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Ukraine: after the Geneva Conference, the issue of sanctions remains

Olivier Marty [1]

Abstract :

The situation in Ukraine is still unstable and could – in the event of a clear non-respect of the commitments made in Geneva by those involved – lead to further sanctions. Although the USA have been on the offensive since the beginning on this issue, the European countries will in all likelihood adopt a more cautious approach due to their many and varying economic interests. In the meantime, European aid to Ukraine in the financial and gas sectors remains significant however.

The Geneva Conference on 17th April concluded in an unexpected call for calm via the disarmament of armed groups and the evacuation of occupied public buildings in some towns in the country's East. A Ukrainian political solution is being privileged. However, the autonomy of rebel groups and the USA's mistrust regarding Russia augurs badly for a rapid de-escalation. In this context, this paper mainly aims to review the sanctions taken against Russia so far, as well as those that may be taken, and the aid measures provided by the EU to Ukraine.

I – WESTERN SANCTIONS AGAINST RUSSIA ARE ALREADY SIGNIFICANT AND COULD BE TIGHTENED UP ON THE INITIATIVE OF THE USA.

1. European and American sanctions against Russia are already significant

The USA and the EU have launched a series of sanctions since the Ukrainian crisis started.

In Europe, 33 individuals have been registered in two separate phases on EEAS and Commission black lists (travel bans and asset freezing) [2]. The Russian bid to join the OECD and the International Energy Agency (IEA) is no longer supported and the EU/Russia summit that was to take place in June, has been cancelled. Discussions over the liberalisation of visas, as part of the EU/Russia Strategic Partnership, have also been suspended.

In the USA, around 40 people (executive civil servants, individuals close to Putin and oligarchs) are under sanction at present, as well as a bank (Rossyia Bank). Measures can legally be taken in the energy, mining, defence and engineering sectors.

On a political level, the EU and the USA have agreed to suspend preparatory meetings for the G8 and have threatened to exclude Russia from this forum, which is a symbolically strong move.

These European and American measures have undoubtedly affected those involved, as well as Russian banks and foreign investors in Russia. Likewise, the threat of further sanctions and cautionary measures issued to American and European businesses – although these do not have any direct quantifiable effect - are extremely effective in themselves.

As an example, between 50 and 100 billion $ (37-74 billion €) in capital is said to have flowed out of Russia since the start of the year and FDI in Russia is said to have decreased threefold since the beginning of January 2014. This economic uncertainty is obviously slowing the Russian economy. The Russian GDP contracted over the first quarter by 0.5% and growth in 2014 might only total 1%, or even be negative, depending on how the crisis develops, according to the World Bank.

1. The author thanks Mr Florent Parmentier, Lecturer at Sciences Po for his comments.

2. The extension of this list, discussed on 14th April seems, to have been suspended in the wake of the agreements.

2. Sanctions may be stepped up on the initiative of the USA

a. Specific measures against Crimea are planned

The USA have intimated that in the wake of Crimea's annexation further measures had already been subject to a political agreement and were likely to be implemented in this important industrial region. These measures might be an extension of the lists of Russian officials and the inclusion of Ukrainian leaders involved in Crimea's annexation to Russia.

On 14th April, the countries of the EU announced that specific measures were being drawn up for Crimea, similar to the ones taken regarding the Territories occupied by Israel. However the European attitude regarding measures against Crimea might be different from that of the USA: European banks and businesses have a higher profile there.

b. Further measures might be taken given the context of the conflict in Eastern Ukraine

Security in Eastern Ukraine is still uncertain. Some pro-Russian separatists are refusing to be bound by the Agreement negotiated by the Kiev authorities and not all of the public buildings have been evacuated. The Russian authorities are holding the Ukrainian government responsible for the radicalisation of some elements and are accusing the Americans of supporting the interim government and nationalist Ukrainian groups in the East. The Kiev authorities however say that the Russians, whose army is still massed on the border, is adding to the unrest.

The conflict in the East of Ukraine reflects conflicting political solutions put forward respectively by Russia and the new Ukrainian government, the latter having the support of the Americans and the Europeans. Moscow is supporting a type of federalism in Ukraine in the hope that the regions involved will then align with Russia. The USA are suspicious about the prospects opened up by federalisation. The way these negotiations are conducted will determine the long-term stabilisation of the situation.

We can now see that in spite of the Geneva Agreement, Russia is still destabilising Ukraine even though it is not openly employing force in the East of the country. This type of scenario is difficult to manage from a sanction point of view because there is no evident crossing of a "red line" to justify any further measures. However, the USA have indicated that they are planning targeted measures in the energy, financial (registration of new banks) and defence (export of military equipment and dual purpose goods) sectors.

II – EUROPE CAN STILL TAKE FURTHER MEASURES BUT ITS APPROACH WILL PROBABLY BE CAUTIOUS

2.1. A range of options are open in addition to aid measures to Ukraine

These might flow from the Commission's own competence (energy, transport, finance) or from that of the Member States (notably defence).

What are the possible options?

- Extending lists of specific Russian citizens and banks ;
- Targeting Russian exports that might be replaced by goods and services from other countries in order to prevent these sanctions from affecting the European economy too much ;
- In the area of defence, limiting Russian exports although this might lead to similar retaliation measures by Russia ;
- Encouraging restrictions on European bank loans although this might expose European banks to a reduction in their activities in Russia ;
- Inviting European businesses to reduce their investments in Russia ;
- Mobilising to recover the assets stolen from Ukraine as was done Tunisia ;
- With the USA, reducing activities of the European Bank for Reconstruction and Development (EBRD) in Russia.

These measures would come in addition to the European aid measures to Ukraine: a financial package of 11 billion € [3]; measures that aim to reduce Ukrainian dependency on Russian gas ; technical assistance on constitutional and legal reforms and the preparation

3. The EU's financial aid plan was decided by the European Council on 6th March 2014. It is divided as follows: 5 billion € from the EBRD and 3 billion € from the EIB over the period 2014-2016, 3 billion € from the EU budget (1.6 billion € in soft loans, 1.4 billion € in donations), technical assistance. 3.5 billion € more might be catalysed by the European Neighbourhood Policy (ENP).

of elections ; the acceleration of the visa liberalisation process ; the granting of unilateral trade preferences [4]. The political part of the Association Agreement signed during the European Council on 21st March is a major step [5]. The economic chapter (Free Trade Zone) also has to remain a tangible prospect in spite of the present crisis [6].

2.2. However, in all likelihood the countries of Europe will adopt a cautious approach

As far as diplomatic stances and sanctions are concerned, the USA are clearly more on the offensive than the Europeans. This situation should not come as a surprise: it can be explained by the fact that they undoubtedly have less to lose in an escalation of reciprocal measures [7] and by their own diplomatic agenda with the Russians.

The countries of Europe are divided over the sanctions to be taken due to their economic and financial interests. For example the UK has no interest in major financial sanctions or in those in the energy sector, while Germany and Italy seem to be against sanctions in the energy sector. Many countries in the East are on the offensive but are concerned about retaliation measures.

Hence, even if the EEAS and the Commission as well as the countries in the EU on an individual basis took measures against Russia their approach will probably remain a cautious one. This is also a result of the mandate given by the European Council on 21st March which specifically requires impact analyses of any planned measure and of potential Russian retaliation measures.

III – THE "GAS WAR" REVIVED BY MOSCOW RECALLS THE NEED FOR A EUROPEAN ENERGY POLICY

3.1 Russia is threatening to turn off the gas tap to Ukraine again.

The Ukrainian crisis has led to Russia repeating its blackmail over gas supplies to Ukraine as it did in 2005/06 (Orange Revolution) and 2009/10. Ukraine uses around 50 billion/m3 of gas per year, 30 billion of which come from Russia. At the beginning of April, Gazprom threatened to up the price of gas delivered to Kiev from 270$ to nearly 500$ per thousand m3 after decreasing the price in December when the Ukrainian government decided to reject the EU's Association Agreement. Kiev is refusing to pay this price and to date has not settled its February invoice. Its gas debt to Moscow is said to total 2.2 billion $, according to some estimates, more according to others [8].

Possible disruptions of supplies to Kiev might also lead to a sharp drop in gas deliveries to the EU, 40% to 60% of whose imported Russian gas supplies transit through Ukraine. Some analysts indicate that the effects would be about the same as in 2009: it would especially affect the countries in the East and South East of Europe which might see a cap placed on the quantities they import. However a country like Poland has been making some strategic stocks for some years and the Nord Stream gas pipeline which transits through the North Sea to supply Germany is now operational, although not fully (30% of its capacity is said to be used).

Finally the EU might also be in a better position to bear a gas cut because of the present season, since spring 2014 is different from winter 2009.

3.2 The EU can act to relieve Ukrainian dependency on gas and move forward towards a common energy policy

For the time being, the EU countries want to help Ukraine by facilitating "inversed gas flows" from Poland, Hungary and Slovakia. Last year, 2 billion m3 were delivered but the EU's present goal is to reach a capacity of 15 billion/m3 i.e. 50% of Ukraine's gas imports. This notably means investing in the interconnection between Slovakia and Ukraine. Europe is also due to help Ukraine counter energy wastage and to rebuild its stocks.

These are some of the European measures in terms of energy security. In 2010, following the second gas

4. A regulation should take effect on 23rd April to this end. It will be implemented until the Association Agreement enters into force (or in case the latter is implemented only provisionally) and will in any case cease to be implemented on November 1st 2014.

5. The preamble and chapters 1 (main principles of the agreement), 2 (political dialogue) and 7 (general measures) in the Agreement have been signed.

6. The European Council on 6th March declared that it wanted the EU to sign the economic chapter by the end of August but this perspective is conditioned to the formation of a new Ukrainian government after the presidential elections in May. Ukraine-EU trade is in deficit by 9.2 billion €. The Commission believes that Ukrainian exporters could save nearly 500 million € per year in customs duties in the FTA.

7. According to estimates, the volume of trade between the USA and Russia is 8 to 12 times less than the volume of trade between the EU and Russia.

8. Depending on whether it is the difference in price applied retroactively since the first rebate granted to Ukraine by Russia or the February debt only that is retained.

crisis, an 'SOS' measure 'Security of Supply' was taken, which provided that each EU country would stock 30 days of gas. Also, emergency action plans in the event of crisis were developed, as well as pipeline interconnections. These measures have been financed by an Infrastructure plan and a European Energy Programme.

More importantly, the Ukrainian crisis should also provide the opportunity to move forwards more decisively towards a common energy policy. The European Council of 20th and 21st March asked the Commission to devise a plan by June 2014 to reduce the EU's energy dependency. An "Energy Union" was also put forward by the Polish Prime Minister at the beginning of April. It would comprise six parts:

- The strengthening of solidarity mechanisms in the event of a crisis;
- An increase in European co-financing of energy infrastructures;
- A common energy purchase platform;
- The use of fossil energy, including shale gas;
- The diversification of energy supplies by attracting new suppliers notably the USA [9]
- The integration of some neighbourhood countries (Ukraine, Moldova, Western Balkans) into the European Energy Community

9. The US government has refused for the time being to allow the export of shale gas to the EU in order to avoid any domestic price rises.

CONCLUSION

The EU might take further steps against Moscow if the Geneva agreement is not really respected by those involved. However its approach will probably remain a cautious one because of the extent and variety of economic and financial interests. European aid measures to Ukraine are however significant both from the point of view of gas and finance. In addition to this, the crisis provides an opportunity to make a decisive step towards a common energy policy as Poland is suggesting.

Olivier Marty

Economist, Lecturer in International Issues at Sciences Po, he has recently published (with Loïc Kervran) "Pour comprendre la crise syrienne"(Éditions L'Harmattan, 2013).

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