The Dutch referendum over the Association Agreement with Ukraine

By Michael Emerson

The forthcoming referendum on 6 April over ratification of the Association Agreement between the EU and Ukraine perplexes the rest of the EU.

The most important and strictly binding provisions of the Association Agreement are contained in the part of the text establishing a Deep and Comprehensive Free Trade Area (DCFTA) between the parties. Almost all tariffs are scrapped, either as already done provisionally by the EU, or with transition periods of several years for Ukraine. In addition Ukraine will be adopting EU technical standards for industrial and agri-food products, and many European regulatory models for service industries. This should mean not only a good fit with longstanding Dutch traditions as a liberal, open trading nation, but also give to EU businesses preferential conditions in access to the Ukrainian markets compared to our major global competitors – US, China, Korea, Japan and, especially important in this case, Russia.

The DCFTA is, as its name implies, a very long, comprehensive and complex agreement. Here we have space only to highlight just a few features of likely relevance for Dutch interests – agriculture, energy and economic governance.

Ukraine has huge potential in the farm sector, with its vast expanses of black earth lands. Its agriculture, while late in the process of post-communist reforms, is now on the move and exporting big quantities of grains to China and the Middle East. The EU itself is largely self-sufficient in cereals, livestock and dairy produce, and so is taking in only very limited quantities from Ukraine. However Ukraine’s penetration of the Asian markets is being aided by adoption of EU standards, obtaining thus a certain European branding. The EU’s manufacturing industries and service sectors on the other hand are well placed to supply what Ukraine needs in exchange for its farm exports to the rest of the world.

I remember well in the early 1990s from my time then in Moscow the efforts led by Dutch Prime Minister Lubbers to create a pan-European energy order, which resulted in the Energy Charter Treaty. Unfortunately this initiative became a disappointment, because Russia failed to ratify
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has been struggling under incredibly difficult conditions of ongoing war, and the resulting huge economic damage, to sustain an economic reform process, which in principle should work in synergy with the Association Agreement and DCFTA. Yanukovych may have fled for his life, but Putin’s Russia has not give up on making life difficult for the post-Maidan and Europeanising Ukraine. This can be illustrated by the fact that the Russian state-controlled media are now enjoying the opportunity to tell the Ukrainians that the Dutch referendum shows that the EU is an unreliable partner. We hope that Dutch voters are coming round to understanding this.

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the treaty. On the other hand the EU has come through with a partial replacement, which is the Energy Community Treaty, which brings our direct neighbours virtually into the EU’s energy space. Ukraine has become member of this club, whose rules are now also confirmed and embedded in the DCFTA. Concretely Ukraine has at last engaged in long overdue reform of its energy sector, raising household gas prices up to market levels and unbundling the vertical monopolistic structure of the gas sector.

The economic provisions of the Association Agreement go way beyond matters of external trade, and go deeply into matters of domestic economic governance. The challenge here for Ukraine is climb out of the double and related maladies - oligarchy and endemic corruption. Many provisions of the Association Agreement see Ukraine committed to adopting (or ‘approximating’ as the texts say) EU legal regulations to help overcome these grave problems. Examples can be seen in the fields of competition policy, public procurement, intellectual property rights, and company law.

By comparison the main political provisions, endorsing democratic values, are really only aspirations. While Ukraine wanted from the EU explicit reference to its desire for accession to the EU as a member state, this was categorically rejected. The EU member states as a whole are in no mood for further enlargement, so if there are Dutch reservations on this account they are widely shared. The Ukraine Association Agreement therefore sees only a few friendly, diplomatic phrases such as respecting Ukraine’s European aspirations. Ukraine does not obtain anything like ‘pre-accession’ or ‘membership candidate’ status, or the extent of financial support from the EU that this would imply.

The Ukraine Association Agreement and DCFTA follow the same template as two other agreements made with Georgia and Moldova. The three texts are in fact 90% or more identical. The latter two agreements have now been ratified by all member states and enter into definitive force. For Ukrainian observers it is anomalous and distressing that just the Ukrainian agreement has been singled out in the Dutch referendum process.

While the concrete content of the agreement is mostly economic, its overarching geo-political significance of the agreement is of the highest order. The dramatic Maidan revolution of 2014-15 was first and foremost a drive by ordinary Ukrainians to get some decent democratic governance and respect for their human rights, and to get rid of the abysmal presidency Viktor Yanukovych. Tragically this desperate struggle translated into an opportunity for Russia to annex Crimea and launch a hybrid war in the Eastern Donbas. The post-Maidan leadership of Ukraine
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