

The Breach: Ukraine's Territorial Integrity and the Budapest Memorandum

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Russia's annexation of Crimea and covert invasion of eastern Ukraine places an uncomfortable focus on the worth of the security assurances pledged to Ukraine by the nuclear powers in exchange for its denuclearization. In 1994, the three depository states of the Treaty on the Nonproliferation of Nuclear Weapons (NPT)—Russia, the United States, and the United Kingdom—extended positive and negative security assurances to Ukraine. The depository states underlined their commitment to Ukraine's sovereignty and territorial integrity by signing the so-called "Budapest Memorandum."¹

Using new archival records, this examination of Ukraine's search for security guarantees in the early 1990s reveals that, ironically, the threat of border revisionism by Russia was the single gravest concern of Ukraine's leadership when surrendering the nuclear arsenal. The failure of the Budapest Memorandum to deter one of Ukraine's security guarantors from military aggression has important implications both for Ukraine's long-term security and for the value of security assurances for future international nonproliferation and disarmament efforts. Russia's breach of the Memorandum invites strong scrutiny of other security commitments and opens an enormous rhetorical opportunity for proliferators to lobby for a nuclear deterrent.

UKRAINE'S NUCLEAR PREDICAMENT

In 1991, Ukraine inherited the world's third largest nuclear arsenal as a result of the collapse of the Soviet Union.² By mid-1996, all nuclear munitions had been transferred from Ukraine to Russia for dismantlement, and by 2001, all launch silos were decommissioned. Yet Ukraine's path toward denuclearization was far from smooth. While still a Soviet republic, Ukraine proclaimed its intention to become a nonnuclear state in its Declaration of State Sovereignty.³ However, soon after its independence in August 1991, Ukraine adopted a

more cautious approach to its nuclear inheritance, concerned that Russia's monopoly on nuclear arms in the post-Soviet space would be conducive to its resurgence as a dominating force in the region.

Ukraine looked to redefine its relations with Moscow as an equal by claiming legal succession to the Soviet Union on par with Russia. This included the claim to ownership of all formerly Soviet material and technical resources on Ukraine's territory, including weapons.⁴ While Ukraine stood by its commitment

to become nonnuclear in the future, it preferred to denuclearize gradually through treaties with other nuclear powers.⁵

Though some in Washington were inclined to entertain the idea of a nuclear Ukraine, US Secretary of State James Baker took a firm view that only Russia should succeed the Soviet Union as a nuclear state, lest the unraveled Soviet Union should become a “Yugoslavia with nukes.”⁶ However, the US was open to the possibility of Soviet nuclear weapons remaining under “safe, responsible, and reliable control with a single unified authority” based on collective decision-making but excluding the possibility of independent control.⁷

The Joint Strategic Command (JSC) was established as such a unified authority in December 1991 under the auspices of the newly created Commonwealth of Independent States (CIS). Yet the JSC soon proved unworkable: a series of incidents over control and subordination of strategic forces led Ukrainian President Leonid Kravchuk to establish “administrative control” over Ukraine’s strategic armaments in 1992.⁸ Ukraine’s parliament, the Rada, supported the move with a resolution that, while affirming Ukraine’s commitment to denuclearize, first broached the issue of security guarantees as a condition for disarmament.⁹

In May 1992, the US, Russia, Ukraine, as well as Kazakhstan and Belarus, which also inherited Soviet nuclear weapons, signed a protocol making the latter three countries parties to START I. However, lest the accession to START I be interpreted as a commitment to reduce rather than eliminate nuclear arsenals, Article 5 of what became known as the Lisbon Protocol committed the non-Russian republics to accede to the NPT as nonnuclear weapons states (NNWS) “in the shortest possible time.”¹⁰ In a separate letter to President Bush, President Kravchuk confirmed Ukraine’s resolve to dismantle all strategic nuclear arms while “taking

into consideration her national security.”¹¹

The Search for Security Guarantees

The first document in which the US addressed Ukraine’s security concerns was Bush’s letter to Kravchuk, dated 23 June 1992. Hailing the Lisbon Protocol as a “historical accomplishment” that would help Ukraine reduce “the burden” of the Soviet nuclear legacy, Bush outlined four ways in which Ukraine’s security concerns could be addressed.¹² First, Bush formally reaffirmed the United States’ commitment to all nonnuclear NPT member states: it would seek immediate action in the UN Security Council to provide assistance if Ukraine became “the object of aggression or of threats of aggression in which nuclear weapons are used.”¹³

Second, Bush urged Ukraine to put faith in Europe’s new collective security system by participating in the Conference on Security and Cooperation in Europe (CSCE), North Atlantic Cooperation Council (NACC) and the UN, whose principle of inviolability of borders helps “assure the security of all states.”¹⁴ Third, Bush underscored the importance of democratic political transition, economic reform and investment as a guarantee of Ukraine’s security. Finally, he offered US assistance in the development of Ukraine’s conventional armed forces “whose size, equipment, and doctrine contribute to the security of Ukraine and stability in the region.”¹⁵

Ukraine insisted that these security commitments be incorporated into a high-level document—preferably involving Russia.¹⁶ After consultations with Washington in December 1992, the US Ambassador in Kyiv Roman Popadiuk presented Ukraine’s Ministry of Foreign Affairs (MFA) with a draft of such a US-Russian statement. The draft included:

1. Positive and negative security assurances of NWS toward NNWS parties to the NPT
2. Commitment to respect Ukraine's sovereignty, independence and the inviolability of borders and abstain from economic coercion, in accordance with the CSCE Final Act, and
3. Commitment not to use force or threat of force against territorial integrity and political independence of Ukraine, in accordance with the UN Charter.¹⁷

The Ukrainian negotiators signaled that reaffirming existing multilateral commitments did not amount to a sufficient guarantee of Ukraine's security.¹⁸ Yet, Ambassador Popadiuk informed the MFA that the US was unlikely to undertake any stronger commitments.¹⁹ Indeed, he proved correct and the wording of this early draft remained substantively unchanged in the Budapest Memorandum signed two years later. Moreover, the US refused to grant security assurances or engage in economic or political cooperation with Ukraine until it ratified START I/Lisbon and joined the NPT.

Meanwhile, Ukrainian-Russian relations were quickly deteriorating over the division of the Black Sea Fleet and Russia's support for Crimean separatism. The conflict in Transnistria and moves like the 21 May 1992 Russian parliament resolution, which retroactively declared the 1954 Soviet decision to cede Crimea to Ukraine illegal, reinforced Ukrainian perceptions that Russia would not accept the post-Soviet territorial status quo.²⁰ In response to Ukraine's demands for security guarantees, Russia agreed to recognize Ukraine's borders only "within the borders of the CIS," a formulation that did not satisfy the Ukrainian government.²¹

Thus, while the START I/Lisbon package was submitted to the Rada in November 1992, its consideration was repeatedly postponed. In April

1993, 162 Ukrainian MPs published an open letter stating that without the *de jure* international recognition of Ukraine's ownership of the nuclear weapons, compensation and security guarantees, the START/Lisbon package could not be considered by the parliament.²² The senior Rada leadership also demanded that security guarantees be provided in a legally binding treaty.²³

By mid-1993, the MFA prepared a draft of such a treaty between Ukraine and the P5. Importantly, the draft included a robust mechanism for consultations—designed to funnel assistance to Ukraine and impose sanctions on the aggressor—that would be invoked if Ukraine's territorial integrity came under threat.²⁴ The MFA likely discussed the draft of the treaty with US Ambassador-at-Large Strobe Talbott and Secretary of Defense Les Aspin, who visited Kyiv in June 1993 to introduce the new Clinton administration's approach to Ukraine.²⁵

The White House's reoriented foreign policy demonstrated greater understanding of Ukraine's concerns and offered to moderate nuclear negotiations between Russia and Ukraine.²⁶ However, the US and the European nuclear powers were wary of undertaking the binding security obligations Ukraine demanded and offered only political "assurances."²⁷ In a meeting with Ukrainian Ambassador Bilorus in Washington, Dr. Zbigniew Brzezinski—National Security Advisor under President Carter well connected with the Clinton administration—hinted that, despite the new rhetoric, the joint US-Russian pressure on Ukraine would likely continue.²⁸

Ukrainian leadership, thus, found itself in a bind: the perception of Russian threat grew, yet the West made no concessions on security guarantees. Simultaneously, Ukraine faced international isolation for delaying denuclearization. When the Rada finally voted on the START I/Lisbon package on 18 November 1993, it did so with extensive

reservations, asserting the right to retain the portion of the nuclear arsenal not subject to the treaty and rejecting Article 5 of the Lisbon protocol that committed it to join the NPT as a NNWS.²⁹ The exchange of ratification instruments was made conditional on the provision of security guarantees and financial compensation.³⁰

Despite the initial outrage over this decision, the US decided to continue negotiations and extended political support to Kravchuk, who distanced himself from the parliament's decision in a subsequent telephone conversation with President Clinton.³¹ The ensuing intensive diplomatic effort yielded the Trilateral Statement signed in Moscow by presidents Clinton, Kravchuk and Yeltsin on 14 January 1994.

For Ukraine, the significance of the Trilateral Statement was threefold. First, Ukraine managed to obtain compensation for the value of the highly enriched uranium contained in both strategic and tactical nuclear weapons Ukraine previously transferred to Russia.³² Second, the US and Russia pledged security assurances, which were less substantial than the guarantees Ukraine wanted, but more than Russia had previously been willing to provide. Third, Ukraine perceived political significance in participating as an equal interlocutor vis-à-vis the US and Russia.³³ Subsequently, President Kravchuk addressed the Rada with a letter stating that the Trilateral Statement answered their concerns and managed to convince the MPs to lift their reservations.³⁴

On 16 November 1994, the Rada ratified the NPT, albeit once again with reservations.³⁵ Tellingly, these contained no mention of nuclear-related security issues. Instead, Article 4 of the law on accession to the NPT stressed that Ukraine will treat the use or threat of force against its territorial integrity and inviolability of its borders, as well as economic coercion by a nuclear state, as “extraordinary circumstances that jeopardize its supreme interests,”

a formulation taken verbatim from the Article X of the NPT regarding withdrawal from the Treaty.³⁶

On December 5, at the CSCE summit in Budapest, presidents of the US, UK, Russia, and Ukraine signed a diplomatic Memorandum that, as pledged, confirmed the now familiar security assurances. In addition, it included a truncated version of the consultation mechanism Ukraine once proposed. Article 6 of the Memorandum merely stated that the parties “will consult in the event a situation arises which raises a question concerning these commitments.”³⁷

The mechanism was invoked for the first time two decades later, following Russia's annexation of Crimea. Yet, Russian Foreign Minister Sergei Lavrov declined to participate in the Paris meeting, attended by the other signatories of the Memorandum.³⁸ Later, Russia predictably vetoed the UN Security Council resolution denouncing the March 16 Crimean referendum to secede from Ukraine, conducted with Russian military presence.

Conclusion

The perceptions of Russian threat to the territorial integrity of Ukraine that underpinned its demands for security guarantees in the early 1990s have proved justified. Bereft of allies and weakened by perennial bad governance that led to an internal political crisis, Ukraine became an easy target for Mr. Putin. The Budapest Memorandum failed to deter Russian aggression because it imposed no immediate cost for its violation. The political assurances it provided rested on the goodwill and self-restraint of the guarantors, an arrangement that can work between allies but not potential adversaries. The Crimean crisis exposed how quickly self-restraint dissipates when a guarantor becomes revisionist.³⁹

For Ukraine, the precarious balancing act between the West and Russia is over: it will lobby hard to

integrate itself into Euro-Atlantic security structures. The regional repercussions are significant enough that NATO allies such as Poland and the Baltic states will likely support Ukraine's NATO aspirations, while seeking greater reassurances of the US commitment to their own security. These new demands on US extended deterrence will further strain US-Russian relations.

The global repercussions of Russia's breach of the Memorandum lie in its effects on international nonproliferation and disarmament efforts. Despite its shortcomings, the Memorandum politically bounded Ukraine's denuclearization to the respect for its territorial integrity by the nuclear powers. Continued, unsanctioned violation of this commitment will provide ample rhetorical ammunition to proliferators in favor of a nuclear deterrent as a remedy for both nuclear and conventional military threats. To dissuade them, the international community will have to invent a more convincing bargain than a security assurance. A nuclear free world now comes at a dearer price.

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ENDNOTES

- 1 "Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Nonproliferation of Nuclear Weapons," December 5, 1994, http://zakon4.rada.gov.ua/laws/show/998_158; English version available in Steven Pifer, *The Trilateral Process: The United States, Ukraine, Russia and Nuclear Weapons*, Arms Control Series (Brookings, May 2011), Annex II, http://www.brookings.edu/~media/research/files/papers/2011/5/trilateral%20process%20pifer/05_trilateral_process_pifer.pdf. France and China pledged similar assurances in a bilateral format.
- 2 Ukraine's nuclear armaments consisted of 176 intercontinental ballistic missiles (ICBMs), including 130 liquid fuel SS-19 and 46 solid fuel SS-24, as well as 44 strategic bombers armed with cruise missiles, close to 2000 strategic nuclear warheads and 2600 tactical nuclear weapons. William Potter, *The Politics of Nuclear Renunciation: The Cases of Belarus, Kazakhstan, and Ukraine*, Occasional Paper (Washington, DC: Henry L. Stimson Center, April 1995), 8; Pifer, *The Trilateral Process: The United States, Ukraine, Russia and Nuclear Weapons*, 4.
- 3 Verkhovna Rada of Ukrainian SSR, Declaration of State Sovereignty of Ukraine, July 16, 1990, <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=55-12>.
- 4 "Vyacheslav Chornovil on Non-Nuclear Status of Ukraine," *Molod Ukraïny*, September 12, 1991.
- 5 Verkhovna Rada of Ukraine, On the Nonnuclear Status of Ukraine, October 24, 1991, <http://zakon.nau.ua/doc/?code=1697-12>.
- 6 Pifer, *The Trilateral Process: The United States, Ukraine, Russia and Nuclear Weapons*, 10; Keith Bradsher, "Noting Soviet Eclipse, Baker Sees Arms Risks," *The New York Times*, December 9, 1991.
- 7 James Baker, *America and the Post-Coup Soviet Union* (Princeton University, 1991), <http://www.c-span.org/video/?23366-1/postcoup-soviet-union>.
- 8 President of Ukraine, Decree On Urgent Measures regarding the Establishment of the Armed Forces of Ukraine, April 5, 1992, <http://zakon2.rada.gov.ua/laws/show/209/92>.
- 9 Verkhovna Rada of Ukraine, Resolution On Additional Measures for Ensuring Ukraine's Attainment of Non-Nuclear Status, April 9, 1992, <http://zakon4.rada.gov.ua/laws/show/2264-12>.
- 10 Annex to the Strategic Arms Reduction Treaty of July 31, 1991, Signed by the USA, Russia, Ukraine, Belarus and Kazakhstan in Lisbon on May 24, 1992, 1992; reprinted in Victor Batiouk, *Ukraine's Non-Nuclear Option* (New York: UN Institute for Disarmament Research, 1992).
- 11 "Letter of President L. Kravchuk to President G. Bush," May 5, 1992, Fond 5233, Opis 1, Delo 76, Central State Archive of Ukraine. English translation published in *Arms Control Today*, June 1992.
- 12 "Letter of US President George H.W. Bush to Ukrainian President L. Kravchuk," June 23, 1992, Fond 5233, Opis 1, Delo 12, Central State Archive of Ukraine. <http://digitalarchive.wilsoncenter.org/document/119814>
- 13 Ibid. This commitment is known as a positive nuclear security assurance. Negative security assurance is the commitment of a nuclear state not to attack or threaten a non-nuclear state party to the NPT with nuclear weapons.
- 14 Ibid.
- 15 Ibid.
- 16 The options varied based on the parties authoring such statement: 1) a joint US-Russian statement; 2) unilateral US statement; 3) unilateral Ukrainian statement calling for security assurances from all nuclear weapons (this option was preferred by the US) and 4) joint US-Ukrainian statement. All of these formats were expected to precipitate similar statements by the remainder of the nuclear states. "Report by the Minister of Foreign Affairs of Ukraine A. Zlenko to President L. Kravchuk," November 18, 1992, Fond 5233, Opis 1, Delo 12, Central State Archive of Ukraine. <http://digitalarchive.wilsoncenter.org/document/119815>
- 17 "Draft Joint US-Russia Statement on security assurances for Ukraine," December 10, 1992, Fond 5233, Opis 1, Delo 12, Central State Archive of Ukraine. <http://digitalarchive.wilsoncenter.org/document/119816>

- 18 "Report of the Meeting of Ukrainian Deputy Foreign Minister B. Tarasiuk with US Ambassador R. Popadiuk," January 13, 1993, Fond 1, Delo 7039, Archive of the Ukrainian Ministry of Foreign Affairs.
- 19 Ibid.
- 20 Verkhovna Rada of Ukraine, "Resolution Regarding the Decision of the Verkhovny Sovet of Russia on the Issue of Crimea," June 2, 1992, <http://zakon4.rada.gov.ua/laws/show/2399-12>.
- 21 "Report of a Meeting of Ukrainian Deputy Foreign Minister B. Tarasiuk with Russian Ambassador-at-Large M. Streltsov," January 12, 1993, Fond 1, Delo 7039, Archive of the Ukrainian Ministry of Foreign Affairs.
- 22 "Ukraine's People's Deputies Say Not to Early Ratification of START Treaty," Radio Ukraine World Service, May 3, 1993, Lexis-Nexis. 162 constituted over 1/3 of the 450-member Ukrainian legislature.
- 23 "Letter of Foreign Minister of Ukraine A. Zlenko to President L. Kravchuk," June 3, 1993, Fond 5233, Opis 1, Delo 280, Central State Archive of Ukraine. <http://digitalarchive.wilsoncenter.org/document/119818>
- 24 "Draft Treaty on National Security Guarantees for Ukraine in connection with her accession to the 1968 Nuclear Non-Proliferation Treaty," June 3, 1993, Article 6, Fond 5233, Opis 1, Delo 280, Central State Archive of Ukraine. <http://digitalarchive.wilsoncenter.org/document/119819>
- 25 "Letter of Foreign Minister of Ukraine A. Zlenko to President L. Kravchuk," June 3, 1992.
- 26 Sidney D Drell and James E Goodby, *The Gravest Danger: Nuclear Weapons* (Hoover Institution Press Publication no. 524, 2003), 78–90. Contemporary documents show, however, that Ukrainian authorities were not convinced that the change in US rhetoric brought any strategic changes in policy.
- 27 "Report of Meeting of Ukrainian Ambassador to US O. Bilorus with Dr. Zbigniew Brzezinski," May 26, 1993, Fond 1, Delo 7039, Archive of the Ukrainian Ministry of Foreign Affairs. <http://digitalarchive.wilsoncenter.org/document/121103>
- 28 Ibid.
- 29 Verkhovna Rada of Ukraine, Resolution on Ratification of the Treaty between the Union of Soviet Socialist Republics and the United States of America on Strategic Arms Reduction signed in Moscow on July 31, 1991 and the its Protocol signed in Lisbon on May 23, 1992, November 18, 1993, <http://zakon3.rada.gov.ua/laws/show/3624-12>.
- 30 Ibid.
- 31 "Report of Meeting Ukrainian Military Attaché I. Smeshko with Assistant Secretary of Defense Dr. S. Garnett," December 6, 1993, Fond 1, Delo 6950, Archive of the Ukrainian Ministry of Foreign Affairs. <http://digitalarchive.wilsoncenter.org/document/121101>
- 32 Trilateral Statement of the Presidents of Ukraine, US and Russia, January 14, 1994, http://zakon4.rada.gov.ua/laws/show/998_300; English version available in Pifer, *The Trilateral Process: The United States, Ukraine, Russia and Nuclear Weapons*, Annex I.
- 33 Letter of President L. Kravchuk to Speaker of the Verkhovna Rada I. Plyushch, January 24, 1994, 1/16/4964, Ukrainian National State Archive. <http://digitalarchive.wilsoncenter.org/document/121102>
- 34 Ibid.; reservations were lifted by the Verkhovna Rada of Ukraine, Resolution On Fulfillment by the President and Government of Ukraine of the Verkhovna Rada Recommendation Regarding the Ratification of START, February 3, 1994, <http://zakon4.rada.gov.ua/laws/show/3919-12>. Interestingly, the term "assurances" had been consistently translated as "guarantees" in Ukrainian versions of both the Trilateral Statement and the Budapest Memorandum.
- 35 Verkhovna Rada of Ukraine, Law of Ukraine On Accession to the Treaty on Nonproliferation of Nuclear Weapons of July 1, 1968, November 16, 1994, <http://zakon2.rada.gov.ua/laws/show/248/94-bp>. The 10 months delay in NPT ratification was due to the change of government in Kyiv with early parliamentary and presidential elections taking place in March and June 1994 respectively.
- 36 Ibid.
- 37 Pifer, *The Trilateral Process: The United States, Ukraine, Russia and Nuclear Weapons*, Annex II.
- 38 "US/UK/Ukraine Press Statement on the Budapest Memorandum Meeting," March 5, 2014, <http://www.state.gov/r/pa/prs/ps/2014/03/222949.htm>.
- 39 "Security Council Fails to Adopt Text Urging Member States Not to Recognize Planned 16 March Referendum in Ukraine's Crimea Region," March 15, 2014, <http://www.un.org/News/Press/docs/2014/sc11319.doc.htm>.

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