

## **Can Ukraine find a deal that works?**

*di Lawrence Freedman*

In [my last post](#) on the curious peace plan drafted by Steve Witkoff and Kirill Dmitriev I urged that in its response Ukraine should not be panicked into arbitrary deadlines (Trump had suggested Thanksgiving as an appropriate date). I also suggested they ask for clarity over how Russian views are to be sought and incorporated so that after Ukrainian concessions Russia did not come back for more, ensure that the military and economic pressure on Russia was kept up to encourage it to soften its position, and get more clarification and more detail on what the language of the plan was intended to convey.

Lastly it was important to ‘cherry pick’ – to identify the:

‘bits that are acceptable, or could be made acceptable with better wording, and then suggest amendments that make them more favourable.’

The Ukrainians and their European allies, helped by Secretary of State Marco Rubio, had similar thoughts. Thanksgiving has been and gone. They were able to turn the original amateurish and pro-Russian 28 points into a more acceptable 20. The new plan has not been released and is currently being held very closely, but we know that it contains no final determination on some of the more contentious issues, including the territorial. Matters that are properly for bilateral discussion between the US and Russia have been removed.

So perhaps there is a negotiating process underway. Drafts are being developed and starting to be shared with interested parties. The Russians have now received the 20-points document. Current discussions are different from those earlier in the year in that a much wider range of issues are being addressed. But the core points of principle on which the earlier efforts got stuck remain. In particular Russia continues to demand that Ukraine hand over territory that it has failed to take through war.

Before the leak of the 28 points on 19 November the best assumption was that not much more would happen until February or March. The Russians were banking on continuing progress on the front lines and making Ukrainians more miserable as they were left tired, cold, and blacked out because of regular drone and missile raids. For their part the Ukrainians assumed that if they could last the winter and confine Russia's additional gains to a few increments of land then it might dawn on Moscow that it will never truly win this war. This message would be reinforced by extra economic pressure and regular hits on Russian oil infrastructure and other military - related targets.

Ukrainians have shown grit and resilience, and they will fight on rather than capitulate to unjust and unreasonable Russian demands. But they also have an incentive to take the negotiating process seriously. They would welcome a ceasefire to provide some respite and a chance to refresh, especially given a deepening corruption scandal. Although the most likely outcome is that little will be achieved from this process, they also need to show that if it fails it will not be because of their intransigence. So what should their strategy be and is there any chance that the US and Europeans can help make it work?

The Russians are frustrated that once again, while they were close to getting their demands accepted as US policy, the opportunity may have slipped away. After Sergey Lavrov warned that the Ukrainian amendments may mean that they can't sign, which would mean the end of this process, Putin promised that were happy to address the US discussion points. In his [latest comments](#) he observed that there was no draft peace treaty, but a 'set of issues that were supposed to be discussed and formulated.' According to Putin the US points 'can be used' as the basis for future agreements. He welcomed that the US was taking Russia's position into account:

'There are points, where we absolutely need to sit down and seriously discuss some specific things.'

I will return to Putin's core demands presently.

Ukraine is watching cautiously. Its position is not helped by the corruption scandal. This has now led to the resignation of Zelenskyy's Chief of Staff Andriy Yermak. He has

been leading Ukraine's negotiating team and had been due to travel to meet Trump in Florida this weekend with National Security Adviser Rustem Umerov, who has also been touched by the scandal. So Zelenskyy's team needs reinforcing, and he will also have to fill the large hole left by a man who was in the middle of all key initiatives and, in his own way, kept the government functioning. Many in Ukraine will cheer Yermak's resignation, as he is believed to have exercised far too much power, and often in a self-serving way. So while the timing is far from ideal and the scandal is both embarrassing and frustrating, it does show that, unlike Russia, Ukraine's civil society and anti-corruption bodies are working. For obvious reasons Ukraine is not short of individuals who understand the military and diplomatic strands of this war and how they interact.

### **The US Team**

The US team has a different sort of problem. It is small, divided, and spread thin. Trump has said that he does not want to talk to either Zelenskyy or Putin until the deal is close to being done. That is for the best. Negotiating on detail is not his forte. Equally while Steve Witkoff talks about issues with Putin he does not negotiate with him. He always seems to be in listening mode and does not push back against the Russian president's more outlandish claims and demands. The Kremlin is always happy to welcome him back. He is after all their friend in Trump's court, but their conversations are having diminishing returns, and that remains a serious problem with these negotiations.

His past reports on what the Russian leader was prepared to accept turned out to be unreliable. He has been damaged further by the leaked transcript of his conversation with Yuri Ushakov, the Kremlin's Foreign Policy Advisor, showing how he advised him to get Putin to ring Trump to distract him before a planned meeting with Zelenskyy, a ploy which worked. He has long been dismissed by Ukrainians as a Russian mouthpiece and now a number in Congress are starting to see him in the same light. He has no formal position in the administration but he is a pal of Trump's and so he will probably stay in position. Unfortunately, if the Americans really do want to make progress then they need to press Putin and Witkoff is not the man to do that.

General Keith Kellogg has been the main point of contact with the Ukrainians. They trust him, but he is leaving in the new year. The Secretary of the Army Dan Driscoll happened to be in Kyiv to talk about drones when the 28-point plan leaked, so he was deputed to discuss them with the Ukrainians. He seems to be carrying on in this role for now but it is not clear whether he can continue as a major player on these issues. They are not in his job description. He is a friend of Vice-President JD Vance and might at some point take over from the hapless Secretary of Defense/War Pete Hegseth.

Another figure lurking in the background, is Trump's son-in-law Jared Kushner. As he worked with Witkoff on the Gaza plan he contributed to the 28 point plan. There have been reports that he will be travelling with Witkoff to Moscow, so that will be two envoys close to Trump with only informal positions in the US government.

The only person who can really pull the strands of the various discussions together and conduct the more formal negotiations is Marco Rubio, combining his Secretary of State and National Security Adviser hats. That suits Ukraine and the allies. His meetings with his Russian counterpart Lavrov have been frosty but the Russians need to know that if they threaten to walk away Rubio might not mind. In addition, the amateurish drafting of the 28 points is a reminder that any deal will require carefully crafted language to explain how the agreed measures will be implemented. That requires professionals who can work beyond broad principles, and while their numbers have been depleted some officials with the required expertise are still available in the State Department.

The drafting process is important. Experience warns that the Russians will interpret whatever language is agreed to suit their purposes and play on every ambiguity. They will try to insert traps into clauses to be exploited later. At every stage of the negotiation, assuming it lasts beyond these first tentative steps, the Russians will be trying to use the process to divide the alliance and further weaken US links with Ukraine. It will present any moves designed to support Ukraine – from provision of new weapons to turning the seized Russian financial assets into a loan to Ukraine – as being contrary to the spirit of peace. Unfortunately, there is [evidence that this is](#)

[already working](#) with the Belgians, who are key to getting agreement at the EU Council in mid-December, and are pleased to have another excuse not to back it.

### **Ceasefire or Settlement**

Trump has been impatient for a deal which is why his preference has been for an early ceasefire to stop the fighting to be followed by negotiations on the hard issues. Putin, by contrast, demands that the hard issues are settled first. Yet any serious negotiation could take months and soon get bogged down in details. Even ceasefires are rarely simple matters, not least because they require agreement on the boundary between the forces, which is even more difficult than normal in this case because of the fluidity of the front lines and how much of the fighting involves small units in wide spaces. Then there is the extent to which the forces of both sides should disengage and how compliance should be monitored and claimed breaches investigated.

The basic problem in this case is not so much that Putin wants a comprehensive settlement that covers all that is in dispute between Russia and Ukraine. There are many issues that Ukraine wants on the table – including reparations for the immense damage done to their country, prosecution of war crimes, and post-war reconstruction – that Putin will have no interest in discussing. The problem is that Putin wants the ceasefire line to be drawn in a different place to where the forces have reached.

A ceasefire need not be equivalent to a final territorial settlement but in practice that is a likely result. If the ceasefire lasts the agreed line will over time become a political border. The aggrieved party will not wish to recognise the new border as fixed and legitimate. This has always been Ukraine's concern. Even if the deal involves no more than a recognition of current realities (*de facto*) and the Russians are denied international recognition (*de jure*), it will still mean that the occupation of its territory will be less temporary than they hoped. An agreement on this basis risks a permanent loss for Ukraine. Given the imbalance in power between the two countries, limiting the Russian gains would be an achievement for Ukraine but not a victory.

### **Putin's demand**

But Putin wants more. He has been consistent, and still insists that Ukraine hands over the rest of Donetsk as the key to a cessation of hostilities. As he stated in his latest pronouncement: either Ukraine retreats to get a deal or 'we will achieve our goals by military means.'

He also dismissed the Ukrainian government as lacking legitimacy, contending that it was 'pointless to sign documents with the Ukrainian leadership.' This is not about corruption but reflects his wish that the annexation of these territories be recognised: 'We need these decisions of ours to be internationally recognized by the main international players.' In short: 'We need recognition. But not from Ukraine today.' He would prefer that Ukraine transfers sovereignty but he knows that they will not, so he is saying that he doesn't want it anyway.

There are reports that the US will offer recognition of Russian gains but if the EU, UK and other G-7 states do not, this will be of limited value to Moscow. It will not help get the sanctions regime unravelled. As with the suggestion that the US could invite Russia back to turn the G-7 into the G-8 again, there are limits to what Trump can do alone. The other members would all need to agree. Putin has been negotiating on the assumption that if he gets agreement with the US everything else will fall into place, including Ukrainian compliance and Europeans tamely following, but exaggerates Trump's power and the resistance a bad deal will face.

The Russians are also continuing to present their position as already virtually agreed with the US. They claim that their territorial demands were accepted by the Americans as part of the conversations (largely with Witkoff) which led to the Alaska summit in August. This is despite the lack of an agreed communique from the summit and the fact that it finished early because Putin had little to offer Trump other than one of his history lessons explaining why Ukraine is not a real country. It came up again in October, after the successful Witkoff-Ushakov plot to get Putin to make an emollient call. After this Trump, with Witkoff, pushed Zelenskyy to see if he would bend on abandoning Donetsk and he would not. Trump did not make this a public demand and then dropped it.

This is one of the many reasons why Witkoff is the wrong person to take messages to Moscow. He seems to find the Russian demands reasonable and realistic and does little more than report them back to Washington and occasionally urge Kyiv to accept. Instead, this is what a US envoy should say:

‘Neither the United States nor its allies will recognise territorial gains obtained through illegal aggression. We cannot and will not pressure Ukraine to hand over land that is within its internationally recognized boundaries. With an agreed ceasefire you will perforce continue to occupy territory that you have taken through brute force. Now you threaten that additional territory can also be taken by force but this cannot be done soon if at all. Ukrainian cities that you predicted were about to fall last summer, and this summer again, are still not under Russian control. We wonder if your generals are telling you the truth, playing down the scale of your losses while exaggerating those of Ukraine. At your current rate of progress it will take years and hundreds of thousands of casualties to take over territory that will have been ruined by the fighting. Why is this territory so important? You annexed the Donbas in September 2022 but at the same time you also annexed Kherson and Zaporizhzhia and you now seem to accept that you won’t be able to take all of these. So why persist with Donetsk? We are offering you a way to get out of this war with your gains intact. Why not take it?’

As already indicated, accepting prolonged Russian control of the territories already taken is concession enough from Ukraine. If he so desired, Putin could present this as a victory of sorts to his people, although it falls well short of his previous political objectives.

Are their creative ways negotiators might find to make it easier for Putin to shift his position. Some issues are easier to fudge than others, and territorial division is not one of them.

The original 28 point plan contained this passage.

‘Ukrainian forces will withdraw from the part of Donetsk Oblast they currently control, and this withdrawal zone will be considered a neutral demilitarized buffer

zone, internationally recognized as territory belonging to the Russian Federation. Russian forces will not enter this demilitarized zone.'

When I considered this in my previous post I asked why, if this territory was to be neutral and demilitarised, it could stay part of Ukraine. Leaving the non-trivial matter of not further rewarding aggression, it would cause enormous upheavals for the residents of those cities behind Ukrainian lines. Demilitarisation of this territory would require a major effort because of minefields and various fortifications. It would not simply be a matter of forces withdrawing. Nonetheless, because of the range of drones there is some logic to having a substantial zone (on each side of the line of contact) largely empty of forces as part of a ceasefire. This position might require special arrangements, including international monitors, that would distinguish this piece of territory from the rest of Ukraine. At a stretch it might be possible to offer future talks on the final status of this territory if that would help Russia to agree, although obviously with no guarantees of a transfer of sovereignty.

Away from the territorial issue the main Russian demand is that Ukraine be denied membership of NATO. This was accompanied originally with a demand for Ukraine's 'demilitarisation.' In practice it is unlikely that Ukraine will join NATO in the near future as there are countries that will block it – this of course was also the case before the full-scale invasion. The proper answer to the Russian demand is that it is none of its business if Ukraine wishes to join an alliance.

The problem for Moscow is that the issue has moved on over the past four years. Ukraine is now the most militarised of European states with a thriving defence industry and international partners. In 2022 Russia was pressing to limit the standing army to 85,000. In the 28-point plan this was raised to 600,000 and then in the revised 20-point plan it became 800,000, more or less the current size of Ukraine's armed forces. Moreover, Trump now seems to accept that Ukraine will need security guarantees from Western countries, including the US.

He has indicated that he does not want to discuss this issue until the core deal has been sorted, but he is unlikely to ignore it if some scheme is necessary to clinch a deal. The draft security guarantee for the 28 point plan was claimed to have been designed

by reference to NATO's Article V, and is certainly better than anything that was on the table before. There are, in addition, other ideas developed by the 'Coalition of the Willing', led by the UK and France, involving strengthening the Ukrainian armed forces for its future deter and defend role, backed by aircraft to be based close by, and possibly army contingents inside Ukraine. None of this requires Ukraine's full membership of NATO.

Russia's basic problem is that Ukraine has survived as an independent and sovereign state. That is why once Kyiv survived the early days of the war any settlement was going to leave Russia with a hostile and aggrieved neighbour, and the prospect of a simmering conflict into the indefinite future. Any settlement will include clauses in which Ukraine promises to accept the new status quo and not attempt to regain what it has lost by force while Russia will promise not to take more and reflect the lack of trust that such promises will be kept. And this is the other feature of a ceasefire. Because it cannot provide a definitive solution to the underlying conflict between the two states, all the other problems created by this war will remain unsettled and a source of continuing aggravation. It would be nice to think that if the negotiating process were to somehow get some results then we will be able to relax and concentrate on more peaceful pursuits. But there is a level of distrust and anxiety that has been inserted into Europe and not just Ukraine as a result of Russia's aggression. This will linger and shape regional politics for some time, at least not until something fundamental changes in Moscow.