

## After the Vilnius fiasco: Who is to blame? What is to be done?

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### Abstract

*All three parties principally responsible for the Vilnius fiasco are to blame, each in their very different way: the EU for having drafted agreements with an inadequate balance between incentives and obligations, and vulnerable as a result to Putin's aim to torpedo the whole process in favour of his misconceived Eurasian Union, while Yanukovich tried playing geo-political games that left him personally and the Ukrainian state as Putin's hostage. It will require a major recalibration of policies to get this unstable new status quo back onto sound strategic lines, and proposals are advanced along three tracks in parallel: for rebuilding the remnants of the EU's neighbourhood policy, for attempting to get Russia to take Lisbon to Vladivostok seriously, and for promoting a Greater Eurasia concept fit for the 21<sup>st</sup> century that would embrace the whole of the European and Asian landmass.*

The wording in the title borrows from two celebrated Russian novels of the nineteenth century, by Alexander Herten and Nikolai Chernyshevsky, who were advocating revolution with a view to Russia's democratic modernisation<sup>1</sup>. One can speculate that they would have been excited by the Ukrainian Orange revolution of 2004, with at least the original Kiev Rus core of the Russian empire showing the way towards liberty, but exasperated by its subsequent mismanagement, and then excited again by the EuroMaidan uprising at the end of 2013 intent on throwing out Yanukovich's corrupt oligarchal autocracy, but then exasperated again to see Russia's present day tsar come to Yanukovich's rescue lest the virus of democratic revolution spread to Moscow.

Which brings us to Vilnius. The EU's summit meeting in the Lithuanian capital on 29 November 2013 had been billed as an historic event, with four Eastern partner states – Armenia, Georgia, Moldova and Ukraine – due to sign or initial in each case a 1000 page

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<sup>1</sup> Alexander Herten, Кто виноват? (Who is to blame?) (1846), and Nikolai Chernyshevsky, "Что делать?" (What is to be done?) (1862).

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long Association Agreement (AA), incorporating as core content a Deep and Comprehensive Free Trade Agreement (DCFTA). This would mark a further strategic advance of the 'Europeanisation' of Eastern Europe, following almost a decade after the EU's major enlargement into Central Europe. While these four states had not been granted their wishes to have the perspective of EU membership officially recognised, it seems to have been intention to crown the Vilnius event with a political declaration heading in that direction<sup>2</sup>.

The first warning that the scenario might unravel had come on 3 September 2013 when Armenia suddenly renounced proceeding with its agreement with the EU, as announced by President Sargsyan after a bilateral meeting in Moscow with President Putin, preferring to instead to join the Russian-led customs union. Russia was already punishing in advance Moldova and Ukraine with trade sanctions as warnings not to go ahead with the EU. And then on 9 November, following a meeting with Putin, President Yanukovich performed his U-turn, withdrawing from signing in Vilnius, leaving the script for the big event in tatters.

### Who is to blame?

There is plenty of blame all round. But let's start with EU, since it was their show in Vilnius, so its success or failure. If Russia was able to be the wrecker, the EU must have miscalculated somewhere along the line to have made this possible.

### *The European story*

From beginning of European Neighbourhood Policy (ENP) in 2004, almost a decade ago, criticisms were made by many independent observers that the proposed 'action plans' saw an inadequate matching of incentives from the EU alongside the reform-oriented obligations that the partner states were expected to follow<sup>3</sup>.

This did not change as the years went by. On the contrary as the AA/DCFTAs were drafted the obligations were deepened, as one can now observe in the initialled texts, which lay out commitments to comply with around 300 to 400 EU legal acts (see Annex A), but without acceptance by the EU to include the sacred language 'membership perspective', or pre-accession partnership assistance as being granted to Balkan states. The huge loading of EU legislation in the AA/DCFTA with Ukraine, which was the first text to be negotiated and served as template for the Armenian, Georgian and Moldovan texts, seems to be only a lightened version of what Norway accepts as part of its European Economic Area (EEA). As for the EEA the DCFTAs contain a commitment for the partner states to keep up with future EU legislation, either amendments to old texts or new ones.

The blame has to be shared by the political leaders of EU member states and the technocrats in the Commission. The politicians are primarily to blame for being unable to overcome disagreement over whether the East Europeans should be granted 'membership perspective'. This was of course in itself not an easy issue, but still a matter for strategic choice. On the one hand the EU was worried about over-stretch, of undermining the integrity of the system in the event of excessively fast enlargement into Eastern Europe, or of creating unrealistic expectations. On the other hand everybody could see that the spectacular transformation and

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<sup>2</sup> The summit's draft conclusions included such language, but this disappeared in the final text after Ukraine's refusal to sign its AA/DCFTA. See on this point Steven Blockmans and Hrant Kostanyan, 'A Post-Mortem of the Vilnius Summit: Not yet a Thessaloniki Moment for the Eastern Partnership', CEPS Commentary, December 2013.

<sup>3</sup> See, for example, Michael Emerson, *The Wider Europe Matrix*, CEPS Paperback, CEPS, Brussels, 2004.

Europeanisation of Central Europe had been driven by the EU accession perspective. For example the current President of Estonia, Tomas Ilves, formerly chief negotiator with the EU and later Member of the European Parliament, has repeatedly said that his country would never have accepted all the incredibly heavy burdens of the EU legislation if this had not been part of the membership package.

With the politicians not able to make up their minds clearly the ball was passed to the technocrats in the Commission to 'do something' to avoid that the new neighbours after the 2004 enlargement feel discouraged from heading in the direction of European political values and economic reform. The task was allocated to the relevant departments of the Commission, who set about doing what they had experience of, namely to follow the accession model in reviewing every aspect of the partner state's policies from the standpoint of compliance with EU norms, standards and regulations. There was early on an 'Action Plan' drawn up for Ukraine in the aftermath of the 2004 Orange revolution, with a huge number of action points, which the Yushchenko-Timoshenko regime was nowhere near able to implement, even before the leaders were driven apart by personal animosities.

The process took firmer shape when negotiations began with Ukraine several years later over what became the DCFTAs. The doctrine had been shaped in Brussels that a simple free trade agreement, based on the phasing out of tariffs, would have only a minor impact on the economy compared to a deep agreement that would eliminate not only technical barriers to trade but go way further into major fields of domestic regulatory policies (financial markets, competition, etc.), and link to political reform (democratic institutions, rule of law, de-corruption). Support for this big reform agenda came not only from the EU's own enlargement experience, but also from broader studies by the World Bank and EBRD showing how important 'good governance' was for economic performance.

As a result the Commission's 'negotiation' method was hardly a negotiation at all, but rather a system running on 'automatic pilot', in which the Directorate General for Trade coordinated the collection from other Directorates General responsible for various sectors of the EU policies their lists of EU laws for copying and pasting into the draft treaty. The negotiation element was mainly reduced to agreeing the time delay over which compliance was to be achieved, mostly ranging between 2 and 8 years. The Ukrainian text came first and served as template for Armenia, Georgia and Moldova with only minor differences. For example the Ukrainian text sees foresaw compliance with 64 legal acts in the financial services sector, 28 for environmental policy, 39 for labour and social policy, 59 for agriculture, 32 for technical standards, etc. (Annex A). The automatic pilot was appropriate and transparent for the accession process, but its logic for the Eastern neighbours was undermined by the refusal of the EU to agree to grant membership perspectives to the Eastern partners. In the wholesale listing of EU legislation there was no apparent impact assessment or screening for those that did, or did not fit well with the priorities and capacities of the partner state. The Commission side could say that it was for the partner state to work out its own impact assessments, but its approach was more of a 'take it or leave it' character. The 'negotiations' were totally non-transparent for the outsider, and too complex for even the insiders such as foreign ministry officials in either the EU or the partner states to comprehend at a general level. For those in doubt, try studying the 1000 page texts.

If the process had been more transparent then at least independent experts would have been able to contribute to impact assessments. As it was, the texts were kept secret in the time-honoured custom of trade negotiators, as if the negotiation process was a game of poker, whereas in reality the Commission was simply laying out its lists of legal acts for the partners to take or leave. Various feasibility studies were done at the request of the Commission, and these generally came to the conclusion that 'simple' free trade would

deliver only minor benefits compared to 'deep' free trade. However these results were driven by simplified assumptions about the removal non-tariff barriers and improvements in economic governance equivalent in effect<sup>4</sup>. There were no sector by sector analyses, identifying which sectors would see serious adjustment costs, such as through adoption of EU standards in the agricultural sector or the impact of environmental standards in metallurgical industries. The general doctrine was that the EU legislation could be taken as proxy for good governance, and that while there would be pluses and minuses, the overall impact would be substantially beneficial.

While there could be serious doubts over the implementation capabilities of the partner states faced with these hundreds of legislative obligations, there could still be a rationale. This was that in a regime suffering from the suffocating and corrupt collusion between politicians, officials and local oligarchs there was no other way of driving a comprehensive domestic reform agenda. Inside observers from Moldova report that this was basically the deliberate choice of the pro-European government of Moldova.

But the case of Georgia tells a different story. Here the post-Rose revolution government had embarked on a radical economic liberalisation and de-corruption programme of its own initiative well before the negotiations for the AA/DCFTA. In particular Georgia implemented a unilateral and unconditional free trade policy with zero tariffs towards not only the EU but the whole of the world. It also unilaterally recognised all EU or international standards for its imports. It further pursued a drastic de-regulation policy as key to its de-corruption objective, and took a sceptical view of some of the EU's regulatory practices, considering that they risked contradicting the de-regulation policy and imposing heavy regulatory burdens at an inappropriate time. Georgia in fact achieved spectacular improvements in its governance ratings all by itself. While also aspiring to EU membership it would have liked best a quick and relatively simple free trade agreement with the EU, since it was for the EU itself to reciprocate Georgia's unilateral liberalisation policy already executed. But the Directorate General for Trade of the Commission was inflexible, insisting that only a deep and comprehensive agreement, with very extensive commitments to comply with EU law, was worth doing. In order to drive the point home the Commission insisted that Georgia shows its willingness to comply with a lot of EU legislation as pre-condition for even the opening of negotiations. What could explain such a position given that Georgia had already liberalised<sup>5</sup>? It seems that the Commission did not want to be bothered by the complications of a differentiated approach for one small Eastern neighbour.

Basically the DCFTA template was accepted, in spite of concerns about overload, because the East European states could regard it as buying a guarantee of European status and thence geo-political protection for their independence from Russia, as well as a roadmap for economic reform.

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<sup>4</sup> For example, Michael Emerson et al., *The Prospect of Deep Free Trade between the EU and Ukraine*, CEPS Paperback, CEPS, Brussels, 2006. While this study was drawing on accepted methodologies for assessing the benefits of improve economic governance, the present author was astonished later to see in the draft AA/DCFTA the huge and indiscriminating collection of EU legal acts that were taken as proxy for 'good governance'.

<sup>5</sup> This story is analysed in detail in Patrick Messerlin, Michael Emerson, Gia Janderi and Alexandre Le Vernoy in *An Appraisal of the EU's Trade Policy towards its Eastern Neighbours – The case of Georgia*, CEPS Paperback, CEPS, Brussels, 2011.

## *The Russian story*

If the EU as architect had designed a building with insecure foundations, Putin was the demolition expert who attacked it with the wrecking ball. Putin announced his ambition of creating a Eurasian Union in his campaign speeches before his re-election to the presidency in March 2012. Until then there had been no particular tensions between the EU and Russia over the European Neighbourhood Policy (ENP). At the beginning of the ENP in 2005 Russia had declined to join the party with the smaller former Soviet states because of its 'great power' status. But there were ongoing negotiations with the EU over four 'common spaces' and a new agreement to succeed the existing Partnership and Cooperation Agreement that had been drawn up in the early post-Soviet years.. More recently the then President Medvedev had been working with the EU on a 'modernisation partnership' programme. All of this marked out Russia's distinctive status, with no particular friction over the ENP or later the Eastern Partnership; only occasional dismissive remarks from Ambassador Chizhov, Moscow's representative in Brussels, about these initiatives being of little effect.

Then when Putin returned as president again in March 2012, that all changed. Attempts to find alternative formulae to the unsuccessful CIS had been ongoing for some years, notably with the Eurasian Economic Community. In his re-election campaign speeches and writings Putin announce the creation of a Eurasian Union as his foreign policy priority. The crucial change came with his decision as first operational step to make a customs union with Belarus and Kazakhstan, i.e. to extend Russia's external tariff to the other two, and to encourage or push other European and Central Asian states of the CIS to join too. Of these Ukraine, Moldova, Armenia and Georgia were already negotiating AA/DCFTAs with the EU. Of course in the absence of free trade between the customs union and the EU this would mean torpedoing the DCFTA as the core of the Association Agreements. It would have been possible for these states to negotiate improved free trade agreements with the customs union alongside DCFTAs with the EU. But the Kremlin refused to consider this, and so the customs union proposition became a Russian declaration of confrontation with the EU and its Eastern partners.

Putin was then hinting at advantages it could offer Ukraine by way of gas price favours. If he had simply been making generous offers to help Ukraine at a time of great difficulty - to help a friend in need - the EU could hardly object. Let Ukraine freely choose what it wants. But Putin did not stop there, and Russia began to administer threats and punitive sanctions to pressurise Ukraine, Moldova, Armenia and Georgia into not signing or initialling the agreements with the EU. In the case of Ukraine there were punitive trade restrictions, ranging from harmful customs delays to the ridiculous affair of Ukrainian chocolates that had suddenly become a health hazard for the Russian people (which was almost certainly contestable at the WTO). Putin sought to justify this with the argument that Russia would be flooded with EU goods transiting through Ukraine. But this is a bogus argument. The rules of the WTO determine the origin of traded products. EU exports to Ukraine would remain 'made in the EU' and thus subject to Russian tariffs if re-exported to Russia, unless they had been used as inputs into Ukrainian products with a substantial Ukrainian value-added to become 'made in Ukraine' (for which there are precise rules of calculation) and imported free of duty into Russia.

Moldova has for years been hit by the on and off banning of its wine exports, depending on the political humour of the Kremlin, but this is an old story such that Moldova has now reduced its reliance on the Russian market from 80% to 25%. However Moscow's special representative for Moldova, Dmitri Rogozin, amplified the threats and psychological warfare with the well-reported remark that he hoped 'that Moldova would not freeze this winter', implying possible cuts in gas supplies if Moldova went ahead with the EU. There was also

the perceived threat of discrimination against the large Moldovan diaspora resident in Russia, bearing in mind earlier Georgian experiences of such measures.

Putin's policy can be criticised broadly as being largely contrary to Russia's objective economic and political interests. The customs union is a bad economic choice when Russia's real economic priority must be to get on to a deep modernisation path. The customs union serves to protect the status quo. It offers no significant opportunities for achieving economies of scale, given the small size of the non-Russian economies. It offers no new access to advanced industrial technologies. Worse still, by forming a customs union with non-WTO countries it locks itself out of entering into any free trade agreement with major global economies, be it the EU, the US, China, or India. Kazakhstan for its part had to accept a raising of its tariffs to Russian levels, which it did reluctantly. Belarus for its part has already extracted significant financial concessions out of Russia, with President Lukashenko displaying talent for reverse blackmail, criticising how the customs union damages the Belarus economy until he secured a \$2 billion loan<sup>6</sup>. Kyrgyzstan, which says it wants to join the customs union, bargains for subsidies as quid pro quo. As a WTO member already, it will face difficulties or penalties in raising too its tariffs, and damage to its very important trading relationship with its Chinese neighbour. So the costs mount up for Russia, to which are now added a big bill for Ukraine even without agreement to join the customs union.

The suggestions vaguely mentioned in press conferences that Turkey and India are said to be interested in the customs union are of no real substance, with various polite diplomatic statements of interest being talked up on the Russian side as misleading propaganda. These important countries may be interested in discussing various Eurasian perspective, but the idea of their joining the customs union is mere fantasy.

The political aspects of the drive for a Eurasian Union are hardly more promising. This is set to be a club of corrupt, oligarchal, autocratic or semi-autocratic regimes, coupled to one or more would-be democracies that have been taken by Russia as geo-political hostage, with the possible addition of some semi-failed states from Central Asia such as Kyrgyzstan next and possible Tajikistan later. In the immortal words of Groucho Marx, 'who would want to join a club I am a member of?' The fact that Russia chose coercive measures to pursue expansion of the customs union is a formula for ultimate failure. Plurilateral integration cannot be sustained in the globalising 21<sup>st</sup> century by coercion. Even Kazakhstan, the most loyal supporter of the Eurasian idea, is firmly against political integration that would limit its independent sovereignty. The idea of Eurasian integration fits badly with Russian society's own aggressive resistance to seeing more Central Asian immigrants in its cities, which links also to Russia's inability to manage to own Muslim minorities. Do post-Soviet generations of Russians really want to become Eurasian?

The crucial point in both the Armenian and Ukrainian cases lies in the definition of the frontier between the legitimate offer of incentives versus punitive measures, geo-political hostage taking and blackmail. This frontier is to a degree marked out by international norms, such as the basic principles of the Helsinki Final Act, which rule out coercive behaviour between states. But more important here for Russia to reflect upon is not what some OSCE lawyer might say, but the conclusions freely drawn by the international community and mobile investors. The government that gives itself a reputation for coercive measures,

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<sup>6</sup> For a detailed exposition of current difficulties in Belarus-Russian relations see Arkady Moshes, 'Lukashenka as Machiavelli', Johnson's Russia List, 10 January 2014 (<http://russialist.org/lukashenka-as-machiavelli/>).

blackmail and a compliant judiciary will not be trusted. And this becomes a huge self-inflicted wound for Russia, which currently cannot persuade its own wealthy business interests to repatriate their flight capital, or create a business climate attractive to international investors who could do much to improve the Russian economy's modernisation and competitiveness.

The only 'positive' seems to be Putin's ability to draw on the historical resonance of his actions to sustain his own political legitimacy, and to score 19<sup>th</sup> century style geo-political victories in 'winning' Armenia and Ukraine against the West. One may keep in mind Russia's historic self-identification as leader of the Slavs and the Orthodox Christians as one of its national myths, alternating however with the Europeanist drives of Peter the Great and others that followed. A recurrent syndrome over the centuries was for the Tsar, when disappointed by failures in Europe, to look to eastern expansion into Central Asia and the Far East, as for example with Alexander II's policy after the Crimean war. Putin mimics all this. He goes to Kyiv in the summer of 2013 in company with the Patriarch of All Russia declaring that Ukrainians and Russian are one people. And he does this while also espousing a Eurasian Union, which shuts the door on Western Europe and makes for some confusion of ideas, not least for Ukrainians who are absolutely disinterested in the idea of re-integration with Central Asia.

### *The Armenian story*

The first sign of how determined Putin was to enlarge the customs union at the expense of the EU's plans for the Vilnius summit came all of a sudden on 3 September 2013. President Sargsyan of Armenia was in Moscow to meet with Putin, and at their concluding press conference Sargsyan simply announced his U-turn, in renouncing the DCFTA in favour of joining the customs union, without giving any explanation then or later of why, beyond that it was in Armenia's interests. The removal of customs procedures could hardly be of benefit to Armenia's economy, given the absence of any direct land border, and the need to transit through Georgia or Azerbaijan. The only beneficiaries might be the owners of enterprises that would be protected from international competition, including large segments of the economy owned by Russian business interests. However that was surely not the main point, compared to the manifest geo-political objective for Russia of rebuilding its sphere of influence while undermining Europeanising and democratising tendencies. Russia's leverage was immediately recognised in Armenia as being based on two factors, a strategic security guarantee in the face of the serious threat of renewed war with Azerbaijan over Nagorno Karabakh, and the exposure of the large Armenian diaspora in Russia to the humour of the Kremlin. On the strategic security point it was noticed that Putin had himself visited Baku only a few days earlier, cementing deals worth \$4 billion to supply advanced weaponry to Azerbaijan. So Russia first sold weapons to Armenia's enemy, and then warned Armenia that it could not count on Russia's protection against these weapons if it failed to join the customs union – such is the interpretation widely made in Armenia. Moreover, as Armenians point out, the EU was unwilling to provide any kind of security guarantee, so they had no choice. As regards the diaspora, Russia had already some years ago showed its willingness to hit the Georgian diaspora with harmful and disagreeable discrimination at times when the Kremlin judged Georgia's policies to be insufficiently friendly. The vulnerability of the Armenian diaspora to similar measures, and to the important flow of migrant remittances which are vital to the Armenian economy, was therefore also a manifest concern. The overall conclusion has to be that the Armenian leadership was subject to unbearable pressures.

### *And finally the Ukrainian story*

The pity of it all is that the leaders of the Orange revolution messed up their opportunity a decade ago. President Yushchenko and Prime Minister Timoshenko failed completely to translate the popular uprising that they had spearheaded into satisfying demands of the people for better governance.

When Yanukovich became president in April 2010 there were no illusions in the EU over what to expect. But he still astounded observers with the ineptitude of his first major decision. While flying first to Brussels as a sham show to confirm Ukraine's European choice, he then went to Moscow and granted Russia a 25 year extension of the Sevastopol naval base lease, alongside a poorly defined gas price discount. As a result Russia has its long lease on Stavropol but Ukraine has been paying much more for its gas than Germany. Something went badly wrong there.

A next move by Yanukovich was to have Yulia Timoshenko removed from the political stage as opposition leader. She was thus prosecuted, condemned and imprisoned for abuse of power when in office as prime minister, alongside other personalities of the former government. As is well known, this became a *cause celebre*, with the EU having set in December 2012 an end to 'selective justice' as a condition amongst others for signing the AA/DCFTA. An open question has been whether the EU, in choosing to set this as condition, was making itself responsible for 'losing Ukraine'. While the question has been debated in EU circles, the evidence seems to be contrary to this view, as the precise sequence of events in November showed.

Yanukovich went to meet Putin on 9 November. In the week before all lights were on green for Vilnius, with positive statements by Prime Minister Azorov about signing, and the Rada preparing to adopt a law that would allow Yulia Timoshenko to leave prison for medical treatment in Germany, and with Yanukovich saying all that was needed was due legal process, and he could sign the 'Yulia law' immediately.

From the meeting with Putin there was initially no news. But in the next days when the Rada was due to pass the Yulia law, the Speaker declared suddenly that the law was not ready, and on the same day the government announced they had suspended negotiations with the EU over signing at Vilnius. This triggered the EuroMaidan protest movement. Was Yanukovich was just playing a game, to encourage Putin to make even more generous offers, organising a grand Ukraine auction? Or was he blackmailed by Putin: either you join my customs union or you will get so hurt that you will not survive politically? Maybe a bit of both, but Yanukovich's attempted game led himself into being trapped by Putin.

The core elements of the deal were a pledge of financial assistance up to \$15 billion, a cut in the price of gas by one-third and various industrial deals. The loans and gas price cuts were large numbers for Yanukovich to take home, enough to take the momentum out of the EuroMaidan for the time being, but not to extinguish it. Why should Russia be so generous, as a journalist asked Putin? 'Fraternal friendship' was his answer. He might have added that both items are subject to review on a three monthly basis, implying that if Ukraine broke with the conditions, either or both concessions would stop. But what are the conditions? Nothing is transparent. For sure if Yanukovich returned to sign with the EU the concessions would stop. Was there also a commitment to join the customs union in due course? This was denied by both sides, and in any case if such were to be a condition the EuroMaidan would explode.

The first tranche of \$3 billion aid has been executed, with Russia buying Ukrainian paper in the market, out of the \$15 billion pledged. The terms are for reimbursement in two years. There are no conditions of a type that go with IMF funding, which was cited as a great



benefit. Ukraine was otherwise on the brink of bankruptcy. But in the absence of corrective economic policy measures, IMF-style, Ukraine will again be on the brink of bankruptcy within two years. So the terms are financially irresponsible, and just a device to help Yanukovich survive until his next election rendezvous in early 2015 and achieve political leverage for Russia.

The gas price reduction granted by Putin from \$400 per '000m<sup>2</sup> to \$268 is a substantial if temporary concession. By how much? Gazprom reports that in 2013 its average sales price to European markets was \$380 per '000 m<sup>3</sup>. The price for Ukraine should in principle be around \$20 less than the European average given the shorter transport distance to Kiev<sup>7</sup>. In this light the charging of \$400 to Ukraine reflected Gazprom's abuse of its monopolistic position and Ukraine's weak bargaining power.

For the time being Ukraine is set on increasing its gas imports again from Russia, from 26-27 b.c.m. in 2013 to 30-33 b.c.m. in 2014<sup>8</sup>. If a reasonable Ukrainian market-based price were \$360 (380 less 20), and with imports from Russia in 2014 at a 30 b.c.m. level, the concessional price of \$268 would translate into an annual saving of \$2.8 billion, or \$700 million per quarter. Overall Russia's gas price discount is significant only for the short-run, both because Russia itself offers it only on a three-monthly basis, presumably to be cancelled if Ukraine returns to signing with the EU, and because Ukraine is on a path towards decreasing dependence on Russian supplies, given its large shale gas resources being developed. In addition Gazprom's monopolistic practices are under increasing pressure from both world market conditions for gas and a major anti-trust case from the EU currently underway<sup>9</sup>. A next Ukrainian government may be expected to drive all the harder for gas independence.

For Brussels it was obvious enough that Yanukovich's declarations about Ukraine's European choice were just tactical rhetoric. Yanukovich sought to justify his U-turn with claims that the DCFTA would cost Ukraine \$168 billion, and that the EU offered insufficient compensation for this. Where this number came from was never revealed, only that a few days later it was revised down to \$10 billion, confirming for the EU that Yanukovich's administration was totally unreliable. His real priorities are understood in Ukraine itself full well to be his preservation of power and enrichment of the 'family'. European values about democracy and human rights mean nothing to him. And the idea that the Ukrainian economy should benefit from a less corrupt and more open and competitive regime is contrary to his political and financial interests.

And so on to the EuroMaidan. Let us take the symbolism of demolishing the statue to Lenin in central Kiev, with the words attached to his decapitated head ...'Yanukovich, you are next', as meaning on the one hand running together the feelings felt towards Putin's neo-Soviet pressurisation and Yanukovich's banditry; and then on the other hand the running together of the European and Ukrainian flags as rallying symbols for the EuroMaidan. For the masses in the Maidan there was little knowledge about the AA/DCFTA, but there is political understanding that Europe stands for democracy, rule of law, human rights and decent governance.

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<sup>7</sup> A rule of thumb for gas pipeline transit fees is \$1 per '000 m<sup>3</sup> per 100 km. Since Kiev is about 2000 km closer to Russia than the major European markets in the German Ruhr or Paris region, the margin of lighter transit costs might amount to around \$20 per '000 m<sup>3</sup> for delivery to Kiev. Source for detailed data: Energy Charter Secretariat, *'Gas Transit Tariffs in Selected ECT Countries'*, 2006.

<sup>8</sup> Reuters, 9 January 2014 (<http://www.reuters.com/article/2014/01/09/ukraine-russia-gas-idUSL6N0KJ0YP20140109>).

<sup>9</sup> See Alan Riley, "Commission versus Gazprom - The anti-trust clash of the century", CEPS Policy Brief, CEPS, Brussels, October 2012.

For its part the Yanukovich administration tries to repress the EuroMaidan with measures rushed through the Rada on 16 January with irregular voting procedures, which criminalises typical activities of EuroMaidan demonstrators and supporters. Is Ukraine's regime becoming a bigger Belarus or a smaller Russia?

### **What is to be done?**

Between them the three main parties, EU, Ukraine and Russia, have created a new strategic status quo which is a big mess. The EU's neighbourhood policy is in tatters. Ukraine is in a state of deep political and economic crisis, as well as having surrendered its independence. And Russia, while having scored some tactical geo-political points, it has done so on terms that will come back to haunt it with endemic political conflict and financial liabilities. Relations between the EU and Russia descend to the most serious confrontation and distrust since the end of the Cold War, with the possible exception of the 2008 war in Georgia.

But out of this ugly situation there should be constructed a fresh start, and fresh strategic thinking on the side of the EU in particular. The general political context in the EU makes this opportune. With the economy recovering from the euro crisis, and a new political period about to begin with renewal of the European Parliament and the leadership of the Commission and European Council, with the drift towards euro-sceptic populism widespread, there is a political market for ideas for a major advance in EU foreign policy.

### ***Building on the remnants of the Eastern Partnership***

The neighbourhood policy is now hardly more than a reference to a geographic space of proximity to the EU. This is so for both East and South. For the South it suffices for the present paper to note that the revolutionary convulsions of the Arab world has left all of the rest of the world, including the US, EU and Russia, powerless to restrain the descent of much of the region into violent chaos, or civil war, or reversion to military rule, or state failure.

For the East the nice but naive idea of a single policy towards the six states in question, alongside a sympathetic modernisation partnership with Russia, is dissolved into irrelevance. The European Neighbourhood Policy had a decade of well-meaning and exploratory testing. But it is now time to draw conclusions and move on with a set of radically differentiated and geo-politically relevant approaches, state by state.

The EU wants to go ahead with Moldova and Georgia fast, with a view to signing the agreements by August 2014, before renewal of the EU institutions. That would be fine, and indeed highly desirable since Putin is clearly intent on getting both these two countries to follow in the footsteps of Armenia and Ukraine and withdraw from signing, and can be expected to try to exploit the political fragility of both countries to this end. However at the same time the EU should undertake a rebalancing of the incentives and obligations attached to the AA/DCFTAs. The EU has now to cross its Rubicon, and extend membership perspectives to these two countries, and accompany the signing and ratification of the treaties with inclusion of these two states into the family of pre-accession partnerships of South-East Europe.

How should membership perspectives be reconciled with the unresolved cases of separatist regions – Transnistria for Moldova and Abkhazia and South Ossetia for Georgia? Moldova and Georgia should not be set conditions that they cannot themselves control, namely reintegration of the separatist regions. The time should come when one or other of the separatist entities decide they want to rejoin the core states. Maybe it will take decades, but maybe less, as and when the EU integration process and the material conditions in the core

states advance. Let the separatists come to their own conclusions. The EU should be in no hurry.

Georgia now has energy independence from Russia, given the Azeri gas supplies being piped into and through its territory. Moldova is not yet there, as Dmitri Rogozin has menacingly reminded them. However a gas pipeline connection with Romania is being constructed, and the EU should support investment in it with a capacity sufficient to assure immunity from Russian gas geo-politics. For this the piping of Azeri gas into Bulgaria should also be linked up with Romania.

As regards the now published and initialled DCFTA texts, there should now be set in motion impact assessments on the mass of EU laws whose compliance is agreed. This impact assessment should have been done before, not after. The screening process should identify elements where the adjustment costs look like being very high. In principle the economic structures of Moldova and Georgia should throw up only a limited number of cases. For example neither state has huge, old, polluting investments in heavy industry to contend with, unlike Ukraine. However where the costs of compliance are severe there should be a willingness by the EU to look for cooperative solutions.

These could be of different categories: financial aid for renewal of investments in some cases, longer compliance delays in others. As for funding, there are grant resources that had been reserved for Armenia and Ukraine, and which could now be mobilised for Georgia and Moldova. In some fields, notably sanitary and phyto-sanitary (SPS) regulations for agri-food products and various industrial standards, the distinction can be made between products aimed at export marketing and those destined for home consumption only. Such a system is already used elsewhere, where precisely identified production chains are made SPS compliant, without these regulatory burdens being applied to small farmers that have no connection with international markets. There should be an openness on the EU side to arguments that some of the EU laws are not necessary as part of the package, and could be deleted or deferred. The debate about over-regulation in the EU itself is itself now so vivid that there is all the more reason for care and selectivity by the EU in what it demands of its Eastern partners, rather than indiscriminate demands for wholesale compliance with its regulatory models. The labour market and social policy domain is overloaded in the DCFTAs (do these states need the EU's regulations such as for parental leave, which is one of the hundreds of items featuring in Annex A?).

What is to be done with Ukraine? With Yanukovich, nothing, since he is not a valid partner. At his 9 November meeting with Putin, Yanukovich may have thought he was playing a game of geo-political poker. At any event the outcome is that he made Ukraine Russia's hostage, locked into financial and gas price dependency on a three monthly basis. He may have saved his skin as president for little more than a year at the maximum, in exchange for surrendering his country's independence.

The Ukrainian government carries on pretending that they are renegotiating the DCFTA. On 15 January Prime Minister Azarov instructed a working group to work out within two months negotiating proposals.<sup>10</sup> While Brussels is in no mood to negotiate the Prime Minister's directives for his staff are worth noting. *"The Prime Minister referred to the need to review current provisions on decreasing the export duty fees for sunflower seed, metal bars, animal hide, and also increase quotas for Ukrainian agriculture products's export to the EU. Mykola Azarov also stated that the environmental commitments foreseen by the agreement are excessive for Ukrainian metallurgists, while new technical standards are unbearable for mechanic engineering industry. He*

<sup>10</sup> European Centre for Modern Ukraine, Weekly Newsletter, 15 January 2014.

*also criticised the reform of the energy market as possibly leading to increasing electricity prices for households”.*

These are the most explicit statements of Ukrainian concerns, which deserve comment. As an economy with a huge trade deficit and one of the worst records for energy inefficiency for any industrialised country, the resistance to cutting export duties and raising energy prices is denial of the inevitable need for such measures. The export duties amount to a disincentive to export, and resistance to energy policy reform postpones any reduction in dependency on gas imports. The point about industrial standards is reinforcing the case for a consistent removal of non-tariff barriers between all three parties – Ukraine, Russia and the EU. Without adapting to international standards Ukrainian industry has no chance of prospering in the long-run. However the transition costs of the environmental commitments for metallurgists are a plausible example of what the negotiators should have been assessing already earlier. And the complaint about restrictive EU farm quotas is justified.

Given its financial irresponsibility in extending large credits to Ukraine with no corrective policy conditions, Russia’s national wealth fund deserves to suffer a serious hair-cut on these credits. While the political objective of taking Ukraine hostage is obvious enough, what might the Russian authorities be anticipating financially for pay-back time in under two years? One can speculate that the politico-economic assumption is that Ukraine would be obliged to settle its debts with other economic assets of strategic interest to Russia, for example the gas pipelines in which it has so far only a 50% share.

But this scenario fails to take into account the EuroMaidan, the power of the Ukrainian people, and their demands for democracy and decent governance. In February-March 2015 Ukraine will have presidential elections. At present Vitaly Klitschko, who is much more than world champion heavyweight boxer, is the most popular political contender for the presidency. If Putin styles himself as a macho president, he has found his match here. The EuroMaidan may fade for the time being, awaiting these elections. The likely scenario is that the opposition will win these elections, and any attempt by Yanukovic and his supporters to falsify them would bring the people back into the streets in overwhelming numbers, and risking a break up of the Ukrainian state.

At this point Russia will have to come to terms with realities. Russian geo-political hard power may have trumped EU soft power in the short-run in both Armenia and Ukraine, but the democratic power of the Ukrainian people in alliance with a Europe of values will in due course trump old-fashioned Russian hard power. The example of Moldova and Georgia should be there as sign that the EU would be willing offer membership perspective to a sincerely pro-European, democratic and reformist government of Ukraine too. Attempts by Russia to further exploit its financial hold over Ukraine, like grabbing major Ukrainian economic assets, will back-fire. The negative image of Russia as a ruthless geo-political aggressor will further widen the chasm of ideological confrontation with the democratic Europe, with which the next Ukrainian leadership will identify.

However the opposition leadership in Kiev should be preparing now for the situation they will be confronted with should one or other of them win the presidential election of February-March 2015. Here is a check-list of questions for them to be working on:

- Can Klitschko and Yatseniuk deeply pledge to work together cooperatively at the basic political level, and avoid the catastrophic Yushchenko-Timoshenko model of personal conflict?
- Can they be more professional than Yushchenko and Timoshenko, who made speeches about how EU membership would solve all problems, but showed little ability to design and implement a reform programme?

- If yes and yes to the above, how will they go about preparing a government programme? Can they devise a decisive anti-corruption strategy like Georgia did after the Rose revolution?
- Can they work out an informed view of where the DCFTA may be excessive in its obligations for Ukraine, i.e. in elements that would be hugely expensive to implement, such as maybe air and water environmental standards for metallurgical and power generating industries. Well documented arguments would have to be listened to by the EU, which has already hinted that extended implementation delays or assistance could be discussed. It already has experience of this kind of real problem, as with Poland's coal burning power stations. But such issues would have to be handled in a professional manner, rather Yanukovich-style with his sudden and extravagant declaration that Ukraine needed \$168 billion, or at second guess \$10 billion, in compensation.
- Can they work out an exit strategy for escaping from Russia's handcuffs, in the shape of the three month reviews for credit and gas price concessions? As and when a new administration faces its first financial crisis, this time it should go to the IMF with the EU offering to co-finance the package 50%, rather than its small minority offer so far made. The economic conditions set by the IMF, namely devaluation, a wage freeze, and increases in domestic gas prices are inevitable sooner or later. Russia's zero macroeconomic conditions for credits are unsustainable, and will only lead Ukraine into collapse. The IMF/EU conditions should additionally include rescheduling of the short-term Russian credits, for example restructured into 15 years bonds, without which the IMF and EU should not simply refinance the irresponsible Russian credits.

The EU for its part should be preparing quietly and carefully for this post-Yanukovich regime. It would need good answers to the above questions to go ahead with an AA/DCFTA supported by membership perspective. It could prepare for some constructive financial engineering projects, like over the need for Ukraine's gas pipeline to be rehabilitated. Here the EU should not back away from possible trilateral initiatives, such as having European interests take a one-third share in Naftogaz, leaving Ukraine and Russia with the other two thirds. The European Investment Bank, the EBRD and some major European gas importing companies could inject substantial funds into the network, partly to buy its shares in what exists, and partly to contribute to new investment.

For the other three Eastern Partnership states there is little to do. For Armenia the EU can remain a sympathetic friend, with an interest in encouraging civil society and democratic developments for which there is a basis in the country. Azerbaijan is equally disinterested in both the customs union and a DCFTA, and would like to have some kind of simplified agreement with the EU. This should be pursued by the EU. Azerbaijan's dynastic regime may be disagreeably repressive of human rights, but the country performs a valuable role in diluting the Gazprom monopoly power and Russian geo-political power in South-East Europe. On Belarus there is even less to do, beyond extending encouraging gestures to civil society activists and such initiatives as the Belarus off-shore university in Vilnius, and waiting for change.

### *Reaching for a concordat on Lisbon to Vladivostok*

The fundamental resolution of the big mess has to come through a return to the noble ideal of the Common European Home, or if one likes it, Putin's slogan of a Europe from 'Lisbon to Vladivostok'. This slogan is grafted on top of earlier efforts in the same spirit – not only the Common European House, but also the four Common Spaces, the Modernisation Partnership, etc. This succession of frustrated initiatives is at least a testimony to the

persistent intuition that the EU, Russia and all that lies between them have to find a formula for coming together in some civilised way.

The core mechanism for giving substance to these ideas would be a free trade agreement between the EU and Russia. But this would need to be built upon with a wider and deeper common economic space between the EU and Russia, done in a manner that would be consistent with countries of the overlapping neighbourhoods such as Ukraine to have free trade with both; or to go the more radical route of forming a pan-European free trade area. The simple removal of tariffs between the EU and Russia would be a much easier proposition for the EU, since most of its imports from Russia are already tariff free, and so the content of the agreements should go much further. Russia's imperative need to modernise its economy beyond the commodity sector means that it will have to undertake liberalising reforms, which was acknowledged by Putin in his state of the nation address on 12 December 2013: *"Economic freedom, private property and competition, but not state capitalism should be at the core of the new economic growth model"*. The desirable common economic space should therefore also have ambitious content for industrial technology transfer and cooperation, common industrial standards, and a huge increase in training a new generation of Russian professionals with student exchanges through Erasmus-type programmes on a vast scale.

At present the official Russian doctrine is that the customs union, and Eurasian Economic Union to crown it, have first to be completed, and then to be a basis for negotiation between equals with the EU. This doctrine suffers however from several flaws. First at the legal-technical level, Belarus and Kazakhstan are not yet WTO members, and so the customs union has no status with the WTO, which makes it impossible for the EU that takes WTO rules seriously to make a free trade area with it. But the issue is too important to be held up by Lukashenko's eccentricity. The primary political objective should be set, and then technical solutions found. Secondly, what are going to be the rules of the customs union in terms of non-tariff barriers and technical standards for goods and services? If these would be international or European standards (which are largely the same), this would not be a problem, but if these standards were some complicated blend of old Gosstandards and elements of their modernisation, then there would be a problem. Thirdly, there remains the important Ukraine question. It is already clear that attempts to coerce Ukraine into the customs union would have explosive political consequences. But it is still of the highest importance for the Ukrainian economy to reshape its industrial structure in a manner compatible with deep economic relations with both Russia and the EU. The pursuit of a sound solution to these technical issues could well be the subject of trilateral consultations, as long as the political framework for them is clearly understood, namely to prepare a common European economic space.

The fundamental issue remains whether Russia can see that its own economic modernisation requires a real common economic space with the EU. At present Russia is set on a strategy of denial, i.e. excluding itself from open economic relations with any major, competitive global economy. As already remarked Putin seems to acknowledge the overriding need for economic modernisation, albeit phrased in rather vague terms. The global competitiveness indicators compiled by the World Economic Forum show Russia and Ukraine ranked respectively in 63<sup>rd</sup> and 89<sup>th</sup> place in the ranking of 139 states<sup>11</sup>. While these rankings are already poor, when one looks at the evidence in more detail it is devastating. While these

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<sup>11</sup> Margareta Drzeniek Hanouz and Alexey Prozdnicnykh, *The Russian Competitiveness Report 2011 – Laying the Foundations for Sustainable Prosperity*, Eurasian Competitiveness Institute and World Economic Forum, 2011.

two states have human capital endowment that is fairly strong, reflecting past investments in education and science, on three accounts the current performance of both countries is absolutely disastrous, namely in the functioning of institutions and the rule of law, the efficiency and openness of markets, and the effectiveness of financial markets, where the rankings average 122<sup>nd</sup> for Russia and 124<sup>th</sup> for Ukraine out of 139 countries (i.e. the whole of the world except for minor developing countries). The current strategic objective to enlarge the customs union to include Ukraine would thus see these two economies mutually reinforcing each other in their worst economic performance determinants.

In theory the alternative choice to link Russia with a large part of the world's most advanced and competitive economies could be centered on economic cooperation and open trade with the US, or with China, or the EU. No other global economy has the scale and depth of technological wealth to be the relevant partner for Russia that wants to have a competitive industrial and service economy beyond the mineral commodity sectors. If these are the alternatives, the choice is a no-brainer. For reasons of geographic and cultural proximity, and for relative absence of geo-political apprehensions, it has to be the EU. But this would have to go also with appreciation by the Russian leadership that its society is changing, in that its young post-Soviet elite is, according to opinion surveys and focus group researches<sup>12</sup>, simply not interested in Russia's old-style geo-politics. They would like to see Russia and its people accepted as normal parts of European society, where they already send their children for education in large numbers.

Maybe Russia's leadership is not yet ready for this, in spite of Putin's remarks in his state of the nation address quoted above. But the evidence is overwhelming, as pointed out in a detailed study of the World Economic Forum referred to. Time is not on the side of Russia, which may now waste a number of years trying to build up a misconceived Eurasian Economic Union, which is bound to become an economically ineffective, financially expensive and conflict-ridden failure, even if Putin thinks for the moment that he has been scoring geo-political victories.

### *Open up new perspectives for a Greater Eurasia*

The EU's Central Asia policy, called a strategy but hardly living up to its name, also needs reconsideration. It was originally fashioned under the slogan 'the neighbours of the neighbours' implying a diluted version of the neighbourhood policy, and as if Central Asia was the territorial end of Europe's mental map of the world. The policy has hardly achieved much impact, and should be radically reframed in the 21<sup>st</sup> century context in which Europe and Asia are, or should be heading for greater integration of what may be called the Greater Eurasia, embracing the whole of the European and Asian land masses.

The new president of China, Xi Jinping, has called in a speech in Astana in May 2013 for an economic corridor from 'Beijing to the Baltic' across this Greater Eurasia, in which Kazakhstan occupies on third of the distance between Beijing and Berlin. The EU already seeks to enter into selected wider Asian regional groupings now developing, given that the Asian Regional Forum and the East Asian Summit process are already open to some non-Asian states. The EU has its own Asia-Europe Meeting (ASEM) process, involving bi-annual summit meetings with all of Asia including Russia, yet with the exception of those nearest to Europe, namely Central Asia. The ASEM process needs fresh impetus, with its next summit due in Milan in November 2014. The opportunity now presents itself to choose 'connectivity'

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<sup>12</sup> Larisa Deriglazova, Andrey Makarychev and Oleg Reut, 'Russian Foreign Policy – What the Kremlin Does Not See', CEPS Working Document, June 2012.

between Europe and Asia as the driving theme for ASEM, in which rail, road, air transport connections, energy infrastructures for pipelines and electricity grids, broad-band fibre optic network connections are one major category; but alongside these physical infrastructures can go enhanced cooperation over soft security threats such as drugs and human trafficking, and people-to people initiatives<sup>13</sup>.

The Central Asian states should therefore be invited to join the ASEM process, with focus in the period ahead on rationalising and improving trans-continental transport corridor projects, which currently suffer from disjointed projects of Russia, China with the Asian Development Bank in support, and the EU. Kazakhstan aims to be the key transit hub for the future growth of Western Europe-Western China traffic, and has made ambitious and comprehensive transport development plans with 2020 and 2050 horizons. Its plans include links to be made across the Caspian Sea with the new Baku-Tbilisi-Kars railway line due to open in 2104, which would mean demonopolising the Northern Russian transit routes. Russia will retain a uniquely important role for obvious reasons of its geographic extent, but without monopoly for the trans-Siberian routes, which are not the shortest. There are plausible routes from China to Europe that would pass from Kazakhstan into Southern Russia and then Eastern Ukraine before reaching the EU, as well as the trans-Caspian and trans-Caucasus route. There is also an interesting broad-band fibre-optic project promoted by Azerbaijan to join Europe and Asia via Turkey and Kazakhstan, which deserves serious consideration. India, and South and South-East Asia, have interests in southern routes between Europe and Asia. The ASEM process could take the lead in developing operational plans.

## Conclusions

Putin's aim to torpedo Vilnius was quite effective for the short run. But his strategy is full of weaknesses. Russia's capacity to subsidise Ukraine away from Europe is limited, but the capacity of the Ukrainian people to rise up against corrupt governance at home and bullying from Russia is infinite, with the EuroMaidan having served as a marker of what could lie ahead. The customs union is useless as an instrument for Russia's economic modernisation, and would be even worse for Ukraine. Moreover the recent renaming of the proposed Eurasian Union as the Eurasian Economic Union is signalling Kazakhstan's refusal of political integration.

The battle chosen by Putin is over European democratic civilisation for the 21<sup>st</sup> century. His revisionist drive is to re-expand the frontiers of political darkness and coercive foreign relations. The EU's neighbourhood policy has been itself defective, but can be repaired. The policy has to become more targeted and geo-political, and less a bureaucratic robot for demanding indiscriminate compliance with masses of EU laws. The EU can engage successfully and peacefully in this battle by pledging to grant to Moldova and Georgia membership perspectives on the occasion of their signing their AA/DCFTAs, and pledging also the same to a future Ukrainian leadership that was sincerely democratic and credibly committed to European integration and cleaned up governance at home.

But the EU should also signal to Russia that it remains absolutely committed to the noble ideal of the common European home, or 'Lisbon to Vladivostok' if one likes to call it that. The best instrument for pragmatic progress in this direction, and for Russia's badly needed

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<sup>13</sup> For a detailed account see Michael Emerson, 'Towards a Greater EurAsia - Who, Why, What and How', *Global Journal of Emerging Market Economics*, Vol 6 (1), pp 35-68, Sage Publications, forthcoming, February 2014.



economic modernisation in particular, would be re-activation of the four common spaces, with a view to a pan-European free trade area, in which Ukraine in particular could enjoy its obvious first-best solution - politically as well as economically - of free trade with both the EU and Russia. Legal obstacles like the non-WTO membership of Belarus and Kazakhstan would have to be resolved, but first let the strategic objective first be fixed.

The EU should go further still by entering into the Eurasian arena itself in a bigger and better way than Putin's small and revisionist union. The EU should take the occasion of its next summit session in 2014 of the Asia Europe Meeting (ASEM) to propose a Greater Eurasia concept, embracing the whole of the European and Asian landmass. All of Asia as well as Russia have so far been invited to ASEM summits, except for Central Asia. This should be corrected, especially because the most plausible first theme for a Greater Eurasia initiative is 'land connectivity' between the major economies of this vast region, with Kazakhstan occupying no less than one third of the space between Beijing and Berlin.

For the EU in search of strategic ideas suitable for its 2014 parliamentary election and leadership renewal, this post-Vilnius agenda could be attractive with its three linked components: reconstruction of the neighbourhood policy, reaching for a concordat with Russia over Lisbon to Vladivostok, and a Greater Eurasia initiative. And Russians, waiting patiently for 150 years for an answer to the vital question *What is to be done?* might begin to get a clue for the future.

## ANNEX A. Numbers of EU legal acts to be complied with in the draft and initialled Association Agreements and Deep and Comprehensive Free Trade Agreements between the EU and Ukraine, Georgia and Moldova

	Ukraine	Georgia	Moldova
Financial services	64	41	41
Telecommunications	9	6	11
Postal services	3	3	3
Road transport	12	12	12
Railways	12	7	11
Air transport	1	1	1
International maritime transport	22	19	21
Inland waterways	6	0	6
Taxation	5	7	7
Environment	28	25	25
Climate change	6	2	3
Company law, accounting	14	12	12
Consumer protection	16	17	16
Labour law, social policy	39	37	35
Public health	13	13	13
Audio-visual	1	1	1
Energy	27	29	?
Nuclear	3	0	0
Customs	(4)	(4)	4
Public procurement	(18)	(18)	18
Competition policy	4	(4)	(4)
Agriculture	59	(45)	45
Technical standards	32	21	110
<b>Total</b>	<b>368</b>	<b>324</b>	<b>428</b>

*Note:* These lists are illustrative rather than exact and comprehensive. For some sectors it is difficult to put a precise number on the EU laws to be complied with, and there are various instances where only selected articles of laws are cited.



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