
Beyond the Vilnius Summit: challenges for deeper EU integration with Eastern Europe¹

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BACKGROUND

The 2009 Eastern Partnership (EaP) represented a turning point in the European Union's (EU) engagement with post-Soviet states. The EaP extended the integration path initially only to Ukraine – the regional 'frontrunner' to other eastern EU neighbours. This path includes 'political cooperation and economic integration' through Association Agreements (AA) with Deep and Comprehensive Free Trade Areas (DCFTA), progressive visa liberalisation and sectoral cooperation.

The AAs with DCFTAs, in particular, signal a major change in the EU's approach to its neighbourhood. In the East, previous EU instruments only helped to familiarise partner countries with EU regulations. In contrast, the DCFTAs entail more wide-ranging and far-reaching approximation. The AAs, the longest and most detailed agreements of their kind, contain detailed and binding provisions on partner countries to align their laws and policies with the *acquis*, signalling a shift from soft- to hard-law commitments. Compared to previous EU policies, the EaP toolbox has greater potential to induce and stimulate domestic reforms in the region.

However, Armenia's decision to join the Russia-led Eurasian Customs Union (ECU) and the uncertainties around Ukraine's signing of the AA at the EaP Summit in Vilnius on 28-29 November place a question mark over Eastern neighbours' actual willingness, capacities and prospects of integrating with the EU. These examples are not isolated and reflect the EU's difficulties in diffusing its rules and policies to the Eastern neighbourhood.

The Eastern Partnership: crafting a hub-and-spoke model²

With the AAs, the EU has exported its extensive regulatory framework – the *acquis* – to the Eastern neighbourhood. The strategy is modelled on the pre-accession agreements which envisaged the alignment of candidate countries' legal framework with the *acquis*, but the modelling has not been systematic. EaP partner countries were not scrutinised to the same degree as candidate states which received a road map to approximation before opening accession negotiations. No similar approach has been developed for EaP countries specifying the scope and sequence of integrating the partners into the single market.

The EU recognises that the sequence of reforms is context-dependent and that it is up to partner countries to determine their transformation path. Yet, in terms of scale, it requires unprecedented approximation from Eastern partners. The lack of any underpinning strategy is also surprising given the wide gap between partner countries' needs and capacities and the EU's regulatory frameworks.

This may be explained by the fact that, on economic grounds, the EU has little interest in concluding DCFTAs with EaP countries. Armenia, Georgia, Moldova and even Ukraine are simply too insignificant trade partners for the EU. Georgia,

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2 This section draws on the following study: L. Delcour and K. Wolczuk, "Approximation of the national legislation of Eastern Partnership countries with EU legislation", European Parliament, 2013.
www.europarl.europa.eu/delegations/fr/studies/download.html?languageDocument=EN&file=93110

for instance, accounts for 0.1% of the EU's exports, while the region's biggest country, Ukraine, totals 1.4% of EU exports. Trade flows with some partner countries are also shrinking. Trade with Ukraine has just started to recover after a sharp decrease in 2009 as a result of the crisis. Trade with Armenia has dwindled over the last five years. So the offer of deep economic integration through DCFTAs appears to be being extended to the Eastern neighbours primarily for political reasons rather than to reflect their trade salience for the EU. With DCFTAs, the EU seeks to promote 'prosperity, stability and security' in the neighbourhood by exporting its own regulatory governance that has proved successful within the Union over past decades.

While more ambitious, the EU approach has also become more rigid. Tough negotiations with Ukraine prompted the EU to shift to *ex ante* conditionality. Others (Moldova, Georgia and Armenia) were required to adopt 'key recommendations' before DCFTA negotiations could be launched.

Under the DCFTA, Eastern partners are to estimate the bulk of EU trade *acquis*. In the long term, this provides a clear template for reforms, yet in the short term it ignores their economic profiles and potential for exporting to the EU. Hence this rigid, complex and highly technical approach is something of a disincentive. DCFTAs export a package of rules with limited scope for adjustments to the economic, social and political context of EaP partner countries. In exchange, post-Soviet countries are offered the promise of access to EU markets. However, this prospect is remote and of limited benefit for most countries: Moldova, for instance, is currently only able to export honey to the EU. Thus, DCFTAs require considerable short- and medium-term efforts and costs from the Eastern partners, while the benefits are only likely to accrue in the longer term, if at all.

The EU is constructing a hub-and-spoke model with its Eastern neighbours through the conclusion of the AAs, and the DCFTAs offer an advanced form of economic integration. But paradoxically, this shift to hard law simultaneously increases the difficulty in approximation owing to the costs and uncertainties incurred by the partner countries. This alone reflects the gap between the EU and partner countries' agendas and needs.

STATE OF PLAY

The EU's offer and the Eastern partners: Mind the Gap

The EU's confidence in the attractiveness of this offer is reflected in its 'take it or leave it' attitude towards partner countries. Yet, as a template for reforms for Eastern partners, the AA represents a significant challenge when it comes to implementation. Regulatory approximation with EU *acquis* in the Eastern neighbourhood is a costly and challenging proposition. It requires bearing upfront political and economic costs and embarking on challenging reforms in pursuit of probable long-term benefits from modernisation.

Costs of approximation

Legal approximation in EaP countries is voluntary and the degree of approximation should reflect the partners' preferences and capacities. But, in practice, the DCFTA envisages wide-ranging and far-reaching approximation, with the partner countries required to be aligned with 80-90% of the trade-related *acquis*. This entails significant economic and social costs which governments must take into account. To meet EU food safety requirements, partner countries have to create laboratories, introduce inspections and carry out extensive training. The costs of approximation are borne not only by state authorities but also by non-state actors, i.e. businesses. Small farms (the bulk of food producers in the South Caucasus) cannot afford to introduce the effective safety control systems required from all producers and operators under the DCFTA. It is estimated that, during enlargement, around half of the overall legal harmonisation costs were incurred by non-state actors who had to adjust to new regulations (e.g. SPS standards). The costs of implementing the DCFTA are likely to be prohibitively high for Eastern partners given their considerably lower level of development. These costs are not reflected in the current level of EU assistance to the region, nor in the quotas for the products which the countries export to the EU.

Complexity of the system

The intricate and dynamic system of EU rules was developed for market economies and is not easily transposed to the Eastern partners, given their political, economic and administrative context. In addition, the *acquis* is a fast-moving target that Eastern partners are finding difficult to focus on, let alone follow.

Political sensitivity

The implementation of the AAs strongly impacts domestic actors' interests and power configuration in partner countries. Competition and state aid rules are a good example. Implementing these rules would infringe on the vested interests of

powerful business players, who control domestic markets in a monopolistic way and have a strong and influential presence in governments and/or parliaments of the partner countries. Symptomatically, in Armenia, the dominance of powerful commodity-based cartels, strongly present in politics, inhibited the adoption and implementation of new laws on competition and state aid.

Symbolism and Geopolitics

Despite all the costs to be incurred, partner countries' elites continue to declare an interest in approximation with EU rules – even if only for the sake of maintaining the EU's symbolic engagement with their countries – because the AAs have tremendous symbolic value for the elites of the neighbouring countries. They are only too keen to demonstrate their success with the EU to their electorates and their neighbouring countries, including Russia.

But while the EU proposes functional integration, the post-Soviet elites' preferences for closer relations with the EU are often underpinned by geopolitical motives. Each partner state is afflicted by the insecurities which stem from weak statehood, concerns over territorial integrity and an overbearing neighbouring Russia. Unsurprisingly, geopolitics is the prism through which these countries view their relations with the EU.

DCFTAs and the Eurasian Union: Detaching from the other hub

The gap between the EU's pursuit of functional integration and partners' context has particular salience given EaP countries' dependency on the Russian market. Russia attracts 20.7% of Ukrainian exports (just below the EU, 21.8%). Although Moldovan and Armenian exports go primarily to the EU (totalling 51.9% and 35.4% of exports respectively), Russia is an important market for them, too (with 20.5% and 18.3% of exports, respectively). Georgia is an exception, owing to the long-lasting Russian embargo that prompted a diversification of exports. However, due to relatively unrestricted access, the Russian and CIS markets will remain highly important for EaP countries.

The dynamics of economic cooperation and integration in the post-Soviet space have been changing rapidly. DCFTAs were counteracted by Russia's endeavours to promote deep economic integration, as evidenced by the launch of the ECU. Russia is now building its own hub, clearly aiming to become an alternative, competing hub to the EU, albeit drawing on the EU regulatory framework. This, in turn, can but strongly affect the EU's own policy in the East. The two processes are indeed closely interrelated. For instance, in cases where the EU restricts market access for key agricultural products from the EaP countries in the framework of the DCFTAs, the countries will have no choice but to rely on other markets. Not only will they be forced to adapt to regulations of the Russian/ECU market, but they will remain highly sensitive to political relations and any resulting economic costs for their electorates.

The emergence of the ECU has not been factored into the EU strategy. Until recently, the EU had been exceedingly confident that its offer would be accepted by EaP countries, not least because there was no viable alternative. The EU had overlooked the political and economic costs EaP countries had to pay both for complying with its own offer and for moving away from Russia. This lack of appreciation of the regional context is perhaps unsurprising given that all previous attempts to develop regional integration in the post-Soviet area failed. The ECU and the planned Eurasian Economic Union (2015) – a very ambitious and fast-moving project which is, for the first time, actually being implemented in its member states – has left the EU's Eastern strategy in a vulnerable position. Since the ECU entails deep economic integration and also relies on *ex-ante* approximation, the countries between the EU and Russia are caught in two different integration regimes. Russia's quest for expansion of the ECU to other post-Soviet states, which participate in the EaP, leaves the EU facing unprecedented challenges.

First, Russia is exploiting the EU's weaknesses by stressing the short-term costs and benefits from integration with the Eurasian regime, as opposed to the long-term benefits derived from integration with the EU. Second, Russia can draw upon a much broader spectrum of instruments (e.g. energy diplomacy) than the EU and, unlike the EU, does not hesitate to resort to 'sticks', i.e. punitive measures, if the 'carrots' promised are not attractive enough. This is illustrated by recent trade war and lengthy customs 'checks' with Ukraine, embargoes against Moldovan agricultural products, threats against Armenia to raise energy prices and actual arms sales to Azerbaijan. Third, as shown by these examples, Russia carefully selects its instruments from the wide array at its disposal and targets specific domestic actors.

While the EU offers a similar package to all EaP countries notwithstanding their particularities, Russia exploits their specific needs and vulnerabilities, due to the shared history, common legacies and multiple links that tie Russia and EaP countries together. As a result, the costs imposed by Moscow for 'moving away' from the newly-constructed Russian hub further increase the costs of, and risk associated with, closer integration with the EU.

No doubt, across the post-Soviet space, Russia has low credibility as a promoter of modernisation. If anything, the August 2013 'trade war' against Ukraine exposed how fragile is Russia's commitment to building a rule-based trading

bloc. However, Russia does not lack credibility when it comes to punishing transgressors for actions perceived as unfriendly. Russia has a track record in deploying punitive measures, such as trade embargoes and security threats, as necessary. The embargo on Moldovan wine is only the most recent illustration. Russia's pressure on vulnerable Armenia has seemingly already reached its goal, i.e. drawing the country into Eurasian integration while Armenia had made considerable efforts to approximate its legal framework with the EU in view of initialling the AA at the Vilnius Summit. Nonetheless, Russia resorting to heavy-handed tactics may backfire and unwittingly push other countries of the shared neighbourhood, such as Ukraine, towards the EU.

PROSPECTS

Deep economic integration is not just about legal and regulatory convergence with EU standards. It is shaped by the EU's own experience over the past 60 years: common rules have fostered trade links and laid the ground for increased prosperity, which in turn has contributed to ensuring peace across the continent. Clearly, the DCFTAs follow a similar logic: greater prosperity resulting from trade is seen as crucial to increasing stability and security at the EU's borders. DCFTAs thus give flesh to the EU's blueprint for its neighbourhood policy. They are a 'vital trade instrument for building up long-term economic relationships' with Eastern neighbours and their impact goes far 'beyond purely trade issues, also influencing the state of democracy, the rule of law and other common standards', as recently pointed out by the European Parliament. The EU thus bestows upon DCFTAs transformative power: they are expected to modernise partner countries' economies and bring about broad political changes.

However, the EU's toolbox suffers from major weaknesses, resulting in a series of gaps with partner countries. First, the substance of rules diffused: clearly, there is a huge discrepancy between the level of development that the *acquis* presupposes, and partner countries' current situation. Second, the method of diffusion: the extensive use of conditionality generates more systematic convergence, yet it widens the gap between EU rules and EaP countries' immediate needs. Third, the incentives offered: DCFTAs include little short-term economic benefits for partner countries while these have to bear considerable upfront costs. Thus, while the EU's approach makes full sense as a long-term strategy of rapprochement and possibly as leverage for transformation and modernisation, it entails considerable short-term challenges for EaP countries. This is because the EU has designed its strategy with internal lenses. It has overlooked both partner countries' specific needs and regional ties. Each of these countries has its own political and economic trajectory and a distinctively intricate set of relations with the EU and Russia. While most of them want to move towards the EU, all of them are and will remain, one way or another, dependent on Russia.

Against this backdrop, the conclusion of the AAs in Vilnius is just a first step in terms of integrating the Eastern neighbours with the EU. The EU will have to tackle three challenges to keep the EaP on track.

First, once the AAs are concluded with Moldova, Georgia and possibly Ukraine, the focus should be on facilitating implementation. It is important that the EU promotes institutional and regulatory solutions which are most attuned to the context of the country and hence likely to result in actual, even if gradual, implementation. Together with the elites in partner countries, it must also work in order to ensure that the substance of AA and DCFTA is known beyond a narrow group of experts.

Second, it is important that the EU continues to engage with Armenia, Azerbaijan and Belarus, taking into account the specific situation of each country. The DCFTAs cannot be regarded as a 'be all and end all' of relations and the differentiation *within* the Eastern neighbourhood will be required in the foreseeable future.

Finally, having recognised the enormous pressure on EaP countries to join the Eurasian regime, the EU ought to better take into account the regional context in which the EaP operates. To be effective, the Union should de-centre its policies from its own experience and craft a nuanced and contextualised strategy. It also needs to deliver on its promises, primarily on visa liberalisation.

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