

Conditionality in context - scenarios for EU relations with the Eurasian Economic Union

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Executive Summary

- > The establishment of the Eurasian Economic Union (EAEU) in January 2015 congealed EU-Russia relations in terms of geopolitics and trade policy.
- > To date, the EU has not formally recognised the EAEU. This recognition is conditioned on Russia implementing the Minsk agreements regarding the war in Ukraine and the annexation of Crimea.
- > Out of three potential scenarios, relations between the EU and the EAEU might eventually be established through trade talks. European Neighbourhood Policy (ENP) countries should be part and parcel of this policy.
- > With Ukrainian membership ruled out, the EAEU today looks to countries and regions instead of the EU. The EU's conditionality risks losing its grip.

The politics of the EAEU's creation and operation oscillate between geopolitics and trade – between realist power calculations and subtler economic interests. Russia has espoused Eurasian integration as a way of realising its geopolitical ambitions, whereas other EAEU members, above all Kazakhstan, insist on the EAEU's official purpose of boosting trade between the signatories. The EAEU is therefore a site of contestation between geopolitical and economic regionalism. It might deliver direly needed economic modernisation to its members, including Russia, but also engrains Russian hegemony in the region.

Carrots from Minsk: The EU's conditionality towards the EAEU

Ukraine's pro-Western protests in 2014 and the West's mediation in Kyiv were answered with the annexation of Crimea and Russia's arguable support to belligerents in Donbass. Russia had also attempted to incentivise Ukraine to join the EAEU. It should not be forgotten that prior to the geopolitical clash, Ukraine's deliberate policy was to avoid a choice between East and West in terms of trade.

The Eurasian Economic Union is a plurilateral Free Trade Agreement (FTA) and Customs Union (CU) between Russia, Belarus, Kazakhstan, Armenia and Kyrgyzstan. The organisation is modelled on the EU's approach to trade integration and is the fruit of several prior integration attempts among post-Soviet Eurasian countries. Nonetheless, the EAEU's organisational structure is more pyramidal, with several hierarchical intergovernmental bodies, compared to the more diffuse and technocratic decision-making mechanisms of the EU. While the EAEU's high ambitions have not been met in its first one and a half years of existence, the organisation delivers in terms of policies, but suffers from an implementation deficit.

Even after having signed a Deep and Comprehensive Free Trade Agreement (DCFTA) with the EU in the framework of the Eastern Partnership (EaP) and refusing EAEU membership, Ukraine continued to have significant economic ties with Russia. To address this ambiguity, a trilateral dialogue was set up between the European Commission, Russia and Ukraine, and the implementation of the DCFTA was delayed until January 2016 to "avoid further destabilisation of the country and in particular to guarantee Ukraine's access to the Commonwealth of Independent States (CIS) market under the Ukraine-Russia bilateral preferential regime" (European Commission 2015a).

The EU has made the resolution of the conflict in Ukraine, as stipulated in the Minsk agreements, the precondition for entering official relations with the EAEU (Malmström 2016). This conditionality hence would require the disarmament of belligerents on both sides in Eastern Ukraine, self-government in Donbass and a constitutional reform in Ukraine. While not formally part of the Minsk agreements, Crimea's status would have to be settled as well. The EU's key condition for establishing formal relations with the EAEU is thus the implementation of the Minsk agreements.

Short of an official recognition, there have been numerous technical and expert-level contacts with the EAEU. Such working-level dialogues have already been conducted with the trilateral CU (Haukkala 2010: 172). An ironic sign for the EAEU's vivacity is half a dozen of WTO cases that the EU is preparing or has already lodged against unjustified protectionist measures taken by the EAEU. The European Commission is keeping these contacts at a low frequency, and EU Member States are driving the EU's policy of insisting on conditionality.

For the EU, potential relations with the EAEU are a positive incentive for resolving the conflict in Ukraine, while Russia sees relations as a *means* for economic *rapprochement* and possibly as a way to resolve EU-Russian competition in the Eastern Neighbourhood. Moscow blames Ukraine for the stalled implementation of the Minsk agreements, given Kyiv's arguable unwillingness to honour the agreement. The EAEU Commission has sent a very short "draft agreement on economic cooperation" to the European Commission in 2015 and hence wishes to establish EU-EAEU ties without any preconditions.

Three scenarios for EU-EAEU interregionalism

Whether the EU develops a formalised relationship with the EAEU is part of broader policy considerations on the EU's side, but also a matter of EU-Russian diplomacy. One can distinguish three stylized scenarios for potential EU-EAEU interregionalism: first, a recalcitrant *status quo* with an unreformed ENP and no formal interregionalism, and possibly even more coercive foreign policies by Russia; second, a fairly realistic, gradual *rapprochement*, should the EAEU deliver on its plans; third, the distant possibility of EU-EAEU pan-continental free trade.

First, the *status quo* could endure. An entrenched EU-Russia relationship with increased importance given to security considerations means that the leeway for de-escalation is limited. With Ukraine in the focus of the EU and Russia, Crimea might eventually even attain a similar strategic importance as other secessionist regions within

ENP/'near abroad' countries that receive military and political support from Moscow. There would presumably be no majority among EU member states for formalized relations with the EAEU, should this situation endure. The governing logic at play in this scenario is geopolitics.

Second, the most probable scenario is that of a gradual *rapprochement* based on certain conditions set by the EU. In this scenario, the EAEU would need to deliver on its high ambitions and establish a well-functioning, integrated economic space. Re-engagement in this scenario is driven by a shared premise of the EU and Russia that there is a mutual interest in re-establishing a more stable relationship. The EU Ambassador to Russia argued in January 2016 that "we need to try to gradually repair our relations and establish a new *modus operandi* recognising our differences but seeking to work on common interests. Not a return to 'business as usual', but the creation of a 'new normal' (Ušackas 2016). The EaP's focus on trade would considerably inform the methodology of EU-EAEU relations in this form of interregionalism. Dialogue would focus on trade facilitation, technical barriers to trade or behind-the-border regulatory standards.

Third, the most ambitious proposals for EU-EAEU interregionalism concern the famous FTA 'from Lisbon to Vladivostok' between the EU and Russia. It was agreed upon in principle in the 2003 St Petersburg summit as the Common Economic Space. Tangible advances in the EAEU's economic integration are however unlikely to come about rapidly. For many reasons, but chiefly with regard to its economic feasibility, this scenario is highly unlikely. Its economic governance-driven logic could however inform negotiations within the second scenario as a long-term goal.

Why is the second scenario most probable? Since the EAEU plans have concretized, Russia but also other EAEU members repeatedly called for interregional dialogue and cooperation. All EAEU members are supportive of EU-EAEU trade talks, but for different reasons. For Russia, the dialogue would help conserve vital trade links with the EU. Eurasian Development Bank technocrats also favour a trade dialogue leading to eventual free trade, but even the most optimist voices suggest the mid-2020s as the most likely time for the creation of an EU-EAEU FTA (Shirov & Yantovsky 2014: 18). Other EAEU members support a trade dialogue for the simple reason that they are wary of Russian attempts at using the EAEU for its geopolitical purposes. Their hope would be for the EU to act as an external reinforcing agent of the EAEU's trade dimension.

Whilst technocratic in nature, EAEU-EU dialogue would be strategically grounded in how institutional similarity

between the organisations could imply behavioural convergence. The EU would seek to incentivize EAEU behaviour to match its organizational structure and mission borrowed from the EU. The EU's strategy would thus simply seek to enhance the economic dimension of the EAEU, at the expense of geopolitics. Concretely, this would mean to engage the EAEU as an institution, above all its Commission, by insisting on relations between supranational administrative bodies only.

ENP countries: caught in between again?

Whilst the EU, Russia and other EAEU members want different things out of a potential dialogue, it is crucial also to incorporate the interests of ENP countries. It would seem that the only progressive strategy to ensure the stability and development of these countries is a counterintuitive approach. Relativizing Russian geopolitics could simply entail the EU's recognition of Russia as a great power. By doing so, the EU might render the ENP countries the service of recognizing the need for ambiguous foreign policy identities. ENP countries require the EU's strategy to enable peaceful, constructive relations with all of its immediate neighbours, including Russia.

The validation of the EAEU through a trade dialogue would, by implication, also endorse its geopolitics to a certain point, whilst mainly strengthening the EAEU's economic governance dimension. But besides a more formal recognition of the geopolitical underpinnings of EU foreign policy, arguably little would change on the ground for the ENP countries. Double membership in both the EAEU and EU is precluded by both sides' legal status of a CU. EAEU member states cannot conclude a DCFTA with the EU, and vice versa. The two regions thus can only enter free trade relations if all members on both sides are involved. In between these core regions, ENP countries are part of what Katzenstein (2005: 24) calls "porous regions": contemporary trade blocs are not geopolitical blocs, but contribute to overall trade openness also with non-members. Notably the CIS could enable such 'porosity' for the benefit of many ENP countries.

The 2015 ENP Review acknowledges this need for porous regions by recognizing that "a number of partners do not currently wish to pursue" the level of ambition of the EaP (European Commission 2015b: 8). The EU also "remains committed to encouraging trade between the EU, ENP partner countries and their trading partners" (ibid.). Yet, these few sentences cannot hide that the ENP currently disavows the existence of a Russian regional policy, and of the EAEU as a regional integration project. Making EU-EAEU interregionalism work for ENP countries will need to become part of future revisions of the EU's approach.

The pitfalls of EU-EAEU cooperation

Any form of EU-EAEU interregionalism runs the risk of a classical pitfall of EU foreign policy towards Russia – mismatched strategic goals, where the EU's seemingly postmodern ambitions are met with Russian geopolitical assertions. Three potential problems of EU-EAEU interregionalism should be considered.

First, the establishment of EU-EAEU dialogue could be perceived as a concession to Russia. Whilst driving forward economic cooperation, clear expectations would need to be agreed in the geopolitical realm. Once some form of interregional cooperation is established, the threat of suspension of this cooperation could yield only limited EU leverage. Trade diplomacy would, however, remain decidedly toothless if Russia continues to use periodical geopolitical-military interventions to force institutional changes or enlargement of the EAEU, for example by using energy prices as a bargaining chip.

Second, the legal certainty of the EAEU is doubtful. National implementation of EAEU acts is still slow. Especially Russia's coercive tactics to incentivise Ukraine to join the EAEU demonstrated the fragility of the law-based order of the EAEU. In the wake of the war in Ukraine, Russia introduced unilateral anti-dumping and restrictive measures on Ukraine – a clear violation of the EAEU's legal competence. Other EAEU members refused to follow Russia's lead. Further, a ban on food imports from Belarus to Russia in late 2014 exemplifies how Russia also undermined the Eurasian CU internally. In an ironic twist, Russia thus repeatedly undermined its own achievements.

Third, by extending a trade-based approach to the EAEU, the EU could be seen as weakening its conditionality and democracy promotion in EAEU and ENP countries. Validation of the EAEU therefore would imply also the consolidation of the EAEU's undemocratic regimes. The EU would possibly attempt to attach political conditionality to EU-EAEU trade talks, but the EAEU is unlikely to accept such broader conditions. In the ENP/'near abroad' countries, de-mystifying the EU's 'other' would mean that the EU's normative offer loses some of its traction, and the countries' Europeanisation beyond economic integration would presumably slow down.

Blunting conditionality? The EAEU within the EU's general foreign policy and global strategy

EU considerations whether to pursue EU-EAEU interregionalism also relate to its other foreign policy goals. The development of another rule-based, WTO-compatible regional organization with its own (nascent)

supranational economic governance is no novelty for the EU. However, Russia's trade weight in EU imports creates contradictory strategic imperatives for the EU: the EAEU is the only operational CU in the world (excluding other CUs with exemption rates above 30 per cent that do not fully liberalize trade) besides the EU and the EU-Turkey Customs Union. By design, Eurasian regionalism hence has attained a qualitatively different level and requires dialogue and technical exchange to understand the developments of the next few years, geopolitics notwithstanding. Put bluntly, the EU can hardly ignore developments in a market of 180 million people.

The EU's foreign policy towards Central Asia is also called into question by the EAEU. The EU reiterated its strategy on Central Asia in June 2015, notably by aiming at "strengthening trade and energy links" (Council of the European Union 2015). The countries covered by this strategy are all EAEU members or immediate neighbours with close economic ties, which increases the relevance of EU-EAEU interregionalism. In its bilateral contacts with EAEU members besides Russia, the EU strictly respects the legal competence of the EAEU and hence, theoretically, enables a potential EU-EAEU interregionalism for the future.

More broadly, the EU is not the EAEU's only interlocutor. With a congealed EU-Russia relationship, Russia and the EAEU Commission are looking to other countries and regions. The EAEU has already concluded a FTA with Viet Nam, and exploratory talks or negotiations are underway with Egypt, Iran, Israel and other countries. The EAEU is also aiming at establishing trade ties with other regions. At the May 2016 Russia-ASEAN Summit, Russia suggested a joint feasibility study of a comprehensive free trade area between ASEAN and EAEU. While such partnerships will take time to be established, the EU's conditionality and sanctions regime towards Russia does not occur in a vacuum. With the EAEU turning to other partners, the EU's conditionality increasingly is losing its grip.

Conclusion

Today's EU rhetoric on Russia should not be confused with potential future developments. EU-EAEU interregionalism is not an immediate scenario, but a medium-term possibility. It is not a magic solution, but both the imperative to pacify relations with Russia as well as broader EU foreign policy considerations could nudge the two sides towards interregionalism. Under the right conditions, a *rapprochement* between the EU and Russia will likely come about through trade.

EU-EAEU trade interregionalism would operate in the WTO's regulatory regime and is entirely compatible with the EU's trade approach. The EU should therefore ensure that its eventual *rapprochement* to Russia strengthens its policy of 'effective multilateralism'. The EU should furthermore clarify how it organises its trade governance internally. By elevating trade to a high politics issue, the EU wrests a hitherto technocratic policy area from its usual lead by the European Commission. Potential EU-EAEU interregionalism therefore requires a rethinking of both the EU's diplomatic system as well as its strategy. Finally, the EU's own geopolitics should not be forgotten. A de-escalation through trade without a military de-escalation, e.g. by reducing the number of stationed NATO troops in Eastern Europe, will run counter to the strategic goal of pacifying relations with Russia.

At worst, EU-EAEU interregionalism will feed into Russian geopolitical hegemony, validate autocratic governance in EAEU countries and undermine the EU's democratisation in ENP countries. At best, the mutual dependence of the EAEU and EU markets will override geopolitical considerations, and do so even to the benefit of ENP countries. Constructive discussions and small steps are now needed to build the mutual confidence for *rapprochement* between the two trade blocs.

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