



# The Implications of Eurasian Integration for the EU's Relations with the Countries in the post-Soviet space

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## Introduction

Over the past five years, two processes of regional integration have been unfolding in Eastern Europe and the Southern Caucasus. On the one hand, as part of its Eastern Partnership (EaP), the European Union (EU) has offered an enhanced contractual framework consisting of Association Agreements (AAs) including provisions on the establishment of Deep and Comprehensive Free Trade Areas (DCFTAs) premised on legal approximation with the EU's trade-related acquis. On the other hand, in 2010 Russia (together with Belarus and Kazakhstan) established a Eurasian Customs Union (ECU), which was upgraded to a Eurasian Economic Union (EAEU) early 2015 and enlarged to Armenia and Kyrgyzstan. Both processes are based upon deep economic integration and entail legally binding commitments for the participating countries, thus bearing potentially strong effects in terms of domestic change.

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For the EU, this creates an unprecedented situation. The EU has broadly supported the creation of, and dialogue with, other regional groupings worldwide, especially since the end of the Cold War. Yet it has so far been reluctant to developing links with the EAEU. As the paper argues, this can be explained by two closely connected factors. First, even though the ECU was launched to foster deep economic integration on the basis of World Trade Organisation (WTO)-compliant standards, our article claims that the EAEU does not consistently promote rule-based integration. Instead, it increasingly turns into a foreign policy instrument serving Russia's objectives. Second, while the EAEU's failure to develop rule-based integration hampers (from the EU's perspective) the establishment of a bloc-to-bloc dialogue, the geographical scope of the Eurasian integration process overlaps with the EU's own policies in the region. Therefore, the EAEU bears implications for the EU's relations with post-Soviet countries. Over the past two decades, the EU's policy in the former Soviet Union has significantly evolved from a single offer (based upon a similar contractual framework, the Partnership and Cooperation Agreements) to clearly differentiated policies (the EaP, the EU-Russia Strategic Partnership and the new Partnership with Central Asia). Arguably, the Eurasian integration process affects all EU policies in the post-Soviet area, even though to different degrees and for different reasons. Clearly, it bears major implications for the EU's relations with the EaP countries, as EAEU membership is incompatible with the EU's DCFTA offer (Van der Loo & Van Elsuwege, 2012). Indeed, the DCFTAs proposed by the EU are compatible with any free-trade agreements, including those signed in the framework of the Commonwealth of Independent States (CIS). However, membership of the Customs Union implies for member countries a loss of sovereignty over trade policy and sets common tariffs which are incompatible with the elimination of tariffs planned under the DCFTA. However, as the article shows, the Eurasian project also impacts on the EU's links with Russia and the Central Asian countries.

This article scrutinizes the various implications of Eurasian integration for the EU's relations with post-Soviet countries, including Eastern Partnership countries, the Russian Federation and Central Asian republics (primarily Kazakhstan). In the first part, we review the reasons behind the launch of the Eurasian integration project and the EAEU's institutional framework. We then proceed to analysing the EAEU's implications for the EU's policy in the post-Soviet area; we examine successively how Eurasian integration is likely to affect the EU's relations with EaP associated and non-associated countries, and

finally with other EAEU members. We conclude by offering recommendations on how the EU may factor Eurasian integration in its policies (primarily in the revised European Neighbourhood Policy) and how it could find a balance between a regional and bilateral approach towards its eastern neighbours.

## Key features of the Eurasian Economic Union

### *Origins, history and members of the EAEU*

The EAEU is one of the many regional (re-)integration projects in the post-Soviet space. The oldest of such projects was the CIS, created in 1991. It was followed by the establishment of a free trade area between its members in 1994, which however did not come into effect because it was not ratified by Russia. The selective ratification of agreements in the CIS framework was a typical manifestation of the lack of political will to make it a real economic union. Russia, by far the largest and most powerful country in the region, preferred bilateral economic cooperation over multilateral binding agreements throughout most of the post-Soviet era (see e.g. Cooper, 2013; Dragneva & Wolczuk, 2012). Other existing regional agreements and organisations in the post-Soviet space (except the Baltic States, which are EU members) include the Collective Security Treaty Organisation (CSTO), the Union State of Russia and Belarus, the CIS Free Trade Area, and the GUAM (Georgia, Ukraine Azerbaijan, Moldova) Organisation for Democracy and Economic Development. These formats for cooperation and their member states are listed Table 1 (p. 8).

Initiatives for economic integration in the post-Soviet space date back to the mid-1990s: the idea of a Eurasian Union of States was formulated and promoted at several occasions in 1994 by the Kazakh President Nursultan Nazarbayev (Blockmans, Kostanyan, & Vorobiov, 2012; Cooper, 2013), and was followed by the signature in 1995 of a treaty on the formation of a customs union between Russia, Kazakhstan and Belarus. Kyrgyzstan joined in 1996 and Tajikistan in 1997. This did not entail concrete action until 2000, when these five countries established the Eurasian Economic Community (EurAsEc) which, contrary to the CIS, aimed to bind all its members to its commitments by coordinating ratification and prohibiting reservations. It also set up a special court to deal with dispute resolution. Moldova and Ukraine became observers in 2002, Armenia in 2003. Uzbekistan signed an accession protocol in 2006 but suspended its membership in 2008. In the EurAsEc, free trade however

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*Table 1: Main regional formats for cooperation in the post-Soviet area*

	Eurasian Economic Union (EAEU)	Commonwealth of Independent States (CIS)	CIS Free Trade Area (CISFTA)	Collective Security Treaty Organisation (CSTO)	Union State	GUAM Organisation for Democracy and Economic Development
Armenia	X	X	X	X		
Azerbaijan		X				X
Belarus	X	X	X	X	X	
Georgia						X
Kazakhstan	X	X	X	X		
Kyrgyzstan	X	X	X	X		
Moldova		X	X			X
Russian Federation	X	X	X	X	X	
Tajikistan		X	X	X		
Turkmenistan						
Ukraine			X			X
Uzbekistan		X	X			

continued to be hampered by quotas and exceptions, and the establishment of the court was delayed until 2012. Russia continued to rely on bilateral measures, even in the multilateral system (Cooper, 2013; Dragneva & Wolczuk, 2012).

Renewed efforts to create a customs union were made in the early years of the 21<sup>st</sup> century, which culminated in 2006, during an informal EurAsEc summit in Minsk, in the decision of the Presidents of Belarus, Kazakhstan and Russia to move ahead with the issue. The ECU treaty was signed in October 2007; after negotiations on its implementation throughout 2008 and 2009, the treaty became effective in January 2010. The common external customs tariff was launched in July of the same year, internal border controls were removed in January 2011 (Cooper, 2013; Dragneva & Wolczuk, 2012). ECU cooperation includes common legislation, tariff and non-tariff regulations, a common commodity nomenclature for foreign economic activity, and common procedures for clearance and control. The stated goal of the ECU is to introduce a system harmonised with the international system and the WTO regime. To this end, it was stipulated that WTO law will prevail over any conflicting ECU provi-

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sions, even for those members that are no member of the WTO (Blockmans et al., 2012; Dragneva, 2013; Dragneva & Wolczuk, 2012).

Economic integration in the region got a new boost when a Common Economic Space (CES) of Belarus, Kazakhstan and Russia started functioning in January 2012. Its aim is to strengthen regulatory convergence and the effective functioning of a common market for goods, services, labour and capital, and to ensure coherence in industrial, transport, energy and agricultural policies (Blockmans et al., 2012). The ECU Commission was replaced with the Eurasian Economic Commission (which is still the name of the executive body of the EAEU), and the above-mentioned EurAsEc Court in Minsk was finally established (Cooper, 2013; Dragneva & Wolczuk, 2012).

Thus far the final step of economic integration in the region is the establishment of the EAEU, which became operational in January 2015. It builds upon the ECU and the CES and is much more solid than previous attempts at regional economic integration (see e.g. Dragneva, 2013; Dragneva & Wolczuk, 2012). The basic agreements are for the first time listed and to be adopted *en bloc*, the decisions of the Eurasian Economic Commission are legally binding and directly applicable in the legal order of the member states, and the decisions of the Court are binding to the parties. The Treaty on the establishment of the EAEU was signed on 29 May 2014 by the Presidents of Russia, Belarus and Kazakhstan (see web page of the EAEU: <http://www.eaeunion.org/?lang=en>).

In September 2013, Armenia's President Serzh Sargsyan announced his intention to join the organisation (ENPI info centre, 2013, 5 September), which implied that the process of concluding a DCFTA with the EU was aborted because of legal incompatibilities; through its membership of the EAEU, Armenia lost its competence of individually signing free trade agreements with other (groups of) countries. Sargsyan signed the EAEU Treaty in October 2014 (Russia Today, 2014, 10 October) and Armenia joined the bloc in January 2015. Kyrgyzstan's President Almazbek Atambaev signed the EAEU Treaty in December 2014 and the country joined the organisation at the end of May 2015 despite some internal discussions on its economic and political consequences. (RFE/RL, 2015, 21 May; Satke, 2015). Customs checkpoints with Kazakhstan were removed in August (RFE/RL, 2015, 12 August). Besides these five members, Tajikistan is heading towards eventual accession to the EAEU (see e.g. Glazyev & Tkachuk, 2015; News.tj, 2014, 23 December).

### *Institutions of the EAEU*

The institutional structure of the EAEU is in some respects similar to that of the EU (see web page of the EAEU: <http://www.eaeunion.org/?lang=en>), but it is more pyramidal and less horizontal (Popescu, 2014; Vilpišauskas et al., 2012). In addition, the EAEU has no Parliamentary Assembly.

The highest institution of the EAEU is the Supreme Eurasian Economic Council with the Heads of State of its member states. This body decides in consensus about the main directions of the EAEU.

The Intergovernmental Council of the Eurasian Economic Union is a body at Prime Ministers' level. It supervises the implementation of the treaty provisions and the decisions of the Supreme Eurasian Economic Council.

The Eurasian Economic Commission (EEC) is the executive body and has its headquarters in Moscow (see web page of the EEC: <http://www.eurasian-commission.org/en/Pages/structure.aspx>). It adopts binding decisions, as well as orders (mostly on internal organisation and relations with other actors) and recommendations. The EEC consists of two main structures: (1) the Council of the Eurasian Economic Commission and (2) the Collegium (or Board). The Council, chaired by an annually rotating presidency, oversees the activities of the Collegium and is composed of one serving deputy prime minister per member state. The Collegium manages 23 departments and has three members (called 'ministers' or 'members of the board') per member state, who are appointed for a four-year renewable term. One of the members is designated as the chairman of the Board. The Collegium issues a much larger number of decisions, orders and recommendations than the Council (see web page of the EAEU: <http://www.eaeunion.org/?lang=en>). All decisions of the Council are taken in consensus; in the Collegium, decisions are adopted with a two-thirds majority, but there is a unanimity rule for sensitive topics (the list of topics is decided by Supreme Eurasian Economic Council). In addition, decisions adopted by qualified majority may be vetoed by a member state and referred to the Supreme Council or the Intergovernmental Council (Cooper, 2013; Dragneva, 2013; Jarosiewicz & Fischer, 2015).

The previously existing weighted voting in the Commission of the Customs Union was abolished and it is unlikely that this mode of decision-making will be reinstated later. A system too favourable for Russia might cause resentment in the other member states, while a system that is too generous for the smaller member states would be unacceptable for Russia (Popescu, 2014).

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There is also a Court of the EAEU, located in Minsk. It rules on disputes between the member states and its decisions are binding to the parties.

Finally, the Eurasian Development Bank, with headquarters in Almaty, finances projects aimed at economic growth and integration in and between its member states, including the members of the EAEU as well as Tajikistan (see website of Eurasian Development Bank: <http://eabr.org/e/about/>).

*Reasons for EAEU integration: economic for some, political for others*

The question can be raised whether the EAEU is indeed a purely economic union or whether it also implicitly serves political purposes. When one takes a look at the areas of competence of the EAEU, the ambitions are rather high: the EAEU plans to coordinate policies of its members on financial markets, currency policy, transport, telecommunications, construction and the legal status of migrant workers. In addition, the intention is to develop common policies for energy, agriculture, industry and competition (Eurasian Economic Commission, 2013) – even though the implementation of some sensitive topics such as the common markets for gas, oil and electricity was postponed (Jarosiewicz & Fischer, 2015). There are also plans for a single Eurasian sky (Ak Zhaik, 2014, 23 May).

These far-reaching competences of the EAEU institutions can of course be considered as strictly belonging to the necessary instruments to make the economic union work. However, several analysts (e.g. Jarosiewicz & Fischer, 2015; Popescu, 2014) have argued that the EAEU is as much (or even more) political as it is economic. This is not unique: the Baltic States also decided to apply for membership of the EU before the economic consequences were well-calculated (see e.g. Vilpišauskas et al., 2012).

Russia is the only EAEU member state with clear political objectives for the EAEU (Glazyev & Tkachuk, 2015, p. 82), despite its efforts to convince the others of the opposite (Pugsley, 2015). To begin with, Eurasian re-integration is the flagship project of Vladimir Putin's third Presidency (Popescu, 2014). In 2011, he wrote that he saw the project evolve into a Eurasian Union with passport-free travel, to become one of the main poles of the modern world and a bridge between Europe and Asia (see e.g. EUObserver, 2011, 4 October). The geopolitical ambitions of Russia to regain influence in the region through the ECU/EAEU became obvious at several occasions. Its



Government used several carrots (such as lower gas prices, loans, repayment of expenses for possible WTO compensation claims, open labour markets for migrant workers) and sticks (including trade sanctions, threats to close the labour market and security threats) to pull hesitating countries into the ECU (see e.g. Delcour & Wolczuk, 2013b; Dreyer & Popescu, 2014; Jarosiewicz & Fischer, 2015). This happened without involvement of the other ECU members and before the ECU had actually proven to be viable and beneficial to its members. The economic rationale behind the EAEU is indeed questionable (see e.g. Blockmans et al., 2012; Dreyer & Popescu, 2014): important conditions for mutually beneficial economic integration – such as proximity of economic centres, relative balance between the size of economic units, level of economic and institutional integration and complementarity of the economies – are unfavourable. All this strengthens the suspicion that the aim of Russia has been to use the ECU/EAEU as a tool to increase its influence over its member states and to limit their options to develop relations with other countries.

However, the political aspect of the EAEU is not a done deal, and the conflict in Ukraine – a country that Russia expected to be essential to make the EAEU a geopolitical heavyweight – has jeopardized Russia-Ukraine relations for the years or even decades to come. With the EAEU, Putin tries to institutionalize the relations he currently has with the other member states. The political landscape of these countries is characterized by their strong leaders and weak institutions. Sooner or later the question of these leaders' succession will arise, which can result in instability. The EAEU is an instrument to sustain these countries' links to Russia and stop the advance of China to Central Asia and that of the EU into Russia-EU common neighbourhood. In the meantime, the Belarusian President Alexander Lukashenko as well as Kazakhstan's President Nazarbayev strongly focus on the economic aspects of the union and are concerned about their political sovereignty (Astapenia, 2015; Korosteleva, 2015; Satpaev, 2015; Sultanov, 2015, pp. 101-102). They are opposed to moving beyond economic cooperation in the EAEU, and it is also due to them that the organisation is called the Eurasian *Economic* Union and not the Eurasian Union (Atilgan et al., 2014; Glazyev & Tkachuk, 2015, p. 82; Yesdauletova & Yesdauletov, 2013). These countries are increasingly uneasy with Russia, due to the latter's involvement in the Ukrainian conflict. There is also no solidarity in the EAEU regarding Russia's trade sanctions against Ukraine, Moldova and the EU. As will be discussed below, other



EAEU members – especially Belarus – could capitalize on it by re-exporting sanctioned products (see e.g. Moshes, 2014; Popescu, 2014).

## Why the EAEU matters for the ENP

Ever since the early 1990s, the EU has organized the countries surrounding it in concentric circles: around the members there were candidates, associated countries and partners (see e.g. Popescu, 2014). In doing so, the non-EU countries in Europe were seen as passive absorbers of EU norms, who were rewarded for the desired reforms with preferential trade and progress towards a free trade zone, financial support, and facilitated or liberalized visa regimes (Delcour & Wolczuk, 2013b). The diffusion of EU norms was not questioned by the countries in Central and Eastern Europe, initially not even by Russia. Under President Boris Yeltsin the latter committed to come closer to ‘European’ values, which was also reflected in the EU-Russia Partnership and Cooperation Agreement of 1994 – even though relatively limited actual legal approximation has taken place, either with Russia or other post-Soviet countries (Delcour & Wolczuk, 2013a). This is also due to the fact that throughout the 1990s, the EU kept a low profile in the post-Soviet area, which was clearly not a priority for a Union concentrating on its own internal integration project and on the enlargement process (Delcour, 2011). The EU’s involvement (even if limited) was not opposed by Russia (Delcour & Kostanyan, 2014), which was not able to act as a strong regional leader during most of the 1990s. This changed rather abruptly with the Rose and Orange Revolutions and the subsequent intensification of EU engagement with the region, which led to the launch of the EaP initiative – a clear attempt at bringing the participating countries closer to the EU’s normative and regulatory framework (see e.g. Delcour & Kostanyan, 2014; Dragneva & Wolczuk, 2012; Haukkala, 2013).

Parallels can be drawn between Russia’s experience in 2004 and the EU’s surprise in recent years. The EU did not take the regional re-integration efforts in the post-Soviet region seriously until 2013. The establishment and institutional anchoring of the EAEU – which includes even Armenia, a country that was previously engaged in far advanced negotiations on political association with the EU – challenges the previously existing post-cold war narrative in two ways. Firstly, the notion of unilateral norm transfer from the EU to the East is no longer evident nor accepted. Secondly, an alternative pole (the EAEU) is created with the potential to move towards a bipolar Europe, even

though there are serious doubts about the credibility of the model promoted by Russia (see *supra*, see also Delcour & Wolczuk, 2013b; Haukkala, 2013). Still, the EAEU also aims to establish itself in concentric circles (Glazyev & Tkachuk, 2015, p. 74), just like the EU did during the past decades. These developments force the EU to reconsider their relations with the region, not least because Russian high-level politicians and officials have repeatedly called for a formalized dialogue between the EU and the EAEU, which should lead to a free trade agreement and ultimately to a common economic space (see e.g. EUObserver, 2015, 2 January; TASS, 2015, 14 April; Vinokurov, 2014). Russia recently took similar initiatives of cooperation and dialogue with other main economies, such as China (Russia Today, 2015, 8 May).

Thus far, the EU's reactions to the establishment of the EAEU – and to calls for dialogue – have been very reluctant (see e.g. European External Action Service, 2014, 15 September; European External Action Service, 2014, 18 June). In a way this is ironic, because the EU consistently presents itself as a promoter of regional integration (see e.g. Della Sala, 2015). However, for a number of reasons the EAEU is not the type of regional integration the EU likes to see happening (see e.g. Haukkala, 2013; Vilpišauskas et al., 2012). First, it raises new obstacles to trade than facilitating it (see e.g. former European Commission President Barroso in Davos, YouTube, 2015). For instance, the common external tariff provisions of the EAEU are based on Russia's tariff levels, which are higher than those previously applied by Kazakhstan, Kyrgyzstan and Armenia. This may trigger compensation claims and retaliation in the framework of the WTO (De Micco, 2015). Second, there are also more general concerns about the compatibility of the EAEU with the WTO rules. In particular, one of the EAEU countries (Belarus) is not a WTO member and is thus not fully integrated into the rules-based system of international trade. Third, the EU's formal recognition of the EAEU would also have significant geopolitical implications. In particular, it could be perceived as a signal that the increasing bi-polarisation of Europe is accepted and that the EU is willing to follow Putin's logic of 'bloc to bloc' negotiations. Under the current circumstances, the European Commission therefore only has a mandate to maintain contacts 'at technical level' with the EAEU and only hesitantly analyses the possibility of more far-reaching interactions in the future (European Commission, 2015a). In this respect, it is noteworthy that the 'Issues Paper on Relations with Russia', drafted by the EU's External Action Service (EEAS) in January 2015, also suggested 'some level of engagement of with the

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EAEU’ but, at the same time, warned that this should not affect ‘the non-negotiable principle of free choice for all partners in the common neighbourhood’ (External Action Service, 2015).

The following sections take the analysis further by examining the implications of the EAEU for the EU’s Eastern Policy.

### *The associated EaP countries: does the EAEU matter and how?*

By signing AAs, including DCFTAs, with the EU, Georgia, Moldova and Ukraine have taken far-reaching commitments in terms of legal approximation with the EU acquis (Delcour & Wolczuk, 2013a; Van der Loo, Van Elsuwege, & Petrov, 2014). Therefore, the EAEU may be expected to have only minor implications for these countries’ relations with the EU, especially after the establishment of DCFTAs. However, as the sections below show, Russia has recently been using bilateral trade, security and migration ties with these countries to complicate further integration with the EU.

In *Georgia*, despite a broad consensus on the prioritization of Euro-Atlantic integration, Russia has emerged as a divisive issue in the domestic political debate over the past three years (Delcour & Wolczuk, 2015b). The then Prime Minister Ivanishvili has repeatedly criticized the former authorities on their strategy vis-à-vis Russia and conversely, the normalisation sought with Moscow has been fiercely opposed by the former President’s allies. Since 2012, the policy shift toward Russia has remained rhetorical rather than substantive, yet Russia’s growing presence in the political discourse has contributed to increasing tensions between the authorities and the opposition (as shown, for instance, by the reactions to Ivanishvili’s statement on the need for Georgia to consider the Eurasian option). In addition, the resumption of links in 2013 provides Russia with renewed leverage over the country (Delcour & Wolczuk, 2015b). The lifting of the embargo in Russian-Georgian trade relations has been gradual, starting with wines, mineral water and fruits and proceeding company by company (Cenusa, Emerson, Kovziridze, & Movchan, 2014, p. 8). Despite this progressive move, the Russian market quickly re-gained importance for Georgian producers. Russia, Georgia’s fourth largest trading partner in 2013, moved to the third place in 2014 with a 9.5% increase over 2013 (Civil.ge, 2015, 21 January). The country now accounts for 9.6% of Georgia’s exports (with wine and mineral water being the key export products). However, Russia expressed concerns on the possible impact of the

DCFTA on bilateral trade, an issue which was discussed early July 2014 in the framework of the informal dialogue between the Russian Deputy Foreign Minister and Georgia's Special Representative for talks with Moscow (RFE/RL Caucasus Report, 2014, 2 August). A few days before, the Russian Ministry for Economic Development had prepared a decree suspending the bilateral free-trade agreement signed with Georgia in 1994. While this threat has not materialized so far, Russia has indirectly stepped up its pressure over Georgia by signing treaties of Alliance and Strategic Partnership with the breakaway regions of Abkhazia and South Ossetia (Delcour & Wolczuk, 2015b). These envisage an alignment of the secessionist territories with the EAEU through the creation of a common social and economic space with Russia, and could therefore undermine the implementation of the DCFTA. In particular, Abkhazia should adapt its customs regulatory framework to that of the EAEU within three years from the entry into force of the treaty, signed with Russia (see *Dogovor mezhdru Rossijskoj Federatsiej i Respublikoj Abkhazia o sojuznichestve i strategicheskom partnerstve* (2014)).

A similar pattern has been unfolding in *Moldova*. Like in Georgia, Russia has supported those Moldovan political and societal actors (e.g. the Church, the Communist Party) who are less lenient toward EU values. Moreover, it has also facilitated the emergence of new 'hooks' (Stewart, 2009) inside the country, inter alia the Party of Socialists in favour of cancelling the AA signed with the EU. If anything, divisions regarding foreign policy orientation surfaced with the November 2014 parliamentary elections. Despite a tight majority in favour of parties supporting EU integration, the Party of Socialists (whose leader, Igor Dodon, met Putin in Moscow during the electoral campaign) has emerged as the single largest party. Another key element in Russia's policy of 'managed instability' (Tolstrup, 2009) is the increasing use of breakaway and autonomous regions as pressure points over Moldova. Russia's policies vis-à-vis Transnistria and Gagauzia build both upon their specific (non-Romanian) identity within Moldova and their close economic links with the Russian Federation. In these regions, Russia is seen as both a protector against (the perceived threat of) a Moldovan unitary state based upon the Romanian heritage and an alternative to integration with the EU. Besides supporting the breakaway region of Transnistria and anchoring it further to its own legislation, Russia has especially sought to empower pro-Russian forces in the autonomous region of Gagauzia. The organisation of a referendum on the

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Customs Union in 2014 (with 98% of voters in favour of joining ECU) and the election of a governor supported by Russia in March 2015 are vivid examples of Russia's counteracting power. At the same time, Russia has made a much more extensive use of trade instruments than in Georgia. After imposing a series of trade restrictions, it cancelled the tariff-free preferences under the 2011 Russia-Moldova CIS Free Trade Agreement for 19 categories of products (Cenusa et al., 2014, p. 5). While the EU has responded by cutting tariffs and increasing quotas, the reorientation of Moldovan exports toward the EU market is only a long-term perspective, given the weak competitiveness of Moldovan products and limited capacities of companies. In essence, Russia's policies are thus meant to compromise Moldova's capacity to pursue EU integration and induce parts of the country into joining the EAEU, as shown by the enhanced contacts with Gagauzia. They seem to (partly) bear fruit: according to a survey conducted in April 2014, 45% of the Moldovan population is in favour of joining the ECU while 44% support integration with the EU (down from 52% in 2013) (Institute of Public Policy, 2014).

Finally, Russia's increasing pressure over *Ukraine* (starting with the trade war in summer 2013) has had counter-productive effects (from Russian perspective, Delcour & Wolczuk, 2015b). Not only did Russia's policies fail to induce the country into Eurasian integration; they also prompted a sense of urgency about reforms in line with EU demands. Thus, the emergence of Russia as a direct security threat (with the annexation of Crimea and support to rebels in eastern Ukraine) only resulted in consolidating the commitment to further integration with the EU (Delcour & Wolczuk, 2015b). While the measures introduced in 2013 (a ban on confectionary producer Roshen and enhanced border controls for imports from Ukraine) proved insufficient to induce Ukraine into joining the ECU, throughout 2014 Russia significantly expanded trade bans (e.g. on cheese, potatoes, poultry from a large Ukrainian producer, raw milk and dairy products, alcohol) in retaliation to both domestic developments and the signature of an AA with the EU (Cenusa et al., 2014). This only resulted in a seemingly durable deterioration of perceptions of the Russian market among Ukrainian producers and enhanced their interests vis-à-vis the EU's offer. Therefore, while the entry into force of the DCFTA has been delayed to discuss Moscow's concerns, Russia's combination of actions threatening the existence of the Ukrainian state and targeted punitive measures has de facto facilitated the adoption of EU-prescribed change. This is primarily because the

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scope of Russian pressure has not only increased the attractiveness of the EU's offer; by threatening Ukrainian statehood, it also prohibited any other policy alternative for Ukraine (Delcour & Wolczuk, 2015b). Yet the degree to which EU norms and templates will be effectively applied still needs to be ascertained.

Overall, in Georgia, Moldova (and maybe Ukraine in the future) the EAEU is used by Russia as an instrument to detach breakaway regions from the rest of the countries, thus threatening statehood and ability to reform in line with EU templates. At the same time, in all three countries Russia's pressure has been a major driver of integration with the EU. Therefore, the exact influence of the EAEU on associated countries needs to be ascertained upon implementation of the agreements – which only started provisionally in September 2014 for Moldova and Georgia, but has been postponed in the case of Ukraine (EurActiv, 2015, 7 May).

### *The non-associated EAP countries: what impact of EAEU membership on relations with the EU?*

Armenia is arguably the country where the EAEU has had the greatest implications on relations with the EU. While the country had substantially reformed in line with EU demands (Delcour & Wolczuk, 2015a) and completed negotiations for an AA/DCFTA, in September 2013 president Sargsyan announced that it would join the ECU. Clearly, the role of Russia as an insecurity provider (e.g. threats of a surge in energy prices and especially massive arms sales to Azerbaijan) was instrumental in the decision not to initial the DCFTA. This is because Armenia's policy is filtered through the Nagorno-Karabakh conflict, which has been the defining feature of its post-Soviet existence (Delcour & Wolczuk, 2015a). The country's creeping strategy of complementarity between a Russian security umbrella and a European model of development thus stumbled against its overarching security and foreign policy priority (Delcour, 2014). The decision to join the EAEU was made despite the economic costs to be incurred by the country.

Armenia stands as an exception in the worldwide picture of customs unions, as it does not share any border with other EAEU members. Moreover, the EAEU's tariffs are higher than Armenia's and applying them requires negotiations with the WTO (Delcour, 2014), while Armenia will only gain limited benefits from the redistribution of common customs duties. Nonetheless, despite

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joining the EAEU the authorities still hope to preserve their key objectives in terms of domestic reforms and foreign policy, including some degree of complementarity. The preservation of a degree of autonomy is also made possible by the high number of temporary exemptions (around 800) secured by Armenia during the EAEU accession negotiations.

After a period of strategic pause following the announcement of Armenia's decision to join the EAEU, Armenia and the EU resumed talks on a framework for a possible new bilateral agreement to replace the Partnership and Cooperation Agreement (PCA). The first stage of the talks was a so-called 'scoping exercise' that aimed to set the legal ground of the future agreement. The goal of the exercise was to identify areas that can be included in the new agreement taken into account Armenia's new commitments vis-à-vis the EAEU. Armenian and EU officials went through the already negotiated text of the AA and the DCFTA and identified policy areas which could be included in the new agreement and those that required revisions or exclusion.

In March 2015, the EU and Armenia have successfully completed the scoping exercise and identified the areas of future cooperation (Karapetyan, 2015). The new agreement is likely to keep almost unchanged the text of political dialogue and common foreign and security policy chapters. The title on justice, freedom and security as well as a large amount of sectoral chapters are also likely to remain largely unaltered. Within sectoral policy areas, possible changes are to take place in chapters dedicated to consumer policy, energy and taxation. The major differences between the already negotiated AA and the new agreement are related to the part of the DCFTA. Chapters on 'customs, services, sanitary and phytosanitary measures (SPS), and intellectual property rights (IPR)' (Kostanyan, 2015) are unlikely to be included in the new agreement without changes.

Although the scoping exercise is completed, the question on what directives and regulation can still be included in the new agreement are yet to be addressed during upcoming negotiations (Interview, Armenian official 13 May 2015). The next step is therefore for the European Commission to receive a mandate from the Council to start the negotiations with Armenia (European External Action Service, 2015d). Therefore, this new agreement, when concluded, has the potential to serve as a test case for EAEU members' ability to pursue a multi-vector foreign policy and retain links as close as possible with the EU.



*Belarus* is another EAEU member included in the EaP. As opposed to the other five EaP countries, the EU-Belarus PCA was never ratified and thus did not enter into force (European External Action Service, 2011a, 2011b). All other forms of official cooperation including the ENP and the EaP as well as the Joint Interim Plan (2010) and the Dialogue on Modernisation (2012) 'have either been thwarted or simply had no effect. Meanwhile, Belarus' relations with its eastern neighbours continue apace, though more through compulsion than by free will' (Korosteleva, 2014).

Despite its overdependence on Russia, Belarus consistently tried to resist Kremlin's dominance. Belarus did not join to Russian sanctions against the West and was quick in engaging with Ukraine's first post-Maidan President Petro Poroshenko. The ECU did not function well not only because of the division between the members on the sanctions but also because of the reintroduction of customs controls by Russia to prevent the supplies of EU agricultural goods to the Russian market under the name of Belarusian products (Gromadzki, 2015). In order to ease its dependence on Russia and balance its on-going absorption into the EAEU, Belarus has yet again sought closer relations with the EU especially since the start of the conflict in Ukraine.

The EU on its side has actively used the multilateral framework of the EaP to engage with the Belarusian authorities. Throughout last year, the relations between Belarus and the EU warmed up to the point that the President Lukashenko showed interest to participate in the EaP Riga Summit. However, the EU rejected Lukashenko on the grounds that 'there are 4 political prisoners in Belarus' (Interview, EU member state diplomat, 10 May 2015) and the visa ban against Lukashenko and other members of his regime remain in place. As opposed to the Belarusian President, Azerbaijan's President Ilham Aliyev was invited to the EaP Riga Summit (but did not attend) although in Azerbaijan the political prisoners considerably outnumber those of Belarus (Human Rights Watch, 2015). Such double standards are a clear demonstration of inconsistency of the EU's policy towards its Eastern neighbourhood.

*Azerbaijan* has not shown interest in the 'crown jewel' of the EaP – the AA and the DCFTA (Merabishvili, 2015), despite the fact that it started negotiations with the EU on the AA in 2010 (European Commission, 2010). However, it soon became clear that Azerbaijan would not follow the example of the other Southern Caucasus countries. Starting negotiations on a DCFTA would require Azerbaijan to become a member of the WTO beforehand and

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undergo domestic reforms as part of the preconditions. It, therefore, preferred to work towards a less far-reaching ‘Strategic Modernisation Partnership’ (Ghazaryan, 2014). The process of initiating such a ‘Strategic Dialogue’ was also stalled. Azeri authorities have eventually submitted their proposal at the summit to the Commission (Interview, EU diplomat, 21 May 2015). The choice of the word ‘strategic’ that was insisted by Azerbaijani authorities is deliberate as it does not presuppose a kind of conditionality that underlines the ENP and EaP.

As opposed to Armenia and Belarus, Azerbaijan has thus far not shown interest in joining the EAEU. At the same time, the volatile geopolitical context has emboldened Azeri authorities internally and vis-à-vis the EU. Throughout the last decade, the Azeri regime used the country’s ‘difficult geographical and geopolitical context as an excuse to tighten the political screws’ (Kobzova & Alieva, 2012, p. 3). Currently, being at the crossroads of competing offers from the EU (EaP) and Russia (EAEU), as well as using the EU-Russia confrontation and conflict in Ukraine, the Azeri elite has sought to further repress the critiques on the regime. The Azeri authorities have grown more confident in the importance of Azerbaijan for the EU and have pushed through the oppression of dissenting voices while avoiding a serious response from the EU. This has been seriously criticised by Human Rights Watch {, 2015 #1208} in anticipation of the Riga Eastern Partnership Summit.

Overall, Armenia, Belarus and Azerbaijan have been affected by the EAEU differently. Armenia, which is the most influenced by the EAEU, had to abandon the DCFTA with the EU. While completing membership to the EAEU, Armenia intensified the quest for a new bilateral agreement with the EU. Since the start of the Ukraine crisis, the EAEU’s establishing member Belarus intensified the search for easing its overdependence on Russia, while Azerbaijan used the EAEU and wider geopolitical context to put down domestic dissent.

*Implications of the EAEU for EU-Russia relations:  
How to deal with the ‘strategic problem’?*

The establishment of the EAEU significantly affects the legal and political framework of EU-Russia relations. In essence, the transfer of Russia’s trade competences to the EAEU level limits the scope for bilateral trade integration

(Van Elsuwege, 2014). In principle, Russia's WTO membership could have opened the gates to negotiations on a bilateral free trade agreement as foreseen under Article 3 of the PCA. This option was never really on the negotiating table and, as a consequence of the EAEU with its common customs policy, it is now even no longer possible. The only alternative option is to work towards a free trade agreement between the EU and the EAEU leading to a situation of 'free trade from Lisbon to Vladivostok', as suggested by Vladimir Putin on several occasions. However, such a scenario is not very realistic taking into account the non-WTO membership of Belarus, the questions surrounding the internal functioning of the EAEU (cf. *supra*) and the political situation in the countries concerned. Moreover, the logic of a 'bloc to bloc' dialogue contradicts the EU's approach of enhanced and differentiated bilateralism in its relations with the post-Soviet countries.

Russia's assertive foreign policy, involving the use of economic, political and military pressure on its neighbouring countries, poisoned its relations with the EU. Already after Russia's military intervention in Georgia in the summer of 2008 and its unilateral decision to recognise the independence of Abkhazia and South Ossetia, the EU decided to postpone the negotiations on a new bilateral framework agreement, which is to replace the outdated PCA of 1994. However, by the end of 2008, the EU agreed to re-launch the negotiations proceeding from the assumption that a long-term postponement was not in its best interest (Van Elsuwege, 2014). After the further escalation of the events in Ukraine, with the annexation of Crimea and the *de facto* creation of a new frozen conflict in the Eastern part of this country, a similar return to 'business as usual' is very unlikely. In this context, it is remarkable that the Presidents of the European Council and the European Commission defined Russia as a 'strategic problem' for the EU (Reuters, 2014, 18 December).

A key part of the problem is the question how to deal with Russia's concerns about the implementation of the DFCTA with Ukraine. Three issues are significant in this respect. First, Russia claims that its domestic market will be flooded by EU products re-exported via Ukraine and thus circumventing the customs tariffs applicable in EU-Russia trade relations. Second, Russia's exports to the Ukrainian market are expected to suffer from increased competition with EU products. Third, Ukraine's commitments under the DCFTA to adopt EU technical product standards and sanitary and phytosanitary standards (SPS) may collide with the standards applicable in the EAEU and as such further complicate the export of Russian products to the Ukrainian market.

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None of the identified economic concerns are inherently problematic in the sense that they can be addressed on the basis of effective customs cooperation, controls on rules of origin and arrangements on regulatory convergence and/or the principle of mutual recognition. This is where the trilateral negotiations between the European Commission, Russia and Ukraine – which were launched in July 2014 – can make a difference (Van Elsuwege, 2015). More problematic, of course, are the underlying (geo)political considerations and attempts to more fundamentally revise the EU-Ukraine AA. In this respect, the European Commission has drawn some clear red lines: it is absolutely impossible to change the text of the agreement and the entry into force of the DCFTA will not be further postponed after 1 January 2016 irrespective an earlier Russian request to do so (EurActiv, 2015, 7 May).

Hence, whereas it is perfectly possible to reconcile the EAEU and the DCFTAs on the basis of intensified technical cooperation, the challenge remains to address the broader political and legal implications of the EAEU for EU-Russia relations. Issues such as Russia's annexation of Crimea or the status of the breakaway regions of Donetsk and Luhansk are likely to remain on the bilateral agenda in the foreseeable future.

*The 'neighbours of the neighbours': How the EAEU affects the EU's Strategy for Central Asia*

The establishment of the EAEU significantly affects the EU's Strategy for a New Partnership with Central Asia, which was launched in June 2007 (European External Action Service, 2015b). It essentially established a regular high level political dialogue, structured human rights dialogues and increased cooperation in areas such as education, rule of law, energy and transport, environment as well as trade and economics. Obviously, the creation of the EAEU raises questions about the ability of the Central Asian republics to maintain independent bilateral relations with the EU.

The initialling of an enhanced Partnership and Cooperation Agreement (EPCA) between the EU and Kazakhstan in January 2015 reveals that this bilateral dimension remains important. Kazakhstan and the EU have significant economic links: half of direct foreign investments in Kazakhstan are from EU origin and about 40% of Kazakh exports go the EU (European External Action Service, 2015a). Located at the very heart of Eurasia between two major world powers (Russia and China), it officially pursues a 'multi-vector'

and pragmatic foreign policy. In this context, strong relations with the EU are deemed necessary to balance the influence exerted by Moscow and Beijing and to ensure its independence and sustainable economic development (Kembayev, 2015).

The EPCA is a clear expression of Kazakhstan's ambition to maintain close links with the EU despite its membership of the EAEU. The agreement, which is expected to be signed in the near future, significantly upgrades the bilateral relationship in comparison to the old PCA that entered into force in 1999 (European External Action Service, 2015c; Kembayev, 2015). Of particular significance are the extensive rules on trade and trade-related matters dealing with issues such as customs cooperation, technical barriers to trade; SPS, the protection of intellectual property rights and government procurement. Those areas are also covered within the EAEU. In order to avoid any collision between Kazakhstan's obligations under the EAEU and its commitments under the EPCA, the standards applicable within the WTO are used as a common denominator. This focus on WTO law is logical taking into account Kazakhstan's forthcoming WTO accession (WTO, 2015) and the ECU treaty (see Treaty on the functioning of the customs union in the framework of the multilateral trading system (2007)). The latter explicitly refers to the WTO as the key point of reference for the development of the ECU.

In order to further ensure the compatibility between the EPCA and the EAEU, the EPCA clauses on Most Favoured Nation (MFN) treatment include an exception referring to 'economic integration agreements' and free trade agreements. Moreover, there are detailed dispute settlement procedures for the trade related aspects of the Agreement – inspired upon the WTO model of consultations, mediation and arbitration – as well as a more general dispute settlement procedure for the other parts of the agreement (Kembayev, 2015). Hence, the EPCA reflects to a certain extent the structure of the AAs, with the crucial difference that it does not lead to the establishment of a DCFTA nor does it involve any legally binding rules on legislative approximation. In this respect, the agreement only generally commits the parties to 'promote mutual understanding and convergence of their legislation and regulatory framework' (Kembayev, 2015). Obviously, this process of regulatory convergence forms part of a broader discussion about the coordination between EAEU and EU technical standards and SPS regulations. Nevertheless, the importance of the EPCA cannot be underestimated. It reveals that the EU's engagement with the EAEU does not necessarily exclude the parallel develop-

ment of far-reaching bilateral relations with the EAEU member states. It is noteworthy in this respect that also Kyrgyzstan, the EAEU's latest member, has showed an interest in closer bilateral relations with the EU (Williamson, 2015).

## Conclusions and prospects for future developments

The process of Eurasian integration, the conclusion of AAs leading to DCFTAs between the EU and Ukraine, Moldova and Georgia as well as the military conflict in Ukraine significantly changed the context of the EU's (Eastern) neighbourhood policy. This is clearly reflected in the consultation paper on the ENP's review (European Commission, 2015b) and in the Joint Declaration of the Riga EaP Summit (Council of the European Union, 2015, 22 May). Both documents start from the observation that there is an increased differentiation between countries interested in a special relationship with the EU and others with less far-reaching ambitions or other strategic priorities. The key challenge is to deliver on this need for differentiation, at the same time avoiding the creation of new dividing lines between those different categories of neighbours, which could lead to a *de facto* bipolarisation of Europe with, on the one hand, the EU and its associated countries and, on the other hand, the EAEU promoted by Russia. Such a confrontational approach between competing models of integration would be detrimental to the achievement of the EU's goal to establish 'an area of prosperity and good neighbourliness' as expressed in Article 8 TEU and, more broadly, for the post-Soviet countries to develop bilateral and multilateral ties according to their strategic interests.

In bilateral relations with countries that seek closer approximation with the EU, it is important to show that adoption of the EU *acquis* is rewarding and brings tangible benefits. In these countries, the support of the populations for EU-oriented reforms should not be seen as 'given' and there is a real risk of *reform fatigue*. The EU should be able to respond to these concerns through being vocal not only on the steps that still need to be taken but also on achievements already made, easing access to EU assistance, and offering explicit perspectives for benefits such as visa liberalisation.

At the same time, a certain level of engagement with the EAEU seems unavoidable. This is particularly the case with regard to technical issues such as product standards and SPS requirements. Constructive consultations on regulatory convergence may help to solve these issues and the on-going trilat-

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eral talks between the European Commission, Russia and Ukraine may prove to be a relevant experience. At the same time, it is important to safeguard a number of key principles in relation to the EAEU. First and foremost, the EU's engagement with the EAEU should not affect 'the non-negotiable principle of free choice for all partners in the common neighbourhood' (European External Action Service, 2015c, p. 3). This implies not only that the full implementation of the DCFTAs with the EU's associated partners should be enabled but also that differentiated bilateral relations with individual EAEU member states should be pursued and maintained. The EPCA with Kazakhstan and the preparations of a new framework agreement with Armenia are important test cases for this approach. Second, engagement with the EAEU and its member states cannot compromise the EU's commitment to fundamental values such as democracy, respect for human rights and fundamental freedoms and the rule of law nor can it undermine the EU's commitment to support the territorial integrity, independence and sovereignty of its partners. This does not only apply in relation to the EaP countries – as expressed in the latest Riga summit declaration – but also with respect to the Central Asian 'neighbours of the neighbours'. Third, in developing relations with countries that are not interested in the adoption of the EU *acquis*, the rules of the WTO and other international organisations can be used as a common denominator. Also in this case, the EPCA with Kazakhstan can serve as an interesting example. Building upon the WTO *acquis* may help to create a level playing field for trade and business. Finally, the revised ENP should guarantee an appropriate balance between regional and bilateral approaches towards its eastern neighbours in order to avoid the pitfalls of a 'bloc to bloc' logic.

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