu Patriciu Eurasia Center at the Atlantic Council, comments on democratic parliamentary elections, "full transparency must be established of the finances both of candidates and political parties to weed out the large amounts of illegal funds that have characterized recent Ukrainian elections. Transparency can be enough only if it is accompanied by independent auditing of financial statements."[49] With increased transparency and legitimacy, more effective legislation can be passed into law enhancing the collective security, prosperity and human rights of all Ukrainian citizens.

Political measures taken to gain and increase overall trust in the Ukraine government inspires a sense of pride and belonging to a legitimate and just political system. In essence, legitimacy and pride breed nationalism and a collective Ukrainian national identity. The government is only legitimate "when it acts as a sovereign moral agent and applies the theory of fair distribution of resources, i.e. government is legitimate when it is just, when it treats citizens equally and does not practice discrimination, when it creates equal opportunities for all, when no segment of society is excluded from right to social, political, cultural, and economic participation in society equally to other groups and individuals."[50] This infers a functioning, trustworthy judicial system, free of corruption and with the ability to equitably and fairly enforce laws.

Lastly, Ukrainians must take responsibility for this moral agency because "the challenges of multiculturalism and globalization lay not only on the shoulders of the government, but are the responsibility of every individual."[51] Put simply in Aristotelian terms, people get the government they deserve.[52] Government efforts to enhance political legitimacy and emphasize citizen responsibility within civil society are critical to fostering and sustaining a collective Ukrainian national identity.

Socio-Economic Reform

A final avenue for the Ukraine government to forge a national identity is through socio-economic reform. An overall anthropological bond among a multicultural, heterogeneous population like Ukraine is the requirement to have basic needs met – security, sustenance, civil liberties and human rights. If the government ensures and protects a socio-economic structure conducive to providing these fundamental necessities, or at least the equitable opportunities, an inherent sense of group-ness develops from the "human needs theory". The Ukraine government can foster this socio-economic structure by minimizing elitism, fostering cultural awareness, and exercising political secularization.

Democracies are socio-economically composed of "have's" and "have not's". The Ukraine government must take action to create more "have's" than "have not's", creating a normal distribution where the "have's" encompass the majority (essentially, grow the middle class). This first requires political reform to eliminate corruption, a powerful negative force affecting the Ukrainian economy, especially the energy sector. Regional expert and economist, Dr. Aslund, concludes "no measure would enhance Ukraine's welfare more easily than energy saving."[53]

Ukraine has an abundance of natural resources, mainly gas and coal, and has historically been called the "breadbasket of Europe" for its agricultural primacy.[54] Economic reform, especially in the energy industry, is critical to expand the middle class in Ukraine and raise the GDP per capita. As stated earlier, the GDP per capita of Ukraine is a mere $3,082 compared to the Baltic states which all exceed $16,000.[55] One way to increase Ukraine's GDP per capita and "normalize" the wealth distribution is to reduce or eliminate energy subsidies.[56] There is also an undeniable correlation between freedom score and GDP per capita as discussed in the comparative analysis between the Ukraine and Baltic States. The relationship generally indicates legitimate governance contributes to providing higher economic prosperity to the entire population. Additionally, legitimate governance lends itself to more international aid and investment, which lasting Ukrainian economic reforms will require – most notably from the European Union (EU), International Monetary Fund (IMF), and World Bank. Minimizing elitism and corruption enhances political legitimacy, socio-economic well-being, and international support, thereby fostering a national identity through trust in government, "human-needs" theory and socio-economic relatedness.

A final aspect of socio-economic reform to forge a national identity involves cultural awareness and secularizing politics, both complicated and related initiatives for the Ukraine government. This type of socio-economic reform is inherently linked to political reform in Ukraine because religion is a pivotal societal construct with powerful political influence.

Religion, an aspect of culture and ethnicity, has emerged as an influential subsystem in post-Soviet, independent Ukraine – especially after being virtually subdued and manipulated under state control for nearly a century under Marxism-Leninism, Bolshevism and communism.[57] Communism was even categorized as "political religion" because "the infrastructure of religious life was destroyed to such an extent that the influence of religion – as an autonomous subsystem – on social life was eliminated."[58] Since the collapse of the Soviet Union and Ukrainian independence, this suppressed subsystem re-emerged to fill an "ideological void" with new found autonomy, reviving historical competition and influence between the Orthodox Church and Greek Catholic Church.[59] Presently, religion is considered one of the "carriers of symbolic power" in Ukraine and considered a means for achieving political objectives.[60] In fact, "the Orthodox and Greek Catholic Churches are actively involved in the electoral process."[61] This presents a socio-political conflict.

Religion is an important subsystem of Ukraine and socio-cultural identity, but it should remain independent from the political subsystem and not have direct influence on political processes or outcomes. The challenge for the Ukrainian government with socio-economic reform is the complexity of merging multicultural and ethnic integration (i.e. religion and language) with the promotion of Ukrainian "we-ness" through transparent, equitable, secularized, political processes.[62]

Conclusions

Ukraine is a fragile, ill-liberal democracy in the midst of transition and an identity crisis. This is compounded by a complex, imperial and ethnic history, along with its natural geostrategic position. Ukraine's sudden existence as a nation-state has been challenged politically, socio-economically, and culturally by a pull between Europe and Russia. These external influences have hampered Ukraine's national maturity, prosperity and identity development.[63] The Ukraine government can and must take action at the national level to forge a national identity capable of transitioning to a full, liberal democracy with recognized regional sovereignty and international, organizational immersion.

Although an undeniable daunting task, a national identity can be forged through inclusive national strategic communication and collaborative political, socio-economic reforms. While these collective efforts must acknowledge a multi-cultural, heterogeneous Ukrainian population, they can unify the country through effective strategic communication, reinforce unity and legitimacy through action, and mobilize nationalism among the populace.

As world renowned ethnic conflict expert Donald Horowitz observed, "Unless precautions are taken, democratic arrangements tend to unravel fairly predictably in ethnically divided societies...".[64] Forging a national identity in Ukraine is a formidable challenge, but necessary precaution. It has the ability to completely change the meaning of Horowitz's conclusion, "Democracy is exceptional in severely divided societies."[65] Ukraine can be an exceptional success.

Summary of Recommendations

- The Ukraine government must work to forge a national identity. Ukrainian national leadership must be educated on the complex regional history from multiple perspectives and analyses. A governmental council or committee of experts on ethnicity and anthropology should be established to serve as advisors to parliamentary and national leadership.
- The Ukraine government must construct and project a strategic national narrative that stresses inclusion, equality, security and human rights for all citizens. It must be universal, nationalistic, and visionary. It must be conveyed through multiple strategic communication mediums (i.e. education system) and reach all levels of civil-society.
- Political reforms must increase minority representation (or at least opportunity), decrease corruption, and increase transparency. The political subsystem must be more independent from the religious subsystem. The aggregate freedom score must increase in consecutive years over the next decade to reach the 70's-80's.
- Socio-economic reforms must minimize elitism and corruption, with specific focus on the energy sector. The abundant natural resources, "national treasure", must benefit the populace. This must raise the GDP/capita to over $10,000 by 2025.
- The Ukraine government must seek continued international aid, investment and involvement as it increases its legitimacy and socio-economic status. This includes global support from the International Monetary Fund (IMF) and World Bank, and most notably, includes Ukraine joining the European Union by 2020.

Notes

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The Role of Language in Ukrainian National Identity and Russian Aggression

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The man who loves other countries as much as his own stands on a level with the man who loves other women as he loves his own wife. One is as worthless a creature as the other. – President Theodore Roosevelt

Introduction

The Oxford English Dictionary defines a nation as "A large body of people united by common descent, history, culture, or language, inhabiting a particular state or territory."[1] This definition encompasses both of the sociological models for ethnicity, where Ukraine began in 1991 and where it hopes to someday coalesce. To date, the journey between these two points has been complicated by historical paradigms and unrestrained political rhetoric.

Following a 1991 declaration of independence from the Union of Soviet Socialist Republics (USSR), Ukrainian leaders drafted a new national Constitution and set about a thoughtful approach to nation-building founded in large part on the establishment of Ukrainian as the common national language. By 2001, clear signs of a blossoming national identity and a broad sense of unity could be seen in census data. Ukrainian citizens were shedding Soviet-era ethnic labels in favor of a Ukrainian national identity and despite generations of Russian influence, adopting the Ukrainian language as their own.

Within three years, much of the nation-building progress would be undone as ambitious politicians in their 2004 and 2006 national campaigns sought to shore up popular support through divisive rhetoric underscoring *otherness* along Soviet-era ethnic lines. With the official Ukrainian state language at the center of much of the rhetoric, enforcement of the language policies became a political hot button. What had been a growing source of national unity became the evidence of ethnic minority oppression. The pursuit of nation-building efforts through enforcement of language policy had all but stopped by 2012 when a law was passed that undercut the Constitutional designation of Ukrainian as the state language.

This new law allowed regional languages to be used as de facto state languages in specific areas of the country where non-Ukrainian ethnicities were concentrated. Only two years later, Russian President Vladimir Putin would leverage this codification of multiculturalism as an ideological toehold to justify his invasion and annexation of the Crimean peninsula and support for separatists in the Eastern border region. In addition to providing a contextual background for the overall discussion of nation-building and language policy in Ukraine, this paper will describe the cause and effect relationship between divisive political rhetoric, the *Regional Language Law's* impact on a successful nation-building effort, and the Russian-backed civil war that continues to this day.

As peoples, Russians and Ukrainians…are racially indistinguishable; their languages are distinct but mutually comprehensible; their cultures and histories are closely intertwined; and their religious affiliations, where applicable, are both Christian in orientation.–Dr. Ian Bremmer

Background

A substantive discussion regarding the nature of the nation-building efforts in Ukraine cannot be had without first reviewing the relevant terminology and related history as it differs from the contemporary Western view. Although there are numerous sub-variants and minor distinctions to the basic premise, social scientists generally agree that two basic models of nationality exist. The Western, or Civic-based model, is grounded in state citizenship and generally separate from any other racial or ethnic designations.[2] Thus, the nationality of a citizen is determined by membership to the *nation-state* construct and reinforced by his or her individual will to participate in the institution.[3] This form of nationality requires new members to assimilate by aligning their personal identity with a common cultural identity and consequently produces a highly homogenous and unified culture.[4] The most powerful component of this Western, nation-state model of nationality is the common language.[5] Anthropologists and sociologists consider the language of daily use to be the primary determinant of a people's social behavior and attitudes.[6]

Conversely, the Eastern or ethnicity-based, model of nationality is founded on the common heritage of a people and promotes the ethnic or tribal affiliation above all other criteria.[7] In it, the borders of a state are artificial constructs that lack sufficient legitimacy to define where a nation of people begins and ends. By definition, ethnicity is "the fact or state of belonging to a social group that has a common national or cultural tradition"[8] and as such, is not necessarily related to an individual's genetic race or religious faith. The Eastern model labels an individual as belonging to a specific culture at birth, regardless of whether or not that person will go on to practice any of the 'cultural traditions' assumed to be associated with their designated ethnicity.

As members of the USSR, the Ukrainian people lived for 70 years under strict Soviet *ethnic nationality* policies.[9] These policies recognized over 100 official national ethnicities within the USSR. An individual's lifelong ethnic nationality was administratively established and documented at birth, without the possibility of future modification. In fact, the only means of migration from one ethnic nationality to another was through the offspring of marriages between different ethnicities, known as *mixed marriages*. In such cases where a child was born, the mother was given the opportunity to choose the child's ethnic nationality as that of her own or the father's.[10] In the case of Ukraine, where the primary friction points are between ethnic Russians and ethnic Ukrainians, the two groups are for all intents and purposes one race, genetically categorized as members of the same Eastern Slavic family.[11] The degree to which the value of ethnicity differs between the two models of nationality is plainly obvious when considering the fact that only two of the 29 United States censuses conducted between 1790 and 2016 have bothered to record even the most cursory ethnic data.[12]

Language policy in the Ukrainian region under Russian imperial rule and later Soviet administration also deserves brief discussion as this history forms the terrain through which current Ukrainian nation-building efforts must navigate. During the 1860s, Russian Emperor Alexander II initiated a policy designed to increase the prominence of the Russian ethnicity and strengthen the position of the Russian language in the borderlands. This policy has since been coined "*Russification*."[13] Through Russification, the Ukrainian language and culture were systematically marginalized by a number of oppressive measures including decrees overtly banning any public use of Ukrainian, written or verbal.[14] These policies continued through the fall of the empire in 1917 and barring a brief period of Stalinist support for regional languages in the 1920s and 30s, would persist in varying degrees under Soviet administration until Perestroika and Glasnost in the later 1980s.[15]

Predictably, under both imperial rule and Soviet administration, the Russian language gained ideological supremacy as it was the primary language used in official public business and public settings, while Ukrainian was restricted to use in private settings.[16] Through years of use in their separate domains, Ukrainian came to be associated with low social status, ruralism, illiteracy, and poverty while Russian came to be identified with authority, urbanity, and economic influence.[17] By 1989, only half of all Ukrainian children were educated in Ukrainian and those who were also received compulsory Russian language and literature education.[18] Thus societal pressures joined with Soviet educational and institutional policies favoring Russian to clash with the historical, familial use of Ukrainian and the result would be a largely bilingual Ukrainian society.

The Ukrainian Soviet Socialist Republic (UkSSR) conducted a census in 1989 just before the collapse of the Soviet Union. The data from this census shows a total population within the borders of the UkSSR of 51.5 million people.[19] Of these, 32.8 million considered Ukrainian to be their native language and another 3.7 million indicated that although it was not their native language, they spoke Ukrainian fluently.[20] There is, unfortunately, no data to indicate what percentage of the population spoke Ukrainian at any intermediate level below fluency. The same 1989 census reported 34.3 million people spoke Russian either as their native language or fluently.[21] This data shows that when the 5.2 percent of the population who indicated they spoke another language altogether are excluded, a full 75 percent of the people of Ukraine spoke Ukrainian fluently and 45 percent of the 48.8 million people were fluently bilingual in both Russian and Ukrainian.[22]

In short, the 51.5 million people who became citizens of an independent Ukraine in August 1991 were an abnormally homogenous group when viewed through a Western anthropological lens. Approximately 95 percent of them were of the same Eastern Slavic genetic family.[23] A full three-quarters of them spoke Ukrainian fluently while another unspecified percentage were capable of speaking the language to some lesser degree. They shared a deep common regional history of subjugation and authoritarian rule and a unified contemporary

cultural goal as evidenced by the results of their independence referendum vote. The independence referendum saw 84 percent of eligible voters participate with an overwhelming 90 percent of them in favor of establishing an independent Ukraine.[24] This single-mindedness became the foundation on which President Leonid Kravchuk and the Ukrainian leadership would attempt to erect a new Ukrainian nation-state by transforming the existing popular solidarity into an enduring national unity.

Discussion

Language is the blood of the soul into which thoughts run and out of which they grow.- Oliver Wendell Holmes, Jr.

Although to Western eyes the Ukrainian populace appears to have been uniquely unified on August 24, 1991, in the Eastern ethnocentric mindset under which the people had been raised, their state contained many nations. In the minds of the people, they each retained a nationality tied to a Soviet-era designation of ethnicity. To unify the people of Ukraine under a single national identity in the Western model, President Kravchuk's challenge was nothing short of changing the way 51.5 million people thought about themselves and their relationship to the state.

To accomplish his task, Kravchuk would need to break from the regional paradigm and institute a systematic nation-building approach to governance that would promote inclusiveness and deemphasize ethnic divisions while maintaining popular support throughout the long transition to a Ukrainian nation-state. His first actions in this regard were actually taken before the independence referendum and would very clearly broadcast his intent to move toward the Western model. The official statement declaring Ukrainian sovereignty on July 16, 1990, stated "citizens of the Republic of all nationalities constitute the people (narod) of Ukraine…,"[25] the *Ukrainskyi narod*.[26] Where *Ukrainskyi natsiia* had been the Ukrainian ethnic nationality, the new term *Ukrainskyi narod* described a Ukraine that encompassed citizens of all ethnic nationalities.[27] With this announcement came the news that all Soviet citizens living in Ukraine on the date of independence could receive Ukrainian citizenship regardless of their language or ethnicity.[28] These first steps would set the tone for the next decade's progress toward national unity.

Social scientists have long recognized language as the key component of ethnocultural identity. They point to studies showing how spoken language defines *social collectivities* whose members either feel solidarity with those who speak their language or distance from those who do not.[29] A society's social stability and development are tied in an inversely proportional manner to the number of these language-based *social collectives* it supports. In that same vein, they believe that diversity of language use is actually detrimental to intergroup co-operation and national unity.[30] Referring specifically to Ukraine, Dr. Abel Polese wrote that language was "possibly the most important identity boundary in the country, given that it is the most tangible

one."[31] For this reason, President Kravchuk and his government placed the promotion of a Ukrainian state language as the cornerstone of their nation-building efforts.[32]

In the mid to late 1980s, the USSR experienced a period known as *Perestroika* or "restructuring" under Russian president Mikhail Gorbachev. One of Gorbachev's slogans for the Perestroika political movement was *Glasnost*, meaning "openness." Perestroika and the concept of Glasnost ushered in major changes in Soviet policy, among them was the significant relaxation of control over the constituent republics. This loosening of the reigns allowed the first seeds of Ukrainian nationalism and independence to take root.

Besides the basic political freedom to declare independence, the most significant advancement toward Ukrainian national unity to come from this period was the passage of the 1989 *Law on Languages*. With passage of this law, for the first time since the 1920s, the status of the Ukrainian language was elevated to a position equal to Russian within Ukraine. The preamble of the law states, "The development…of the Ukrainian language as the state language of the [UkSSR] and the Russian language as the language of the interethnic communication of peoples of the [USSR]…shall be the duty of the state, party and public bodies…."[33] This law unambiguously made Ukrainian language education a duty of the state and provided the first incremental move towards a single Ukrainian state language. Education reforms driven by the 1989 law and empowered by the independence vote saw the percentage of children who received their primary school education in the Ukrainian language up from 47.9 percent to 62.8 percent nationwide between the 1991 and 1998 academic years.[34] A policy was established in 1993 requiring all higher education applicants to pass a Ukrainian language entrance exam.[35] Correspondingly, higher education taught in Ukrainian increased from 36.8 percent to 51.2 percent between 1993 and 1996.[36]

With significant momentum behind them, Ukrainian lawmakers labored from 1991 to 1996 in the painstaking work of drafting and ratifying a new Ukrainian Constitution with the establishment of a Ukrainian national identity at its core. One example of the unified political will surrounding the Ukrainian nation-building effort can be seen in the 1994 Presidential election. A few months before the elections, President Kravchuk signed a law requiring the Ukrainian president to speak Ukrainian.[37] "Not only did Leonid Kuchma, the main candidate to presidency and winner of the 1994 elections, start learning Ukrainian during the presidential campaign, he also continued speaking Ukrainian until the end of his political career in 2004."[38] Though many Ukrainians consider him to have been too conservative in his approach to the pace of what came to be called "*Ukrainization,"* Kuchma was a champion of pro-Ukrainian linguistic policy in the name of nation-building and oversaw the ratification of the new Constitution.[39]

The Constitution's ratification in June 1996 marked a sea change in the momentum toward a Western model of Ukrainian nationality. The Constitution's various articles strengthened the position of the Ukrainian language while attempting to avoid alienating those

citizens who did not consider themselves ethnic Ukrainians. Article 2 asserted the state's unitary and indivisible nature. Article 3 established a single Ukrainian citizenship. Article 10 established Ukrainian as the single state language and required its promotion in all spheres of social life throughout the territory while guaranteeing the protected use of Russian and other minority languages. Article 11 required the state to promote and develop the Ukrainian nation and guaranteed the promotion of the cultural identities of ethnic minorities. Article 12 established a state responsibility to meet cultural needs of a diaspora, and Articles 21-68 established a bill of rights for Ukrainian national citizens.[40]

With a Constitutional mandate in place and the will of the people behind them, Ukrainian legislators continued down the path toward national unity. In 1998, ethnicity was completely removed as identifying data from Ukrainian passports.[41] Just five years after ratifying the new Constitution, Ukraine conducted the 2001 statewide census. The conclusions drawn from the census results where remarkable. Dr. Wolczuk summarized them for a prominent European journal by writing, "As a result of this large-scale ethnic reidentification, the proportion of ethnic Ukrainians has increased from 72.7% to 77.8% and the number of Russians has declined from 22.1% to 17.3% of the overall population of Ukraine."[42] In short, the Ukrainian nation-building effort was working. Ukrainian citizens who had been ethnic Russians under the Soviet system were re-identifying themselves as Ukrainian in staggering numbers and embracing the Ukrainian language as their own.[43]

Unfortunately, events would soon conspire to dampen and even reverse the positive trends illustrated by the 2001 census. The contest for the 2004 Presidential election saw the sitting Prime Minister Viktor Yushchenko, an ethnic Ukrainian from the Sumy region in the North, pitted against Viktor Yanukovych, a former Prime Minister and ethnic Russian from the Donetsk region in the East of the country. Yushchenko's platform centered around the economy, democracy, eliminating corruption, and the continuation of Kuchma's policies of *Ukrainization,* while supporting European Union (EU) and NATO membership.[44] Yanukovych took a different path with his campaign, choosing instead to promote the idea of ethnic Russian persecution at the hands of the ethnic Ukrainians.[45] Media outlets amplified the rhetoric by portraying the contest between the two men as a "conflict between Eastern and Western Ukraine…,"[46] even going so far as to label Yushchenko a "nashist," or Ukrainian Nazi for his promotion of the Ukrainian language.[47]

Yanukovych's divisive ethno-nationalist rhetoric had devastating effects on the centrist, Western style national-democratic momentum that had been gained over the previous fifteen years. Enforcement of the Ukrainization policies became a political hot button. Attempts to promote the Ukranian language became evidence of *Russophobia* to Yanukovych and his supporters.[48] Campaigns for the 2006 Parliamentary elections only deepened the wound. Although ultimately unsuccessful, Yanukovych's fiery campaign rhetoric had shown politicians in predominantly Russian-speaking areas a new tactic. Crimean politicians soon demanded a

local referendum on the status of the Russian Language.[49] Immediately following the referendum push in Crimea, the Eastern oblasts, and cities of Kharkiv, Sevastopol, Yalta, Kryvyi Rih, Donetsk, Luhansk, Dnipropetrovsk, Zaporizhzhia, and Mykovaiv adopted decisions upgrading the status of Russian in one manner or another.[50]

The likelihood that the state would "ensure comprehensive development and functioning of the Ukrainian language in all spheres of social life"[51] as guaranteed by the Constitution began to look very remote. Victor Yanukovych ran for President again in 2009, this time defeating Yuschenko. Not long after his inauguration in 2010, a law was passed authorizing individuals to defend themselves in court speaking Russian if their Ukrainian was not sufficient.[52] By 2011 observers noted there was no enforcement of language policies, and no formal punishment existed for failure to abide by them in any case.[53] The year 2012 would bring a crippling blow to the progress towards national unity with the passage of what would come to be called the *Regional Languages Law*. This law undercut the Constitutional mandate to implement Ukrainian as the sole state language by allowing regions with greater than 10 percent "ethnic minorities" to establish and use an *official regional language.*[54] Instead of being a unifying force, language policy on Ukraine had devolved into a debatable complex of laws.[55] Then in November of 2013, Yanukovych would set Ukraine on a path to inevitable conflict by turning his back on the West with the cancellation of plans for an EU trade deal.[56]

With the Ukrainian population strongly in favor of Western ties, massive protests immediately erupted in Kiev. Speaking on behalf of the assembled protesters, opposition politician Vitaly Klitschko stated: "If this government does not want to fulfill the will of the people, then there will be no such government, there will be no such president. There will be a new government and a new president."[57] The ninety days that followed would see ever-increasing violence as government forces cracked down and protestors reinforced. Late in February 2014, the pro-Russian Yanukovych was impeached and fled the country while Speaker of Parliament Oleksandr Turchynov was sworn in as his replacement.[58] By this time unfortunately, Russian President Vladimir Putin had already set his sights on Ukraine.

Within a week of Yanukovych's ouster, Russian forces "swarmed the major thoroughfares of Crimea…encircled government buildings, closed the main airport and seized communication hubs…."[59] The Ukrainian government, already in turmoil, was unwilling to escalate the situation by attacking Russian forces. Without a single shot fired, the Ukrainian Government signed a Treaty on March 18, 2014, ceding the territory of Crimea to Russia.[60] Despite vigorous protests and international condemnation, no European nations intervened in the aggression. Although he stated versions of his justification for Russia's actions earlier, President Putin summarized his official position in a July 2014 address to the Atlantic Council with, "In Ukraine, as you may have seen, at threat were our compatriots, Russian people and people of other nationalities, their language, history, culture and legal rights, guaranteed, by the way, by European conventions. When I speak of Russians and Russian-speaking citizens I am referring to

those people who consider themselves part of the broad Russian community, they may not necessarily be ethnic Russians, but they consider themselves Russian people."[61]

Putin's words in this statement were carefully chosen to exploit the gray area in international law, which recognizes 'the defense of its nationals from imminent threat' as justification for one state to enter another state without consent.[62] By referencing the Eastern model of ethnic nationality, Ukrainian citizens who identify themselves as ethnic Russians met the standard for his protection. President Putin offered a much more detailed version of his justification in a speech on March 18, 2014. In it, he blatantly ignored facts in an attempt to rationalize Russia's actions by denouncing Ukrainian nation-building efforts as a form of cultural genocide; "we hoped that Russian citizens and Russian speakers in Ukraine…would live in a…civilized state…Time and time again attempts were made to deprive Russians of their historical memory, even of their language and to subject them to forced assimilation."[63]

You can sway a thousand men by appealing to their prejudices quicker than you can convince one man by logic. – Robert A. Heinlein

Conclusions

The cause and effect relationship is relatively straightforward in this case. The Ukrainian government's failure to implement its own thoughtfully conceived language policies meant the state could not transition to a Western nation-state model. With Ukrainian citizens self-identifying according to their Soviet-era ethnic labels, Russia was afforded enough maneuvering room in international law to claim a right to protect the "Russians" in Ukraine. Russia's altruistic "protection" of people resulted in Ukraine's loss of two million citizens and a 10,000 square mile piece of sovereign territory in under three weeks.

Clearly, the linguistic and ethnic histories of Ukraine and Russia are crucial factors in understanding the overall state of language policy in Ukraine. They have been provided here as contextual background for the broader discussion on nation-building and the focused conversation on language policy. The 1989 *Law on Languages* marked the beginning of what should have been a new era for Ukraine. The Constitution drafted in 1991 was purpose-built to unify the population. In 2011 a renowned scholar noted, "Language policies in Ukraine seem well targeted and have prompted a conversion of the population to a Ukrainian identity"[64] and those policies identify the "Ukrainian language as a clear mark of a national identity."[65] The 2001 census delivered irrefutable evidence of the language-focused nation-building successes.

Though recently it seems no nation's political process is above divisive rhetoric, the unrestrained and unsubstantiated accusations on Ukraine's national stage in 2004 proved positively cancerous to its embryonic national identity. By allowing Yanukovych's words to take root, the Ukrainian people divided themselves. Instead of assimilating into a Ukrainian identity, many chose to hold on to the ethnocentric system. With this came a systematic undermining of the language policy that had been specifically drafted to unify the nation. Given

the historical and regional context, the resistance is understandable but no less corrosive to what had been a unified national effort.

The author maintains that the two models of nationality described in this paper are incompatible within the borders of a single state. Coexistence will inevitably lead to conflict as those who adopt the state's national identity set themselves as superior to those who do not. Those citizens who maintain their ethnic nationality will inevitably demand concessions and exclusions based upon their unique status. The seeds of division will be sewn, and tension will mount as each side accuses the other of discrimination, disloyalty, or oppression. The inevitable clashes will eventually lead to the state's rebirth under one model or the other.

Victor Yanukovych's victory in the 2010 Presidential election was the point of no return for Crimea and potentially a Ukraine in the Western model. His complete dismantling of the language policy with the *Regional Languages Law* ensured Soviet-era ethnic labels would remain through Putin's 2014 Crimean annexation and beyond. Only time will tell whether the Ukrainian citizens can commit themselves to unifying under a single Ukrainian nationality after all that has been said and done.

A man's country is not a certain area of land, of mountains, rivers, and woods, but it is a principle and patriotism is loyalty to that principle. – George William Curtis

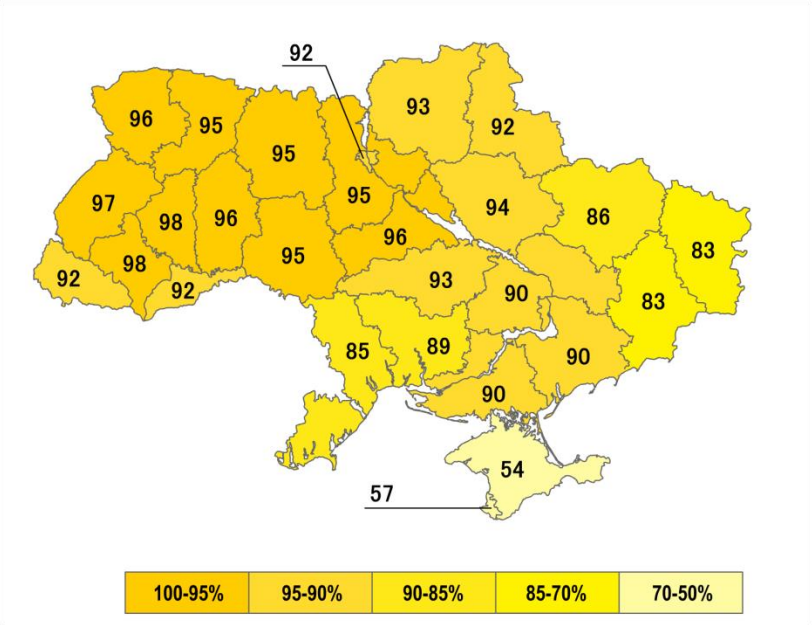
Recommendations

- Within days of Russian forces flooding onto the Crimean peninsula, Secretary of State John Kerry was quoted as saying "Russia has been working hard to create a pretext for being able to invade further."[66] Less than six weeks later, unmarked Russian forces began combat operations in Eastern Ukraine.[67] Despite Putin's denial of their activities, Russian forces continue to conduct combat operations inside eastern Ukraine nearly two years later.[68]
- In response to the entire Crimean crisis, the Ukrainian parliament immediately moved to repeal the 2012 *Regional Languages Law* and return Ukrainian to primacy.[69] Fearing further Russian aggression in response, the Organization for Security and Cooperation in Europe (OSCE) pressured Ukrainian officials to reconsider.[70] Two years on, the 2012 law has not been repealed. Recent news from Kiev indicates an appetite for significant Constitutional reforms. While specifics are difficult to nail down, it appears the focus will be on a continuation of nation-building in the Western model.
    - Though the temptation to avoid provoking Russia will certainly cast a shadow over any nation-building deliberations, Ukraine must reassert its right to self-determination by reestablishing Ukrainian as the single state language. The inclusion of measures like those in the 1996 Constitution, which offered other languages significant accommodation and protection, remains crucial to ensure the peoples' willing participation in the process. However, failure to transition to the nation-state model through a unity of language will simply prolong Ukraine's existence as a "breakaway republic," inevitably and indefinitely fated to Russian subjugation.

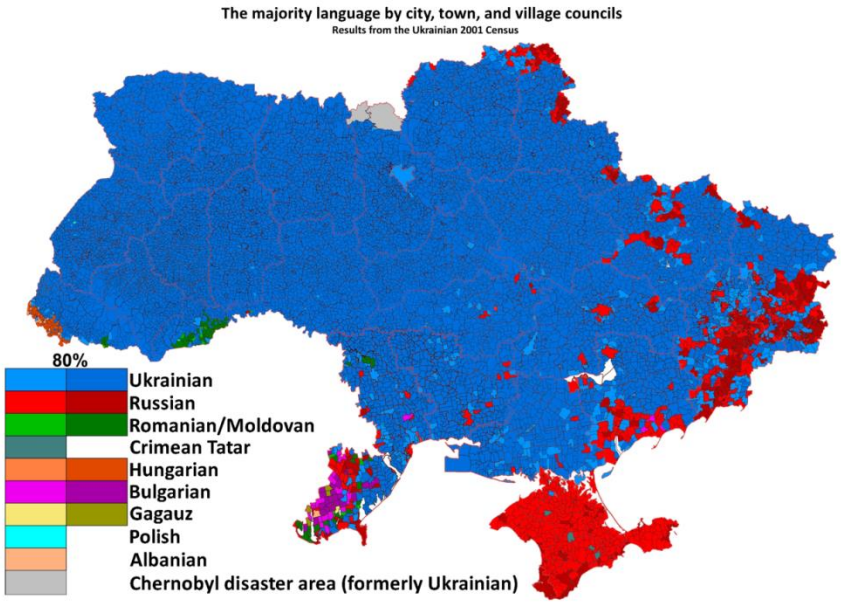
Appendix A

Relevant Statistical Data

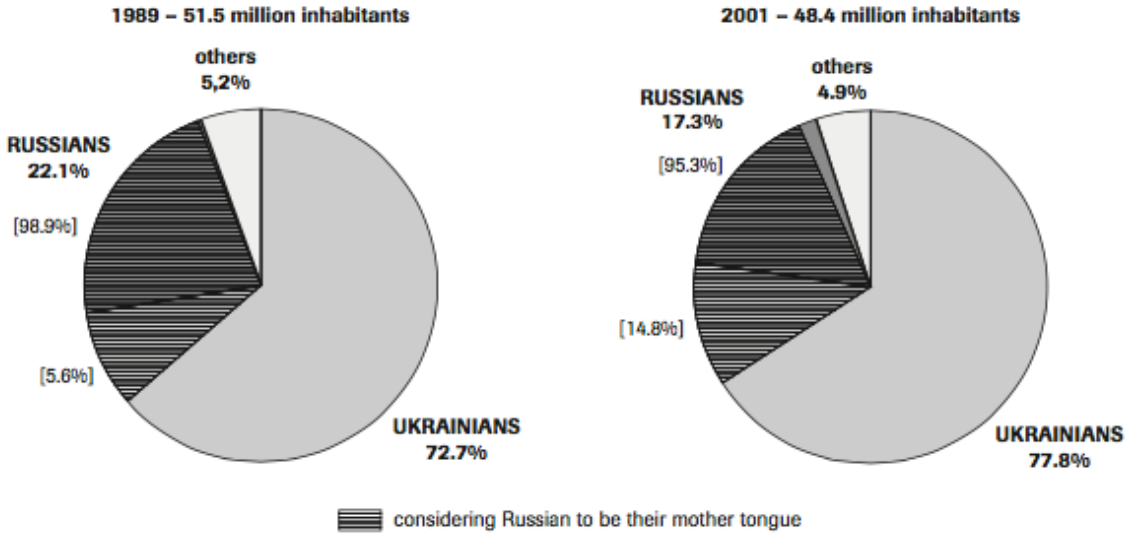
Support for 1991 Ukrainian Independence Referendum Vote by Region[71]



Predominant Language Spoken by Region Within Ukraine[72]



Ukraine's Entho-Linguistic Structure According to 1989 & 2001 Censuses[73]



Source: Natsyonalny sostav naseleniya SSSR po dannym vsesoyuznoy perepisi naseleniya, Moscow 1991; www.ukrcensus.gov.ua

Ukrainian Population Percentage by Self-identified Ethnicity (1989 & 2001)[74]

	2001	1989
Ukrainian	77,8	72,7
Russian	17,3	22,1
Belorussian	0,6	0,9
Moldovan	0,5	0,6
Crimean Tatar	0,5	0,0
Bulgarian	0,4	0,5
Hungarians	0,3	0,4
Romanians	0,3	0,3
Poles	0,3	0,4
Jews	0,2	0,9
Armenians	0,2	0,1
Greeks	0,2	0,2
Tatars	0,2	0,2
Gypses	0,1	0,1
Azerbaijanis	0,1	0,0
Georgians	0,1	0,0
Germans	0,1	0,1
Gagauzians	0,1	0,1
Others	0,4	0,4

Source : http://www.ukrcensus.gov.ua

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Religion, Identity, and Political Orientation in Ukraine

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Introduction

The Euromaydan protests that drove President Viktor Yanukovych from office and precipitated the current conflict in Ukraine were not just confined to the streets. The conflict also played out in the country's churches. Since the collapse of the Soviet Union, religion has played an increasingly important role in Ukrainian life. The churches, now revitalized after decades of communist suppression, have advocated for their own political viewpoints regarding relations with Europe and Russia. What has emerged from the milieu is a cultural conflict popularly framed as a battle between two Ukraines: one oriented toward Western Europe, and another oriented toward Russia.

This paper argues that religious identity influences individual positions on whether Ukraine should be oriented toward Western Europe or Russia. Humans are social creatures and the groups to which they belong shape their values and beliefs. Religious followers have been influential in shaping the politics of many countries, from Hindu nationalists in India to Christian evangelicals in the United States to Sunni Islamists in a number of Middle Eastern countries. One suspects that in Ukraine, a place where the Orthodox Church has long been intertwined with the state, religious denominations would also exert an influence upon individual political action.

It is hard to establish a direct link between religious identity and political viewpoint because so many other factors are also involved. Language, geographic region, socioeconomic status, education, age, and party affiliation all influence identity and political viewpoints. Therefore, this paper will try to measure the effect of religion indirectly by evaluating demographic studies of the Ukrainian population. The investigation focuses on three areas: (1) the denominations to which Ukrainians belong; (2) how frequently they attend services (i.e., how religious are they?); and (3) the stated political positions of the denominations. By this method, one can build a circumstantial case about the degree of religious influence on individual political positions.

This paper is organized into six sections. First, it discusses Ukraine's current religious demographics and traces their historical evolution. Second, it explains how religion shapes Ukrainian identity and individual political orientation. Third, it describes the relationship between religion and the state, and it explores the political views of the churches themselves. Fourth, it discusses the complexities of the current “two Ukraines” dichotomy. Fifth, the conclusion emphasizes the paper’s key points. Finally, it offers some recommendations to U.S. policymakers and military leaders about this sensitive topic.

Current Religious Demographics and Historical Influences

Ukraine has long had a reputation as the Bible Belt of former Soviet states. Even in 1985, during the first year of Soviet religious liberalization, the number of baptisms and church-consecrated marriages in Ukraine rivaled that of the Roman Catholic Church in the Netherlands.[1] The constitution guarantees religious freedom, and the country has both a wider variety of denominations and a larger percentage of regular attendees than do other former Soviet states.

Some comparisons with Russia highlight the difference. Ukraine is three times smaller than Russia but has four times the religious infrastructure.[2] Ukraine has three different Orthodox churches, an Eastern-rite Catholic Church, a Roman Catholic Church, a growing Protestant community, and smaller numbers of Jews and Muslims. Of the 46 million people living in Ukraine in 2009, an estimated 63 to 66 percent of the population adhered to a religion; in Russia, the figure was 50 percent.[3] Some 14 percent of these Ukrainian adherents reported attending church services weekly; in Russia, it was 3.6 percent.[4]

The variety of religious denominations in Ukraine is a product of the country's history as a borderland between Europe and Eurasia.[5] That history begins with Kyivan Rus', a medieval kingdom along the Dnieper River that many Ukrainians and Russians consider the birthplace of Slavic civilization. The kingdom is an integral part of the identities of each nation, which has resulted in many disagreements over the centuries about which one is the rightful heir to this legacy.[6]

Orthodox Christianity took root in Kyivan Rus' after Prince Volodymyr converted in 988 CE. All three Ukrainian Orthodox churches, as well as the Russian Orthodox Church, trace their origins to Volodymyr's baptism. Volodymyr converted from the pagan religion of his Viking ancestors to wed Anna, the sister of the Byzantine emperor.[7] In one act he achieved what the previous rulers of Rus' had been unable to secure by force – legitimacy over regional competitors and greater influence with Eurasia's most powerful state.[8] Volodymyr promptly set about baptizing his subjects and Rus' was rewarded with its own church province.[9]

The power of Rus' would not last, however. In subsequent centuries the territory was overrun first by the Mongols and later by the Ottoman Empire and various European powers. The Russian Orthodox Church in Moscow assumed control of Ukrainian congregations when the Ottomans took Constantinople in 1453. After the Polish-Lithuanian Commonwealth absorbed western Ukraine, the Union of Brest in 1596 brought Orthodox congregations in this region under the control of the pope in Rome and created the Eastern-rite Catholic Church (hereafter referred to as the Ukrainian Greek Catholic Church, or UGCC).

Tsarist Russia ultimately absorbed much of the territory that is associated with Ukraine today. When the Russian Empire collapsed in 1917, the Ukrainian Orthodox churches followed the lead of their congregants and declared independence from Moscow, forming the Ukrainian Autocephalous Church (UAC). Both the UAC and the UGCC were vigorously suppressed

during the Soviet era, when the Russian Orthodox Church became the official outlet for what little religious expression was allowed.[10]

When the Soviet Union collapsed, however, the UAC re-emerged. In addition, the existing Russian Orthodox Church in Ukraine split into two factions. One Ukrainian Orthodox Church continued to answer to the Moscow Patriarch (UOC MP) but sought greater autonomy in church affairs. The other tried to establish a new autocephalous Ukrainian Orthodox Church, one with a Kyivan Patriarch (UOC KP) that would be completely independent of Moscow.

The Soviet collapse also sparked a surge of interest in evangelical denominations like Baptists and Pentecostals. Catherine Wanner, a religious researcher, has attributed the growth in Protestant denominations to Ukraine's relatively permissive religious climate, the democratic nature of these religious groups, and dissatisfaction with the Orthodox churches over their ongoing power struggles and their complicity with communist leaders during Soviet rule.[11]

Ukraine also has a relatively small number of Roman Catholics, Jews, and Muslims. Roman Catholic congregations of the Ukrainian Catholic Church (UCC) are concentrated in the western Ukranian regions that were once Polish, Hungarian, or Slovakian.[12] The Jewish population, which once formed a vibrant rural community of 2 million people, has been reduced to about 100,000 after the violence of the 19th and 20th centuries.[13] Most of the country's 250,000 Muslims are Tatars living in Crimea.[14] The Tatars are descendants of the Mongols who converted to Sunni Islam under the Ottoman Empire.

Most Ukrainians today remain solidly in the Orthodox Christian tradition. Nearly half the Orthodox population is split between the UOC KP and the UOC MP.[15] Between the two, the UOC MP has more parishes, but the UOC KP has more members.[16] The remaining 26 percent simply describe themselves as “Orthodox” without specifying a denomination.[17] The UGCC has another 8 percent of the population, while the UAC has only 1 percent.[18]

Each church’s followers tend to be concentrated in specific regions. The UAC, UGCC, and UCC are located in western Ukraine, in the areas that were once part of the Polish-Lithuanian Commonwealth or Austro-Hungarian Galicia.[19] The UOC KP draws much of its support from Kyiv and central Ukraine, while the UOC MP, with its ties to the patriarch in Moscow, is strongest in southern and eastern Ukraine.[20]

Ukraine has long been a deeply religious country. The diversity of its religious institutions today is the result of its history at the crossroads of Europe and Eurasia. Conquests by stronger neighbors have each left their mark on its religious traditions. The next section examines how these traditions have shaped the individual identities and politics of Ukrainians.

The Relationship Between Religion, Identity, and Personal Politics

For much of human history, religions have provided their followers with an identity, a purpose in life, and a sense of community. "For the secret of man's being is not only to live but to have something to live for. Without a stable conception of the object of life, man would not consent to go on living, and would rather destroy himself than remain on earth, though he had bread in abundance," wrote the great Russian novelist Fyodor Dostoevsky.[21]

This section examines how an individual's religious denomination and their degree of religiosity affect their personal politics. The relevant questions are: Which groups of Ukrainians affiliate with which denominations? Are some groups or denominations more religious that others? Is there a relationship between the level of religiosity and personal politics?

Fortunately, there is a wealth of data from which to draw. After the Soviet Union collapsed, citizens of many post-communist nations searched for new institutions that could provide them with a sense of stability. Sociologists studied these countries to understand the societal changes produced by such a large institutional breakdown. As a result, many studies have recorded the changes in Ukrainian cultural identity during the last 25 years.

In Ukraine, as in many other post-communist countries, people turned to religion. More than 75 percent of Ukrainians responding to the European Values Survey of 1999 identified themselves as religious.[22] Between 1988 and 2003, churches in Ukraine grew rapidly, adding hundreds of religious centers and opening more than 12,000 new Sunday schools.[23]

Of course, not everyone responded in the same way. Viktor Yelensky, a religious researcher who is also a member of the Ukrainian parliament, analyzed responses from more than seven major surveys conducted between 1992 and 2009. Yelensky's analysis found that those younger than 28 and those older than 60 showed the greatest increases in religious self-identification.[24] Women were more religious than men; people with less education were more religious than those with higher levels of education.[25] The least religious of all were those who had come of age during the great Soviet achievements of the 1960s.[26]

In 2008, most Ukrainian believers (56 percent) described themselves as at least somewhat religious.[27] However, there were regional differences in religious affiliation and degree of religiosity. Western Ukraine had the highest level of religiosity, while eastern Ukraine had the least. "The average western Ukrainian attends church 22-23 times a year; the average central Ukrainian 11-12 times a year; and the average eastern/southern Ukrainian 7-8 times per year," wrote Yelensky.[28]

The relationship between religiosity and political preference seems to depend on denominational affiliation. Survey respondents from the UGCC, UAC, and UCC – churches that are concentrated in western Ukraine – reported higher levels of religious influence on their political preferences.[29] "Affiliation with one of these previously banned churches was a

powerful predictor against left-wing [communist] voting," wrote Yelensky.[30] Members of the UOC KP take their church's political stance into consideration slightly more often than do members of the UOC MP – 12.3 percent to 9.5 percent, respectively.[31] As noted in the historical overview, the UOC KP is strongest in central Ukraine and the UOC MP is strongest in eastern and southern Ukraine.

Religion can exert a large influence even if church attendance is small. What really matters, explains sociologist Michał Wawrzonek, is the possibility "... for religion to exert an influence on people's thinking concerning fundamental institutions of the social and political system."[32] Such an opportunity exists in Ukraine, where religious institutions have become important symbols of identity in post-Soviet life.[33] Yelensky describes the environment as one of *tserkovnost'*, or "churchness," where religion is thought to have revived the nation and personal belief (if not actual practice) is a mark of respectability.[34]

In total, religious believers reported a higher confidence in NATO and a greater preference for a political orientation toward Europe than did non-believers.[35] However, religious affiliation and religiosity vary by age, gender, socioeconomic status, and region. Western Ukraine has the highest percentage of believers, while Eastern Ukraine has the highest percentage of non-believers. (Non-believers may still identify themselves as culturally Orthodox.)[36] For example, some respondents from Donetsk and Simferopol (12.2 percent and 35 percent, respectively) reported in a 1995 survey that their religious affiliation was with the Russian Orthodox Church, even though the churches in that area belong to the UOC MP.[37] What these respondents seem to be saying, Yelensky argues, it that they identify themselves with Russia.[38]

The one religious area where social and regional cleavages do not align so neatly is among evangelical denominations. In 2010, evangelical Christians accounted for about 2 percent of the population.[39] These denominations are growing throughout the country because they offer people a new identity and they are considered to be democratic.[40] Wanner notes that these churches challenge traditional ties and have important future implications for changing cultural identity.[41]

Religion in the Political Life of Ukraine

This section examines the third research area: the politics of the Ukrainian churches. Religion has long been tied to ruling power. When the Roman emperor Constantine legalized Christianity in 313 CE, he gained divine legitimacy as the *de facto* head of the Christian church. But the Protestant Reformation and the Enlightenment ended the divine right of kings long ago, leading to the separation of church and state that is enshrined in many Western constitutions today.

The situation in the Orthodox East is a bit murkier. Orthodox Christianity was largely untouched by the Protestant Reformation.[42] In fact, most Orthodox churches seek to achieve a

state of *sobornost* (wholeness) with the nation and its people, binding itself up in the identities of both.[43] The citizens of these countries recognize the tremendous influence of the Orthodox churches in shaping their nation's history and culture.[44] As a result, many Ukrainians (and many Russians, too) consider themselves to be culturally Orthodox even if they are not religious.[45]

To understand the current political dynamic between the Ukrainian government and its churches, one must also examine Russia. There are two reasons. First, the Russians exert influence in Ukraine through both the Russian Orthodox Church and the UOC MP. Second, the Russians established a precedence for integrating religion into the state apparatus during the Soviet era.

During the Cold War, Soviet administrators approved all Russian Orthodox Church appointments and the KGB used church officials to infiltrate European organizations, said Marcel Van Herpen, the director of the Cicero Foundation think tank.[46] While today's relationship between the ROC and the Russian state is less overt, the Church is still an instrument of state power. Sergey Lavrov, Russia's foreign minister, has said "… the Church engages in tackling the same tasks as does diplomacy … I repeat, we do one big work very necessary for the country."[47]

Maxim Trudolyubov, an editor at Russian business newspaper Vedomosti, argues that Russia has been "waging an all out cultural offensive" because it allows them to take advantage of the post-Soviet resurgence in religious interest while suppressing secular values that might threaten the autocratic government.[48] For example, ROC priests have campaigned against closer ties with Western Europe in former Communist-bloc states such as Moldova and Montenegro.[49] In Ukraine, some Protestants have accused the ROC and UOC MP of providing material support to the separatists operating in Donbas.[50]

For Ukraine, the divisions among the country's Orthodox churches complicate their efforts to achieve *sobornost* with the state. These divisions are not doctrinal, Wawrzonek argues, but are instead the result of centuries of Russian (and later Soviet) efforts to destroy uniquely Ukrainian institutions and leave the country without a unifying identity.[51] The disputes concern "... the relationship to Ukrainian independence, the place of religion and the Orthodox Church in the Ukrainian political system, and the form of Ukrainian identity and geopolitical and civilizational orientations," wrote Wawrzonek.[52]

Many Ukrainian clerics mobilized in support of the Euromaydan protests of 2013 and 2014. Lubomyr Husar, the former leader of the UGCC, spoke at the protests.[53] When the demonstrations turned violent, the UOC KP protected those fleeing the violence and announced the church's unconditional support. "Our Church is together with the people. It supports Ukraine entering the European Union. We pray to God that he will help us enter the European Union and in order to keep our statehood, to keep peace and to improve the life of the people," said Filaret, the patriarch of the UOC KP.[54]

The UOC MP and the ROC took a different view. Both accused their rivals of encouraging the unrest and leading Ukraine astray. Hilarion, a metropolitan (archbishop) of the UOC MP, told the Interfax news agency the clerics "… urged protesters to take radical steps."[55] Kirill, the patriarch of the ROC, took a more moderate tone but warned that the conflict would create a division from "… the Russian world, the great Russian civilization that came from the Kievan baptismal font."[56]

The views of the churches carry significant weight in Ukraine. Surveys show that more than 66 percent of Ukrainians have some degree of trust in religious organizations, more than twice as many as those who had some degree of trust in government institutions.[57] This distrust of government is probably due to the failure of communist institutions in the late 1980s and the endemic corruption of the modern Ukrainian state. In 2015, nonprofit advocacy group Transparency International listed Ukraine as "highly corrupt," ranking it at 130 of 167 countries on its Corruption Perceptions Index.[58]

The churches, therefore, offer their followers both a cultural identity and a political orientation. The UAC and UOC KP both strongly support Ukrainian nationalism and independence from Moscow.[59] The UGCC, which also practices in the Orthodox tradition, and the UCC are also staunchly nationalistic.[60] Meanwhile, the UOC MP is split. Some clergy members support greater ties with Europe, while others support strong Russian influence.[61]

Sociological studies support the hypothesis that religious identity, coupled with the political position of the religious organization themselves, influence individual political orientation. "Statistical tests indicate a very strong relationship between choice of religion and region, and between choice of religion and nationality," wrote political scientist Gretchen K. Gee, based on a 1992 study completed in the immediate post-communist period.[62]

This pattern seems to have become more pronounced in the intervening years. Western Ukrainians are more likely than eastern Ukrainians to be religious, to be influenced by religion, and to belong to a church that strongly supports an independent Ukraine and a European orientation. Eastern Ukrainians are more likely to be non-practicing or non-believing – though they may also consider themselves to be Orthodox – and to support a Russian orientation. The picture that emerges, then, is a popular dichotomy of two Ukraines: a Western-European one and an Eastern-Russian one.

More than Two Ukraines?

The two Ukraines dichotomy is not universally accepted. "To speak of two Ukraines, east and west, is oversimplifying no less than speaking of 'two Belgiums' (Flemish and Walloon), 'two Americas' (Democrats and Republicans), 'two Italies' (north and south), 'two Frances' (Paris and the rest), etc.," said Tatiana Zhurzhenko, a political scientist from eastern Ukraine.[63]

Eastern Ukrainians want an independent Ukraine, Zhurzhenko said, but they do not want Ukrainian identity to be defined solely by the ethnic or linguistic characteristics of western Ukraine.[64] A May 2014 survey by the Pew Research Center offers some support for Zhurzhenko's argument. The survey reported that 70 percent of eastern Ukrainians, including 58 percent of Russian speakers, thought Ukraine should stay united.[65]

Historian Marc Jansen writes that years of Soviet rule have created so many "fluid identities" that one could use them to construct any number of different Ukraines.[66] For example, Ukrainian divisions based on language might produce four distinct identities: Ukrainian-speaking Ukrainians, Russian-speaking Russians, Russian-speaking Ukrainians, and Ukrainians who speak a mixed Russian-Ukrainian language.[67] The biggest problem, argues Mykola Ryabchuk, a writer from western Ukraine, is that the country achieved independence from the Soviet Union before it had established a clear conception of itself as a nation.[68]

Nevertheless, the two Ukraines construct is useful for understanding the major cleavages in Ukrainian society because so many of them seem to be correlated with one another. As the sociological studies show, Ukrainian-speaking Ukrainians tend to be associated with the more nationalistic churches of western Ukraine. Meanwhile, ethnic Russians and Russian-speaking Ukrainians tend to be associated with the Russian-leaning churches of eastern and southern Ukraine. These regional divisions are no accident. They are a product of history, as the people from each region grew up with different churches and had varying degrees of autonomy under the various conquering empires.

Conclusions

The conflict in Ukraine has been exacerbated by that country's internal battle over its cultural identity. Since the fall of communism, religion has played an increasingly large role in how Ukrainians see themselves and in their individual political orientations. Sociological studies over the past two decades show a strong correlation between religious denomination, language, region, and political orientation. The people of western Ukraine are more likely to belong to churches that advocate for an independent Ukraine with a European orientation, they are more likely to attend church regularly, and they are more likely to be influenced by their church's political views. Eastern Ukrainians, meanwhile, are likely to belong to churches that advocate strong ties to Russia. The political views of the churches carry significant weight in Ukraine because religious organizations enjoy a greater level of trust than do government institutions. Overall, religiosity is less important that identifying with a particular denomination. In some ways, one's church has come to symbolize one's politics.

Recommendations

- There is not much that U.S. policymakers and military leaders can do in this area to shift the balance in favor of Ukraine. The onus is on Ukraine to create an inclusive narrative that could unite its various cultural identities, which has given Russia the opportunity and the

pretext for intervention. Some Ukrainian politicians have encouraged the competing Orthodox churches to unite – a good first step – but so far none have succeeded. The State Department should encourage Ukraine to develop an inclusive narrative but must recognize that it is ultimately Ukraine's responsibility to do so.

- In the meantime, it is possible that Russia could overplay its hand in Ukraine. Zhurzhenko, the political scientist, said many eastern Ukrainians want Ukraine to remain an independent state. One assumes they appreciate Russian assistance insofar as it helps them push for a more inclusive view of Ukrainian identity, one that is not explicitly tied to the western Ukrainian language, culture, or religion. But eastern Ukrainians may turn against Russia if it is too aggressive in weakening Ukraine or if it mistreats its supporters in Donbas.
- If the Ukranian government does succeed in crafting a unifying narrative, EUCOM may have an opportunity to help Ukraine wage an information operation to deliver that story to its target audiences. Whether EUCOM should do so will depend on legal restrictions and the geostrategic circumstances at that time. Is Russia a greater threat than before? Does the benefit of subverting Russia in Ukraine now outweigh the cost of retaliation, either in Europe or somewhere else? These are the considerations for that future day.
- For now, American evangelicals are the ones who can continue exerting U.S. soft power in Ukraine by supporting the missionary work of their denominations. Since the conflict began, evangelical groups in Donbas have expanded their presence, distributing aid and proselytizing to residents.[69] However, U.S. policymakers should be aware that Russia and their separatist proxies likely will consider this a state-sponsored project and may retaliate against American interests. Unfortunately, the cultural dimension of the Ukrainian conflict is not likely to get clearer – or easier – anytime soon.

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[3] Sorokowski, "Religion in Ukraine," 72.

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The EU Association Agreement versus Membership in the Eurasian Economic Union. Did Ukraine make the right choice?

Nicolas Liche CDR, German Navy

1. Introduction

Since its independence in 1991, the Ukraine has seen various governments which failed to put in place functioning institutions and, concurrently, failed to set the conditions for continuous growth of Ukraine's economy.[1] Despite favourable initial economic conditions after the Cold War,[2] reforms put in place have turned out to be ineffective and inconsistent; external circumstances and crisis put an additional burden on the country's economy and stability. At its core, however, economic development is and was essentially linked to Ukraine's strategic orientation, be it a western orientation and a move towards the sphere of the European Union (EU) or an eastern orientation towards Russia. It is therefore not surprising that the current "Ukraine crisis was imminently preceded by competition between the EU and Russia for the future geo-economic orientation of Ukraine".[3]

Beginning in 2007, the EU and Ukraine negotiated an Association Agreement including a free trade area as the core element of the agreement. Russia, on the other hand, offered membership to the Eurasian Customs Union, also including a free trade area. In fall 2013, shortly before the planned signing of the Association Agreement,[4] both Russia and Ukraine were alerted to the potential adverse economic consequences of the EU Association Agreement when further details became public.[5] Russia reacted with a set of "countermeasures",[6] which finally led to President Viktor Yanukovych's decision not to sign the Association Agreement with the EU. The rapid sequence of events that followed is well known: Euromaidan, the subsequent overthrow of the elected president and the choice of a pro-western path by the new leadership which served as the catalyst for the Ukraine crisis.

But was that choice - from an economic perspective - the right decision to lead Ukraine towards a better future? Due to the country's industrial structure and shape, its main trade partners being the Commonwealth of Independent States (CIS) countries, the dependence on Russian gas, and not least due to the high price Ukraine had to pay for its decision to associate with the EU, this paper argues that membership in the Eurasian Economic Union (EAEU)[7] would have been a valid alternative and perhaps even the better choice for positive economic development.

2. Main Body

2.1. Eurasian Economic Union versus the European Union Association Agreement

The following section forms the basis for the argument of this paper. It will outline key tenets of the EU Association Agreement and the EAEU, clarify differences and current challenges of each organisation.

According to Victor Khristenko, the chairman of the Board of the Eurasian Economic Commission, the "Eurasian Economic Union is the response to global challenges. By extending the economic integration," it "will expand the domestic market making it more transparent and clear for entrepreneurs and investors."[8] The EAEU replaced the Eurasian Customs Union as an organisation and incorporated the Customs Union into the legal framework of the EAEU.[9] The EAEU treaty was signed in May 2014 by the presidents of Russia, Belarus and Kazakhstan and came into force on January 1, 2015. Armenia and Kyrgyzstan joined the Union later the same year. Other countries have indicated their interest to become members.[10] The EAEU's core function is to provide a common economic area, "ensuring free movements of goods, services, capital and labour within its borders, as well as coordinated, agreed or common policy in the economic sector".[11] The EAEU treaty also clears the way for closer coordination of monetary policy which could lead to a currency union at a later stage. Its institutional design resembles the EU framework.[12] The EAEU's highest decision-making body is the Supreme Council, consisting of the heads of the member states. At a lower level, the heads of the member states' governments form the Intergovernmental Council. The EAEU's executive body is the Eurasian Economic Commission, a permanent supranational organisation, which is responsible "to support the operation and development of the Union, and drafting proposals in the field of economic integration."[13] Although the EU treaty was taken as an example for the drafting of the EAEU's treaty, political integration is not formally amongst the goals of the EAEU.[14]

However, it is evident that the EAEU is not only about economics, but is for Russia at least as important regarding geo-strategic integration. For a long time, Moscow has sought to secure its interest in the post-Soviet space, and with the EU offering an alternative to closer ties, the EAEU acts as a way of institutionalising Russia's control over the region.[15] This approach could also be seen as the Russian approach to counter the EU's ambitions for an eastern enlargement.

The European Union, on the other hand, has its origins in the European Coal and Steel Community and the European Economic Commission, formed in the 1950s.[16] Since the end of the Cold War, it has sought economic and political integration of the former Soviet states. In 2004, ten new Member States joined the EU (mostly former Soviet republics), followed by Romania and Bulgaria in 2007.[17] After these accessions, the EU launched a new initiative in 2009, the Eastern Partnership, in order to strengthen relations with another six eastern neighbours,[18] including Ukraine.[19] On that path, the EU-Ukraine Association Agreement was developed. According to the European External Action Service, the EU Association Agreement

"is a pioneering document: it is the first agreement based on political association between the EU and any of the Eastern Partnership countries, and is unprecedented in its breadth (number of areas covered) and depth (detail of commitments and timelines)."[20] The main aim of the agreement is to strengthen political and economic ties, foster common values and to gradually integrate the former Soviet republic into the EU internal market. The agreement which has in the meantime been ratified by all EU Member States includes a reform agenda for Ukraine, which is to align its legislation with EU standards. It also provides for reforms to strengthen democracy, the rule of law, the protection of human rights and to fight corruption.[21] It is unique in many aspects and, therefore, provides a new, comprehensive type of integration in nearly all political and economic facets, but without the prospect of membership.[22] It can be argued, however, that the economic association mainly serves as an incentive for political integration, i.e. strategic association towards European values.

The Deep and Comprehensive Free Trade Area (DCFTA) and closer economic cooperation stand at the core of the Association Agreement.[23] It contains extensive detailed and binding provisions on Ukraine. Advanced economic integration is not limited to tariffs but also includes legal and regulatory adaptation of EU standards and norms.[24] The DCFTA will be implemented progressively, with Ukrainian business rules changing step by step over a minimum of ten years and for some areas, even longer. In order to help Ukraine to launch and sustain the reform process, the EU rewarded a financial aid package of 11 billion EURO in support of Ukraine over the next few years.[25] However, the provision of financial assistance will explicitly depend on the achievements of the reform progress.

From an institutional perspective, association with the EU seems to be more beneficial than membership in the EAEU, mainly due to the EU's proven comprehensive structure, going far beyond strictly economic cooperation, unlike the EAEU's formal provisions. However, the choice for the western orientation is connected with risk, as the EU is in its biggest crisis since its foundation. The EU has been facing massive challenges: the threefold economic, financial and EURO crisis, international tensions in the Arab world and the refugee crisis.[26] Increasing nationalism in many Member States and EU scepticism has threatened the EU's cohesion. There are rising numbers of EU citizens that are unfavourable vis-à-vis the EU. Across several countries, citizens rather consider the EU a risk instead of an opportunity.[27] The Brexit has been the latest sign of that development.

On the other hand, the EAEU is still a very young organisation, so there cannot be a thorough appraisal of the expected effects on the economy of the Union's member states. The so far relatively modest economic success of the EAEU can be deeply linked with the Ukraine crisis and the following sanctions from either side. [28] Nonetheless, the EAEU could succeed in the future for two main reasons. First, Russia's accession to the World Trade Organisation will make the EAEU a more attractive and lucrative trade partner. Second, the EAEU includes a broad range of deep integration measures and payments for poorer countries.[29]

2.2. Requirement for foreign investment

As outlined above, Ukraine will have to conduct institutional reforms at the state level as well as in the private commercial sector, in order to benefit from the access to the European market. A huge burden will lie on the Ukrainian producers which urgently need investments to modernise their production and infrastructure, including the adaptation of EU standards. According to the EU Commission, a considerable amount of investments has to be provided by the Ukrainian companies themselves as well as by foreign private investors.[30] It is questionable that this can be successful.

While Ukrainian industry is desperately seeking such private foreign investors, potential investors require stabilisation as a pre-condition to be the first place to settle. This vicious circle risks destabilising the economy even more before reforms take place.[31] Currently, the attraction of foreign direct investment is extremely tough for the country. Compared to approximately seven billion US Dollars (foreign direct investment inflows) in 2011 and 2012, investments saw a nearly complete stall in 2014, with only about 300 million US Dollars and an increase to some three billion US Dollars in 2015.[32] Concerning the FDI inward stock, which represents the value of foreign investors' equity in and net loans to enterprises resident in Ukraine[33], it is interesting that Cyprus is by far the most important single investor in Ukraine, accounting for nearly 30 percent of the inward stock.[34] This phenomenon points to the presence of "round-tripping" and foreign (such as CIS countries, e.g. Russia) or internal investors channelling funds to Ukraine via Cyprus, an EU Member State.[35] Foreign companies' reluctance to make investments in Ukraine is mainly based on the adverse geopolitical environment. Although the situation in the rest of the country is very different from that of the occupied areas in the east and south, many enterprises and institutions refrain from investing even in the stable parts of the country.[36] Furthermore and despite the substantial efforts the Ukrainian government has put into reforms, there are three major obstacles for many companies to invest in the Ukrainian economy: deficiencies in the legal and judiciary environment, corruption and financial sector inadequacies.[37]

There is only one in-house resource for investments: the oligarchic clans which are a major factor in both Ukraine's politics and economy. Unlike classic economic enterprises, the oligarchs use the strategy "power-money-power" for asset generation. Through access to state power the oligarchs "secure their economic interests and make profits", which they use to expand their political power.[38] In order to reduce corruption and limit the oligarchs' influence on future Ukrainian politics, the EU's and other stakeholders' investment in the Ukrainian industrial sector is crucial. However, one of the most serious objections against the Association Agreement relates to the will and capacity of the EU to face the obligations arising from the agreement.[39] An amount of 160 billion US Dollars has been mentioned as necessary to modernise the Ukrainian industry, although the European Commission considers this amount to be unreasonable.[40] It seems obvious, though, that internal financial and economic crises resulted in the EU being too distracted to support Ukraine as a priority.[41]

2.3. Ukraine's economy – predestined to do trade with Europe or Russia?

Over the past ten years, the Ukrainian economy has seen periods of boom (2004-2008), bust (2008-09), tepid recovery (2010-2013) and another period of bust since the beginning of the crisis. During the boom phase from 2004-2008 Ukraine experienced significant capital inflows while the economy benefited from favourable prices for exports.[42]

In 2015, the GDP in Ukraine was worth approximately 90 billion US Dollars which represents 0.15 percent of the world economy. The 2015 GDP was lower than that of 2009 (117 billion US Dollars) at the climax of the financial crisis and only a little higher than just after independence in 1991 (77 billion US Dollars).[43] After relatively low inflation before the crisis (average of 4.3 percent between 2010 and 2013), consumer prices increased to 12 percent in 2014 and up to nearly 50 percent in 2015. [44] Both the dramatic decline of the GDP and the high inflation are direct consequences of the conflict. Industrial production dropped dramatically (particularly in the area of Donbas) due to the ongoing fighting and instability in the east, as well as the disruption of trade links and power cuts.[45] Additional factors include the economic and other sanctions imposed against Russia two years ago, to which Russia responded with counter-sanctions, including against Ukraine. These measures were put in place in "waves" and extended multiple times.[46]

Ukraine's domestic industry is traditionally oriented towards exporting to Russia and other countries of the Commonwealth of Independent States (CIS), based on Russian standards of production. For some industrial sectors, Russia and the CIS offer almost the single possible market for Ukrainian goods.[47] The eastern orientation is particularly true for the industrial sector of Ukraine, as a major contributor to the exports. It plays a crucial role in the country's socio-economic development. Just before the crisis, in 2012, four dominant sub-sectors could be identified in this regard and are characterised by a high degree of export share: textiles, metallurgy, machine building and chemicals. These sectors will struggle to reorient themselves towards exporting to the EU because standards differ widely. The remaining sectors export less than 40 percent of their output.[48]

In the last decade, Russia has clearly been the key export partner for Ukraine, with an average of 24 percent of exports in the past ten years before the crisis; all member states of the Eurasian Customs Union accounted for an average of approximately 32 percent of exports. In comparison, the Member States of the European Union represented only some 20 percent of exports in the same timeframe. Poland and Italy were the most important European export partners, each accounting for some four percent of Ukraine's exports.[49] It is fair to say, however, that in the recent years before the crisis emerged, the exports to the EU slightly increased. Looking at export goods it can be stated that exports to the EU were mainly based on raw materials, such as grain, mineral products and base metals. Contrarily, exports to the EAEU countries comprised mainly industrial products, such as machinery and transport equipment.[50] The current shift in export towards primary sector goods is a development in the wrong direction.

The export of raw materials is more important in less-developed economies, whereas the export of manufactured goods represents a substantial part of the GDP, is the engine of economic growth and is crucial for all developed economies.[51]

2.4 Dependence on Russian gas

Traditionally, Ukraine was and still is economically dependent on natural gas imports from Russia. Approximately 25 percent of the gas consumption comes from domestic production; the rest is imported. Until 2012, almost all natural gas imports were directly from Russia or got through Russia into Ukraine. Even though parts of the natural gas were contractually bought in Turkmenistan, prices were influenced by Gazprom as the gas had to transit through Russian pipelines.[52] Over decades, Ukraine served as the main transit route for Russian gas to the European market. Prior to commissioning the alternate North transit route via the Baltic Sea in 2011, approximately two-thirds of Russian gas exports to Europe were transported via Ukrainian pipelines. Ukraine benefited from the nearly exclusive use of its pipelines, in terms of barter deals, receiving Russian gas for prices well below market price in exchange for cheap and secure gas transit to Europe.[53] Even before the current crisis, Russia was looking for alternative transit options due to earlier gas disputes between the two countries in 2006 and 2009.[54] As a consequence, the Russian dependence on the use of Ukrainian transit pipelines dropped to less than 40 percent at the end of 2013.[55] Given the decreasing importance of the Ukrainian pipelines for Gazprom since 2011, Ukrainian leaders found themselves in a much weaker position to negotiate for cheap gas prices. The Ukrainian economy is, mainly due to cheap gas from Russia over many years, very energy-heavy. Through Russian subsidies, the price of gas in Ukraine was far lower than in Russia itself. Ukrainian producers benefited from this advantage which allowed them the undercutting of Russian producers in their home market.[56]

However, cheap Russian prices are history, not least due to its decision for the EU Association Agreement and against the Eurasian Economic Union. In the early stages of Yanukovych's presidency, a 30 percent gas discount was negotiated with Russia in exchange for extending the lease for Russia's Naval base in Crimea until 2042. In a subsequent deal, at the end of 2013, Yanukovych was able to negotiate a further 33 percent discount, reportedly by refusing to sign the EU Association Agreement.[57] The political dimension of the Russian gas prices becomes obvious when we look at the gas prices for Belarus which have remained at low levels since 2000, despite European market prices rising dramatically in that timeframe.[58]

It is fair to say that Ukraine is seeking diversification of its gas imports, not least due to the gas dispute with Russia before winter 2014/ 2015. Thanks to the increased integration into the European gas market, nowadays Ukrainian gas imports come mainly via Europe. This gas is nevertheless Russian gas using reverse flows through Slovakia.[59] It is also worth mentioning that Ukrainian gas consumption has fallen by one-third since 2013, mostly because of lower household consumption, as well as the economic decline throughout the country.[60]

Despite lower consumption and Ukraine's attempts to diversify its gas imports, Ukraine remains heavily dependent on Russian gas. Signing the Association Agreement brought better options to integrate into the European gas market which is, however, nearly as dependent on Russian gas as Ukraine itself. Disputes over gas prices with Russia brought the country close to a collapse just before winter 2014/ 2015. Although it is ethically questionable to offer price discounts on gas in order to sweeten Ukraine's membership in the EAEU, as Putin did in late 2013, much better gas prices would have helped gas-dependent industries to remain competitive. Concurrently, the Ukrainian industry could have gained time to modernise its production.

That Russian gas is more than a mere economic factor is shown in a poll from 2014: more than one-third of the Ukrainian population stated that keeping Russian gas cheap would unite all of the country's regions, whereas only one-quarter of the respondents agreed that Ukraine's integration into the EU would do so.[61]

3. Conclusions

Ukraine, as well as other former Soviet states, is sandwiched between two regional trading organisations, the EU and the EAEU. Most of those countries decided to associate with one or the other organisation.[62] Ukraine's decision to pursue an alliance with the EU has come at a price, dramatically manifested by Russia's annexation of Crimea and its subsequent support to the separatist groups in eastern Ukraine. It is obvious that the West and Russia were not only competing for closer economic ties with Ukraine and better access to a market of 45 million people. This competition had a huge political dimension. Although both factors, economic and political, are deeply interconnected and difficult to separate, this paper mainly focuses on the economic dimension.

Despite the current euphoria surrounding European integration and suspicion about Russia in most parts of the population, particularly due to the recent Russian aggression, preferences have changed significantly over the past few years. Still in 2012, a majority of Ukrainians favoured the deepening of relations with Russia whereas the country was divided over the question of which economic integration path should be followed.[63] Notwithstanding the Ukrainian people's will and preferences, which changed severely over the past decade, there would have been good reasons for Ukraine to join the Eurasian Economic Union if one looks at facts and figures.

First, Ukrainian industry is traditionally oriented to trade with Russia and the former Soviet republics. Regarding quantity, EAEU countries, in particular Russia, have been the major trade partners. Although both exports and imports with the EAEU countries had dropped significantly after the implementation of western sanctions and Russian counter-sanctions, the increase of trade with the EU in the past two years could not nearly compensate for the losses. Regarding quality, exported goods to the EAEU differ significantly from those exported to EU member states. While Ukraine's second sector industry made good gains from exporting their

goods to the Russian market, western countries mainly import raw materials and low processed goods. The dominance of first sector goods in the structure of Ukrainian exports will likely further increase. This development contains risk, as exporting manufactured goods contributes more significantly to a higher GDP and, subsequently, to higher wages and life quality than exporting primary sector goods.

Second, there is an extensive requirement for mainly foreign investments in order to increase Ukrainian industrial productivity through new technologies and to modernise existing equipment. Investments would be crucial regarding a better access to the high-developed market of the European Union. Due to the ongoing crisis there is, however, not sufficient appetite of foreign companies to invest in Ukraine. Oligarchs are the almost exclusive in-house option to provide investment. This would, however, foster the division between poor and rich in the country which could increase social tension and cause further instability in society. Therefore, the EU and other western states will play a crucial role to help the Ukrainian industry to modernise. It is questionable that the rewarded 11 billion US Dollars by the EU will be sufficient in the short-term.

Third, Ukraine is still dependent on Russian gas. Due to the gas disputes with Russia in recent years, Ukraine suffers from higher gas prices. It successfully sought diversification of its gas suppliers and integration into the European energy market. Since 2014 the majority of imported gas has come through European pipelines into Ukraine. Paradoxically, it is still Russian gas, which has been exported from Russia to Europe. Membership in the EAEU probably would have guaranteed much lower gas prices which are particularly critical for Ukraine's heavy industry which is more dependent on gas than heavy industry elsewhere.

Finally, Ukraine decided to associate with an organisation which is in its biggest crisis ever. The European Union faces numerous challenges, political and economic. There is a decrease of cohesion amongst Member States whereas the United Kingdom is the first country to leave the Union. Given attitudes in other EU countries, it is possible that others will follow. Furthermore, dealing with the many challenges will require funding the countermeasures with EU money which is, at the same time, desperately needed to support the reform process in Ukraine.

Clearly, the thesis of this paper is purely hypothetical, as Ukrainian politicians have already made their choice for European integration and against Eurasian integration. The Association Agreement is currently like an unfulfilled promise which entails considerable risk for both Ukraine and the EU. However, it can also be the starting point of the smooth transformation of a former Soviet republic into a modern economy. Putin's reaction has become a game changer and, although crucial for Ukraine's economy, closer trade relations with Russia seem to be frozen at an all-time low. Therefore, Ukraine's economic development will finally depend on two major factors. Internally on the effectiveness of reforms put in place in order to be

able to compete with the European market and, externally, on the willingness of the EU and other stakeholders to support this endeavour through sufficient investments.

4. Recommendations

- While western support to Ukraine is crucial to foster its economic development, further diplomatic efforts are urgently required to solve the conflict in the eastern and southern parts of Ukraine. Only this can set the preconditions to abolish the sanctions which put an enormous burden on Ukraine's economic development.
- An incentive for a change to current Russian politics regarding Ukraine can be twofold. First, it must be made clear that Ukraine does neither become a member of the European Union nor of NATO from a near-term perspective. It is obvious that Putin cannot accept an anti-Russian regime. Ukraine should be given the time to develop civil society structures and an inclusive national identity - perhaps as a federal state. Economically, a "financial aid package" could be funded jointly by the EU, Russia and other stakeholders - an approach that should be supported even by Russia, as it would stabilise its western front yard.
- Second, offering closer trade relations with the Eurasian zone might lead into a free trade area between the EU and the EAEU, "from Lisbon to Vladivostok". The benefits of such an intensive economic cooperation cannot be dismissed. Advantages would be larger for Russia than for the EU; they could, however, contribute significantly to the economic and political stabilisation of the region. On the EU side, such intensive economic cooperation and, consequently, access to both the eastern and western markets would be particularly beneficial for the former Soviet states, including Ukraine.

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Applying an Indirect Approach to Ensure Ukraine's Long-term Security: Infrastructure Development is the Key

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…(it should be) the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures.[1]-- President Harry Truman before a joint session of Congress, March 12, 1947

If you compress the spring all the way to its limit, it will snap back hard.[2]-- President Vladimir Putin's address to the Russian Parliament, March 18, 2014

Introduction

The current conflict in Ukraine can be traced to President Yanukovych's decision in November 2013 to back away from the Association Agreement trade deal with the European Union. In response, several hundred thousand Ukrainians took to Kiev's Maidan Square in a series of protests demanding President Yanukovych's resignation and finalization of the Association Agreement.[3] In February 2014, after a series of escalations between protestors and government forces, President Yanukovych fled the country.[4] An interim government was installed, and President Poroshenko was elected and assumed office in May.[5] Western world leaders quickly recognized the Poroshenko government as the legitimately elected leadership of Ukraine, however President Putin vehemently disagreed.

Fearing the loss of control of a critical proxy state within Russia's sphere of influence, President Putin took action. A week after President Yanukovych's departure, unidentified pro-Russian gunmen seized control of government buildings in Crimea.[6] In his March 18, 2014, speech to the Russian Parliament, President Putin stated that Western leaders had "crossed the line" and acted "irresponsibly and unprofessionally" by supporting the protest movement and recognizing the new Ukrainian government.[7] On that same day, President Putin signed a bill absorbing Crimea into Russia.[8] By early April, Russian-backed separatists began seizing government administration buildings in eastern Ukraine, where fighting continues today.[9] Ukraine does not have the means to expel the Russians, and has requested assistance from the West.

To date, the United States has employed multiple instruments of power in response to Russia's aggression. The United States, in coordination with her European allies, has applied diplomatic pressure and economic sanctions. United States European Command has established a rotational force presence, and has conducted multiple joint military training exercises with the Ukrainian military.[10] Additionally, the National Defense Authorization Act for Fiscal Year 2016 (FY16 NDAA) directed the transmission of military assistance to Ukraine. Specifically, the legislation authorized transfer of $300 million in lethal and non-lethal military aid designed to "to provide appropriate security assistance and intelligence support, including training, equipment, and logistics support, supplies and services, to military and other security forces of

the Government of Ukraine."[11] As of November 2015, $260 million in non-lethal equipment has been delivered, but will have minimal impact on Ukraine's ability to defend itself.[12]

Ukraine's long-term security is more closely related to and dependent on its ability to have stronger, more substantive ties with Western Europe. As we have seen throughout history, increased trade and shared economic growth can strengthen diplomatic relations, and ultimately to the creation of alliances among nations. The value of this interdependence can be seen with the experiences of the Baltic States. One of President Putin's justifications for invading Ukraine was to protect the millions of ethnic Russians living within Ukraine's borders, but it is not that simple.[13] Like Ukraine, the Baltic States of Estonia and Latvia are within Russia's self-proclaimed sphere of influence, and both have increasingly turned to the West. Additionally, both Latvia and Estonia have a higher percentage of ethnic Russians than Ukraine (Latvia 27%[14]; Estonia 25%[15]; Ukraine 17%[16]), yet they were not invaded by Russia. The fundamental difference is their strong ties to Western Europe; Latvia and Estonia are members of both the North Atlantic Treaty Organization (NATO) and the European Union (EU). Ukraine's full integration within NATO or the EU remains unlikely in the near-term, but Ukraine's bonds with the West can be strengthened. However, this must be done in a way that does not further provoke Russian anger.

Rather than continuing to provide military aid, the United States should focus investments on improving Ukraine's infrastructure. A robust and modern infrastructure is critical to Ukraine's ability to integrate with Western Europe, and therefore more beneficial to its long-term security. Infrastructure development offers an approach that is less confrontational to Russia, while also providing Ukraine's armed forces with strategic and operational advantages not afforded by donated tactical military equipment. Finally, improved infrastructure will allow Ukraine to more fully capitalize on two key strategic opportunities.

Background: Current Status of Ukraine's Road and Rail Systems

Ukraine has an extensive, but aging transport infrastructure system inherited from the Soviet Union.[17] Since its breakaway in 1991, Ukraine has not had the financial means to fully invest in the proper maintenance and development of new infrastructure with detrimental results.[18] In 2010, the World Bank found that Ukraine ranked 102nd out of 155 countries in their Logistic Performance Index (LPI). Ukraine's LPI score was worse than all of its neighbors including Poland (30), Romania (59), Bulgaria (63), and Russia (94), and was falling further behind each year.[19] The 2016 Global Competitiveness Index (GCI) assessment reflected similar challenges. Of the 46 national areas assessed, Ukraine's transportation infrastructure was one of its weakest (39th of 46).[20] Additionally, Ukraine's road system ranked 134th out of 138 putting them on par with Mozambique (133), and again, well behind some of its closest neighbors Hungary (69), Poland (72), Russia (123), and Romania (128).[21] Specific challenges include insufficient road and rail networks connecting Ukraine to its European neighbors, several critical transportation bottlenecks, and a failure to meet EU road and rail safety standards (though

outside the scope of this paper, Ukraine's gas pipeline and air and seaport infrastructure exhibit similar challenges).[22]

Ukraine's transportation network is dominated by 14,510 miles of rail.[23] This makes Ukraine's railway the second largest system in Europe behind only Russia.[24] However, most of the track is the narrow gauge typical of the former Soviet Union, which complicates trade with Western Europe.[25] Additionally, pressing needs include replacing deteriorated track and mitigating bottlenecks at key junctions.[26] Although there are some express train routes connecting key cities, most of the rail system requires upgrades to allow for improved travel speeds.[27] Similar issues plague Ukraine's 172,400-mile road network. Only 49% of roads meet EU standards for smoothness and only 61% meet EU strength standards.[28] Additionally, there are very few high-speed motorways outside of those connecting major urban areas resulting in travel speeds that are 2-3 times lower than in Western European countries.[29] Finally, the on-going conflict in eastern Ukraine and Russia's annexation of Crimea have further impacted Ukraine's infrastructure. However, within the territory under Ukrainian government control, there is much to be done to enhance its current road and rail networks, and the United States can help.

Body

The military aid provided by the United States in unlikely to deter future Russian aggression for several reasons. First, even with this aid, Ukraine's potential combat power remains significantly lower than Russia's, and certainly not enough to completely deter them. Russia currently has 645,000 personnel in their active armed forces compared to 100,100 for Ukraine with correspondingly qualitative disparities across their armies, navies, and air forces.[30] Second, Russia has already achieved key objectives by annexing Crimea and gaining access to a critical Black Sea port, while also obtaining influence over future Ukrainian action by securing a foothold in the east. Third, Russia has previously demonstrated a willingness to maintain a status quo similar to the current state of affairs in eastern Ukraine. For the last decade, Russia has maintained similar "frozen conflicts" in Georgia, Azerbaijan, and Moldova.[31] In many ways, Russia has made the maintenance of these frozen conflicts in their near-abroad a vital national interest. Maintaining influence over Ukraine, more so than with these other nations, is of primary concern as President Putin views Ukraine as a part of Russia's historic territory.[32] In fact, providing even limited military aid to Ukraine is more likely to provoke Russia than to deter them.

Infrastructure Development as an Indirect Approach

President Putin has called NATO his nation's biggest national security threat.[33] He is particularly concerned about its placement of military infrastructure and capabilities closer to Russia's borders.[34] As the United States endeavors to support Ukraine, it must remain cognizant of Putin's concerns. There is a better option than military aid; one that calls for a more subtle approach.

Infrastructure development is inherently less provocative than military aid. It reduces the overt display of American and NATO presence on Russia's border, and is therefore less likely to trigger the direct military confrontation that neither Russia, nor the Western powers desire. This indirect approach is less likely to agitate Russian patience, or further "compress the spring."

Strong Infrastructure Increases Interdependence

In addition to its indirect nature, improved infrastructure also facilitates increased opportunities for trade and shared economic growth, and is clearly the desire of both the EU and Ukraine.[35] For example, the Deep and Comprehensive Free Trade Area (DCFTA) agreement went into effect on January 1, 2016. DCFTA offers the EU and Ukraine preferential access to their respective markets.[36] Specifically, Ukraine will now more easily reach the EU's 500 million customers with a combined GDP of $15 billion, while EU nations gain access to 45 million new customers and Ukraine's significant agricultural markets.[37]

Similarly, it is clear that leadership in both Ukraine and EU believe that improving Ukraine's infrastructure will facilitate increased integration. The EU-affiliated European Investment Bank (EIB) is investing $3.3 billion in Ukrainian infrastructure improvements through 2017, to "support the development of Ukraine and its economy and foster deeper integration with the EU."[38] While commenting on one recently completed EIB-funded infrastructure project, EIB's Vice-President emphasized that its purpose was to facilitate "closer connectivity, harmonization and integration" between the EU and Ukraine.[39] In another effort, the EIB is funding improvements to 350 kilometers of highway that extends out of Kiev and connects to the Trans-European Transport Network (TEN-T), the EU's priority roadway.[40] This complements a previous EIB-funded upgrade of the M-06 highway that links Kiev with the EU Member States of Hungary, Slovakia, and Poland, while also linking into the TEN-T.[41]

Similarly, the European Bank for Reconstruction Development (EBRD) has funded several rail and road projects designed to ensure compatibility with EU transportation networks.[42] One project nearing completion is the overhaul of the Beskyd Tunnel under the Carpathian Mountains of western Ukraine. When complete in early 2018, the new 1.8 kilometer long double-track will replace the single track laid in 1886.[43] The new tunnel will remove a critical bottleneck, and is expected to handle 60% of the transit freight passing from Ukraine to Central and Western Europe.[44] According to the head of Ukraine's construction effort, "This transport corridor is of great importance for the Ukrainian economy. It makes us closer to Europe in every way."[45]

There is sufficient historical evidence of the ability of robust infrastructure to facilitate economic and interdependence. One of the stated purposes of the Economic Cooperation Act of 1948, more commonly referred to as the Marshall Plan, was to "speedily achieve that economic cooperation…which is essential for lasting peace and prosperity."[46] It focused on "the establishment of sound economic conditions, stable economic international relationships, and the

achievement…of a healthy economy" for participating European Nations.[47] To achieve this goal, the Marshall Plan provided direct financial and resource assistance to Europe's participating countries, and rebuilding Europe's infrastructure was the cornerstone.[48]

The Marshall Plan is often described as history's most successful international assistance program, and the results speak for themselves. The Marshall Plan "laid the foundation of European integration, easing trade between member nations, setting up the institutions that coordinated the economies of Europe into a single efficient unit. It served as a prelude to the creation of the United Europe that we have today."[49] Further proof of its success is that it enabled the participating nations to "resist the attempted subjugation" of an aggressive and expansive Soviet Union. Those nations that were not a part of the Marshall Plan suffered a very different fate.

Similarly, within its own borders the United States has seen further evidence of the benefits on infrastructure development. According to a Department of Transportation study, the United States has a "rich history of investing in infrastructure and reaping the long-term economic benefits."[50] One needs to look no further than the advantages derived from development of America's railroad network during the 1800's and the national interstate system in the mid-1900s.

When completed in 1869, the transcontinental railroad integrated far-flung and diverse states like never before and transformed the American economy.[51] The railroad ensured a production boom as easier travel enabled growth by expanding markets and reducing the cost of distribution.[52] Within ten years, the railroad shipped $50 million worth of freight across the country every year, and it still serves as the backbone of the nation's infrastructure network.[53] America's interstate highway system provides a perfect complement to its rail network. Inspired by his observations of Germany's autobahn system after the First World War, President Eisenhower pushed for the development of an American equivalent. He recognized that in addition to the military utility, a developed road network would ease interstate commerce and benefit the American economy. It positioned the United States for improved international competitiveness, resulted in a significant increase in productivity, and has provided an estimated return on investment of over 600%.[54]

Infrastructure as a Weapon System

In addition to the potential for increased interdependence with Western Europe, developing Ukraine's infrastructure offers strategic and operational benefits for its military. According to Dr. Milan Vego, understanding a theater's infrastructure is critical to an operational commander's ability to plan and execute successful operations.[55] Dr. Vego also recognizes that fighting with the support of a "well-developed and diverse transportation system is highly favorable."[56] During the 19th century, sophisticated rail networks afforded similar military advantages. The Union's control of 70% of the nation's rail system greatly aided their strategic

and operational mobility, as well as their ability to sustain its forces during America's Civil War.[57] In Europe, rail was also critical to the German's early success during the Franco-Prussia War. According to Martin Van Creveld, "the German siege and bombardment of Paris, involving as they did the concentration in a small space of very large masses of men and heavy expenditure of artillery ammunition, would have been wholly impossible without the railways."[58]

Witnessing the autobahn's positive impact on Germany's early successes in the Second World War, and then leading the Allied advance eastward across Europe on those same roads had a profound impact on General Eisenhower.[59] Years later, President Eisenhower's vision of an American autobahn became a reality with the development of the National System of Interstate and *Defense* Highways. As the name implies, its purpose was not only to promote economic development, but to facilitate movement of "large numbers of military personnel and huge quantities of military equipment and supplies."[60] This became particularly important during the America's preparation for Operations Desert Shield and Desert Storm. According to United States Army Lieutenant General Kenneth Wykle, "The capacity of the U.S. highway system to support the mobilization of troops and to move equipment and forces to U.S. ports of embarkation was key to successful deployment."[61]

Strategic Opportunities

Finally, infrastructure development will help Ukraine take full advantage of two distinct strategic opportunities. First, Ukraine has a unique geographical advantage. In Robert Kaplan's book, *The Revenge of Geography*, he quotes Napoleon as saying, "to know a nation's geography is to know its foreign policy."[62] Kaplan makes it clear that a nation's position on the map has a significant impact on, not only its foreign policy, but the very destiny of that nation. Ukraine's location on the map affords it an incredible opportunity to expand its trade with Western Europe. Strategically located between Russia and Western Europe, Ukraine hosts one of the key east-west transport corridors between Asia and Europe.[63] Additionally, Ukraine's access to the Black Sea offers it the *potential* to be a key logistics hub for goods and passengers transiting between Europe, Africa, and the Middle East.[64] Second, geography has also graced Ukraine with incredibly rich soil providing it the opportunity to serve as Europe's breadbasket. A full 70% percent of its arable land contains the most fertile soil in Europe.[65] "Ukraine is a big answer to the question of how you feed the world. In Iowa, good black soil may be a foot deep. In Ukraine, its three or four feet deep," according to Steven Pifer, former United States Ambassador to Ukraine.[66] Once the breadbasket of the Soviet Union, Ukraine's black earth could help deepen trade relations with Western Europe, and international corporations have taken notice.[67] However, as CEO of AgroGeneration, John Shmorhun said, if Ukraine wants to increase its production capacity, they "must invest in infrastructure."[68] Simply put, Ukraine must have fully developed road and rail systems to fully exploit its geographic and black soil opportunities.

Counter-Arguments

Military aid is Ukraine's most urgent need

Some have argued that at this time, military aid is Ukraine's most urgent need. Former Deputy Secretary State and current President of the Atlantic Council Strobe Talbott said that Russian armed forces are involved in a literal invasion and occupation of eastern Ukraine, and "virtual annexation" of territory well beyond Crimea.[69] In a report co-authored by Ambassador Talbott and a bi-partisan group of foreign policy experts, they argued for Ukraine's urgent need for both lethal and non-lethal military assistance.[70] Many in Congress agreed with this view and funding approval sailed quickly through Congress.

However, there is no evidence that military aid will effectively deter Russian aggression. In fact, Ambassador Talbott went on to say that current aid levels are not "about giving the Ukrainian army enough to beat the Russian army. That's not going to happen."[71] In 2016, Russia spent $49.2 billion on defense compared to Ukraine's $2.4 billion, so even an urgent transfer of $300 million of military equipment is unlikely to have an impact.[72] Additionally, an October 2016 RAND assessment found that initiating significant reforms across many of Ukraine's defense agencies is a *more urgent* requirement.[73] The report stated that within Ukraine's security sector, there is a "range of deeply embedded problems that cannot easily be solved by foreign-provided weapons or assistance."[74]

The United States should not provide any aid to Ukraine due to rampant corruption

Since gaining its independence from the former Soviet Union, corruption has been a part of Ukrainian society. According to Transparency International, Ukraine ranks 138th out of 160 on its Corruption Perceptions Index putting it on par with Cameroon, Iran, and Nicaragua.[75] Similarly, Business Monitor International's (BMI) most recent assessment found that "systemic corruption" remains fully entrenched within the Ukrainian government and society, recently garnering attention in remarks by both President Obama and Vice President Biden.[76] Clearly, this is an area of concern that must be addressed, and some argue that the United States should not invest in Ukraine until significant progress is made.

However, the legitimate concern over corruption should not preclude the possibility of infrastructure funding support for several reasons. First, if the United States is willing to invest in Ukraine's military despite the current levels of corruption, then the same determination should be made with respect to infrastructure investments. As incentive, infrastructure investments can be linked to proof of progress in anti-corruption efforts. Another option is for the United States to mandate anti-corruption oversight and advisors as a requirement for support (as was done in the recent military assistance language of the FY16 NDAA).[77] Finally, and perhaps most importantly, the Ukrainian government recognizes their challenge and is working to address it. At the September 2016 Yalta Economic Seminar, President Poroshenko said, "Our main and most dangerous enemy is corruption. Too much time and resources have been wasted until now, instead of going for development and modernization of Ukraine. Fight(ing) against corruption is

our shared responsibility. For me, this is the top priority President's task."[78] His actions appear to match his rhetoric. Since taking office, President Poroshenko's office has filed criminal cases against several high-level government officials. Under his leadership, the government recently established a transparent system for government procurement, and has undertaken major reforms to the economy including the defense industry and banking system.[79] There is no doubt that it will take years for Ukraine's corruption reform efforts to fully take hold, but the Untied States can be a part of the solution.

Conclusion

A central pillar of United States' foreign policy tradition is a commitment to support those nations who are striving for democratic reform or facing a "menace to its freedoms." This as true today as it was in 1948, when President Truman articulated the doctrine that bears his name. Since its separation from the Soviet Union, and particularly following Russia's recent aggression, Ukraine is reaching out to the West for assistance. Along with European partners, the United States is determined to support an ally in need, but faces two distinct challenges. First, Russia is determined to retain influence over Ukrainian national policy, and has shown a willingness to use direct coercion and force to maintain it. To date, the United States and her European allies have not demonstrated a willingness to match Russian escalation and direct confrontation. Second, given the current fiscal realities, there is a limit to what the United States can prudently invest to facilitate Ukraine's security. The United States has already committed to providing Ukraine $300 million in military aid in 2016, with more aid packages likely to be proposed in the coming years. Given that the intent is to provide for Ukraine's long-term security within limited fiscal means and without further provoking Russia, a new approach is required.

Military aid will provide little to no deterrence to future Russian aggression, and may only increase Russian resentments. This calls for an indirect approach. Rather than providing military aid, the United States should pursue a more subtle approach by investing in the development of Ukraine's dilapidated road and rail infrastructure. This is a better course of action, because Ukraine's long-term security is most dependent on its ability to further integrate with Western Europe in a deliberate, considered manner. Developing Ukraine's infrastructure will increase interdependency with Western Europe, and potentially improve Ukraine's prospects for future EU or NATO membership. Additionally, infrastructure development will increase the Ukrainian military's mobility, while also enhancing Ukraine's ability to take advantage of key strategic opportunities. Simply put, investing in Ukraine's infrastructure is the best way to provide for its long-term security.

Recommendations

- Future American investments dedicated to advancing Ukraine's long-term security should be focused on infrastructure development. If Congress remains committed to providing military assistance, at least half of the planned American investment should be dedicated to enhancing

and modernizing Ukraine's infrastructure. The cost of the Beskyd Tunnel project, M-06 modernization, and TEN-T interface cost $103 million,[80] $218 million,[81] and $490 million[82] respectively. It is clear that $300 million, or even half that, can have a significant impact on advancing Ukraine's infrastructure.

- Through its regional banks, the European Union has several new Ukrainian infrastructure improvement projects in development. To the extent possible, the United States should partner with the EU to consolidate efforts and focus expertise. In order to address the legitimate concerns of corruption, all assistance packages must demand a continuation of reforms required to stamp out Ukraine's systematic corruption (as the FY2016 NDAA and EU's loan guarantees have required).
- Finally, the United States should focus on enabling Ukraine's potential to serve as a breadbasket for Europe. The EBRD is currently developing a $60 million grain trans-shipment terminal in the port of Odessa.[83] The United States should target investments on developing the road and rail networks that link Ukraine's agricultural region to the Odessa port.

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Dollars and Sense: Spurring Foreign Direct Investment and Trade in Ukraine

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Introduction

Though attempts at economic and structural reforms in Ukraine were made over the past several years, they have not been adequate or fully implemented. This has resulted in increasingly higher costs and risk levels, thereby creating a predominately inhospitable climate for potential investors and trade partners. Further measures addressing corruption, burdensome regulation, financial barriers, intellectual property rights, inequitable exposure to privatization and an antiquated infrastructure, among others, will create an environment more conducive to FDI and trade, thereby spurring Ukrainian economic development.

Ukrainian prospects following its independence from the former Soviet Union in 1991 looked promising. Geographically, it was the largest country wholly-European. Endowed with a large population and a relatively well-educated and skilled labor force, it had long benefited from its highly fertile land, the mainstay of a robust agrarian-based economy. Ukraine also stood to benefit from vast natural resources to include coal and iron. Despite these advantages, Ukraine has consistently failed to realize its economic potential, and its citizens are increasingly left behind from global economic development. Though external factors have certainly contributed to its woes, the vast majority of economic stagnation has been and remains self-induced.

The fundamentals of the Ukrainian economy since independence have enabled a resistance to and lack of incentive to change. At its core has and, largely, remains a reliance on cheap oil, minerals, and gas from Russia. In 2008, for instance, the price of gas from Russia was less than half that paid by Western nations.[1] Though cheap imports from Russia enabled Ukraine to produce goods cheaper than its competition in the short and medium terms, it reduced the incentive for Ukrainian businesses to innovate and invest in research and development. Significant economic growth between 2001 and 2008 based predominately on cheap Russian imports as well as substantial Ukrainian exports of metals and chemicals stifled further development and diversification of industry, thereby making Ukraine even more susceptible to external shocks to their economy. As in Russia and other former Soviet republics, the vast majority of this wealth was gained by a select few domestic entrepreneurs, or oligarchs, that enjoyed the favor of the government and insignificant peer competition.

Russia bears a great deal of responsibility for some of the greatest barriers facing Ukraine today to include a population overly reliant on the state:

The dependency upon the Soviet past has been extremely hard to overcome… evident in the high level of corruption, paternalism, administrative management, and aversion of innovation… Communism as an ideology and a form of social life defines the consciousness of people. Many people still expect the State to provide for the people, giving them a stable job that can last all life.[2]

This reliance has pervaded Ukrainian society for generations, and continues to represent a significant barrier to reform required to increase prosperity.

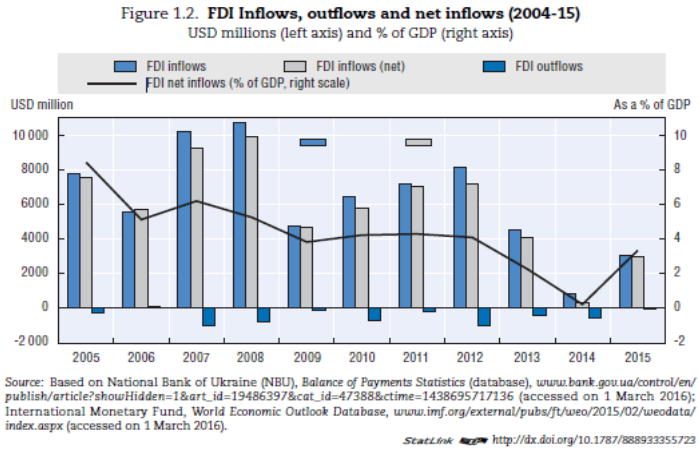
Though inward foreign direct investment (FDI) to Ukraine has been net positive since 1992, the bulk has been devoted to closed-sector services such as retail and finance, while the preponderance of developed industry inherited from the Soviet Union has been monopolized by domestic owners, or oligarchs.[3] As relatively little FDI was devoted to manufactured goods that would be exported and, thereby, exposed to foreign competition, Ukraine failed to capitalize on one of the main advantages of FDI – research and development.[4]

Fiscal policies were also instrumental to the lack of economic development. Bloated public expenditures grew increasingly out of balance with incoming revenue. Public pensions for 14 million of the nation's 46 million inhabitants soared from 9.2 percent of GDP in 2003 to 18 percent in 2009.5 In light of anticipated further reductions to Ukraine's population, the funding of Ukraine's generous pensions will continue to pose a significant issue to the nation's solvency moving forward.

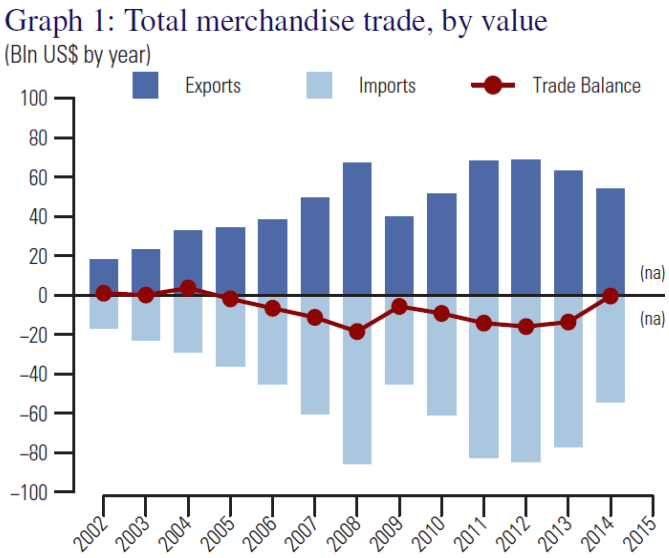
The European Bank for Reconstruction and Development (EBRD) offers an objective and quantitative assessment of developing nation's progress. In 1993, only four of thirteen indicators in Ukraine reflected any progress whatsoever. Though progress had been made by 2010, significant deficiencies remained, led by those nested in the financial sector, competition policy, enterprise restructuring, and infrastructure.[6] Clearly, Ukraine has consistently failed to institute meaningful economic reform.

Recent Developments and Current FDI and Trade Environments

In 2006, Russia began to retreat from its long-standing subsidy of gas exports to former Soviet nations, to include Ukraine. Coupled with the lack of economic progress and structural reform, Ukraine was particularly ill-equipped to deal with the global financial crisis of 2007-2008. Russian aggression and the subsequent annexation of Crimea followed by its undeclared occupation and seizure of assets in eastern Ukraine wrought full devastation to Ukraine's already fragile and faltering economy. FDI plunged 45 percent in 2013 and again by 81 percent in 2014.[7] Real GDP plunged 9.9 percent in 2015. Chart 1 below illustrates the steady rise in FDI prior to a significant drop following the global financial crisis, and again following the Russian incursion into Crimea and the east.



Source: OECD Investment Policy Reviews (Paris: OECD Publishing, 2016), figure 1.2.



Source: "Ukraine," UN Comtrade, accessed October 27, 2016,http://comtrade.un.org/pb/FileFetch.aspx?docID=6265&type., graph 1.

Ukraine's trade balance followed a similar pattern characterized by steady gains in exports after the turn of the century until the global financial crisis. After a brief recovery, exports took another hit as a result of the Russian incursions.

Despite this lengthy list of shortcomings, Ukraine has made significant progress. In 2008, it became a member of the World Trade Organization (WTO), which provided an impetus for a number of economic reforms, to include the opening of several sectors to foreign investment.[8] The government has been increasingly open to FDI, and the nation's new administration has offered a seemingly genuine dedication to pro-business reform. Ukraine has

secured a significant amount of debt relief and loan restructuring from the International Monetary Fund (IMF), which has been critical to its ability to fend off further deterioration of an already crippled banking sector. Though public debt grew to 82 percent of GDP in 2015 from 70 percent in 2014, Ukraine was able to restructure $19 billion of its debt in November 2015.[9] In fact, in 2014, Ukraine received the World Bank's "Most Improved" award due to deregulation and decreased bureaucracy, both of which had been significant barriers to investment in the past.[10] Arguably most importantly, the conflict in the east has de-escalated since September 2015, which offers the potential for increased confidence moving forward.

Investment Barriers

Ukraine could capitalize on this momentum by focusing efforts to attract Foreign Direct Investment (FDI). FDI can play an instrumental role in the vitality of a nation's economy. It can provide a vital source of financing, all the more critical in nations such as Ukraine that have significant barriers to domestic financing. It can be a key enabler of transformation, and ultimately, competition in the global marketplace.[11]

The main impediment to investment in Ukraine today is corruption. This has been the resounding consensus for years. In a survey conducted by the American Chamber of Commerce in Ukraine, 97 percent of the members agreed the number one issue in Ukraine remains corruption.[12] Corruption has been ingrained in Ukrainian society for generations. Korostelina describes, "Corruption has penetrated every sphere of life, at all level (sic) of society, starting from the top, and becoming a generalized moral phenomenon, and integrated style of thinking."[13] Potential foreign investors have little confidence in the Ukrainian regulatory, judiciary and banking systems based on years of abuse and lack of transparency. The absence of an impartial and fair avenue to adjudicate disputes is a major contributor to this lack of confidence. Government officials have often resorted to favoritism when making decisions. Bribes and irregular payments are common, as is poor ethical behavior of firms.[14] These shortcomings are exacerbated by poor corporate governance and a lack of transparency. There are inadequate shareholder protection rights, and weak auditing and reporting standards.[15] A historical lack of investigation and prosecution for corruption has enabled further erosion of investor confidence. The 2010 Transparency International Corruption Perceptions Index ranked Ukraine 134 of 178 nations worldwide, offering an objective illustration of the challenges facing potential foreign investors.[16]

Ukraine's prospects for genuine economic reform were enhanced when self-professed pro-business reformer President Petro Poroshenko took office in June of 2014. Coupled with requirements of IMF debt restructuring and WTO membership, his administration's efforts have made significant headway in addressing corruption. A National Anti-Corruption Board of Ukraine (NABU) was established, and a Prosecutor General willing to take more decisive action was appointed in February 2015. In March 2015, Supreme Court powers were enhanced and new rules were added resulting in increased fidelity and transparency to the selection and

discipline of judges.[17] Both a Business and Tax Ombudsmen have been appointed, providing an "independent advocate for business" and enabling public appeal to the government in circumstances of suspected corruption.[18]

Another historical barrier to investment has been Ukraine's tax policies. Personal and corporate tax rates have been consistently high relative to other emerging economies. Two taxes, in particular, have comprised the bulk of the state's revenue generation: the payroll or "unified social security contribution" (UST) and the value-added tax (VAT). The payroll tax, which stood at 41 percent before a recent reduction, was higher than the European Union average of 36.[19] Regarding personal income tax, Ukraine has traditionally had a progressive structure, with rates varying between 15, 20 and 25 percent, which were higher than most countries in the region.

Ukraine's tax system has also suffered from poor regulation and administration. Navigating Ukraine's tax system remains challenging and time-consuming despite recent reform. It has been "fraught with corruption, extortion, red tape, arbitrary police actions, and other illegal activities… Tax officials extort bribes from taxpayers…"[20] Foreign investors, in particular, have claimed that the tax system "is applied selectively to benefit particular factions or businesses."[21] There is a significant disincentive for workers to pay more than minimum wage in taxes, as there is no notable increase in the pension they would subsequently qualify. As a result, many businesses pay their employees partly in cash to avoid social-security contribution tax. These cash payments are estimated to be $17 billion per year, resulting in at least two million workers not appearing on tax rolls.[22]

All of these tax and administration factors have contributed to the prevalence of a vast underground, or "shadow," economy. Though the government estimates this to account for 34 percent of the official GDP, many assert it is likely much higher.[23] This has a profound impact on the state's revenues, exacerbating its fiscal woes, much to the chagrin of potential foreign investors.

Fortunately, there have been noteworthy reforms enacted this year. The employer UST was reduced to 22 percent for 2016. Additionally, worker UST taxes were abolished, thereby reducing the tax burden facing both businesses and individuals. The personal income tax was set at a flat rate of 18 percent. An electronic system to file and pay labor taxes has been introduced, which should alleviate the administrative burden as well as the opportunity for corruption. Further reform is needed, however, to create a tax climate and system that is conducive to foreign investment.

Financial barriers and fiscal policy have also reduced the attractiveness of Ukraine to foreign investors. Ukraine ranked third from last of 31 states regionally for financial barriers in BMI's Government Intervention Analysis.[24] Chief among the issues, public expenditures have been too large for too long. They have been misallocated and inefficient. The national

government's budget has not been published, resulting in a pervasive lack of public awareness and accountability. Another major financial barrier that has exacerbated Ukraine's tenuous fiscal situation is the lack of credit. Though the enactment of a flexible exchange rate was an important structural reform step forward, it exacerbated the devaluation of its currency, the hryvnia, which lost half its dollar value in a year between November 2013 and 2014.[25] This devaluation was all the more significant when coupled with inflation, which reached 25 percent by the end of 2014.[26] These effects led to massive bank losses, resulting in an even greater tightening of credit, which had already been reduced by the global financial crisis. The outbreak of separatist violence in the east has added greater uncertainty and further restricted lending, as evidenced by a 31 percent contraction of domestic credit in 2014.[27] As with the tax system, Ukraine's credit market lacks transparency. Enforcement of laws and regulations has been inconsistent, resulting in increased uncertainty for foreign investors. Unfortunately, there is little evidence to expect a significant change in the credit markets in the foreseeable future. Not only will this hinder domestic entrepreneurialism and the nation's overall economic recovery, but it will also further detract from Ukraine's ability to attract FDI.[28] Again, this is especially noteworthy in Ukraine, as a lack of liquidity and weak domestic capital markets largely preclude raising indigenous capital.

Ukraine's failure to sufficiently establish and enforce intellectual property rights (IPRs) is another major hindrance to foreign investment. Ukraine was designated a "Priority" Foreign Country in 2013 in USTR's Special 301 Report due to a lack of progress on this front.[29] Multiple companies claim illegal royalties, and the government has proven incapable or even willing to validate them. Internet piracy is rampant. Perhaps most tellingly, the Ukrainian government acknowledges many of its agencies operate unlicensed software.[30] Counterfeit goods are common. This climate has been enabled by too few judges having been properly trained in IPR. As a result, cases usually result in nominal fines, which have proven wholly ineffective in deterring illegal activity.[31]

Ukraine's reluctance to privatize state-owned enterprises (SOEs) is another major barrier to foreign investment. These entities are defined by state ownership of at least 50 percent plus one share and are estimated to number 5,000 companies.[32] Many lack transparency and require government subsidies to operate, exacerbating the fiscal challenges facing the nation. In the instances that Ukraine has sought international bidders in the privatization of SOEs, there have been multiple cases of adjustments to fit a pre-selected bidder.[33] Until the government demonstrates a commitment to remedying these obstacles, investors will continue to be deterred.

Ukraine's infrastructure has suffered from years of neglect and provides an additional consideration to potential investors. Ukraine has one of the deadliest road networks in Europe.[34] Strikingly, the Ukrainian government estimates that 97 percent of its roads are in poor condition.[35] It also has an inefficient and poor quality railway network. It has failed to adequately invest in energy, which has made it increasingly reliant on Russian imports. Sutela

describes, "…public investment has been extremely low, especially given the need to bring the worn-down Soviet-era infrastructure in line with modern market-economy requirements. Behind the growth figures of the 2000s more often than not infrastructure has deteriorated, capital stock worn out…"[36] Potential investors must consider the increased costs, to include logistical and transport, that result.

A final barrier facing foreign direct investors is Ukraine's barring of foreign companies from owning agricultural land. Foreign corporations have traditionally relied on long-term leases, many of which were drafted in 49-year terms.[37] Coupled with a weak government and political uncertainty, potential investors face substantial risk. In a related measure, Ukrainian law prohibits foreign investment in many sectors that are considered "strategic." The actual composition and requirements for this classification, however, is largely undefined and opaque, contributing to a sense of a lack of a level playing field from the outside perspective. All of these factors combine to reduce the incentive foreign entities have to make a significant investment in Ukraine.

Actual historical levels of FDI inbound to Ukraine are likely inflated due to the phenomenon of "round-tripping." Under this construct, Ukrainian investors, seeking to avoid high domestic tax rates, channel local funds to offshore tax havens. These havens, in turn, return the funds to Ukraine under a veiled FDI guise. As a result, official statistics tend to overestimate FDI inflows. The most prominent nation suspected of supporting this practice is Cyprus. In 2012, for example, 89.64 percent of the outward FDI from Ukraine was invested in Cyprus, and nearly all of the FDI from Cyprus was in the finance and business activities realm.[38]

Trade Barriers

International trade, like foreign investment, provides many economic benefits. It supports the diffusion of knowledge and contributes to the overall competitiveness of a nation's economy. There is a strong correlation between foreign trade and innovation, particularly for less technologically advanced states that trade with more developed nations. Though Ukraine has exhibited less innovation as a result of trade relative to its peers, it has nonetheless demonstrated an appreciation for the potential benefits offered by trade. Moving forward, Ukraine must maintain its commitment to addressing barriers in order to facilitate a greater level of interaction in the global marketplace.

The first barrier to increased trade is a dramatic lack of domestic investment, which is critically needed to spur exports. Capital spending fell by 40 percent in the past three years.[39] This is partly attributable to banking system issues and the resultant tightening of the lending market which affects both importers' and exporters' ability to secure financing vital to economic development. The devaluation of the hryvnia has had a dramatic impact on the trade climate as well. This decreases Ukrainian consumers' purchasing power, thereby making imports more

expensive. Conversely, this has the opposite effect on exports, which are relatively cheaper to foreign buyers.

According to World Trade Organization standard practice, exporters are to be refunded the VAT paid on goods sold internationally. Ukraine has consistently failed to provide these refunds in an efficient and standardized manner. Often, exporters have not received legitimate refunds they are legally entitled to. As a result, they have, in essence, been subject to an informal twenty percent surcharge. This has dramatically reduced their ability to compete. As VAT accounts for ten percent of Ukraine's GDP versus the EU average of seven, the Ukrainian government has been reluctant to address the issue.[40] Additionally, indicative of the rampant corruption discussed earlier, government employees have encouraged companies to hire local firms that charge a "fee" of 25 to 30 percent of the refund.[41] Corruption has also significantly impacted the system for certifying imports.

Additionally, there are notable non-tariff barriers to trade in Ukraine. There is restricted access to foreign currency, largely based on currency controls imposed by the government. A bloated and inefficient bureaucracy drives up the costs for producers, making them less able to compete internationally. There is a complex certification process that often imposes arbitrary fees, as well as a general lack of standardization.[42]

Ukraine has and remains overly reliant on Russia for imports and exports, amounting to 24.9 percent and 14.6 percent, respectively, in 2014.[43] The vulnerability facing Ukraine as a result of this reliance was illustrated by the civil unrest following Russian intervention in Crimea and the east. Most of Ukraine's pipeline infrastructure was based on trade with Russia, which has made more diverse trade with other partners difficult. As the majority of energy imports are from Russia, amounting to $22.8 billion in 2014, Russia has the ability to affect internal Ukrainian policy.[44]

Ukraine has often taken actions that have significantly detracted from its attractiveness as a global trade partner. Most starkly, it enacted embargoes on grain exports in 2006 and 2007. Crane and Larrabee contend "nothing has undermined Ukraine's reputation as a responsible trading partner more…"[45] More recently, Ukraine has enacted, and Russia has retaliated with embargoes following Russia's incursion in the east and Crimea. Both nations have suspended their previously signed Free Trade Agreement (FTA).

Despite these barriers, Ukraine has made progress in the trade realm. The most substantial step was becoming a WTO member in 2008. It has subsequently signed a number of free trade agreements, the majority of which were established with former Soviet nations. The most noteworthy development was the ratification of the Association Agreement with the European Union. The economic part of this agreement, the Deep and Comprehensive Free Trade Agreement (DCFTA) came into effect in January 2016. This provided Ukraine with preferential access to the EU market. By removing trade barriers, it is expected to facilitate trade and

investment flows. This agreement should also lead to relaxed and standardized import certification standards. It will provide a powerful catalyst for modernizing Ukraine's governance and legal system, moving Ukraine closer to EU standards.[46] Other reforms include new legislation which simplifies business registration procedures, cleanses government procurement and establishes an E-procurement system.[47]

Potential Remedies

The priority in spurring FDI in Ukraine and international trade with global partners must be continued and focused efforts to reduce corruption. Judicial reform will be critical to the government's ability to establishing accountability and enforcement of new laws and regulations, particularly those addressing intellectual property rights. Impartial enforcement of IPR must be remedied. Incentives and opportunities for corruption could be further reduced by a continued transition to electronic systems. Most importantly, anti-corruption must be incorporated into every aspect of the government and economy. The NACB must be provided significant support, both political and financial, to ensure it has the means to adequately address corruption.[48]

The next priority must be to reduce political uncertainty. Despite excessive spending in other areas of the government, Mr. Ashland Anders asserts the military budget only accounts for one percent of Ukraine's GDP.[49] This appears lower than the expenditure reported by the Stockholm International Peace Institute through the World Bank, as illustrated in the graphic below.

Source: "Military Expenditure (% of GDP)," 2016, accessed October 27, 2016, http://data.worldbank.org/indicator/MS.MIL.XPND.GD.ZS.

Ukraine evidently agrees with the notion that increased military spending could enhance security, and reduce Ukraine's vulnerability to Russian aggression, having substantially increased military expenditure in both 2014 and 2015. Its 2015 rate of just under 4 percent of GDP is among the highest in the world. For comparison, Poland spent 2.2, France spent 2.1, Russia spent 5.0 and the U.S. spent 3.3 percent of GDP in 2015.[50] Stronger diplomatic ties with

the international community, to include the European Union and the North Atlantic Treaty Organization (NATO), among others, could offer a further incentive for Russia to cease aggression and commit to a peaceful political solution. Though some would argue that this would have the opposite effect, further provoking Russian aggression, Russian's demonstrated willingness intentions to act unilaterally and outside internationally accepted norms and laws, highlight the danger of providing further Russian freedom of action. If and when a political solution is reached, Ukraine will have a strong case to demand substantial compensation from Russia for the assets it seized.[51]

Given the significant budget shortfalls anticipated for the foreseeable future, Ukraine must continue to secure international debt restructuring and assistance from the International Monetary Fund, among others. March 2015's four year $17.5 billion Extended Fund Facility (EFF) is a tremendous help, although further assistance will be required given the anticipated $9 billion required annually through 2018 to service its external debt.[52]

Ukraine must also look inward, and reinvigorate the privatization of inefficient and bloated state-owned enterprises. Increased openness to foreign competition in this realm will reduce subsidy requirements, as well as garner many second and third order effects that will further stimulate economic development. Ukraine must establish clear conditions for foreign participation in the privatization process.[53] Transparency must also be increased, and companies must be held liable for not providing procurement reports.

One step that would preclude dispersion of effort and ensure a centralized approach to increasing Ukraine's attractiveness to FDI would be the establishment of a central agency tasked with such.[54] This agency could be responsible for establishing a coherent and comprehensive strategy that would generate international awareness of the strengths and opportunities Ukraine offers. A website could be extremely useful in offering the latest legal and business developments to interested international investors. This agency could advocate the government for the continued openness of the economy to foreign investment and trade. It could also be tasked with the education and encouragement of responsible business practices to address concerns international corporations have with the Ukrainian business climate.

Ukraine must update its dilapidated infrastructure to spur foreign investment and make its companies competitive internationally. The government must work with private enterprise to make investment in infrastructure a priority and ensure its economic viability and feasibility. Given the austere fiscal climate, one viable option may be to encourage and incentivize Public Private Partnerships (PPPs) in addressing the infrastructure needs.

Ukraine must rein in massive public expenditures that are wholly disproportionate from its revenue generated. It must reduce pensions from the current 16.3 percent of GDP to a level more in line with the international average of 8 percent.[55] Though some might question the

validity of slashing spending amidst a financial crisis, given the magnitude of Ukrainian woes, these efforts will largely instill confidence and boost foreign investor interest in Ukraine.

Measures must be taken to address the issues that plague exporters' reimbursement of VAT in order to preclude their being subjected to an informal fee that stifles their ability to compete in the global marketplace. This must be transparent and streamlined.[56] One promising development for VAT administration has been the enactment of an electronic system, which was passed by the Ukrainian Parliament in July 2014. Unfortunately, however, this has not been fully implemented nor has it been applied to exports.

Some might argue that the barriers to increased FDI and trade facing Ukraine are too large, particularly given how entrenched many of them have become over many years and, in some cases, generations. Ukraine has a history of failing to meet demands for reform, most recently those imposed by the IMF. Corruption and the resultant shadow economy have become too large a part of the Ukrainian experience to give any reasonable expectation that genuine reform is possible or likely. Pekka Sutela starkly offered the following in 2012's "The Underachiever,"

As matters stand, Ukraine cannot really expect much foreign investment, nor can Ukraine really be recommended to most investors… Europe, the United States, and the Euro-Atlantic community will continue to engage with Ukraine. But wisdom starts with acknowledging the facts, and that Ukraine is a relative failure is a fact… The future is in Ukrainian hands, not in those of outsiders, either Western or Eastern.[57]

Admittedly, there has been resistance to change. As recently as December, scholars continued to raise concerns about Ukraine's prospects. The Economist described, "The foot-dragging frustrates locals as well as foreigners. Reform-minded officials are fed up and have privately threatened to resign. Some already have. Despite some improvement, Ukraine is still at risk of long-lasting stagnation."[58] There is some truth to this assessment. An economic system since independence reliant on cheap Russian commodities, rampant corruption, and a lack of transparency, among other factors, have all combined to consolidate power, wealth and influence in very few individuals that have a vested interest to resist change. This should be expected. The government's actions, despite the political and economic hardships imposed on its people, however, offer significant grounds to be optimistic moving forward.

The resolve that Ukraine has demonstrated over the past two years stands in stark contrast to the doubt cast by these and other observations. In fact, the current administration has indeed acknowledged past failures and instituted genuine reforms that have put Ukraine on the path to emerge from a history of unrealized economic potential. Though many of the economic woes facing Ukraine today and in the past were self-imposed, the Poroshenko administration has demonstrated a firm commitment to making tough decisions resulting in more substantial economic reform being enacted over the past two years than the previous 23 since independence.

Based on these reforms, Ukraine has earned the support from the international community most notably in the form of debt restructuring and forgiveness through the efforts of the IMF, World Bank, and WTO, among others. Continued support is essential to making headway moving forward.

Conclusion

Since gaining independence from the Soviet Union in 1991, Ukraine has largely failed to create an environment conducive to attracting foreign direct investment or enhancing trade with the international community. There was little incentive to initiate reform, particularly from the wealthy elites that had benefited so immensely, or a corrupt political leadership. Developments over the past decade, to include a reduced willingness by Russia to provide cheap materials, the global financial crisis, and Russian incursion into Crimea and in Ukraine's east have illuminated the issues that have spurred Ukrainian economic development for years. Though challenges remain, the current administration has demonstrated a sincere commitment to imposing lasting and significant reform. As a result, the Ukrainian people, for the first time in generations, have reason to suspect they will finally realize their economic potential, and that greater prosperity is attainable.

Recommendations

- Continue focus on anti-corruption measures. Specifically, increase political and financial support to the National Anti-Corruption Board (NACB).
- Create a government agency responsible for increasing Ukraine's attractiveness for FDI. This could spur internal reform, as well as provide messaging to potential international investors.
- Invest in the revitalization of nation's dilapidated infrastructure. Take efforts to boost private sector involvement.
- Take measures to ensure enforcement of Intellectual Property Rights (IPRs).
- Institute a system to effect the timely and transparent reimbursement of VAT to exporters.

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Agricultural Exports, the Key to Long Term Prosperity in Ukraine

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Introduction

Over the last 25 years, Ukraine's economy demonstrated the country has the potential to be a prosperous nation. However, based on poor policy decisions, and its relationship with Russia, it is not currently postured for economic success as an independent country. In 1991, following the collapse of the former Soviet Union, Ukraine's Gross Domestic Product (GDP) fell sharply as the country tried to revamp itself. Similar to other former Soviet Union republics, Ukraine faced negative growth and sharp inflation; however its GDP Purchasing Power Parity (PPP) was especially impacted, dropping from ~$351.8 billion in 1991 to ~$187.4 billion in 2000.[1] During this 10-year period, power structures, networks, and behavioral patterns inherited from Soviet administrative markets took root. Consequently, the tendencies of many governmental institutions continue to remain resistant to change. Additionally, the offshoot caused by the lack of governance resulted in a "shadow economy and the continued existence of open and hidden state subsidies" making it clear the demarcation between the state and a free market economy never emerged.[2] The turn of the century showed promise as the country's GDP climbed between 2001-2008. In large part the increase resulted from transforming government controlled industries into private sectors. This shift led to an expansion in exports and increased revenue for areas of significant worldwide demand such as: metallurgy, engineering, chemicals, and food. However, the 2008 global financial crisis severely impacted Ukraine's GDP due to an economy significantly reliant on industries sensitive to fluctuating prices. Agriculture, on the other hand, remains a stable economic segment, playing an important role in the Ukrainian economy. Agriculture accounts for over 8% of GDP and 5.5% of employment. Factoring in "the entire supply chain" (both up and downstream industries such as input supply and food processing) agriculture's share in GDP rises to 22%."[3] Nevertheless, agriculture is viewed as performing well below its potential by international comparisons of productivity. In part, the poor performance can be traced to continued Russia influence. Recent events [annexation of Crimea and the invasion of Donbass] provide significant insight into the value Russia places on the geographic proximity and historical relationship between the two countries. While this paper does not address the political implications Russia has on Ukraine, it is worth noting the policy decisions made by Ukraine's presidents have varied. Some presidents generated pro-Russian trade agreements which led to benefits on imported goods, such as low oil and gas prices; while others fostered a more pro-European Union (EU) position focusing trade policies towards importing and exporting goods with EU nations (albeit at a higher cost for certain products). In order for Ukraine to reverse the current recession and enable a prosperous economy, it must adjust its agricultural export strategies and focus on increasing agricultural output.

Ukraine needs to take four steps to maximize its agricultural export potential, turn the negative import-to-export balance around and create positive GDP growth allowing it to become an independent country free from Russian influence. First, Ukraine needs to evaluate the global market for countries with both sufficient economic and population growth to determine potential export opportunities. Second, Ukraine needs to evaluate current export profiles to identify what it should produce and if there is potential for increased agricultural output. Third, it must modernize equipment and infrastructure required to efficiently distribute crops to market. Finally, Ukraine must reverse recent policy on land reform to allow farmers access to more land.

Global Evaluation

The first step Ukraine should take to maximize agricultural export potential is to ask a simple question: "Who needs crops?" When it comes to generating short and long-term strategies to determine who needs crops, many factors come in mind: size of the country, growth rate of its population (increasing or decreasing), and its GDP/Gross National Income (positive or negative growth). To begin development of regional strategies and identification of optimal export partners, Ukraine should review population size and growth rates. According to the Population Reference Bureau, the world's annual growth for the population tends to average approximately 1.1%, or 75 million people.[4] Furthermore, the bureau indicates the overall population is expected to climb to 8.4 billion by mid-2030, and 9.6 billion by mid-2050, indicating there will be a requirement for agricultural exports into the foreseeable future.[5] Regarding a long-term strategy, the more critical component of determining a satisfactory export partner is the overall population size. Larger populations simply require more food imports. Looking at the list of countries in Figure 1 below, only two of the top 10 countries are projected to change in 2050 based on population size. These 10 countries provide a good baseline to start forecasting potential trade partners in the long term, but size alone should not be the only calculation. An index that might prove useful in defining the value of a country and its long-term utility would be Gross National Income (GNI).[7] Knowing a country's GNI per capita gives a general perspective regarding its economic strengths because GNI tends to closely link with other indicators that measure a country's well-being along social, economic, and environmental lines. People living in countries with high GNI tend to have better living conditions, better access to safe water, lower infant mortality rates, and generally longer life expectancies. For most countries, the GNI and GDP are fairly similar because not all

2014	
COUNTRY	POPULATION (MILLIONS)
China	1,364
India	1,296
United States	318
Indonesia	251
Brazil	203
Pakistan	194
Nigeria	177
Bangladesh	158
Russia	144
Japan	127

2050	
COUNTRY	POPULATION (MILLIONS)
India	1,657
China	1,312
Nigeria	396
United States	395
Indonesia	365
Pakistan	348
Brazil	226
Bangladesh	202
Congo, Dem. Rep.	194
Ethiopia	165

Figure 1[6]

countries generate revenue from sources outside of their borders. Figure 2 represents the GNI per capita and shows the ten countries with the highest GNIs: China, US, India, Japan, Germany, Russia, Brazil, Indonesia, United Kingdom and France.[9]

The next factor to consider is whether a country's population is growing or declining. Forecasts show the largest increase in population will occur in the least developed countries of Africa: Niger at 3.9%; Uganda and Zambia at 3.4%; Senegal, Burundi, and Somalia at 3.2% to name a few. Unfortunately, these countries have lower GDPs which will be discussed later. Inversely, areas with a high GNI would be considered optimal partners. Europe, for example, has an expected regional growth rate of 0.0% with Eastern and Southern European countries projected to have negative population growth (Bulgaria and Serbia at -0.5%; Hungary at -0.4%; and, Romania and Croatia at -0.3%). Many European countries can be eliminated as potential partners due to a combination of negative growth rates and declining economies. A review of both the Americas and Asian countries show similar trends of 1.1% growth rates, and all countries reflect positive growth rates overall. While these continents may have suitable countries to establish short-term trading partnerships they may not be suitable for a long-term agricultural export strategy. Instead, Ukraine should focus on a combination of population indicators and GDP levels.

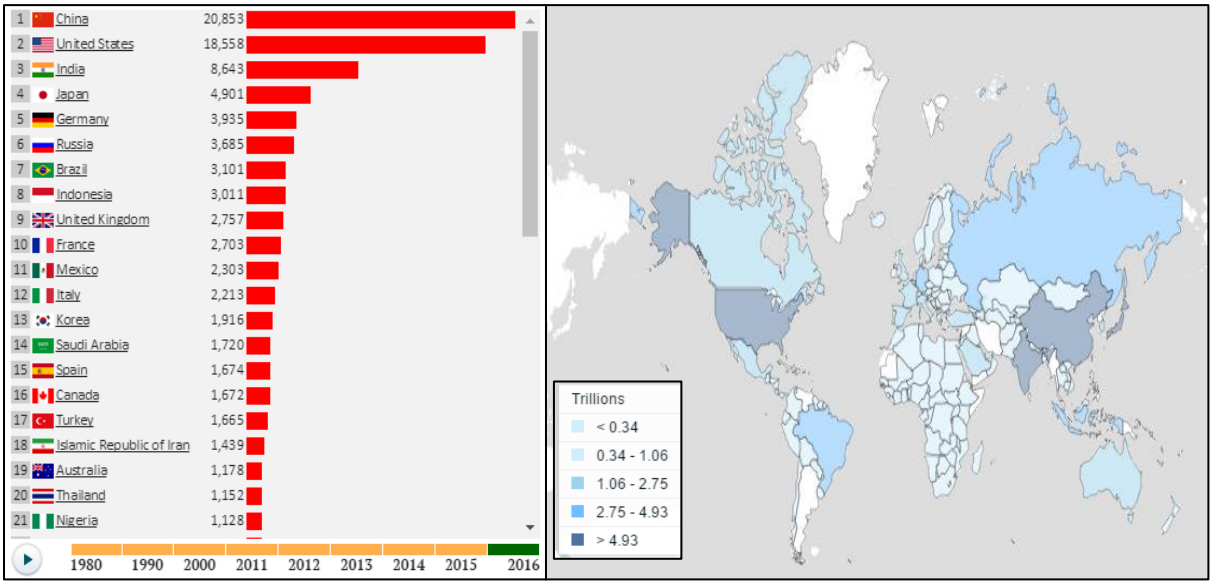

Figure 2[8]

One way to quantify the value of a country as a short term or long term strategic partner is using a formula that balances population indicators size (PS), growth rate (GR), and GDP (expressed in PPP).

$\frac{PS}{GR}$	X	GDP (PPP)	=	Short Term Partnership (STP)
(PS X GR)	X	GDP (PPP)	=	Long Term Partnership (LTP)

For example: China has a PS of 1,364 million people, GR of 0.5%, and a GDP (PPP) of 20,853, making it an expanding and globally strong economy. China generates a STP value of 56,886,984 and an LTP value of 14,221,746. Compare that to a country globally viewed as weak, like Niger, that has a PS of 18.2 million; GR of 3.9%; and a GDP (PPP) of 20.0. Niger's STP value of 94.3 and LTP value of 1433.8 are exponentially lower than China.

Using these two formulas, one can quickly deduce which countries Ukraine should consider for either a short term or long term strategy. Figure 3 depicts an evaluation of population and economic indicators and summarizes the Top 20 countries based on the potential value to Ukraine for agricultural exports using the STP/LTP equations. This data indicates Ukraine should establish (or continue) short term trade agreements with China, US, India, Spain, and Brazil since the data reflects potential as both short and long term partners.

Country	STP	Country	LTP
China	56,891,973.06	India	16,804,196.04
United States	14,739,770.93	China	14,222,993.27
India	7,468,531.57	United States	2,358,363.35
Spain	778,410.00	Indonesia	1,060,067.47
Brazil	698,803.73	Brazil	566,031.02
UK	592,690.50	Mexico	385,970.26
France	577,626.47	Iran	155,962.55
Indonesia	540,850.75	Philippines	142,776.00
Korea	321,955.20	Turkey	141,417.28
Mexico	196,923.60	Saudi Arabia	95,356.80
Thailand	191,298.40	UK	53,342.15
Canada	148,381.13	France	51,986.38
Turkey	116,873.78	Thailand	30,607.74
Iran	79,572.73	Korea	28,975.97
Philippines	44,066.67	Canada	23,740.98
Australia	39,533.71	Australia	19,371.52
Saudi Arabia	29,431.11	Spain	7,784.10
Italy	-1,356,630.30	Italy	-13,566.30
Germany	-1,591,586.15	Germany	-63,663.45
Japan	-3,112,198.50	Japan	-124,487.94

Figure 3

Potential long-term trade partners include Indonesia, Mexico, Philippines, Turkey, and Saudi Arabia. Having addressed who needs agricultural products the question of what to grow can be considered.

Product Selection

The second step Ukraine should take to bolster its economy is to evaluate whether it is producing the right products. Historically, Ukraine's lush farmland have been bountiful making agriculture a profitable industry. Tying profits with potential, Steve Pifer, the former U.S. Ambassador to Ukraine from 1998 to 2000, stated that "Ukraine is a big answer to the question

of how you feed the world." He went on to say, "In Iowa, good black soil may be a foot deep. In Ukraine, it's three or four feet deep."[10] The quality of the soil will provide a strong foundation for stabilizing the economy, but the financial benefit of fertile soil is only as good as the demand for what is grown in it.

The State Statistical Service (SSS) of Ukraine lists the percentage of profits generated by the top 6 crops: sunflower (46%), soy (25%), rapeseed (24%), corn (23%), wheat (13%), followed by barley (7%).[11] The SSS also lists Ukraine as the world's sixth largest producer and the third largest exporter of corn. In part, that is due to good trade decisions. In 2012, Ukraine signed a contract with China, the world's largest importer of corn, to supply China with 3 million tons annually at market price. This agreement came along with a $3 billion line of credit extension from China to Ukraine. The global consumption of Ukraine's top three profit generating grains – sunflower, soy, and rapeseed – indicates not only will the demand provide consistency for farmers but there is potential for increased exports. In 2014, Ukraine maintained a negative trade balance of $180 million due to exports generating $58.2B and imports costing $58.3B.[12] To reduce the gap, Ukraine should continue to grow these four grains [sunflower, soy, rapeseed, and corn] in the short term as it seeks to expand the consumer base. Additionally, Ukraine should stop growing wheat and barley due to the low yield on return and competition in the market. Ukrainian wheat output, for example, is forecasted to drop by 12 percent this year primarily due to lower yields caused by excessive fall dryness.[13] The increase in wheat and barley exports from other countries is lowering profit margins as well.[14] The challenge in understanding market complexities centers on communication.

The government of Ukraine needs to create a bureau within the Ministry of Economic Trade and Development focused on identifying shifts in the marketplace and communicating that information to producers. Ukraine does not have a corollary mechanism or agency like there is within the United States to communicate fluctuations in the commodities market to Ukrainian farmers. Once created, it will allow agrarians to make necessary crop production adjustments annually to maximize profit margins. Today, the government is unable to implement commodity subsidization to insulate farmers from potential losses as done in the US. If the economy turns around, Ukraine may be able to subsidize in the future. To protect the economy from the fluctuating process, Ukrainian farmers should turn to a more resilient grain of high demand, like quinoa.

Quinoa is a hearty seed able to grow in regions with high elevations and extreme climates. Primarily grown in South America, its center of origin and genetic diversity is near Lake Titicaca on the border of Peru and Bolivia. It spread throughout the temperate regions of South America and was cultivated by the Incas before 3000 B.C, who revered quinoa as sacred, calling it the "mother of all grains".[15] The topographical climate needed to grow quinoa exists both in Southern Ukraine (near Crimea which will not be considered useable) as well as west of the Dneiper River. In particular, Figure 4 depicts the western region and the Carpathian

Mountains where the highest peak is Hoverla, approximately 6,762 feet tall.[17] Countries such as Peru and Bolivia, currently growing quinoa, have similar geography. Peruvian and Bolivian farmers, for example, are growing quinoa on mountain ranges as high as 6,700 and 19,000 feet respectively. Not only is the climatology right, but demand for quinoa is often noted as "skyrocketing". It is becoming a mainstream food, containing a significant amount of protein, antioxidants, vitamins, and minerals. In 2007, for example, the U.S. imported 7.3 million pounds of quinoa. In 2013, the amount imported climbed to nearly 70 million pounds, accounting for

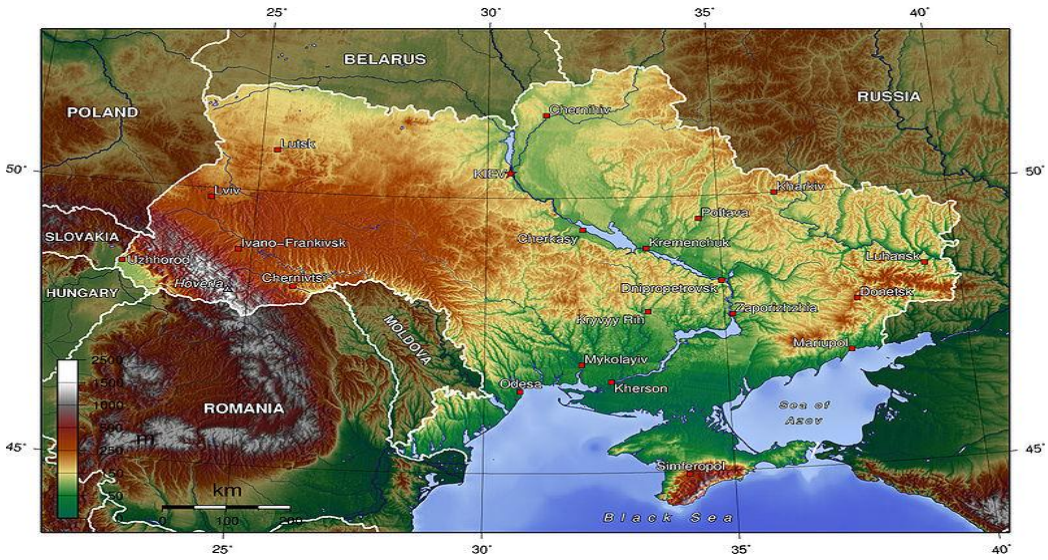

Figure 4[16]

roughly 50% of Bolivia, Ecuador and Peru exports of the product.[18] The increased consumption within the U.S. alone, and the fact 84.2% of global exports originate from these three countries, proves the demand within the market is growing and represents a significant opportunity.[19] With fertile fields, appropriate climate, and a product in high demand globally, Ukraine is positioned for financial success. Not only can Ukraine be more strategic in selecting trade partners and higher revenue crops, but it can also improve the technical components of getting crops to consumers.

Efficiency in Output Potential

The third step Ukraine must take is to modernize how crops are harvested, the infrastructure used to get them to port, and facilities used to store them while awaiting transportation. Grain producers in Ukraine currently receive "slightly more than 60% of the world market price compared with almost 90% in France and other exporting countries with efficient infrastructure and marketing systems."[20] Farm equipment, or non-land assets, are outdated and in need of modernizing. Many farmers still use equipment from the 20th century, sometimes 19th century, causing the process of harvesting crops to take longer than in other countries.[21] John Shmorhun, CEO of AgroGeneration, says, "If you want to get higher quality, you must invest in infrastructure, including roads, grain elevators, dryers, storage."[22] While the

infrastructure (paved roads and rail) are noted as satisfactory amongst analysts, questions remain about capacity and capability. The transportation systems are not able to facilitate increased exports, and there is a lack of infrastructure to efficiently move grain from elevators to ports. Therefore, two things to immediately address are the number of railcars for transportation and increased capacity to store agricultural exports at ports. These two challenges have been identified as contributing factors to lower profit margins during August to October, the heaviest time of the crop season.[23]

Ukraine, looking to get in front of this issue, quantified their strategic approach to improving the infrastructure nationwide. The document, titled, "Ukraine 2020: Strategy for National Modernisation" highlights investment strategies and includes improvements to agricultural infrastructure as one of the main policy directions of the government.[24] In October 2016, the Deputy Minister of Economic Development and Trade of Ukraine/Trade Representative of Ukraine, Natalia Mykolska, reinforced the priority of agriculture within the country stating, "The growth of Ukrainian exports is one of the key priorities for the Government" adding "the location of the region, the presence of sea ports and its fertile land guarantee a great potential to export high-quality agricultural products to demanding global markets, including the European Union."[25] It is clear Ukraine sees the need for infrastructure improvements, but until the economy is stabilized these projects are in jeopardy.

One way to improve the infrastructure is through land leasing to private companies and individual countries. Companies such as AgroGeneration, as well as countries like China, have demonstrated a willingness to invest in Ukraine. In 2013 China invested in 3 million hectares of Ukrainian farmland to keep up with the growing demand within its own borders.[26] AgroGeneration is the country's largest overseas farming venture, managing 100,000 hectares of Ukrainian farmland. Ventures such as these should continue in the short term as it will benefit both the consumer and Ukraine's GDP. In the long term, Ukraine will need to provide options for farmers to expand available crop lands.

Land Reform

The agricultural industry alone may have the potential to turn the recession around, but Ukraine will need to change how land is used. Ukraine is a top 10 world producer of several crops, but with 30% of the world's richest black soil within its borders, its outputs are still well below the production potential. While it is the largest producer of sunflower oil and a major global producer of grains,[27] its agricultural output is not being maximized, undermining exports as a potential GDP stabilizing mechanism. Even if Ukraine is successful in growing quinoa, economic growth will not fully mature until the government reverses its position on land reform.

Land lease reform is required to allow more land to be privatized for agricultural use. Ukraine should reverse its decision to extend the moratorium imposed in 2001 on agricultural land sales until 2018.[28] This would be a significant step toward increasing output and achieving

the production capacity, as well as provide the needed revenue for the government to modernize infrastructure. Land reform will facilitate a mortgage market for farmers to modernize much needed equipment as discussed earlier. Relative to other countries with similar agricultural capacity, Ukrainian agricultural exports are low. For example, in 2000 the ratio of food exports to Gross Agricultural Output for Ukraine was 14%, compared to 25% for Poland and 53% for France and Germany.[29] Currently, about 1 in every 6 acres of agricultural land in Ukraine is not being farmed, yet they still rank 24 out of 112 nations measured in terms of overall agricultural production.[30] Regarding the land in production and potential, Shmorhun says "Only about a quarter [of the land] is reaching yields on the level of those in the developed world, because of lower-quality seeds, fertilizers, and equipment. It's a huge upside."[31] The biggest impetus behind delays in the decision to lift the moratorium is the government's concern that available land will not be bought by the targeted small farmers, but by the oligarch's or private companies. "That uncertainty in land titling," says Pifer, "has deterred more investors and kept farmers from expanding."[32] Still, there is hope for the future if the government can instill confidence in the land market system.

Conclusion

A review of Ukraine's economy since 1991 indicates it has the potential to be prosperous. Many factors for the country's economic stagnation are a result of difficulty transforming government run sectors to privatized industries. This stagnation caused the GDP to fall almost 50%. The global recession, unfortunately, halted what small momentum was gained with the expansion of exports from 2001-2008. Without change, Ukraine's economy will not grow to a level that will allow them to operate as an independent nation. Policies reinforcing Ukraine's reliance on Russia following the collapse of the Soviet Union have stagnated its economic potential. Recent policy choices, like taking oil and gas from the EU instead of Russia, are beneficial to independence, even as the increase in cost widens the import-to-export gap within its GDP. The Ukrainian soil, however, is the answer. Ukraine has some of the most fertile fields in the world and investors are waiting to lay claim to available profits.

Ukraine will need to evaluate global partnerships to grow its economy and separate itself from further Russian influence. There are many countries that appear to be suitable choices to develop trade partnerships with, but manipulating a few population indicators highlights which countries are ideal in both the short and long term. Growth trends project a steady climb in global population out to 2050, and with it the demand for food will only continue to increase. However, not all countries are projected to get bigger, and the ones that are growing the fastest are not optimal choices for Ukraine to develop trade agreements with.

Additionally, Ukraine must reevaluate the crops being produced and the amount of land used to grow them. It is renowned for grains production, but not all grains provide the same profit margins. Expanding competition and declining profit margins in two of the six primary grains grown prove the time is right to look for alternate crops. Adjusting to market demands for

super foods that thrive in similar climatology and are relatively new to global consumers will allow Ukraine to receive the most return on exports.

Ukraine must likewise make modernizing infrastructure a priority. Keeping focus on this issue will bring exports to port more efficiently. There currently are not enough railcars to handle the production yield, nor are there the required storage facilities. These shortfalls lead to a loss of revenue. A boost in tonnage will cause an even larger bottle neck in processing.

Furthermore, the government of Ukraine must change its policy on the land lease moratorium. Continuing to delay a decision has created insecurities for potential investors. Those investments are needed to provide short term infusion of economic gains to help bolster the stagnation that has occurred since the great recession in 2008. Modernizing must be a priority for farmers. The moratorium impacts the farmers by minimizing their chance to update antiquated equipment through mortgages, which subsequently slows down the cultivation process creating inefficient practices and reducing gains as compared to other countries.

Recommendations

- Ukraine must take the time to evaluate population demands. In the short term it needs to focus on creating trade agreements with China, United States, India, Spain, and Brazil. In the long term Ukraine needs to create trade agreements with Indonesia, Mexico, Philippines, Turkey, and Saudi Arabia.
- Ukraine must evaluate the crops grown to meet global demands and generate greater revenue. It should stop growing wheat and barley based on increasing market competition and shift to growing quinoa. Ukraine's climate varies across the country, allowing them to adjust what crops are grown. Growing quinoa will also allow Ukraine to utilize a portion of the country not previously used for agriculture. The mountainous regions of southern and western Ukraine provide optimal environment for a grain like quinoa to flourish.
- The Ministry of Agrarian Policy and Food needs to create a forum for farmers to access information related to the latest market commodity trends. In the future, Ukraine should consider the U.S. model of farmer subsidies to protect against instability in market prices.
- The government of Ukraine should seek to expand the capacity of the railway system used to deliver products exported by increasing the number of railcars and silos to account for the increase in the volume to meet global demand.
- Ukrainian government should reverse its previous decision to delay the moratorium on land reform. Allowing farmers to buy more land, and to allow land not previously considered agrarian to be purchased, will maximize the potential that exists within the country.

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Notes

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Economic Success Through Agricultural Reform: Is Management of Property Rights the Key to Ukrainian Economic Prosperity?

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Introduction

Much attention and watchful eyes are focused on the ongoing developments in Ukraine and what effects the conflict in the Donbas region and Crimea will have on the short and long term economic stability in Ukraine.[1] The crisis in the Ukraine has garnered significant attention from the United States European Command (USEUCOM). USEUCOM acknowledges the necessity to "deter Russian aggression" as the number one theater priority.[2] USEUCOM will accomplish theater strategic objectives by building partner capacity without military "escalation or provocation."[3] All elements of U.S. national power are required to address Ukraine's complex problems. The DIME elements of Diplomacy, Information, and Economic measures will likely be emphasized over a military-led solution. As an enlightening example, there is one economic focal point within the Ukraine that should garner further U.S. attention based on its immense potential for broad economic prosperity.

The economic opportunity is not oil, but "black gold." Rich topsoil covers 70% of the countries' total land mass[4] and has "earned Ukraine the acclaimed status of Europe's breadbasket."[5] Based on this apparent economic competitive advantage, why has Ukraine failed to reach full promise in the agricultural sector? Analysts would argue that it is due to failed or oppressive property rights policy. At the epicenter of the issue is the cry for "lifting the moratorium on farmland sales" and "privatization of state farmland."[6] So what should the US position be on this matter in order to leverage economic power? Ukraine should remove the moratorium on farmland sales and continue privatization of state-owned property to provide a critical catalyst to economic prosperity and stabilization. These actions, managed correctly, will significantly impact the majority of provinces west of contested territories and support US strategic objectives in Ukraine.[7]

The Potential

Before exploring why property rights are so vital to the long-term prosperity and stability of Ukraine, it is prudent to understand the vast potential of the agricultural sector that the country possesses. At its peak, Ukraine agriculture accounted for "25 percent of the labor force and 24 percent of the gross domestic product (GDP)."[8] These numbers alone provide conclusive evidence of the important role farming has played and can still play in Ukraine. However, this is only the tip of the iceberg. As previously mentioned, agricultural land covers 70% of Ukraine's total land mass which equates to "32 million ha of arable land."[9] "By comparison, Germany's total arable farmland is about 12 million ha, and in Switzerland, it is just a fraction of Ukraine's

with about 500 thousand ha."[10] Due to Ukraine's tremendous land mass, it is easily transparent why they are a global leader in agriculture production and exports.

Ukraine is number one in European corn production and exports. It is also the number one global exporter of sunflower oil.[11] Even without Crimean production, only the US and the combined efforts of the EU beat Ukraine grain exports measured in tonnage.[12] In aggregate, Ukraine is a top five European producer in nine crop commodities. Production of eight of those crops is in the top ten globally.[13] The limitation of using total production as a positive economic gauge is that a certain percentage of all crops grown are for internal population consumption. Export figures provide a much clearer correlation linking economic potential to GDP growth. Ukraine is a top five exporter in six crop commodity areas in Europe and in five of those six areas globally.[14] On the surface, these statistics seem positively staggering and posture Ukraine as a prospective agricultural juggernaut. The potential is so evident regarding the Ukrainian agricultural market that it has attracted investment from U.S. global agri-powerhouses such as Cargill, Monsanto, and DuPont.[15] However, the world, not just the U.S., sees Ukraine as a major player moving forward to respond to future pressures of food supply around the world. [16] Although not fully addressed in this paper, global food security is another strategic reason why the stability of Ukraine is an international concern and should be a top U.S. interest.

The abundant, optimistic indicators mentioned above paint a promising picture of Ukraine's agricultural present and even more hopeful future. Ukraine has an undeniable competitive advantage centered around its geographical location, rich soil, and vast farm acreage. However, the most significant restraint holding this thoroughbred process from getting out the gate is failed national legislative policy surrounding property rights. More specifically, the moratorium on the sale of farmland and the fact the government of Ukraine still owns 10 million hectares of fertile agricultural land is preventing a productive free market and unfortunately encourages unstainable short-sighted profit-seeking practices.[17] Unless this obstruction is removed, Ukraine will gradually see their agricultural competitive advantage continue to degrade to the point where they will transition from "Europe's Breadbasket" to "Europe's Wastebasket."

The Problem of Current Policy

The Ukrainian agriculture's "record-breaking results are obscuring the grave problems that both this sector and the entire Ukrainian countryside have been facing for many years."[18] Shortly after gaining independence in 1991, Ukraine began the process of farmland privatization "under the 'socially-correct' slogan: 'Land for those who work it.' This was seen as the primary means to transform Ukraine's rural areas and its agriculture."[19] This privatization occurred without granting full and unrestricted property rights to the new owners.[20] The same moratorium on farmland sales implemented in the 1990's is still suffocating agricultural growth in 2016. It almost appears that Ukraine simply cannot entirely escape its communist past dating back to the 1930's at the beginning of collectivism.[21]

Gross mismanagement of state-owned agriculture production, under Stalin's enforcement of collectivism, led to the tragic starvation of over eight million Ukrainians.[22] Remnants of the Soviet agriculture mindset remain today. In fact, "unsatisfying living standards, lack of economic freedom, and regime uncertainty caused public ex post resentment of market reform."[23] The frustration with the socio-economic status in rural Ukraine due to the denial of full property rights and overbearing agri-regulation have driven nearly half of the rural population to cry support for "renationalization." [24]

"Many would perceive the lifting of the moratorium and the privatization of the state farmland as a signal of commitment to reform."[25] It would also show that Kiev is devoted to the economic development in Western Ukraine. However, government bureaucracy and corruption are major barriers to comprehensive reform and proper implementation of full property rights ownership.

"Ukraine has one of the ten lowest scores of economic freedom in the world."[26] The consensus appears to support that "the government controlled and planned each step of the transition from socialism to 'capitalism.' "[27] One would argue that true capitalism only works in an environment conducive to free trade and much-reduced government intervention. Public policy should lift barriers, not create them. The use of policy should provide equal opportunity and attempt to improve the overall quality of life for every citizen regardless of status. However, Ukraine's approach was and remains one of over-bearing governance, lengthy processes, and red tape.[28] If control equates ownership, then the Ukrainian government de facto still owns all farmland even though privatization began over twenty years ago.[29] There are three key examples of government involvement and inefficiencies suppressing the agricultural sector. Solutions to these issues are not necessarily a prerequisite to lifting the moratorium on selling farmland. However, the market will operate with less efficiency until there is resolution. The first is the absence of an accurate and validated "Land Registration" system.[30] The second is the enforcement of commodity and land lease "price controls." [31] The third involves the sheer number of legislation governing the farm industry.[32]

In early 2012, Ukraine passed "The Land Cadastre Law" in an attempt to account for the owners of all 32 million ha of arable land. The register is an obvious first step in administering the transfer of property. Prior to 2012, the process of registering land involved a cumbersome multi-step process in proving ownership prior to enrollment. In addition, "extensive involvement of government officials at all points along the lease procurement and registration continuum allows for many opportunities for rent-seeking behavior." The law forbids the owner to lease land unless registration is complete. The procedure to register is so engulfed with red tape and corruption, common owners continue to walk away from their land producing massive migration to urban areas and "abandonment of almost 40 percent of agricultural land." The passing of The Land Cadastre Law has had a positive impact. "According to the World Bank Doing Business index, Ukraine has made excellent strides in improving its ranking under the indicator

'registering property' from 88 in 2014 to 59 in 2015, out of 189 economies."[33] An accurate land register will reduce property disputes that currently rely upon an already ineffective judicial system and would provide a transparent means to collect tax revenues.[34]

Even if the moratorium is lifted and privatization continued, government policy of crop and land price controls will prevent an efficient free market environment. Price controls are also stunting economic growth and prevent profit maximization for all. Currently, rents from leased land are locked-in at about half of what is projected the price should be.[35] For further context, this is "a fraction of the rates charged in the EU."[36] The policy clearly discriminates against the small landowners in favor of agri-companies owned by the country's elite or anyone that has ties to the capital.[37] Ukraine's land reform will need to address the "have/have not" perception if the ultimate objective is widespread economic stability.

Probably the most significant indicator of desperately needed change is the astronomical volume of regulation farmers and landowners must wade through to operate. Even if the moratorium were lifted, the administrative burden placed upon small farmers prevents equality in a competitive market. "More than 200 laws and legislative acts regulate the agricultural sector in Ukraine."[38] The positive effect property rights would have on total economic prosperity will be significantly hampered without reducing the grand bureaucracy surrounding agriculture legislature.

Another critical issue is the amount of corruption in Ukraine. Corruption permeates every economic sector of Ukraine and agriculture is no exception. To provide context to the extensive corruption problem, Ukraine "ranked 142nd out of 175 countries in the 2014 Corruption Perception Index of Transparency International."[39] One of the main contributors to corruption are the same ones who profit from it. "Ukraine's agriculture has become sufficiently lucrative to attract the attention of some of the country's biggest oligarchs."[40] The Oligarchs of Ukraine have grown richer as the rest of rural countryside struggle to meet basic needs. They, like the perception of huge lobbyists in the United States, use their wealth to influence political policy forfurther profit-seeking opportunities. "They seek to prolong the period of partial reforms to preserve their initial flow of rents, though at considerable social cost."[41] The Oligarchs benefit from the current lease system and will most likely only be in favor of lifting the moratorium if they are in a position to profit considerably from it. They appear to have no nationalistic loyalty to the economic improvement of Ukraine except to the extent it will line their pockets. Before moving forward with progressive agri-policy, the Ukrainian government will need to reduce the influence of the elite. Otherwise, the probability of true meaningful reform appears remote. Any economic assistance the United States, or its allies, provided to Ukraine should be conditionally based on "the severance of relationships between business and politics and proper taxation of oligarchic fortunes."[42]

The Impact of Not Lifting the Moratorium and Further Privatization of State Land

The past success and promise for tomorrow's agricultural boom are being quickly eroded by failed economic policy and restriction of an open competitive environment that lifting the moratorium would provide. The impact of not lifting the moratorium and further privatization of state-owned land have negatively driven Ukraine's GDP, agricultural sustainability, and crop productivity in an undesirable direction.

As previously stated, agriculture once accounted for 25% of the Ukraine's GDP. This peak occurred around the time the country gained independence in 1991. Agriculture reform and land ownership started to become a reality around the same timeframe. However, the government restricted the sale of farmland and therefore withheld absolute property rights. The outcome has been disastrous. The GDP for agriculture fell to 16% in just ten years. Today, the agriculture sector is a mere fraction of its peak at 8%. Why has not this significant drop been a clear wake-up call to the Ukrainian government? The economic picture in Ukraine is clouded with a plethora of fiscal miscues and challenges, but lifting the moratorium will go a long way to defibrillating the agriculture sector and returning it to prominent status.

"Both landowners and farmers choose short-term profit-maximizing strategies because long-term strategies are subject to regime uncertainty."[43] Without the ability of full execution of property rights, all stakeholders in the agricultural sector will remain fearful and unwilling to invest in long-term prospects. The ultimate fear is "the looming threat of eminent domain."[44] This fear of not having full land ownership encourages inefficient farm practices and promotes a "make money while you can" myopic view. The dire consequence of this mentality overwhelmingly impacts long-term sustainability and productivity.[45]

Current profit-seeking practices are destroying the fertile arable soil that provides Ukraine's competitive advantage. Farmers continually plant the crops with the greatest revenue potential year over year without responsible "crop rotation."[46] To further boost margins farmers are not investing in fertilizer and irrigation which are the two things most grossly needed to protect the soil.[47] To compound the problem, farmers seek to expand their land by cutting forest[48] and farming hillsides.[49] Both practices are leading to significant "soil erosion".[50] Lifting the moratorium would immediately set the conditions to reverse this trend by creating an incentive to boost personal investment into long-term sustainability. To emphasis how harmful current practices are, it is important to know "it takes 100 years of natural accumulation of hummus to restore one inch of fertile soil."[51]

Without sound farming techniques incorporating irrigation and fertilization, productivity will continue to suffer. The stellar production statistics mentioned in the potential section of this paper could overshadow the issues that lie beneath. If Ukraine is a global leader in multiple commodities, how is it possible that productivity is a growing crisis? The numbers only tell the current story, not what is driving the numbers now or will be in the future. Use grain as an

example to illustrate the concern. "Increased grain production has been driven by the expansion of agricultural land rather than increased productivity."[52] The same destructive land practices, such as deforestation and hillside farming, are the very methods used to create the facade of increased production. The fact is, Ukraine is only producing at about "40% of their potential."[53] The yields per hectare in Ukraine are significantly lower than their Western European counterparts.[54] Again, the reason goes back to a short-sighted profit maximization mentality due to lack of incentives that removing the ban on the sale of farmland would provide. Lifting the moratorium must happen before the soil damage to Ukraine's most treasured natural resource is irreversible. Protecting the long-term viability of the agricultural sector is arguably the most critical outcome of granting full property rights, but certainly are not the only benefits.

The Benefits of Lifting the Moratorium and Further Privatization of State Land

Lifting the Moratorium has the remarkable potential to not only reverse the three negative trends mentioned above, but will increase both internal and external investment, produce greater revenues through higher land values for citizens and the government, and will incentivize rural development.

A steady stream of investment is needed for sustained growth in any economic sector. Lifting the moratorium in Ukraine is the gateway to opening the floodgates of investment dollars by land owners, Ukrainian industry, and foreign companies. This inference is based on the fact that the number one hindrance to investing into the country's agricultural sector is "market instability."[55] Granting full rights of ownership would provide that stability. Another issue is the availability for small land owners to obtain financing in order to invest in areas such as irrigation systems and soil conservation. Without having full ownership, banks view agricultural land as poor collateral.[56] Lifting the Moratorium is the resolution to this issue as well.

The immense agri-potential in Ukraine attracts the attention of foreign investors. The fact the moratorium permits leasing, but prohibits all non-Ukrainian interests from owning land is not in itself a deterrent.[57] Massive U.S. agriculture companies such as Cargill, Monsanto, and Dupont are large enough to underwrite the unstable economic environment in Ukraine as they foresee growth investing in agri-business infrastructure and the farming service industry. Other current investors are China, Saudi Arabia, and the European Union.[58] Although the research did not cite the amount of additional investment under an open land market, the moratorium is clearly the lynchpin holding back a massive wave of fresh investment into the Ukrainian economy and to the development of rural areas.

"Declining living standards and the rapid degradation of the countryside has translated into a more pronounce demographic crisis than in urban areas. Between 1991-2013, the rural population of Ukraine decreased by 15.9%."[59] This migration has led to vast amounts of land abandonment. Land sitting idle is equivalent to leaving money on the table. Lifting the moratorium is the solution to reversing this disturbing migration trend and signally economic

hope to those living west of the capital. A free land market would encourage rural investment and development, provide significant employment opportunities, support small business ventures, and collectively improve the economic status of all. Under the current failed policies, rural depression will continue.

The government would realize increased tax revenue by lifting the moratorium and by the continued privatization of state-owned land. An open competitive land market would establish property value under a pure supply and demand economic model. The higher the demand drives land prices, the higher the property tax revenues. It is hard to see the logic in maintaining a restrictive policy. Even more perplexing is the Ukrainian government's inefficient use of state-owned land. The government owns just over 10 million ha. Close to nine million hectares owned by the government are not within the "State Land Cadaster" and therefore are not gainfully leased for farming purposes.[60] At the current fixed prices, this land, if used for agricultural purposes would bring in one billion dollars in rents. The potential property tax revenue would be even greater if land were privatized and sold for agricultural use.[61] Again, a significant amount of funding left on the table at a time Ukraine desperately requires revenue.

Limitations

Lifting the Moratorium is not the answer to all of Ukraine's economic woes. However, granting full property rights will create a positive shock to the rural economy and help stabilize the countryside. Some may argue that corruption and excessive government bureaucracy must be resolved prior to removing the Moratorium. There is full acknowledgement that these issues must be addressed to create a more efficient market, but lifting the Moratorium must happen promptly to reverse rural migration, encourage rural investment and development, and promote land conservation practices. Ukraine can ill afford to wait until all preexisting conditions are fully resolved.

Another counter argument is that "the removal of the moratorium may lead to rapid land consolidation in the hands of a few wealthy land owners." This may create an even greater migration crisis out of rural areas. Property rights policy, implemented correctly, should provide opportunity to benefit all land owners not just the Oligarchs. It has been suggested, "the land moratorium could be lifted gradually, starting in selected areas having advanced cadastral records and strong political will for reforms."[62] A gradual repeal makes the most sense to reduce the risk of unintended consequences.

A successful example of movement from collectivism to full land rights is the providence of Guizhou in China. The Chinese government decided to "experiment" with one of the most economically stricken regions by granting full land rights in 1979.[63] The Guizhou program was highly successful. The most positive outcome of the experiment is that those granted full land rights were deemed more likely to reinvest person capital to ensure long-term sustainability than those not granted rights.[64] This would also infer that having full land rights will positively impact

rural development, reverse migration, and promote conservationism. The China example further supports a gradual repeal of the moratorium.

Conclusion

Property rights and land ownership have long been a measuring stick for gauging individual rights and the pursuit of happiness. In turn, these metrics are key indicators of prosperity. Currently, the greatest barrier to long-term economic prosperity to the rural population and the overall agriculture sector is failed policy. Lifting of the moratorium on farmland sales and continued privatization of state-owned land would be the cornerstone of this century's successful agricultural economic strategy for Ukraine. Full property rights will create a free-land market where supply and demand will determine land value which should increase the net worth of all landowners, both big and small. Reformed policy will encourage internal and external investment, promote sustainable farming practices, and aid the country in realizing the full promise of Ukraine's agricultural sector. A free market would create an environment to return agriculture to its height of GDP in Ukraine. Lifting the moratorium will create positive economic inertia changing the face of the rural socio-economic struggle and provide economic stability west of the conflicted areas.

EUCOM must explore all elements of DIME to provide stability to Ukraine and reduce Russia's financial influence in the region. As EUCOM explores all indirect national means to shape the environment, supporting agricultural reform must certainly be in the equation.

Recommendations

- The moratorium should be lifted gradually now.
- Register the state-owned land and continue privatization for more efficient use.
- U.S. aid should be a conditional based on Ukraine's movement towards open markets and corruption reform
- The United States government should provide tax incentives to U.S. companies willing to invest in agricultural infrastructure and service businesses located in Ukraine's rural areas.
- US should support the EU and NGOs to promote sustainable farming practices.

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Preserving the Natural Gas Web of Dependency Between Russia, Ukraine and Europe

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Introduction

Ukraine is an important country in terms of economy and size. It has the second largest population (45 million people) and economy ($136 billion) of all former Soviets states, trailing only Russia in both categories.[1] These factors, along with its relatively high per-capita Gross Domestic Product (GDP), make Ukraine an attractive market and asset to outside powers.[2] For Europe, Ukraine is most important for its location, particularly as a transit state for energy. According to the United States Energy Information Administration, in 2014, 50-60 percent of Russian natural gas exports to Europe transited Ukraine.[3] Ukraine's transit role is likewise important to Russia and has been a vital enabler of Russia's economy from the Soviet Era to the present.

Russia's efforts to bring Ukraine back into its sphere of influence has led to political, economic and military turmoil in Ukraine following Russia's annexation of Crimea in early 2014. Russian military aggression in the east and a legacy of destructive policies and corruption have created an imminent existential crisis for this young democracy and the post-World War II effort to create a safer Europe.[4] This crisis is a reminder that hard power never quite goes away and the role of force remains formidable when it comes to setting and changing borders. President Putin's actions suggest his main priority in the annexation of Crimea and military actions in Eastern Ukraine are not to act on behalf of best interests of ethnic Russians, but to destabilize Ukraine in order to recreate scope for Russian influence and prevent Ukraine from becoming more deeply intertwined with Europe and the European Union (EU). Russian aggression has forced the Ukrainian Government to turn westward. This was made apparent in the October 2014 parliamentarian elections, where for the first time in Ukraine post-Soviet history, the election produced a pro-European dominant majority.[5]

While geopolitical strategies to keep the peace appear to be breaking down, in Ukraine, the conflict (between Russia and Ukraine) has remained limited in scope and under control because of geo-economic realities.[6] The natural gas relationship between Russia, Ukraine and the EU has been at the heart of these geo-economic realities. A delicate mutual web of dependency has been built around the natural gas sector with Russia as the supplier, Ukraine as the connector and the EU as the consumer. The preservation of this web of dependency requires action from the Ukrainian Government. The Ukrainian Government must prevent Russia from further circumnavigating its natural gas transit system and liberalize its natural gas sector in order to preserve the mutual web of dependency between Russia, Ukraine and the EU to keep tensions in check and prevent Ukraine's economic collapse.

Background

The Russian Government has a history of using control of natural gas for coercive purposes. Gazprom (Russia's largest majority state-owned gas supplier) cut off Ukraine's gas supplies in 2006, 2009 and 2014 following payment and pricing disputes with Naftogaz (Ukraine's largest state-owned gas transport company) creating aftershocks in central Europe.[7] These events highlighted Ukraine's and Europe's economic vulnerability to Russian natural gas and the Russian Government's willingness to use it as a lever to create instability in Ukraine and force EU action to influence Ukrainian behavior.

In 2012, Russian natural gas represented 100 percent of Ukrainian imports and approximately half of Russia's natural gas exports to Europe flowed through the Ukraine.[8] Ukraine depends on Russian natural gas flow for revenue and relevancy in the European natural gas sector and both Ukraine and the Europe rely on it for industrial and domestic consumption. Such dependency has been used by Russia as a weapon for political purposes, and finally drove Ukrainian politicians, after the Revolution of Dignity in early 2014, to focus westward to increase Ukraine's energy independence and security.[9] The Ukrainian Government has taken a hard stance against Russia and towards the West as it attempts to reach European regulatory standards in order to, in the words of Prime Minister Yatsenyuk, "…return to where the Ukraine belongs: to the family of European Nations."[10]

In retaliation to Ukraine's embrace of Europe, Moscow has made no secret of its desire to end the use of Ukraine as a transit country for Russian natural gas by 2019. This policy was expressed most colorfully by Gazprom Deputy Chief Executive Officer, Alexander Medvedev, in June of 2015: when he said "under no circumstances, even if thesun will replace the moon, will Gazprom enter into a transit contract with Naftogaz after 2019."[11] 2019 marks the end of the current contract between Gazprom and Naftogaz.

At first glance, it may seem like the Ukraine and Europe are less dependent on Russia for natural gas now more than ever. Ukraine's natural gas demand continues to fall. In 2014 consumption was 42.6 billion cubic meters (bcm), about 15 percent lower than in 2013; in 2015 it fell by a further 21 percent to with 33.8 bcm.[12] Demand is currently met by a combination of imports from Europe and domestic production. However, in 2015, Ukraine imported 63 percent of its natural gas from the EU using reverse flow.[13] Reverse flow describes how natural gas from Russia is sold to Europe, transported through the Ukraine to Europe and then sold back to Ukraine by Europe. This means Ukraine is still importing natural gas sourced from Russia and Russia still has its hand on the shutoff lever. The EU gas supply situation has also changed. Russia transported only 53 percent of its gas exports to Europe (in 2014) in comparison to 80 percent in 2009.[14] The bottom line is, no matter how it gets to its final destination, Ukraine and Europe still need Russian natural gas.

Protecting Ukraine's Role as Connector Between Russia and Europe

While the Ukraine doesn't have the military power to fight Russia force on force, it does have a well-developed natural gas transportation and storage infrastructure and the biggest share of natural gas transported from Russia to the EU passes through Ukraine.[15] The web of dependency created by the supplier, connector, consumer relationship has kept tensions in check between Russia and the Ukraine. It is a mistake for the Ukrainian Government turn its back on Russia right now and give up potentially its biggest lever against Russian aggression, the transport of natural gas to Europe.

The EU, Ukraine's strongest supporter in its struggle to keep its natural gas sector relevant, recognizes the strength in the role of connector. Recently, the Vice President of the European Commission, Maros Sefcovic, who holds the energy portfolio for the EU, laid out his vision for how the contentious relationship between Ukraine, Russia, and the EU ought to be structured. "Russia as an exporter, Ukraine as a transit country and the EU as the main importer," he said.[16] The Ukraine must protect its natural gas connector role as it is a key strand in the web of mutual dependency between Russia the Ukraine and the EU that has helped de-escalate tensions between the Ukraine and Russia.

Despite some degree of diversification, the web of natural gas dependency between Russia, Ukraine and Europe remains. Approximately half of Russia's natural gas exports to Europe still flow through the Ukraine.[17] Europe accounts for around a third of Gazprom's total (natural) gas sales, and around half of Russia's total budget revenue comes from oil and natural gas; Moscow's economy needs the oil and natural gas revenues.[18]

Moscow's previously mentioned desire to end the use of the Ukrainian natural gas transport system is not the first time Russia has attempted to circumvent Ukraine or used this type of rhetoric. Whether based on a true desire to be a more reliable supplier to Europe or to strengthen its economic lever over the Ukraine, Russia's gas transit diversification policy has serious economic implications for the Ukraine. The construction of the Nord Stream pipeline and its impact on Ukraine's gas transit volumes and subsequently its economy, illustrate these implications. The Nord Stream pipeline runs through the Baltic Sea from Vyborg, Russia to Lubmin, Germany (see figure 1). The Nord Stream pipeline reduced Russia export flows through Ukraine to Europe from up to 80 percent in 2009 to around 50 percent or less in 2015.[19]

Figure 5 Nord Stream and Nord Stream 2 Pipelines

Russia's attempts to circumvent Ukrainian natural gas pipelines have been relentless. In December 2014, Russian President Vladimir Putin and Gazprom CEO Alexei Miller announced that the South Stream project (which would carry gas to the Bulgarian Black Sea shore bypassing Ukraine, 63 bcm in four strings) was cancelled due to unresolved Third Energy Package regulatory problems with the European Commission (EC) and Bulgaria,[20] but that a similar project, Turkish Stream, which would carry the same amount of gas to the Turkish coast, would be launched (see figure 2). The Turkish stream would replace the volume currently delivered via Ukraine, Moldova and the trans-Balkan pipeline across Romania and Bulgaria.[21] Whatever degree Russia has been held in check in Ukraine by the need to preserve its energy routes would evaporate if one of these proposals got off the ground.[22]

Figure 6 Eastern Europe Natural Gas Pipelines.

Possibly Russia's most blatant attempt to circumvent the Ukraine came with the proposal for the Nord Stream 2 pipeline. The Nord Stream 2, would double the current capacity of the existing Nord Stream pipeline in the Baltic Sea that directly connects Russia to Germany.[23] If the Nord Stream 2 project were approved the economic impact on the Ukraine would be catastrophic. "A Russian proposed natural gas line through the Baltic Sea could kill Ukraine," said Amos Hochstein, Special Envoy for International Energy Affairs at the U.S. Department of State in a recent interview with EurActiv, a Slovakia news publisher.

"Here is the level of damage you do with a project like Nord Stream 2: you take two billion dollars of revenue from a shaky economy like Ukraine at a time when the international community is trying to support it. How do you recover from that: there is an easy answer, you can't," Hochstein said in the interview. "The economy will collapse." [24]

The historical example of the Nord Stream pipeline and the catastrophic potential of additional projects being pursued by Russia under the umbrella of its natural gas transit diversification policy illustrate the Ukraine's precarious position. The Ukraine must protect its role as the natural gas connector between Russia and Europe and it can't do it without the support of the EU.

Why Ukraine Needs the Support of the EU

Fortunately, after the Revolution of Dignity in 2014, Ukraine undertook a strong EU integration course, signed the EU-Ukraine Association Agreement, joined the World Trade Organization, and became a contracting party in the Energy Community.[25] The Ukraine's efforts to fully integrate into the EU are important because without the support of the EU, Russia's plan to remove the Ukraine as the natural gas connector to Europe has a very real chance of succeeding.

The Ukraine Government alone cannot stop Russia from executing its transit diversification policy without the backing of the EU for two reasons. One, as mentioned earlier the EU is the largest importer of Russian natural gas and two, the EU and its European Commission control sole legislative initiative in the EU. In short, Russia cannot afford to lose Western Europe as a customer nor can it legally proceed with any more gas transit diversification projects without the consent of the European Commission.

The Ukraine's new relationship with the EU has already proved invaluable after President Putin's December 2014 South Stream and Turkish Stream pipeline announcements. His statement was met in Europe with a significant degree of disbelief and essentially dismissed as a bluff, with the European Commission Vice President for the EU, Maroš Šefčovič, saying that the project 'would not work', given the seemingly insurmountable challenges that Gazprom would have to overcome.[26] This public backing of Ukraine by the EU highlights the power of the EU holds over Russia when it comes to attempts to expand their natural gas infrastructure and why Ukraine needs the EU to prevent its natural gas transportation system from being bypassed.

Despite the past risks of supply interruptions from spats between Ukraine and Russia, forcing Russia to continue using the Ukrainian export is one of the few tools the EU has to influence Moscow's behavior.[27] If Moscow's rhetoric isn't hollow and it truly desires to end the use of Ukraine as a transit country for Russian natural gas by 2019, the bargaining power the EU brings to the table with Russia may be the Ukraine's only hope.

Help Russia Secure a Place in the Eastern European Natural Gas Market

One of the few advantages Ukraine possesses is its important position as a strategic partner to the EU due to its large transit gas transportation system and storage systems (see figure 2). Ukraine has an entry capacity of 288 bcm per year and an exit capacity of 151 bcm per year in the direction of the EU; adequate to handle Russian exports to Europe which have averaged between 150 and 180 bcm per year since the turn of the century.[28] Additionally, Ukraine

possesses the largest system of underground gas storage facilities in Europe. It consists of 12 separate facilities with a total capacity of around 31 bcm.[29] Despite tensions between Russia and the Ukraine, in 2014, 13 countries were still receiving all of their Russian natural gas imports via Ukraine and 3 received some.[30] Since 2014 the Ukraine has proven it can securely and safely deliver Russian natural gas to Europe. While the gas interruptions of 2006, 2009 and 2014 might lead one to question Ukraine's ability to securely deliver gas and provide a reason to diversify away from transit via Ukraine, recent events tell a different story. Gas flowed to Europe uninterrupted during 18 months when Russian-Ukrainian and Russia-EU relations were at their worst since the end of the cold war. A precedent has been set: issues with a bearing on the security of supply were settled even when negotiations on almost everything else had broken down.[31] Ukraine and the EU need to remind Russia that together, they possess the infrastructure and relationships to ensure Russian natural gas reaches the European market reliably and safely without the need to spend billions of dollars on unnecessary new pipelines. By providing a united front to Russia, Ukraine and the EU can strengthen the natural gas web of dependency that has kept tensions in check.

Liberalize Ukraine's Gas Market

Liberalizing Ukraine's natural gas sector will create a free natural gas market and a climate to address mismanagement, corruption and pricing, however, it's more important outcome is retaining the confidence and support of the EU. Addressing these issues will show Central and Eastern Europe Ukraine is dedicated to remaining a vital component of European economies as a reliable natural gas connector between Europe and Russia and help secure EU support against Russia's attempts to destabilize Ukraine's natural gas sector.

Ukraine made a commitment to reform its gas market to comply with European standards as early as 2009.[32] Ukraine also adopted framework legislation on gas sector reform that included basic requirements and principles of EU legislation, but it has had a number of discrepancies and exclusion clauses.[33] In reality, the government took very few actual steps to open the natural gas market and undertake tariff reform between 2009 and 2013. Only after the change of government in 2014 did Ukraine begin implementing its key commitments in the natural gas sector under the EU's Third Energy Package…aiming to complete the process by April 2017.[34] Compliance with EU legislation provides a path to further integrate Ukraine into the EU's energy market and to depoliticize both Ukraine's and Europe's gas relationship with Russia by allowing them to negotiate from a more powerful position. In order to retain the confidence of the EU, Ukraine must deal with mismanagement, corruption and pricing in its natural gas sector. The EU has provided Ukraine with a solid game plan in the EU Third Energy Package; Ukraine must now follow through on execution if it hopes to preserve the web of dependency that has kept tensions between Ukraine and Russia in check and prevented its economic collapse.

EU's Third Energy Package

The European Union's Third Energy Package is a legislative package for an internal gas and electricity market in the European Union. The core elements of the package include ownership unbundling, the establishment of a National Regulatory Authority (NRA) for each member state, and the Agency for the Cooperation of Energy Regulators.[35] These elements provide the structure and oversight required for the Ukraine to succeed in liberalizing its natural gas industry. Ukrainian compliance with this legislation is crucial to retaining the confidence of the EU and specifically the EU Energy Commission.

The Ukraine has repeatedly failed at energy reforms since 2009 for several reasons, but the most prolific is the energy sector harbors powerful commercial and bureaucratic interests. Compliance with the Third Energy Package can help the Ukraine tackle these issues. Volumes have been written on the EU's Third Energy package and its complex legislation, so we'll focus on the two most important issues for the Ukrainian Government: unbundling and the establishment of an independent regulator.

Unbundling

Unbundling is the separation of energy supply and generation from the operation of transmission networks. If a single company operates a transmission network and generates or sells energy at the same time, it may have an incentive to obstruct competitors' access to infrastructure. This prevents fair competition in the market and can lead to higher prices for consumers by creating a monopoly. To enable a competitive gas sector, comply with European regulations and retain the EU's support, Ukraine will have to unbundle Naftogaz**.**

Naftogaz, Ukraine's biggest employer with 175,000 workers, received more than five billion dollars of subsidies in 2011 and 2012 as regulated gas prices and expensive Russian energy imports led to losses.[36] The state budget finances its large losses. Currently, Naftogaz is the sole owner of the public joint-stock company Ukrtransgaz, which operates the transmission system, including the transit pipelines passing through Ukraine for the supply of Russian gas to Europe, and the storage system. Despite the significant support of the Secretariat and the donors' community in Ukraine, the unbundling of Naftogaz did not occur by the February 2016 deadline as required to comply with the reforms in the EU's Third Energy Package.[37]

However, as part of corporate governance reform at Naftogaz, the government transferred its supervision authority from the Ministry of Energy to the Ministry of Economic Development, which is seen as decreasing strict state control, and banned any political or administrative interference in its corporate activity, with an independent Supervisory Board serving as a guarantor of impartiality.[38] The holding company also joined the e-procurement system ProZorro and started practicing extensive disclosure of relevant gas market data on extraction, transportation, storage deposits, prices, consumption, etc.[39] These reforms are beginning to bear fruit. Naftogaz's financial statement in 2015 posted a loss of 1.036 billion euros; for the same

period in 2014, it had 5.727 billion euros in losses.[40] Prime Minister Yatsenyuk declared that Naftogaz was expected to reach solvency in 2016.[41]

While the corporate governance reforms previously mentioned are all steps in the right direction, to truly enable a competitive gas sector, comply with European regulations, and retain the support of the EU, Ukraine still must unbundle Naftogaz; independent regulators can help the Ukraine get into compliance.

Independent Regulators

A competitive internal energy market cannot exist without independent regulators who ensure the application of the rules; this continues to be a challenge for Ukraine. Reviewing progress since the EU Energy Commission's 2015 Implementation Report from the Secretariat, genuine progress had not been made.[42] In fact, the Secretariat went so far as to threaten to open infringement procedures if Ukraine was unable to adopt new regulations under the Law on the Regulator.

The National Energy and Utilities Regulatory Commission of Ukraine (NEURC) is the single authority for regulating natural gas and electricity. However, it is the only regulatory body in the Energy Community whose establishment is not solely based on legislation.[43] Instead, it is established and can be liquidated by an act of the president. The president has made use of this legal possibility already twice in the past as a tool for dismissing NEURC's management which proves the fragility of the pillars of independence the regulator is built on. The Ukrainian Government has chosen a structure that takes the "independent" out of independent regulators. This has not instilled confidence in the EU as it is the polar opposite of the high-functioning regulatory bodies in Canada, Australia, France, the United Kingdom and the United States.[44]

Given the existing shortcomings regarding independence from both politics and the regulated industry, NEURC has so far not demonstrated a pro-active approach to designing the market. As of the drafting of this paper, and to Ukraine's credit, in September of 2016, the Ukrainian Parliament adopted the Law on the Regulator aimed at transposing the relevant requirements of the Third Energy Package.[45] While the Secretariat conducts a detailed assessment of the law as adopted to confirm its conformity with the complete set of regulatory competencies required under the Third Energy Package, the EU waits anxiously to see if progress has been made. As Kiev attempts to boost the EU's confidence in Ukraine as a natural gas partner through legislation reform, it must also attack the root cause of the economic issue with its natural gas sector, pricing.

Pricing

Ukraine needs to make its natural gas sector profitable and show the EU it has the political will to make unpopular, yet necessary changes. In September of 2014, the Ukrainian government paid only $30 per 1,000 cubic meters (mcm) of natural gas produced by the state-

owned producer Ukrgazvydobuvannia, while the domestic market price for the industry was around $380 per mcm.[46] The state budget covered the losses of state-owned Ukrgazvydobuvannia. Every year, Naftogaz is recapitalized with $3 billion to $5 billion from the government budget to cover its debts.[47] In the past, the Ukrainian government has cited the reason for keeping the prices so low is to provide consumers with cheap gas, when in fact, oligarchs are simply trying to keep the people content as they get rich via arbitrage.

The key reform is to unify energy prices at the market level. That means raising key prices such as natural gas, four to five times, which will eliminate the large energy subsidies and stimulate energy saving, while also stimulating domestic production.[48] Energy enterprises would be given normal price incentives to work efficiently for a profit and everybody would have an interest in saving energy. Also, state corporations need to be disciplined through public audits, division mainly between production and transportation, and privatization. Private corporations should be offered normal conditions to produce energy.[49] To make any of these steps feasible, the Ukraine needs the accountability built into the EU Third Energy Package, specifically independent regulators.

Unifying energy prices has been tried in many East European countries, Poland, Estonia, and Georgia with outstanding success. Additionally, all of these steps have been endorsed in manifold publications by the relevant organizations: the International Monetary Fund, World Bank, International Energy Agency, European Union, Organization for Economic Cooperation and Development, and European Bank for Reconstruction and Development.[50]

Following the July 2010 adoption of a new Gas Market Law, Ukraine is now closer to compliance with European Union legislation. Since October of 2015, the law has introduced a liberalized and competitive gas market in which all customers are free to choose suppliers, and fair prices reflect actual cost.[51] Introducing a competitive energy market in Ukraine can reduce the economic pressure which Russia could exert on Ukraine through its gas export policy. It would help overcome European Union member state divisions over European Union policy on Russia and Ukraine. It also has the potential to depoliticize and normalize energy trade between Europe and Russia without the need to invest in bypass pipelines like the Nord Steam. To continue harmonizing Ukrainian legislation with European gas directives, the Cabinet of Ministers needs to follow through on the practical implementation of the laws on liberalization of the gas market to ensure transparency and efficiency to continue to stimulate competition.

So far, the Ukrainian Government has increased prices twice, in April 2015 and May 2016 and regulated prices have reached the market level for household customers and district heating companies before the final deadline of April 2017.[52] This was a long-awaited step away from Russia's gas chokehold and inefficient energy usage. Although this decision was very unpopular and painful from the social viewpoint, it solves some pressing problems: decreases

chances for corruption, helps to reduce the budget deficit, and strengthens the EU's confidence in Ukraine's energy sector.

Conclusions

As the world continues to ponder the complex conflict between Ukraine and Russia, geo-economic logic needs to prevail. Those interested in keeping tensions in check and the economic future of Ukraine need to consider arming Kiev, not with weapons, but with a strategic vision of how it can leverage its role as the natural gas connector between Russia and Europe to preserve the mutual web of dependency. The Ukrainian Government must help itself by working with the EU to prevent Russia from further circumnavigating its natural gas transit system and liberalize its natural gas sector. The web of dependency between Russia, Ukraine and Europe has thus far kept tensions in check and prevented Ukraine's economic collapse, but it must be actively managed by Ukraine and the EU if it is to continue to do so.

Ukraine, Russia and the EU all have interests in keeping natural gas supplies flowing.

Ukraine needs natural gas for its own consumption, for the revenue produced from its transit and to provide leverage against Russian aggression. Russia needs the revenue generated by the sale of natural gas to Europe and doesn't not need another source of tension after annexing Crimea and invading Eastern Ukraine. The EU needs affordable, safe and reliable natural gas for consumption. All of these interests can be met, but they require Ukraine and the EU to embrace Russian natural gas for now.

Russia's natural gas transit diversification policy clearly has serious economic implications for Ukraine. The Ukraine has found willing and strong allies in much of the EU to help stop Russia's diversification projects. Unfortunately, for Ukraine, Russia will not stop its relentless pursuit of these projects. For this reason, the Ukraine Government must show faster and more significant progress in complying with the EU's Third Energy Package to strengthen the EU's confidence in Ukraine as a reliable partner in the European energy community.

Together, Ukraine and the EU can prevent Russia from circumnavigating Ukraine's natural gas transit system and liberalize its natural gas sector. These actions will preserve the natural gas mutual web of dependency between Russia, Ukraine and the EU and continue to keep tensions in check and prevent the economic collapse of the Ukraine.

Recommendations

- The Ukrainian Government and the EU should request multi-lateral discussions with Russia to attempt to slowly back away from the hard stance they've taken against using Russian natural gas.
- To bolster the EU's confidence in Ukraine as an energy partner, the Ukrainian Government must comply with the EU Third Energy Package to include unbundling Naftogaz and establishing a truly independent regulator.

- The Ukrainian Government must continue to drive natural gas prices to market levels to make the natural gas market profitable and show the EU it is serious about reform.
- The Ukrainian Government and the EU should advertise boldly, any incremental progress made by Ukraine in the way of liberalizing its gas market to draw international attention. This would put Russia on notice and attract foreign investors.

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Russia and Ukraine: The Limitations of Energy as an Instrument of National Power

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I. Introduction

Throughout its 25 years of independence from the former Soviet Union, Ukraine has played a dangerous game; tacitly accepting Russian monopoly over its natural gas supply in exchange for discounted prices and mutual rewards among corrupt oligarchs from both countries. The Orange Revolution of 2004 generated tension over the direction of Ukraine's political alignment between east and west, and Russia has since demonstrated the strength of its energy grip by manipulating gas prices and strangling supply on several occasions. Ukrainian citizens have gone without heat in the dead of winter, and political leaders have been forced into compliance or collapse. Belated Ukrainian panic over the consequences of its dependency was just hardening into resolve when Russia annexed the Crimean Peninsula and lent support to pro-Russian separatists in 2014.

Though Ukraine's dire circumstances might seem to hold little promise or potential for improved energy security, this paper argues that Russia has actually overplayed its hand with excessive energy coercion compounded by blunt military force. Instead of bending Ukraine to its will, Russia is forcing Ukrainians into undertaking the very reforms they should have pursued years ago, reforms that have already started Ukraine down a path away from energy dependence on Russia and toward more viable prospects with the European Union and NATO.

The Legacy of Dependency and the Road to Crisis

In the years immediately preceding the crisis of 2014, Ukraine imported up to 75% of its natural gas from Russia.[1] Several factors contributed to this gross imbalance, including the legacy of Soviet economic planning, poor management and corruption on the part of Ukraine, and Russia's leverage of energy as a coercive foreign policy instrument.

The origin of Ukraine's modern energy dependence can be traced to the centralized nature of Soviet economic structure and resource extraction. Ukraine functioned primarily as an agricultural provider and heavy industry manufacturer for the greater Soviet Union, and later as the key transportation hub for the sale and transport of Soviet gas to Europe. Accordingly, Ukraine's extractive industries were never developed to supply Ukraine's own domestic needs or to function independently of the Soviet whole.[2]

Later, during the post-Soviet transition from communism to a capitalist economy, Ukrainian business elites (the "oligarchs") seized control of both industry and the levers of political power—creating a corrupt and debilitating merger of governance and business that persists to this day. In collusion with Russian counterparts, the Ukrainian oligarchs sold discounted Russian gas to Europe at inflated prices while heavily subsidizing gas costs for

industrial, commercial, and residential heating in Ukraine.[3] This rigged system of artificially cheap gas offered short-term gains for all involved with no incentives for improvement or modernization. "Over time, Ukraine's industrial sector has become the least energy efficient in Europe and one of the most inefficient in the world."[4]

Ultimately, the costs of Ukraine's illicit subsidies were passed on to Russia in the form of debts to Russia's state monopoly, Gazprom. Tensions boiled over in 2004 when the Ukrainian government attempted energy industry reforms in the wake of the Orange Revolution. Accusing Ukraine of failing to pay its debts and siphoning off Russian gas intended for Europe, Gazprom cut off supplies to Ukraine in the winters of 2006 and 2009, causing devastating economic and political turmoil in Ukraine, as well as disruptive gas shortages in several European countries.[5] Shaken by the impact of Russia's grip over their economy and government, Ukrainians turned to Europe and NATO. Moscow, in turn, perceived this desperate outreach as a threat to Russia's monopoly over Ukraine's energy supply and its control over gas pipelines through Ukraine to Europe. To counter Ukraine's precipitous tilt toward the West, Vladimir Putin augmented his habitual economic warfare strategy with hard military power in 2014.[6] Faced with an existential threat, Ukraine is currently redoubling its efforts to develop its own untapped natural gas potential and implement European Union standards for renewable energy.

Defining Energy Security

"Energy security" is often assumed to mean "energy independence," as if a country must internally produce all its own supply in order to be secure. Energy experts, however, generally define a lower and more feasible threshold for effective energy security. According to the International Energy Agency (IEA), energy security is "the uninterrupted availability of energy sources at an affordable price."[7] The degree of *import dependence* is indeed a key factor in ensuring uninterrupted availability, but equally important are the factors of supply *resilience* and the *stability* of supplying countries.[8] This assessment model favors comprehensive energy strategies that strengthen domestic production but also focus on diversification of energy suppliers and sources to reduce the risk to supply.[9] The "right" amount of diversity, then, is simply whatever amount affords enough options to ensure a nation's energy needs can be met in any contingency. These principles guide the arguments and recommendations offered in the following sections of this paper.

II. Diversity of Supply: Natural Gas Options

As of October 2016, Ukraine is able to meet its natural gas needs without any imports at all from Russia. This development is a momentous departure from Ukraine's situation just two years ago, when it relied on Russia for the overwhelming majority of its gas supply and was subject to crippling manipulations and reprisals. For the short term, Ukraine has broken its Russia dependency through a combination of reduced gas consumption and diversification of suppliers. Ukraine currently imports 53.3 million cubic

meters (mcm) of gas from European countries on its western border—mainly Slovakia, Poland, and Hungary.[10] These imports are comprised partly of "reverse flows," or gas bought by European countries from Russia and then pumped back into Ukraine. Accordingly, Russian influence is not completely removed from the equation, though Ukraine has managed to stockpile enough reverse-flow gas to get through the coming winter.[11] This achievement is particularly significant insofar as Russia typically leverages the coldest winter months to extract concessions from Ukraine, and will not be able to do so this year.

While Ukraine's current diversity of supply is a remarkable step in the right direction, reverse flows do not constitute a long-term energy security strategy. To secure its future gas needs, Ukraine is working to attract foreign direct investment (FDI) for two initiatives: development of its own untapped shale gas resources and installed infrastructure to receive liquefied natural gas (LNG) shipments. With an estimated 1.2 trillion cubic meters (tcm) of proven shale gas reserves, Ukraine sits atop the third largest reserves in Europe, second only to Norway and the Netherlands.[12] Additionally, significant reserves surround the Crimean Peninsula under the Black Sea. These offshore resources, however, are currently in the

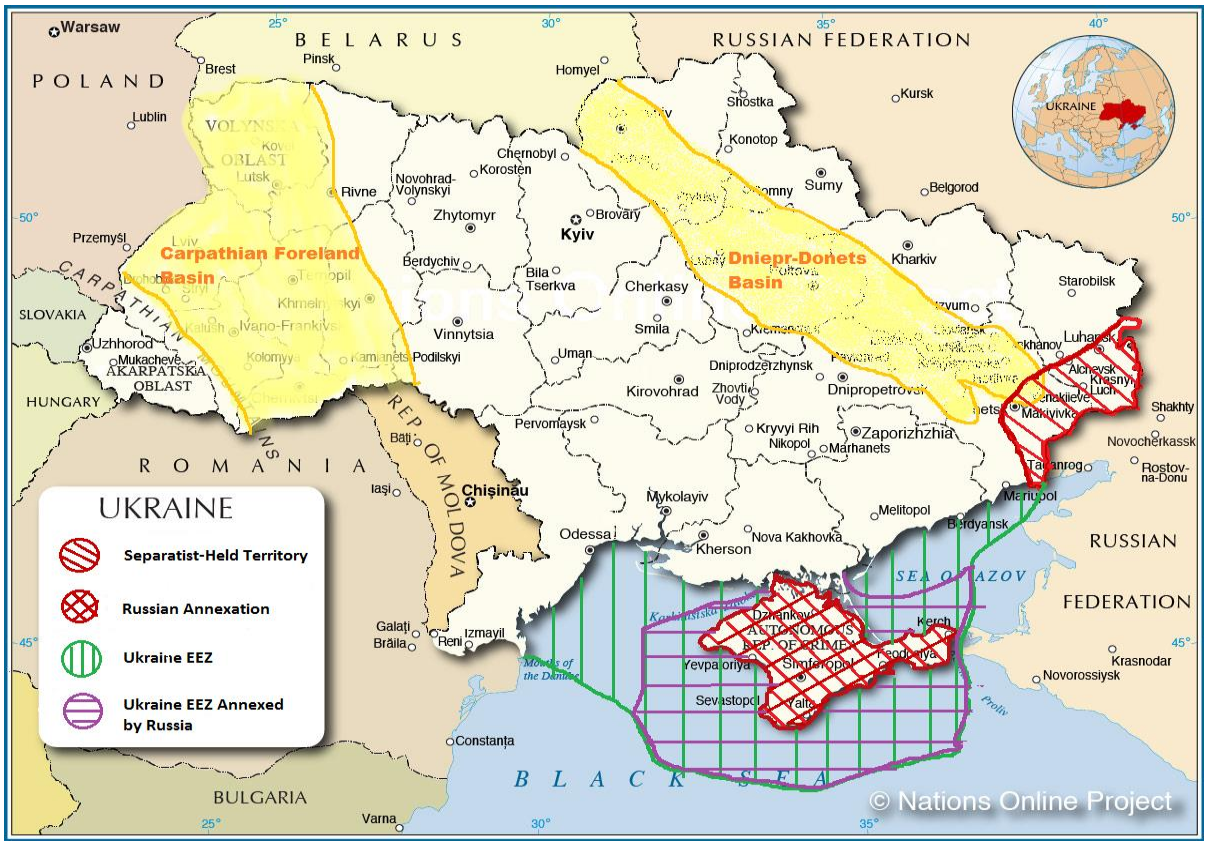


Figure 7 Map of Ukrainian Conflict Areas Relative to Potential Gas Reserves *www.nationsonline.org and The Energy Consulting Group; modified by author.*

possession of Russia, which doubled the size of its Economic Exclusion Zone (EEZ) in the Black Sea by annexing Crimea (see Figure 1).[13] But even without access to its offshore EEZ holdings, Ukraine has more than enough shale potential to meet all its domestic consumption

needs and become a net gas exporter. These resources are found in two sedimentary basins, the Carpathian Foreland Basin, which runs through western Ukraine, and the Dnieper-Donets Basin in the northeast (Figure 1).

Of note, Ukraine once mined productive reservoirs of conventional natural gas, but these were mostly exhausted in the 1970s.[14] These depleted wells contained pooled natural gas accessed through conventional vertical drilling techniques. By contrast, the potential gas in the Carpathian and Dnieper-Donets basins is locked within low-permeability shale rock, and must be extracted through *unconventional* means such as hydraulic fracturing, or "fracking," as it is commonly known. Combined with the complementary technique of horizontal drilling, the fracking process pumps large volumes of chemically-treated water into the shale layer, typically one to three miles underground. The intense pressure fractures the rock and creates well space for released gases to flow and be collected.[15] The only way, then, for Ukraine to develop and exploit its present natural gas potential, is to conduct unconventional extraction from its shale basins. The loss of conventional offshore drilling options around the Crimean Peninsula further underscores this point.

As of this writing, Ukraine lacks the technology, infrastructure, and FDI needed to pursue fracking, though several initiatives were underway prior to the onset of the current hostilities. In 2013, Ukraine signed Production Sharing Agreements (PSA) with Royal Dutch Shell and Chevron to explore and develop shale sites in the Dnieper-Donets and Caspian basins respectively. Plans included the development of shale gas resources for both Ukrainian domestic consumption and export. By 2015, however, both companies had suspended their activities. Shell cited violence in the Donbas region as a "force majeure" jeopardizing the safety of its personnel, while Chevron balked at untenable taxation and regulatory regimes from the Ukrainian government.[16] Though the Shell project was located on the southern end of Dnieper-Donets right on the periphery of separatist-controlled territory, Ukraine's prohibitively unfavorable business climate likely had as much to do with both companies' withdrawals as any threat from civil unrest.[17]

Despite the collapse of both deals, the willingness of two major energy companies to invest billions of dollars in Ukrainian shale gas development demonstrates the viability and potential of Ukraine's reserves. As Figure 1 depicts, Ukraine's major shale basins are large with only one geographic touchpoint along separatist-controlled territory in the Donbas. If Ukraine, as will be discussed in Section IV of this paper, can implement the necessary reforms to reassure potential investors, exploratory efforts can proceed in the west and northeast at relatively safe distances from the conflict.

Attracting foreign investment is essential but not quite sufficient, however, to unlock Ukraine's domestic shale potential. As in the United States and Western Europe, hydraulic fracturing has met organized resistance from some Ukrainian citizens and international

environmental groups. While a detailed analysis of ecological factors is beyond the scope of this study, several counterarguments can be offered to assuage the most common concerns. First, Ukraine's current environmental condition is among the very worst in all Europe, due primarily to toxic runoff from agriculture and greenhouse gas (GHG) pollution from its intensive coal consumption and outdated heavy industry.[18] Natural gas, however, with its comparatively low GHG emissions, is generally considered a "bridge fuel" between hydrocarbon fuels and a low-carbon energy future.[19] To the extent that natural gas production reduces Ukrainian coal consumption, any emissions attributable to the fracking process would surely be worth the far greater reductions realized in overall GHG emissions.

Second, the United States is prepared to assist countries looking to replicate American shale gas successes, and can provide technical expertise and other assistance to mitigate any ecological concerns (see "Recommendations," p. 18). Ultimately, the Ukrainian people must weigh the risks and rewards of shale extraction against the gravity of their situation with Russia. Their energy security imbalance is potentially existential, while the environmental risks of unconventional shale extraction are minimal and can be controlled.[20]

Finally, Ukraine is pursuing a separate but related option to further diversify its natural gas supply: liquefied natural gas (LNG). LNG is simply natural gas converted to liquid form through a technical process to enable shipping across vast distances without direct pipeline connections. Since pipelines are not a factor, Ukraine could import LNG from suppliers other than Russia. Because technology and infrastructure are required at the destination country to receive LNG at port and re-gasify it for consumption, significant upfront costs are associated—again requiring foreign assistance and investment. Assuming market prices unimpeded by political manipulation, the complexities involved with LNG transport would almost certainly render it more expensive for Ukraine than conventional gas from nearby Russia.[21] However, the very *option* to import LNG in lieu of Gazprom gas greatly reduces Russia's leverage over Ukraine's energy needs while affording Ukraine a viable alternative during trade disputes or other conflicts.[22] Diversity and interconnectedness are the essence of energy security. As more LNG infrastructure develops throughout Europe, it is in Ukraine's interest to establish connectivity, either on its Black Sea coast near Odessa or its western land border with Poland. For maximum flexibility and reassurance against Russian naval blockade, Ukraine should develop LNG access on both land and sea.[23]

In terms of short-term expedience and long-term gas security, Ukraine is clearly maneuvering away from Russia's coercion rather than surrendering to it. Diversity of supply has been virtually accomplished for Ukraine's primary dependency problem. The next section addresses efforts to diversify Ukraine's *sources* of energy to reduce its lopsided reliance on gas and coal—regardless of supplier.

III. Diversity of Source: Toward a Sustainable Energy Future

Natural gas security essentially ensures near and mid-range availability of Ukrainian heating—industrial, commercial, and residential. Without transition away from Ukraine's Soviet-era coal consumption, however, Ukraine's baseload power capacity remains at risk. Additionally, reduction of *both* natural gas *and* coal consumption improves Ukraine's long-term energy security by reducing exposure to the market volatility, environmental impact, and future scarcity of fossil fuels. Finally, an energy program targeted toward more diverse and renewable sources places Ukraine in better stead with the rest of Europe, which prioritizes shared targets for energy security and carbon emission reduction. This section addresses Ukraine's potential for diversification away from coal and other fossil fuels, as well as steps already undertaken by the Ukrainian government in accordance with EU standards.

Unlike Ukraine's shale gas basins, which are mostly outside the range of separatist violence, Ukraine's coal industry is located right in the heart of the separatist-controlled Donbas region. Consequently, Ukraine has lost control of many coal mines and coal-fired power plants. This setback has resulted in multiple disruptions of electrical power since 2014. At the outset of the conflict, power plants in areas now controlled by separatists produced 40% of all thermal coal consumption in Ukraine. By the end of 2015, pro-Russian forces controlled 88 coal mines in Donetsk and Luhansk, which accounts for 70% of all coal produced in the greater Donbas region.[24] Coal shortages and consequent electrical blackouts forced Ukraine, ironically, to import coal from Russia, which in turn has used this advantage to cut off supply and force Ukrainian concessions.[25] [26] In effect, every ton of coal purchased from either Russia or pro-Russian Ukrainian separatists increases Russia's energy leverage over Ukraine while funding the very opposition forces Ukraine is trying to suppress.[27]

Fortunately, Ukraine has options at hand to reduce its reliance on coal. First, it can capitalize on the potential surplus to be gained in mining its unexploited shale gas resources. As observed in the last section of this paper, Ukraine's proven shale reserves have the potential—if fully exploited—to meet all Ukraine's domestic consumption needs and more. Many Ukrainian power plants that are currently burning coal are also technically capable of burning gas. To hedge against over-reliance on Russian gas, Ukraine actually transitioned the bulk of its power generation capacity *away* from gas to coal in 2011.[28] This strategy clearly backfired with the civil strife that now engulfs Ukraine's primary coal mining and power-generating region. With productive development of its own gas supply, Ukraine could simply revert back to burning gas for power plants originally intended for it. Additionally, Ukraine has over 30 major Combined Heating and Power (CHP) plants, capable of co-firing coal and natural gas. When hostilities erupted in 2014, the Ukrainian government cut off gas supply to these plants as well, further exacerbating coal reliance.[29] Reinstitution of gas in CHPs would reduce the proportion of coal currently required for them.

Second, Ukraine has significant renewable energy potential, and has already taken incremental strides toward incorporating renewable sources into its overall energy capacity. Continued progress toward projected target capacities will further offset coal required for power generation and shrink the natural gas "bridge" over time, while providing the additional benefits of cleaner energy and market growth for key renewable sectors. According to a study by the International Renewable Energy Agency (IRENA) in 2015, Ukraine's annual technically achievable energy potential from renewable sources is 68.9 million tons of oil equivalent (Mtoe) per year, which is enough to replace about half of Ukraine's total energy consumption today. Since joining the European Energy Community (EnC) [30] in 2011, Ukraine has committed to a package of energy sector reforms and a binding 11% target of renewable sources as a percentage of total annual energy consumption by 2020. This target, which Ukraine will struggle to meet, would almost double its current share of renewables in overall consumption.[31]

Table 1. Potential Renewable Energy Sources in Ukraine

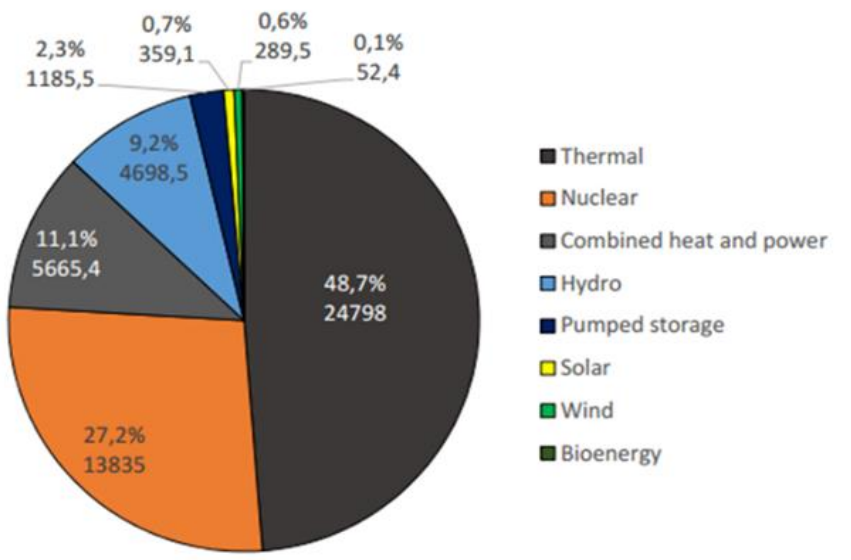
	Annual Technically Achievable Energy Potential	
	Mtoe/yr	% Total
Wind	15	22
Solar	4.2	6
Hydro	7	10
Biomass	21.7	32
Geothermal	8.4	12
Heat Pumps	12.6	18

Source: IRENA (2015) and Ukraine State Agency on Energy Efficiency 2015

Agricultural and forestry waste are abundant in Ukraine, which gives the country vast potential to exploit biomass for energy use (see Table 1). IRENA, the International Energy Agency (IEA), and others have argued that Ukraine could significantly exceed its own renewable energy targets with more aggressive pursuit of biomass energy. Like natural gas, biomass can be co-fired with coal in thermal plants, thus reducing coal consumption while generating power, heat, or both. It also offers the promise of a new internal market that boosts local economic development and creates jobs.[32]

Over the longer term, Ukraine's electrical power generation is threatened by obsolescence. While coal accounts for almost 50% of Ukraine's power capacity, nuclear plants are the second highest contributor at 27%. The remainder of supply comes primarily from hydro plants with a small contribution from recently implemented renewable energy sources (Figure 2).[33] Most of Ukraine's current coal and nuclear plants will reach the end of their technical lifespans between 2020 and 2030. These Soviet-era plants demonstrate the lowest levels of technical, environmental, and economic performance in all Europe. Furthermore, nuclear energy does not support Ukrainian energy security. In fact, Ukraine's reactors depend on Russia for enriched uranium and processing of spent fuel.[34]

Figure 2. Ukraine's Power Generation Capacity by Source, 2015



Source: Oleg Savitsky, *Towards the Energy Transition in Ukraine*, Marion Donhoff Working Paper 2016 (July 2016).

As IRENA recommends, Ukraine should direct investment toward forward-looking renewable alternatives rather than renovations of coal and nuclear plants that only perpetuate reliance on costly, inefficient, and environmentally detrimental sources.[35] Proposed strategies such this, along with others from advisory bodies including the International Energy Agency (IEA), the EnC, and the EU itself, are aimed as much at addressing European climate change goals they are toward enhancing energy security. Granted, there is significant overlap between the two objectives insofar as low-carbon alternatives reduce exposure to fossil fuel volatility and susceptibility to geopolitical manipulation. This study, however, is primarily concerned with Ukraine's energy security, particularly as it relates to Russia. From this perspective, Ukraine's commitment to long-term renewable energy alternatives is significant mainly to the extent that it facilitates Ukraine's overall relationship with the EU. If Ukrainians want an open door to the economic benefits and protection afforded by closer EU and NATO affiliation, compliance with EU energy and ecological standards is good security strategy.

Among the potential counterarguments against reducing coal consumption, the most substantial is probably the potential for economic turbulence and loss of coal mining jobs in

particular. This is no small concern considering the current state of unrest in the Donbas where the coal industry resides. However, massive expansion of unconventional shale gas extraction could offset losses by generating a whole new job market in the nearby Dnieper-Donets basin. Shale extraction will also precede any significant reductions in coal production, so there is time for orderly transition if projects and cross-training are sequenced and implemented effectively. Finally, while a detailed economic analysis is beyond the scope of this paper, a concerted development of biomass industry and other renewable energy sources would presumably create new markets and jobs throughout the country. In any case, Ukraine has relied far too long on a costly and retrograde energy supply, fraught with corruption and susceptible to Russian manipulation. Long-term energy security depends on diverse and sustainable sources.

IV. Securing Foreign Direct Investment

The most significant impediment to robust Ukrainian energy security is not Russian aggression or coercion. Ukrainian corruption and mismanagement have squandered energy security opportunities for years and scared away FDI when it is most needed. To consolidate natural gas security and enable a more rapid transition to sustainable energy alternatives, Ukraine must take active measures to attract foreign investment by improving transparency in its extractive industries, legislating regulatory reforms, and enabling free market competition. To its credit, Ukraine has been cooperating with external creditors such as the International Monetary Fund (IMF), the World Bank, and the United States government, among others, to implement reforms in exchange for bailout money and investment. Ukraine has also signed up for energy sector reforms and binding renewable energy targets with international organizations such as the EnC and the Extractive Industries Transparency Initiative (EITI). Implementing 25 years' worth of reforms while under hostile occupation and battling an insurgency is no easy task, particularly considering the deplorable state of Ukraine's economy. Much more needs to be accomplished, but recent progress demonstrates Ukraine's resolve.

In September 2016, the IMF approved a long-awaited disbursement to Ukraine of approximately $1 billion, bringing the total IMF contribution to $7.62 billion since the current bailout program launched in March 2015. The IMF has committed to phased disbursements totaling $17.5 billion.[36] Following the latest release of funds, IMF Managing Director Christine Lagarde stated:

Ukraine is showing welcome signs of recovery, notwithstanding a difficult external environment and a severe economic crisis. . . A sustainable recovery requires completing the structural transformation of the economy, where much remains to be done, including combating corruption and improving governance. Creating a level-playing field and ensuring equal application of the rule of law is essential to raise investment. A decisive start needs to

be made with the restructuring and divestiture of state-owned enterprises, and prosecuting high-level corruption cases.[37]

One week later, on 22 Sep 2016, Ukraine passed a law written together with the EnC to strengthen independent regulatory authority over energy market reforms to bolster competition and reduce monopolistic (oligarchical) control. On the same day, a draft Electricity Market Law passed initial parliamentary review. [38] If enacted, this legislation will bring Ukraine into EU conformity for de-monopolization of coal-fired power production and transition from subsidized to free market pricing. These reforms are crucial to enable new investments in Ukraine's outdated and deteriorating power generation capacities.[39]

Additionally, the Ukrainian government has rolled back mineral extraction taxes after previously raising them in response to the Donbas conflict and associated economic crisis.[40] This action alleviates one of the primary deal-breakers for the Shell and Chevron contracts, and should help reassure potential investors going forward. Despite a solid run of recent progress, much remains to be done to secure FDI. Key reforms include strengthening and enforcing recent laws on beneficial ownership disclosure and transparency, as well as further privatization of the gas industry.[41]

Ukrainian political and economic reform is a complex topic of its own with broader implications than just the energy sector. The salient point here is that the raw potential for long-term energy security lies within Ukraine's borders if only it can muster the will, capability, and funding to realize it. Ukrainian parliamentarian and energy economist Olga Bielkova asserts that compliance with international industry standards "will not be voluntary in Ukraine as it is in many other countries, but mandatory, with implications for non-compliance. This is a clear sign to investors: Ukraine is serious about improving transparency in its extractive industries."[42]

V. Conclusions

Russia's annexation of Crimea and instigation of armed conflict in the Donbas, following several years of coercive energy sanctions, have pushed Ukraine away from dependence from Russian gas. As of this writing, Ukraine is meeting all its natural gas needs through trade with Europe, and is working to diversify its supply further by developing its vast domestic shale resources and building LNG infrastructure. While these efforts alone are sufficient to break Russia's stranglehold, Ukraine is also diversifying its sources of energy through expansion of renewable energy alternatives in accordance with EU standards. Ukraine's efforts on all fronts depend crucially on its commitment to reform in order to attract FDI.

Based on conventional understanding of energy politics, this favorable outlook for Ukraine would seem implausible. Unlike crude oil, natural gas is thought to be far more susceptible to manipulation, sanction, and coercion from an exporter, particularly when an

exporter holds a monopoly over an importer's supply. Trade in natural gas is restricted by pipelines running directly from the supplier to the receiving country. When a supplier controls both the pipeline infrastructure and the gas, as is the case with Russia and Ukraine, the buyer cannot simply obtain gas elsewhere from other suppliers or markets.[43]

How is it, then, that Ukraine seems to be flouting Russia's apparent advantages? In short, the global gas market is evolving more quickly than theory—in terms of both supply and technology. Just a few years ago, Russia was the world's largest natural gas producer. The United States currently holds this title due to its hydraulic fracturing revolution. [44] Technological advancements such as fracking have generated an abundance of supply, which in turn has stimulated technological advancements (e.g., LNG) to overcome pipeline limitations in order to get all this gas to market. There are simply too many sources of gas and too many ways to transport it for a would-be "monopolizer" to wield coercive leverage in most cases.

The Ukraine case study has potential implications for Russia's use of energy as an instrument of national power. While the proximity and low cost (all things being equal) of Russian gas make it attractive to European nations, Putin may have overplayed his hand with greater Europe as well. Russia's belligerence in Ukraine has awakened EU nations to the risks of doing business with a supplier so willing to wield energy as a weapon. Since 2014, the EU has been re-evaluating the prominence of natural gas in its energy mix and its reliance on Russia for most of its supply. Actions already undertaken include implementation of joint energy-crisis supply measures among EU members and between the EU and other European states,[45] expansion of LNG regasification terminals with spare capacities for storage, and efforts to reduce gas consumption and accelerate implementation of renewable alternatives.[46] Considering that fossil fuel exports make up more than half of its budget revenues, Russia has the most to lose despite its nominal energy hegemony in Europe.[47] Moscow would be wise to consider the long-term consequences of its aggressive nationalist campaign and faux superpower posturing.

VI. Recommendations

The following recommendations are predicated on two assumptions about U.S. policy toward Ukraine: first, that the United States supports "the development of a democratic, prosperous, and secure Ukraine, fully integrated into the Euro-Atlantic community;"[48] and second, that the level of U.S. interest in Ukraine supports diplomatic, informational, and economic measures, but very limited direct military options.[49] Supporting Ukrainian energy security is consistent with these U.S. policy objectives and offers a range of constructive options.

- First, the U.S. government should continue to provide financial assistance for Ukraine's economic and governance reform program, as supported by the IMF, World Bank,

European Bank for Reconstruction and Development, EU, and other donors. On 30 September 2016, following the IMF's recent disbursement to Ukraine, the United States Agency for International Development (USAID) issued its third $1 billion loan guarantee targeted at improving economic governance, improving access to markets, and fighting corruption. As long as Ukraine demonstrates progress along these fronts, the United States should continue its support to facilitate FDI for Ukraine's energy sector.[50]

- Second, the United States should invest more in its modestly funded Unconventional Gas Technical Engagement Program (UGTEP), launched by the State Department in 2010 to help countries conduct unconventional gas extraction safely and economically by sharing American technical expertise and best practices.[51] UGTEP is intended to address the nexus between national security, economic prosperity, and the environment. Properly funded and targeted, UGTEP can help skeptical or incapable Eastern European allies develop shale gas resources safely and effectively, and in the process, reduce Russia's influence over natural gas in the region.[52]
- Third, as American energy experts and many in the Congress have advocated, the U.S. Congress should approve a long-debated Department of Energy (DoE) proposal to expedite the approval process for American LNG exports to foreign countries without Free Trade Agreements (FTA). The current bureaucratic regimen delays potential trade for months and sometimes years. Granted, market dynamics, not policy, determine whether or not American LNG goes specifically to Europe, but the very presence of more American gas in the global market increases competition and reduces Russia's ability to dictate prices and supply to its customers.[53]
- Finally, United States European Command (USEUCOM) and NATO should fully incorporate European and trans-Atlantic energy security into their theater planning, readiness exercises, and collective defense considerations. Since 2008, NATO has been exploring ways to address energy as a common security concern, though member states remain divided due to individual energy trade relationships and fundamental disagreements as to whether energy security should be a collective versus national responsibility.[54] Two specific security concerns merit particular attention. First, NATO and USEUCOM must address energy-related critical infrastructure, particularly insofar as pipelines, terminals, and maritime lines of communication affect the energy interests of multiple NATO members.[55] As this paper recommends, Ukraine is building LNG receiving capacity on its coast near Odessa. Given Russia's ability to restrict access to the Black Sea, freedom of navigation will be critical for LNG to function as a gas supply diversifier for Ukraine. Second, NATO must reconsider the meaning and scope of "armed attack" as expressed in the collective self-defense clause (Article 5), of the NATO Charter. Energy coercion is just one of numerous non-military tactics employed by Russia to threaten and subvert its neighbors' sovereignty. Consequently, "armed attack," narrowly and conventionally construed, may be a dated and dangerously insufficient criterion for NATO self-defense in the era of hybrid warfare.[56]

Succinctly put, the United States is the world's leading energy producer. Consistent with democratic and free market values, it should exercise this power to increase competition, share best practices, support the efforts of responsible nations to bolster their energy security, and leverage security relationships to deter energy aggression against European allies. Such an approach would stand in marked contrast to the more coercive tactics pursued by Russia. In the words of former Chairman of the Joint Chief of Staff, General Martin Dempsey:

An energy-independent and net-exporter of energy as a nation [sic] has the potential to change the security environment around the world, notably in Europe and in the Middle East. And so, as we look at our strategies for the future, I think we've got to pay more and particular attention to energy as an instrument of national power.[57]

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Hacker's Paradise: Cybercrime and its Effects on Stability in Ukraine

by Eric J. Bell LCDR, USN

Introduction

Cybercrime has contributed to instability in Ukraine by weakening political, military, and economic institutions. Symbiotically, the rise in cybercrime affecting Ukraine has been facilitated by the current political, military, and economic crises – government corruption, combat operations against Russia, and poor economic performance – turning Ukraine into both a "cyber safe haven" and "cyber target."[1] Myriad factors promote the opportunity for cybercrime to flourish in Ukraine, highlighting the need for a comprehensive cybersecurity strategy that addresses those factors. For the United States, assisting Ukraine in addressing the problem of cybercrime is important because cybercrime's contribution to Ukrainian instability not only affects operations in the United States European Command (USEUCOM) area of responsibility (AOR) but also affects operations in combatant command AORs worldwide. Cybercrime is an extremely challenging problem to solve because it is anonymous, borderless, and expedient. However, developing and implementing a comprehensive Ukrainian cybersecurity strategy will produce follow-on effects to improve stability for Ukraine and protect American interests throughout the world.

Background

According to INTERPOL, the principal international organization for countering cybercrime:

> there is no single universal definition of cybercrime, [but] law enforcement generally makes a distinction between two main types of Internet-related crime:
>
> - Advanced cybercrime (or high-tech crime) – sophisticated attacks against computer hardware and software;
> - Cyber-enabled crime – many 'traditional' crimes have taken a new turn with the advent of the Internet, such as crimes against children, financial crimes[,] and even terrorism.[2]

The simple lack of a standardized definition of cybercrime, and the specific activities it encompasses, has hindered Ukrainian legislation of cybersecurity policy[3], allowing cybercrime to thrive since Ukraine declared independence in 1991. Since then, both cyber-enabled crime and advanced cybercrime, with Ukraine functioning as either a cyber haven or cyber target, have been used by cybercriminals (some of whom are state-sponsored) to directly or indirectly pursue political, military, and economic objectives that ultimately contribute to instability in Ukraine.

Ukraine: A Cyber Haven

A cyber haven provides an environment where cybercriminals can conduct illegal online activity with virtual impunity. As the Internet proliferated during the post-Soviet era, four

factors set the conditions for Ukraine becoming a cyber haven and the associated rise in cybercrime.[4]

First, the excellent science, technology, engineering, and mathematics (STEM) education provided to Ukrainian students laid the foundation for skill sets congruent to computer hacking.[5] Second, Ukraine's poor economic performance since its independence compelled individuals with these skill sets to pursue alternate career paths, many of which were online.[6] Third, Ukrainian social and cultural norms contain the notion that "stealing from the West is not always a bad thing" – a belief further buttressed by the anonymity enjoyed by cybercriminals.[7] Fourth, dysfunction in the Ukrainian government, due to weak cybersecurity policy and rampant corruption, is arguably the greatest contributing factor to facilitating a cyber haven.[8] For example, copyright infringement and intellectual property theft (i.e., piracy) were, until recently, not even considered illegal in Ukraine.[9] Furthermore, Ukraine's high level of corruption promotes complicity – "even when a cyber criminal [sic] is caught, he or she can usually bribe an official to have the charges reduced or dropped."[10] Even Ukrainian security officials have admitted that their country has become "a haven for hackers."[11] The issues of Ukrainian cybersecurity policy and corruption are expanded during the discussion of Ukraine as a cyber target.

Notorious examples of cybercriminal activity, using Ukraine as a cyber haven, have rapidly increased over time. From 2001 to 2004, a group of Ukrainian hackers founded and operated CarderPlanet[12], one of the world's first online marketplaces for stolen financial data.[13] From 2003 to 2008,[14] a dummy corporation named Innovative Marketing Ukraine (IMU) ran a scareware scam that "cost Internet-users in 60-plus countries more than $100 million dollars."[15] From 2008 to 2013,[16] Ukrainian cybercriminals stole $72 million from consumers during a scam to purchase fake anti-virus software.[17] From 2009 to 2010, Ukrainian cybercriminals stole $70 million (out of an attempted $220 million) from at least 390 small and mid-sized businesses in the United States.[18] From 2010 to 2015, a Ukrainian hacker participated in an insider trading scheme that stole $30 million.[19]

A direct connection between cybercrime and corruption can be seen in 2011 when "[a] decorated Ukrainian general was arrested…along with two other men suspected of being part of an organized cybercrime gang that laundered at least $1.4 million stolen from U.S. and Italian firms."[20] While $1.4 million is a relatively insignificant amount compared to the previous examples, the involvement of a senior Ukrainian military official illustrates just how high up the association is between corruption and cybercrime.

Some might argue law enforcement agencies have had increasing success in bringing cybercriminals to justice, particularly when the United States is involved. Individuals in every single case previously mentioned have been arrested and prosecuted.[21] However, the damage was done, often resulting in irrecoverable losses. Additionally, lesser cases of cybercriminal

activity (e.g., stealing smaller amounts of money) originating from Ukraine go largely unnoticed or are ignored completely.[22] Furthermore, Ukraine's high level of corruption, which is currently ranked the worst in Europe[23], abets complicity – "even when a cyber criminal is caught, he or she can usually bribe an official to have the charges reduced or dropped."[24] According to a study by cybersecurity researcher Nir Kshetri, from 2002 to 2011, "[o]f the roughly 400 people arrested in the country on Internet and banking fraud charges from 2002 to 2011, only eight were convicted."[25]

Of note, the hacker culture is such an important part of Ukrainian society that there is even a political party called the Internet Party of Ukraine. Despite their flippant reputation, partly due to dressing up as "Star Wars" characters during political events, they do have some serious policy proposals, including calling for Ukraine's withdrawal from the Financial Action Task Force against money laundering and providing free computer lessons for the Ukrainian people.[26]

Evidence suggests that cybercrime is continuing to rise despite the improving efforts of law enforcement. In 2013, Ukraine was the country with the highest percentage of hackers operating in cybercrime markets[27], and although English is the lingua franca of e-commerce, cybercrime forums are typically in Russian or Ukrainian.[28] As of 2014, Ukraine was cited as being the home of the world's largest online stolen credit card data marketplace and "has become a magnet for Russian hackers gravitating to the digital crime syndicates there."[29]

Finally, from 2013 to present, the first Ukrainian darknet market has outlasted the economic turmoil created by Ukraine's 2014 "Euromaidan" revolution, particularly through sales of illegal drugs. However, this illegal drug market pales in comparison to Ukraine's bigger hacker groups that continue to attack large financial institutions, such as banks, stock markets, and credit card companies, for immense profit. While the revolution's impact on the economy was devastating, Ukrainian cybercrime flourished.[30]

Because hackers follow the "gypsy rule" – the first commandment of hacking where "you do not steal in the place where you live"[31] – some might argue cybercrime originating from Ukraine does not contribute to instability in the country because Ukraine itself is not targeted. However, such an argument is short-sighted.

In 2012, Valentyn Petrov, a Ukrainian information security official, acknowledged that "Ukrainian hackers are well-known in the world. Our country is a potential source of cyber threats to other countries."[32] This is a problem because, while Ukrainian hackers may not be targeting objectives inside Ukraine, the objectives that are being targeted could result in negative repercussions, such as retaliatory responses, for the country.

In 2015, Colonel Sergiy Demedink, a senior Ukrainian law enforcement officer specializing in cybercrime, stated during an interview that "[t]he new breed of cybercriminals is

out of control" because they no longer respect the old code of it being acceptable to target any country except their own.[33] This rejection of the "gypsy rule" exacerbates the difficulty law enforcement already encounters in trying to degrade the estimated $400 billion market in cybercrime.[34] The consequence: the cyber haven has now significantly increased its probability of being a cyber target.

Ukraine: A Cyber Target

A cyber target is an objective that is a focus of effort for illegal online activity to disrupt or destroy that objective. As cybercrime grew both inside and outside of the country, three factors set the conditions for Ukraine becoming a cyber target.

First, Ukraine has a weak cybersecurity policy. As discussed previously, the simple lack of a standardized definition of cybercrime, and the specific activities it encompasses, has hindered Ukrainian legislation of cybersecurity policy.[35] Cybersecurity expert, Nadiya Kostyuk, translates the simple crux of the problem:

> The only operational definition [of cybercrime] is in Article 361 of the Criminal Codex of Ukraine: 'Illegal interference with the operation of computers (PCs), automated systems, computer networks or telecommunications networks.' However, it is not clear what 'illegal interference' actually means.[36]

The Ukrainian definition perhaps alludes to advanced cybercrime, but does not even address the issue of cyber-enabled crime.

The lack of a standardized definition and absence of urgent need[37] have made the development of Ukrainian cybersecurity policy less of a priority.[38] The lack of urgent need stems from only 49.3% of the population having access to the Internet[39], most connectivity is limited to the major Ukrainian cities, and conducting financial transactions online is minimal.[40] These are slightly surprising points considering Ukraine has had Internet connectivity since 1990.[41] Ironically, the government's current focus on the conflict in eastern Ukraine has made cybersecurity legislation less of a priority, despite being subjected to numerous, robust cyberattacks during the conflict.[42]

Second, the six Ukrainian government agencies that deal with cybercrime do not effectively collaborate with one another, each focusing on its own agenda.[43] Additionally, the ultimate responsibility for handling cybercrime cases is not assigned to any of these agencies.[44] With no definitive reporting structure, exacerbated by these agencies' competing priorities and pockets of corruption, it becomes rather difficult for the Ukrainian government to defend its country from being a cyber target.

Third, Ukraine's cybersecurity infrastructure is inadequate to withstand advanced cyberattacks. A major disadvantage that Ukraine has, particularly concerning Russian

cyberattacks, is that its information technology infrastructure largely consists of Russian hardware and software already familiar to Russian hackers.[45] Consequently, Ukrainian political / diplomatic, informational (i.e., media), military, and financial / economic organizations using this infrastructure have all been vulnerable and subject to numerous instances of cyber intrusions and cyberattacks.

Notorious examples of cybercriminal activity, using Ukraine as a cyber target, have rapidly increased over time, especially due to the "Euromaidan" revolution and subsequent conflict with Russia over Crimea and eastern Ukraine.

Over the past several years, Ukrainian businesses and financial institutions have been routinely targeted by hackers. In 2014, Ukrainian businesses lost ₴65 million[46] (approximately $4.12 million)[47] due to cybercrime.[48] This year (2016), unidentified hackers exploited a weakness in the SWIFT messaging system that manages money transfers between financial institutions. The cybercriminals stole $10 million from one unnamed Ukrainian bank, with additional losses reported from other Ukrainian banks compromised.[49]

The first major instance of cybercriminal activity contributing to instability across multiple domains (i.e., political / diplomatic, informational, military, and financial / economic) began in 2013 during the "Euromaidan" political movement. This phenomenon, a culminating response to President Viktor Yanukovych and the Ukrainian government's recent iniquities against the population, led to a full-scale revolution in 2014.[50] The "Euromaidan" protesters gathered in the main square of the Ukrainian capital, Kiev, and refused to leave. While the Ukrainian government responded with police assaults in an attempt to clear the square, the protesters remained steadfast. The Ukrainian government then turned to using cyberattacks when they realized the use of physical force was ineffective.[51]

During the demonstration, the Ukrainian government executed Distributed Denial of Service (DDoS) attacks against opposition websites, remotely turned off the lighting at city hall (a base of opposition activity), and even uploaded pornography to a protester's social media account, planting evidence which was later used to prosecute him.[52] In response, the protesters executed DDoS attacks against the Ukrainian President's website and hacked into the national electrical grid, sounding a "red alert" at Ukrainian nuclear facilities.[53]

Ukrainian cyber researcher, Glib Pakharenko, describes first-hand how the cyberattacks against the protesters increased, both in size and precision, during the revolution in 2014:

> The mobile phones of opposition parliament members were flooded with SMS[54] messaging and telephone calls in an effort to prevent them from communicating and coordinating [defenses]. One precision attack (which targeted the protesters on only one street in Kyiv) entailed spamming the IMSI catcher[55] device on mobile phones with fake

SMS messages, threatening the recipient with prosecution for participation in the protest.[56]

Undeterred by the physical and cyber assaults, the protesters continued the revolution, and, ultimately, President Yanukovych fled to Russia, and a new Ukrainian government was installed.[57]

The most extreme demonstrations of cybercriminal activity targeting Ukraine have occurred with Russia's use of hybrid warfare[58] during its annexation of Crimea and continued aggression in eastern Ukraine. Hybrid warfare involves "multi-layered efforts designed to [destabilize] a functioning state and polarize its society."[59] To that end, Russia's cyberattacks against Ukraine have been extremely effective and efficient. Notably, Russia's frequent use of proxies to execute cyber operations provides the added benefit of plausible deniability.[60] Since 2014, Russia and its proxies have pursued Ukraine as a cyber target,[61] and the list of the various types of cybercriminal activity being used is astonishing.

In the political and diplomatic domains, Russian hackers have predominately executed DDoS attacks against and defaced Ukrainian government websites to make them unavailable or change their content, respectively.[62] After Russian troops had entered Crimea, DDoS attacks on the main Ukrainian government website made it unavailable for 72 hours.[63] Ukrainian government and embassy networks were also targeted to obtain both classified[64] and official use documents for possible public release.[65] The most egregious cyberattack in the political domain was the introduction of malware into the Ukrainian voting system in an attempt to alter the results of their presidential election; fortunately, this intrusion was discovered the day before the election and quickly mitigated.[66]

In the informational domain, Russian hackers implemented a robust propaganda campaign by infiltrating online media and social networking websites.[67] This campaign was supported by similar DDoS attacks and website defacing used against the Ukrainian government websites.[68]

In the military domain, Russia has capitalized on both the cyber espionage of and cyberattacks on Ukrainian political, diplomatic, and media (i.e., informational) targets to gain a military advantage.[69] Russia routinely intercepts Ukrainian communications signals for intelligence data and even targets their military fires based on location data from the Ukrainian soldiers' mobile phones and Wi-Fi networks.[70] Additionally, propaganda dissemination online has been used both to coordinate military operations and recruit mercenaries.[71]

In the financial and economic domains, 30% of the cyberattacks on Ukraine targeted business websites, according to Kaspersky Lab, a Russian (ironically) cybersecurity firm.[72]

Arguably the most alarming cyberattack conducted during the conflict, so far, occurred in December, 2015, when hackers, allegedly state-sponsored by Russia, introduced malware into the systems of a Ukrainian power grid control center.[73] This cyberattack resulted in a blackout for nearly six hours, affecting more than 230,000 people. This well-planned and skillfully executed attack was cited as being "the first confirmed hack to take down a power grid."[74] Over the course of the entire Ukrainian-Russian conflict, Russia and its proxies have successfully attacked or infiltrated targets in every single domain of Ukraine's instruments of national power.[75]

The cybercriminal activity from Russia and its proxies has continued to this day and it should be expected that, until the conflict is resolved, Ukraine will remain a cyber target for Russia.

Some might argue that the Ukrainian government has recognized the need for a comprehensive cybersecurity policy by drafting the "Strategy for Cybersecurity Ukraine," which is in the process of being implemented.[76] While the policy addresses an impressive array of cybersecurity concerns and goals, certain aspects will take time, such as replacing infrastructure, deterring corruption, and establishing multi-national trust, before the policy effects are seen.[77] Additionally, until Ukraine can implement state-administrated cybersecurity measures for its critical national infrastructure (CNI) (e.g., media and financial institutions), those institutions will have to resort to using private sector methods.[78]

Conclusions: Cybercrime and its Effects on Stability in Ukraine

Cybercrime is an extremely challenging problem to solve because it is anonymous, borderless, and expedient. The lack of a globally-accepted, standardized definition of cybercrime, and the specific activities it encompasses, hindered the timely development of Ukrainian cybersecurity legislation. Although Ukraine has only recently put forth a comprehensive cybersecurity policy, certain aspects of it will take time before the policy effects are noticeable.

Some Ukrainians who are well-educated in STEM disciplines, but were impacted by their country's poor economic performance, have turned to cybercrime as a means to improve their income. This dilemma is further enabled by Ukrainian social and cultural norms that abide stealing from Western nations, a weak or partially implemented Ukrainian cybersecurity policy, and rampant government corruption that discretely encourages cybercriminal activity. All of these factors have set the conditions for Ukraine to become a cyber haven.

Ukraine functioning as a cyber haven has resulted in cybercrime contributing to instability in the country. Cybercrime has weakened Ukrainian political and military institutions by financially sustaining corruption through bribery or even outright participation in cybercriminal activity. Cybercrime has weakened Ukrainian economic institutions through numerous scams, darknet markets, and theft, resulting in substantial monetary losses from

individual victims, as well as businesses and financial organizations, both inside and outside of Ukraine.

While law enforcement agencies have had increasing success in bringing cybercriminals to justice, government corruption typically favors cybercriminals, resulting in few incarcerations or paid restitutions. In fact, evidence suggests that cybercrime is on the rise. The newer generation of cybercriminals is ignoring the traditionally followed "gypsy rule"; institutions inside of Ukraine are no longer considered off-limits and are now targets for hackers.

A weak or partially implemented Ukrainian cybersecurity policy, insufficient and ineffective collaboration among the six Ukrainian government agencies that deal with cybercrime, and inadequate cybersecurity infrastructure have set the conditions for Ukraine to become a cyber target.

The types of cybercrime targeting Ukraine are varied and cross multiple domains (i.e., political / diplomatic, informational, military, and financial / economic), contributing to instability in their associated institutions. In particular, Russia's employment of hybrid warfare to destabilize Ukraine, especially with its robust use of cyberattacks, has proven to be both effective and efficient during the conflicts in Crimea and eastern Ukraine. Conclusively, Ukraine has functioned as both a cyber haven and a cyber target, allowing cybercrime to contribute to instability in Ukraine by weakening political, military, and economic institutions.

Recommendations

The following recommendations should be considered to reduce cybercrime's contributions to Ukrainian instability:

- Policy – Ukraine should continue to develop its cybersecurity policy, to include instituting a phased plan for its implementation and review; pursuing a globally-accepted definition of cybercrime and the specific activities it encompasses; identifying potential vulnerabilities across the political / diplomatic, informational, military, and financial / economic domains; establishing flexibility to expand the policy, if required; and ensuring compliance with the relevant aspects of international law.
- Infrastructure – Ukraine should replace the vast amount of Russian hardware and software still used in government, military, media, and financial networks with more modern and secure Western-style systems; these systems should be modular and have the potential for future upgrades. Consideration should be given to establishing network redundancy, in case of a cyberattack such as a DDoS. Additionally, until Ukraine can implement state-administrated cybersecurity measures for its CNI, those institutions should use private sector methods in the interim.
- Government – The Ukrainian government should streamline the organization, responsibilities, and reporting structure of its cybersecurity agencies to improve the effectiveness and efficiency of their interagency coordination. Additionally, Ukraine should

engage with its international partners to foster trust and establish procedures for collaboration, in case future assistance is required.

- Military – The Ukrainian military should establish and adhere to a stricter operational security (OPSEC) policy, to include banning the use of mobile phones and Wi-Fi networks during combat operations.
- Law Enforcement – While the corruption in Ukraine, at large, may serve a stabilizing function for the country, efforts must be made to enforce cybercrime laws (i.e., not having charges reduced or completely dropped) and discourage corruption; this will likely require independent oversight. Consideration could be given to implementing more draconian punishments for cyber-enabled crime and bribery.
- Education – The Ukrainian population should be educated on the adverse effects of cybercrime and the importance of cybersecurity, to include how to recognize online scams, protect personal information, and engage computer software and hardware security measures. Additionally, educational efforts should be made to encourage reporting instances of cybercrime and facilitate a change from the detrimental cultural and social norms that abide stealing from the West, bribery, and corruption.
- Economy – The Ukrainian government must take measures to stabilize its economy and promote economic growth to de-incentivize the profit-seeking behavior of cybercriminals and corrupt officials.
- United States Involvement – The United States may be able to positively influence the Ukrainian government's efforts to reduce cybercrime by assisting in the development Ukrainian cybersecurity policy, continuing collaboration in the investigation and prosecution of cybercrime cases, and possibly providing financial support for the replacement of Ukraine's current information technology infrastructure. However, if American financial support is provided, strict oversight will need to occur to ensure the money is used appropriately.

Coda

Many factors allow cybercrime to flourish in Ukraine, contributing to its instability. However, the development and implementation of a comprehensive Ukrainian cybersecurity strategy will reduce Ukraine's capacity to be a cyber haven and cyber target, and set the conditions to strengthen its political, military, and economic institutions, ultimately improving stability for Ukraine and protecting American interests throughout the world.

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The "Rule of Corruption" In Ukraine: How Weak Rule of Law Affects Ukraine's Future

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When Russia seeks to use corruption as a tool of coercion, reform isn't just good governance, it's self-preservation. It's in the national security interest of the nation.[1] – US Vice President Joe Biden.

I. Introduction.

Corruption is a significant issue in Ukraine and it is not new.[2] Its roots began in the Soviet era with the Communist Party in Ukraine and it has persisted since.[3] With Ukraine's fledgling democracy and large amounts of money consolidated in a small cadre called "the oligarchs," a system of corruption grew and became pervasive.[4] Ukraine is consistently ranked among the nations in the world with the most corruption.[5] As a country, though, Ukraine has not been blind to the issue of corruption. There have been two major overhauls of the government since 1991, each in response (at least in part) to corruption.[6]

As then-United Nations Secretary General Kofi Annan stated, "Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law . . . ."[7] While the term "rule of law" can be described as "vague,"[8] one definition of the term "rule of law" is the "principle under which all persons, institutions, and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights law."[9] Among many virtues, it guides the state and its citizens, prevents the arbitrary application of power, and enables predictability in affairs.[10] The U.S. Agency for International Development (USAID) describes rule of law as "critical to the consolidation of effective democratic governance in Ukraine."[11]

In Ukraine, corruption has weakened the rule of law.[12] Prosecutors and judges in Ukraine are under the influence of the oligarchy and they facilitate the system that keeps the oligarchy in control and makes them wealthy.[13] This system has destabilized both Ukraine's government and its economy.[14] According to Taras Kuzio, a leading scholar on Ukraine, "Corruption in Ukraine has been permitted to reach such a level that it threatened Ukraine's bankruptcy and security, and therefore viability as a state."[15]

The threat to Ukraine's security is Russia, the much more powerful neighbor to the east. It appears that Russia's desired strategic end state is a secure buffer between itself and the West. [16] Ukraine is a critical intermediate objective on a line of effort that leads to that desired end state. [17] Ukraine has both military and economic significance to Russia, if not also a sense of jilted ownership.[18] Russia appears to be using hybrid warfare to keep Ukraine within its sphere of control,[19] with one tool being what the Honorable Victoria Nuland

described as "malign influence."[20] Corruption and the resulting weak rule of law are critical vulnerabilities that Russia has exploited to annex the Crimean Peninsula and control the Donetsk and Luhansk regions.[21]

Ukraine's deficiencies in essential rule of law structures are the critical barrier between Ukraine and stability, leaving it marginalized in the West and subjecting it to Russian malign influence. Former U.S. Ambassador to the Ukraine Geoffrey Pyatt stated that "if [he] had to identify the single area that still requires the greatest sustained focus and the greatest sustained pressure and engagement from civil society, it would be rule of law—building a judiciary, a prosecutorial service, and court system in which the Ukrainian people have confidence."[22] By improving key rule of law structures, Ukraine will be better able to resist Russian influence and continue on a western-oriented course.

II. The Roots of Corruption in Ukraine.

Corruption in Ukraine is not a recent development. Its roots began late in the Soviet era as the Ukrainian arm of the Communist Party began to employ in Ukraine the money laundering practices that were successful elsewhere.[23] With the departure of the Ukraine from the Soviet Union in 1991, entrepreneurs used large sums of former Communist party money for schemes that built their personal wealth.[24] With Ukraine's new democracy and large amounts of money consolidated in a few hands, a system of corruption grew over the course of the 1990s.[25] In this system, Ukrainian businessmen used politics to "defend their [commercial] interests . . . [and] maximize their profits."[26] These businessmen became established and influential, using the instruments of government to make them rich,[27] secure immunity for themselves and protect their criminal activities.[28] The collective term for this group of wealthy and influential businessmen who control politics in Ukraine is "the oligarchs."[29] They employ "watchers" whose job it is to monitor government agencies and ensure that government dollars continue to flow to the oligarchs.[30] A 2014 study measuring the perceived level of public sector corruption ranked Ukraine among the most corrupt nations in the world: at 145th out of 175 nations.[31]

There have been two major overhauls of the government since 1991 and corruption provided the seeds for both. The "Orange Revolution," the popular term for the 2004 Presidential elections, rejected a continuation of the government led by Leonid Kuchma, under whose presidency Ukraine "became a corrupted country."[32] The oligarch's system became more formal, enabling them to use the instruments of the state to grow their wealth and influence.[33] In December of 2004, Victor Yushchenko defeated the incumbent prime minister Viktor Yanukovych, Kuchma's designated successor and the leader of a powerful oligarchic clan.[34] Despite a call for "administrative and judicial reform," the Orange Revolution did not result in an end to corruption, and in 2010, the nation elected President Yanukovych.[35]

President Yanukovych's reign would be short-lived. In 2014, the political revolution dubbed "Euromaidan" ousted the president, the prime minister, the speaker of parliament, and numerous others.[36] In general, the causes of the revolution included the increasingly Soviet-style regime that was heavily corrupted.[37] Yanukovych's regime became increasingly authoritarian, due in large measure to a "manipulative" 2010 Constitutional Court ruling.[38] The decision declared unconstitutional a 2004 amendment that had limited the presidential powers in Ukraine and restored certain powers to President Yanukovych, including the ability to appoint and remove certain executive positions.[39] Additionally, the Yanukovych regime pursued language and education policies that appeared to cut against Ukraine's sense of nationalism and reflected a leaning toward a Soviet-style of democracy.[40]

Social injustice was obvious to the populace, including the courts' method of "selective justice" and bureaucrats routinely requiring bribes.[41] Corruption was also apparent in state industries, including a 2013 deal where Russia bought $15 billion in Ukrainian bonds and cut the price of natural gas by a third.[42] According to a Venice Commission report, "institutionalized corruption was in fact closely linked to, and made part of non-democratic practices exhibited by the regime of the [P]resident Yanukovych. This regime, rather than serving any specific ideology, was established to allow the ruling elites to extend their personal wealth."[43]

In November 2013, President Yanukovych refused to sign an agreement that would associate the Ukraine with the European Union (EU) and instead signaled an intent to join the Eurasian Economic Union (Russia's customs union intended to mirror the EU), linking Ukraine's economic future to Russia.[44] Shortly thereafter, the social and political climate reached a head and, rather than the election-driven Orange Revolution, resulted in a grass roots-driven forcible ouster of the Yanukovych regime.[45] One of the results was a reversion to the 2004 Constitution and the election of a new government, including President Petro Poroshenko.[46]

The 2014 revolution had two notable characteristics. First, there was a recognition that the people were responsible for charting their own future.[47] Second, the revolution used the flag and the national anthem as their rallying symbols, "len[ding] the process a gravity that previous uprisings in Ukraine lacked."[48] President Poroshenko assumed the presidency with two mandates from the majority in Ukraine: change the government's corrupt ways and orient towards the west.[49] With just two years since Euromaidan, it remains to be seen whether they can effectively improve the rule of law deficiencies described next.[50]

III. Key Rule of Law Deficiencies.

The extent and nature of the corruption problem has resulted in weak rule of law in Ukraine.[51] According the United Nations' "Rule of Law Indicators," a key cornerstone to the rule of law is a criminal justice system.[52] In general, an effective criminal justice system

includes three parts: law enforcement, prosecution, and judges.[53] As political science professor Maria Popova observed, "[T]he main institutional prerequisite for the rule of law [is] an independent judiciary."[54] Additionally, there must also be effective investigation and prosecution of criminal cases.[55] Ukraine's weak rule of law is evidenced in the investigation and prosecution of corruption cases, as well its judiciary.[56]

A. Investigation and Prosecution of Corruption.

In order to rid Ukraine of corruption, or at least change the culture significantly, there needs to be effective investigation and prosecution of corruption cases.[57] This is extremely difficult when the Prosecutor General's office is itself a den of corruption.[58] Since the Euromaidan revolution in 2004, there have been four Prosecutors General in Ukraine.[59] The three prior Prosecutors General were removed for "corruption, ineffectiveness, or indifference."[60] The previous Prosecutor General, Viktor Shokin, was himself accused of controlling the implementation of Ukraine's new corruption laws and slowing the process.[61]

If the oligarchs are intent on continuing power, the prosecutors are a valuable target for influence. Prosecuting corruption would uncover those strategies and conduits that have worked so well in making the oligarchs powerful and allowing them to control the government.[62] Examples of the effects of corruption in the prosecution mechanism are legion. During the time that Shokin was the prosecutor general, 22 individuals identified as corrupt officials in the Yanukovych regime never faced prosecution in Ukraine.[63] Additionally, the Prosecutor General's office has actively worked *against* valid cases of corruption, including sending a memo that freed $23 million in illicit assets belonging to a former government official and seized by the British Government.[64] Former Chief Prosecutor Viktor Pshonka was "the driving force behind many of the [oligarchy's corrupt] schemes, and was actively involved in their administration."[65] When tasked to determine why prosecutors were not pursuing certain corruption cases, the leader of the Prosecutor General's internal affairs department found that "The prosecutor will look the other way if it's in the interest of the [oligarchy]."[66] Even more insidious, prosecutors can actually assist in "raiding" (the state-sponsored forcible takeover of private businesses) by initiating cases against the business to freeze assets until the takeover is complete.[67]

In order to fight corruption, the Prosecutor General's office itself has to be purged and insulated against corrupt influences.[68] This is not an easy task. One step has been the establishment of three separate anti-corruption offices between 2014 and 2015: the National Anti-Corruption Bureau (NABU), the National Agency for the Prevention of Corruption (NAPC), and the Specialized Anti-Corruption Prosecutor's Office (SAP).[69] These appear to be making strides toward combating corruption.[70] As of late August 2016, the NABU had "opened 148 criminal investigations, frozen . . . 220 million [Ukrainian hryvnia] worth of allegedly illicit proceeds, and sent fifteen cases to court."[71] Another step includes the appointment of Yuriy Lutsenko as the new Prosecutor General, reflecting a new start from

the ineffective Shokin and someone from outside the system who may be able to effect change.[72] Already, though, faith in Lutsenko is on shaky ground.[73] A third step is the re-invention of the Prosecutor General's General Inspectorate (the internal affairs element), which should enable the identification and eradication of corruption within the Prosecutor General's office, and just maybe deterring it as well.[74] Again, though, some remain skeptical of the likelihood of real change.[75] Lastly, several entities are providing assistance to Ukraine's prosecutors and investigators to improve the handling of corruption cases.[76]

B. The Independence and Integrity of the Judiciary.

Combating corruption and building a solid foundation for the rule of law from the prosecution side is not enough. The judiciary remains a vital link in the effective prosecution of corruption and it is similarly corrupted.[77] The current U.S. Ambassador to Ukraine, Marie Yovanovitch, called reform of the judicial system "the lynchpin to Ukraine's future."[78]

Former President Yanukovych boasted that he could "play around with the courts," using them to meet his corrupt ends.[79] His 2010 legal reforms destroyed the courts' independence and allowed their use to continue the corrupt practices in Ukraine.[80] Even after the 2014 revolution, several key figures linked to the corrupt former government remained in influential positions in the judiciary, including the heads of both the High Council of Justice and the Arbitration Court.[81] The populace is aware of the issues with the judges: in 2015, only 5% of the Ukrainian population trusted the judiciary.[82]

As improvements in the identification and prosecution of corruption cases take root, corruption in the judiciary remains a key barrier. As one example, in June of 2016, fifteen corruption cases were sent to court, but not one had been scheduled for trial.[83] If cases cannot move through the system, not only will corruption continue to be a key feature of Ukrainian governance, but the quality of the prosecution's cases will remain poor and the public's already low level of confidence in their judicial system will remain.[84] There is also a risk that improved investigation and prosecution "without an independent judiciary may result in selective and politically motivated prosecutions."[85]

Beyond corruption, Ukraine's judiciary is riddled with issues, including "[l]ow levels of [legal] expertise, low salaries, and a tradition of political and oligarchic interference."[86] The tradition of interference in the judicial system involves more than just the judicial corruption described above; it also involves the lack of judicial independence.[87] Judicial independence, in general, is the freedom of judges to decide matters before them without improper influence and it is a major problem in Ukraine.[88] Two international instruments capture the importance of judicial independence: (1) the European Charter on the Statute for Judges, which provides the Council of Europe's non-binding, yet authoritative, view of judicial independence and other standards for the judiciary,[89] and (2) the 1985 United Nations proclamation on the "Basic Principles on the Independence of the Judiciary."[90] Two

of the United Nations principles stand out as problematic in Ukraine. The first is that the "judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason."[91] The next is that "[t]here shall not be any inappropriate or unwarranted interference with the judicial process . . . ."[92] Ambassador Yovanovitch's statement above is loaded: there is "a *tradition* of political and oligarchic interference" with the courts.[93] Professor Popova identified several different ways that politicians in Ukraine could influence judicial decision-making, including: (1) the accepted practice of "ex parte communication," (2) "telephone law," and (3) lower courts relying on guidance from judges in the higher courts.[94]

To say that the process of revamping the courts will not be easy is an understatement. Ukraine is pursuing the removal of judges who are being bought off by the oligarchy or are otherwise willing to skew justice for an improper reason.[95] There are somewhere between 8,000 and 10,000 judges that need to be screened and, if necessary, replaced.[96]

Additionally, Ambassador Yovanovitch noted that the judiciary has been historically "resistant to reform."[97] Efforts, like the "e-declaration system," continue to see active resistance, no doubt fueled by corruption elsewhere in the government.[98] The e-declaration system is designed to require public officials to declare their assets and would be a key tool for prosecutors.[99] At least three distinct efforts have been made to block its implementation, including a parliamentary measure, a grant of an appeal by the Constitutional Court, and a refusal of the State Service of Special Communication and Information Protection in Ukraine (SAIP) to issue its "information security certificate" for the software.[100]

A third step is securing and protecting judicial independence. The adoption of legislation in June of 2016 seeks to secure significant reform of the judiciary, including measures that "streamline the judiciary, strengthen judicial independence and integrity, and reduce political influence."[101] The effectiveness of the new legislation will not be known for some time but independent judicial decisionmaking is a key ingredient to the rule of law.[102]

IV. Weak Rule of Law Leaves Ukraine Marginalized in the West and Open to Exploitation by Russia.

Ukraine's rule of law issue described above is not just a quaint idiosyncrasy. It is fundamental to economic and political stability in the Ukraine.[103] First, rule of law issues in Ukraine continue to affect Ukraine's "integration" into the West.[104] Second, rule of law problems leave Ukraine susceptible to the continued destabilizing influence from Russia.[105]

A. Marginalization in the West.

The elections after the Euromaidan revolution in 2014 made clear that there was a desire for pro-Western reform.[106] Both President Poroshenko and now-former Prime Minster Yatsenyuk were elected on pro-Western platforms and set goals of gaining membership in

the EU.[107] However, the rampant corruption and slow efforts to improve the rule of law are affecting efforts to integrate westward by hampering access to international economic support, affecting the likelihood of full membership in the EU, and stalling visa liberation.

International economic support is critical to stabilizing the economy, attracting foreign investment, and providing the potential for growth.[108] However, corruption has affected access to this support. The International Monetary Fund (IMF) has proven very generous with Ukraine, including a $17.5 billion bailout package approved in 2015.[109] However, disbursement of the most recent payment (at $1 billion) was delayed for more than a year due to the IMF's concern over corruption.[110] It was also reduced from $1.7 billion due to failure to meet some of the conditions.[111] The EU and the U.S. have also been willing to provide significant assistance. Since 2014, the EU has provided 3.4 billion Euros worth of "Macro-Financial Assistance through three consecutive programmes of low-interest loans" but also required reforms to curb corruption.[112] Since 2014, the United States has given Ukraine more than $1.3 billion in aid, with three $1 billion loan guarantees.[113] A notable portion of this aid is directed at "reform in the Ukrainian law enforcement and justice sectors, including prosecutorial and anti-corruption reforms."[114] Large amounts of aid are flowing into Ukraine, but with it comes the need to pursue rule of law reform.

Second, economic and political instability resulting from the weak rule of law affects Ukraine's likelihood of full membership in the EU.[115] Post-Ukrainian independence, it was a clear goal that Ukraine would join the EU, with definitive steps toward membership identified.[116] These hopes were delayed in 2014 when President Yanukovych refused to sign the EU Association Agreement and instead signaled an intent to orient economically toward Russia.[117] Since the 2014 Euromaidan, the Ukrainian leadership has sought an orientation toward the EU with a desire for eventual membership.[118] Specifically, "[a]spirations for membership of the EU were regularly and repeatedly articulated by every single President and government since independence."[119] Ukraine currently falls within the EU's sixteen-nation "European Neighborhood Policy" and there was an Association Agreement signed in March of 2014 that created a Deep and Comprehensive Free Trade Area (DCFTA).[120] The DCFTA went into effect on January 1, 2016 and creates favorable trade conditions between the EU and Ukraine.[121] With these, Ukraine has a strong economic link to the EU and receives as least some benefits, including preferential trade relations.[122] The EU, however, remains "lukewarm" towards a stronger status.[123] Ukraine's recent troubles, rooted in corruption, make it less likely that the EU will seriously consider full membership, letting the DCFTA suffice for now.[124]

Aside from the economic aspects of joining the EU, Ukraine has also been seeking "visa liberation" since 2008.[125] Visa liberation allows those with a biometric passport to travel through, or stay for short periods in, certain EU member states (as well as certain Schengen Area states) without seeking a visa.[126] Among numerous other issues, money

laundering, organized crime, law enforcement, and corruption were of concern to the EU and they set benchmarks toward visa liberation (called the Visa Liberalization Action Plan (VLAP)).[127] The VLAP included measures to ameliorate these issues in Ukraine.[128] While a December 2015 European Commission report found that Ukraine has met the required benchmarks, it observed that "[p]rogress made on legislative and institutional aspects [of fighting corruption] can only bring significant end results if fully implemented."[129] While the VLAP benchmarks appear to have been very effective in getting Ukraine to implement reform and Ukraine is close to securing visa liberation, there is still a risk to Ukraine if the reforms are not fully implemented.[130]

These three examples demonstrate how issues with the rule of law create problems for Ukraine's efforts to align itself westward. While access to aid, visa-free travel, and access to the economic benefits of the EU have provided an impetus for change, changes are recent and ongoing. A turn to the west, however, is made more difficult by the neighbor to the east: Russia.

B. Malign Influence by Russia

For myriad reasons, Russia has its designs on Ukraine. Russian President Vladimir Putin appears to view the loss of Ukraine after 1991 as an error he must correct.[131] Economically, Ukraine is valuable to Russia, as demonstrated by President Putin's efforts in 2014 to steer Ukraine away from the EU and into the Eurasian Economic Union.[132] Additionally, Ukraine is literally tracked-through with natural gas pipelines for Russian distribution eastward.[133] The military significance to Russia includes the fact that it shares a large Eastern European border and the fact that the Russian Black Sea Fleet is stationed in Sevastopol.[134] Russia perceives it security as requiring maintenance of a buffer between itself and the NATO countries to the west.[135] Ukraine is a key part of that buffer, making its control an important intermediate objective.[136] To prevent this buffer from falling into Western hands, "Russia is eager to control neighboring states through diplomacy and economic ties if possible . . . , and through destabilization and force if necessary."[137]

The Ukraine appears to be the latest battlefield on which to refine Russia's "new-generation war"[138] or "hybrid war,"[139] carried out in phases that begin with the destabilization of a target country and ending with military force.[140] Corruption is a critical part of destabilization, involving bribery of government officials and making the oligarchy dependent on Russia through business ventures.[141] This destabilization is made possible due to"[i]nstitutional weaknesses" which one commentator describes as "the main reason why there is still a powerful Russian lobby within Ukraine.[142]

Specifically, weak rule of law affects security in three ways. First, weak rule of law increases Ukraine's financial risk and, in turn, its independence and security.[143] As IMF President Christine Lagarde described, this happens in two significant ways that are both

evident in Ukraine. First, corruption "weakens [a State's] fiscal capacity" by affecting the ability to create income through taxes and steering public spending toward areas susceptible to schemes that flow government money into private hands.[144] Then, "the combination of depressed tax revenues and inefficient public spending can result in large fiscal deficits and critical debt situations."[145] As another way, long term economic investment is limited: "[u]ncertainty and the cost of doing business increase with corruption, which acts as a tax on investment."[146] With rule of law lacking in Ukraine, Russia can use corruption to weaken Ukraine financially and create conditions where it either collapses, or at least aligns politically and economically with Russia.[147]

Second, corruption enables the protection of criminal schemes which provide Russia control over Ukraine.[148] Russia knows that corrupt officials are more likely to do its will.[149] Russian governmental figures cooperate with criminal organizations to divert resources from the state into the hands of the oligarchs.[150] The prosecutors and courts provide protection for the oligarchs and the strategies that make their corrupt system work.[151] Until recently, politicians in Ukraine have not shut these avenues down because the corruption schemes made them rich.[152] This corrupt system also affects security structures, enabling the oligarchy to the control key elements of security, including those that guard the border.[153] Although the recent anti-corruption legislation suggests a desire for change, politicians have thus far "failed to make Ukraine less vulnerable to Russia as this entailed eliminating lucrative schemes from which they and those aligned with them benefited."[154]

Third, weak rule of law makes resistance of Soviet military force more difficult, even if indirectly. The weak rule of law in Ukraine enabled corruption which created political instability in the form of the Euromaidan revolution.[155] The legacy of corruption continues to fuel dissatisfaction with the government, perhaps placing it at continued risk of yet another popular referendum on leadership.[156] Corruption also fuels President Putin's narrative that Ukraine is dysfunctional, warranting Russian intervention to protect both Russian strategic interests and those of Russian lineage.[157] As one commentator stated, "Corruption has been one of the main means of Russia's infiltration into the political, administrative, economic, and security structures of Ukraine."[158] Russia was able to capitalize on Ukraine's corrupt government by aiding the separatists with military action.[159] Additionally, the current state of the government risks Ukraine being unable to comply with its side of the *MINSK-II* agreements.[160] This would provide Russia with no reason to remove its military presence from the Donbass region.[161] Finally, as discussed above, the monetary support critical to sustaining the Ukrainian economy in the midst of the military action is linked with rule of law reforms.[162]

V. Conclusions.

Russia will not let go of Ukraine easily. There are strong historical and cultural ties between Russia and the Ukraine. More importantly though, Ukraine has strategic

significance for Russia, both economically and militarily. It is easy to see why keeping Ukraine firmly in Russia's control and preventing a continuation of its western trajectory is so important to President Putin that he is willing to accomplish his ends by violating Ukraine's territorial integrity using military force.

To be able to resist Russia's efforts, Ukraine needs a stable government, a stable economy, and stable western support. Corruption is a critical vulnerability because it limits long term economic investment resulting in economic unpredictability, it allows the protection of criminal networks in Ukraine which undermine institutional structures, and it ultimately leaves Ukraine unable to quell separatist efforts and eject Russian forces, both military and paramilitary. Improving the rule of law is critical to combating the pervasive corruption that exists and providing the stability Ukraine needs. Rule of law is therefore the single most important area of reform for Ukraine.

The criminal justice system is the key structure that forms the foundation of the rule of law and enables the curbing of the institutionalized and rampant corruption in Ukraine. To echo the former ambassador to the Ukraine, there must be efforts to reform the prosecution and the judges, building "a court system in which the Ukrainian people have confidence."[163] Corrupt in themselves, dependent on both the political structure and the oligarchy, and slow (if not unwilling) to reform, these two key elements of the criminal justice system require focused and deliberate change. A professional, clean, and effective prosecutor's office will enable the identification, investigation, and prosecution of the corrupt officials in the government. Then, a professional, clean, and independent judiciary is needed to hear the cases and administer findings based on the law.

With focused, significant, and effective reform in both the prosecution and the judiciary, Ukraine can seek to eliminate the grip that corruption has on its society and its economy, allowing the "rule of law" rather than the "rule of corruption" to exist in Ukraine. This will then allow the government and economy to stabilize, and ensure steady support from the IMF, the EU, and the U.S. The result should be a Ukraine that can stand on its own, integrate westward, resist Russian malign influence, and counter the Russian use of force in its territory.

VI. Recommendations.

Ukraine needs time and assistance in achieving stronger rule of law. Reformed rule of law structures are necessary if there is to be any hope of long term stability and resisting Russian efforts at keeping Ukraine firmly in its control. To that end, there are three essential ingredients. The first is buying Ukraine time to pursue its required reforms. This is a delicate balance. Logically, the longer Russian forces control the Crimean Peninsula, the Donetsk region, and the Luhansk region, the stronger Russian claims become and the weaker Ukraine's position grows. However, the reality is that reform cannot happen immediately.

Laws have to be adopted, new organizations established, new policies implemented, and a government culture changed. While Ukraine has begun the journey, other nations can provide Ukraine time to pursue necessary reforms by keeping Russia on the defensive with economic sanctions, denunciation of its actions, and visible support of the Ukrainian government.

Next, pressuring Ukraine to pursue reforms by making monetary contributions contingent on progress appears to be very effective. This approach does bear risk: without foreign aid, Ukraine may rapidly proceed to internal collapse or resort to aid from Russia or perhaps even China. However, the IMF's approach appears to have worked well to ensure Ukraine embarks on a steady path toward rule of law reform. Without such conditions or monitoring the compliance with those conditions, there is the likelihood that reforms are in name only, that foreign aid will flow right into the hands of the oligarchs, and that Russia continues to meddle with Ukraine's destiny.

Finally, a coordinated international rule of law effort in Ukraine is essential. While the U.S. and other nations are assisting Ukraine, the level of coordination is unclear, if it exists at all. The United States, with an experienced ambassador who recognizes the importance of the rule of law issue, is a logical choice for such coordination. The EU, with an interest in resisting Russian encroachment and in keeping Ukraine looking westward, is another logical choice. Nevertheless, increased efforts to advise investigators, prosecutors, and judges is needed to achieve stronger rule of law. In sum, these measures will aid in creating conditions where those responsible for the rule of law reject the "rule of corruption," thus preserving the hope of a stable Ukraine oriented westward.

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[93] Embassy of the United States, Kyiv, Ukraine, "Remarks by Ambassador Marie Yovanovitch at the Kharkiv Investment Forum" (emphasis added).
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[106] Dyuk, "Euromaidan: Ukraine's Self-Organizing Revolution"; Morelli, *Ukraine*, summary.
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The Physical Security of Women: Implications for the Crisis in Ukraine

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INTRODUCTION

Though the collapse of the Soviet Union is often attributed to the arms race under President Reagan that economically strained the Soviet economy, the Human Rights agenda started by President Ford with the Helsinki Accords and continued under President Carter, had a significant impact that holds its own place in ending the Cold War.[1]

In 1975, the Helsinki Accords was initiated by Russia to settle border disputes in Europe and, under the Ford Administration, the U.S. decided to include the protection of human rights as part of the accords, not knowing what impact it would have, if any. However, dissidents throughout Eastern Europe used the Helsinki Accords to hold their governments accountable for human rights abuses. The Human Rights Campaign changed the atmosphere in Eastern Europe and Soviet Russia. In the late 1980s, Mikhail Gorbachev instituted glasnost (political freedoms) and perestroika (economic reforms) in the Soviet Union. Also in the late 1980s, a series of demonstrations across Eastern Europe started and, unlike the previous typical response by the USSR – the rolling of tanks across the lands, the governments of Eastern Europe were encouraged to reform. One of the culminating moments was when millions of Eastern Germans were allowed to cross the Berlin Wall and stream into West Berlin, guards choosing not to fire into the crowds. There was no going back – 9 million East Germans visited the West within the first week, eventually leading to the end of the German Democratic Republic and eventually to the end of the Soviet Empire.[2]

Human rights as a strategy was not the sole cause of the collapse of the former Soviet Union, nor did it address the immediate concerns of "hot crises" around the world where Soviet aggression manifested itself. However, it did lay the foundations for some of the eventual proximate causes that contributed to the end of the communist hold on Eastern Europe. It was a cause of unrest in the populations of the Warsaw Pact nations and a basis for Glasnost and Perestroika within the Soviet Union.

With the current resurgence of an aggressive Russia and the destabilization Russia is fomenting in Ukraine, addressing the physical security of women is a similar means of indirectly influencing the course of events to lay the foundations for stability in Ukraine.

The Crisis in Ukraine:

Today, in what began as a protest against Ukrainian President Viktor Yanukovych when he dropped plans for trade agreements with the European Union, Ukraine is in a crisis of open hostilities in the East Ukraine where pro-Russian separatists are fighting the pro-West Government of Ukraine. The separatists are actively backed by Russia,

something Russia denies. Russia's motivations, ostensibly, include not wanting to see the expansion of European influence into its former ally of the Soviet period. This is one of many aggressive actions that Russia is conducting in Eastern Europe, such as the annexation of Crimea, invasion of Georgia, and the harassment of NATO forces in the Balkans.

The instability in Eastern Ukraine has many foundations, including the ethnic and language divide; political divisions (pro-Russian verses pro-European), and an overall poor economic situation and accusations of corruption in the government.[3] This paper will also show that the poor physical security of women is a foundational factor to the instability in the region; an instability that Russia has easily exploited for its own agenda of maintaining influence in its former Soviet republic and maintaining distance between European influences and Russia's border.

DISCUSSION/ANALYSIS

Addressing the physical security of women in Ukraine is a human rights imperative in the short term, but is a foundation for stability in the region in the long term, similarly to how the Human Rights Campaign was a contributor though not the main effort in the fight against the Soviet Union. To ensure the security of women in the conflict-ridden areas of Eastern Ukraine is addressed, women must be actively sought out to participate in any negotiations that discuss the process for peace or reconciliation. Inclusivity in the peace process will improve the legitimacy of the final agreements and the stability of the government from addressing the needs of women will improve the legitimacy of the Ukrainian government, a necessary condition when fighting insurgencies.

Some may argue that, while the protection of women is a noble cause, it will not affect the security of the theater without willing cooperation from its major aggressor, Russia. This is true. Addressing the physical security of women, by itself, will not solve the current crisis in Ukraine. However, the security of women is a long-term foundational issue, and it can take generations for the culture to change enough for its effects to take hold.

Improving Stability by Addressing Violence against Women:

In a much-referenced study conducted in 2009, Valerie Hudson, Professor of Political Science at Texas A&M University, and her colleagues have discovered that "The physical security of women…is strongly associated with the peacefulness of a state, the degree to which the state is of concern to the international community, and the quality of relations between the state and its neighbors."[4] Hudson and colleagues compared the physical security of women to other known and accepted indices of stability in a nation (per capita gross domestic product, level of democracy) and found that the physical security of women was a stronger correlation. This study was one of the first, if not *the* first, to equate the security of women with the security of a state.

"If a scholar or policymaker had to select one variable – level of democracy, level of wealth, prevalence of Islamic culture[5], or the physical security of women – to assist them in predicting which states would be the least peaceful or the most concern to the international community or have the worst relations with their neighbors, they would do best by choosing the measure of the physical security of women."[6] Applying this finding to regional security, one can conclude that reducing the violence against women is a contributor to a longer-term goal of preventing future hostilities and is highly relevant to the shaping strategy of any theater campaign plan. Preventing the escalation of violence in a conflict can prevent the exacerbation of instability – preventing the new norm of increased rate of violence against women, which would lead to a more aggressive nation-state.

To demonstrate the relationship of the physical security status of women in the current situation in Ukraine and Russia, Table 1 shows the status of women in those two states, as well as other example nations from other representative regions of the world. The source is the WomanStats Project, an academic database of statistics on women around the world, established by Valerie Hudson and colleagues to collect data on women and security. The data itself comes from a variety of sources, such as the United Nations or independent researchers. Table 1 uses a multi-variable scale created by Dr. Mary Caprioli that merges many different variables that describe women's security into a single factor that can compare the security of women in different nation-states, with "0" being the most secure and "4" being the least. There are no countries with a factor "0", and only eight countries at a factor of "1". This data comes from a collected dataset on 175 nation-states.[7] A cursory review shows that known unstable or aggressor nations fall towards the higher end of the scale and the most stable at the lowest.

Physical Security of Women	1	2	3	4
Nations	Sweden	United States	Ukraine	Russia
	France	Japan	Philippines	China
	Switzerland	Germany	Ethiopia	Iran
	Spain	Australia	Brazil	Venezuela
0 – There are laws against domestic violence, rape, and marital rape; these laws are enforced; there are no taboos or norms against reporting these crimes, which are rare. There are no honor killings or femicides (the targeted killing of females because they are female). 1 - There are laws against domestic violence, rape, and marital rape; these laws are generally enforced; there are taboos or norms against reporting these crimes (or ignorance that these are reportable crimes), which crimes are not common. Honor killings and femicides do not occur. 2 - There are laws against domestic violence, rape, and marital rape; these laws are sporadically enforced;				

there are taboos or norms against reporting these crimes (or ignorance that these are reportable crimes), which are common. Honor killings and/or femicides are quite rare, occurring only in small pockets of the population, and are condemned by society. 3 – There are laws against domestic violence, rape, but not necessarily marital rape; these laws are rarely enforced; there are taboos or norms against reporting these crimes (or ignorance that these are reportable crimes), which affect a majority of women. Honor killings and/or femicides may occur among certain segments of society but are not generally accepted within the society. 4 – There are no or weak laws against domestic violence, rape, and marital rape, and these laws are not generally enforced. Honor killings and/or femicides may occur and are either ignored or generally accepted. (Examples of weak laws—need 4 male witnesses to prove rape; rape is only defined as sex with girls under 12—all other sex is by definition consensual, etc.)

Table 1. Physical Security of Women in Ukraine, Russia and other sample nations.[8]

Physical Security Status of Women in Ukraine:

Even before the conflict in Eastern Ukraine started, Ukrainian women were often victims of violence. In 2010, the United Nations reported a rate between 20-44% of Ukrainian citizens being affected.[9] Another set of Ukrainian government statistics was that greater than 44% of women in Ukraine had experienced domestic violence at least once, in comparison to 25% average for European women.[10] The Ukrainian national parliament has even held special hearings on the discrimination of and violence against women.[11]

Ukraine is ahead of its peer nations on laws addressing violence against women. It was the first former Soviet nation to criminalize human trafficking and to pass laws targeting domestic violence, to include provisions for providing services to victims.[12] Ukraine has, at least in rhetoric and laws, recognized the need to address issues of violence against women, though much work is still necessary to ensure budgets are in place to make the laws effective in practice, and to ensure the culture at home changes to reflect the goals of the laws.

The UN Secretary General's Report on Women, Peace, and Security states, "where cultures of violence and discrimination against women and girls exist prior to conflict, they will be exacerbated during conflict."[13] This trend is true in Ukraine as well. Due to the hostilities in Eastern Ukraine, domestic violence has increased. In 2014, International Women's Rights Center in Kiev (a national hotline for victims of domestic violence, human trafficking, and gender discrimination) received a total of 7,000 calls, 80 percent related to domestic violence. In the first three months of 2015, the center received more than 2,600 calls, one and a half times the rate of 2014.[14] Women with husbands returning from the war are saying they don't recognize their husbands – they were never violent before. Men are also experiencing their own sexual assaults as a result of combat, including castration as a part of the torture and violence. Since the culture doesn't support the mainstreaming of therapy, men turn to alcohol instead, and ultimately to violence. Women who call the hotline from outside the conflict area can get support, but those that call from within the conflict

zone can only talk with counselors over the phone; no police assistance is available to remove them from the situation.

Domestic violence was an issue before the war that has been exacerbated by the conflict. Other issues come from the nature of war itself. According to the United Nations Secretary General's report on women, peace and security, "during conflict, women and girls are vulnerable to all forms of violence, in particular sexual violence and exploitation, including torture, rape, mass rape, forced pregnancy, sexual slavery, enforced prostitution and trafficking."[15] In Serbia, another former Eastern European communist state, rape was used as a weapon of war – often organized and in camps, with estimated numbers of around 20,000 to 50,000 women being affected. The tragedy in Serbia was also the first time that the rape and sexual enslavement were declared as crimes against humanity, "challenging [for the first time] the widespread acceptance of rape and sexual enslavement of women as intrinsic part of war."[16] For Ukraine, the statistics are hard to gather due to the ongoing conflict and current lawlessness of the region. Reports and allegations for both sides of the conflict are being made, reported by the Office of the United Nations High Commissioner for Human Rights.[17] Rape is occurring, though it currently appears to be crimes of opportunity rather than an orchestrated tactic of war ordered by higher authority, such as what happened in Serbia. This does not mean it cannot change, especially as the violence continues.

Finally, though the numbers of internally displaced persons (IDPs) have varied between reports, all reports agree that women make up a large percentage of the IDPs. "The on-going conflict in Ukraine's eastern regions of Donetsk and Luhansk has increased insecurity and violence, deepened gender inequality and disproportionately affected women, who make up over 63% of the country's estimated 1.1 million internally displaced persons (IDPs)."[18] Women are often the ones forced to bear the burden of care for families with reduced resources, taking care of children and the elderly. Women in Ukraine already suffer discrimination in the workplace. Additionally, IDPs from the Luhansk and Donetsk are also being discriminated against when searching for employment elsewhere in Ukraine. These two factors coupled indicate that displaced women are at increased risk of being exploited as they desperately seek sources of income to take care of themselves and their families.

As conflict continues in Eastern Ukraine, these vectors of physical violence against women (and the violence against men) demonstrate the need to have a gendered perspective when addressing the human rights needs of the war-torn region. Additionally, as discussed with the study by Hudson et al, the physical violence against women needs to be addressed to ensure the escalation due to the conflict does not become a new norm. Since the physical security of women is a strong correlation with the stability of a nation (peacefulness, relations with neighbors), addressing the physical security of women in Ukraine as a whole and in the conflict regions, in particular, is a foundation for future stability.

United Nations Security Council Resolution (UNSCR) 1325:

In October 2000, the United Nations (UN) passed the UN Security Council Resolution 1325 on Women, Peace, and Security (WPS)[19]. The resolution recognizes that while women are affected by war, they are often not part of the decisions associated with war: its initiation, its conduct or its resolution. Women and children are often the primary sufferers as the collaterals of war, whether as unarmed civilians caught in the conflict, as displaced persons/refugees, or as victims of targeted attacks, such as rape when used as a tactic of war. As such, one of the primary tenets of the resolution urges signatory states to consider how war affects men and women differently, requiring a gendered perspective in decisions about the conduct of war, its aftermath and in peacekeeping operations. Gendered perspective is a consideration by both the men and women who are decision-makers. It is not the sole responsibility of women who participate.

The resolution also acknowledges the role that women need to have in "conflict prevention, conflict resolution, and post-conflict recovery, and peace-building."[20] While women suffer from war and are instrumental in bringing stability to post-conflict regions, they are often not included in decision-making roles in its resolution, due to the lack of representation in senior leadership positions, politically or militarily. Often, only the combatants are negotiators in peace settlements, though the discussions often have a vast impact on civilian matters of stability and governance. Without the presence of women in the negotiations, atrocities committed against women have often been given immunity without the consent of the victims. UNSCR 1325 argues that not only is a gendered perspective required, but the active inclusion of women is necessary to both ensure the needs of women are addressed, but to ensure lasting peace due to the unique perspectives on community, stability, and negotiations that women bring to the table.

Ukraine, Russia, and the United States are all signatories of UNSCR 1325. As of 2016, sixty countries have instituted National Action Plans in support of UNSCR 1325, including the United States and Ukraine. Though Russia is a signatory on the resolution, it does not have a National Action Plan to ensure its implementation within Russia.[21] NATO is also committed to the implementation of UNSCR 1325 and has claimed numerous benefits to their operations. "It has given us better access to the local population, more popular support, better information, better situational awareness, and smarter interventions with less risks and better outcomes."[22] NATO has appointed a Special Representative for Women, Peace, and Security, who has actively engaged with Ukraine and with their adoption of their National Action Plan on Women, Peace, and Security.[23]

Women's Participation in the Peace Process:

The UN Secretary General report on Women, Peace, and Security, states that "peace negotiations and peace accords lay the foundation for rebuilding societies after conflict. They commonly determine the political, civil, economic and social structures in post-conflict

situations. Concerns specific to women do not always reach the negotiating table. This is particularly so in the absence of women's participation."[24] When "UN Women[25] sampled 31 major peace processes between 1992 and 2011 and analyzed them for gender participation, [they] found that women made up only 4 percent of signatories, 2.4 percent of chief mediators, 3.7 percent of witnesses to peace agreement signings, and 9 percent of negotiators… In 2011, only 4 of 14 UN-supported mediation processes included any women as members of the negotiating parties."[26] Without actively seeking out women for participation, they will most likely not be present at the negotiating table.

"Peace agreements that focus solely on ending the fighting fail to address the vital tasks necessary for sustaining a genuine peace, including: providing security and basic services, reintegrating combatants into society, building trust amongst opposing parties, fostering institutions that can uphold the rule of law, and promoting legitimately-elected leadership."[27] A case study of women participating in North Ireland's peace talks between the Irish Republican Army (IRA) and the British government is a success story resulting in the Good Friday Agreement (GFA). The mediator, U.S. Special Envoy to Northern Ireland, George Mitchell, suggested multiparty talks including the top 10 political parties by vote versus just the largest and main political parties – this enabled local political parties to participate. Women's groups in Northern Ireland saw their opportunity to participate and formed a non-partisan party that spanned the IRA/British divide and ended up being the key negotiators between the two main opposing factions. Final hesitancy by the IRA to give up violence was eradicated when 9/11 tragedy of the United States proved the horrors of violence. In July 2002, in the spirit of the GFA, the IRA made a "first ever public statement of apology to the families of noncombatants that were victims of their attacks over the time period of the Troubles."[28] "If [the Northern Ireland Women's Coalition] had not been at the table, there may not have been a chapter on reconciliation. It was the women's coalition that put those words in [the agreement] and talked about paying attention to young people and resources for our youth in the future."[29] Though there is still disagreement in Northern Ireland about the future, e.g. remain in the United Kingdom versus a United Ireland, the divergent parties have both agreed not to pursue violence to resolve their differences.[30]

The Lusaka Protocol ending Angola's civil war is an example of peace negotiations that neglected women in the peace process. It was originally touted as "gender neutral" in that there was no discrimination against women in any provision of the agreement. However, there was no advocacy for women's issues either. Of the forty members of the talks, zero were women, and there was no discussion on addressing internal displacement, sexual violence, abuses by the government, or the rebuilding of social services. Amnesty was given to atrocities committed during the war, which included rape, and no thought was given for the reintegration of the male combatants back into their communities, causing increases in "alcoholism, drug abuse, divorce, and domestic violence."[31] Society was not rebuilt, nor was true peace restored. These and other issues of instability all contributed to the eventual

breakdown of the peace and violence erupted again. Though the conflict and the cultures in Angola and Ukraine are dissimilar, lessons can still be drawn. Reintegration issues causing increased domestic violence is a known issue in Ukraine, and amnesty given to human rights atrocities is something to ensure does not happen in Ukraine.

Evidence that women's participation in peace negotiations strengthens the peace process is currently empirical, i.e. there are plenty of case studies. However there is a lack of hard data and academic analytics – women's role in security has been neglected as a topic of interest in academia (one of the reasons why the 2009 Hudson study is considered groundbreaking). However, there is plenty of "hard data" on how women's involvement and gender equality improves the performance in other areas such as economics, agricultural productivity, food security, water and sewage services, and corruption in government.[32] Additionally, there is research that "has found a correlation between more inclusive and open models of negotiations and a higher likelihood that the resulting agreements will hold, preventing a relapse into conflict."[33] Women who do participate tend to look towards their own interests, such as quotas for elections, land and property rights, redress for sexual and gender-based crimes, and equitable distribution of jobs. Nonetheless, complying with these demands not only addresses the atrocities committed against women but also improves the social stability of their communities. Women's employment in the public sector ensures greater access to services to the overall population.[34] Since women make up a significant percentage of heads of households during conflict, giving them access to jobs reduces their dependency on high-risk/low pay employment, which women are otherwise forced to seek. The money women do earn goes into the caretaking of their families, again improving the stability of the community.[35] "Countries with only 10 percent of women in the labor force are nearly 30 times more likely to experience internal conflict than states with 40 percent of women in the labor force."[36] These additional findings backed by academic research strengthen the empirical data regarding women's important role in negotiations.

Women's Participation in Politics and the Military in Ukraine:

If national level or military leadership is the source of participants for the peacemaking process in Ukraine, women may not be present. Women have a traditional role in Ukrainian society, and this traditional view of women's role in society manifests itself in low representation at higher levels of government and other senior leadership positions.[37] In a 2011 study by the Ukrainian Women's Fund, found no woman holding chairmanships posts in a variety of regional and national councils, Cabinet of Ministers or Parliament.[38] However, this is not due to a lack of women's interest in politics. At the local levels, women are 51% of village councils, 46% of town councils, and 28% of municipal councils.[39]

In the current political climate, Ukraine can be described as a nation in transition. There are examples of the Ukrainian government making progress towards gender equality, while at the same time evidence that there still remains a long road until it becomes real.

Ukraine is ahead of its neighbor, Russia, in its rhetorical commitment to improving women's status and ahead in actual actions including protection under the law. "Faced with the foreign aggression, Ukraine, in close cooperation with its international partners, is making efforts to address gender imbalances and to modernize its national gender policies with the view to promoting the full-fledged and effective participation of women in public and politico-military life."[40] The government of Ukraine is, at least notionally, calling for the empowerment of women. "Ukraine was one of the first countries in the world to adopt a constitutional guarantee of gender equality,"[41] and at least under the law, women have the same status and rights as men.[42]

Lt Gen Victor Muzhenko, Chief of the General Staff of the Armed Forces of Ukraine, has called for the removal of barriers preventing women from serving in greater numbers and in a greater variety of roles within the military. Ukraine's military is currently 8.2% women, compared to a NATO average of 10.3%. He has appointed a Gender Advisor (though only at the rank of Army Captain) to the Minister of Defense to oversee the implementation of Ukraine's National Action Plan for UNSCR 1325 Women, Peace, and Security.[43]

Based on the Ukrainian government's previous actions to address gender equality, the inclusion of women in the peace process would most likely be met openly and willingly, though may not be independently pursued. When opportunities for peace present itself, women must be actively sought out to have a place at the negotiating table, with particular attention paid to local leadership who have insight into grievances of and have relationships with the local population. The separatists and their Russian backers would also have to be encouraged to include women at the negotiating table. The fact that Russia is a signatory on UNSCR 1325 can be used as leverage to remind Russia to bring women to the table.

Russian Aggression:

Some may argue that Russia's aggressive behavior in Ukraine is a problem with roots much deeper than just how women area treated domestically. While the protection of women is a noble cause, it will not affect the security of the theater without the willing cooperation from Russia. Additionally, even with the inclusion of women into peace negotiations, creating a notable agreement, there is no guarantee that Russia will value the document anymore that the value of the paper it is written on. Russia has started a trend of ignoring past treaties and negotiations in its pursuit of regional hegemony.

The situation in East Ukraine is one that was exploited by Russia to foment unrest. However, negotiations with the separatists in Eastern Ukraine is not quite the same as negotiating with Russia itself. Since one of the tenets of counterinsurgency is the importance of legitimacy of the government, the role of the peace negotiations is to bring resolution to the grievances of the separatist Ukrainians. The aim is to reduce the instability that Russia was able to exploit. Bringing women into negotiations is about improving the likelihood that

grievances of the local community are addressed and improving the legitimacy of the ensuing peace, reducing but not necessarily eliminating the likelihood of relapse.

Addressing the physical security of women is not being claimed as an immediate solution to the region's insecurity – it is a long-term foundational issue and can take generations to take hold. Addressing the security of women in Ukraine is important to improve the stability of Ukraine, but it is also necessary within Russia, as well. However, addressing Russia's issues will require finesse in the use of the diplomatic levers of national power since they are not actively seeking Western support. Russia's domestic violence is a serious problem – even with the prevalence of underreporting on domestic violence, official statistics from Russia show a staggering 17,000 women per year die as a result of domestic violence, compared to 1,300 women in the United States[44]. Russia's laws are in desperate need of updating to make domestic violence a specific crime; they also need to implement a budget that can fund support to victims, such as call centers or shelters, and to prosecute crimes.[45] Addressing the physical security of women in the short term is a human rights concern, which is an end in and of itself. Like the human rights campaign in the Cold War, women's rights can be leveraged as a non-provocative issue when engaging Russia diplomatically.

CONCLUSIONS

As Senator Robert Menendez said to Secretary Kerry, urging him to implement the Ukraine Freedom Support Act, "…the ultimate long-term defense against Russian aggression is a strong, democratic Ukrainian government and civil society." [46] Ukraine is working to set itself up on the path towards becoming a stronger, democratic nation-state. While the insurgency in Eastern Ukraine continues, Ukraine and any foreign support must ensure that the tenets of UNSCR 1325 are included as one on the lines of effort for countering the insurgency, stabilizing the area and setting the foundations for a lasting peace.

The physical violence against women is a strong indicator of the aggressiveness of nations. Addressing this problem during the crisis and in the negotiations for peace will set foundational principles for long-term stability as well as the moral imperative of addressing any human rights abuses caused by the conflict.

UNSCR 1325 provides guidance on how to address the physical security of women in the situation in Ukraine. Based on its tenets, a gendered perspective is required during any operations in Luhansk and Donetsk, whether from external help (NATO, UN Peacekeeping, US Central Command) or by Ukraine itself as it seeks to resolve the crisis. Additionally, beyond just having a gendered perspective, women must be active participants during any discussion or negotiations for peace or reconciliation. Women's participation is strongly correlated with stability of the ensuing peace and brings legitimacy to the process. Due to the lack of women in senior political or military positions in Ukraine, they must be actively

sought out for participation. The fact that Russia is a signatory of UNSCR 1325, must be used as leverage to encourage separatists to also bring women to the negotiating table.

Addressing physical security of women is not a short-term fix for the aggressiveness in Russia. However, Russian does have a poor set of laws and weak support to women as victims of domestic violence. Leveraging diplomacy, getting Russia to address the physical security of women domestically should be a non-provocative means to sow the seeds for long-term stability for the region.

RECOMMENDATIONS

- A gender advisor is necessary at the various levels of planning and execution (i.e. strategic, operational, tactical). The advisor is there to ensure that the different needs and experiences of men and women are taken into consideration when planning for and executing any counterinsurgency or peacekeeping operations.
- In addressing physical violence of women, seek out support from civil authorities, international organizations and non-governmental organizations for their expertise.
- In any opportunity for further negotiations for peace, ensure women are participants. Several options to increase inclusion include: seek out local women's groups that are familiar with the community and women's specific needs; require a quota for the negotiating parties; or increase the number of representative parties to increase the likelihood that local community leadership, including women, will be elected to participate in the negotiations.
- Ensure rape as a weapon of war is treated as a crime against humanity, properly prosecuted and not included in any amnesty packages.
- Provide advice and assistance to the Ukrainian armed forces and to the separatists who choose to discontinue fighting on how to repatriate combatants into society and how to address trauma and post-traumatic stress disorder.
- Ensure aid and programs targeting displaced persons and refugees understand the specific needs of women and provide adequate security to ensure their safety.
- Encourage Ukraine to continue making progress in addressing women's issues: both gender equality in the government and military, and in addressing crimes against women.
- Leverage the UNSCR 1325 as a means for diplomatic relations with Russia with regard to the crisis in Ukraine
- Use diplomatic channels to encourage Russia to promote gender equality and improve laws targeting domestic abuse, prosecution of abusers and support for victims.

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Professionalizing the Ukrainian Armed Forces

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The Ukrainian Armed Forces were unprepared for the Russian invasion of Crimea in late February 2014. The annexation of Crimea and the onset of the conflict in Eastern Ukraine revealed systemic problems in the Ukrainian military. At the core of these problems was a lack of professionalism and training. The Ukrainian Armed Forces (UAF) were overwhelmed by the prospect of an invasion and the immediate demands of the ongoing conflict with pro-Russian separatists in Eastern Ukraine. Furthermore, the government's decision to end conscription in 2013 compounded the manpower problem. In April, 2014, President Poroshenko authorized partial mobilization by presidential decree and reinstated conscription. Since then there have been six waves of mobilization which have produced a motley force. This force now comprises an array of mobilized reservists, conscript soldiers, contract professionals, and volunteer irregulars. Despite progress in reducing the UAF's dependency on conscripts, the practice continues and remains a significant obstacle to creating a professional force. To have any hope of prevailing against this dual threat, the Ukrainian Armed Forces must transition its mixed force of contract professionals, conscripts and volunteer militias into an all-volunteer professional institution. Furthermore, NATO can markedly enhance this reform program by increasing assistance to the UAF in the areas of noncommissioned officer development and training.

Ukraine entered the current crisis with a declining military designed for the Cold War. Ukraine's moribund armed forces are the result of an antiquated conscription system. Twenty-five years of progressive budget cuts and endemic corruption are also to blame. As a result, the UAF was no match for the Russian Armed forces which swept into the Crimean Peninsula. The negotiated withdrawal of the UAF following the annexation of Crimea was humiliating. Ukraine had little time to reflect on this outcome. Pro-Russian separatists, instigated by Moscow, were quick to exploit Kiev's weakness following Crimea's annexation. The seizure of territory by Russian-backed separatists in the Donbas region forced the UAF to act. The occupation of Crimea and the conflict in the Donbas represents the first military challenge that Ukraine has faced since independence in 1991.

Despite the poor state of the Ukrainian military, by July 2014 the UAF achieved some success in their so-called "antiterrorism operations" or ATO. Surprisingly, battalions of hastily assembled volunteers managed to regain lost ground and push back the pro-Russian separatists.[1] On the tactical level, the volunteer battalions opened a gap in the front line at Ilovaisk effectively splitting the pro-Russian separatists in Donetsk from those in Luhansk. This action at Ilovaisk was nearly decisive and would have led to the eventual defeat of the separatists had Russia not intervened by supplying arms, logistical support, and advisors. It

became apparent that the UAF could deal with an internal separatist movement in Eastern Ukraine.[2] However, it clearly could not defeat a separatist movement supported by the Russian Federation.

The UAF faces divergent requirements: on the one hand it must fight to reclaim territory lost to the pro-Russian separatists, and on the other it must be prepared to defend against a conventional invasion by the Russian Federation. Russian hegemony has been a constant throughout Ukrainian history, what has changed is the apparent convergence of Russian capability and intent. The revanchist aims espoused by Vladimir Putin since 2013 and the significant military reforms taken by Russia since 2008 are important factors to consider. In addition to the threat of conventional attack, Ukraine must be prepared for both an indirect and protracted threat from Russia. This threat is increasingly characterized by asymmetric approaches broadly guided by the concepts of "new-generation warfare" or "hybrid warfare." The question for the UAF is what reforms are necessary to meet this dual threat

The first step in addressing reform within the Ukrainian military is to understand the nature of the threat. Using a common military rubric, the threat against Ukraine is intrinsically categorized into a most likely and most dangerous course of action.[3] The most likely threat course of action has played out in Eastern Ukraine since April 2014: a military conflict between the Ukrainian government and a pro-Russian separatist population supported by Russia. For over two years this scenario has focused on the Donbas region of Eastern Ukraine, which includes the important cities of Donetsk and Luhansk. The most dangerous scenario is a direct military offensive by Russia into Ukraine with the object of destroying the UAF and replacing the elected government in Kiev with a Russian client state. Neither of these courses of action can be assumed to be mutually exclusive, and it is logical to anticipate a situation in which both occur simultaneously.

The second step in addressing reform is to recognize the causes of decline in the UAF. Following the collapse of the USSR in 1991, a fledgling Ukrainian state found itself in possession of the fourth largest stockpile of nuclear weapons in the world – not to mention a considerable number of conventional weapons. Ukraine also inherited 750,000 troops that comprised a host of Soviet units from the Cold War era. Most of these units were manned by conscript soldiers who were now basically idle and obsolete. Understandably, the Ukrainian government decided against retaining a large nuclear arsenal.[4] Coaxed by guarantees of security from western countries and Russia, Ukraine signed the Budapest Agreement in 1994 and destroyed most of its nuclear weapons under international oversight, while a small number of systems were transferred to Russia. For the next twenty-three years the UAF experienced a steady annual decline in budget which forced the Ministry of Defense to seek alternate sources of revenue. Forced into survival mode, the UAF resorted to selling its weapons, surplus equipment, and military properties to pay salaries and maintain essential

services. The practice of cannibalizing unit equipment and installations exacerbated the steady deterioration of the UAF and culminated in the atrophied force which proved so ineffective during the Russian invasion of Crimea.[5] Reflecting on the decline of the Ukrainian Army in 2015, Yuriy Buriukov, and advisor to the Ukrainian president observed that,

In the early 1990s they still existed because they had been inherited from the USSR. And then they were destroyed; they were cut and cut. The height of the destruction of the army occurred during 2008 -2013. The army was reduced the brigades and the most combat-ready parts were destroyed.[6]

The first thing to suffer under progressive budget cuts was unit training, especially collective unit training. Over time the UAF became a static, garrison military with obsolete capabilities and corrupt leadership. According to Yuriy Butusov, a Ukrainian journalist, "During the past 23 years there was practically no army. It did not hold maneuvers. It did not participate in military activities."[7] Lack of combat experience in the Ukrainian military was another problem. Since the end of the Soviet-Afghan War in 1989 and the beginning of the conflict in Donbas in 2014, the only formative combat experience in the Ukrainian military was limited to the small number of soldiers who deployed to support the coalition during Operation Iraqi Freedom. Ukrainian units did participate in annual NATO exercises, but this training could not compensate for hard lessons derived from combat. It is important to note that an increasing number of Ukrainian soldiers are gaining experience through the ongoing conflict in the Donbas. However, many of these soldiers have already demobilized after serving their initial term of service.[8]

The chronic lack of readiness within the active forces was only part of the problem. The other was the antiquated mobilization system that could not reliably meet the manpower requirements of a protracted conflict. The Crimean annexation and the subsequent conflict in the Donbas quickly exposed the UAF's inability to generate sufficient forces. Exacerbating the problem was the Ukrainian government's decision to abolish compulsory conscription in October 2013. Although part of anticipated military reforms aimed at professionalizing the armed forces, the timing of this decision could not have been worse. It became obvious that the number of active-duty soldiers was insufficient to defeat the Russian-backed separatists in Eastern Ukraine. By late April, the Ministry of Defense realized that conscription must be reinstated in the near term to meet the exigencies of the conflict. Consequently, Ukraine began the first partial mobilization of the reserves on 1 May 2014 and compulsory military service was reinstated by Presidential decree later in August 2014.[9] The Ministry of Defense Commissariat conducted a series of six conscription drives since 2014. The manning situation in the UAF has greatly improved over the past two years, and volunteers now comprise seventy-five percent of the force. Nevertheless, problems persist in meeting the

conscript requirements.[10] The next step is to glean lessons from countries that already made the transition to an all-volunteer force.

The American experience transitioning from the draft to an all-volunteer force offers some important parallels to the Ukrainian case. During the Nixon administration the U.S. ended conscription in January 1973 and effectively transitioned to an all-volunteer force. The arguments for and against ending the U.S. draft are applicable to the Ukrainian case. For example, in 1969 conscription was integral to meeting the U.S. Army's manpower requirements in Vietnam. Similar to the conflict in Eastern Ukraine, the Vietnam War became a protracted conflict for which the U.S. was losing public support. On the institutional side, Army leadership increasingly blamed the draft system for pervasive discipline problems among its servicemen in Vietnam. As opposition to the Vietnam War increased, draft dodging became a significant problem for the U.S. The Ukrainian MOD is having similar challenges with diminishing public support and with conscripts evading service. Furthermore, some of the original arguments made against an all-volunteer force in the U.S. – that without a draft the U.S. would never be able to mobilize for a large conflict – are useful when applied to the existing situation in Ukraine.[11]

A major criticism of conscription in Ukraine is that the quality of the individual conscript is poor and that problems with alcoholism, desertion, and general discipline are pervasive. Like the U.S. draft in the 1960s, the Ukrainian conscription system is viewed as unfair because only a fraction of the eligible population is ultimately conscripted into the UAF. This fact undermines the traditional concept of universal service which underpins most conscript systems. The lack of universality is inherent because the eligible male population (20 - 27 years of age) remains much larger than the actual requirement for conscripts. The problem is exacerbated by the options available to someone who wants to evade conscription, which include paying off corrupt officials, ignoring an induction notice, or simply departing the country. The disproportionately high number of conscripts coming from the rural areas of Ukraine – where a prospective conscript presumably has fewer means of evading conscription – is one indicator of a skewed system.[12] Desertion remains an acute problem with conscripts in the UAF. According to the International Business News, in October 2015 the Ukrainian government opened 16,000 criminal cases against deserters. Many of these individuals reportedly abandoned their units and absconded with their weapons; although it is unclear how many of these individuals may have joined ultra-nationalist volunteer battalions.[13] [14]

The experience of western European militaries in the late 1990s offers another perspective on military conscription. In his review of the NATO campaign in Kosovo, Anthony Cordesman observes:

> Kosovo seems to have reinforced the lessons that many military experts drew about the value of conscripts versus professionals after the Gulf War, and about the need for small, well-trained reserves that can provide immediate support to active forces. . . . The level of technology and the tactical demands of Kosovo clearly required highly trained and proficient soldiers. . . . Some senior German officers feel that the net result is to alienate German conscripts while wasting scarce resources on useless low-grade manpower.[15]

As these examples suggest, by being so dependent on conscription the UAF is resting the institution on a structurally weak foundation. It is only logical for the UAF to apply relevant experiences from the U.S. and western European armies and gradually phase out conscription altogether. Nevertheless, transitioning the UAF to an all-volunteer force will be difficult to achieve in the near term.

The arguments made in favor of an all-volunteer force in the U.S. are applicable to Ukraine. Between 1964 and 1969 studies examining the prospect of an all-volunteer force were conducted both in and out of government. Extensive research was also done to develop an accurate military supply curve of the market. In general, the debate focused on the social, budgetary, and economic impacts of the proposal. A big concern was that the associated cost of transitioning to an all-volunteer force would prove exorbitant and unsustainable. However, the eminent economist Milton Freidman argued that the economic benefits of an all-volunteer force would compensate for the increased budget costs. Freidman maintained that the cost of conscription took the form of an "implicit tax" imposed on the draftee. This tax was equal to the difference between what the draftee was being paid and what it would actually cost to attract him to serve. In 1969 President Nixon convened the Gates Commission to investigate the feasibility of an all-volunteer army. Ultimately, the commission recommended that an all-volunteer force was the best option for the country in the long run. The rationale was that the higher budget costs associated with an all-volunteer force concealed the real social costs of conscript manpower. In Ukraine's case, the government must determine the actual salary required to attract sufficient numbers for an all-volunteer force. This must then be used to determine the actual effect on the MOD budget. Finally, the research must gain a comprehensive understanding of the long-term societal, budgetary, and economic implications of an all-volunteer force.[16]

The prospect of transitioning to an all-volunteer force is also influenced by complex demographic factors. Public opinion is currently one of the biggest obstacles standing in the way of this goal. Polling by the Pew Research Center over the past two years indicated a decrease in public support for the conflict in Donbas. Furthermore, very few Ukrainians believe the UAF is making progress against the separatists.[17] Negative perceptions of the Ukrainian government are predictably acute in areas with a larger Russian minority. But even in large parts of the country where anti-Russian sentiment remains high, support for

Ukraine's ATO in the east is flagging. For example, a poll conducted in December 2015 by the Democratic Initiative Foundation found that seventy-nine percent of the respondents believed that Ukraine's priority should be ending the conflict peacefully.[18] Although those who volunteer for military service may have different motives from a conscript, the implications of this survey do not bode well for volunteer recruitment either. Part of the recruiting problem may relate to the way Ukrainians view their identity vis-à-vis the state, so a closer examination of the ethno-linguistic composition of Ukraine is appropriate at this point.

Views on Ukrainian national identity are complicated and vary significantly by the region. Nevertheless, Russians and Ukrainians have a close relationship that is bound by a common heritage. Both populations trace their common origin back to the age of the Kievan Rus' in the 10th century and the reign of Vladimir the Great. Furthermore, the Ukrainian and Russian languages both derive from a single language, Old East Slavic. These cultural and linguistic ties are at the root of the identity question. In the eighteenth and nineteenth centuries, the Tsars incorporated a large portion of southern and eastern Ukraine into the Russian Empire and renamed the area "Novorossiya" (New Russia).[19] The fact that Vladimir Putin has publicly used this contentious term in referring to parts of Ukraine underscores a prevalent Russian perspective. From this viewpoint the majority of ordinary Russians view Ukrainians as part of a fraternal East Slavic nation that, although linguistically distinct, remains closely bound to Russia by culture, history, and intermarriage. They further assert that Ukraine is an integral part of Russian civilization, owing to the historical significance of Kiev to both Russians and Ukrainians.[20] The western part of Ukraine is home to a predominantly Ukrainian speaking population, while the central oblasts are mixed. Russian speaking peoples are the majority in the eastern provinces of Donetsk and Luhansk where the pro-Russian separatists are active. A small but significant minority of Russian speaking peoples inhabit the area around Odessa and Mariupol. The implication for recruiting is that certain oblasts will supply a disproportionate number of volunteers. The creation of Ukrainian nationalist volunteer units in the spring of 2014 offers some insight into the complex issue of identity and military recruiting.

Shortly after the outbreak of hostilities in Eastern Ukraine civilian volunteer battalions were hastily formed to fight the pro-Russian separatists. These irregular units immediately filled a void left by an ineffective UAF. At the time these volunteer battalions fell outside the UAF chain of command and supported themselves through private donations collected by traditional means and internet crowd-sourcing. Despite their inexperience these volunteers quickly exceeded expectations in combat by containing the pro-Russian separatists. By late July, the volunteer battalions drove a wedge between the two separatist factions in the Donbas. The obvious effectiveness of these volunteer units aside, there is an inherent problem with legitimacy when a unit does not answer to the state. Over the past two

years of conflict these volunteer battalions were gradually brought under the control of the UAF and the MOI, at least officially.

Ensuring that these volunteer battalions are clearly subordinate to the MOD and answer to a single chain of command is imperative. Therefore, this relationship must be formalized and a deliberate plan must be developed to assimilate the volunteer units into the UAF. Despite their obvious commitment to the Ukrainian state, the risk is that these units will not answer to any formal chain of command outside of their singular unit. Under the best circumstances these units may experience coordination and inter-operability problems with the UAF. In the worst case scenario these units could become rogue battalions only loosely affiliated the UAF. The potential for a violation of the Law of Armed Conflict would be high with dire implications for the reputation and legitimacy of the UAF.

The future of the volunteer battalions is an open question. Formed haphazardly in response to the pro-Russian separatist uprising in Eastern Ukraine, the immediacy of the crisis led these irregular units to accept pretty much anyone who was willing to serve. Serhiy Melnychuk, the founder of the so-called Aidar battalion in Eastern Ukraine and currently a member of parliament, claims to have accepted people that ranged in age from 18 to 62, including the "homeless and pensioners."[21] More concerning are reports from Amnesty International that allege that the Aidar battalion committed abductions, beatings and extortion against individuals suspected of collaborating with the separatists. In another case, eight members of the Tornado volunteer battalion have been accused of rape, murder and smuggling. Ukraine's military prosecutor, Anatoly Matios, intends to take the alleged offenders from the Tornado battalion to court. Meanwhile, the Ukrainian government has ordered irregular units like the Aidar battalion to reflag themselves and be incorporated into the UAF.[22]

The only sensible options for these volunteer units are incorporation into the UAF or demobilization. As the Ukrainian government has highlighted, the close ties that some of these units have with right wing political parties in Ukraine is concerning. A situation in which a political party maintains a de facto armed formation should be anathema to a truly democratic state. A nominal reflagging of the unit under the UAF will not suffice alone. Each individual soldier should undergo a vetting process to eliminate any criminals that remain in the ranks. Those that pass the screening can be offered contract positions in the UAF. The contract should explicitly state that the individual may be assigned to another unit based on the needs of the force. Former volunteer units should remain as combat units and be manned by contract soldiers. There should also be a regular cycle of new personnel into the unit to prevent parochialism and to ensure loyalty to the Ukrainian government. Deciding which of these volunteer units should be transitioned to regular service or deactivated requires more detailed analysis. Ultimately, these units will continue fulfilling a critical role provided they remain subordinate to a lawful military chain of command.

Creating recruiting incentives for volunteers is important. After the initial wave of military volunteers subsided in 2014, the realization set in that the UAF was in for a long conflict. The military situation that emerged in the wake of the Minsk I and Minsk II agreements alternates between stalemate and sporadic violence. Consequently, any plan to recruit volunteers should account for this simmering internal conflict and carefully weigh options to optimize recruiting potential. The MOD now authorizes additional combat pay for those soldiers serving in the ATO and recently doubled the pay of contract soldiers. These are positive measures that are consistent with recommendations from the 2016 Rand study oriented on UAF reform[23]. The former contract salary – originally less than the Ukrainian minimum wage – proved a serious disincentive to recruiting. Furthermore, the Ministry of Defense should continue filling UAF combat units exclusively with volunteers, while conscripts are employed in combat support and combat service support roles. The volunteer to conscript ratio within the UAF should be maintained at seventy-five and twenty-five percent respectively.[24] This practice should serve as a transitory step to solve the immediate manpower shortage until conscription can be gradually phased out over five years.

Another problem is the old Ukrainian policy of recruiting contract soldiers to serve at bases close to their home towns. Although a definite incentive to recruiting, this policy undermines military cohesion and calls into question the recruit's motivation to serve. Reinforcing this concern are unsubstantiated reports that Ukrainian soldiers switched sides and joined the Russian Army in response to offers of better pay.[25] The risk with units that are recruited and stationed in the same area is that they are more susceptible to demographic bias. In short, recruits should not be too closely tied to an area if their principle allegiance is to the state. This is especially pronounced in a country where regional identity exerts a strong influence and parochial sympathies may compromise state allegiance. To the extent possible, the composition of the UAF should represent a cross section of the regional demographics of the country.

Every effort should be made to recruit a demographically balanced force that includes professional soldiers from all the regions of Ukraine. The prospect for recruiting soldiers from traditional Russian speaking areas like Odessa and the Donbas may intuitively appear unfavorable; however, some volunteer units surprisingly contradict this assumption. As Howard and Pukhov observes, "It is worth emphasizing that the most famous and effective units of volunteers consist of people from across Ukraine."[26] Therefore, a closer analysis of the make-up of these units will provide some clues on how to constitute a more regionally representative force. These relevant factors could then be used to design a more sophisticated recruiting strategy. The central part of Ukraine, where views on national identity are traditionally more ambivalent, is another area that may offer some insight into the nexus between identity and recruiting. Recently, the voting trends in this region have registered a slight shift towards candidates from western Ukraine.[27] The next step is less complex and aims to reform manpower utilization in the UAF.

The UAF can be made into a more efficient organization by reducing redundant and excess personnel. This is especially true of the noncombat components of the Army and Air Force. To illustrate this point, in 2014 the Polish Air Force possessed more aircraft than their Ukrainian counterpart, yet had sixty percent fewer personnel overall than the Ukrainian Air Force.[28] The Ukrainian Air Force is overmanned in comparison to the other services because thousands of technical positions have been maintained in the Air Force despite the particular aircraft or weapon systems being obsolete or impractical to maintain. Cutting these positions, or simply reallocating them over to more critical fields, could substantively decrease the overall requirement for new recruits and conscripts. Correcting this problem must involve a candid and ruthless audit of every unit across the UAF for manpower inefficiency. The size of the Ukrainian Navy could also be adjusted to reflect the reality of Ukraine's geo-strategic position, especially considering that only one large vessel remains in the fleet. The navy personnel can be consolidated within a reinvigorated coast guard that is oriented on the defense of the littoral.[29]

Building a professional noncommissioned (NCO) officer corps within the UAF should be a top priority. The historic lack of a professional noncommissioned officer corps in the UAF is another harmful legacy of the Soviet system. As part of the two-year universal service system adopted by the Soviets in 1967, noncommissioned officers were selected from the population of inductees and sent for additional training to become squad leaders. The limitation was that these sergeants only gained two years of experience before completing their service. Due to the turnover, officers in the Soviet Army often performed duties that are equivalent to those of an NCO in the U.S. military. The Soviet system also produced a comparatively higher officer to enlisted ratio when compared to western armies (nearly 1:3). The predictable result is a tactical formation with a single point of failure in leadership, and a body of conscript soldiers who are patently discouraged from exercising any individual initiative.[30] As the recent Russian attempt to create a professional noncommissioned officer corps reveals, this cultural legacy will not change overnight and requires a long-term commitment that involves new recruiting ideas, updated training, and institutional reforms.[31] NATO is already assisting the UAF with instructors and should expand its role through the development of Noncommissioned Officer Academies modeled on U.S. or Western European examples. Another program that needs expansion is the practice of sending Ukrainian Officers and NCOs to NATO professional military education courses.

In terms of reform, NATO is best suited to help with developing a noncommissioned officer corps and in improving the system of professional military education. The apparent reticence of NATO and the United States to provide lethal support to Ukraine in the wake of the Crimean crisis has the practical effect of limiting foreign assistance to training and some limited material support. The 2015 National Security Strategy of Ukraine stresses the importance of a building partnership with NATO. In addition to promoting "democratic values" and a "stable security environment," the strategy maintains that a partnership with

NATO will support "reforms in the Ukrainian security and defence sector."[32] This is occurring to a modest extent as NATO – especially the United States, Canada, Poland, Germany and France – have been assessing the institutional capacities of the UAF and directly participating in military training.

The Kingdom of Jordan offers a relevant example of recent U.S. assistance to build an NCO corps. Combat experience in Afghanistan taught the Jordanians the value of an effective NCO corps. Beginning in 2010, the U.S. and the Jordanian Armed forces developed a successful four step-process designed to train Jordanian NCOs. The process included: language training, attending the U.S. Army's Warrior Leaders Course (WLC) at Fort Bliss, shadowing American NCOs, and deploying to Afghanistan. In Ukraine's case, the first three steps of this program could be applied to a select cohort of Ukrainian NCOs. Once this cohort completes the course, they would return and be assigned as Ukrainian WLC instructors or be evenly distributed among UAF combat units. In the former case, these graduates would form the cadre of a new Ukrainian WLC that trains NCOs throughout the UAF.[33]

The ongoing cooperation between NATO and Ukraine is productive and should be expanded. Since April 2015, the United State Army Europe (USAREUR) has sent U.S. units to western Ukraine to participate in operation Fearless Guardian. According to USAREUR, this exercise is intended to further the reform and professionalization of the UAF and to improve the internal defense and training capacity of the UAF.[34] These efforts should be expanded to other parts of the Ukrainian professional military education system to include the UAF basic training course and Ukrainian officer training at the various service academies. The practice of detailing western advisors to the various phases of the UAF training pipeline should be managed by the U.S. Office of Defense Cooperation and incorporated into the existing Joint Contact Team Program – Ukraine.[35] The goal should be to establish a U.S. presence at the four Ukrainian training centers. The U.S. officers and NCOs would be individually selected and assigned as advisors for a minimum of one year.

A counterpoint to an expanded NATO partnership is that it jeopardizes the tenuous Minsk II ceasefire agreement and could potentially provoke an attack from Russian Federation. The reluctance of NATO and the international community to take decisive action in the wake of the Russian occupation of Crimea lends credence to this viewpoint. Furthermore, this unreliable track record contradicts the spirit of the Budapest Agreement signed in 1994 in which Ukraine relinquished its nuclear arsenal in return for security assurances from the western powers and Russia. The problem with this argument is that it assumes that Vladimir Putin patiently waits for an opportunity to invade and occupy Ukraine. If this were the case, then he missed the best opportunity in April, 2014 following the consolidation of Crimea by Russian forces. The reality is that the Ukrainian Armed Forces are in a much higher state of readiness than they were two years ago, and are much more

capable of defending against an attack from the Russian Federation. Moreover, the factors that seem to have precipitated the Crimean invasion, subsequent annexation, and the Russian intervention in the Donbas are directly related to a perceived loss of Russian influence. Whether expressly stated or not, calculations about potential Russian action influence any decision about Ukraine's security.

Vladimir Putin's strategic intent is to keep Ukraine weak, internally fragmented, and outside the orbit of NATO. By supporting the pro-Russian separatists in Eastern Ukraine and potentially instigating similar movements elsewhere, he holds a proverbial lever which can be manipulated incrementally to destabilize the Ukrainian government. Short of reinstating another pro-Russian vassal like Yanukovich, Putin will continue to use hybrid warfare to destabilize Ukraine based on a continuous assessment of relative power and associated risk. Ukraine's national-strategic objective must be to deter Russian aggression by ensuring this risk differential remains unacceptably high to the Russian Federation.

Of paramount importance is the improvement of Ukrainian defense capacity through the continued professionalization of the Armed Forces. This can only be accomplished by transitioning over five years from a mixed force of contract professionals, volunteers and mobilized conscripts to an entirely volunteer force. Due to the exigencies of the ongoing conflict and recent experience with soldier retention, it should be MOD policy to man all combat units exclusively with volunteers. To mitigate the existence of rogue elements outside the control of the state, the so-called volunteer battalions must be completely subsumed within the MOD/MOI or simply demobilized. While conscription remains necessary in the interim and for reasons previously discussed, it should be employed in a manner that minimizes the established drawbacks. Finally, NATO and the United States must take a bolder stance by expanding training and advisory support to the UAF.

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Black Sea Calling: Maritime Implications of the Ukraine Crisis for the US and NATO

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'*All truly grand and successful strategies have been essentially, if not exclusively, maritime*' - Walter McDougall [1]

Russia's annexation of Crimea in February 2014 and its military support to the separatist movements in Donetsk and Luhansk caught the international community at large by surprise. The crisis was precipitated by a clash between Russia's resurgent power and progressive Western advances into Russia's 'near abroad'.[*] The annexation of Crimea was driven primarily by Russia's maritime imperatives in the Black Sea Region. The US and NATO military responses, therefore, need to be guided by a clear understanding of the maritime implications and dimensions of the Ukraine crisis. The maritime drivers of Russia's actions in Ukraine necessitate a regional maritime response by the US and NATO in the Black Sea Region in order to meet the immediate requirement of effective deterrence and the long-term requirement of balancing Russian maritime strategy.

Various theories and analyses have been propounded about the likely drivers for Russian actions in Ukraine. Arguably, as in most geo-political issues, the nature of these analyses are sometimes colored by respective perceptions and opinions of the analyst. Analysts such as Mearsheimer and French historian Helene Carrere d'Encausse have criticized NATO and EU for 'antagonizing Russia with their rapid post-Communist expansion into Eastern Europe' and disregarding how this would back Russia into a corner.[2] Others have attributed Russian actions as 'an inherently expansionist move on Russia's part, perhaps one long contemplated by the Russian leadership'.[3] One analyst states about Russia, 'the country tends to expand and contract like a beating heart — gobbling up nearby territories in times of strength, and then contracting and losing those territories in times of weakness'.[4] Russian concerns about the continuous eastward expansion of EU and NATO into its 'near abroad', its suspicions about Western intentions after Euromaidan protests in Ukraine, its realist view of global geopolitics (*realpolitik)*, its attempts at re-asserting global influence and the *derzhavnost* model of regional suzerainty[5] after the collapse of the Soviet Union and the general sense of ethnic kinship felt by the Russian public about Ukraine are some common themes brought out by various analysts, stressing on different aspects.

Despite the varying analyses, some common threads nonetheless stand out in evaluations of Russian intentions. Most analysts agree that one of the key factors which led to the Ukraine crisis was a clash between eastward expansion of the EU/NATO and the Russian return to global power status.[6] The crisis would not have happened 15-20 years ago when Russia was still recovering from the collapse of the Soviet Union. Russian resurgence

on the regional and global stage was therefore one of the key factors in leading to the crisis. Because of its geographical disposition, Russia historically has been viewed as a continental power. However, it would be presumptuous to assume that the same traditional continental outlook is driving Russia's actions as it strives for re-establishing itself as a key *pole* in the new world order. Maritime forces offer the best and most visible means of spreading an emerging power's influence. Despite years of neglect and challenges of vintage naval assets which beset the Russian Navy, a maritime resurgence has been prominently visible in Russian policies even prior to the Ukraine crisis. This Russian maritime resurgence has been reflected in ambitious plans for buildup of force levels and increased maritime activities in the Arctic, Baltics, Mediterranean, Black Sea and the Persian Gulf. A recent report by the Naval War College Faculty states that the faculty 'widely agreed that Putin views the Russian Navy as a key enabling tool for his dynamic approach in foreign affairs'.[7]

The Black Sea Fleet, because of its role in the strategically important Black Sea Region, is undeniably an important component of the Russian maritime resurgence. A recent report by Council of European Policy Affairs, emphasizing the 'maritime approach' by Russia, states, "Russia is using the Black Sea as a more advantageous method of revisionism than extensive land conquests. Control of ports and sea lanes delivers several benefits: it threatens to choke the trade and energy routes of wayward states, prevents NATO from projecting sufficient security for Black Sea members and gives Moscow a larger stake in exploiting fossil fuels in maritime locations."[8] Therefore, while the crisis in Ukraine may have been precipitated by the various geo-strategic factors mentioned ibid, maritime considerations would have played a key role in shaping the course of Russian actions in Ukraine.

The Ukrainian crisis effectively consisted of two distinct operations, viz. the annexation of Crimea and the separatist revolutions in Donbas region (Donetsk/Luhansk). A closer examination of the Russian approach reveals that Crimea was the more vital issue for Russia and that the Russian decision to seize Crimea was largely driven by maritime considerations. While the Russian hand might have been forced by the events after the Euro-Maidan, these core maritime considerations shaped the Russian decision about the course of action to be taken for Crimea. This assumption is vindicated by the subsequent Russian behavior in these two theatres.

Russia took only around 20 days to take over Crimea and recognize its independence. It was, however, much slower and guarded in its approach towards Donetsk and Luhansk. While the Russian actions in Donetsk and Luhansk do not clearly display maritime imperatives at the outset, a more detailed examination may reveal a possible plan to achieve a road link from Russia into Crimea. This could not, however, be achieved since the separatists could not capture territory in the farther Southern provinces of Zaporizhia and Kherson, despite a high percentage of ethnic Russians (as shown in the figure below).

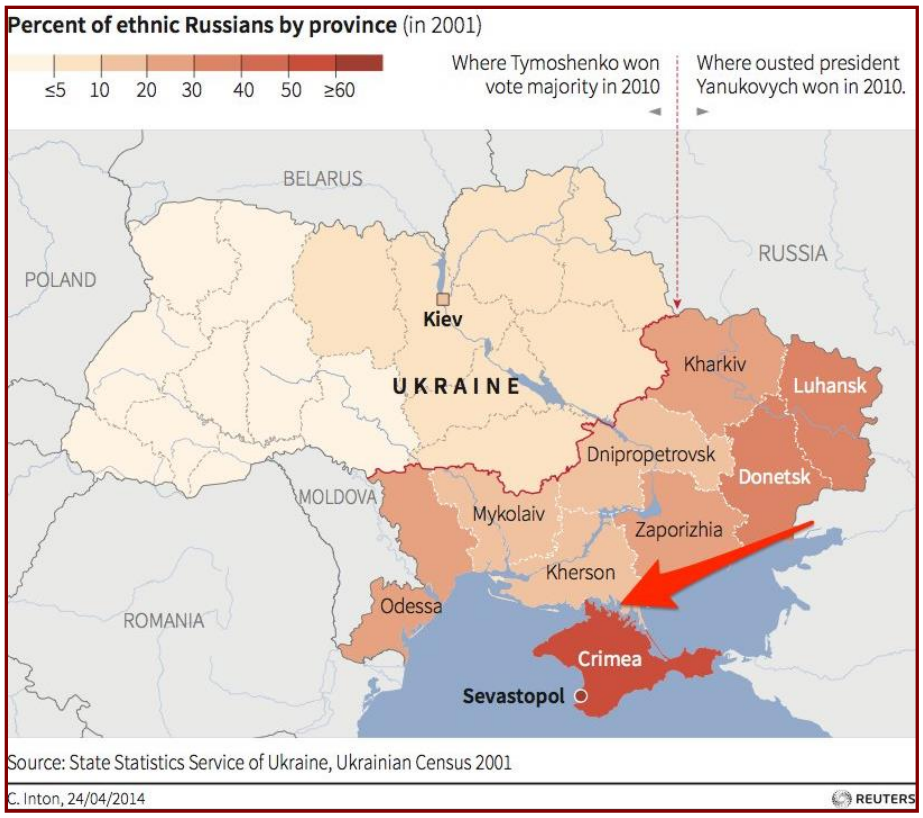

Figure 1. Potential Land Link From Russia To Crimea

Some analysts have inferred that the Russian reluctance to acknowledge the secession of Donetsk and Luhansk is attributable to its strategy of retaining these pro-Russian provinces within Ukraine and using them as a 'safety catch' against Ukraine's pro-West inclinations.[9] Such an analysis also vindicates the hypothesis that the key Russian objective in its Ukrainian intervention was Crimea, primarily because of its enormous maritime value.

Crimea's accession into the Russian Federation will have far-reaching consequences on the future maritime dynamics of the entire Black Sea Region and is central to the probable Russian strategy of effectively controlling the Black Sea. Needless to say, these implications would have been a major contributing factor towards the Russian decision to annex Crimea. The Crimean Peninsula houses the naval base of Sevastopol, the Headquarters of the Black Sea Fleet of Russia. Ukrainian ownership of Sevastopol enabled Ukraine to impose restrictions on the size of the Russian Black Sea Fleet by allowing only 'type for type' replacements through bilateral legal agreements. It was therefore a key bargaining chip for Ukraine in its relations with its powerful Eastern neighbor. Accession of Crimea removes these constraints on Russia and further expansion of its Black Sea Fleet. An analyst has noted, 'now that Moscow's military presence is no longer constrained by former legal agreements with the Ukrainian side, it can fully utilize the geostrategic potential of Crimea by implementing a broad spectrum of mutually reinforcing instruments'.[10] The recently

announced ambitious expansion plans of Black Sea Fleet, including the proposed addition of six new frigates, six new submarines, amphibious assault ship and several other smaller vessels are reflective of this new dynamic.

In addition to Sevastopol, Crimea also houses the important ports of Yevpatoria, Yalta, Feodosia and Kerch. It houses 23 defense industry plants and seven shipyards– Kranship (Kerch), Stekloplastik (Feodosiia), More Shipbuilding (Feodosiia), Zaliv Shipyard (Kerch), Metallist shipyard (Balaklava), Sevastopol Shipyard and MIK Shipyard in Sevastopol, which will all help in the build-up of the Black Sea Fleet. Crimea's civilian shipyards also have the potential to build advanced tankers for Russia's Arctic oil installations.[11] All these will add to a significant enhancement of Russian maritime capabilities in the region.

With the accession of Crimea into the Russian Federation, the coastline of Russia has increased by hundreds of kilometers. This increased coastline, subject to international recognition of Crimea, would result in a significant increase in the Russian EEZ, including oil-rich fields off Crimea (Skisfka oil field) and the Kerch Straits (Pallas gas and oil fields). Ongoing issues between the two nations regarding control of the Sea of Azov and the Kerch Straits would tilt unequivocally in Russia's favor. The increased maritime footprint of Russian Navy in the Black Sea would also give it necessary freedom of maneuver to progress and safeguard its energy pipelines getting laid on the Black Sea bed as a part of the erstwhile South Stream or the new proposed Turkish Stream project.

In addition to purely maritime capabilities, Crimea also brings noticeable military advantages for the Russians such as access to ex-Ukrainian air bases on the island, facilitating positioning of aircraft, airborne troops and naval infantry, options for forward-basing of ballistic surface-to-surface missiles such as Iskander thereby increasing their operational reach, and increase in the Russian 'defense-in-depth' against NATO by giving it a forward base. However, the key advantages nonetheless are primarily maritime. Control of Crimea significantly increases Russian strategic footprint in the Black Sea Region and enhances its ability to project power, not only in Southern Ukraine, Balkans and Turkey, but also onto the Mediterranean and the Middle East. An understanding of these aspects is key to arriving at a prognosis for the future, with an aim to deduce the required response by the US and NATO.

Analysts have differing perceptions of what lies ahead with regards to the likely Russian actions and the prognosis for the crisis in short and long-term. Rajan Menon and Eugene Rumer forecast three possible scenarios viz. a frozen conflict, Russian invasion or Ukrainian victory.[12] The first option, namely that of a 'frozen conflict' has been listed as the most likely by them. Several others like Wayne Merry have also echoed similar sentiments, stating that 'the prospects (of restoring territorial integrity) through either political/diplomatic

or military means are effectively nil.'[13] While opinions differ on the likely future for Donetsk/Luhansk, most analysts opine that the incorporation of Crimea into the Russian Federation is now *fait accompli*. While it is undoubtedly difficult to be certain about the prognosis, a pragmatic understanding of the possible outcomes needs to guide the trajectory of the Western response.

The Western response to the Russian actions has been largely cohesive. However, it is important to understand and acknowledge the differences in general approach to Russia by the three main Western players, viz. US, NATO and EU. Arguably, the US, with its 'lead from behind' policy in NATO, is able to exercise much more influence on NATO actions than on the EU. The geographical proximity and close economic linkages of the key European powers (such as Germany, France, UK and Italy) with Russia lead them to have a much more moderate approach as compared to the US. This has also led to some European powers wanting to have a more independent approach instead of a US-dictated approach to their foreign policy. Measures such as the Common Security and Defense Policy (CSDP) and its predecessor, the European Security and Defense Policy (ESDP) arguably are steps towards this direction. Several members like Austria and France have also voiced opinions about progressively removing the sanctions on Russia, accepting a *status quo* in Crimea.[14] Despite the differences, however, there are key historical and cultural values, principles and perceptions which bring together the major European nations and the US in their approach towards major security issues. In the Ukraine crisis, the US has chosen to keep a lower profile, letting the 'Normandy Four' of Germany, France, Russia and Ukraine conduct the negotiations at Minsk. The US military response in the region, coordinated by the EUCOM, is largely through the mechanisms of NATO. Proceeding with an assumption of a general, though not necessarily absolute, consensus, this paper approaches the issues from a common US-guided NATO perspective.

Consequent to the Crimean crisis, NATO adopted a policy of 'deterrence and defense' and initiated the Readiness Action Plan (RAP) to respond swiftly to the fundamental changes in the security environment and respond to the challenges posed by Russia and their strategic implications.[15] Consisting of Assurance Measures and Adaptation Measures, the RAP included concrete measures to boost its overall military posture in the region such as enhancing the NATO Response Force (NRF) to a division-size land element with air, maritime, and special operations forces components; creation of a new Very High Readiness Joint Task Force (VJTF); establishment of eight multinational NATO Force Integration Units to assist in training of Alliance forces and in the reception of reinforcements when needed and execution of several ambitious NATO exercise programs.

Some of the additional measures planned and executed by NATO have included the operationalization of the ballistic missile defense system Aegis Ashore at Caracal in South central Romania as part of the European Phased Adaptive Approach (EPAA); conduct of

Joint air patrols in the region along with Bulgarian Air Force[16]; operationalization of a Black Sea Rotational Force of 150 US Marines in Bulgaria; ensuring enhanced forward presence of four battalion-sized battlegroups in Estonia, Latvia, Lithuania and Poland; setting up of the Headquarters of a Multinational Division Southeast in Romania and progressing of a Romanian initiative to establish a multinational framework brigade to help improve integrated training of Allied units under this Headquarters. Additionally, NATO has been involved in several military aid activities in Ukraine including establishment of five trust funds and various defense capacity building and capability development programs.[17]

Various maritime measures have also been initiated by NATO. These maritime actions have not, however, formed the main thrust area of the NATO response. Despite the constraints of the Montreaux Convention 21 day stay-limit, near-continuous presence of NATO warships, including missile cruisers from US and other Allied nations, was ensured in the Black Sea. The SEA BREEZE Exercises have been conducted annually, involving participation by Ukraine and Georgia, along with NATO countries in order to signal a clear intent to Russia. While creation and positioning of a permanent NATO Black Sea Flotilla has recently been proposed by Romania, it has got a mixed response in NATO, with Turkey supporting it but Bulgaria opposing it because of concerns over militarization of the Black Sea. While the freezing of the conflict may be seen as a short-term success of NATO's initiatives, it nonetheless is required to assess the required nature of future NATO response from a longer-term perspective.

If one accepts *status quo* in Crimea and possibly also in Eastern Ukraine as the most likely scenario, the immediate aim of the NATO military response should be to prevent any further Russian expansion into Ukrainian territory. One way of signaling this intent, as espoused by several analysts, could be by a direct military presence in Ukraine and clear steps towards integration of Ukraine into the NATO. However, this approach has associated risks. It would play into the Russian narrative of aggressive Western expansion into Eastern Europe and efforts to remove Russian influence from its former allies. This would invariably lead to a further escalation of the situation. Domestic pressures may force Putin into taking even more aggressive actions to defend Russian core interests. Undeniably, the importance of Ukraine for Russia is much more than for the US because of its sheer physical proximity to Russia's borders and historical factors. Analysts such as Larrabee[18] and even the US President Obama, in a recent interview with Jeffrey Goldberg [19], have acknowledged that Ukraine is a core interest for Moscow, in a way that it is not for the United States. It would be short-sighted to follow an overly aggressive approach against these core Russian interests. While persistent 'push and prod' strategy against the Russian boundaries may be acceptable and maybe even required from a Western perspective to keep Russian expansion in check, US and NATO need to be wary of unnecessarily crossing the 'red line' which Russians have persistently reiterated.

Instead of directly going militarily into Ukraine to deter Russian expansionism, the same effect can be achieved by a clear signaling of NATO intent at a 'regional' level. Two contentious questions would however need to be answered in deciding the response. The first is the question of granting NATO membership to Ukraine, starting with the acceptance of Ukraine into the Membership Action Plan (MAP). The second is to decide whether NATO's assistance to Ukraine should include arms and ammunition, or be restricted to non-lethal areas like training, advice, restructuring, reforms etc. A longer term view of the issue makes it apparent that both these questions need to be viewed from this regional perspective to arrive at a correct course of action.

While NATO has extended and is maintaining a 'Distinctive Partnership' with Ukraine, full time membership is not yet on the agenda. The US, in the past, had strongly recommended granting NATO membership to Ukraine. The same had, however, been opposed by several NATO members like France and Germany. At the Bucharest Summit of 2008, NATO committed to an eventual NATO membership for Ukraine without committing to a firm timeline. At the same time, within Ukraine also, opinions on NATO membership have been quite divided. Until 2013, almost two-thirds of Ukrainians strongly opposed NATO membership. The Crimean crisis led to Ukraine repealing its avowed 'non-block' status that it had adopted in 2010 and requesting once again for NATO membership in Dec 2014. In a July 2015 poll, 64 percent of respondents supported joining the alliance, with 28.5 percent speaking out against it.[20]

From NATO's perspective also, there are differences in opinion about the suitability of accepting Ukraine into NATO. Some of the major concerns of the opponents are regarding the readiness by Alliance members to honor the Article V commitments, Ukraine's disputes with Russia, apprehensions about Russia's response and the divided Ukrainian national opinion on the issue. Perhaps, most importantly, granting NATO membership to Ukraine would be akin to crossing the 'red line' which the Russians are so vociferous about. A cost-benefit analysis therefore reveals that NATO membership for Ukraine would serve neither the cause of NATO nor the overall stability of the Black Sea Region. In fact, displaying an empathy for Russia's strategic apprehensions, some analysts have recommended a new non-NATO security architecture for the region involving the existing non-NATO Eastern European nations along with the US and Russia.[21] Similarly, opinions on providing arms and 'defensive' weapons to Ukraine are divided within the Alliance, with most Western European members fearing that such a move would further escalate the situation and invite a hostile response from Russia. Therefore, at this juncture, incorporating Ukraine into NATO or supplying it arms would both be counter-productive. Russian expansion can be effectively deterred without both these actions. This is where the naval forces play a vital role by showing robust resolve, albeit with a scalable offensive posture.

The ongoing land conflict in Donetsk/Luhansk tends to draw one's focus away from the underlying maritime strategy in Russian actions. Also, arguably, the NATO strategic mindset has understandably became deeply ground- and counterinsurgency- centric over the course of a decade of operations in Afghanistan.[22] It would be a mistake to focus primarily on the 'land battle' in Ukraine at the expense of disregarding the primacy of maritime dimension and Crimea in this crisis. The primacy of the maritime dimension is defined not only by the Russia's maritime objectives, but also by a clearer understanding of what the long-term US objectives should be and how they are to be achieved. While the immediate requirement for the US and NATO is for effective deterrence against further Russian expansion, the long-term objective should be to effectively counter-balance the Russian maritime strategy in the region. Russia is capitalizing on the enormous power of naval forces to project the nation's influence and power in the region. Needless to say, this maritime strategy needs to be balanced by an effective counter-maritime strategy and equal demonstration of Western naval power. Acknowledgement of this long-term objective would inevitably lead to the adoption of a regional maritime approach.

A potential counter-argument against a regional maritime approach could be to question the efficacy of a maritime approach in achieving the desired deterrence, as also the risks of encouraging further Russian adventurism not going directly militarily into Ukraine to show support. However, as brought out earlier in this paper, the requirement in front of the West today is to achieve deterrence, without needlessly escalating the situation. It is in this context that maritime forces become relevant by virtue of their rapid deployment capability, visibility and scalability of their offensive posture. By annexing Crimea, Russia has got the primary objective which it had wanted. Further expansion into Ukraine, in the face of the strong international sentiment, would be counter-productive to Russia's long-term interests. Therefore, a strong maritime presence as the 'main effort', along with the supporting land and air force accretion at a regional level, would suffice to send a clear message to the Russians.

In deciding the nature and scope of the maritime response, the NATO and US would need to overcome two main obstacles. These are the 1936 Montreaux Convention and the weak naval strengths of the NATO Black Sea maritime states. The Montreaux Convention, by imposing restrictions on the tonnage and duration of stay of naval assets of non-Black Sea nations was designed to prevent a naval arms race and militarization in the Black Sea. Non-Black Sea state warships in the Straits must be under 15,000 tons. No more than nine non-Black Sea state warships, with a total aggregate tonnage of no more than 45,000 tons, may pass at any one time, and they are permitted to stay in the Black Sea for no more than 21 days at a time. Despite being a NATO member, Turkey, as the 'gatekeeper of the Bosphorus Straits' and the nation responsible for ensuring adherence to the provisions of the Convention, has been reluctant in the past to allow any contraventions of the Convention. Its refusal to allow American ships into the Black Sea for Operation *Enduring Freedom* and for

'humanitarian assistance' during the Georgian crisis was guided by its adherence to the articles of the Convention, concerns about militarization and possibly its own regional aspirations. The Montreaux Convention does not impose equivalent restrictions on the Black Sea states such as Russia. With the removal of the constraints imposed by Ukraine through the legal Sevastopol-basing agreements, Russian naval presence in Black Sea can now progress unhindered. Thus, the Montreaux Convention places the advantage firmly with the Russians by imposing severe restrictions on the US ability to respond to Russian naval moves in the region.

In keeping with its immediate and long term considerations in the region, US would do well to find a way to neutralize this tactical advantage that the Montreaux Convention provides to the Russians. Revision of the Montreaux Convention is not an easy option, particularly since US was not a signatory to the Convention, and Turkey enjoys veto powers over any such proposals. At the same time, blatant disregard of the provisions of the Convention by the US would also not be a recommended way ahead, given the US' international stature and its efforts to ensure respect to the 'rule of law' in the international maritime arena. Therefore, the US needs to pro-actively progress a case for revision or repealing of the Montreaux Convention through diplomatic channels. In the event of lack of international support for repealing of the Convention, an alternative approach for the US could be to push for a revision to incorporate legitimate restrictions on the naval force levels of the Black Sea states. This would enable Russia's Black Sea Fleet expansion plans to be kept in check and help in maintaining a healthy balance of power in the region.

The second obstacle in way of the US/NATO maritime response is the large capability difference between the Russians and the rest of the regional navies. Analysis of the current naval forces based in the Black Sea Region, based on open-source material such as *Janes*[23] and relevant books/reports[24] reveals that while the overall numbers seem to favor the NATO forces, in terms of actual capability and warfighting potential, the Russian naval forces completely outclass the other Black Sea Navies. The Romanian and Bulgarian Navies are old and have obsolete equipment because of their Russian origins. Despite Russia subsequently returning most of the naval assets to Ukraine after annexing Crimea, the Ukrainian Navy has been made totally ineffective, except for one frigate. Most of its 12000 personnel based at Crimea defected to Russia and Ukraine has lost most of its naval manpower, infrastructure and facilities. The Georgian Navy, after the war with Russia in 2008, has been incorporated into the Coast Guard and is only capable of constabulary functions. Turkey is the only other significant naval force in the Black Sea Region. However, its focus is divided between the Black Sea and its other commitments in the Mediterranean/Aegean and the Sea of Marmara. Also, recent internal developments around the attempted coup in July 2016 and consequent reprisals against military officers are reported to have adversely affected the morale and effectiveness of the Turkish military

forces.[25] With the proposed expansion plans of the Russian Black Sea Fleet the disparity between Russian and NATO Navies in the Black Sea will increase even further.

In addition to the force levels, an examination of the naval ports reaffirms Russia's dominance and reach in the region. In addition to its own ports, Sevastopol and other Crimean ports, Russia is also planning to develop a port at Ochamchire in Abkhazia. Russia's support to Syria has also ensured it the availability of the Tartus port in Syria. This port significantly increases Russia's ability to base warships in the Mediterranean, close to the Black Sea Region. In contrast, Ukraine has lost most of its naval infrastructure and the main naval port (Sevastopol), forcing it to base its Navy at the commercial port of Odessa. As on date, the Black Sea NATO Navies by themselves are grossly inadequate to 'balance' Russian naval presence in the Black Sea Region. A situation of unequivocal maritime supremacy of Russia in a vital area of interest to the NATO would not be acceptable from NATO or US perspective.

Given the complexities of amending the Montreaux Convention and the likely long lead time, it would be required for US and NATO to find innovative solutions to match Russian naval forces in the Black Sea Region. Regular and sustained 21 day deployments of NATO assets deployed from the Mediterranean theatre would serve the purpose quite well, though with associated logistic and sustainability limitations. NATO would need to examine several other short and medium-term solutions to circumvent the provisions of the Convention and ensure an equitable playing field for the Western Navies. These could include options such as reflagging of NATO units under the flags of Black Sea NATO member states like Turkey/Romania/Bulgaria and accelerated build-up of the naval forces of these states. Progressive building up the naval forces of NATO Black Sea states is a pressing concern which must be given utmost emphasis by the US. In view of Bulgaria's reluctance to toe a hard anti-Russia line and Turkey's unsettled equations with NATO, Romania may be the most suitable option for this assisted force build-up.[26] Setting up a permanent Black Sea Fleet, as proposed by Romania and a dedicated NATO Black Sea Command would also be steps in the right direction.

The naval buildup in the Black Sea Region, by the West as also by Russia, would also bring with it a high element of risk. Analysts have prophesized about a return to the Cold War era and 'the return of geopolitics to the forefront of international relations'.[27] While the situation is possibly returning to a Cold War-like scenario, the extensive checks and balances and formal communication mechanisms designed to prevent accidental escalation are no longer in existence. There is, therefore, a real risk of a minor or inadvertent tactical action leading to uncontrolled escalation. Deborah Sanders states, 'Given the unwillingness of the Russian Federation to give up Crimea, its commitment to promoting a federal structure in Ukraine, and the US commitment to the Black Sea Region, the potential for escalation and miscalculation in the region are likely to remain high in the medium term, creating a

challenging maritime environment'.[28] There may therefore be a case to visit these challenges and set clear rules of engagement and Confidence-Building Measures (CBMs) between the Russian and NATO naval Forces.

In conclusion, while a lot has undoubtedly already been done on the maritime front by NATO, a re-orientation of priorities is recommended to make it the 'main effort' of the NATO forces in the region. With the immediate deterrence effect seeming to have been successfully achieved by the steps undertaken so far, a maritime focus would serve the US and NATO better in countering the long-term Russian maritime strategy in the Black Sea Region, which has evolved into a 'strategic frontier' for Europe, Russia and the US.[29] NATO membership for Ukraine or direct supply of arms and ammunition to it would needlessly escalate the situation in the region. Instead, concrete steps towards overcoming the obstacles of the Montreaux Convention and reducing the likely future imbalance in naval forces in Black Sea Region would go a long way in ensuring that the West remains on an 'equal footing' in the region.

In his book *The Choice: Global Domination or Global Leadership* (2004), Brzezinski argued that the US had to choose between a policy aimed towards America's global domination versus a position of global leadership.[30] In a post-Cold War era led by the Americans, the Ukrainian crisis has challenged the status quo of *Pax Americana.* Instead of falling into the trap of blindly blaming the other side, it may be worthwhile for the US and the West to reflect on the drivers for Russian actions. A mature and respectful consideration of Russia's concerns, along with a robust maritime force structure in the Black Sea Region, would serve to stabilize the situation, instead of hastening a return to the days of the Cold War.

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Notes

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Tilting the Scales: Why American Engagement Is Ukraine's Best Chance to Restore Territorial Sovereignty

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Introduction

Every disadvantage has its advantage.—Ukrainian proverb

The Russian invasion of Crimea and their fomented unrest in the Donetsk is arguably the greatest challenge to the international order of states in the last quarter century. These acts violated Ukrainian territorial sovereignty and instantly skewed the balance of power scales in Europe. Russia's power play was a response to its leadership's perception that influence over Ukraine was deteriorating to an unacceptable level. Since the fall of the Soviet Union, Ukraine remained a vital interest of the Russian state even as Ukraine struggled to find its way as a newly independent state. The Russian actions violated traditional law and norms regarding national sovereignty. This aggression is an 'egregious affront' to the international system and a severe blow to the European security order.[1] With such an extraordinary challenge to the international system, one might expect an immediate and overwhelming response to restore Ukrainian sovereignty, yet nearly two years later, little has changed in this episode. Russia remains an entrenched occupier and with no apparent motion toward removing its forces and restoring Ukraine to its pre-invasion status. The US is best poised and should proactively engage Russia to restore Ukraine's territorial sovereignty by resetting the balance of power between Russia and the West.

In the following pages, this paper explores and defends the thesis recommending US proactive engagement. It will review the balance of power situation and explain why it is fundamental to understanding the nature of the crisis. Understanding the balance of power situation leads directly into a discussion on motivations of key players including Russia, the EU, the US, and Ukraine itself. After presenting the triangular diplomacy framework to view the interactions between the core actors, the paper then presents a fundamental game theory analysis on the situation. This study provides insights regarding the stability of the situation and, based on the game theory results, lays out possible actions which could restrike the balance of power and restore Ukraine's sovereignty. Ultimately, the paper discusses why US proactive engagement is the most likely course of action to achieve favorable results within policy constraints. The paper concludes by presenting recommendations for specific actions the US could take to begin the engagement process to rebalance the situation in Ukraine.

Discussion

Russian perceptions of state-to-state relations were at the heart of their decision to annex Crimea and support a counter-Ukrainian conflict in the Donetsk. Russia's aims are simple; it views itself as a regional hegemon that must maintain a sphere of influence over the post-Soviet states on Russia's periphery. In the case of this specific crisis, Russian

President Putin viewed any movement by Ukraine toward the West (specifically, the EU and the US) as a step back for Russian vital interests.[2] Putin's view of the world, shared by many governing elites within modern Russia, is one of a zero-sum game in a continuing adversarial relationship.[3] Putin saw any change in Ukraine's policies toward the West as an equal movement away from Russian influence. For Russia, in the game of control of the post-Soviet states, there is only a winner and a loser, and actions by the West to draw these countries, including Ukraine, prevents Russia its 'rightful' place among world powers.[4] With a zero-sum competition and concern over perceived loss of power at the core of Russian thought, it becomes clearer why Russia took action in Ukraine.

What made the Russian response surprising is not the lens it used to view the world but rather its choice to challenge the established European security order. Following World War II, the international community drafted and approved core documents to create European state and border constructs which remain in place today. These include the United Nations Charter and the Helsinki Final Act.[5] Following the breakup of the Soviet Union, the international community, including Russia, signed the Belavezha Accords in December 1991 which cemented the concept of 'inviolability' of existing borders.[6] The Budapest Memorandum on Security Assurances signed in 1994 firmly established the borders of newly independent post-Soviet states, including Ukraine.[7]

Even as a contributor and signatory to these agreements establishing the long-standing European security environment, Russia has a history of deviating when the benefits outweigh potential negative ramifications. Russia employed decisive, unilateral military action when it supported its interests. In 1994, Russia used military force to subdue anti-government rebels in the Russian province of Chechnya. As struggles heated up again throughout the 2000s, Russia again employed force to mitigate this threat. In 2008, Russia conducted a military operation into Georgia, the former Soviet province but at the time of intervention an independent sovereign state, to perform what Russia termed peacekeeping operations in support of pro-Russian separatists. In both the Chechnya and Georgia conflicts, the outside world observed, but took no military action in response. With these precedents set to use military force to secure core interests, Russia's campaign into Ukraine appears less of an anomaly.

The Russian goal of maintaining its position of power in relation to other states and its outlook on state-to-state interactions supports a balance of power model to frame the current Ukrainian crisis. As an international relations theory, the balance of power draws from the neorealist view on how states interact.[8] According to neorealist theory, states are rational actors who make choices solely to maximize their expected utility. Leaders of states do not initiate conflicts merely for belligerence, but instead in efforts focused on national self-interest.[9] With Russian decision makers set on viewing the world as a zero-sum game,

the balance of power is an appropriate construct to consider the relationship between Russia and the West, particularly when it comes to the Ukraine crisis.

With the balance of power at work and established as fundamental to understand the origin of the Crimean intervention, it is now necessary to turn toward reviewing the post-invasion actions, motivations and current interests of the relevant actors some 18 months later in October 2016. The crisis highlights competing narratives which are simultaneously at work between Russia, the EU, the US and Ukraine itself. These interrelated yet differing views add depth to the triangular diplomacy framework. These motivations identify potential opportunities for US proactive engagement to influence the return of Ukraine's sovereignty.

For Russia, little has changed regarding its position in the crisis. Russia remains thoroughly entangled as a supporter of separatist forces and Russian minorities within Ukraine. Russia has not swayed on its view that Ukraine must continue to be an integral part of the Russian sphere of influence. Russia has been openly hostile to the EU's attempts to collaborate with post-Soviet states, including Ukraine.[10] As Ukraine and the EU courted in search of a mutually beneficial trade partnership via the Deep and Comprehensive Free Trade Agreement, Russia promoted an alternative agenda. Russia sought to establish the Eurasian Customs Union and keep Ukraine closely linked economically. This example is clearly a case where the EU's and Russian's respective spheres of influence hold Ukraine wedged between powers.[11]

Of vital importance to the Putin regime is to reestablish Russia as a significant power and actor in the international community. The Georgia, Ukrainian, and most recently, Syrian operations are signs of extended military intervention to pursue Russian interests and send a message to the international arena. Although Russian influence is at a lower level than during the Cold War, Moscow endeavors to reassert its most dominant national element, Russian military power. Russia seeks formal recognition, especially from the US. Russian leaders maintain an American-centric view of the world and believe the EU is a puppet guided by the US.[12] This notion coincides and strengthens the prevailing Russian belief that the international community is not paying proper respect to Russian authority and influence. Before the crisis in the Ukraine, the US attitude toward Russia was mainly disinterest which caused political neglect.[13] Russia desperately wants the EU and particularly the US to hold Russia on a pedestal, a top national priority, as it did the Soviet Union. Russian leaders are irritated both the US and the EU are pursuing their goals in greater Europe without including and negotiating with Russia.[14]

The EU also has core interests in resolving the crisis over Crimea and Donetsk. The EU desires to restore the territorial sovereignty of Ukraine and reset the balance of power. The crisis in Ukraine caught the EU by surprise as it failed to see the relevance of power politics which simmered sub-surface in post-Cold War Europe.[15] The EU seeks to continue

engagement with Ukraine and other post-Soviet states via its European Neighborhood Policy (ENP). ENP began in 2004 to strengthen unity across the continent and avoid fractures in Europe from resurfacing.[16] The effort, however, was inconsistent with varying levels of support and interest from EU member states. ENP met with friction from Russia, who directly called out the effort as an attempt to pull post-Soviet states into the EU as future members.[17]

The EU policies toward Russia were pragmatic and meandered based on opportunity; there appeared to be little principle guiding the relationship. As a result, the EU has had little impact on Russian actions and lacked the resolve to stand up to Russian attitudes in opposition to EU interests.[18] This lack of clarity in policy continues to thwart EU efforts to apply its elements of power against Russian aggression in Ukraine. The EU maintains sanctions against Russia and awaits Russian compliance with the negotiated military ceasefire in Ukraine established in the Minsk agreements.[19]

The US motivations regarding the crisis in Ukraine are similar to the EU but muted. The US desires to see reestablishment of Ukraine's territorial sovereignty, removal of Russian presence, and a reduction in Russian economic influence. These goals are much the same, but the US has more options available due to its international prestige, economic power, and military might. The US can utilize more patience because the Crimean incursion is not sitting on its doorstep. The US no longer considers Russia as a threat in the post-Cold War world, now only a secondary, regional power.[20] US relations with Russia have ebbed and flowed since under President George H.W. Bush's administration. Relations worsened in 2008 as the US openly supported Georgia in the limited war with Russia. Russia felt this US support was a betrayal from a lack of respect toward Russia's regional sphere of influence.[21] President Obama attempted to re-baseline the relationship with a focus on practical issues of agreement, but this stance failed to show persistent interest in the relationship.[22] Russia viewed this lack of interest negatively and the relationship diverged. Ukraine sits as one of a myriad of issues separating the US and Russia.

The one state which has the largest stake in the outcome of the current crisis is Ukraine. Its motivations are clear: Ukraine wants to be sovereign, independent democratic and European.[23] A majority of the Ukrainian population opposes renewed dominance by Russia.[24] Ukrainians believe alignment with the EU is a better path to modernization. However, even in Ukraine, uniting support is not trivial as there is a significant Russian minority with dissenting opinions on the best future for the nation. Russia and the West hold Ukraine stuck in a tug-of-war over influence.[25]

It is necessary to establish a framework and a tool for analysis to understand the possible actions going forward. The following sections suggest a framework developed through previous academic research and then employ a mathematically-based tool for further

understanding. The bottom line from this analysis is that the involved actors, given the status quo, will not return sovereignty to Ukraine; the equation must change, and therefore action is necessary by an actor to restrike the balance.

Young and Birchfield built a framework for understanding the crisis in Ukraine which they termed triangular diplomacy (see Figure 1).[26] In this model, Russia, the EU, and the US are separate vertices of a triangle. Each of these actors can influence both of the adjacent players using their elements of national power. The object in the center is the Ukraine, who drifts pragmatically in alignment due to its relative minimal power vis-à-vis the more powerful actors.[27] The intent of the framework is to view the dynamics holistically between all of the actors, rather than as individual bilateral interactions.[28] This triangular diplomacy framework is a foundation to further the analysis of the balance of power by treating the situation as a game where Ukraine is the prize for which the players are vying. This paper applies a simple game theory approach to understanding the situation dynamics.

Game theory is a mathematically-based set of theorems to explain how players' decisions are interrelated and how those players jointly determine the outcome of a game.[29] The structure of a game depends on the players, the prize, and the possible decisions available. Game theory cannot tell us how a game will conclude, but it does show the limited possibilities. It provides a probability assessment of the likely choices by participating players. Von Neumann and Morgenstern made notable contributions to game theory by developing fundamental analysis to solve two-person, zero-sum games as well as how to approach n-person games (more than two players).[30] Game theory grew in use and importance following World War II. It became the basis for critical economic policies based on general equilibrium theory from n-person games.[31]

Game theory is a useful tool to understand the recent Ukrainian crisis because it matches key characteristics. Game theory assumes the players are rational; a player will make choices which maximize its utility or provide the most advantageous outcome for themselves. The theory assumes the players are neither benevolent nor malevolent toward the other actors as a players' goal is only to maximize its payoff.[32] These conditions align with the pragmatic balancing act Russia, the EU, and the US all followed in recent years. The current situation follows the mechanics of a zero-sum game which corresponds with the Russian decision makers' wide-spread acceptance of neorealist views. And finally, game theory fits the current situation because it allows for understanding when you have a 3-player game by applying established n-person theory.

Consider the struggle for Ukrainian sovereignty as a match where the players are Russia, the EU, and the US. Ukraine (or more specifically, Ukrainian sovereignty) is not a player, but rather the prize (see Figure 2). The mutual goal of the players is to win the greatest portion of the prize by making rational choices to maximize their outcome, in this

case, to tip the scales of the balance of power in their favor. Anatol Rapoport's study of 3-player games explores possible results including the possibility that coalitions form to seek a joint payoff opportunity to maximize the chances of receiving the greatest portion of the prize.[33] In 3-player games, coalitions can form between any of the players, none of the players, or all of the players. It is not possible for a single player to guarantee a prize greater than zero since the other two players can form a coalition. Rapoport states the following theorem:

> "Question of the joint payoffs accruing into coalitions can be answered unambiguously if the n-person game is constant sum and if the n players partition themselves into just two coalitions."[34]

Said another way, in the game over Ukraine, the likelihood of just two coalitions is particularly valid (EU and US versus Russia) and the game is a zero-sum game. Because these conditions are true, the game is balanced, and therefore no one player can assuredly control the prize, in this case, Ukrainian sovereignty. Applying game theory further postulates a balance of power between Russia, the EU, and the US is feasible where no particular power has primacy. The prize, Ukraine, is, therefore, available for influence by the players to pull Ukraine toward the each actor's respective sphere of influence.

The game described above works when any of the players can win the prize, Ukraine. The international community wants this situation, where independent states are free to determine their fate, influenced by and influencing other countries. This game, however, is not reflective of the current situation because the prize is not in play for potential distribution by the results of a 3-person game. Using the same preconditions, if we reset the game where one player controls the prize at the outset, then the game result is definitive 100% of the time; there is no incentive for the holder of the prize to play the game. Russia will retain control of Ukraine assuming no change to the situation (see Figure 3).

The use of game theory as an analytical tool is not intended to provide a scientific answer to how Russia, the EU, and the US could distribute the prize, Ukraine. It gives a means to explore the triangular diplomacy model and understand possible outcomes. Countless variables add uncertainty to this zero-sum game analysis and make actual probability values worthless for this discussion. External variables will undoubtedly affect this open system. The study shows a balanced division of Ukraine's interests and loyalties is possible between the players. This result is instructive when applied to our international relations dilemma – the only way to move forward in the 3-player game over Ukraine is to change the equation. With an absolute game theory result, Russia will hold their grasp on Ukrainian sovereignty indefinitely unless the prize comes into play.

There are two possible paths for Ukraine's sovereignty to return to play and allow our desired game theory situation for power rebalancing: Russia needs to withdraw its forces

willingly, or an external actor needs to use authority to compel a change. Although possible without an external catalyst, it is unlikely Russia will unilaterally withdraw forces from Ukraine. Therefore, the only realistic path to pursue is actions by the EU and the US which force or entice Russia to release its grasp on Crimea and Donetsk, allowing the balance of power scales to reset. These options include economic warfare, military force, EU-led diplomatic efforts, and US proactive engagement. This paper argues US proactive engagement provides the best chance to regain Ukraine's sovereignty and restrike the balance of power.

Economic warfare by the EU and US against Russia is a viable course of action to influence Russia; however, it is already in use. The EU and US took independent measures to place sanctions on Russia. Both actors froze assets, enacted travel restrictions, put restrictions on Russian companies, weapons, dual-use goods, and oil exploration equipment.[35] The Russian people felt these effects most and not the ruling elite who were the intended targets as the EU and US had difficulty targeting the effects. The sanctions to date have not reduced support for the Putin regime.[36] The annexation of Crimea was a far more popular move among the Russian people than the impacts felt from economic sanctions. The EU is considering lifting economic sanctions as a carrot to entice Russian diplomacy. US actions also focused on propping up Ukraine with a $1B loan guarantee and over $340M in aid.[37] Economic sanctions and financial support may be influential in the long term. However, there are indications the Russian boost in national prestige is dulling the blow by these actions.

The most obvious method to adjust the current situation in Ukraine is military intervention by the EU, or more likely due to capability, the US. Russian aggression in Ukraine spurred the North Atlantic Treaty Organization (NATO) alliance to refocus its forces and seek to deter subsequent fighting.[38] However, EU or US direct military action is simply not on the table. This self-imposed restriction ties back to the Cold War and remains valid in the foreign policy of the US and EU member states. Great power war between nuclear-equipped combatants is not something the international community takes lightly. Not all EU countries are NATO members, and thus there is no Article 5 guarantee of NATO support for a US-led or EU-led operation in Ukraine. In the 18 months since the Russian incursion into Crimea, there have been no calls to initiate armed conflict by EU member states nor the US in response, and neither appears moving toward this path. Although war is a way to restrike the balance of power in Ukraine, it is not a viable option.

On the diplomatic front, the EU took the lead engaging Russia. The Minsk agreements, negotiated between Russia, Ukraine, Germany, and France, provide a framework for a ceasefire, but are currently unrealized and fall short of a long-term peace agreement.[39] The EU continues to seek engagement with Russia through offers of regional cooperation and trade agreements, but these are insufficient bargaining tools to entice Russia.[40] EU

foreign policy tools remain insufficiently limited. Talks among a subset of EU member states hinder a unified voice, diminishing the strength of the EU speaking as a single entity. Through all of these diplomatic efforts, the US remained an outsider. This action is consistent with the languishing state of the US-Russia affairs over the past eight years and does not address a core grievance of the Russian leadership.

With military force off the table, economic and EU-led diplomatic actions proving ineffective, the best opportunity rests with US proactive engagement. For the purpose of this paper, proactive engagement means persistent and aggressive measures to establish an open dialogue between leaders of nations. The US should leverage this unharnessed diplomatic power to pursue Ukrainian territorial sovereignty. Attention from the US administration, which should place Russia as a paramount priority, would match squarely with the desires of the Russian leadership. The US needs to take the offensive diplomatically and seek constant discussion with Russia on core interests including Ukraine. The US should create a 'virtuous cycle of positive tit-for-tat' confidence building as promoted by Lyle Goldstein's book, *Meeting China Halfway*, and explored further by Yuan.[41] Proactive engagement leading to dialogue creates an opportunity to initiate a chain reaction whose momentum may be the best option to reset the equation in the Ukrainian game discussed previously. The US should take charge in trilateral negotiations between Russia, the EU, and the US over Ukraine. The US should propose middle-ground concepts such as identifying an end state with Ukraine as a pragmatic buffer working under both the Russian and EU spheres of influence, with greater alignment toward neither.[42] The discussion needs to avoid quicksand traps, such as Syria, which could unhinge forward progress and reverse the flow of dialogue. These actions directly respond to the Russian perception of US disrespect while conveying to Moscow their unilateral action in Crimea is a grave concern to the US. This method avoids the potential violation of red lines and mitigates risk through constant negotiation rather than rhetoric and misunderstanding.[43] In the end, the US needs to play the game and cannot sit aloof in one of the most significant challenges to state security and order in Europe since the Cold War.

Some may believe US proactive engagement through negotiation will not be effective. Negotiation is not a sign of weakness. It shows a mature willingness between states with mutual respect to work out differences. On the contrary, avoiding discussion can lead to confrontation and extend the duration of dire circumstances for Ukraine's affected populace including 1.5 million displaced citizens seeking safe refuge within western portions of Ukraine.[44] Another concern which isolationists could voice is that Ukraine is not a vital national interest of the US. The crisis in Ukraine is an opportunity for the US to hold the line with Russia. In the past two decades, Russia has demonstrated its willingness to use military action to meet its unilateral needs without regard for international law. The US should not brush this concern under the carpet but address it head on. In the long term, this serves to avoid potential flash points and escalation between two nuclear-armed powers.

The final counterargument is the notion that the Ukraine crisis is the EU's problem to work with Russia. A stable Europe is a necessity for the US economy and underlies continued advocacy for international law and norms which the US holds dear in the current state-based order. Therefore, addressing the Ukraine issue directly with Russia allows the US to continue its principal role, and provide bold leadership to the international community in a time of need.

Conclusion

The international community remains perplexed by the predicament in Ukraine. The confusion is not whether nations view the Russian act as right or wrong, but rather over the strategy to resolve the situation. Little has changed on the ground in over 18 months since the Russian incursion into Crimea began. Although the EU and the US passed stern verbal judgment on Moscow, their independently employed diplomatic and economic tools did little to break Russian resolve. Russia seeks renewed status and prestige in the international community. Viewing Ukraine as part of its natural sphere of influence, Russian leaders interpreted their action as an appropriate response to a zero-sum game where they perceived Ukrainian balance of power was shifting toward the EU and its ally, the US.

Permanent Russian hold on the Crimea and Donetsk is not a fait-accompli. Through Young and Birchfield's triangular diplomacy model, we further analyzed the three-way relationship between Russia, the EU, and the US as it pertains to Ukraine. Game theory analysis in this paper does not imply a mathematical solution to the Ukrainian crisis but rather further elucidates the challenges in resolving the situation while Russia occupies Crimea. The dynamics of the actual situation are far too complex to reduce to a simple 3-player game with an absolute answer, but the model is instructive; something must give to allow the balance of power to reset. With all signs pointing away from the West pursuing an armed conflict with Russia to restore Ukrainian territorial sovereignty, US proactive engagement provides the best option.

The US has means available to coax the ego of the Russian leaders. The US response to date over the Ukrainian crisis is a mild mix of verbal censure and ineffective economic sanctions. The US cannot discount the significance of formal recognition of Russia as something more than a minor regional leader, but rather as a major international power. In the grand scheme of things, this acknowledgment costs little. Coupled with a focused initiative to drive prominence into the US-Russia relationship, seeking continuing and extensive dialogue on issues of mutual interest, while not shying away from thorny issues of disagreement, has potential to move the Ukrainian standoff forward. There is a chance for a better tomorrow in Ukraine provided the EU, US and Russia can find common ground to build advantages and favorable circumstances from a situation which appears at the moment to be an overwhelming Ukrainian disadvantage.

Recommendations

The US has the best opportunity to convince Russian leaders to initiate a chain reaction of events using proactive engagement to restrike the balance of power over Ukraine.

- Message: The US must aggressively pursue bilateral dialogue with Russia to send the message that the US is serious about Russia's position of prestige in respect to the rest of the world. Russia does not expect to be the preoccupation of US affairs as they were in the Cold War, but they want acknowledgment as a major player who has a vote.
- Seize Opportunity: The transition from 2016 to 2017 presents an exceptional opportunity as the US Presidential election will bring a new executive into the White House. Regardless of the results of the election, this change is a chance for a watershed event which may allow a fundamental reset of policies and pent-up animosities to diminish.
- Focus: Conversations need to bear progress by initially working mutually-aligned agendas. Discussions must avoid land mine issues until there is sufficient momentum in the dialogue to delve into more challenging areas of contention.
- Compromise: The overall tone needs to be one of compromise. Employing this tenor does not indicate a weak US stance but acknowledges Russian interests. The US must promote Ukraine as an independent buffer with pragmatic policies toward both Russia and the West.

Appendix A

- Triangular Diplomacy

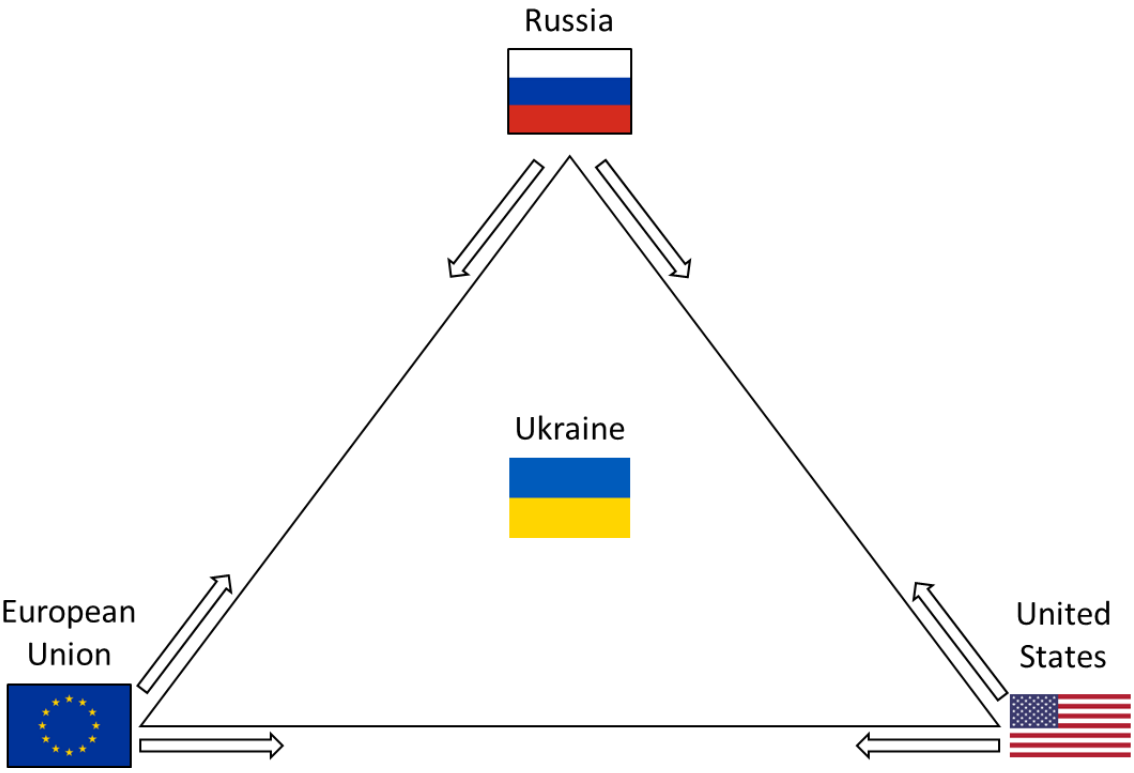
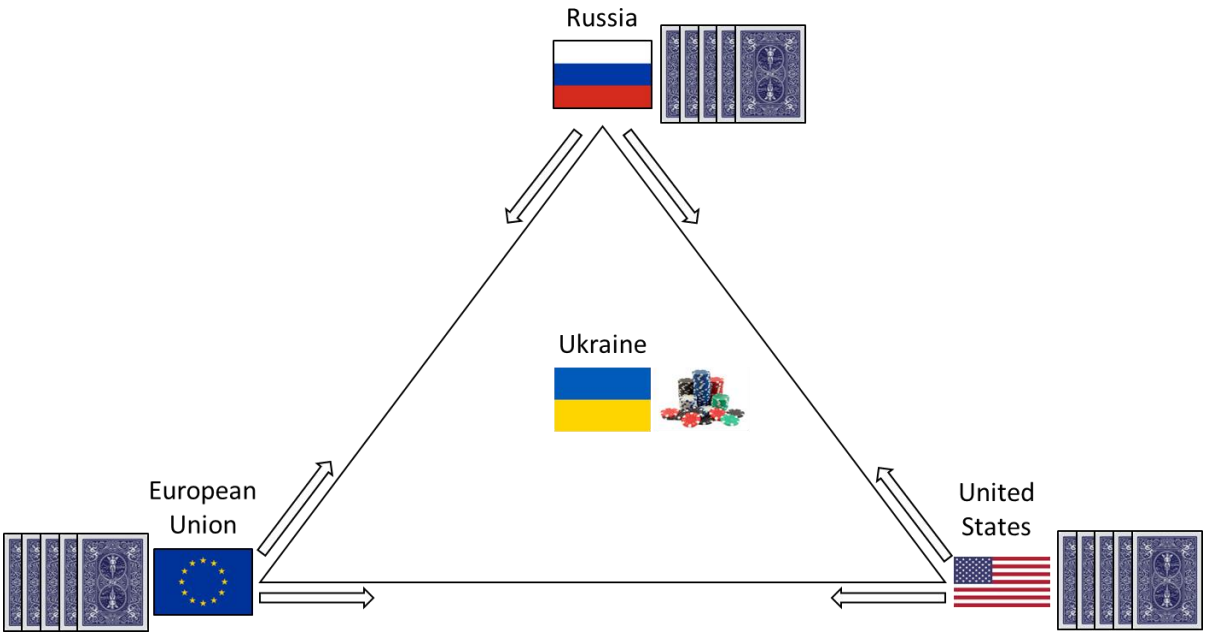
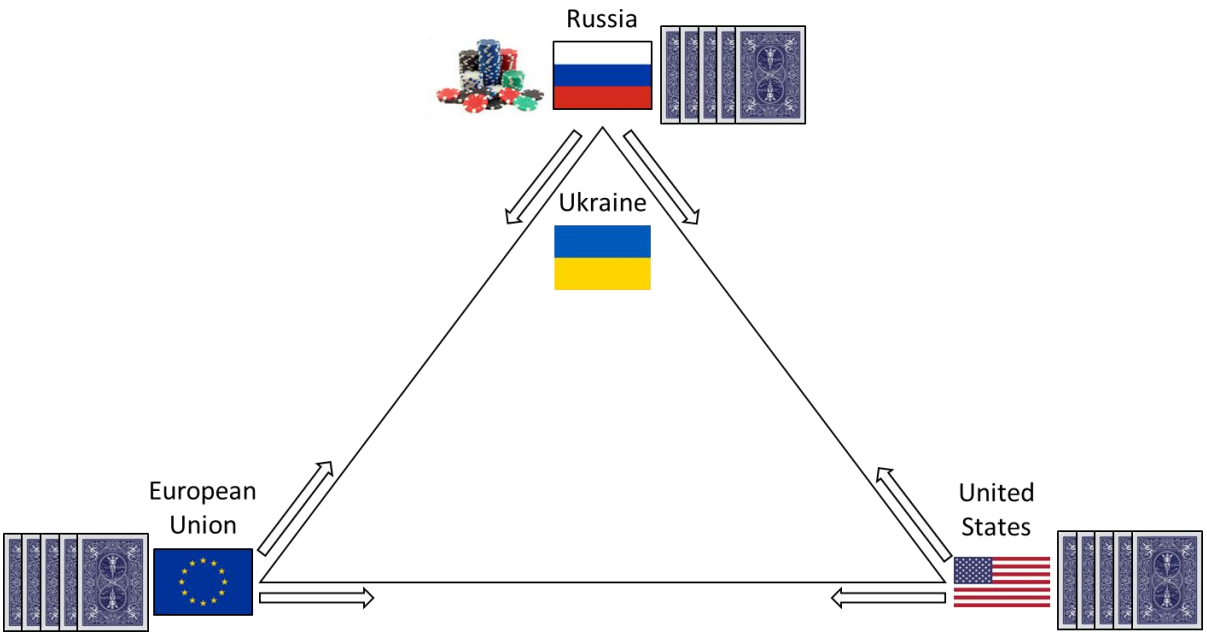


Figure 1. Triangular diplomacy model for the Ukraine crisis

- **Appendix B**
- Game Theory Models



- **Figure 2.** Game Theory (Prize available for distribution)



- **Figure 3.** Game Theory (Prize held by Russia)

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Strategy Mismatch in Ukraine

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Introduction

The U.S.' military strategy for Ukraine is misaligned with its 2015 National Security Strategy (NSS). Among other objectives outlined in the document, the NSS states that the U.S. will deter Russia, leverage U.S. leadership to "mobilize collective action to address global risks", and will support emerging democracies.[1] Each of these objectives support national interests and are consistent with U.S. efforts to ensure global stability. The NSS also states that the use of the military "is not the principal means of U.S. engagement abroad, nor always the most effective for the challenges we face."[2] Despite this assertion, the U.S. has leveraged the military instrument of national power in Ukraine even though it represents an ineffective strategy for the global challenges and opportunities presented by the conflict. The military strategy of providing training and equipment to Ukrainian forces is at odds with the NSS and will not accomplish the articulated objectives. More specifically, the military strategy employed in Ukraine does not support the NSS because it will not deter Russia, fails to prompt the North Atlantic Treaty Organization (NATO) members to act on matters vital to its collective security, and strengthens and legitimizes forces with anti-democratic ideals and values.

Deterring Russia

Current U.S. military strategy designed to deter Russia includes funding, arming, training Ukrainian forces. This strategy runs counter-productive to the NSS designed to deter Russia. The NSS states that the military will "remain essential to deterring future acts of inter-state aggression."[3] As it applies to deterring Russia, however, the use of the military has an opposite effect. The U.S. expansion into Eastern Europe in recent years has escalated tension and provoked Russia to take measures against what it views as an ever-growing encroachment by western powers within its sphere of influence.[4] Multiple examples demonstrate Russia's aggressive and escalatory patterns when the U.S. increases its presence and influence in the region. The examples also confirm that Russia does not deter easily.

In 2002, the U.S. began training and equipping Georgian forces as part of the Georgian Train and Equip Program.[5] The U.S. presence did not deter Russia from invading Georgia and seizing South Ossetia and Abkhazia in 2008. The U.S. response to this territorial incursion by Russia into Georgia was like its response to the recent Russian seizure of Crimea and invasion of Ukraine. In both cases, the President of the United States delivered speeches condemning Russian aggression and pledging support for the democracies of Georgia and Ukraine. Similarly, to Ukraine, the U.S. provided military support to Georgia, as well. The 2009 National Defense Authorization Act (NDAA) pledged $50 million for Georgian security operations. Despite this, Russia has continued to act aggressively when confronted militarily. By adopting a similar strategy in Ukraine as the

one employed in Georgia, the U.S. should expect that Russia will not be deterred from future aggression. More recent events also indicate Russia's predictable tendencies when confronted militarily.

In recent years, Russia has reacted aggressively as U.S./NATO exercises have encroached close to their borders. During Exercise Atlantic Resolve, a 2015 NATO mission in the Baltic Sea, Russian jets overflew U.S. Navy ships. The exercise, which was designed to further interoperability between NATO partners, included portions of the exercise along the coast of Poland. The response by Russia was predictable considering Poland's geostrategic proximity to Russia.[6] In the Black Sea, Russia has reacted similarly. In 2015, on two separate occasions, Russian Su-24 jets have overflown U.S. warships (USS Ross and USS Cook) during routine maneuvers in the Black Sea.[7] In May 2016, the United States deployed and activated a ballistic missile defense system in Develesu, Romania. Russia condemned the action because it threatened Russian security.[8] In response, Russia deployed a nuclear-capable Iskander missile system to Kaliningrad in October 2016. The conflict in Syria also represents Russia's expected actions when confronted militarily. Amidst rising tensions with the U.S. on the conduct of the conflict, Russia deployed an S-300 anti-air missile system which threatens U.S. freedom of action in the region. Perhaps the most useful example demonstrating how U.S. military action will not deter Russian aggression is the example of is Ukraine. The U.S. has been conducting Exercise Sea Breeze in Ukraine since 1997.[9] This continual presence did not have a deterrent effect. Russia has a clear history of predictable behavior when confronted militarily.

While history indicates that Russia will respond with strength when confronted with strength, the current military strategy does not challenge Russia significantly enough to raise the stakes to levels in which Russia is compelled to curb their actions. This is largely due to inconsistencies between foreign policy and military strategy. In the case of Ukraine, Congress has delivered a clear message to Russia that the U.S. will limit its military commitment to avoid escalation. Its passage of the 2016 National Defense Authorization Act (NDAA) of 2016 signaled a lack of U.S. resolve for the region.[10]

The level of support currently committed as part of the NDAA will have little impact on deterring Russia. The NDAA authorizes $300 million as part of the Ukraine Security Assistance Initiative. The preponderance of the funding is only authorized for defensive weapon systems. Only $50 million is authorized for "offensive-type" weapons such as mortars, crew-served weapons, and anti-armor weapon systems.[11] Most of the money is for "command and control, small unit tactics, counter-artillery tactics, logistics, countering improvised explosive devices, battle-field first aid, post-combat treatment, and medical evaluation."[12] By limiting Ukraine's offensive capability, the U.S. has demonstrated to Russia its unwillingness to escalate hostilities. This will be interpreted as a lack of resolve for Ukraine and will not deter Russia.

The NDAA is not the only way that the U.S. is demonstrating a lack of resolve for Ukraine. U.S. political leadership has also signaled that the U.S. will remain measured in its defense of Ukrainian sovereignty. In a speech at NATO headquarters in March 2014, U.S. President Barak Obama, in addressing the crisis in Ukraine, stated, "To be honest, if we define our interests narrowly, if we applied a coldhearted calculus, we might decide to look the other way. Our economy is not deeply integrated with Ukraine's. Our people and our homeland face no direct threat from the invasion of Crimea. Our own borders are not threatened by Russia's annexation."[13] President Obama, in admitting that Ukraine's sovereignty is not a matter of U.S. national interest, sends a clear message that the U.S. is limited in its level of support for Ukraine. In a separate speech in 2015, President Obama further articulated that he favored a diplomatic resolution over a military resolution when he said, "There continues to be a better choice -- the choice of de-escalation, the choice of joining the world in a diplomatic solution to this situation, a choice in which Russia recognizes that it can be a good neighbor and trading partner with Ukraine even as Ukraine is also developing ties with Europe and other parts of the world. I'm going to continue to engage President Putin as well as President Poroshenko and our European partners in pursuit of such a diplomatic solution."[14] The message being conveyed to Russia is that our national policy for Ukraine is at odds with our military strategy and there is a limit to what the U.S. will do to protect Ukraine. Thus, the military strategy will not deter Russian aggression.

The U.S.' contradictory national and military strategies have an effect beyond Russia and Ukraine. As the President mentions in his earlier quote, Ukraine is not a matter of U.S. national interest. It is, however, in the national interest of NATO and Europe. This mismatch in policy prevents the U.S. from improving collective security efforts in the region, which is a central theme of the NSS.

Strengthening NATO

The current military strategy of training and equipping Ukrainian forces undermines the U.S.' ability to influence collective security efforts in Europe. It sends a conflicting message to NATO that the U.S. sees Ukraine in its national interest when it is more in NATO's interest. The NSS states that the U.S. will use force unilaterally when its "enduring interests demand it: when our people are threatened; when our livelihoods are at stake; and when the security of our allies is in danger."[15] Further, it states that in circumstances when U.S. interests are not directly threatened, the U.S. "will seek to mobilize allies and partners to share the burden and achieve lasting outcomes."[16] By acting unilaterally (from a military standpoint), the U.S. failed to further its NSS that highlights the need for NATO to make "reforms and investments…to make sure we can work more effectively with each other."[17] As a result, the current military strategy has undercut the NSS and the result is that NATO has not advanced collective defense in Europe.

Although the conflict in Ukraine presents many challenges, it also presented opportunities. The U.S. has not capitalized on the opportunities presented. In February 2015, in addressing the Leangkollen Conference in Oslo, NATO Deputy Secretary General Ambassador Alexander Vershbow stated, "Russia's aggression against Ukraine is not an isolated incident, but a game-changer in European security."[18] This acknowledgment that Russia's actions in Ukraine were a European issue presented an opportunity for the U.S. to further collective security in Europe. The U.S., however, fails to maximize this opportunity, despite being contrary to the NSS. Rather than influence NATO to enact measures to strengthen collective defense, the U.S. has assumed the lead role in providing military support to Ukraine. By doing this, the U.S. has thwarted collective security efforts in the region and enabled NATO to continue its practice of over-relying on the U.S. for security matters that are not part of the U.S.' "enduring interests."

The level of commitment that NATO members have toward collective defense reflects an over-reliance on a handful of countries. NATO countries are expected to spend 2 percent of their gross domestic product (GDP) on defense spending. Of the 28 countries that comprise NATO, only five will meet their cooperative security defense spending requirements: U.S. (3.61), Greece (2.38), United Kingdom (2.21), Estonia (2.16), and Poland (2.00).[19] An equal number of countries spend below 1% of their GDP. For 2016, European countries (as part of NATO), will spend 1.46% of their GDP. In 2014, after the commencement of hostilities in Ukraine, NATO members convened in Wales and signed the Wales Summit Declaration. In that document, NATO members pledged an increase in defense spending to reach the 2% figure. The following year, only 1/3 of those countries that signed the Declaration saw increases in defense spending.[20] Secretary General Stoltenberg, in addressing this decrease in spending, said in 2015, "NATO is the strongest military alliance in history. Yet, we cannot take our security for granted. Since 1990, there has been a steady fall in European defense spending. And last year, there was a further decline of about 3%. So the fact is that our security challenges are increasing, but our defense spending is decreasing. This is simply not sustainable."[21] President Obama, a year later at the NATO summit in Poland, further articulated the need for increased spending by saying, "But for those of you doing the math, that means that the majority of allies are still not hitting that 2 percent mark -- an obligation we agreed to in Wales. So we had a very candid conversation about this. There's a recognition that given the range of threats that we face and the capabilities that we need, everybody has got to step up and everybody has got to do better."[22] Clearly, the U.S. understands that it provides the lion's share for European security.

The U.S. provides disproportionately to NATO for exercises, as well. In 2015, NATO conducted nearly 300 exercises, with 100 of these exercises being conducted in Eastern Europe.[23] NATO exercises can be a metric of collective security. This, however, is questionable because of the level of investment the U.S. provides, as evidenced by the European Reassurance Initiative.[24] Overall, the United States contributes approximately 70%

of the NATO requirement.[25] While there is an aspirational goal for collective security, it largely being provided by a single country. Although NATO has consistently underspent on its collective security, Russia has dramatically increased its defense expenditures.

Following the invasion of Georgia in 2008, Russia embarked on a military modernization program. The result of this has seen dramatic improvements across its military capability.[26] Recent events in Syria have highlighted the increase in Russian military capacity. For example, their successful launching of cruise missiles from warships demonstrated a level of sophistication not seen previously.[27] In addition, Russia has also stated that it will add three additional divisions to counter NATO aggression along its borders.[28] Finally, its utilization of hybrid warfare in Ukraine represents an emerging military strategy requiring study and analysis. These examples demonstrate a concerted Russian effort to improve its military at a time when NATO is decreasing theirs. The expansion of Russian military expenditures, however, has not compelled NATO members to respond accordingly.

The U.S.' military strategy in Ukraine has subverted its ability to leverage Russian aggression and growth to strengthen NATO's collective defense. Thus, the U.S. has assumed lead responsibility for providing military assistance to Ukrainian forces. The decision to train and equip Ukrainian forces exposes a further mismatch between the military strategy and the NSS because the forces receiving the training and equipment represent a threat to the very democracies that the NSS states the U.S. will support.

Promoting Democracies

The United States has long had a history of promoting democratic governments across and it is a central component to the NSS. The NSS states that the U.S. will "concentrate attention and resources to help countries consolidate their gains and move toward more democratic and representative systems of governance."[29] Recent worldwide events demonstrate this policy. During the Arab Spring, both the President and Secretary of State publicly voiced their support for the rise of democracies in the Middle East.[30] [31] In supporting Ukrainian sovereignty, the U.S. has continued this foreign policy. In July 2016, U.S. Secretary of State John Kerry commented, "So long as Ukraine's democratic forces stay united and continue to make progress towards the goals that the people of Ukraine have expressed, I can assure you, on behalf of President Obama and the American people, the United States will stand with Ukraine."[32] While this has remained a consistent principle in U.S. foreign policy, its military strategy in Ukraine is in conflict with it because the paramilitary forces that will be trained and equipped represent a threat to democracy.

There are approximately fifty paramilitary battalions currently engaged in some level of conflict with Russian separatists.[33] When hostilities began in April 2014, the Ukrainian military was woefully unprepared to confront the Russian separatists. This gave rise to the

emergence of paramilitary organizations. While these organizations were vital to the immediate defense of eastern Ukraine, their continued existence has allowed them to metastasize into an existential threat to a post-conflict Ukraine because they are not united in their support for the existing government. Although they have been subsumed by the Ukrainian military, this is in name only; they continue to operate as independent units.[34] Their ideologies, perpetrated atrocities, and unpredictability are diametrically opposed to U.S. values.

Paramilitary forces have differing ideologies. The common trends in ideologies are "pro-Ukraine/anti-Putin", "anti-Semitic", and "pro-oligarch". Many are simply "anti-Russia." More disturbingly, however, is that many of these organizations frequently have an ultra-nationalist set of ideals that consistent with fascism and anti-Semitism ideologies. One of the most prominent paramilitary groups is the Azov Battalion. This paramilitary force originated from a nationalist social group that espoused white supremacy, racial purity, and an authoritarian and centralized form of government.[35] (This particular paramilitary battalion has caused considerable concern within the U.S. Congress. House Resolution 2685, as part of the NDAA, was unanimously passed that would "limit arms, training, and other assistance to the neo-Nazi Ukrainian militia, the Azov Battalion."[36] This resolution was not, however, included in the final bill.) The final common ideology found in paramilitary battalions is the "pro-oligarch" ideology. These battalions were recruited and formed by rich oligarchs throughout Ukraine to preserve their lucrative illegal activities during the crisis. Their battlefield behavior reflects their dangerous ideologies and counter to democratic ideals.

Paramilitary forces have conducted battlefield atrocities that are not only inconsistent with U.S.' democratic ideals, but are also in violation of international treaties. Both Amnesty International and the Office of the United Nations High Commission on Human Rights have substantiated abuses by the paramilitary battalions, to include war crimes. The results of the investigations indicate that the paramilitary battalions ignore the rule of law and that some battalions "have been involved in widespread abuses, including abductions, unlawful detention, ill-treatment, theft, extortion, and possible executions."[37] Furthermore, the lack of oversight by the Ukrainian military has created an environment where the various paramilitary battalions can create their own laws of war. Interviews with paramilitary battlefield commanders indicate an ambivalent attitude for human rights. For example, when confronted with accusations that his battalion was committing war crimes, the battalion commander for Aidar battalion responded, "It's not Europe. It's a bit different… There is a war here. The law has changed, procedures have been simplified… If I choose to, I can have you arrested right now, put a bag over your head and lock you up in a cellar for 30 days on suspicion of aiding separatists."[38] The battalion commander for Tornado battalion, when asked a related question, responded similarly.[39] Although the battlefield atrocities are inconsistent with democratic ideologies, it is their post-conflict role that presents the most significant challenge.

While the paramilitary battalions' ideology and battlefield atrocities are abhorrent, it is their unpredictability that poses the most concern for a post-conflict Ukraine. As stated previously, their ideologies are not tied to the existing government. Currently, they share a common enemy with the Ukrainian government: Russia. Because the paramilitary battalions are "pro-Ukraine" and not "pro-government", it is uncertain how they will act once the conflict has concluded. They have openly confronted the government and their allegiance to the existing government is suspect. As a result, the oversight and control that Ukrainian President Petro Poroshenko has been able to have on these forces has been tenuous. Initially, these paramilitary battalions operated independent of state security forces, however government efforts have attempted to rein in these paramilitary organizations by having them register with the Interior Ministry and be subjugated to state security force oversight (Nov, 2014). All but one battalion complied—the Right Sector battalion. The Right Sector, a powerful and influential paramilitary force, resisted the move and the Ukrainian government cracked-down on the Right Sector. This resulted in direct confrontations between paramilitary forces and government forces. In a compromising move, the Ukrainian government named Dmytro Yarosh, a popular and outspoken ultranationalist leader of the Right Sector battalion, a "military advisor" in the Ukrainian military to bring the Right Sector paramilitaries under the control of the Interior Ministry.[40] This move clearly demonstrates the threat the government perceives from paramilitary forces. Furthermore, the Ukrainian government must be concerned with the paramilitary forces' role in the peace process. Given their ultra-nationalist ideology, they will be satisfied with only one result: reunification of Ukraine and expulsion of Russian forces. While they may currently state that they are subordinated to the government, it is highly likely there will be a clash of ideologies if their objectives are not met. The result of this likely will lead to a destabilized country with a questionable democratic future. Providing military support to forces such as these is in direct conflict with the national policy of promoting democracy around the globe.

Counterargument

While the military strategy conflicts with the NSS, it can be argued that the current military strategy is consistent with similar strategies employed previously. Two examples demonstrate similar military strategies. In Afghanistan and Libya, the U.S. actively supported foreign forces because it believed that the forces funded and equipped shared the U.S.' long term strategic objectives, that the U.S. was supporting forces closely aligned with U.S. national values, and that the conflict would remain limited in scope and duration. While this is a valid and accurate counterargument, it fails to account for the failings that resulted from such strategies.

In each of these examples, the U.S. believed that the forces it supported shared similar strategic objectives. Following the Soviet invasion in 1979, the U.S. aligned itself with the mujahedeen in Afghanistan and provided training and equipment that sustained their resistance against the Soviets.[41] While the mujahedeen aligned with our objective of

expelling the Soviets, their post-conflict actions were not in line with U.S. strategic objectives. Growing into the Taliban, they gained continued support and eventually seized control of the government, installing a pro-Islamic and oppressive form of government.[42] In Libya, the U.S. aligned itself with rebel forces committed to the ouster of former Libyan leader Muammar Gaddafi. The rebel forces, however, did not share the U.S. larger objective of establishing a liberal democracy post-Gaddafi. Each case highlights the danger associated with supporting foreign forces assumed to align with strategic objectives. Ukraine faces similar challenges. The current administration is fragile and it is uncertain if it can remain effective. The emergence of paramilitary forces, their inclusion in the Ukrainian military, and their popularity and public support indicates that they will be a powerful actor in a post-conflict political environment.

Each example also demonstrates the U.S.' willingness to support foreign forces it believes represents similar values. In Afghanistan, the U.S. failed to understand the mujahedeen and its core values, which were fundamentally opposed to U.S.-espoused liberalism. The result was the birth of the Taliban and then al Qaeda. The same was also true when the U.S. supported foreign forces during the Arab Spring based on a belief that any group advocating for democracy share U.S. values. This assumption is furthered in 2011 by then-Secretary of State Hillary Clinton who commented, when discussing the Arab Spring, "Democracies make for stronger and stable partners."[43] This insistence that these groups advocating for democratic forms of government reflected U.S. values proved inaccurate. In Libya, the forces that were backed by the U.S. were not moderates, but opportunists. Thus, Libya has remained in an on-going civil war. These strategies of providing direct support to foreign forces proved dangerous and unsuccessful. Ukraine has similarities with each of the examples listed. While espousing democracy, it has been marked by corruption and abuse. If Russian separatists are expelled and territorial sovereignty is restored, the U.S. will likely not see a democracy in the form it expected because the very forces who receive the training and equipment will attempt to influence the post-conflict government. Their fascist and anti-Semitic ideologies will starkly contrast with what the U.S. envisioned for a "stronger and stable" partner.

The military strategy in these examples also demonstrates the U.S. desire to limit its involvement in similar conflicts in scope and duration. In Afghanistan, moderate support began with weapons and funding. What initially started as $30 million in 1980 grew to $630 million in 1987.[44] Further, the support for the mujahedeen necessitated Operation Enduring Freedom, which remains on-going[45]. It is too early to tell how Libya will conclude, however there is no end in sight. Whereas the U.S. viewed support to rebel forces in Libya as limited in scope and duration, incomplete policies left the region without strong central governments to prevent the growth of the Islamic State (IS). As a result, the U.S. will remain engaged against IS. Whether the U.S. can support Ukrainian forces in a limited manner and achieve intended results is unknown, however the question must be asked if the U.S. is willing to

commit to supporting Ukrainian forces and receive similar results as it has in Afghanistan and Libya.

Conclusion

An analysis of the Ukrainian case study reveals that the U.S. military strategy for Ukraine is inconsistent with its NSS. The military strategy being employed will fail to deter Russia, prevents the U.S. from improving collective security efforts in Europe, and supports fascist and anti-Semitic paramilitary forces that will threaten the democratic future of Ukraine. Examples of similar strategies employed in previous conflicts demonstrate the complexities and challenges associated with such a strategy. To prevent similar results, the U.S. must alter its military strategy.

Recommendations

- There must be a complete overhaul of U.S. military strategy in Ukraine to align it with the NSS. An indirect military strategy to accomplish national objectives not only in Ukraine, but in the region, is more appropriate than the strategy currently employed. Specifically, the U.S. should cease the training and equipping of Ukrainian forces who threaten the current government, continue to weaken Russia economically to limit its ability for defense expenditures, and leverage the Ukrainian conflict to compel NATO to improve its collective defenses.
- Training and equipping Ukrainian forces represents a threat to a post-conflict democratic form of government and counter to the NSS. To align U.S. military strategy in Ukraine with its national strategy, it should cease training and equipping Ukrainian forces, many of whom possess paramilitary ideologies counter to Ukrainian and U.S. national interests. Their ideologies, battlefield atrocities, and unpredictability indicate they are not a force to be developed, but to be eliminated. Although the U.S. has repeatedly pledged support for emerging democracies, the paramilitary forces in Ukraine are not freedom fighters determined to create a country in the mold of the U.S.; they are fascists who, if rise to power, will create instability in the region. Training and equipping these types of forces will likely lead to long-term complications and further destabilization of the region. Their loyalties are not to the government, but to the unification of Ukraine. Paramilitary forces in Ukraine have openly confronted the Poroshenko government, and it is likely that this sort of behavior will continue post-hostilities. They will remain a major actor in the future of Ukraine if the U.S. continues to legitimize them by training and equipping them. In addition to ceasing the training and equipping of Ukrainian forces, the U.S. should also continue to leverage other instruments of national power to degrade Russia's ability to conduct future aggression in Europe.
- The U.S. must also leverage other instruments of national power to weaken Russia militarily to deter future aggression. Following the annexation of Crimea, the European Union and the U.S. enacted economic sanctions against Russia. The impacts of these sanctions have had considerable impacts on the Russian economy and have led to a drop

in the value of the Ruble, inflation, and recession.[46] These trends are expected to continue and it is likely the Russian economy will face a crippling recession.[47] The continuation of these sanctions will limit military expenditures and decrease the likelihood of future Russian aggression. This strategy will likely lead to defeat in Eastern Ukraine, however. From a military standpoint, this should not be of concern. Since Ukraine is not an ally and President Obama has clearly indicated they are not in U.S. national interest, the U.S. should leverage Russian success in Ukraine to persuade NATO members to improve collective security.

- The U.S. must also engage NATO members to increase collective security in Europe, even if it means failure in Ukraine. The U.S. must use Russian aggression in Ukraine to signal the need for a robust collective security effort in Europe. To date, few countries have fulfilled their obligation to spend 2% of their gross domestic product (GDP) on defense spending, however many have made improvements. In 2016, 14 NATO members increased their defense spending relative to GDP. The U.S. must continue to engage NATO members to make progress toward the shared responsibility of collective defense. At the same time, it must accept risk in its own contributions to NATO to signal its resolve toward shared responsibility.

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Capstone Paper

Joint Planning Group 3

Introduction

Ukraine became an independence state in 1991 after the collapse of the USSR. Despite its independence, a legacy of state control and corruption remained with many efforts of political and economic reform ending mainly in failure. Adding to the reform challenges, Ukraine is a multicultural and fractured society with dissenting mindsets of its national identity. During the 2012 Ukrainian elections, the international community observed and reported on political corruption favoring the current ruling pro-Russian party. Observations included interference with mass media and harassment of the current party's opposition. In November 2013, pro-Russian president Viktor Yanukovych withdrew Ukraine from an interim European Union (EU) agreement that promoted trade, economic reform, and international cooperation favoring to maintain legacy economic ties to Russia instead.[1]

The citizen protests launched in response to President Yanukovych's withdrawal from the EU agreement was countered with regime-sponsored violence against activists and led to an all-out revolt in February 2014. The rebellion ended with President Yanukovych fleeing the country to Russia. Two weeks later, Russia invaded Ukraine and annexed Crimea. During that same period, a Russian-supported separatist insurgency took hold in eastern Ukraine. Russia aimed at destabilizing Ukraine by inspiring domestic conflict through Russian-sponsored antagonism, terrorism, and propaganda. Two cease-fire agreements have failed, and the hostilities have left 800,000 people displaced and 10,000 dead (to include 3,000 civilians).[2] The threat from Russia has not diminished and will not for the foreseeable future. Ukraine continues to be at risk from overt and covert hybrid and irregular actions from Vladimir Putin's Russia. Currently, Ukraine lacks the capacity to restore its pre-2014 borders and deter external threats. Existing rule of law and economic reforms, while gaining momentum, fall short of reducing corruption and increasing investment desirability to the point of economic stabilization. The desired end state for Ukraine are restoration of the borders to pre-hostility lines, elimination of Russian support to regional insurgent groups, and Ukraine integrated into regional cooperative economic and defense arrangement. To attain this end state, Western support to Ukraine is crucial to foster governance, security, and economic development to stabilize Ukraine and minimize Russian influence.

Governance

Ukrainian attitudes today reflect tendencies born of occupation by empires, religious pedagogy, and linguistic anthropology. Viewed holistically, these trends offer insights into Ukrainian actions and choices of government. Understanding these proclivities shapes further action as previous governments leave behind memories of ruling systems, religious affiliations

transcend state loyalty, and languages provide harmony that physical closeness cannot. In short, how a population was ruled influences expectations of government while their language and choice of religion affect loyalty and choice of leader. This historical context must frame how the West asserts influence in Ukraine. The geopolitical struggle between Western liberal values and Russian realpolitik presents opportunities to advance Western-style governance in Ukraine. The following narrative develops the context and process of strengthening Ukraine's governance.

In Ukraine, the government has evolved into an unstable hybrid of autocratic and democratic rule with presidential power concentration in 2004 and again in 2014.[3] Ukrainian governmental institutions currently comprise a centralized and systemically corrupt illiberal democracy that is ineffective towards fully supporting its population. Today, the Ukraine government seeks EU affiliation through the adoption of European standards by the EU Association Agreement. The existence of several impediments to effective governance limits the Ukrainian government's ability to adopt reform measures. Slow government changes have proven problematic due to oligarch influence, rampant corruption, and weak institutions for the Rule of Law (RoL). The Rada's approved reforms in all government sectors may eventually associate the country with EU standards and values if fully implemented. However, the elite and oligarchs resist reform implementation at all levels due to their vested interest in maintaining the status quo. Until the Ukrainian people unify toward achieving new leadership, and the government takes measures to minimize the degree of corruption and effect stable RoL institutions, the current trends will not change substantiality.

Currently, the RoL is internationally perceived to be partisan and not universally applied. Therefore, within EU conditionality standards, a focus on continued judicial reforms and targeted RoL efforts against corruption and illicit oligarch influence is paramount. Codifying reform implementation is occurring within existing national laws (anti-corruption laws, national police law, etc.), but there remains internal government opposition to full implementation. The essential tools the Ukrainian government needs to use to affect change are transparency and professionalization of the judiciary through training of all judges and strengthening of the inquisitorial rule of law support structures such as prosecutors. Additionally, the professionalization of the national police forces will optimize the RoL triad (investigations, prosecutions, corrections) which will back all other government reforms and anti-corruption efforts.

Ukrainian national identity is historically rooted in Soviet-era centralized control by the ruling elite, usually at the expense of the people. Key levers for the Ukraine, European Union, and United States to utilize in shifting national identity toward Western liberal democracy norms include reducing/eliminating self-interested oligarchs, populace support of decentralization of all government structures, and reforms in the RoL, economic, energy, and political spheres. The integration of the oligarchs into a stronger rule of law society, either by reduction/elimination or inducement into growth sectors, should remove negative influences on the government

institutions or allow for the rapid change in a positive direction. EU and US lines of effort supporting Ukrainian National Police and Anti-Corruption Bureau investigations targeting oligarch activity will amplify the cumulative effects against these influencers. The combined effects of RoL reform, shifts in national identity, and executive branch decentralization with merit-based (vice partisan) appointments, will increase trust in the government and support post-reform development.

Analysis by the Joint Planning Group indicates that actions on the part of the European Union and United States to influence these changes require a shift in priorities of existing US and EU funding efforts and leveraging diplomatic pressure to influence change. First, US INL (Bureau for International Narcotic and Law Enforcement Affairs) should move funds to encourage a stronger National Police internal affairs (NPIA) function. An NPIA Bureau allows for internal corruption deterrence by working in synchronization to the external National Anti-Corruption Bureau (NACB). This model can then be transplanted by the Ukrainian government into other ministries in the form of an Office of Professional Responsibility, adding to the other national anti-corruption efforts. Next, existing funding streams should be refocused by the United States to expand the USAID judiciary training and procedural program from the current five districts to every oblast provincial capital. United States out-year investment should target increasing expansion down to the local level once the programs achieve currently defined benchmarks of success. The third recommendation is for the Ukrainian government to enhance cross-border investigations by the NACB focusing on identifying and defining self-interested oligarchs as trusts. Using anti-trust type law reforms, the NACB should treat oligarchs in the same manner as international organized criminal syndicates. These changes allow for a more holistic law enforcement resource base and would delimit negative oligarch influences. Finally, Ukrainian decentralization efforts would prioritize the following ministries: Interior, Justice, and Education. Each of these institutions supports the RoL, which underpins all reforms. While strengthening RoL institutions, the external security threats to Ukraine must also be addressed to maintain these reforms.

Security

Russia is employing a revisionist strategy against its former Soviet satellite neighbors and the West aiming to undermine Western Alliances and erode confidence in their ability to counter Russia's aggression.[4] Russia's annexation of Crimea, support of separatist forces in Donbas, and expanding information warfare campaign has undermined Ukraine's internal security. Additionally, Ukraine's weak internal security forces demoralize the populace which makes them vulnerable to exploitation. To date, Western support to Ukraine has been limited; consequently it has done little to alter Russia's strategy in Ukraine and its behavior toward the West.

Since 2014, the Ukraine Armed Forces (UAF) have been engaged in combat against a Russian-backed separatist force in eastern Ukraine, specifically Donetsk and Luhansk or the area

known as the Donbas. The Minsk II ceasefire agreement, signed February 2015, decreased the level of fighting, but the situation remains tenuous. The UAF performed reasonably well during the conflict in the Donbas facing a well-armed force of Russians and Russian-backed separatists.[5] These accomplishments included some early battlefield successes against separatist forces, demonstrating the ability to mobilize a large force quickly, and utilized the spirit of Euro-Maidan to maintain widespread resentment of Russia. The engagements in the Donbas by the UAF demonstrated many weaknesses of the force. These included poor leadership, overlapping command structure, poor logistics structure, a lack of modern equipment, poor material conditions, lack of professional training structure, limited to no military medical facilities, no cyber capabilities at the operational and tactical levels, limited anti-tank weaponry, and a historically corrupt procurement system.[6]

In July 2016, NATO began providing formal and direct assistance to Ukraine through a Comprehensive Assistance Package (CAP). The CAP contains over 40 functional areas where NATO will support the UAF. Some of the CAP's tailored support measures include strengthening civilian oversight, improvement of the military education system, modernizing the command, control, communications, and computers (C4) intelligence systems, and support implementing a new cyber security strategy.[7] Additionally, the United States and other countries are providing substantial non-lethal hardware to the UAF that includes counter-battery artillery radars, night vision goggles, body armor, tactical medical facility, small unmanned surveillance aircraft, and first aid training.[8] The current level of support provided by the United States, NATO, and other countries will slowly increase the professionalism and capacity of the UAF, but Ukraine will still be vulnerable to a Russian military incursion. Additionally, despite the Minsk II ceasefire agreement, the separatists and President Putin have shown little interest in fulfilling their responsibilities, while the United States and Europe press Kiev to move forward on implementation of the agreement.[9]

The Joint Planning Group recommends that NATO, led by the United States, accelerate and increase the level of support provided to the UAF. This support would include equipping, training and assisting the UAF with lethal defensive military material to defeat the Russian-supported separatist movement in the east and to deter future aggression against Ukraine. The United States and NATO must accelerate current military support and training to the UAF to create a more stable and secure environment for Ukraine and Europe. The UAF must develop into a professional force capable of defeating internal threats from separatists backed by Russia and deterring external threats. As the United States and NATO accelerate the current efforts to ensure the UAF develops to NATO standards by 2020, it will benefit the overall security of Ukraine.

To achieve this aggressive objective, the United States and other NATO countries need to spearhead an effort to expand foreign military sales (FMS) to the UAF that includes lethal defensive military material and training support to counter-balance the current advantage

presented by Russia. Based on the confrontation between Russia and Ukraine forces in eastern Ukraine, the UAF would immediately benefit from the following lethal defensive weapons: anti-tank guided missiles (ATGMs), air defense artillery (ADA), electronic warfare (EW) capabilities, and intelligence surveillance and reconnaissance (ISR) capabilities and platforms. It is recommended that US policy makers authorize new agreements for the delivery of defensive lethal aid to Ukraine. This shift in current US policy and will be a major decision for the next US President. Furthermore, the United States and NATO should expand current security assistance measures with Ukraine. The United States and Ukraine host two military exercises per year in Ukraine— ground forces exercise (RAPID TRIDENT) and a naval exercise (SEA BREEZE) in the Black Sea.[10] These activities seek to enhance interoperability and send a major signal of reassurance to Ukraine. These types of enhancement and reassurance exercises would be expanded indicating United States commitment to the stability of Ukraine and Europe.

Ukraine and the NATO CAP process has developed an aggressive roadmap expected to achieve NATO standards by 2020. The UAF continue with their institutional, educational and training reforms with the United States and NATO. The United States should increase bilateral trainer support to assist the UAF to reach its goals to be compatible with the alliance.

Finally, it is recommended that Ukraine immediately shift to a civilian-controlled military structure. The Ukrainian Strategic Defence Bulletin (SDB), the US government, and others all recommend increased civilian oversight of the UAF.[11] As recommended, the General Staff will report to the Ministry of Defense and the Defense Minister will always be a civilian who reports directly to the President. By moving on this reform, Kiev will signal to the United States and NATO that it can quickly and expeditiously make changes that will lead to a more professional military.

Economy

The economic stability of Ukraine directly impacts its sovereignty. Recent Russian seizure of Crimea and encroachment of the Donbas areas has had the most deleterious effect on its GDP in 2014 (6.6%) and 2015 (9.9%).[12] Collaterally, existing investors (including Russia) have pulled investment from the country, and prospective investors are reluctant to invest. Recent currency devaluation has also negatively impacted existing investment. However, economic conditions in Ukraine were poor before the Russian incursion. Ukraine failed to capitalize on favorable resource conditions and encourage foreign investment while promoting systemic corruption and a robust shadow economy. Untenable economic and monetary policy, insufficient regulatory and enforcement authorities, and inefficient infrastructure, industrial, and agricultural practices have all exacerbated Ukraine's economic stagnation. If the United States, in conjunction with internal and external efforts already taking place, can extend its monetary, advisory, and diplomatic assistance in the key functional areas and sectors, along with augmenting current efforts in foreign direct investment (FDI), it can help Ukraine turn its economy around and, therefore, strengthen its sovereignty.

Ultimately, a strong Ukrainian economy should be a stable, transparent, and fair business environment that maximizes indigenous labor, resources, and export capacity, while encouraging outside investment. Ukraine's economy should come close to mirroring fellow Eastern European countries concerning transparency, regulations, and labor conditions—including a comparable wage structure. To get to this end state, its strategic objectives would be a regulatory environment that is business friendly, with maximized domestic capacity for the energy sector, and increased development of the agricultural sector with access to export markets.

By using its levers of monetary and intellectual capital and international influence, the United States can assist the Ukraine with the following courses of action to help them achieve these strategic objectives. First, the United States should continue to augment the International Monetary Fund's (IMF) pledged loan tranches to help Ukraine target inflation, implement anti-corruption, tax, crime, banking, environmental, labor market, and energy reforms, and address sovereign debt issues. Next, to encourage US FDI, the United States should subsidize prospective investors through private risk insurance (PRI) assistance, low- and no-interest loans, and tax breaks. Using these monetary incentives, while touting the real advantages of investment in Ukraine, the United States should make a targeted effort to push US private dollars into this emerging market economy. The United States should also leverage NGO's and private enterprises to consult and mentor Ukrainian government institutions, and some industries, to implement the above reforms while encouraging neighboring countries to do the same.

The specific sectors that will have the greatest impact on Ukraine's economy are in energy and agribusiness. Ukraine has made attempts to establish national energy policy, but it has been poorly enforced and not unified across the whole of government. A draft energy revised strategy through 2035 was released in 2014 but is not yet final.[13] This document is more comprehensive than previous strategies and outlines necessary steps for Ukraine to take to implement a National Energy Policy including a heavy focus on integration with EU energy markets and measures to move the Ukrainian energy economy away from dependence on Russia. The strategy sets out a path, with deadlines, to reform its energy market to a free market sector, establishing a framework for energy investments, and diversification of its energy consumption. Through a combination of US diplomatic pressure combined with financial incentives, Ukraine can enact a stable path for reinvestment in building infrastructure and development of homegrown energy production. Ukraine should demonstrate it is implementing the strategy by passing legislation to support public-private partnerships, energy savings performance contracts, and shale gas exploration as specified in the plan. A stronger Ukrainian energy economy will undoubtedly reinforce a stronger overall economy.

In agribusiness, the United States can also assist Ukraine maximize its agricultural export potential and turn the negative import-to-export balance around. To do so, Ukraine needs to evaluate the global market for countries with both sufficient economic and population growth to determine potential export opportunities. Next, Ukraine needs to assess current export profiles to

identify what it should produce and if there is potential for increased agricultural output. Third, it must modernize equipment and infrastructure required efficiently distributes crops to market. Finally, Ukraine must reverse recent policy on land reform to allow farmers access to more land. Again, by using the levers of diplomatic pressure and financial incentives, the United States can provide a tremendous boost to this particularly fertile, and underutilized, agrarian region and get it operating at full capacity. The Ukraine is already on track to become the third largest provider of food resources to the world.[14] This strength can also be leveraged to underscore a strong overall economy.

Conclusion

The United States, European Union, and NATO can constructively use its resources and influence to expedite the changes necessary to get reform Ukraine's RoL institutions, reform and strengthen the UAF to be capable of defeating internal and deterring external threats and strengthen Ukraine's economy to bolster its sovereignty. The willingness to achieve this goal by the Ukrainian government and people is there, which is perhaps its greatest strength. There are specific regional challenges; however, many of these difficulties can be addressed through the coordinated efforts of the United States and its regional partners for addressing the underlying factors of its internal conflict across the sectors of security, governance, and economy.

There are potential risks of these new aggressive courses of action taken by the United States, European Union, and NATO. Russia will likely react aggressively, with attempts to destabilize the situation further in eastern Ukraine. Possible Russian reactions include a conventional military response against Ukraine through its surrogates in the Donbas, accelerate their influence and propaganda campaign against Ukraine, United States, and Europe, or conduct direct cyber operations against Ukraine. There is also a possibility of Ukraine becoming too reliant on the aid provided by NATO, the United States, and other western entities. To create a stable Ukraine and deter further Russian aggression the Joint Planning Group assess these risks as acceptable.

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