SECURITY AND NONPROLIFERATION

Dear Reader,

Ukraine committed to integration into European and Euro-Atlantic structures yet under President Kuchma.   Following the 2004 presidential elections, tangible steps in this direction are under implementation at last. NATO and EU acknowledge that Ukraine is to play an important part in the construction of a new system of European security, and our country should demonstrate that it does share the values and standards being the basis whereupon these organizations were created. Generally credited in Europe is the *Common and Comprehensive Security Model for Europe for the Twenty-First Century*, as well as the principle of security indivisibility, which consists in assuming that each one's security is indivisibly bound with the security of others. For Ukraine to integrate into the European security system, the national security sector has to be reformed. Ways of reforming it have recently been under discussion by both government officials and independent experts. One important condition for our security sector's europeization is to ensure that it is under civil control. All services and structures of the security sector must serve the people. And in no event the other way around. In turn, for strong legitimate civil controls over state authorities in the security area to be ensured, mass media must have the right to make independent assessments and analyze their activities and policy.   The security sector being accountable to the public will improve its performance, observing democracy principles, and human rights and freedoms. A public information campaign to explicate the national security sector reform efforts must mobilize the society for participating in discussions and exchange of ideas on security and defense, which will promote a better understanding of the problems in this area and secure public confidence in the government.

Therefore, our editorial team introduces the topic of civil control over Ukrainian security sector and commends to your attention three articles covering different aspects of this subject. We are hopeful that the exchange of ideas will continue on the pages of our periodical and welcome your material relative to the security sector reform in Ukraine and development of partnership relations between citizens and the security sector.

Editorial Team

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Democratic Control over Security Sector in Europe

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The officially declared and progressively implemented strategic course of Ukraine's Euro-Atlantic integration warrants ever closer attention to learning and mastering the "rules of the game" that exist within the scope of NATO's responsibility. Therefore, the notably increased number of scientific publications (from articles to monographs) dedicated to the North-Atlantic security system is not accidental. It should be stated, however, that most of them are either generally geopolitical or restricted in applicability (military-engineering, etc.). Things such as national security systems of NATO and EU Member States do not normally attract researcher attention. Those researchers that do approach such subjects tend to limit their efforts to problems of civilian-military relations and structural issues of anti-terrorist struggle or to the philosophical and politological subject of the civil society functioning per se, etc. Thus there appears a certain gap in the segment of national controls over agencies that are responsible for national security in European countries. From this perspective, the subject issue needs to be considered in its both theoretical and practical dimensions, drawing on the centuries-old experience of Western countries (NATO and EU members above all) that is increasingly often commended as "exemplary" for Ukraine.

Democratic control: theory problems

Modern scientific literature refers to a few definitions of control ("administrative civil control is a system of surveillance and inspection measures or means effected by the State authorities; democratic control, by institutions of civil society"[1]), that the State and civil society exercise over those agencies that belong to the "security sector" (Ukrainian legal framework uses the term *Military organization and "law-enforcement" organs*) of the State[2].

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[1] Cited from *Gerasimov A.* An Approach to the Problem of Civil Control over Ukrainian Defense Sector from a Management Theory Perspective // Strategic Panorama. – 2002. – # 4.

[2] Due to the scope of this article's topic and objectives, we have to sidestep the non-military segment of the security sector.

The oldest and thus most commonly used is the term "civil control". According to U.S. researcher S. Huntington[3], the notion of civil control emerged back in the 17th century England, when the parliament was challenging the monarch's influence over the Army. Consequently, the term acquired a class-ideology tint and was used by European liberal bourgeoisie in competing for power with conservative aristocracy. S. Huntington also outlined two forms of civil control – subjective and objective. Until the 19th century, the only form of civil control remained subjective control, i.e. establishment of a certain political group's influence. As military professionalism was introduced controlling the military became much more complex. Therefore, the need arose to apply a new principle– the objective one, which, according to Huntington, "regulates relations between functional military imperatives and the rest of society". It should be noted that a universal model of civil control does not exist, yet most countries of developed democracy practice appointing civilians to key posts in the security sector.

Political controls over security policy (including military and nuclear, in particular,) are traditionally interpreted by States to consist in the decisive role of the country's political leadership in approving key decisions in this area.

Unlike civil and political, democratic control is a much broader notion. It provides for the legislative power to take tangible action as to developing a security policy through such vehicles as defense budget, approval of the main development programs and plans for the Armed Forces and other constituents of the security sector, and ratifying armament reductions and disarmament treaties. For such efforts to be a success, it requires a considerable openness of security-related information, specifically, consistent discussion of the most important issues in mass media and specialized publications. Otherwise the parliament will fall hostage to the policy pursued by administrative agencies.

In turn, democratic control and accountability cannot be exercised without political control that includes, in particular, an institution for political supervision of security sector agency activities. What is implied here is that heads of agencies are representatives of a "highest-ranked" politician/State official (mostly civilian) to those agencies rather than being an offspring of the "security sector" bureaucracy, acting on its behalf in dealings with the President or Prime Minister. Without control by the political leadership, the civil society and legislative power are unable to exercise direct influence on the powerful, corporately serried, and closed-in-itself security establishment[4].

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[3] *Samuel P. Huntington*. The Soldier and the State: The Theory and Politics of Civil-Military Relations. – Vintage Books, 1964.
[4] See *Arbatov A.* Democracy and Nuclear Weapons // Russia in Global Affairs. – May – June 2005. – #3 //   http://www.globalaffairs.ru/numbers/14/4155.html

Political control can do without the democratic one. For instance, in totalitarian or authoritarian States (formerly the USSR, currently a propensity of China, Belarus, and Turkmenistan) it is exercised through the organs of the ruling party or political elite along with surveillance and non-stop covert competition between special services. In other words, political control by the leadership over administrative agencies is an inalienable component of democratic control and accountability in the State policy overall and security policy in particular.

It can generally be stated that democratic control over security sector combines virtually all elements of both civil and political control (considering that many elements of civil and political control are intertwined). In terms of methodology, it is the very type of control established in the absolute majority of European countries that we can talk about.

As far as NATO is concerned, it should be noted that its Members' focus used to be placed predominantly on democratic controls over the Armed Forces. Countries that strove to accede to the Alliance implemented reforms to assure transparency of the Armed Forces and their subordination to the civilian Minister, government, and society and thereby facilitated democratization and political stability in their countries. At the macro-political level, those reforms had a tremendous effect indeed while their socio-political effect was limited, because regular citizens deal with the non-military sector – police, customs officers, and internal security services – much more frequently than they do with the Armed Forces. Hence when actions of these non-military institutions are, due to various reasons (governmental policy, insufficient professionalism, influence by officials or unofficial agencies), inconsistent with the interests of citizens, their security is compromised. That is exactly why both NATO and EU have recently been paying more attention to democratic controls in the non-military security sector[5], primarily with respect to justice, defense of civil rights, and access to information.

Democratic control: European countries' experience

There are basic principles to determine the place and role of the security sector in a democratic society, common for all democracies. The security sector must be subordinated to a democratically established legitimate political leadership with a civilian Minister of Defense, follow the leadership's political guidance, be subject to the rule of law, and act within the scope of its Constitution-identified mission (assurance of external security and, in exceptional and clearly defined cases, of internal security under command by police forces). They must observe political neutrality; have no access to any financial support other than the State budget; be under control by the

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[5] *Greene J.* NATO and EU Expansion: Consequences for the Non-Military Security Sector Reform in Ukraine // Dzerkalo Tyzhnia – 2004. - #23. - 12 - 18 June.

parliament[6], judicial system, and civil society in general. The civil government must have an explicit political hierarchy (President – Prime Minister – Defense Minister) and strict subordination of the Chief of the General Staff to the Minister of Defense. An independent judicial system must make it impossible to establish specialized courts outside of its scope of responsibility (such as bodies of military justice). Specifically codified must be the entitlement of mass media to access security-related information and the ombudsman's authorities to monitor the situation and social sentiments in the security sector. For instance, according to the political and legal democratic traditions of Great Britain, the affected parties' involvement in the development and adoption of regulations is not infrequently settled by passing special laws stipulating that independent advisory committees be instituted, with representatives of the public included, to pre-review draft regulations of relevant agencies[7].

Epauletted judges: experience of Great Britain and Spain

Resulting from the implementation of the *Convention for Protection of Human Rights and Fundamental Freedoms*, a tendency has been since long taking shape in Europe to restrict the jurisdiction of military courts and eventually forego them. France, whose Constitution forbids setting up courts martial in a time of peace, was first to set the pattern by abolishing in 1981 the National Security Court, and in 1983, the whole system of military courts. In Germany there are two Constitutional references only (for Navy seacraft and for military units stationed abroad) when courts of military-criminal justice may be created in a time of peace (Constitution of FRG Art. 96 part 2), but governmental agencies including the FRG Ministry of Defense still refrain from launching initiatives to implement the above norm. Notwithstanding, even if it went implemented, such courts would act only at first instance and only with reference to military crimes, while a higher instance (of appeals) to their rulings would be the Federal Court of Justice (a general judicial institution with a status similar to that of the Supreme Court of Ukraine). In Great Britain and Spain, military courts made up of judges in military service deal at first instance only, further on they are under control by non-military judicial institutions. British courts martial are supervised by the Queen's Bench Division of the High Court. It was namely the court where the Military Court of Appeals was established in 1951, comprised of High Court judges and certain Scottish and Irish judges appointed by the Lord Chancellor, i.e. from among civilians rather than the military. Further on, appeals to rulings of this court can be filed with the House of Lords Court[8].

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[6] For comparison: on October 3, 2002 the Chamber of Representatives of the National Assembly of Belarus concurred with the Presidential amendment to the Law of the Armed Forces, striking out the provision on parliamentary control over the Army activities.

[7] Administrative Law of Foreign Countries, Moscow: Spark, 1996. – p.63.

[8] *Shishkin V.* Judicial Systems of Countries of the World: Manual [In 3 books.]. B. 1. – K.: Yurinkom Inter, 2001. – p.62–65.

Thus works twofold democratic control over legal proceedings in military courts.

In Spain (population over 40 million) there are only about 20 Army-enlisted judges inclusive of investigator judges that serve in military courts, whereas Ukraine (population nearly 50 million) has over 150 Army-enlisted judges alone. Spanish legislation provides for no appeals against military court rulings. Further on the instance hierarchy includes the Military Chamber (8 judges) of the Supreme Court of Spain as an instance for appeals. The judges of this Chamber are civilians. The Chamber is formed as follows: all judges are appointed by the General Council of the Judiciary (analogous to the Ukrainian Supreme Council of Justice) including four of them nominated by the Ministry of Justice from among judges of criminal court of general jurisdiction and four proposed by the Ministry of Defense from among military court judges, who shall retire immediately after appointment and assume positions of Supreme Court judges as civilians[9].

Power, security, information: French experience

Although the right of access to information originated back in the 18th century, it is traditionally associated with the U.S. However, the first countries to vest their citizens with the right of access to information were Scandinavian ones – Sweden (where the constitutional Freedom of the Press Act was adopted by the Riksdag in 1766) followed two centuries later by Finland (Law of 1951). In 1966, the U.S Freedom of Information Act was adopted, which featured a new interpretation and new legal forms of protecting freedom of information. In 1970, similar laws were adopted in Denmark and Norway, in 1973– in Austria, in 1978– in France and the Netherlands, in 1990– in Italy, in 1992– in Hungary, in 1993– in Portugal, in 1994– in Belgium, in 1997– in Ireland, in 1999– in the Czech Republic. These countries have made openness a legal principle, secrecy an exception.

Successful combination of openness of information on the security sector with justified preservation of State secret is exemplified by the French *White Paper on Defence*: "National interests and observance of democratic rules must enable delineating the field of activity where representatives of defense departments and mass media can effectively and publicly cooperate. And the main principle here is publicity. To avoid disinformation – ungrounded rumors, false gossip, suspicions – each one should primarily give accurate and clear information on facts; respond at once, immediately after the course of events; finally, when it is recognized as necessary (!), announce and motivate any removal or control"[10]. As French experience shows, information supplied for national security discussion means to involve the

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[9] *Shishkin V.* Judicial Systems of Countries of the World: Manual [In 3 books.]. B. 1. – K.: Yurinkom Inter, 2001. – p.210–212.
[10] White Paper on Defence. France. – M.: Embassy of France in Russia. Ministry of Foreign Affairs, 1994. – 153 p.

civil society in their resolution and support the military policy adopted. "The defense will be strong and reliable only when it is built on a correct political concept, whose correctness is subject to no doubt in the eyes of the whole nation"[11]. And since this policy is the government's responsibility, it plays the first fiddle in explaining the entire factors of this concept to the nation. The government and society are mediated by the civil review of governmental subordination and appropriate mass media. Another – democratic – pole of public opinion formation is created by civic organizations and political parties, independent analytical centers and non-governmental mass media.

"Military parliamentary": German experience

Taking after the Swedish model of functioning of State officials who review citizens' claims to governmental officials, in 1956 the FRG parliament established the institution of the Bundestag representative for the Bundeswehr. Pursuant to Art. 45b of the FRG Constitution, it shall protect the rights of people in military service and serve as an auxiliary body in exercising parliamentary control over the Armed Forces (this article is the only one in the Grundgesetz to use the term "parliamentary control"). The 1957 Law on the Bundestag Representative for the Bundeswehr specifies its Constitutional status. Thus, the Representative, if made aware of actual infringements on the constitutional rights of servicemen or on the Armed Forces internal management principles, shall exercise parliamentary control by taking appropriate action as directed by the Bundestag (or the Defense Committee) or on its own initiative. The Representative may apply to all official Bundeswehr agencies for required information and documents, is entitled to interview eye-witnesses and experts and, given a suspicion of committed acts of indecency or crimes, to transmit the information to the competent agencies for penalties to be imposed or disciplinary proceedings to be instituted. The Representative is also entitled to inspect military units at any time on no notice.[12] All judicial and administrative agencies at the federal, land, and community level shall provide any support as requested by the Representative.

Of a great practical significance are annual reports by the Bundestag Representative for the Bundeswehr, which are met with a considerable social response (sometimes objected by the Ministry of Defense). In addition, as necessary, the relevant parliamentary committee is entitled to declare itself a committee for investigation of military infringements[13].

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[11] Ibid.

[12] *Kuebert J.* Civil Control over Armed Forces. German Experience // The Army of Ukraine. – 1998. – # 5–6. – p. 23.

[13] *Mironenko P., Postnikov S., Baranovsky V.* Civil Control over the AFU // People's Army. – 2001. – # 206 (2385). – 6 November.

To date, the institution of the Bundestag Representative for the Bundeswehr is commonly renowned as the most critical element of the system of democratic control and internal supervision. The representative's accessibility and the possibility for each serviceman to visit him, bypassing the entire official hierarchy, have detected a comparatively small number of gross infringements on the basic rights in the FRG Armed Forces and enabled prompt response to deviations in the commanders' conduct from the legal norms in the area, whenever they should occur. On the average, the Representative is in receipt of 8–10 thousand statements and complaints annually. Their thorough review helps all relevant agencies responsible for the state of affairs to have a clear picture of popular sentiments in the Army and serves as a "system for earliest prevention" of negative phenomena in the security sector.

Democratization of the security sector:

Central and Eastern European experience

The "Atlantic" model of military–civil relations and democratic control in countries of Central and Eastern Europe was implemented in two stages. The first one concerned "decommunization" of national armies. The governments and parliaments took action as follows: eliminated the link between communist parties and Armed Forces; dismissed political and ideological departments; radically altered the functions to be dispensed by officers responsible for political and moral education of the staff; removed party entities from the Army organization; removed the corporate military representation from the Communist Party bodies; eliminated the interface between the departments for military-political education, military prosecution, and military security service; stripped the system of military education of all politics and ideology; allowed other parties to conduct permissible political propaganda in the Army, stopped the discrimination by the party membership principle.

Upon completion of the "decommunization" process, the C&EE countries were able to initiate direct implementation of democratic controls and establishment of democratic society-appropriate principles and rules of control, as proposed by NATO and EU countries. First and foremost, the countries' parliaments outlined a legal framework for the security sector's scope of functions, the Army's above all.

Thus the Romanian National Army's legal framework, based on the relevant provisions of the 1991 Constitution, includes a long list of laws on organization of the national defense system, military training of the population, civil defense, status of servicemen, and defense preparedness criteria for the economy and territory. The associated parliamentary committee monitors observance of these laws, develops military budget, and controls military expenses.

In Bulgaria the constitutional provisions are decisive that are developed and specified in the law on defense and armed forces, in a number of laws on the Army. A Parliamentary Committee for National Security has also been established.

Appointment of civilians to key posts in military institutions was the next important step in implementing democratic controls over security sector and establishing democratic society-appropriate military-civil relations in the Central and Eastern European countries. In Rumania civilians assumed the positions of the Minister of Defense, State Secretary for Defense Policy and International Relations, Deputy Head of the National Security Collegium. In Bulgaria the Ministry of Defense has been restructured so that the whole ministerial organization is manned by civilians.

In Hungary, pursuant to Act № CXXV (1995), the government controls the civil security services' activities, appointing a special Minister for this purpose; military services are controlled by the Minister of Defense. The Minister appointed to control the civil services may not be the Minister of Interior, Minister of Defense or Minister of Justice. This is a Minister without Portfolio, who identifies specific assignments for the services, monitors their activities, and regulates their functions and organization. He is entitled to develop general and specific instructions, but is not authorized to dismiss the heads of services and interfere with their activities within their scope of competence. The Minister is authorized to identify tasks for the civil services and give orders. He monitors budget expenditures and legality of the services' activities. The Minister is also entitled to give recommendations to the Prime Minister as to nominations and dismissals of heads of the services and their deputies.

With Hungary's accession to NATO, even agents with an open status are employed there, as consistent with the international practice, but their mission and functions are the same as, for instance, those of military attaches or attaches for economic affairs. Minimum contacts are maintained even with the special services of the countries that are not considered as NATO's allies. A broad information exchange and cooperation is extremely wanted, for the problem of trafficking in drugs and contraband of humans and weapons affects all States without exception. Therefore, Hungary's national security agencies, in the interest of suppressing the above phenomena, are even prepared to cooperate with any counterpart services. Numerous guarantees exist that the secret services will not be exploited for political purposes. In addition to the above-mentioned Law, it is safeguarded by the entire international network of security agencies, into which Hungary perfectly fits, and this network cooperates exclusively with services that function based on democratic party-free policy principles[14].

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[14] Interview of László Kövér to *Magyar Nemzet* (Budapest) of March 1, 2000.

The distribution of powers and responsibilities among the defense system entities in the context of military-civil relations is also important for democratization of the security sector. To a certain extent, the problem of distribution of powers and responsibilities is a problem of relations between the Ministry of Defense and the General Staff. Certain countries of the region feature the domination of the civil element. In the Czech Republic the General Staff is strategically fully integrated into the Ministry of Defense system and is subordinate to a civilian Minister. Romania gives an example of a more independent role of the General Staff: its Head is appointed by the President of the country and reports to him only.

We would specifically note that the recommendations with respect to control over internal security services, adopted by the European Council for its Member States in April 1999 expressed a concern that special services "often put the interests of what they perceive as those of national security and their country above respect for the rights of the individual". It is indicated that because of special services being inadequately controlled a great risk emerges and will continue to emerge "of abuse of power and violations of human rights, unless legislative and constitutional safeguards are provided". In this connection, it is recommended that the functions of special services should not interfere with those of the police and the special services should wield the status of a military organization. It is further recommended that "the legislature should pass clear and adequate laws putting the internal security services on a statutory basis, regulating which kind of operational activities carrying a high risk of violation of individual rights may be used in which circumstances, and providing for adequate safeguards against abuse."

As we see, national systems of democratic control over the military in European countries differ. Even with the presence of identical elements (budget right of the parliament or a civilian Minister of Defense), they vary in form. Significant divergence is observed with respect to entitling (or disentitling) the military as "citizens in uniform" to rights such as: freedom to express his or her opinion; freedom of political activity; membership in trade unions or military associations, etc. Out of all NATO Member States, a representative for military affairs (to the parliament) exists only in Germany where this institution has developed a good repute. France has a special Inspectorate to monitor the Armed Forces – an independent civil-military agency manned by highly qualified senior military officers and civilian officials, reporting directly to the Minister of Defense and wielding vast authorities to keep an eye on the Armed Forces.

Conclusions and suggestions

Depending on the form of political power and nature of the interface between the security sector and the state-political sphere, the relations in

the area of security sector control can be split into three major groups that correlate with the corresponding types of civil-military relations[15]:

- Relations based on agreement between the security sector, political elite, and civil society;

- Relations based on a clear distinction between security sector-related institutions and civil ones;

- Relations of the conflict type characteristic of transitional political regimes and stages of formation of a qualitatively new statehood.

Unlike such countries as Iran, Israel, India or Turkey (that have a propensity to the agreement-type relations), Western European countries are a vivid example of the distribution-type system, whereas Ukraine largely remains at the stage of the conflict-type relations. Therefore, if we strive to create in Ukraine a modern security sector, open for the society and respected by the public, as appropriate not for a "Praetorian" (belligerent), but rather for a peaceful democratic State (the only way to integrate into NATO), then merely to resort to copying one of the multiple forms of democratic control available in Europe is apparently not enough. Nor will it be helped by a perfunctory reconstruction of the security sector, nor, in particular, by plain army reductions, nor by mere subordination of frontier troops to the Ministry of Interior.

To create a full-fledged system of democratic security sector control after the "European pattern" (relations based on a clear distinction between security sector-related institutions and civil ones), Ukraine needs: firstly, legislative power control over and participation in the military policy, which requires the budget process to be transparent and enables the parliament to affect the process of appointing key managers in this sector; secondly, the institution of a civilian Minister of Defense, Minister of Interior, and Director of the Security Service of Ukraine (as it still remains a problem to eradicate the Soviet-style "Praetorian" mentality from the conscience of many security sector agencies); thirdly, openness of non-sensitive information on national security; fourthly, access available for the ombudsman, press and civic organizations to the monitoring of security sector activities (and not the Army only as it is the case today).

The challenge of democratic control over the security sector is relatively new to Ukraine. Hence, on its path to Euro-Atlantic integration, a lengthy period of adapting to the new values is imminent and the national democratic control institutions are faced with a difficult process of adapting to the essentially new realities of security discourse.

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[15] See *Maslyuk S.* Military-Civil Relations in Russia. Problems of Democratic Control over the Military Sphere. – M.: Tsimi, 1998. – p.23.

NATO – an important yet objectionable partner

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The North Atlantic Alliance is generally recognized as the most powerful and most effective organization responsible for security assurance. Though being of a regional format, NATO, however, is a key player in the international policy and guarantor of global security. At the same time, it plays an exceptionally important role in the strengthening of stability and security in Europe, facilitating the formation of a new structure of constructive continental relations. Furthermore, its orientation towards European values and modern understanding of security essentials has made it a factor of consolidation for the continent. The natural process of NATO's East-bound enlargement and its reform has become a distinctive feature of geopolitical changes in the region over the last fifteen years.

> The accession to NATO by Ukraine's Western neighbors and its transformation into a security structure considerably intensify the Alliance's attractiveness as a partner. All post-Socialist countries with an established democracy have exhibited a desire to integrate into it. Tens of States cooperate with the Alliance in one way or another, including almost all post-Soviet ones, among which Ukraine has since long now been one of its most active partners. But for this cooperation to be deepened it has to overcome the negligence and controversial attitude to the Alliance by part of Ukrainian citizens and the propaganda games played by some political forces disinterested in our country's rapprochement with the West.

NATO incognito

The North Atlantic Alliance is an organization of collective defense. Its essential purpose, as laid down in the Washington Treaty, is to safeguard the freedom and security of Alliance Members by political and military means. NATO activities are based on UN Charter Article 51, which upholds the inherent right of individual or collective self-defense.

NATO's policy is guided by principles as follows: the indivisibility of security – an armed attack on one Alliance Member State is considered to be aimed

at all of its Member States; assurance of collective defense based on an integrated military structure, respective agreements on cooperation and concerted efforts; maintenance of the necessary ratio of nuclear armed forces to conventional ones as a security prerequisite. Responding to changes in the international situation in Europe, NATO is making a transition to more compact and maneuverable military units, capable of responding to versatile emergencies. Conventional armed forces are being drastically reduced.

The Alliance's Strategic Concept states that the threat of simultaneous full-scale aggression on all European fronts has been actually eliminated, and thus is no more a focus of the Allies' strategy. Security risks are preeminently linked with instability bred by serious economic, social and political difficulties, including ethnic rivalries and territorial disputes occurring in Eastern and South-Eastern European countries. In addition, the document indicates that the Alliance's security must be approached in a global perspective, specifically with regard to the proliferation of weapons of mass destruction, disruption of the flow of vital resources, acts of terrorism and sabotage, and growing risks of minor conflicts rapidly developing into major concerns. The Alliance has pledged its commitment to implementing a broad approach to security, focusing on political, economic, social, and environmental factors in addition to the defense dimension. Harmonious combination of objectives in two focus areas: a) defense and armaments/disarmament control and b) primary use of political means, has now become a critical constituent of the strategy.

Alliance Member States fully retain their defense capabilities and responsibilities, yet applying collective tools, which notably improve the effectiveness of the security strategy. This strategy is based on maintaining that the most essential prerequisite for European stability and security is the growth of democratic institutions and commitment to the peaceful resolution of disputes. NATO's Strategic Concept emphasizes that no country should be able to intimidate or coerce any other through the threat or use of force.

The Alliance pursues a purely defensive posture: it will never apply weapons for purposes other than self-defense and does not consider itself to be any country's adversary. The key collective defense elements include collective planning; multinational formations; arrangements for crisis management and reinforcement; procedures for consultation; and infrastructure, armaments and logistics cooperation.

Indicative is the interaction between NATO and the European Union. On the one hand, the European security system actually cannot exist independently from NATO. On the other hand, the common European policy for EU security and defense is viewed as an important factor not only in terms of the continent's security, but also of improved effectiveness of the North Atlantic Alliance. To a certain degree, it erases the dividing line between its internal interests and those of its

numerous partner States that belong to the vast area comprising Euro-Atlantic and Eurasia.

Rapprochement: Prerequisites and incentives

Over the last years the Member States have been focused on reforming the North Atlantic Alliance. This subject will be taken up at the 2006 NATO Member States' Summit. The need to bring the Organization up-to-date is generally acknowledged, but interpreted differently by the West and the East. Any talking about the loss of strategic orientation or even the sense (justifiability) of its existence in a post-bipolar world is primarily a sign of newly-emerged forms of competition for influence in the new system of international relations. One should distinguish between NATO's evolution to respond to the changes in international situation and ideological, political and diplomatic struggle around the Alliance.

With the threat of large-scale conflicts gone, the attention to NATO's evolution and activities has become irrational in terms of international relations. Well, no essentially different fundamental values and approaches to the security problem are proposed while effectively competitive alternative mechanisms for security assurance are yet to emerge. However, this subject plays a notable role in domestic political struggle in many post-Soviet countries, specifically in Ukraine that has repeatedly declared its pursuit of full Alliance membership. Now it is the logic of this struggle that makes sure that ideas of acceptability or unacceptability of the new NATO format and role emerge and are implemented in foreign policy activities. If we are to dismiss the ideological guerilla wars – an echo of the past decades of confrontation – which are periodically rekindled by NATO's strategic partner Russia, one should consider the need not only and even not so much to reform as to preserve the fundamentals of Alliance activities and its high standards of democracy and efficiency. From this perspective, it is the NATO's mission-related discussion lingering over the recent years between the U.S. and some leading European States that makes a lot more sense and is much more natural.

Considering Ukrainian cultural and historical, economical and political realities, it primarily refers to the Euro-Atlantic format of both external impacts and external priorities. Foreign policy challenges, basic national interests, and real and potential partnerships are concentrated in the Euro-Atlantic area. Further consolidation of the Euro-Atlantic area is certainly capable of neutralizing the potential threat of Ukraine's disintegration and creating the most favorable conditions for a concurrent comprehensive solution of national and pan-democratic problems of its internal development.

Ukrainian non-bloc neutrality that ensued from the contingent need to establish sovereignty has indeed become a natural manifestation of uncertainty and transitional state of Ukrainian society. Internal prerequisites

for an unambiguous choice of basic values, development strategies, and geopolitical orientation are yet to ripen. Essential judgmental discrepancies persist as to the content and sources of national security threats as perceived by various layers of population and political forces. Incomplete independence and freedom from ideology in approaching security issues make themselves felt. On the one hand, it is manifested in the special vulnerability to Russian influence, and on the other hand, in the callous distorted perception of Western security structures. It results, in particular, in a "target" fear of being deprived of the habitual Russian custody and a similar apprehension of getting dependent on potential new partners – inhabitual and "different".

The first priority now lying with economic, environmental and other security aspects rather than law-enforcement, minimizes the significance of classic non-bloc neutrality, warrants a most active involvement in the integration processes and thereby disqualifies neutrality in value-related and geopolitical postures. Further integration process development and the new security system's effectiveness directly relate to the establishment in the European community of the above systems of social values and national existence basics. This is the only basis whereupon real reciprocal confidence and effective security and cooperation development can be achieved.

Ukraine's relations with the North Atlantic Alliance do not only contribute to the security concept alone. Rapprochement with NATO as well as the generally declared course for integration into the Euro-Atlantic Area must be based on an essentially new model of social-political development, and appropriate domestic transformation strategy. NATO's enlargement and active policy play a major role in the Ukrainian Europe-related policy. Over the recent years, it is largely due to the establishment of highly civilized standards of inter-State relations that the former Socialist states have settled numerous problems that used to be hidden behind mottos of "socialist internationalism" and kept at bay by the rigid mechanism of Kremlin domination. What apparently works here is an almost universal desire to promptly join the European Union and NATO – the most effective integration associations creating favorable conditions for minor and medium nations to secure their national interests. These were the incentives and mechanisms that determined the partners' constructive spirit in their negotiations and the progress made by Ukrainian diplomacy, specifically, in settling disputes in our relations with Rumania.

The neighborhood of the new NATO members at the western border of Ukraine opens new opportunities for Ukraine's integration into European structures. Of exceptional importance for Ukraine are: NATO's willingness to adapt to new European realities; readiness to factor in the positions of partner countries such as Ukraine in the process of Alliance transformation and enlargement; reduced threat of Europe being split into spheres of influence and Ukraine ending up in a "gray security zone"; mitigation of

potential negative consequences of Alliance enlargement for Ukraine due to Russia's specific position.

In addition, what does matter a lot to Ukraine is that NATO's role is not limited to exporting geopolitical stability and improving conditions for international cooperation development. In the process of its enlargement, the Organization has turned into a pertinacious lobbyist of democratic reform.

The NATO-Ukraine Action Plan, in underpinning the development of cooperation and Ukraine's rapprochement with Alliance standards, provides for implementing systemic reform. Its political and legal objectives include: to strengthen democratic and electoral institutions; strengthen judicial authority and independence; promote the continued development and strengthening of civil society and the rule of law; promote fundamental human rights and freedoms of citizens; ensure religious freedom; ensure freedom of assembly; complete administrative reform; strengthen civilian and democratic control over the Armed Forces and the whole Security Sector; fight corruption, money laundering, and illegal economic activities through economic, legal, organizational, and law-enforcement measures; improve and ensure the implementation of guarantees to the freedom of thought and speech, freedom of the press, free expression of opinions and convictions, and access to information; ensure the free gathering, publication and broadcast of information by the media; and implement relevant legislation on eliminating obstacles to activities of the media.

The Action Plan and associated annual target programs provide an extensive coverage of economic reform.

Getting closer to the Alliance under the modern conditions also requires that new socio-political features be acquired, including that for the sake of developing traditional security cooperation. The North Atlantic Alliance is an organization that ensures a security based on a specific interpretation thereof rather than an abstract security. Intents to join NATO must be supported by democratic standards of perceiving security challenges and responding to them. Reorientation in objectives and means to ensure security is part of the society's democratic transformation.

Challenges for Ukraine's Euro-Atlantic integration

Joining NATO is in Ukraine's national interest. National security of any country today is impossible without close cooperation with influential international structures. For Ukraine, the ultimate goal of such cooperation must be full membership with maximum access to the political, economic and technical potential of the Alliance along with active involvement in its ongoing reform.

In any event, Ukraine is and will remain a party affected by global, primarily European, trends and a sphere of interest for the West. However, once it has

stated its commitment to become a NATO (and EU) member, it has been changing the mode of such influence and gaining most realistic prospects of enhancing its own active role. At the same time, this influence does not seem to encounter a favorable enough environment in Ukraine and is turning into a factor of internal conflict.

The authorities are generally ready for such integration while the society is not. Ukraine as a State now perfectly shares the political, social, cultural and security-related values upheld by the Euro-Atlantic community. But as to the Ukrainian society, the situation is much more intricate. Various public opinion polls estimate the level of support for accession to NATO at 20%, whereas almost a half of the citizens object. Over 40% consider NATO an aggressive military bloc. It would not suffice to conclude that the level of public support for NATO membership is low. One result of the presidential elections was a deepened schism in the society and explicit rejection of the idea of NATO membership by a large number of citizens. One should admit that the vast civic movement triggered in late 2004, though having thwarted the "Russian scenario" of the country's development, never focused on advancing the Euro-Atlantic choice. In parallel, the anti-NATO and anti-American propaganda has resulted in a lower social support for the plans to join NATO. It is the area where the authoritarian and radical left-wing forces, which were defeated as a result of the Orange Revolution, are able to rally broader support than in any other area. The NATO subject may become the sharpest weaponry of political wrestling at the 2006 elections. In any event, reaching a consensus on this issue in a short-term perspective seems more than problematic.

As a result, the nation's leaders avoid discussing specific plans for Euro-Atlantic integration. NATO seems to be more prepared to consider Ukraine's membership than Ukraine itself is ready to take advantage of this perfectly real opportunity. On the one hand, Kiev has initiated the so-called intensified dialogue with Brussels being an essential tool to identify a partner's readiness for integration and quite confident statements are voiced by high-ranked NATO officials on the good chances to consider Ukraine's membership at the 2008 Summit of the Alliance. On the other hand, since this spring President Yushchenko has never mentioned the urgency of such a critical foreign policy issue as accession to NATO. He dodged this subject both in his programmatic speeches where European integration was one of the key points and during the multi-hour press-free meeting with Ambassadors and staff of the Ministry of Foreign Affairs of Ukraine. Assuming that the NATO subject has been tabooed until the parliamentary elections for tactic considerations, there are hopes still that, under the modern internal policy tendencies, a pursuit of compromise with political forces to be represented in the new Supreme Council will facilitate the conduct of an understandable and consistent policy in the strategically crucial Euro-Atlantic direction.

At the same time, it is important to realize that deferring membership till better times is as well associated with losses and risks. Inadequate perception of the Alliance yields a misunderstanding of its real place in the system of international relations and significance of cooperation with it. Firstly, NATO is an inextricable part of the West, one of the fundamental pillars of the modern world order that cannot be artificially divorced from other affiliate structures as it happens in the mass conscience of Ukrainians. Secondly, considering the all-European processes, the treatment of Western partners and the North Atlantic Alliance in particular, cannot be alienated from the treatment of democratic values. The Alliance is not an accidental or secondary bearer of those values. On the contrary, it plays a special role in their protection and consolidation.

Following the change in power in Ukraine, Alliance membership prospects have become plausible and the policy in this area should be consistent and pragmatic to the utmost. But will it indeed be that way, considering the still lingering overheated political tussle? This constituent of our national interests is distinguished by the fact that we will have to pay a high price and expend considerable efforts to implement it. And the price must be calculated. Similarly, the efforts to be expended should factor in the priorities concentrated at this stage on the country's domestic life. We conclude that the Orange Revolution impulse has not yielded a drastic acceleration of the Euro-Atlantic integration process. And now that the fundamental political obstacles on this path have been removed, one must identify and evaluate other challenges that we are faced with from this point onward.

In theory, the new government to be formed in spring of 2006 could take initiative for a forced integration into the Alliance despite the majority of people not being ready for it. To a degree, it could be helped by Russia's frustration and unpreparedness to develop relations with the post-revolution Ukraine. But it would most likely be a mistake primarily as far as long-term interests are concerned. Ukraine is not in a position to establish its geopolitical coordinates and the role in the system of international relations by "fleeing" from Russia.

> On its path to Euro-Atlantic integration, Ukraine has two issues to settle in its relations with Russia. First, lift all artificial obstacles to the implementation of our interests at the international arena and make it impossible for Russia to claim any special rights. Second, establish with Russia a close partnership to be based on the principles of international law and European traditions and to become a fitting constituent of the system of international relations. Issues such as those relative to frontiers, military cooperation or Russian military presence in Ukraine should be settled factoring in the prospects for its Euro-Atlantic integration.

Ukraine's accession to NATO is going to cost Western countries a price as well. The problem to reflect the change of Ukraine's place and role in EU and

U.S. geopolitical estimates is extremely complex, and our partners are not yet fully prepared to solve it. The political and diplomatic tussle over the issue of Ukraine's accession to NATO will be dense both in bilateral relations and in the Ukraine – Russia – West triangle, now that it is equally important for both Ukraine and the West to ensure a conflict-free nature of this process, remaining on truly good terms with Russia.

A high efficiency in upholding national interests and implementing our own foreign policy strategy will be difficult to achieve without domestic consolidation. Until recently it had been inhibited and the level of patriotism lowered by such factors as social and economic hardships, low confidence in the authorities, and alienation of the public from political life. Lack of reform and of initiative-encouraging conditions along with mass pauperization had developed a reserved (to put it mildly) attitude towards their own country in a considerable part of the population. It is demonstrated by nostalgic sentiments cherished by part of the population; by the specifics of propensities exhibited and priorities upheld by part of the political elite; by divergence between long-term national interests and the current status of domestic political struggle, by inconsistency and indecision in setting strategic foreign-policy priorities. Ukrainian Easterners and Southerners are quite vulnerable to attempts at highlighting the European and Euro-Atlantic choice, on the one hand, while deepening cooperation within the CIS, on the other.

Nor should one forget that the process of strengthening the Ukrainian democracy will take up considerable efforts and time. Revolution is no substitute for reform: the lag in implementation of the Alliance-agreed plans in political, legal, and civil areas has now grown in excess of two years. Consistency and cogency are also needed to fortify domestic support for strategic foreign policy decisions. Apparent is incompleteness of national self-identification and domestic consolidation processes along with a lack of common understanding of basic values and national agenda. This predicament can be helped by drastic improvements in the socio-economic and political situation in the country.

First and foremost, the country's democratic development should be ensured and consolidation finalized. This is the only priority until April 2006. It is the single area where successful implementation will eliminate the weak spots and yield the basis for pursuing a strong foreign policy. In parallel, what must be clarified is the role of specific political forces in the country and its political elite groups. What seems natural is the posture of the democratic forces who consistently vote for joining European and Euro-Atlantic structures and that of the Communists who vote against it with comparable consistency. Positions taken by the political forces that were recently stripped of power should be regarded differently. They will most likely be governed by the then status of pre-election struggle, intent on pulling the

strings of popular sentiments. The parliamentary elections will clarify the situation, but not radically.

It is no doubt that we now have the best chances to make pragmatic practical steps to further our cooperation with NATO. The simplest of them, and yet very important, are disposition of superfluous weapons and ammunition, military-to-civil industry conversion, staff re-qualification, and technical assistance. In addition to that, it should be clarified at this point to what extent Brussels is willing to facilitate the promotion of Ukrainian equipment and technology at Western markets. It is worthwhile to probe again, under the new conditions now, how flexible the Alliance's policy in dealing with Ukraine can be and how it is prepared to take our interests into account. Pragmatic nature of the goals outlined makes one hopeful that they will eventually raise sufficiently stable support on the part of Ukrainian political forces and the public and that the Alliance will be perceived rationally by the broadest possible spectrum of our population.

Nuclear Safety and Security in the Context of Ukrainian National Security

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If an average Ukrainian were asked for his or her understanding of the word combination "yaderna bezpeka" ("nuclear safety or security"), the response would be – it is nuclear power plants being safe and secure.

A low level of confidence in the authorities for nuclear safety and security, as exhibited by Ukrainian society, was recorded by social surveys conducted by the Ukrainian *Razumkov Center for Economic and Political Studies* in April and May 2005.[16] Nearly 25 % of our nationals consider Ukrainian NPPs as "extremely unsafe", another 40.3 % as "quite unsafe". In contrast to the government's disclosure of ambitious plans to build 11 nuclear power units by 2030, made public this May, the outcome of the public opinion poll reflecting the popular interpretation of the nuclear safety status in the country is a cold shower for the "hot" heads in the government. The authorities may not dismiss the public opinion if they are indeed set on building a law-based, democratic civilian state that would eventually join the European Community.

The public ideas with regard to the nuclear safety and security status in Ukraine have been formed under the impact of the Chernobyl Disaster and based on mistrust in the state authorities as a response to the governmental attempts at distorting the information disseminated during the tragedy, and on a low level of public awareness of the state's capabilities to assure nuclear and radiation safety and security. To provide objective and unbiased information on the state policy in the use of nuclear energy and regularly disseminate information on the nuclear and radiation safety status is the codified responsibility of the state administrative authorities and nuclear industry entities. It must be admitted that it is the insufficient focus on information and enlightenment work with target audiences of the public by entities dealing with peaceful applications of nuclear energy that has

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[16] *Saprykin V.* Power and Society: Setting Up Cooperation for Safe Nuclear Industry Development. – National Security and Defense. – 2005. – №6 (66). – p.37–48.

ultimately brought about the results reflected in the poll. The real status, however, is fundamentally different from what the society has come to believe.

The individual citizen with his or her constitutional rights (including the right of safe and healthy environment) and the society are the focus of the national security system. Assurance of environmentally and industrially safe conditions for citizens and the society, preservation of the environment are listed as Ukraine's national interests codified in the Law *On the Fundamentals of National Security of Ukraine*. To assure nuclear safety and security in our state, a ramified system has been created, representing a structure of subsystems combining state authorities of different levels, enterprises, and organizations with clearly defined functions, powers, and means.

Assurance of nuclear safety and security as part of the national security in each nation begins with the creation of appropriate legislative basis. In Ukraine the legal basis for national security is represented by the Constitution, Law of Ukraine *On the Fundamentals of National Security of Ukraine,* national legislation for the safe use of nuclear energy, developed throughout the period of independence taking into account the world experience and recommendations by international organizations.

We would note that the Ukrainian term "yaderna bezpeka" must be interpreted, on one hand, as "observance of the norms, rules, standards, and conditions for dealing with nuclear material, that ensure radiation safety" (Art.1 of the Law of Ukraine *On the Use of Nuclear Energy and Radiation Safety*) – i. e. as identical to the English term *nuclear safety*. In addition, Art. 7 of the Law *On the Fundamentals of National Security of Ukraine* identifies national security threats such as manipulation of Ukrainian nuclear facilities for terrorist purposes and the potential for illicit import of weapons, explosives, means of mass destruction, and radioactive devices. Hence, on the other hand, "yaderna (fizychna) bezpeka" (nuclear security) must be interpreted as creating conditions to minimize the likelihood of nuclear terrorism, theft or any other illicit removal of nuclear material, radioactive waste, and other ionizing radiation sources along with strengthening the regime of nuclear nonproliferation. Therefore, in the context of Ukrainian national security, one may refer to nuclear safety in terms of environmental safety (observance of the norms, rules, standards, and conditions for dealing with nuclear material, that ensure radiation safety) and to nuclear security as part of the national security (prevention of crimes and suppression of terrorist attacks perpetrated with the use of nuclear and radioactive material or nuclear facilities, and nonproliferation of nuclear weapons).

A number of international conventions acceded to by Ukraine, which provide the basis for the international nuclear and radiation safety assurance regime,

are part of the national nuclear law. The most essential are the Convention on Nuclear Safety and Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, Convention on the Physical Protection of Nuclear Material. On April 13, 2005 the 59th Session of the U.N. General Assembly approved a draft International Convention for the Suppression of Acts of Nuclear Terrorism, made open for signature on September 14, 2005 – the opening day of the U.N. General Assembly's 60th Session. In order to prevent crimes as interpreted by this Convention, its Article 8 binds its States Parties to "make every effort to adopt appropriate measures to ensure the protection of radioactive material, taking into account relevant recommendations and functions of the International Atomic Energy Agency. Ukraine was among the first states to sign this convention.

Our nation's accession to these Conventions makes it possible: first, to compare the level of nuclear and radiation safety achieved in Ukraine with the world's one, based on periodic (once every three years) national self-assessment reports.[17] Second, other States Parties to these Conventions along with international organizations dealing with nuclear energy would review Ukrainian national reports as appropriate at compliance review meetings associated with these Conventions, and provide their evaluations of the nuclear and radiation safety status in our State and recommendations on ways to improve the situation in this area. From this perspective and also considering that international organizations such as the International Atomic Energy Agency (IAEA) practice visits to IAEA member countries by expert missions to evaluate the performance of specific elements of national nuclear and radiation safety systems, physical protection systems at nuclear facilities and radioactive waste storages, one can confidently resume that the real picture of the nuclear safety status in Ukraine, including our fulfillment of international commitments, is under routine evaluation by the world community.

The system of nuclear and radiation safety in Ukraine is based on principles codified in the Law *On the Use of Nuclear Energy and Radiation Safety*, which are commonly accepted worldwide:

- Priority for the protection of humans and the environment from the effects of ionizing radiation;

- Delimitation of functions between those of state control over the use of nuclear energy and those of state regulation of nuclear and radiation safety;

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[17] It concerns the Convention on Nuclear Safety and Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

- Delimitation of functions between those of state control over the use of nuclear energy and those of economic activity relating to the use of nuclear energy;

- Distribution of obligations, rights, and responsibilities among all persons and legal entities participating in the use of nuclear energy;

- Establishing liability for violations of legal safety conditions in the use of nuclear energy;

- Establishing a legal and financial mechanism for operator or licensee liability for causing nuclear damage in the event of a radiation accident to private citizens and to workers under its authority;

- Provision for compensation for damage caused by the effects of radiation, as well as social and economic compensation for the additional risk factors assumed by personnel of a nuclear installation or ionizing radiation source and by private citizens living or working in the vicinity of a nuclear installation or a radioactive waste management facility;

The system of nuclear and radiation safety assurance includes elements as follows:

- Legislative and regulatory bases (laws, norms, rules, and standards in the use of nuclear energy);

- A national regulatory agency for nuclear and radiation safety (State Nuclear Regulatory Committee of Ukraine), which is independent in its activities from state administrative authorities in the use of nuclear energy, enterprises, institutions, and organizations performing activities in this area; and is made responsible by the State for:

  - developing norms, rules, and standards for nuclear and radiation safety;

  - safety assessments of nuclear facilities and ionizing radiation sources; and granting licenses (permits) as appropriate;

  - State surveillance over observance of the norms, rules, and standards of nuclear and radiation safety, and validity terms of the granted licenses (permits);

  - responding to detected violations by imposing administrative penalties on the personnel, company management, and organizations in accordance with the legislation; suspending or withdrawing licenses;

- State administrative authorities responsible for the use of nuclear energy (Ministry of Fuel and Energy of Ukraine and Ministry for Emergencies and Protection of the Public against Consequences of the Chernobyl Disaster);

- Licensees – legal entities or individuals owning permits appropriately issued by State regulatory agencies for nuclear and radiation safety to perform a certain activity. A licensee is fully responsible for radiation protection and safety of the nuclear facility and ionizing radiation sources regardless of the responsibility of suppliers and State regulatory agencies for nuclear and radiation safety;

- Operator (National Atomic Energy-Generating Company "*Energoatom*") – a State-appointed legal entity responsible for assurance of nuclear and radiation safety of the nuclear facility; insurance of radiation protection of the personnel, the public and the environment; and liable for nuclear damage compensation;

- Infrastructure to assure emergency preparedness and crisis management in case of emergencies at nuclear facilities as well as radioactive waste management facilities (from the facility level up to the national level).

The word combination "nuclear security" is thus far not applied in the current Ukrainian legislation due to a language collision (safety and security both translate into Ukrainian as "bezpeka"). To date, it is identified with the term "physical protection", although the latter has a much narrower meaning than the notion of nuclear security that also includes measures to be taken by the State to prevent illicit trafficking in nuclear and radioactive material and inadvertent relocation of nuclear and radioactive material beyond the state frontier, as well as export controls on military and dual-use commodities and services.

This article being limited in scope as it is, we will highlight two most critical systems that ensure nuclear security in the context of national security.

The system of state export controls is regulated by the Law of Ukraine *On State Control over International Transfers of Military and Dual-Use Goods* and associated regulations.

State export control policy is formed based on principles as follows:

- Priority of Ukrainian national interests– political, economic, and military ones, which must be upheld to ensure national security;

- Imperativeness of meeting Ukraine's international commitments with respect to: nonproliferation of weapons of mass destruction and their delivery means; establishing state controls over international transfers of

military and dual-use goods; and making sure action is taken to prevent the said goods from being used for terrorist purposes and other illegal applications;

- Implementing export controls only to the extent necessary to achieve its goals;

- Harmonization of state export control procedures and rules with international law and practice;

- Provision of mechanisms for observance of international treaties and joint non-proliferation policy designed to implement UN Security Council sanctions against specific countries and against terrorism;

- Cooperation with international organizations and foreign States with a view to strengthening of international safety and stability, including efforts to prevent proliferation of weapons of mass destruction and their delivery means.

Structural elements of the export control system Ukraine are:

- Legislative acts identified by the Supreme Council of Ukraine;

- The National Security and Defense Council of Ukraine and Committee for Military and Technical Cooperation and Export Control Policy under The President of Ukraine, which coordinate and control activities of administrative entities in the area of export controls;

- The State Service for Export Control of Ukraine together with the Customs Service of Ukraine, other central administrative authorities implementing Ukrainian export control policy. The State Service for Export Control, directly and or as requested by other central administrative entities, restricts or bans international commodity transfer activities, should their implementation contravene Ukraine's national interests, its international commitments, and anti-terrorist purposes; or should there be grounds to refer the said goods to weapons of mass destruction or their delivery means; or should there be missing adequate end-use safeguards;

- Enterprises that export and import the aforesaid goods based on permits issued by the State Service for Export Control. They shall have export control internal compliance systems in place and associated export control departments making sure the enterprise observes the export control law at all stages of international commodity transfers.

To achieve the goals of physical protection of nuclear material and nuclear facilities, a State system for physical protection has been created based on principles identical to the listed above for the first subsystem:

- Identification of legal entities responsible for security of nuclear material, radioactive waste, and other ionizing radiation sources based on licenses is appropriate;

- State regulation (norm-setting, licensing, surveillance) of physical protection activities;

- Observance by licensees and the operator of physical protection requirements as appropriate for specific activities and the category of nuclear facilities, nuclear material, radioactive waste, and other ionizing radiation sources;

- Observance of requirements related to special verifications;

- Creating conditions for achieving the goals of physical protection of specific nuclear facilities, radioactive waste treatment facilities, and other ionizing radiation sources and transports.

The State is fully responsible for the creation, implementation, and maintenance of a system for physical protection of nuclear material and nuclear facilities. The State system of physical protection must be based on nuclear threat assessment. It should consider other factors, including the State's emergency response potential, appropriate action as part of the State nuclear material control and accountancy system. An important element of the State physical protection system, as recommended by IAEA, is to identify the design hazard based on State assessment of the threat of unauthorized removal of nuclear material and subversive activities with respect to nuclear material and nuclear facilities. The State shall routinely review this threat and evaluate the meaning of any changes in it based on the available levels and methods of physical protection.

The State system for physical protection of nuclear facilities, nuclear material, radioactive waste, and ionizing radiation sources in Ukraine includes components as follows:

- Physical protection laws, regulations, rules, and requirements;

- The National Security and Defense Council of Ukraine;

- A competent agency appointed by the State (the State Nuclear Regulatory Committee of Ukraine) that is independent from licensees/operator, discharges functions of a central authority and contact point for physical protection of nuclear material pursuant to the Convention on Physical Protection, and is responsible for:

    - Development of physical protection norms, rules, and requirements;

- Issuance of licenses for activities related to physical protection of nuclear facilities and nuclear material (as listed by the Cabinet of Ministers of Ukraine);

- State surveillance over observance of laws, norms, rules, and standards; requirements to physical protection of nuclear material, nuclear facilities, radioactive waste, and other ionizing radiation sources (should violations be detected, SNRCU is authorized to impose administrative sanctions on the enterprise or organization's personnel or management as appropriate in accordance with the law; suspend or withdraw licenses; and file the case with internal security agencies whenever a crime has been detected);

- Performance assessment of physical protection measures (the competent agency must make sure the operator's acceptability assessment of physical protection measures includes administrative and technical measures; tests of detection, evaluation, and communication systems; a review of physical protection procedures; and measures to verify the level of qualification and preparedness of the security and emergency response teams);

- The operator that is fully responsible for physical protection of nuclear material and nuclear facilities and for nuclear damage compensation;

- Infrastructure and emergency response teams to effectively preclude attempts at unauthorized removal of nuclear material and subversive activities at nuclear facilities;

- Confidentiality measures (the State must take action to ensure proper protection of specific information, disclosure of which may jeopardize physical protection of nuclear material and nuclear facilities).

Having structurally compared the two subsystems, one may conclude that despite certain distinctions (specifically, involvement of a broader spectrum of the state authorities, primarily of the security sector, in the second subsystem), their main elements are analogous. The most critical ones to be highlighted include: legislative and regulatory bases; implementation of State regulation of activities in the above-listed areas (norm-setting, licensing, and State surveillance); licensee responsibility for nuclear safety assurance, physical protection of nuclear material and nuclear facilities, and compensation for nuclear damage; required availability of an infrastructure for emergency and crisis management.

It must be admitted that the national system for physical protection of nuclear material and nuclear facilities in Ukraine is still under construction. Unfortunately, the authorized organ of competence together with other State authorities and organizations such as the National Intelligence Service have yet to identify the design hazard to nuclear material and nuclear facilities, radioactive waste, and ionizing radiation sources. The design hazard is meant to determine the level of physical protection against unauthorized removal of nuclear material and potential subversive activities at nuclear facilities and during the transport of nuclear material. Measures to respond to the design hazard should be incorporated into physical protection provisions and regulatory requirements. With the design hazard – a fundamental element of physical protection – still unidentified, systemic and consistent development of the physical protection normative and legal basis is impeded; particularly, physical protection norms remain to be developed.

Among the key focuses of the State's national policy for environmental safety in the context of nuclear and radiation safety, Article 8 of the Law of Ukraine *On the Fundamentals of National Security of Ukraine* provides for "undertaking a series of measures to ensure environmental safety of nuclear facilities and reliable protection of the public and the environment, as well as minimization of effects caused by the Chornobyl Disaster". This policy is pursued by the State administrative authorities through implementing a series of national and industry-branch programs ultimately designed to enhance the safety of peaceful applications of nuclear energy and functional reliability of all components of the national nuclear-fuel complex.

As to nuclear security as part of the national security, the key State policy focuses have been identified to include Ukraine's participation in international concerted efforts to suppress international terrorism and working out an effective system of controlling defense-related and dual-use product and technology supplies (export control).

These are the Ukrainian State security policy focuses, which, in combination with others, are key to continuous improvement of specific elements of the established nuclear safety and security assurance subsystems, in order to make the entire system function effectively. Active international cooperation and willingness to implement the world's best practice are instrumental for timely responding to the current challenges and identifying priorities for national security assurance and protection of our national interests.

KALEIDOSCOPE

Iranian nuclear program: solution coming soon?

Mentioned arrangement was held within the framework of Russian American program on accountability, control and physical protection of nuclear materials, which nowadays counts more then 10-years history. The third Russian International Conference on accountability, control and physical protection of the nuclear materials, further referred to as the Conference, was hosted by Federal Agency for Atom Energy (Rosatom), State Scientific Center of Russian Federation – A.I. Leipunskoho Physics and Energy Institute. The Conference was sponsored by National Nuclear Security Agency/Department of Energy of the United States of America (NNSA/DOE), International Scientific and Technical Center (ISTC), TSA Systems, Ltd under support of International Institute of Nuclear Materials Management (INMM).

Overall number of participants made more then 400, which represented, accept number of governmental, scientific organizations, companies and firms of Russian Federation and USA also performed such countries as Azerbaijan, Byelorussia, Georgia, Egypt, Kazakhstan, Canada, Kirghiz, Lithuania, Tajikistan, Uzbekistan, Ukraine, Finland, Sweden. As well representatives of the United Research Center of European Commission and International Scientific and Technical Center took part in Conference work. There were more then 170 reports presented on different aspects of accountability, control and physical protection of Nuclear materials, including such important issues as enhancement of the culture in this area of activity, accountability, control and physical protection system operation capacity support, as well as introduction of new technologies. During the Conference a Technical Exhibition was conducted, which performed samples of specialized equipment of 20 Russian, foreign and joint venture enterprises and companies.

Summing up the results of Conference's work, among rest of the issues participants were remembering positive results of bilateral 10-years Russian American cooperation in the given sphere; were talking about necessity to support achieved level of nuclear (physical) security that foresees beforehand targeted planning process, granting funds, training of new generation of the experts; as well as paying a serious attention to development and adherence to the culture of security (physical).

In 2008 it is foreseen to complete main projects started within the framework of Russian American Program, 90-ies. Paying attention to that circumstance Conference participants decided that it would be expedient to convoke and conduct the Forth Russian International Conference of the

same issues in 2008 and address to the Management of the Department of Energy of the USA and Rosatom with request to review an issue on its scheduling and preparation.

International scientific practical conference "Nuclear Sites: Reliability and Safety"

International Conference, aimed at achievement of the progress on the way to control over radioactive sources during their whole life cycle. It was arranged by IAEA and hosted by the French Government.

In 1990-ies a serious anxiety raised in connection with accident related to the radioactive sources, which sometimes had a really serious consequences. After acts of terror on September 11, 2001 against the USA, International community in full measure realized the threat of possible use of radioactive sources with malevolent purposes.

Possible consequences of the accident similar to the consequences of malevolent act with the use of radioactive source – that are high dozes of radioactive exposure of several persons, which sometimes causes lethal results and pollution of the environment; and that is possible to cause anxious moods in society and a need in conducting an expensive measures on cleanup. But such radioactive sources cannot be used for WMD. Only materials that splinters (frequently they called as nuclear materials), can be used for production of nuclear (atom) weapon.

By now, it's been already 45 years as IAEA actively provides secure conditions of utilization of radioactive sources. Main step was made in 1996, when International Basic Safety Standards for Protection Against Ionizing Radiation and for the Safety of Radiation Sources were published

These Safety Standards contains as well requirements regarding safety (physical protection) of radioactive sources. IAEA gives a serious assistance to State-members in brining to life these standards. Last years IAEA also submitted a competitive assistance in reimbursement of radioactive sources and strengthening control over it. Conference in Bordeaux once again underlined importance of role, which is been played by the protection of radioactive sources from unauthorized and criminal actions in battleship of world society against the threat of radiological terrorism.