



The 'Deep and Comprehensive Free Trade Agreements': an Appropriate Response by the EU to the Challenges in its Neighbourhood?

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Ten years after it was set up, the European Neighbourhood Policy (ENP) has not lived up to its expectations. Initially copied from the model of the EU's enlargement policy, it was supposed to lead to privileged relationships through closer political and economic integration between the EU and its neighbours in the east and south. The lack of interest from most partner countries in engaging in meaningful reforms, the Arab uprisings, and the growing assertiveness of Russia had all forced the Union to revise its approach and to propose more concrete measures rather than lofty laundry lists of well-meaning policy objectives. In line with its revised approach to trade policy – which no longer relies on the WTO, but focuses on striking bilateral agreements – the EU has started putting trade relations at the core of its relations with the countries of the Neighbourhood. The 'Deep and Comprehensive Free Trade Agreements' (DCFTAs) are hence promoted as a template for substantial reforms leading to closer regulatory integration between the EU and its partners. Whereas the DCFTAs can be a powerful tool for the countries that are not only politically committed to a higher level of integration, but are also ready to translate their commitment into political reforms, the linkage between the DCFTAs and the ENP is doubtful: given the extreme differences between its neighbouring countries, any one-size-fits-all approach is bound to fail.

Introduction

The European Neighbourhood Policy (ENP) was set up a decade ago with the aim of surrounding the EU with a 'ring of friends' with whom it would eventually share 'everything but the institutions'. This policy towards its (new) neighbours to the east and south, reinforced by the 2008 Union for the Mediterranean (UfM) and the 2009 Eastern Partnership (EaP), was meant to build on the success of the EU's enlargement policy. The enlargement process successfully managed to stabilise the often fragile new democracies in Central and South Eastern Europe by rewarding political and economic reforms with generous assistance and, importantly, the strategic perspective of becoming a member of the European Union.

Ten years later, it appears that the EU's approach *vis-à-vis* its neighbours did not bring about the anticipated results. Russia, the most important of the EU's neighbours, decided to stay out of the ENP, since Moscow deemed it inappropriate to be treated as a mere object of EU policy, and regarded on the same level as other post-Soviet republics. Belarus, the 'last European dictatorship', showed no interest whatsoever in embracing the discourse on common norms and values. Although the policy could be assessed rather positively for the small republics of Georgia and Moldova, the effects of the EU's neighbourhood policy in Ukraine were dramatic: the intra-Ukrainian debate about whether to seek closer association with the EU or Russia triggered events that no one had even dared to imagine merely a year ago: the annexation of Crimea by Russia, a full-blown military conflict and thousands of (often civilian) casualties.

The achievements of the ENP in the south were less dramatic, but they can hardly be assessed as being successful.

At best, the actual results of the ENP in this region have been negligible. At worst, the ENP can be seen as a strategic miscalculation, that may have tarnished the credibility of the EU's discourse in the Arab world; rather than supporting democratic forces and actors of change (like civil society) until after the so-called Arab spring, the Union frequently associated with authoritarian rulers, in the hope that they could be nudged, over a longer period of time, into observing the Union's values and principles, but without endangering its own interests (energy security, trade, migration, etc.). In the aftermath of the Arab revolutions, the credibility of both the European Union and its members has been strained by the previous associations, especially among the younger generation.

In order to try and bridge the gap between aspirations and concrete measures, the EU has over recent years shifted the focus of the ENP towards trade policy, as the most effective (and, it was hoped, least divisive) part of the EU's foreign policy. It thus introduced a new instrument: the Deep and Comprehensive Free Trade Agreements (DCFTAs). It was unveiled first in the east, and later in the south.

The ENP: one size fits all?

Initially, the ENP applied the same policy and instruments to the post-Soviet republics in the east, and the Arab countries plus Israel in the south. Whereas among the partners in the east, the EU was widely perceived as a role model, the appeal of the 'European way of life' was – economic prosperity aside – rather limited in most of the Arab countries of the south.¹ The economies, political systems and societies in both regions could not be more different. But, when it came to administrative cooperation, the EU often found it easier to cooperate with the Southern neighbours: most of them were former colonies, so their administrative systems often resemble those of their former colonial overlords. A common administrative language largely facilitates the contacts between European politicians and officials and their Arab counterparts.² Although most countries in both east and south still frequently rely on heavily regulated and non-competitive industries, the existing southern model of state paternalism is not entirely unfamiliar to Europeans, as it mirrors systems and structures of the last century. In the east, however, the chaotic demise of a former centrally planned economy, mostly relying on heavy industry, engendered a caste of oligarchs who acquired control of key economic sectors through their political connections. In these countries, the resulting symbiosis of oligarchs and politicians is still one of the major obstacles on the path towards a genuine free market economy.

Although most countries in both East and South still frequently rely on heavily regulated and non-competitive industries, the existing Southern model of state paternalism is not entirely unfamiliar to Europeans.

The 2008 Paris summit for the Mediterranean, which set up the UfM on the initiative of French President Sarkozy, was an indicator that the 'one size fits all' approach of the ENP was hardly the appropriate framework for bilateral cooperation. The ENP instruments proved inadequate and showed

little added value compared to other forms of more traditional bilateral assistance. The 'mutual commitment to common values' referred to in the 2004 ENP strategy,³ hardly reflected the mind-set of the mostly authoritarian rulers in the south, since they did not share the EU's view on the rule of law, good governance and respect for human rights. The joint common declaration at the funding summit of the UfM therefore fails to mention these common values. But even without such a reference, it is, with hindsight, ironic to see Bashar al-Assad, Zine El Abidine Ben Ali and Hosni Mubarak cheerfully shaking hands with European leaders and committing themselves to 'build together a future of peace, democracy, prosperity and human, social and cultural understanding'.⁴ When the 2010 Arab uprisings and its aftermath swept away a number of the signatories of the Paris summit, the EU and its members found itself in the difficult position of having to explain why it had established such close links with authoritarian regimes that had demonstrably held the EU founding principles of democracy and human rights in such low esteem.

For its Eastern Neighbours, the situation was quite different. Among its 'European Neighbours' (as opposed to the 'Neighbours of Europe'), the ENP had, from its commencement, more chances of becoming a successful foreign policy

instrument. Here, the EU proved to be a strong role model, where only the most socially conservative fringes of society would contest the essence of the common values as a matter of principle. There was some reasonable hope in Brussels that the ENP methodology – cut and paste from the enlargement policy – could be repeated. After all, the desire to belong to the club of wealthy and well-governed European states had triggered deep and structural home-made political, institutional and economic reforms in other former socialist countries in Central and Eastern Europe. If the Baltic countries could transform in one-and-a-half decades from run-down, poor, demoralised and unstable Soviet republics to solid democracies with a booming economy, why couldn't the Ukraine, Moldova and the others do the same?

This reasoning, appealing as it may be, had one fundamental flaw. Whereas the Baltic states had a realistic perspective of EU membership (with all its economic and political benefits)

as their ultimate reward, the remaining post-Soviet republics were never meant to join the Union, as public opinion in the Member States (and thus their politicians) was sceptical and suffering from so-called enlargement fatigue. But Moldova, Georgia, Armenia, and, with interruptions, the Ukraine, felt that they should be part of the European family.

Following the setting up of the UfM and the short war between Russia and Georgia in 2008, the EU invited the six Eastern members of the ENP at the Prague Summit in 2009 to form the 'Eastern Partnership', with the main objective being to 'accelerate political association and further economic integration between the EU and interested partner countries'. Underpinning the partnership were 'commitments to the principles of international law and to fundamental values, including democracy, the rule of law and the respect for human rights and fundamental freedoms, as well as to market economy, sustainable development and good governance'.⁵ These were, incidentally, the EU's founding principles and basic conditions for candidate countries to join the European Union. Politically, many countries in the east saw this as a veiled promise that the doors to the EU would be, in principle, open to them.

However, the Eastern Partnership declaration went beyond the lyrical waxing about common and shared values. It also introduced a new instrument, that would allow the Eastern Partners to benefit from **quasi** full access to the EU's market, while, at the same time, making these countries adopt large parts of the *acquis* and therefore binding them economically closer to the Union: the so-called 'Deep and Comprehensive Free Trade Agreements'.

The 'Deep and Comprehensive Free Trade Agreements'

The DCFTAs perfectly integrate themselves into the new approach to EU trade policy. Prompted by the failure of the WTO member countries to reach a comprehensive agreement on trade liberalisation that would include the 'behind the border' issues (such as regulatory issues, rules on foreign investment and investment protection, government procurement),⁶ the EU started to fundamentally review the

Common Commercial Policy (CCP – the official name of the EU's trade policy). Until then, the EU had been a strict defender of multilateral trade liberalisation led by the WTO, and therefore refrained from concluding bilateral trade agreements. But given the 'deep coma' of the Doha Development Round by the mid-2000s, the EU started in the second-half of the first decade to follow the US by striking regional and bilateral trade deals

as a second best option. The global financial crisis from 2007 onwards strengthened the assumption that trade, rather than internal consumption, would in the future be the main motor of economic growth – also given the relative decline of Europe *vis-à-vis* the emerging economies. As tariffs on goods were already low by global standards, further benefits would therefore derive from removal of regulatory obstacles (such as different norms and standards) or from opening markets to European providers of services. The new generation of trade agreements which the EU was

striving to conclude with its partners would therefore be of a much wider scope than traditional agreements: they should be 'deep and comprehensive'.

At the 2009 Prague summit, the EU proposed to use the DCFTAs as cornerstones of their future relationship with the Eastern Partnership. These legally binding agreements, conferring rights and obligations on both sides, would be part of even more comprehensive political agreements, the 'Association Agreements'. These Association Agreements would include a wide range of political issues from visa facilitation to transport policy and the fight against terrorism. They would replace the outdated Partnership and Cooperation agreements (PCAs),⁷ signed during the 1990s with most of the countries in question.

There is no clear-cut definition of an Association Agreement (AA). They find their legal source in Article 217 of the TFEU, stating that 'The Union may conclude with one or more third countries or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure'. By looking at the text of the AAs, it becomes clear that the most innovative part of it is not the political agreement (which often just codifies current practice),⁸ but the trade part (the DCFTA). It is in this part that the mutual rights and obligations become apparent.

The DCFTA thus comes quite close to integrating the partner state into the Single Market, although with some limitations: limited access to EU agricultural markets, limited access to EU funds and no say in setting the common rules. Whereas economic benefits and incomes from new sources (VAT or income tax) are expected to materialise only over time, the partner countries are likely to lose access to the Russian market (which accounts for 25% of Ukraine's exports, on par with exports to the EU) in the short term and face immediately disappearing income from customs duties. For the EU, the economic impact of the DCFTAs is likely to be slightly positive, also given that Member States seem to have hedged many of the sectors that are likely to be in direct competition.

The right choice? Campaign for the Referendum on the Independence of Crimea, March 2014



Source: <http://www.unitednews.com.pk>

In the end, the main motivation for both partners signing DCFTAs is not economic, but rather political. The leaders of Ukraine, Georgia and Moldova have repeatedly stressed their countries' aspirations to become a member of the EU.⁹ For them, DCFTAs are not the end point, but only the first step towards fully fledged membership, while at the same time getting out of the Russian orbit.¹⁰ For the EU, not being able to give these countries a membership perspective, the DCFTA at least gives the partner countries a second best option of a privileged relationship through contractual relations of some substance (such as mutual rights and obligations), that make a difference with the earlier (and largely outdated) more declaratory agreements, that in the current geopolitical context appear to be rather inappropriate.

Can DCFTAs inspire new life in relations between the EU and its Southern Neighbours?

The political considerations that prompted the EU to propose DCFTAs as a new and more substantial form of cooperation to the Eastern Partners in 2009 were largely absent during the 2008 Paris founding summit of the UfM. It was clear from the beginning that the Southern Partners had no possibility (and no ambitions) to become EU members, therefore there was no need to offer any compensation for a lack of membership perspective – one of the motivations behind offering DCFTAs to its eastern neighbours. The UfM has long been regarded as a vanity project of former French President Sarkozy with a rather vague objective ('promoting stability and prosperity through political, social and cultural dialogue as well as economic cooperation'). It proposed no new instruments and only referred to existing Agreements. Whereas the Paris declaration made a general mention of an unspecified 'Deep Free Trade Area' in the Euromed region to be set up by 2010, no mechanisms to achieve this aim were set up.

After the Arab revolutions in 2010-2011, which swept away a number of autocratic regimes in the Southern Mediterranean (including the then co-President of the UfM, Hosni Mubarak), the cleavage between the rhetoric of the UfM and reality became even more obvious. In fact, the EU and its Member States had repeatedly closed their eyes to the numerous violations of the basic principles of democracy, political pluralism and fundamental freedoms enshrined in the common declaration: in exchange, they could count on these regimes in the fight against illegal migration and terrorism.¹¹ It was the Commissioner responsible for the Neighbourhood Policy, Stefan Füle, who was the first to admit after the Arab uprisings that the approach of the EU to the Southern Neighbourhood was inadequate, admitting that the EU had been 'hiding behind words like "creating a zone of stability, prosperity and peace"'.¹²

Realising that it had undermined its own credibility in the region by clearly favouring its own security concerns and commercial interests over its commitment to EU values,¹³ the EU tried to adapt to the new situation by adopting a number of measures: a packet of short-term measures (Partnership

for democracy and shared prosperity); addressing the 'three Ms' (Money, Markets, Mobility) in March 2011; a revised ENP strategy in May which introduced a concrete instrument that would help to support 'deep democracy'¹⁴ and to establish a 'deep and comprehensive free trade area' through Deep and Comprehensive Free Trade Agreements. These all became part of the ENP South vocabulary.

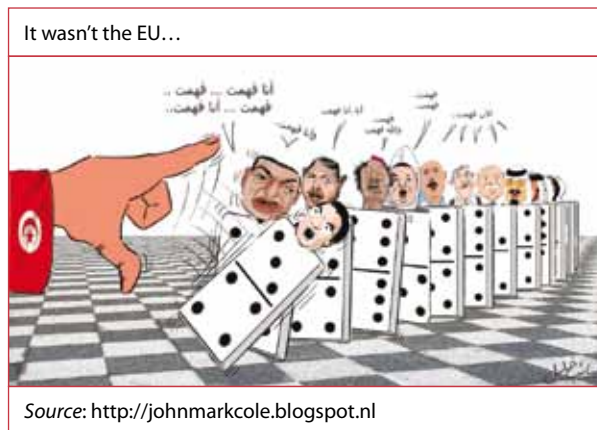
The DCFTAs: one size fits all revised?

Although initially designed as an instrument for the east, the DCFTAs became, with the revised ENP strategy, an instrument of choice for the south. But whereas in the east the DCFTAs were considered a standard solution, they became a mere

option in the south, depending on the political will of the partner country to engage in deep cooperation – and thus more relevant for the countries with strong economic stakes in the EU (such as Morocco and Tunisia). The Association Agreements the EU had concluded with most of the Southern Neighbours between 1995 and 2005 already provided for a free trade zone for manufactured goods; moreover, bilateral agreements on agricultural products were also concluded with a number of

countries. The envisaged value added would therefore come from the 'behind the border' provisions of the DCFTA (like regulatory issues, investment protection, intellectual property, and phytosanitary measures). However, these are areas the Southern countries are traditionally less keen to discuss, as they were generally seen as strengthening the positions of EU producers and service providers and thus increase existing trade deficits with the Union. Highly regulated areas such as telecoms and air transportation are still a convenient source of income for many governments in the south, which they are wary of opening up to competition. The degree of enthusiasm of most Southern countries to negotiate such agreements has been, as a consequence, rather limited (at the time of writing, only Morocco is actually negotiating a DCFTA).

The muted enthusiasm for the DCFTAs in the south contrasts with that to the east. Aside from Belarus and Azerbaijan,¹⁵ Ukraine, Moldova, Georgia and Armenia immediately embraced the DCFTAs, not so much for their content – bar Georgia, neither of these countries had previously shown particular interest in the structural reforms of their arcane regulatory systems that are at the core of these agreements – but rather for their symbolic power, as these agreements were seen as a first step towards EU membership, similar to the Association agreements (Europe Agreements) which were signed with the Central European States prior to their accession in the 1990s. In spite of frequent signals from the EU that this was not a realistic perspective, the Ukraine (with the notable exception of the Yanukovich government) and Georgia made EU integration a strategic priority. Moldova and Armenia have also publicly asked for a membership perspective. But more than it being a deep desire to embrace European values, the interest of the local elites for closer



integration with the EU might be explained by its potential to gain more leverage *vis-à-vis* Russia and its rival project for regional economic integration, the Eurasian Customs Union.¹⁶

European v Eurasian Union

The Eurasian Customs Union had until recently not figured prominently on the Brussels radar. Being an offspring of the EU's enlargement policy, the ENP had largely relied on the attractiveness of the European model and on the EU's normative power that had so far remained unrivalled in Europe: the idea of having to compete with a competitive role model did not come spontaneously to the EU's policy makers. However, the growing economic power of Russia and its matching geopolitical ambitions over the last decade had changed this basic parameter. For Russia, the DCFTAs with the countries of what it considers its 'near abroad' or special zone of influence, are perceived as a direct challenge to its regional ambitions for political and economic leadership.¹⁷

There are few illusions in the Eastern Neighbourhood about the nature of the Customs Union/Eurasian Union: even if President Putin has denied that he is seeking to resurrect the defunct Soviet Union, his description of the implosion of the Soviet Union as the greatest geopolitical catastrophe of the 20th century is still well remembered in the region. Although it contains a few supranational elements, there is little doubt about the real ownership of the Moscow-based Customs Union. Experience has shown that, rather than dangling the carrot of economic integration, Russia has been using trade measures as a stick to punish neighbouring countries for political misbehaviour.¹⁸ Therefore, the argument that Russia's opposition to the DCFTA was prompted mainly by economic concerns – due to the fear of an influx of cheap goods from the EU that would harm its local producers¹⁹ – does not sound too convincing.

The quite aggressive reaction of the most important 'Neighbour of the Neighbours' to the DCFTAs thus hit the EU by surprise. Even if the EU insists that the DCFTAs were never directed against Russia, and that even with a DCFTA in place nothing would be standing in the way of free trade between the Eurasian Customs Union and the EU's Eastern neighbours, it was nevertheless clear that once the DCFTA was signed, no signatory would be able to become a member of the Customs Union, as commitment to this body (loss of ability to decide on its own customs tariffs) would be incompatible with the obligation to reduce customs tariffs with the EU.

As the question of trade integration in the eastern region turned into a zero-sum-game, the partners had to make their choice:

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in the case of Armenia, which had on several occasions in the past expressed its wish for an EU integration perspective, the Russian suggestion that the country should not put at risk the benefits coming from closer integration with Russia (Armenia relies heavily on Russian security;²⁰ energy and remittances) and therefore drop the AA/DCFTA²¹ was successful. Initially, it seemed as if Russia's approach would also work in Ukraine. But the decision of the Yanukovich government in late 2013 to suspend preparations for the signing of Ukraine's AA/DCFTA sparked massive civil protests (so-called 'Euromaidan') in support of political association and economic integration with the EU. The unrest spreading from Kiev to the whole country – which culminated in President Yanukovich being forced to flee to Russia – was used as the pretext by President Putin to justify the annexation of Crimea and to support separatist forces in Eastern Ukraine. When the DCFTA was finally signed by the pro-European Yatsenyuk government in September 2014,²² Ukraine had lost control over large parts of its territory and suffered several thousand casualties among its soldiers and civilian population. Ukraine had finally made its pro-European choice, but at a very high price.

A painful waking in a not so post-modern world?

Could the EU have seen this coming? In fact, since the end of the cold war a quarter of a century ago, the EU has been living with the conviction that it had no enemies; security threats would come from non-state actors: regional conflicts, terrorism and organised crime.²³ Therefore, the simple fact that another state could not only oppose its plans, but also openly try to challenge them, not shying away from a military conflict, had been unimaginable merely a year ago. Neither was such a possibility mentioned as a potential risk in the Impact Assessments that were carried out on behalf of the Commission. But unlike the EU, Russia has not yet arrived in a post-modern world: it rather sees its interest through the prism of the first-half of 20th century zero-sum *realpolitik*, where geopolitical influence comes as a result of military and economic power. This was something that was already apparent with its military incursion into Georgia in 2008, although not widely acknowledged at the time. The signing of the AA/DCFTA was thus interpreted by Russia as a direct challenge to its geopolitical aspirations, which thus demanded a harsh response.

As often happens, it was an event outside its borders that pushed the EU towards a common position. The imposition of sanctions on Russia, following the annexation of Crimea and Russia's role in destabilising Eastern Ukraine, has shown that the Union is, in principle, ready to stand up for its values, even if this comes at a high price. Whatever credibility was lost in the south, might be made up in the

The Eurasian Customs Union: the EU's competitor in the east?



Source: <http://rt.com/business>

east. For this, the EU disposes of a whole range of foreign policy instruments such as trade, technical assistance (i.e. to help Ukraine to wean itself from Russian gas),²⁴ or the CFSP/CSDP. And, not to forget, its most powerful foreign policy instrument: enlargement.

Could an enlargement perspective make a difference?

There is an ongoing debate on whether a clear enlargement perspective for Ukraine could have prevented – or rather exacerbated – the current crisis. It is often assumed that an enlargement perspective is a factor of stabilisation for a country, as the stakeholders would divert their energies away from internal struggles to a common objective. On the other hand, if the rather technical AA/DCFTA proved to be so divisive that it led to a civil war and later to a Russian incursion, would a fully-fledged accession process have poured even more oil onto the fire, leading to an even stronger reaction from Russia?

Russia intervened in the Ukrainian conflict thinking that its intervention would be widely endorsed by the local population. There was little doubt that many Russians in Crimea and in Eastern Ukraine would welcome a Russian intervention, just as Russian speakers in Abkhazia and Southern Ossetia did in 2008.

The attractiveness of Russia as a role model for Russian speakers in the region can be explained by a number of factors: the economic upturn that coincided with the beginning of Putin's first term in office in 2000 provided Russian citizens with a previously unknown increase in living standards – a process that largely bypassed most neighbouring former Soviet Republics, as it was founded on increased revenues generated from exploiting natural resources, in particular oil and gas. Economic wellbeing therefore substituted for democratic process as a source of legitimacy. Largely insensitive policies adopted by the governments of neighbouring countries *vis-à-vis* their Russian minorities and Russia's claim to act as a protector of Russian speakers throughout the region further increased the legitimacy and attractiveness of the Russian State to its diaspora.

Whereas a clear accession perspective would not in itself have diminished the attraction of Russia to ethnic Russians across the border, it would most likely have stopped Ukraine from further pushing native Russian speakers into the same direction. Being locked into an accession mechanism would have arguably prevented the Ukrainian authorities from pursuing populist policies which resulted in the further alienation of its Russian-speaking minority.²⁵ The example of

the enlargement process in the Central and Eastern European countries had shown that the requirements to comply with EU standards (which include the rights of minorities) had considerably diminished the temptation of candidate countries to adopt populist measures directed against national minorities as a means of diverting from more fundamental political issues.

In addition, the attraction of Russia for native Russian speakers in Ukraine appeared to be popular in the absence of any other more appealing outlooks: although the AA mentioned the objective of a visa-free regime, the AA/DCFTA, was generally not seen as bringing tangible results for Ukrainians. The fact that few understood the content of the rather technical agreement allowed Russia to manipulate Russian speakers in Ukraine via the widely received Kremlin-sponsored audio-visual media, by presenting this agreement as detrimental to their interests. For sure, in the case of an EU accession perspective, Russia would have tried to manipulate the public through the same channels,²⁶ but it would

have had less leverage, as the benefits of EU membership (full freedom of movement, rising standards of living, full access to EU markets, funds and programmes) are widely acknowledged even in Eastern Ukraine.²⁷ Moreover, even Russian speakers in Eastern and Southern Ukraine are aware that being part of Russia has a downside: whereas Ukraine abolished military service in 2013 (although it was reintroduced in 2014, as a result of the crisis) the perspective of doing compulsory military service in the Russian army is hardly appealing for the Russian-speaking young men of the diaspora.

The reasons why many Arab countries signed up to the ENP and the UfM were very different from what the EU had in mind: a nice occasion to legitimise their autocratic regimes and their control of their country's resources.

Whilst it would be difficult to claim with certainty that the course of history would have been changed with a prospective accession, it is clear that such a prospect would have made public support for a Russian intervention less widespread. This would have raised the opportunity cost of intervention and reduced the leverage of President Putin to destabilise the country through territorial annexation and through fostering rebel militias. This

chance has been missed. But for what remains of Ukraine and the other Eastern partner countries, a clear perspective is still likely to drastically increase the political will of these countries to engage in deep reforms and to overcome the divisions within their societies. In times where a number of current candidates and potential candidates have put EU accession on the backburner, and where the UK is considering leaving the Union, would it not be fair to give a chance to those European countries that are willing and committed to fulfilling their European ambitions and to show the existing members that EU membership is still something to be appreciated?

The Arab uprisings: hitting the EU by surprise



Source: <http://knowyourmeme.com>

And the outlook for the south?

The situation of the DCFTAs in the Southern Neighbours is very different: although the EU is not the only actor striving for political influence in the ENP South, the EU has – in spite of the ever-increasing role of China – no direct competitor in the region when it comes to trade integration. The EU is, by large, the biggest trading partner for all of these countries. Even if a DCFTA would be likely to further increase the trade deficit of many of them with the EU, they are expected to bear economic benefits for these countries – in the long run. However, as many of the countries already have free trade provisions (including for agricultural products) as parts of their existing Association Agreements, their appetite for further, more comprehensive liberalisation, which would force them to reform their economic and political systems, is often limited. But without joint ownership and commitment, the DCFTAs would have little added value.

For the EU, there are certainly economic benefits resulting from the opening of government procurement, regulatory convergence or the harmonisation of rules and standards. But more than the expected economic benefits, or the hope of substantial reform, the EU's offer to conclude DCFTAs with these countries mainly stems from the perceived need to fill the largely empty shell of ENP/UfM with some substance. The EU seems to have been pushed by events to use this tool in the absence of any other more suitable and meaningful instruments. But the DCFTAs might not be the right instruments for those that should not have qualified for a privileged relationship in the first place. The reasons why many Arab countries signed up to the ENP and the UfM were very different from what the EU had in mind: a nice occasion to legitimise their autocratic regimes and their control of their country's resources. By getting too closely involved, the EU did not change its neighbourhood, but compromised its own values. Moreover, some of the regimes that followed the Arab uprisings, even if fully democratically legitimised, have scarcely embraced 'European values'. The suspicion that the EU uses concepts such as human rights, democracy and the rule of law in an opportunistic way, as a vehicle to fulfil its own strategic ambitions and interests, won't go away easily. Although there are important differences between the Arab neighbours of Europe (with Israel being a case apart), many feel uncomfortable *vis-à-vis* the EU's constant highlighting of its own value system which they see as Eurocentric²⁸ and sometimes smacking of paternalism.

Conclusions

The DCFTAs are a specific instrument for inspiring life into the ENP, which itself is a product of the EU's post-modern approach to the world: the baseline of this approach is that the EU has no external enemies and that its basic values are, in principle, shared and coveted by everyone. The whole remaining challenge would therefore be to identify the appropriate means and instruments to achieve the common goal.

The Arab uprisings and Russia's aggression against Ukraine have forced the EU to say farewell to this illusion. The Union will need to differentiate its approach, by reserving a number of tools (like the DCFTAs) for its privileged partners which share the Union's world view and values, aspire to a high level of integration, and have the deep and comprehensive political will to implement the matching necessary reforms.

This seems to be the case for a number of countries in the east, but far less so in the south. Where the political will for more integration is absent, both sides should realise that fostering the illusion of a privileged partnership serves no one; the use of traditional means of diplomacy and instruments of classical foreign policy ('external action', in the EU's parlance) would be more appropriate: development assistance, CFSP/CSDP, and, if not yet in place, more classical forms of trade liberalisation – without necessarily being 'deep and comprehensive'.

Notes

- ¹ There are, however, important differences within the region: whereas countries such as Tunisia, Morocco and Jordan have traditionally sought for closer integration with the EU, the degree of interest of countries as Algeria, Syria and Libya in the ENP and in closer relations with the EU had been negligible.
- ² For example, in its 'Twinning' programmes, one of the main technical cooperation mechanisms of the ENP, the Commission gives to the countries of the Southern Neighbourhood far greater autonomy within the planning, preparation and implementation of programmes than to the Eastern countries.
- ³ In total, the 'common values/shared values' are mentioned 20 times in the 2004 ENP communication.
- ⁴ Joint Declaration of the Paris Summit for the Mediterranean. Paris, 13 July 2008.
- ⁵ Joint Declaration of the Prague Eastern Partnership Summit Prague, 7 May 2009
- ⁶ In trade circles generally referred to as the 'Singapore issues', a reference to the World Trade Organization Ministerial Conference of 1996 in Singapore.
- ⁷ These agreements became outdated due to internal developments in both the EU and its partner countries. The PCAs refer to the partner countries as 'countries with an economy in transition', which is no longer appropriate after the recognition of their market economy status and their accession to the WTO. Moreover, the level of bilateral cooperation has gradually extended beyond the scope of the PCAs, for example in the field of police and judicial cooperation in criminal matters.
- ⁸ Some provisions of the AA with Moldova were already outdated at the time of signing: the visa-free regime stipulated in the agreement had already been established in March 2014, three months before the signing of the AA.
- ⁹ *'The borders of Europe now stretch from the coast of Portugal to beyond Kiev. We have chosen Europe: it is not just a question of geography, but a matter of shared spiritual and moral values.'* Address by Viktor Youshenko, President of Ukraine, to the European Parliament, 23 February 2005. http://europa.eu/rapid/press-release_DN-05-102_en.htm. On Moldova, *'We have an ambitious target but I consider that we can reach it: doing everything possible for Moldova to become a full member of the European Union when Romania will hold the presidency of the EU in 2019'* Moldovan Prime Minister Iurie Leanca, 29 April 2014. On Georgia, *'Georgia should never leave the path of European integration. The more closely Georgia integrates with EU institutions, the more Russia will have to rethink its policy towards Georgia'*, Georgian President Mikheil Saakashvili 8 November 2011. <http://www.euractiv.com/europes-east/saakashvili-georgia-leave-path-e-interview-508800>.
- ¹⁰ In August 2014, the Ukrainian government presented a bill to Parliament to cancel Ukraine's status as a non-aligned state. If passed, the law would ban Ukraine from joining any political unions which would prevent it from eventually achieving *'its key and sole goal'* – membership in the European Union (P. M. Yatsenyuk before the Verkhovna Rada, 29 August 2014).

- ¹¹ In the early days of the civil movement, French foreign minister, Ms Alliot-Marie, offered assistance to the Ben Ali regime by providing French security forces and its *savoir-faire* in controlling social unrest. <http://www.bbc.co.uk/news/world-europe-12591452>.
- ¹² Stefan Füle witnessing before the Select Committee on the European Union Foreign Affairs, Defence and Development Policy Inquiry on Libya, Evidence Session No. 2., Heard in Public, Questions 16-21, Tuesday 15 March 2011.
- ¹³ The EU deplored the violence perpetrated by the Ben-Ali regime only with one month's delay – after Ben Ali had fled the country and France dropped its support to the regime. http://europa.eu/rapid/press-release_MEMO-11-23_en.htm.
- ¹⁴ Defined in the strategy as 'the kind that lasts because the right to vote is accompanied by rights to exercise free speech, form competing political parties, receive impartial justice from independent judges, security from accountable police and army forces, access to a competent and non-corrupt civil service – and other civil and human rights that many Europeans take for granted, such as the freedom of thought, conscience and religion'.
- ¹⁵ These two countries are not eligible to sign DCFTAs due to their non-membership of the WTO, a basic conditionality put forward by the EU, as well as the poor state of democracy and human rights.
- ¹⁶ The Eurasian Customs Union, set up in 2010 as a successor of the 2000 Eurasian Economic Community, currently comprises Russia, Belarus and Kazakhstan (Ukraine being an observer). In 2015, it will be transformed into the Eurasian Union.
- ¹⁷ Russia is still militarily engaged in all Eastern Partnership countries except for Azerbaijan.
- ¹⁸ As proven by a string of bans against Moldovan, Georgian and Ukrainian agricultural products for alleged health reasons following political disagreements. <http://www.rferl.org/content/moldova-wine-russia-import-ban/25102889.html>.
- ¹⁹ It was in order to alleviate this concern that the EU unilaterally decided upon signing the agreement that the provisions of the DCFTA with Ukraine will be applied only from 2016 onwards (but with Ukraine having access to the EU market from the moment of signing).
- ²⁰ In particular the Russian military advisors in Nagorno Karabach.
- ²¹ Armenia declared shortly before the planned signature of the Agreement at the Vilnius Summit in November 2013 that it would no longer seek to sign an AA/DCFTA with the EU, but rather join the Russian-led Customs Union instead.
- ²² The non-trade related parts had already been signed by Ukraine in March 2014.
- ²³ EU security strategy 2003, revised 2008.
- ²⁴ According to Enerdata, Ukraine is the second most energy-wasteful nation in the world spending about \$457 to generate each \$1,000 of output. For comparison, France, Germany and Italy spend \$100 to generate the same amount. If EU energy efficiency standards were applied to Ukraine, the country could be largely energy self-sufficient.
- ²⁵ Such as the attempted repeal in February 2014, of the 2012 language law. This law had given the Russian language the status of an official language in a number of majority Russian-speaking regions. Its repeal provoked a backlash against the Euromaidan movement in Crimea and Eastern Ukraine, which ultimately culminated in the annexation of Crimea by Russia. However, after being internationally criticised (among others by the OSCE High Commissioner on national Minorities), the repeal bill was finally withdrawn.
- ²⁶ Russian state media tend to heavily focus on the more negative effects of EU integration. EU surveys in Latvia and Lithuania have shown that there is a correlation between the consumption of Russian media and attitude towards the EU. <http://euobserver.com/eu-elections/123973>.
- ²⁷ According to a 2011 poll, 46% of Ukrainians are in favour of EU accession, however with high regional differences: whereas 74% are supportive in the west, only 26% of respondents in Crimea and the Donbass declared themselves favourable. Remarkably, a majority (58%) of young people (age 18-29) support EU accession, with no variation between regions. <http://dif.org.ua/en/publications/press-relizy/dfefwgr.htm>.
- ²⁸ An often heard complaint in the south is that the concept of the European reading of the 'Rule of Law' – one of the basic principles of the EU (albeit not precisely defined) – completely disregards the Islamic version of the Rule of Law, the Sharia, which is designated as a source of legislation in most Arab constitutions.