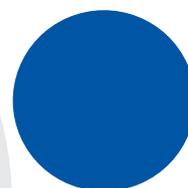


ISSN 2228-0391



No. 8

December 2011



Eastern Partnership Review

Fostering Deep and Comprehensive Free Trade Agreements for the Eastern Partners

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Eesti Idapartnerluse Keskus
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The Eastern Partnership¹ Summit in Warsaw, 29-30 September, held forth the prospect of achieving some long-awaited results. The Joint Declaration² announced that participants “look forward to the possible finalization of the negotiations [on a deep and comprehensive free trade agreement (DCFTA) with Ukraine] by the time of the EU-Ukraine Summit in December 2011.”³ It further “envisaged that such negotiations could start [with Georgia and Moldova] by the end of this year, provided sufficient progress has been made in fulfilling a number of remaining key conditions.” On 2 December 2011 the Trade Policy Committee recommended the start of such negotiations.⁴ This result provides a welcome momentum to the Eastern Partnership (EaP) which had difficulties in getting started.

Negotiations on a DCFTA had opened with Ukraine in February 2008 but have not been formally completed. ‘Negotiations to open negotiations’ on a DCFTA started with Georgia in mid-2009 and made progress during 2010 on key issues of competition policy, food safety and intellectual property rights. Similar ‘negotiations to negotiate’ started with Moldova early in 2010 and in December 2010 Moldova adopted an Action Plan to implement the Commission’s key recommendations. Some partner countries had expected to proceed more rapidly and were disappointed by the slow progress.

Both sides have too much at stake to allow initial difficulties to produce a stalemate. The EU’s Member States – especially those on its eastern border – have a strong self-interest in fostering economic prosperity, political stability and geopolitical security in this region. The EaP States in turn face huge challenges to effectuate their transition from planned to market economies, to secure democratic and human rights for their citizens and to safeguard national security. These common interests, mutually reinforcing, justify special efforts by both sides to overcome any difficulties. This is all the more urgent as the dramatic changes in the Southern Mediterranean during the summer of 2011 will now claim more attention and resources from the EU and its Member States within the framework of the European Neighbourhood Policy (ENP).

The review of the ENP conducted by the High Representative of The Union For Foreign Affairs And Security Policy and the European Commission in May 2011 proposes a number of changes to adapt the ENP to a changing Neighbourhood.⁵ Additional programs and resources are added for the Barcelona countries. Deep and comprehensive free trade agreements retain a central role in the Association Agreements of the Eastern Partnership.

This paper considers how a partner country can achieve DCFTAs with the EU (and with other partner countries), key objectives of the Eastern Partnership. It recalls that DCFTAs are well-chosen objectives (section 1) in spite of the initial difficulties involved for the partner countries (section 2). It notes, after historical comparisons, that negotiating DCFTAs will take time (section 3). Finally, it considers ways to shorten this time by negotiating appropriate sequencing, transition periods and asymmetric concessions (section 4) and the need to increase incentives for the partner countries by clarifying their eligibility for accession to the EU in the longer run and the concrete content of the Neighbourhood Economic Community (section 5). This will require both parties to take a long-view looking beyond the current sovereign debt and currency crises, the rapid political changes in the European Neighbourhood and competing claims on limited resources.

1 Proposed by Poland and Sweden, the Eastern Partnership was adopted during the Czech Presidency in 2009. It aimed to complement the Union for the Mediterranean, proposed by France and adopted during the French Presidency in August 2008 to replace the Barcelona Process adopted during the Spanish Presidency of 1995. This paper occasionally refers to the neighbours in the EaP as ‘partner countries’ and those in the Union for the Mediterranean as the ‘Barcelona countries’, and the two groups together as ‘neighbourhood countries’.

2 Council of the European Union, 1498/11, PRESSE 341.

3 Shortly thereafter the verdict sentencing former Prime Minister Yulia Tymoschenko to seven years imprisonment seriously damaged this expectation.

4 European Commission Press Release, IP/11/1504.

5 See Com(2011) 303, Joint Communication by the European Commission and High Representative of the European Union for Foreign Affairs and Security Policy. *A new response to a changing Neighbourhood*.

1. Free trade agreements with the EU and other EaPs a desirable objective

Some claim that most EaP partners are insufficiently advanced for a DCFTA. This is true in a self-evident way that misses the point. The DCFTA is a means not an end in itself, a means to complete transition to a market economy and to raise incomes in the partner countries. This modernization process allows each partner country to integrate its economy with the EU and also with other partners and gain from trade. It will take long to accomplish for partner countries and especially long for those with the worst initial conditions. All will need significant and varying assistance to negotiate and implement a DCFTA.

Each partner country was a socialist republic in the Soviet Union prior to 1991 and until recently lacked national institutions and experience to administer a market economy. In addition, several have territorial conflicts with each other or with Russia: Moldova concerning the break-away republic of Transnistria, Georgia concerning Abkhazia and South Ossetia, resulting in a brief but destructive war with Russia in August 2008; and, finally, Armenia and Azerbaijan concerning Nagorno-Karabakh. Deep economic integration in the form of a DCFTA between these partner countries themselves can help solve some of these problems by increasing mutual interdependence and reducing the importance of national borders – much as it has done in Western and Central Europe and is now doing, albeit slowly, in the Balkans.

Several of the six partner countries have serious national security problems, stemming from conflicts to which Russia is involved, formally as with Georgia, or informally as with Moldova-Ukraine. Improving national security in these cases is more difficult. Membership in NATO with its mutual assistance clause would be a first best solution. This is unlikely to occur in the foreseeable future. An Association Agreement with the EU (including a DCFTA) is a second-best option, since it provides geo-political reorientation. Prior to August 2008, Georgia was content with a shallow and narrow free trade agreement but thereafter opted for a DCFTA with the EU. Thus, Georgia did not at first want what the EU could really provide (deep economic integration), while the EU could not provide what Georgia really wanted (national security). Since this is not the best of all possible worlds, it is necessary to accept also second-best solutions and pursue

them without reservations.

In short, aiming for DCFTAs, with both the EU and the other EaP partners, is the right strategy for the partner countries. To get such agreements will also require the right tactics.

2. Difficulties EaP partners face in negotiating a DCFTA

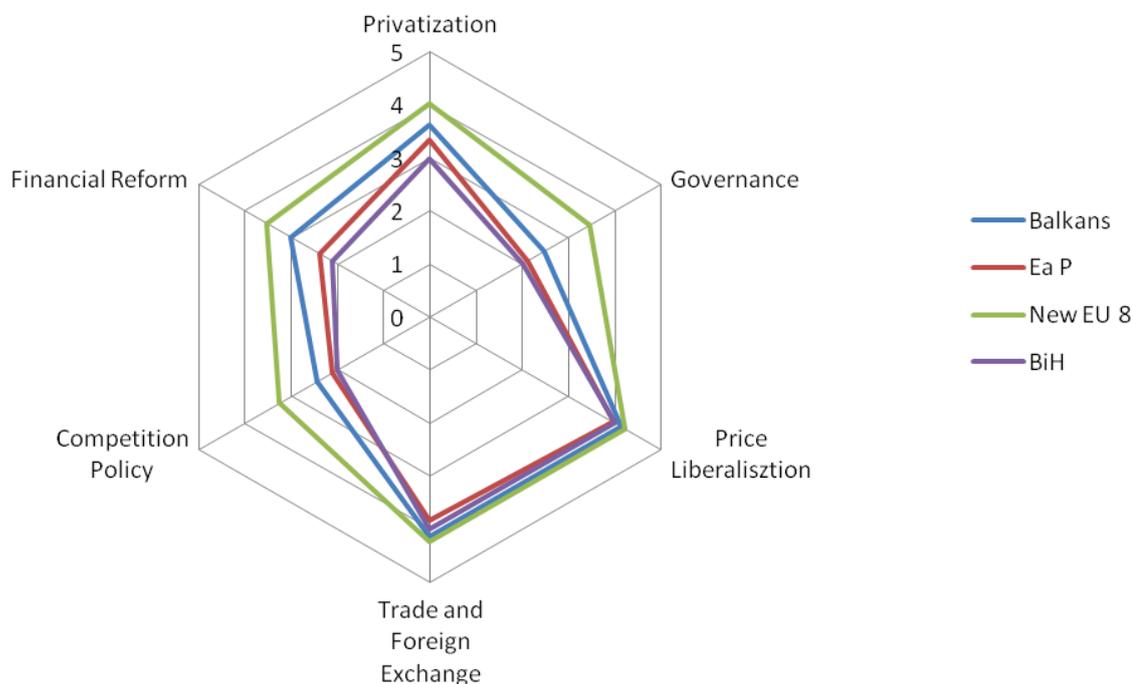
Since independence, most EaP partners have made significant progress in setting up national institutions and making the transition to a market economy. Nevertheless, they started far behind the countries of Eastern Europe and also behind the countries of the former Yugoslavia. Diagram 1 indicates that (as a group) they still remain far behind the eight new EU Member States of 2004 and behind the Balkan countries (including Bulgaria and Romania) in their transition to a market economy. Consequently, we can expect the EaP countries to take longer to reach a similar level of deep integration with the EU than it took Central and Eastern Europe and will take most Balkan countries.

It is important that both parties have a similar understanding of the task and time period involved. This does not seem to have been the case. Some EaP states may have underestimated what a DCFTA entails in terms of institution building and knowledge of the *acquis*. Some Commission Services may have misjudged the willingness and ability of the EaP partners to approximate and implement the proposed *acquis*. Unrealistic expectations will lead to disappointments.

As the words *deep and comprehensive* imply, a DCFTA is an ambitious undertaking providing access to most of the EU's internal market. It grants three of the four freedoms – free movement of 'substantially all' goods, many services and capital.⁶ It aims at a high level of integration of these markets. Eliminating tariffs and quotas on goods is relatively easy. However, free movement of some goods and many services requires eliminating numerous non-tariff barriers as well, such as technical regulations, sanitary and phytosanitary standards, not to mention ensuring the protection of intellectual property rights and equal conditions of competition. Many of these barriers reside mostly "inside the border" and consequently take more time and effort to eliminate or harmonize than the elimination of tariffs or quo-

⁶ Visa issues are negotiated separately from the DCFTA in the Association Agreements.

Diagram 1. Indicators of transition to market economies for three country groups and BiH, 2008



Source: EBRD Transition Report 2010.

Note: Score 1 means “little or no change from a rigid centrally planned economy” while 4+ (here represented by 4.25) means the “standards of an industrialised market economy”.

tas. Comparisons with similar negotiations in the past give a rough indication of how long it may take to negotiate a DCFTA.

3. Time taken to negotiate previous deep free trade agreements

A brief review of similar types of negotiations in the past suggests that negotiate a DCFTA may take considerable time. A common understanding of what is involved is necessary to avoid unrealistic demands as well as false expectations.

3.1 The plurilateral European Economic Area (EEA).

The agreement between the 12 members of the EC and the 7 members of EFTA took about four years to negotiate (1989-1993) excluding the negotiations on common decision-making arrangements.

Negotiations on a DCFTA will take longer for several reasons. First, the EFTA countries already had free trade agreements in goods (admittedly the easiest part to negotiate) with the EU when the EEA negotiations started. Second, the EFTA countries were advanced market economies with functioning institutions and experienced civil servants in the relevant fields. Third, the EU required the EFTA countries to “speak with one voice”, which presumably involved some economies-of-scale compared with negotiating with each of the seven countries bilaterally. Given that shortage of staff in the relevant Commission Services can occasionally be a bottle-neck, this is an important consideration.

3.2 The CEFTA regional agreement

Balkan countries have negotiated a regional agreement (CEFTA 2006), which includes many but not all of the probable components of a DCFTA.

This agreement took about 5 years to negotiate, including first negotiating bilateral free trade agreements on goods with each other and thereafter consolidating the bilaterals into the plurilateral agreement CEFTA. While this was a round-about way of negotiating it was a political necessity. Similar ‘political necessities’ may be present among partners in the EaP.

3.3 The bilateral Stability and Association Agreements (SAA)

Each Balkan country is engaged in negotiating a SAA with the EU. These agreements are fairly similar to the Association Agreements containing a deep and comprehensive trade component. These negotiations are in progress and four have entered into force. Bosnia and Herzegovina has not yet concluded negotiations. Current indications are that these bilateral agreements can take from 3 to 6 years to negotiate depending on the initial conditions of the country.

These historical experiences suggest that negotiating a bilateral DCFTA between an EaP partner and the EU is unlikely to take less than 5 years – from opening negotiations to initialing an agreement.⁷ When such negotiations can start is determined by the ‘preparedness’ of the partner country, that is, by its initial conditions.⁸ The “negotiations to start negotiations” are likely to take 1 to 3 years depending on the country. Thus, an agreement may not be initialed until 6 to 10 years after the EC starts its assessment of preparedness. This is a long time, making it important to see the DCFTA as a process of successively deeper integration, not as a one-shot quick-fix. The beginning of this process is more difficult than its end.

4. Negotiable components of deep free trade agreements

Some consider a DCFTA as a take-it-or-leave-it offer. This is an oversimplification. While much is given, especially the contents of the agreement,

⁷ This does not include pre-negotiations to determine that negotiations can start.

⁸ The EaP partners have much worse initial conditions than the CEFTA 2006 countries, not to mention the EFTA countries. It is possible that Moldova, which opened discussion with the EC on its key recommendations in 2010 will make faster progress since it already has experience of negotiating trade agreements with the Balkan countries (CEFTA 2006) in the framework of the Stability Pact in which the EC played a lead role.

there are many different ways to arrive at it. Thus, there is a varying margin for negotiation in the following five components, which need to be carefully considered:

- the **scope of the *acquis*** to be approximated,
- the **degree of approximation of the *acquis*** to be achieved,
- the **sequencing of issues** in the *acquis*
- the **length of transition** periods in implementing the *acquis*, and
- the **degree of asymmetry** in concessions exchanged.

These five items are treated in turn below.

4.1 Scope of the *acquis* to be approximated

Judging from its preliminary assessments, the Commission defines a deep and comprehensive free trade agreement very broadly. This is inevitable *ex definitione*. A DCFTA aims at rapid liberalisation of substantially all trade in goods and liberalisation of capital and services in the long-run.⁹ The EC has not specified how long the long run is. This is open for negotiation (see 4.3). Thus, actual liberalization of capital and other relevant services can start and/or be completed some time after the signing of a DCFTA. However, the more advanced the economy of the partner country is, the shorter the transition period negotiated is likely to be.

Other parts of the *acquis* that are specified by the EC as being part of a DCFTA are rules of origin, intellectual property rights (IPR), competition policy and state aids. Rules of origin are necessary for a ‘simple’ free trade agreement and are, therefore, a prime candidate for early adoption. The same is true of certain customs issues and trade statistics. IPR and competition policy on the other hand are complex issues, difficult to implement. Key issues that the EC has stressed in the pre-negotiations are sanitary and phytosanitary standards and technical regulations for industrial products. These are complex and costly to introduce. The partner countries have the option to introduce them sequentially and apply them asymmetrically (see 4.4 and 4.5). The key question is not so much whether or not they will ever be introduced but when they will be introduced.

⁹ Liberalising “substantially all trade” is necessary for a trade agreement to be in conformity with the WTO. Membership in the WTO is a precondition for a DCFTA. An interpretation of “substantially all trade” is 90 per cent of all trade by value *and* by product lines.

The list of the *acquis* items which the EC considers necessary to have in a deep and comprehensive free trade agreement is thus a long one. It is reasonable that the scope of the *acquis* to be adopted by each EaP partner is largely similar so that the playing field is level for all players. While the Commission has given a clear picture of what parts of the *acquis* are to be approximated, it is less clear how close the approximation is to be. This is treated in the next section.

4.2 Degree of approximation of the *acquis*

The term approximation itself indicates that the EU *acquis* is not to be transposed ‘unchanged’ into domestic law in the partner country. A complete transposition would make these partners resemble EU member states, but without any say in EU decision-making. The degree of approximation is not a topic for bilateral negotiations: EaP partners must adopt similar rules so as not to give rise to trade diversion. Hence, discussions in the framework of the EaP are appropriate at an early stage to clarify for partner countries exactly what level of approximation the EU sees as appropriate in each issue of the *acquis*. Given that a precedent may soon be set by the negotiations with Ukraine, the margin for negotiations is likely to be small.

In the three elements that follow the room for negotiated outcomes with individual country variations is much greater.

4.3 The sequencing of issues

As indicated above, the elements of the DCFTA being of varying complexity, cost and benefit, it makes sense to introduce the least complex and least costly/high benefit elements first, other things being equal, while leaving the more difficult, more costly/less benefit elements to later.

The sequencing principle of starting with the easiest elements avoids the discouragement of initial difficulties that can well derail the whole process. Thus, eliminating tariffs and quotas between two countries and introducing common rules of origin and certain customs issues are steps to take early in the process. Approximating legislation involving more complex issues (e.g. SPS, TBT, competition policy, state aids and intellectual property rights) are steps to be taken later. These issues involve implementing complex legislation, training personnel and building institutions – all of which takes time.

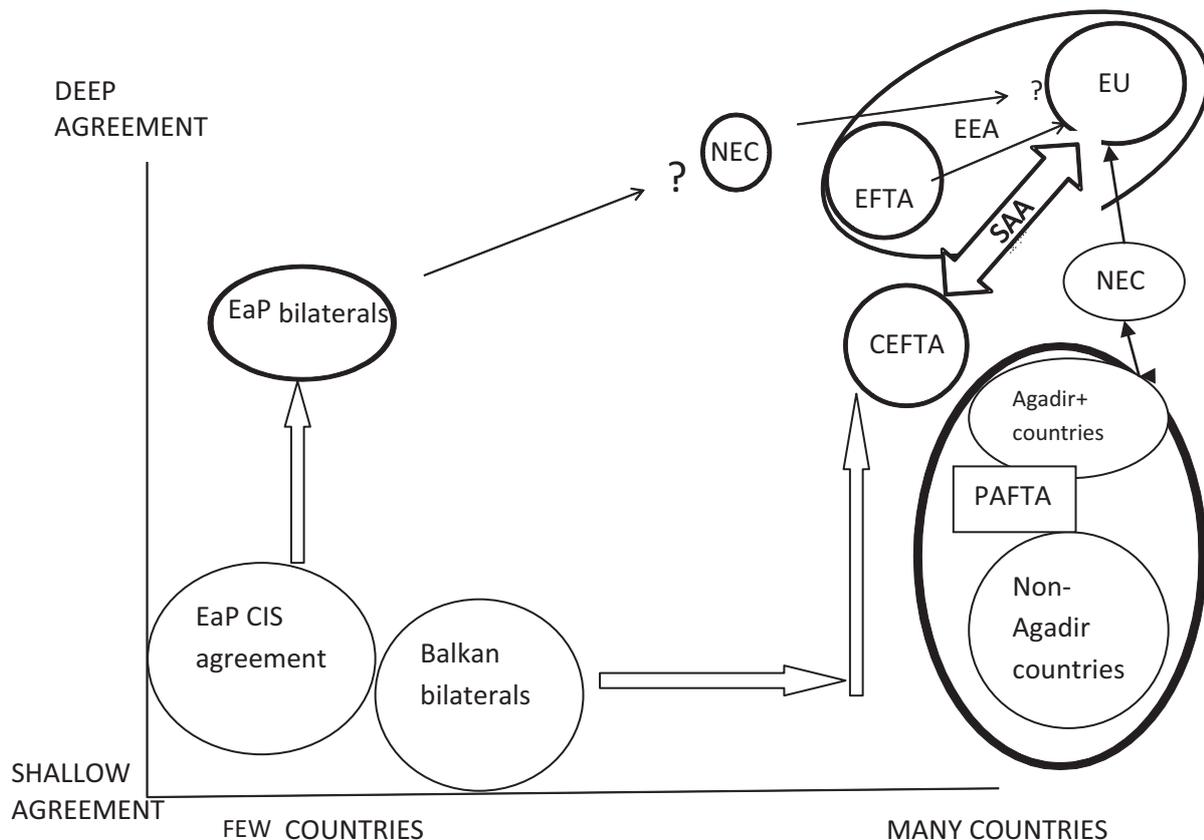
In the case of the Balkan countries sequencing from easy steps to more difficult ones was followed. They started with bilateral agreements removing tariffs and quotas on trade in goods, converted this network of bilateral agreements into a regional free trade agreement and added additional items concerning inside the border barriers, liberalization of capital movements and some services, and then moved to negotiate bilateral Stability and Association Agreements with the EU. The Balkan countries’ path proceeds from the easy to the more difficult, from bilateral to multilateral, from shallow to deep trade agreements as illustrated schematically in Diagram 2.

By contrast, from what we have seen to date the EaP appears to proceed from the most difficult agreements to the easiest, starting with bilateral DCFTAs with the EU and concluding with similar agreements with each other. By comparison, the Barcelona countries entered very shallow free trade agreements with each other (Pan-Arab Free Trade Agreement, PAFTA) and also with the EU. An exception is provided by Morocco, Tunisia, Egypt and Jordan which have deeper agreements with each other (the Agadir Agreement) and also with the EU (see Diagram 2).

The ENP foresees that both the EaP and the Barcelona process will lead to a Neighbourhood Economic Community (NEC) linked together by the DCFTAs of the participants. The NEC is only vaguely described by a reference to the European Economic Area (EEA) created by the EU together with the EFTA States. This vagueness is a disadvantage since it leaves the end-station and thereby the ultimate pay-off for the neighbourhood countries undefined (see 5.3).

Appropriate sequencing of issues is essential for success. It will vary from country to country depending on its status and speed of transition from a planned to a functioning market economy. The amount of progress made differs widely between the six EaP partners with Moldova leading somewhat and Belarus lagging far behind (see Diagram 3). While all countries do well on the ‘easy’ criteria such as price liberalization and trade and foreign exchange, all do poorly on the important indicators such as competition policy issues and governance and enterprise restructuring. Progress in privatization and financial reform is mixed. These transition indicators are a fairly good suggestion of the order in which the EC will assess the preparedness of the countries to negotiate a DCFTA, political considerations aside.

Diagram 2. Schematic presentation of the two dimensions of DCFTAs: Depth of agreements and number of countries



Note: The fewer the countries and the shallower the trade agreement the simpler to negotiate and to implement it while, conversely, the more countries and the deeper the agreement, the more difficult.

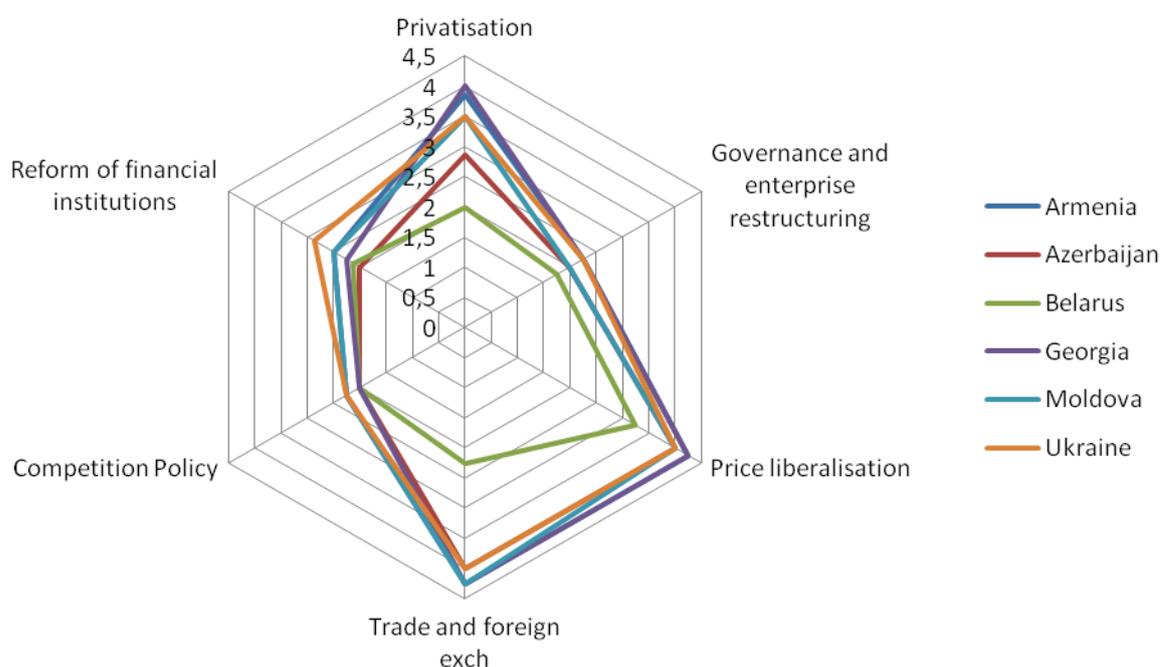
4.4 The length of transition periods

An important component of a trade negotiation is to negotiate transition periods for some of the more difficult issues. This means that a particular piece of legislation does not need to be applied fully until, say, five years after the entry into force of the agreement. Such transition periods allow a party to phase in the more difficult items successively over time and to stagger their entry so that all difficult issues do not need to be dealt with at the same time. Given the ambitious nature of the DCFTA, transition periods of varying length will greatly facilitate implementation of the agreement.

4.5 The degree of asymmetry in concessions

The Commission accepts the principle of asymmetrical 'concessions'. This means that the EU reduces its trade barriers without its trading partner having to reciprocate. Asymmetrical tariff con-

cessions, whereby one country reduces tariffs at a faster rate than its partner, are common. Thus, the EU might allow the partner country to maintain tariffs vis-à-vis the EU on all or certain sensitive products for a defined period of time while eliminating its own. Such asymmetric tariff concessions can be important for those EaP partners that currently have high tariffs on some products. Since the EU already applies low or zero tariffs temporarily through autonomous trade preferences or the generalized system of preferences (GSP+) on most imports from EaP partners, agreed tariff levels would lock in zero tariffs for the future. Market access, while not necessarily greater, will thus be more secure. While asymmetry in tariff reductions no doubt will play a role, it is likely to be a relatively minor one. Abolishing quotas or tariff quotas which the EU currently applies to EaP partners' exports is likely to provide significantly greater benefits. Even greater benefits for the partner countries are likely to arise from applying asymmetric concessions for

Diagram 3. EBRD transition indicators for EaP States 2009

Source: EBRD Transition Report 2010

Note: Score 1 means “little or no change from a rigid centrally planned economy” while score 4+ (here represented by 4.25) means the “standards of an industrialised market economy”.

such non-tariff barriers as sanitary and phytosanitary standards and technical barriers to trade.

Increased exports of agricultural goods to the EU could raise incomes of a large and poor section of the population in the partner country and contribute importantly to its economic development. Such exports to the EU are restrained not by tariffs but by sanitary and phytosanitary standards. These standards are designed to protect food safety and human health in the EU. Thus, the EU cannot waive these requirements for some imports. EaP exporters must fulfill these standards in order to gain access to the EU market. This requires a partner country to introduce expensive testing and certification procedures.

However, this does not mean that the partner country must adopt SPS legislation for all products and apply it also to its domestic market. Here the concepts of proper sequencing and asymmetry come into play.¹⁰

First, the partner country should select those agricultural products where its export potential to the EU is greatest and introduce the necessary testing and certification procedures there first. In other

words, sanitary and phytosanitary standards should be phased in product by product in a sequence and pace determined by the ratio of benefits to costs to the partner country. This is a complex and costly system so SPS legislation should be introduced successively in a way that maximizes net benefits to the partner country.

Secondly, the partner country need not apply these standards to sales of products on its own domestic market (asymmetry). Being a significantly poorer country than any of the EU's Member States, it may prefer to apply lower food safety and health standards at home for some time. In practice this could be said to ‘discriminate’ against EU producers, which fulfill higher standards. But these producers do have the option to produce “lower standard” products for the partner country market. Introducing developed country standards for food safety in an EaP market may well make its producers non-competitive there. If so the domestic market should be exempted from meeting international food standards until partner country firms can adjust to the new standards and the new standards are considered appropriate for the country's consumers by its government.

The same procedures of sequencing and asym-

¹⁰ This point is stressed by Messerlin *et al* (2011).

metry apply to the application of technical regulations for industrial products. These technical regulations are numerous, extremely complex and costly to apply. Here, too, the partner country has the option to adopt first those regulations that apply to its potential export products so they can gain access to the EU market (sequencing) while not applying them to products sold on the home market (asymmetry). The EU has accepted these principles of sequencing and asymmetry.

An important issue for the negotiations (as distinct from the pre-negotiations) is for the partner country and the EC to agree on the sequence in which to introduce various food standards and technical regulations for industrial products and where to apply asymmetric concessions with a view to obtain the greatest development impact on EaP partners' exports.

In summary, once one approaches the nitty-gritty of trade policy there is a surfeit of issues to negotiate even though the *acquis* to be approximated is relatively predetermined.

5. Decisive factors for success

The High Representative of the EU and The European Commission have proposed a number of changes to revitalize both the southern and the eastern branches of the ENP in a rapidly changing environment.¹¹ Among these are proposals to focus on fewer priorities and to provide greater incentives. Progress is to be rewarded with greater support (more funds for more reform), the budget is to be increased for the period until 2013 (by €1.24 bill), greater support for comprehensive institution building (especially to the Barcelona countries) is to be provided, cooperation between the EU and the partners is to be expanded by providing fora for civil society and the business community, especially welcome if they include all partner countries both in the east and in the south. A Partnership for Democracy and Shared Prosperity is launched for the southern partners, a programme which could benefit some countries in the EaP as well.

These suggestions may well revitalize the ENP. However, increased effectiveness requires greater organizational efficiency as well. This is achieved through improved secretariat support for activities from below and stronger leadership of activities from above. One way to achieve this is through significant reallocations of limited funds from weak

to strong activities. This is in accordance with the new principle of 'more for more, less for less' and could if effectively applied have a powerful effect on revitalizing the ENP.

This essay stresses in conclusion three factors that can help conclude a DCFTA in a reasonable period of time. These are the partner country's credibility as a negotiating partner, the amount of financial and technical assistance available to it and the pay-off that a DCFTA provides a partner country. These are treated in turn below.

5.1 The importance of negotiating credibility

Negotiating a DCFTA is a long process in which a government must proceed step by step in a consistent and persistent manner over several electoral periods. This requires a broad consensus in the partner country on the objective. A government with such a consensus can make credible commitments now on behalf of the country to deliver in the future. This can significantly shorten the time the negotiations will take. An EaP government that can present (and execute) a credible plan with mile stones to implement the relevant *acquis* by an agreed date can speed up the negotiations. Thus, it is important for a country's government to establish quickly at the outset of the pre-negotiations a track record as a credible negotiating partner. Negotiations can then proceed on a promise of delivery rather than have to await delivery itself. Since the negotiations on a DCFTA are likely to take more than five years, the country can use this time to approximate necessary legislation, train personnel and build institutions. Failure to deliver will reduce a country's negotiating credibility, requiring it to 'pay cash on demand' in the future. This will slow down the negotiating process.

5.2 Financial and technical assistance

Negotiating and implementing a DCFTA involves a long process of introducing new legislation, building new institutions and training competent personnel in several different fields at the same time. This requires a large investment of funds both in the pre-negotiations for a DCFTA and in the actual negotiations themselves in order to prepare a credible work plan, approximate legislation on the *acquis* as agreed and to implement it effectively.¹² These costs are extremely high for new nation

11 Com (2011) 303

12 If the fields are treated serially rather than simultaneously, the negotiations will be facilitated.

states in poor countries. So are the costs of preventing corruption and vested interests from capturing regulatory systems. Both these costs are incurred at the outset.

Inevitably, therefore, the partner countries are dependent on technical and financial assistance at a very early stage of the negotiations to fund the modernisation of their administrations and national economies. This assistance must be provided at a time and in amounts that enable the partner country to conclude and implement an agreement in a reasonable time period. Here, the Comprehensive Institution Building Programme (CIB) and interested Member States own bilateral assistance programmes are important elements that need to be mobilised and coordinated in an efficient way at the outset. The high-level review of the ENP indicates an increase in funds for the CIB programme and extends it to the Mediterranean states of the European Neighbourhood. This suggests that competition for these funds will increase. Partner countries need to bear in mind that these limited funds will increasingly be distributed on a first-qualified, first-served basis. The necessity to produce results is obvious.

5.3 Sufficient incentives for a DCFTA

The EU's offer of DCFTAs requires the EaP partners to adapt and adopt large parts of the European Union's *acquis*. This is hardly an attractive economic offer for extremely poor countries. The economic costs are high and now, the economic benefits are uncertain and far off. Several EaP countries have expressed interest in accession because of the political dividends this would provide: Moldova, Georgia and Ukraine in particular. Their efforts to negotiate a DCFTA would no doubt be significantly greater if they saw it as facilitating eventual accession to the EU. Therefore, the EU should state explicitly whether the EaP countries are eligible for accession under Article 49, provided they meet the established conditionality.¹³ Ambiguity concerning the limits of Europe is no longer constructive.¹⁴ On the contrary!

On a common geographic definition that

Europe extends to the Urals and to the Dardanelles, Belarus, Moldova and Ukraine would qualify. Turkey, while lying mostly to the east of the straits is, nevertheless, considered a European State. Importantly, it is contiguous to the three South Caucasian states, which upon a Turkish membership would be boarder States to the EU. The Joint Declaration of the EaP summit (29-30 September 2011) contains a passage acknowledging the European aspirations and the European choice of some partners.¹⁵ This is an important signal. Providing a prospect for accession is the strongest soft power that the EU can exercise.

The Western Balkans illustrates well the importance of this prospect of accession. These countries were unwilling to negotiate free trade agreements with each other until the EU could convince them (through the Thessaloniki Summit Declaration) that the agreements were not a substitute for accession to the EU but rather a precondition for accession to the European Union and that accession was a credible prospect for those that fulfilled the requirements.

If the EU fails to clarify which EaP States are considered European States, then the Commission will have to specify more exactly the end-station for those states that can never be members. This end-station is currently the Neighbourhood Economic Community (NEC) but no one knows exactly what this is. It is natural that they wish to know more exactly what the NEC entails and how it differs from the EEA.

6. Conclusion

A DCFTA provides a crash course in modernizing the economies of the former planned economies of the EaP states. Thus, sooner or later the EaP countries will conclude such agreements. The Warsaw Summit suggests that this may occur sooner rather than later provided political developments improve although this remains to be seen. The negotiations on a DCFTA with Ukraine may be concluded and those with Georgia and Moldova will start with the New Year 2012. While these negotiations will take time, the Commission holds out the prospect of more substantial funds from the

13 Article 49 states *inter alia* "Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union." (italics here). The official website of the European Union lists all EaP countries as "European countries".

14 In fact, the ENP at the outset was launched as "offering anything but membership", thereby suggesting that it was an alternative to accession.

15 Council of the European Union (2011). "The participants of the Warsaw Summit acknowledge the European aspirations and the European choice of some partners and their commitment to build deep and sustainable democracy. They highlighted the particular role for the Eastern Partnership to support those who seek an ever closer relationship with the EU." (p. 1).

Comprehensive Institution Building programme. The Commission will provide stronger incentives for those States that do their home work (“more for more”). The Council may provide clarity concerning accession and the NEC. The increased emphasis on increasing contacts with civil society and with the business community in the plurilateral framework of the EaP, can help revitalize the Eastern Partnership. Interested Member States can coordinate their efforts with each other and with the Commission to provide assistance benefiting individual partner countries in their adaptation to a DCFTA. The Commission will hopefully obtain a larger staff to deal with the forthcoming negotiations and the ongoing pre-negotiations in a timely manner. Perhaps even the organizational efficiency of the ENP can be improved.

Much is at stake for many. It is therefore important for both sides to maintain a long view, looking beyond the current debt and euro crises, the Union’s enlargement fatigue, and its constitutional problems. The partner countries can use this turbulent time well to modernize their economies and integrate them more closely with those of the European Union.

Bibliography

Council of the European Union (2011), *Joint Declaration of the Eastern Partnership Summit*, Warsaw, 29-30 September 2011.

Com(2011) 303, *A new response to a changing Neighbourhood*.

European Commission (2011), Press Release IP/11/1504, *EU launches trade negotiations with Georgia and Moldova*.

Gylfason, T., and P.M. Wijkman, (2011), *Economic integration as a Balkan peace project*, VoxEU.org, 1 January.

Gylfason, T., and P.M. Wijkman (2011), *Which conflicts can the European neighbourhood policy help resolve?*. Paper presented to Aarhus University globalization conference, November.

Hillion, D., and A. Mayhew (2009), *The Eastern Partnership – something new or window-dressing*, Sussex European Institute, Working Paper No. 109.

Martin, P., T. Mayer, and M. Thoenig (2010), *The Economics and Politics of Free Trade Agreements*, VoxEU.org, 9 April.

Messerlin, P., M. Emerson, G., and A. Le Vernoy (2011), *An Appraisal of the EU’s Trade Policy Towards its Eastern Neighbours: The case of Georgia*, Group d’Economie Mondiale, Science.Po, Paris, and Centre for European Policy Studies, Brussels.

Wallace, H. (2009), *The European Union and its Neighbourhood: Time for a Rethink*, ELIAMEP, May.

Wijkman, P.M. (2009), *Frihandel för fred: Exemplet Balkan*, SNS.

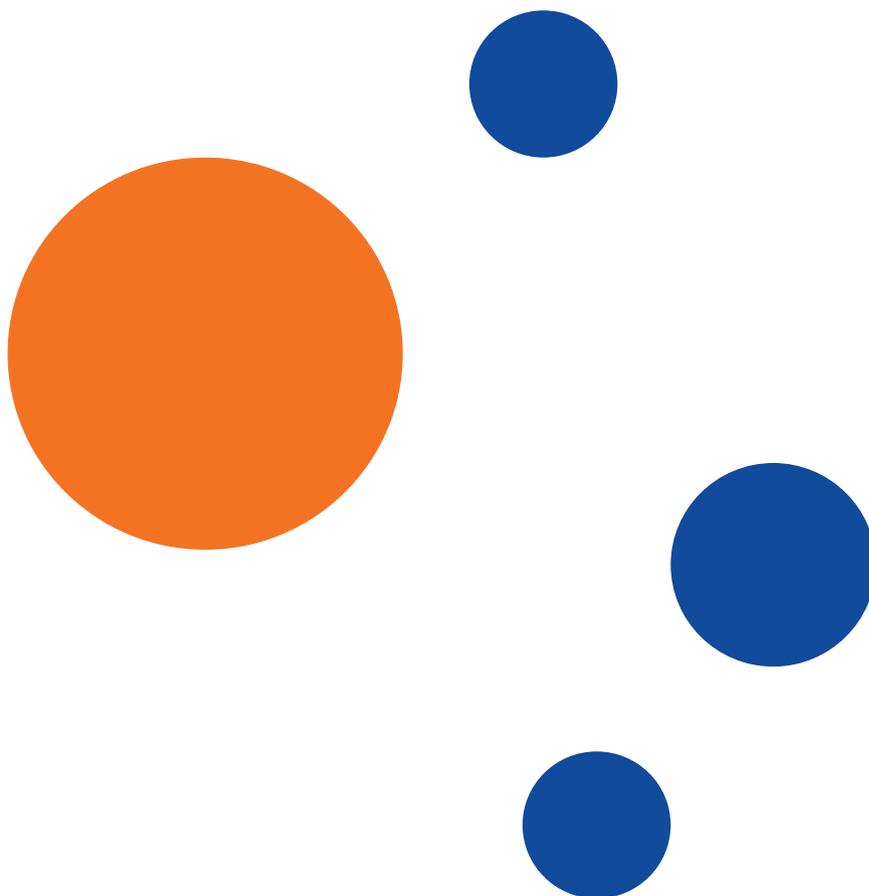


This document has been financed by the Swedish International Development Cooperation Agency, Sida. Sida does not necessarily share the views expressed in this material. Responsibility for its contents rests entirely with the author.

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