

# **THE ELEPHANT AND THE BEAR TRY AGAIN**

## **OPTIONS FOR A NEW AGREEMENT BETWEEN THE EU AND RUSSIA**

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**CENTRE FOR EUROPEAN POLICY STUDIES  
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# 1. INTRODUCTION

*MICHAEL EMERSON*

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This book is a sequel to a CEPS publication of five years ago, entitled *The Elephant and the Bear – The European Union, Russia and their Near Abroads*. That first contribution was looking for the foundations of strategic partnership between the two very different animals. The elephant image was chosen for the European Union, as representing a huge beast, but one that is vegetarian, placid and readily domesticated, and one that moves only slowly but with great weight. The Russian bear is of course an image that has been familiar for a long time, as in West European cartoons of the 19<sup>th</sup> century, carrying the idea of a powerful animal too, but one that is not so easily domesticated. Moreover contemporary Russian diplomacy has hardly discouraged Western media from continuing to use this metaphorical stereotype.

Can these two beasts find a way to cohabit Europe? Actually they do so, peacefully, albeit with grumbles on both sides. But could they do better than this bare minimum, which is already not that bad? They are saying that they want to do so, according to the language of their common political declarations, but their common actions fall short of their words. What should one make of this? Is it just a matter of time and renewed effort before the officially desired strategic partnership can flourish? Or are we going to witness a continuing game of words that keeps diplomats occupied and allows our leaders to harmlessly conclude summit meetings in grand places with grand language?

We return to these questions in this short book, prompted by the official timetable of the two parties. The year 2007 will see the tenth anniversary of the Partnership and Cooperation Agreement (PCA) between the European Union and Russia, at which time the treaty may expire and

be replaced by something else if the two parties so agree. At their Sochi summit in May 2006, the two parties agreed to work towards a new agreement to replace the PCA, and in the second half of 2006 the Commission is working on the draft of a negotiating mandate to be agreed with the Council.

The present initiative brings together independent policy analysts on both sides to compare ideas about what to do about the 2007 question. The impetus came from Nadezhda Arbatova and Timofei Bordachev, with publication of their chapters to this book in mid-2006 in a Russian journal.<sup>1</sup> This prompted several of us in CEPS to respond. It is already a reflection of how things have changed over the 15 years of the post-Soviet and post-Communist transition that we have here Russian political scientists taking the initiative to propose ways to improve the bilateral EU-Russian relationship.

Their starting point was that the original PCA, prepared during the early years of the post-Communist period during the erratic presidency of Boris Yeltsin, was based on the EU's conception of how its neighbourhood relations should be organised. The long text of the PCA was a weak derivative of the 'Europe Agreements' signed with the newly independent Central and East European countries that were seeking accession to the EU. Russia was then just one of the new boys in the class of post-Communist states. Now the situation is different. Whereas the Russia of the 1990s saw both political and financial instability on a grand scale, the Russia of the Putin presidency from the beginning of this century has become a strong structure of state power again, with a booming economy fuelled by high energy prices. Moreover the economic and political forces have interacted, with a resurgence of national self-confidence, as symbolised by Russia's chairmanship of the G8 summit in St Petersburg in July 2006. This is the context in which Arbatova and Bordachev are both saying that the tenth anniversary of the PCA is time for something new and different, with an emphasis on equality between the two parties, rather than unconditional acceptance of EU norms – either political or economic – as the foundation of the relationship.

Given the present hiatus between the words and actions in EU-Russian relations, it is best to begin with a contribution that does not attempt to say what ought concretely to be done in these negotiations, but

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<sup>1</sup> *Russia in Global Affairs*, No. 2, April-June 2006.

rather to understand what the two parties seem to be trying to do through the language they employ with each other. This is done by Andrey S. Makarychev, writing from the place of another Kremlin, that of Nizhny Novgorod on the Volga far into Russia's heartland, and far indeed from either Moscow or Brussels. Makarychev observes that "the EU and Russia, in communicating with each other, use the same words but nevertheless speak different languages thus playing with the multiple meanings embedded in them". He illustrates this with the aid of notions such as 'neighbourhood' and 'exceptionality', as used by the two parties in their political discourses.

The term 'neighbourhood' strikes immediately at the heart of the two parties' sensitivities and inconsistent objectives. Makarychev sees "the Russian version of neighbourhood as an area predominantly marked by enmity and competition", whereas the EU sees its neighbourhood as being a 'ring of friends' converging progressively on 'European values', which the EU naturally and hegemonically assumes to be its values. Meanwhile, according to Makarychev, "Russia seems to perceive the bulk of its neighbours as sources of danger and irritation".

These divergences are especially deep where the EU's 'neighbourhood' overlaps with Russia's 'near abroad', and where both parties slide intentionally or unintentionally into provocatively possessive language. The divergences go to the fundamentals of the self-identification of Russia and the EU, and their views of each other.

For the reader from the EU, and elsewhere, Makarychev gives a valuable account of Russian views, mainly from the conservative end of the Russian political spectrum. Indeed the liberal-democratic end of this spectrum is today a very weak voice indeed. The Russian conservative view includes the outright rejection of Western criticisms of Russia's increasing authoritarianism during the second term of office of President Vladimir Putin. For Deputy Prime Minister Sergei Ivanov, Russia is a 'sovereign democracy', which seems to signify its own right to define for itself what democracy may or should consist of in the Russian context. Another bastion of Russian conservatism, the Orthodox Church, is also speaking out about the dangers of Western democracy for Russia, at least

through the writings of Metropolitan Kyrill, who is the President of the Department for External Relations of the Moscow Patriarch.<sup>2</sup>

The EU for its part has well-defined standards for assessing democratic institutions, which Russia has itself accepted in principle in joining the Council of Europe. But the EU has gone much further in defining and evaluating democracy through its recent Central and Eastern European enlargement. The enlargement process has seen not so much the legal codification of democracy, but rather the qualitative evaluation of democratic practice according to the so-called ‘Copenhagen criteria’, which all applicants for membership have to respect. The EU knows full well from its own realities that democracy comes in many shapes, yet it still claims that it is possible to distinguish ‘true democracy’ from ‘phoney democracy’.

The divergences go deeper still in the EU and Russia’s conceptions of what kind of political entity they are, or are becoming. The EU has developed a post-national polity, sometimes called ‘post-modern’. Makarychev senses that Russia “seems to deny what Europe is proud of – both the refusal of national egos and valorisation of supranational integration”. These European values are completely contrary to Russia’s view of itself at this historical juncture, where the rebuilding of Russia as a great nation is of the essence. The argument is then given a special twist

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<sup>2</sup> Kyrill writes in a recent book: “Democracy is a complex notion, which has political, social, economic and axiological dimensions. ... We must recognise that today for many Russian citizens the notion remains external, imported from elsewhere, although not completely foreign. The reason is simple: the concept of democracy is not the result of Russia’s own positive socio-political development. Democracy is a principle elaborated in the West, in the Euro-Atlantic countries. For this reason any Russian democracy is constrained to treat the notion of democracy as a model, in comparing socio-political life in Russia with this western standard. Thus it is condemned to choose between the following alternatives: find either similarities or divergences between Russian reality and the democratic reality. But this is the well-known principle of the ‘procrustean bed’. First of all, it leads to intellectual laziness and ideological dependence. Secondly it results in the negation of the originality of national life, whose numerous positive aspects would no longer be practiced. This leads to the conclusion that the Western model of democracy is incapable of assuming all the positive national experience and of discerning that which is negative.” Metropolitan Kyrill of Smolensk and Kaliningrad, *L’Evangile de la Liberté: Les Valeurs de la Tradition dans la Société Laïque*, Paris: Les Editions du Cerf, 2006, pp. 133-134 (unofficial translation by the author from French).

when comparisons are made between ‘old Europe’ and ‘new Europe’, in which France and Germany have, through the personalised diplomacy of President Jacques Chirac and former Chancellor Gerhard Schroeder with President Putin behaved as a far more congenial traditional Europe, compared to the bureaucratised, legalistic and rule-setting EU. ‘New Europe’ has then its two distinct features, both of which are uncomfortable for Russia, being both the post-national EU and the irritating new member states with their consistently ‘anti-Russian’ behaviour. Makarychev quotes a Russian political scientist, Sergei Karaganov as writing that “Russia hardly needs to give up her longing for traditional European values for the post-European ones”.

Moreover in the current context, in which the EU searches for its way ahead after the rejection of the draft Constitution in 2005 by France and the Netherlands, Russian conservative thinkers are further encouraged with a degree of *Schadenfreude* to distance themselves from the alleged European model. Makarychev quotes expressions such as Europe being a territory “lacking its own subjectivity”, and “we can only watch the place where she [Europe] is supposed to be”.

These Russian views of self and of the EU may well be an authentic part of contemporary Russian thinking. But they seem to seriously underestimate the strength of European values as common property of both ‘old’ and ‘new’ Europe. The EU is well aware of the often-tricky task of reconciling interests and values in the conduct of foreign policy, especially with Russia, given its very serious interest in having reliable gas supplies in the kitchen. However this Russia is also the huge European nation, the biggest sufferer in terms of population loss from the dreadful world wars of the 20<sup>th</sup> century, not to mention the calamities of the communist period, and which is therefore expected to draw on the common profound lessons of European history. The first and foremost of these lessons is that post-national integration under common democratic values and rule of law is the main guarantor of the continent’s peace and well-being. For the EU these values are fundamental since they are what the member states have in common; they have no common language or national culture.

Russia wants to be part of Europe, but to be included in a special way. It does not aspire to EU membership, and it certainly does not want to be just one of the EU’s ‘neighbours’. As Makarychev writes, “by presenting itself as an exception in terms of the EU-developed ENP [European



Neighbourhood Policy], Russia has to simultaneously engage in a controversial game of *inclusion* and *exclusion*". This leads on into some remarkable semantic-philosophical acrobatics, put succinctly by one quoted author as "include me out", or by another more systematically as "if we define exception as an inclusive exclusion, in which something is included by means of its exclusion, the example functions as an exclusive inclusion". However for the EU these are not interchangeable items in a linguistic game. Suffice it to say that the United Kingdom in relation to the EU is a notable example of exclusive inclusion, whereas Norway illustrates inclusive exclusion. Russia is therefore aiming at inclusive exclusion in terms of the EU, but what are its elements of inclusion? The next treaty after 2007 is meant tell us.

Nadezhda Arbatova presents a view on how the two parties should proceed in negotiating a new agreement to replace the now largely obsolete PCA. But first she characterises the contrast between 'conservatives and progressives' on both sides in relation to the '2007 quandary', before implicitly aligning her own views with the progressives. The conservatives on both Russian and EU sides do not see the need to change the status quo, but for different reasons. European conservatives, whose number has been reinforced by the recent enlargement of the EU, see no need to change the PCA, which can be extended in time by common agreement. Their idea is to keep Russia at arm's length, with the Baltic former Soviet republics still allegedly affected by a 'victim syndrome' with regard to the former Soviet Union. The Russian conservative camp, which includes elements within the ruling establishment and rising numbers of hard-line nationalists, argues that Russia should be a self-sufficient 'centre of force' in international relations. This also reflects a recent surge in pro-Asian sentiments, with special admiration of the Chinese model.

According to Arbatova, the progressive view on the Russian side, including democratic factions within the political elite and expert community, "believe that the European model, adapted according to national differences and specifics but based on general, fundamental principles, can best meet the needs of Russia, which is still in the process of a systemic transformation". In contrast, she characterises the progressive view on the European side as seeing an upgrading of the EU-Russian relationship on the basis of shared interests and values to be crucial for the stability and development of Greater Europe. More precisely, this is necessary to avoid or at least reduce the clash of interests over the common

neighbours of the CIS (Ukraine, Georgia, Moldova and Belarus) and for countering new threats to international security.

Arbatova goes on to discuss three options for the future relationship. The first option would be to 'sugar-coat' the status quo, for example by adopting a political declaration on strategic partnership and adding various sector-specific agreements. This 'cost-effective' option would avoid the possible problem of ratification on the EU side.

The second option would be a revamped agreement built around the four common policy spaces agreed in May 2005: i) economics, ii) freedom, security and justice, iii) external security and iv) research and education. A main objective would be to agree on the liberalisation of all the four freedoms – for the movement of goods, services, persons and capital. Arbatova reports that officials in the Russian government responsible for trade policy would be ready to open negotiations on establishing a free trade area, presumably for both goods and services, as soon as Russia has acceded to the WTO. Visa-free movement of persons is already the official long-term objective on the Russian side. Liberalisation of capital movements is being done in any case unilaterally by Russia with moves towards full convertibility of the rouble. While the new agreement would be based on enriching the operational content of the four common spaces, the general framework would be some form of association, without proposing the perspective of ultimate membership. Arbatova notes however that some proponents of Russia's self-sufficiency in international relations advocate the Norwegian or Swiss model of relationship with the EU, on the grounds that this is less demanding than full membership, apparently unaware that these are the most extreme instances of policy dependence.

Arbatova's third option is that of an entirely new agreement, which she rejects on the grounds this would be extremely difficult to negotiate and even more so to ratify on the EU side in the present climate of distrust, especially now following the EU's enlargement.

Timofei Bordachev adopts a more aggressively critical view of the status quo, in which it has become obvious to him that "the socio-political and economic models of the parties have greatly diverged. ... Moscow and Brussels almost assumed the logic of 'peaceful coexistence'. ... Both Russia and the European Union have displayed the inability of the two parties to formulate joint strategic objectives and tasks, and to define their common values and even their real interests." He would like to see the parties – as

two inseparable parts of the Old World – achieve a fundamentally new level of confidence, but this is impossible with the practices and institutions formed in the early 1990s. The two parties “must free themselves from the fetters of their bilateral and institutional base”. The future model of Russian-EU relations must reflect Russia’s special role in the world, and cannot fall within the same “system of coordinates” as the EU’s present practice of formalising relations with neighbouring states. Russia should refuse hasty inclusion into “grand bureaucratic plans of ever-new directions of harmonisation”.

Bordachev lays great stress on the principle of equality that should underlie any new agreement, by which he means no “instruction” from Brussels for drawing Russia closer to the EU’s constantly-changing regulatory policies, and no evaluations by the EU about the state of the Russian economy and its society. Both parties should be guided by international law, and they may hammer out new common regulations together in this or that field. A new agreement could cite universally agreed principles, including the observance of democratic values and human rights.

The centrepiece of his proposals is for a Strategic Union Treaty, for which he identifies three levels of application. At the first and highest level, the *strategic framework* would be set out in a Declaration, which would state the goals of the Union, including overcoming the syndrome of enmity, and establishing a common vision of economic interdependence, of the two parties’ common cultural heritage and of their common security threats. A second level would see adoption of a *strategic agenda*, with a listing of topics that would have much the same content as the four common spaces, together with details of implementation arrangements. The third level would consist of *sectoral agreements*, with binding obligations in various degrees. Here Bordachev refers to the early functionalist experience of the European Communities, such as the European Coal and Steel Community, which served to cement the reconciliation of France and Germany. He considers the possibility for the two parties to set up some supranational associations, such as a Russian-European Oil and Gas Association, a Russia-European Transport and Space Association, or a Russia-European Environmental Community.

The contributions of Arbatova and Bordachev stimulated three of us from CEPS (Michael Emerson, Fabrizio Tassinari and Marius Vahl) to collaborate in writing an independent EU view on these same issues.

A primary concern on the EU side is the values gap. What does it consist of, and is it widening? One of us has extracted from the draft Constitution a long list of what the EU considers to be its values.<sup>3</sup> Where does Russia stand on these accounts? It has to be observed that the Russian and the EU positions are a long way apart from each other. Not all the divergences carry moral implications. For example, as Makarychev observed, the EU's inclination to downplay nationalism and to promote legally binding supranational and multilateral order do not correspond to Russia's political preferences, but the position of each party can be understood as a fair choice in their historical and societal contexts. On other points, however, the EU is unhappy about Russia's recent tendencies. It is worried that its big neighbour departs from any standard conception of democracy. It is concerned by the neglect of human rights by Russia's security forces in Chechnya, which has led to numerous cases now being taken to the European Court of Human Rights. It is concerned by Russia's external security doctrine, as articulated by Deputy Prime Minister Ivanov in various written texts, which seems to license the right to intervene forcefully in the internal affairs of 'near abroad' countries, as illustrated in practice in economic sanctions against 'uncooperative' partner states.

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<sup>3</sup> Michael Emerson, *What Values for Europe?*, CEPS Policy Brief No. 65, Centre for European Policy Studies, Brussels, February 2005. These were formulated in the shape of ten commandments, as follows:

1. Thou shalt be truly democratic and respectful of human rights and the rule of law.
2. Thou shalt guarantee the four freedoms of movement (goods, services, capital, and labour).
3. Thou shalt provide for social cohesion between people, regions and states.
4. Thou shalt ensure sustainable economic development for the benefit of future generations.
5. Thou shalt reject nationalism and favour the multiple identity of citizens.
6. Thou shalt assure federative multi-tier governance.
7. Thou shalt assure secular governance and favour multi-cultural pluralism in society.
8. Thou shalt promote multilateral order in international affairs.
9. Thou shalt abstain from threatening or using force against others without just cause.
10. Thou shalt be open, inclusive and integrative towards neighbours that adhere to the above.

The values gap is undoubtedly wide at the present time. But how strongly do the EU and its member states really feel about this, when there are conflicts with various interests? These 'interests' are of two quite different kinds. The first general 'interest' currently is to secure energy supplies. The second is the 'interest' of some EU member state leaders (President Chirac, for example) to promote its political-diplomatic objectives in world affairs through close personal relations at head of state level (with President Putin, for example). For the time being, interests seem to be trumping values. However this is a matter of gradations. The most extreme case, which became the subject of intense criticism internally within the EU, was Prime Minister Berlusconi's speech in defence of Russia's record in Chechnya when he was representing the EU Presidency at summit level in November 2003. On the other hand, the European Parliament is strongly 'values-driven'. Combined with pressure from the most 'values-driven' member states, this obliges the Commission to be attentive to the issues. In formal terms, the EU has committed itself to including human rights clauses in all of its international agreements that have wide-ranging and political content. In the present context there is a debate within the institutions on how far the EU can or should go in deepening the so-called 'strategic partnership' with Russia when the values gap is manifestly wide. The argument turns around matters of tactics more than principle. Those in favour of proceeding now to make a comprehensive new agreement with Russia are relying on the argument that very extensive forms of engagement should be conducive to a political socialisation effect, i.e. leading in due course over the years to a greater convergence on European political norms. Whether they are right to make this supposition remains an entirely speculative matter, and, as Makarychev observed, the Russian desire to be 'exceptional' in relation to the enlarging EU is a factor going the other way.

The CEPS research team also goes into legal and practical aspects of the design of the EU's international agreements. A key practical issue is how far is it efficient to try to make a comprehensive and legally binding treaty over the whole range of EU competences, when the substantive content has to cover a set of constantly moving agendas. Is it practical to attempt to bring a wide-ranging set of sector-specific agreements to a point of conclusion at the same time? The argument in favour is that this can permit 'log-rolling', i.e. the conclusion of multiple elements of agreement where there is unequal advantage for each partner in each case, but where the package reaches an acceptable balance of advantage. The counter-

argument is that the context of the moment is often vital to give momentum for the conclusion of agreements, without which there may little perceived urgency to make deals. For example, the gas crisis between Russia and Ukraine at the beginning of 2006 provided the context for more serious negotiations over the Energy Charter than had been earlier seemed possible (even if these negotiations failed to produce results at the G8 summit in July 2006). It is observed moreover that the EU and the US have never felt the need to make a comprehensive treaty together, even though the mass of their common interests is huge. Given these practical problems, the attempt to negotiate a comprehensive agreement may result in the adoption of banal texts with more declaratory than operationally-binding content. In fact, the EU and Russia have already charted the negotiation of a substantial list of specific agreements to be negotiated in the near future in any case. The decisive argument appears to be, on the EU side, that a comprehensive and up-to-date agreement is desirable in order to provide a stable and motivating framework for many detailed negotiations.

What to do? The contribution by the CEPS team discusses a set of scenarios, introducing also the time dimension. In the short-run there is much to be said in favour of a short Political Declaration of Strategic Partnership, resembling the type of the EU-India Act of 2003. In the latter case, there was a short, two-page text, accompanied by a detailed action plan that is analogous to the four Common Spaces that the EU and Russia adopted in 2003. This formula, for the EU and Russia, would avoid a hiatus over the 10<sup>th</sup> anniversary of the Partnership and Cooperation Agreement, and would be marking time until Russia had acceded to the WTO and would allow for greater experience in implementing the four Common Spaces. It would have the advantage of avoiding the onerous and perhaps unpredictable ratification procedures on the EU side. If France and the Netherlands refused to ratify the Constitution, previously considered unthinkable, it may be risky to assume that all 25 member states will ratify a new agreement with Russia if the political context for bilateral relations, for example with one of the Baltic states, were strained at the time.

In a longer-term perspective, the idea of Strategic Union, to use the term advanced by Bordachev, has appeal. But this is grand political language, and should be reserved for the time when the leadership and political context on both sides are ready for it. The values gap should be narrowing and trust rising. Tensions between the EU and Russia over common neighbourhood problems should be on the way towards resolution (for example, the small but highly irritating Transnistria affair).

The idea of Strategic Union can be regarded as the ideal, given that Russian accession to the EU is not considered plausible by either side, for good reasons (the EU demands too much cession of sovereignty for Russia's tastes, and the EU would consider that it does not have the absorptive capacity to digest Russia as a full member). But what should be the content of this Treaty of Strategic Union? Here it is instructive to look to the experience of French-German relations since adoption of the Elysée Treaty in 1963. The treaty itself was short and procedural. It was not then possible to imagine the course of French-German relations in the decades that have followed in concrete detail. In practice there developed a very significant process of political convergence with adoption of common positions on many essential European policy issues, many bilateral cooperation projects, but above all a consolidation of trust to the point that an institutionalised reflex of partnership has been achieved. The development of an analogous relationship between the EU and Russia would be the most important conceivable act for the stabilisation and progress of the greater Europe, given that neither Russia's accession to the EU or an alternative multilateral construction (e.g. a newly empowered Council of Europe or Organisation for Security and Cooperation in Europe – OSCE) is plausible.

In the meantime there is much to be said for exploring constantly the grounds for practical cooperation, which could lead to a reduction over time of the contradictory political language and ideas reported by Makarychev. There are already potential signs of reconciliation in the field of economic standards and regulatory models. At a high political level, Russia rejects the idea of convergence on the European model, and instead wants convergence between two equal parties, presuming that bilateral negotiations will define the mutually acceptable content. However, at a lower administrative level, and in the business community, there is a greater willingness to converge on European standards as proxy for international standards (often they are the same, for example in accounting and bank regulations), where this is appreciated as the quickest way ahead. Another of Bordachev's ideas is relevant at this point, namely 'supranational associations' in specific sectors. This proposal may have merit, but the Energy Charter has been precisely an experiment of this type, and it has been refused by Russia as threatening an unacceptable level of legally-binding multilateral obligations. Perhaps the EU-Russian bilateral energy dialogue can advance faster, but this also is not evident on the basis of several years' experience. The general conclusion here is that the door should be open for negotiating sector-specific agreements, but it is too

complex and evolving matter to be codified in a comprehensive agreement with substantive content due to remain valid for many years. There are too many processes of iterative negotiation and instances of waiting for positions to change in the light of ongoing experience and changing economic structures and interests, for one grand negotiation to solve.

Finally the contribution by the European Round Table of Industrialists is expressing directly the economic interests of the European business community. The companies in question already have a huge stake in Russia, with some \$32 billion of investments there. Russia is the EU's fourth-largest trading partner, and the EU is easily Russia's first trading partner. The Round Table's contribution to this volume sees Russia as a potential economic powerhouse for decades to come, quoting studies that project a growth rate averaging as high as 6.5% from now to 2025, by which time Russia's GDP per capita could be reaching the levels of the main EU economies. The Round Table is strongly supportive of the Common Economic Space agreement. It sets out a clear list of priorities for Russia's full economic potential to be achieved:

- improvement of the investment climate through strict and non-discriminatory enforcement of rule of law;
- a continued fight against corruption;
- a 'mainstreaming' of investment friendly criteria in the policy-making process;
- effective protection of intellectual, industrial and commercial property rights;
- trade facilitation through standardisation and mutually compatible IT procedures;
- use of international product standards and conformity assessment procedures;
- consistent application of the latest international accounting and auditing standards; and
- a continuous process of policy dialogues within the framework of the Common Economic Space.

The general message is one of strong commitment to the EU-Russian economic relationship. In fact, the two parties have now set in motion the process of replacing the PCA, and permitting the present text to remain in force until it is replaced by the new agreement in order to avoid a legal vacuum. A decision was formally reached at the EU-Russia summit in May



2006, and in July the European Commission agreed with the Council to draft the negotiating mandate for a new EU-Russia Agreement, which should be adopted by the end of the year. The Commission expresses its hopes as follows:

The Agreement will provide an updated and more ambitious framework for the EU-Russia relationship. It will be legally binding and will replace the previous EU-Russia Partnership and Cooperation Agreement (PCA). The Commission is proposing an agreement which covers the whole range of EU-Russia cooperation, with a particular focus on progressive deepening and development of trade relations and fair and open development of the energy relationship between the EU and Russia. ... The Commission wants the new agreement to be based on recognition of common values such as democracy, human rights and the rule of law. The Commission hopes the agreement will adopt ambitious objectives on political and external security cooperation, effective multilateralism, provisions on the fight against organised crime, WMDs, migration and asylum, and counter-terrorism. ... The Commission is suggesting that the new agreement covers the vast area of cooperation built up in the intervening years, notably set out in the common spaces road maps adopted at the summit in May 2005.<sup>4</sup>

Yet it is still evident that the two parties are engaged in negotiations over a new strategic partnership agreement with profoundly different objectives. Russia seems to want a testament to its new sense of strategic strength on the world stage, and does not want to be entangled in EU norms and standards. The EU wants to engage Russia in a comprehensive process that should draw Russia more in line with its notions of how European affairs should be conducted. Each party will try to pull the other onto its conceptual terrain, as is normal for a negotiation. However the outcome seems more likely to be a long and comprehensive text with many vague intentions and rather little legally binding content. This could provide the political background for specific substantive agreements, both in economic sectors of strategic significance such as energy and aerospace, or in due course in cases of crisis management in the wider European area. But the legally binding substance of the agreement as well as its commitments to political values are likely to remain thin, and might as well fit into a political declaration, rather than a treaty requiring the heaviest of ratification procedures.

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<sup>4</sup> European Commission, Press Release, “European Commission approves terms for negotiating new EU-Russia agreement”, IP/06/910, Brussels, 3 July 2006.

## 2. NEIGHBOURS, EXCEPTIONS AND THE POLITICAL: A VOCABULARY OF EU-RUSSIAN INTER-SUBJECTIVE (DIS)CONNECTIONS

ANDREY S. MAKARYCHEV\*

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### Abstract

*The concept of this paper is grounded in the understanding of EU-Russian relations as an encounter of two subjects in transformation, conducive to the formation of a sphere of inter-subjective communications that might be either divisive or cooperative. Both connections and disconnections between these two international subjects are discursively moulded and, therefore, grounded in a certain type of vocabulary with a number of interrelated concepts at its core, including those of neighbourhood, exceptionality and the political. It is exactly through comprehending this vocabulary that one can unravel the logic of deep asymmetry embedded in the EU-Russian relationship.*

### 1. Introduction

A number of recent events have significantly reshaped the contours of the EU-Russian relations. Some of them seem to be of a predominantly domestic character (the transformation of Russia's federal system in the direction of the proverbial 'vertical of power' in general, and the elimination of the popular elections of regional governors in particular),

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while others appear to be of international scope (the appearance of the 'Four Common Spaces' concept and the commencement of the North European Pipeline project).

The title of this paper is grounded in the understanding of EU-Russian relations as an encounter of two subjects in transformation, conducive to the formation of a sphere of inter-subjective communications that might be either divisive or cooperative. Both connections and disconnections between these two international subjects are discursively moulded and, therefore, grounded in a certain type of vocabulary with a number of interrelated concepts at its core, including those of *neighbourhood*, *exceptionality* and *the political*. It is exactly through comprehending this vocabulary that one can unravel the logic of deep *asymmetry* embedded in the EU-Russian relationship.

Post-structuralist literature has significantly challenged the conception of the subject as an independent unit capable of autonomously designing its actions and of unilaterally defining its system of external communication. Of particular help in this regard is Foucauldian heritage that "effaces the idea of the self-constituting subject".<sup>1</sup> The concept of Foucault could be read in the following way: "the subject cannot be autonomous... The subject always sets off against a social background that influences him".<sup>2</sup> What is important to note is that, according to this perspective, since "the subject is culturally constructed all the way down", one may speak of "a plurality of subject positions, each of which is a function of the discourse that defines it".<sup>3</sup>

What stems from this highly theoretical reflection is that EU-Russian relations can develop only as *inter-subjective* ones, which stipulates the recognition of the inevitable subjectivity of each other. Therefore, along with the one-way influence assumed in EU policies towards Russia, one may discern some *reciprocity* embedded in inter-subjective relations. If we admit the plausibility of this theoretical departure, the whole picture of EU-Russian relations might be seen in new colours. For example, in the Kaliningrad issue, Russia has led the EU to implicitly admit that the

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<sup>1</sup> M. Bevir, "Foucault and Critique. Deploying Agency against Autonomy", *Political Theory* 27 (1), 1999.

<sup>2</sup> Ibid.

<sup>3</sup> D. Stern, "The return of the subject? Power, reflexivity and agency", *Philosophy & Social Criticism* 26 (5), 2000.

enlargement process is not a ‘peace project’ by definition; rather it has to be viewed as a painful process of mutual accommodation and adaptation, in both political and legal realms.

What follows from this preliminary observation is that discourses are, on the one hand, “practices that systematically form the objects of which they speak”.<sup>4</sup> Iver Neumann, for example, builds his concept of identity formation on a premise that the ‘others’ “about whom the self tells stories and who tells stories about the self are ... a constitutive part of story telling... Confirmation of stories of self cannot be given by just anybody, but only by those others whom the self recognizes and respects as being of a kind with itself. The others in this set are referred to as circles of recognition”.<sup>5</sup>

On the other hand, one can argue, discourses form the ‘speaking subjects’ themselves. This approach, being in line with some arguments developed by Foucault, Bakhtin and Lacan, has been already applied to the study of European identity by a number of authors. Through valuing others, we usually tend to implicitly construct and evaluate ourselves. The way one assesses his/her neighbours and interlocutors is indicative of his/her own worldview and political standpoint. In this epistemic context, one may start with the stipulation that Russia tends to conceptually define its identity through relating itself – in one way or another – with Europe.

Any form of international subjectivity presupposes, therefore, a great deal of inter-subjectivity which by no means excludes what Slavoj Žižek termed as a situation of *‘inter-passivity’*, meaning in our context the yielding of political initiative to an opposite party. The Four Common Spaces could be a case in point: both sides signed the Road Maps without clarifying their content, thus leaving further moves to each other and creating an undetermined situation – an issue to be analysed in more details later in this text.

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<sup>4</sup> M. Foucault, *The Archaeology of Knowledge*, London: Routledge, 1972.

<sup>5</sup> I. Neumann, *Uses of the Other. “The East” in European Identity Formation*, Minneapolis, MN: University of Minnesota Press, 1998.

## 2. The Idea of Neighbourhood: Two Diverse Interpretations

My first argument presumes that one of the major sources of discursive asymmetry between Russia and the EU is grounded in the different interpretations of the very idea of neighbourhood.

The EU basically adheres to a liberal/rationalistic approach “which ultimately reduces my Other/Neighbour to my mirror-image, or to a step along the path of my own self-realization”.<sup>6</sup> There is, evidently, a great deal of wishful thinking in this sort of reasoning, but it is exactly from this belief in the feasibility of good-neighbouring relations that the European Neighbourhood Policy has started, having equated neighbours with friends, partners and even allies.

Russia, by contrast, shares quite a different view of the essence and meaning of neighbourhood. The ‘conceptual character’ of neighbour, in the Russian interpretation, seems to be rather close to the concept explored, in particular, by Slavoj Žižek – the Neighbour is the equivalent of a “traumatic thing”, a figure who “remains inert, impenetrable, enigmatic presence that hystericizes me”,<sup>7</sup> who is a source of annoyance, uncertainty and menace.

This seemingly theoretical observation contains some ground for discerning the radical gap between the two parties, which, concomitantly, translates into a major source of disconnections in the communications between Moscow and Brussels. The ‘symbolic order’ which the EU is seeking to attain presumably boils down to a ‘(European) Self versus (Neighbouring) Friends’ scheme, while the Russian constellation seems to be dominated by a ‘(Russian) Self versus (Neighbouring) Enemy’ formula.

All this explains a lot in the nature of Russia’s relations with her immediate neighbours, including tense relations with countries like Poland, Georgia, Ukraine, and the three Baltic republics. Unlike the EU, Russia feels adjusted to a type of conflictual relations with adjacent countries. In particular, Russia expects the ‘new European’ nations to “strengthen the political demands of the Union within the four common spaces”.<sup>8</sup>

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<sup>6</sup> S. Žižek, *The Fragile Absolute*, London & New York: Verso, 2000.

<sup>7</sup> Ibid.

<sup>8</sup> N. Rasmussen, *The EU Enlargement Eastwards and the ESDP*, DIIS Report 2005:7, Danish Institute for International Studies, Copenhagen, April 2005.

A good example of this discursive situation is the Russian-German gas pipeline deal which could be interpreted as Moscow's reluctance to accept any meaningful role for the countries that were eager to position themselves as East-West 'intermediaries', including Poland and Ukraine. In fact, the Russian message, expressed *technologically* yet based upon a clear *political* reasoning, stretches far beyond energy security matters: it reads in fact that Russia no longer needs any 'assistants' or 'facilitators' in its dialogue with major European powers – a situation that may in the near future drastically question the relevance of such concepts as 'brokers', 'bridges', 'connectors', etc.

The "*False – True Europe*" dichotomy plays a special role in the Russian discourse because it consists, to a certain extent, of *nodal points* (i.e. "the privileged discursive points ... of reference, signifiers that fix the meaning of a signifying chain"),<sup>9</sup> in relation to other adjacent conceptualisations ('traditional Europe vs. post-Europe' and 'Old vs. New Europe'). Due to that, this dichotomy turns into a discursive frame allowing Russia to give her own assessments to other European nations thus stressing the Russian subjectivity in European affairs. By discursively moulding a 'true Europe', Russia, in the meantime, strives to overcome and displace its own fears of being isolated from the European culture and values.<sup>10</sup> For example, it may be assumed that "by singling out the Baltic states as the black sheep of the European family, Russia could establish herself as a 'normal' European nation".<sup>11</sup>

'False Europe', as understood by some of Russian intellectuals, includes countries with strong anti-Russian sentiments and those having lost the genuine European values, while 'true Europe' is arguably populated by nations friendly to Russia and that adhere to what Russia considers as "the original spirit of Europe". In the process of reinventing

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<sup>9</sup> Y. Stavrakakis, *Lacan and the Political*, London & New York: Routledge, 1999.

<sup>10</sup> V. Morozov, "V poiskakh Evropy: rossiiskiy politicheskiy diskurs i okružhayuschiy mir" (In search of Europe: Russian political discourse and the outside world), *Neprikosnovenniy zapas*, No. 4 (30), 2003a.

<sup>11</sup> V. Morozov, "Russia and the Baltic States: Letting Go of a Troubled Past", *Russia and Eurasia Review*, Vol. II, No. 16, 5 August, 2003b.

'the true Europe', the "real relics of antiquity" (exemplified in the heritage of prominent European intellectuals) are respectfully cherished.<sup>12</sup>

Two brief points have to be made at this juncture. Firstly, what is telling is a logical nexus between the two different parameters identifiable in the Russian vision of the 'true-false' dichotomy: presumably, this is the evaporation of the national spirit that leads some European countries to be placed on Russia's 'black list'. In other words, some of the nations could be placed in a 'false' category exactly because they have deviated from what Russia regards as the European cultural mainstream.

Secondly, the gist of this binary conception might be traced back to the notion of the alleged 'Russian Europe', historically exemplified by Novgorod's and Pskov's inclusion in the Hansa trade network and these cities' commitment to a set of democratic procedures.<sup>13</sup> Put differently, through articulating the idea of 'true Europe', Russia tries not only to exhibit her own European identity but also to identify her own 'circle of friends'.

One possible type of reaction to the 'false-true' distinction within Europe is the emphasis on European weakness, a denial of Europe's attraction to Russia and the portrayal of the EU as an exhausted entity lacking political will and an identity of its own. Russian officials tend to treat the EU as a loose agglomeration of autonomous countries, as an experiment with an uncertain outcome. Some Russian analysts jump to overgeneralisations, asserting that "Europe is dying... It is a purely virtual notion, a gigantic dead museum... The degeneration of the European idea is shocking".<sup>14</sup> "Europe is an image of the past century, it is a remembrance... Europe is reminiscent of an aged hypocrite and a coquette which conceals the smell of putrefaction".<sup>15</sup>

The discourse focusing on an alleged degeneration of Europe leads to a rather interesting twist in the reasoning of some Russian thinkers who

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<sup>12</sup> Trans-continental laboratory, *Rossiia kak Novaya Evropa* (Russia as New Europe), "Europe from Kitezh to Alaska" (<http://europe.inache.net/neweuro.html>).

<sup>13</sup> Trans-continental laboratory, *Russkaya Evropa ili Evrosovok?*, "Russian Party of the European Union", 2004 (<http://europe.inache.net/ruparty.html>).

<sup>14</sup> V. Nifontov, *Chto takoe Evropa* (What is Europe), 2002 (<http://udod.traditio.ru/euro.htm>).

<sup>15</sup> M. Remizov, "Skvozniak" (draft), *Russkii zhurnal*, 19 October 2001.

conclude that the genuine ‘European project’ could – paradoxically and counter-intuitively – be implemented by Russia itself. The rhetoric of this sort has reached its peak in Dmitry Rogozin’s proclamation of Russia as being a ‘real Europe’, free of homosexuals, punk culture and other elements of today’s European lifestyles detested by Russian conservatives. It is at this point that the ‘othering of Europe’ frames and conditions the discursive construction of Russia herself. “Russia’s relations with the current Europe are not geographic but temporal” in the sense that Russia is imagined as a ‘real’ Europe, an inheritor of the centuries-long European culture.<sup>16</sup> This type of discourse, almost unknown beyond Russia, not only makes Europe a poorly self-articulated entity with weak or even non-existent political will, but concomitantly questions the strategy of Russia’s integration with Europe. Russia’s lack of chances to get accepted into the EU, on the one hand, and fears of finding itself at the European outskirts, on the other, almost inevitably push Russian discourse into the realm of contrasting the EU as a supra-/post-national entity with Russia as a nation-state. Being a nation-state spells, in Russia’s understanding, a greater ability to autonomously act in the international arena.

The ‘false-true Europe’ concept, as I have noted earlier, could be viewed as a discursive container of other binary oppositions. One of them seems to be a contradistinction between ‘*traditional Europe*’ and ‘*post-Europe*’. In the interpretation of some Russian scholars, what is considered to be ‘post-Europe’ embodies the growing self-denial of the national interests and identities, a tendency dating back to the end of the Second World War and the American military preponderance all across Western Europe which, in the interpretation of some Russian thinkers, is a former Europe.<sup>17</sup> As an authoritative political analyst Sergey Karaganov puts it, “Russia hardly needs to give up her longing for traditional European values for the post-European ones”.<sup>18</sup> Russia, then, seems to deny what Europe itself is proud of – both the refusal of national egos and acknowledging the value of supranational integration.

By the same token, there is a variety of Russian discourses questioning Europe’s ability to act as a political subject and speculating

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<sup>16</sup> Ibid.

<sup>17</sup> Trans-continental laboratory, *Rossiia kak Novaya Evropa*, op. cit.

<sup>18</sup> S. Karaganov, “Farsovaya kholodnaya voina?” (Farce-style Cold War?), *Rossiiskaya gazeta*, 25 February 2004.



about Europe's alleged degradation. In these discourses, Europe features, by and large, as a vague and ambiguous entity with uncertain and unspecified traits, a kind of collection of spaces with neither a clearly identifiable core/centre nor stable borders – a perfect example of an *'empty signifier'* constituting a playground for meaning-making. A telling reference to this implicit featuring of Europe as a semantically 'empty' notion is given by Mikhail Remizov, a conservative political thinker, who hypothesised that “we yet can only watch the place where she (Europe) is supposed to be”.<sup>19</sup>

Indeed, Europe may be called a territory “lacking its own subjectivity”<sup>20</sup> and strongly associated with a multiplicity of perspectives and trajectories,<sup>21</sup> with a peculiar mix of different vectors and moves inherently open for rethinking and susceptible to multiple redefinitions. This situation may find its verbal representations in phrases like ‘magnetism without a magnet’, or ‘a process without a subject’. In Pami Aalto's thoughtful comment, the EU may be perceived “as a faceless entity, where policy outcomes simply ‘happen’ without anyone or any institutional bodies really being responsible”.<sup>22</sup> This state of affairs could be partly explained through conceptualising the EU as a “geopolitical subject in the making”, one lacking a well formulated set of identity and interest projects,<sup>23</sup> and, concomitantly, often preferring to act structurally, i.e. in a tandem with other organisations.

In a rather indicative way, such statements are usually positively accepted in Russia where many political analysts deem that the EU, being a “bureaucratic body almost without political leadership”, is incapable of generating new impulses in the EU-Russia relations. Concomitantly, the future of the EU, the institutionalized manifestation of the European

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<sup>19</sup> M. Remizov, “Skvozniak” (draft), *Russkii zhurnal*, 19 October 2001.

<sup>20</sup> E. Kholmogorov, “Evropa ot zakata do rassveta” (Europe from sunset to sunrise), *Russkii zhurnal*, 18 June 2002.

<sup>21</sup> Y. Shimov, “Chetyre Evropy” (Four Europes), *Russkii zhurnal*, 27 February 2001.

<sup>22</sup> P. Aalto, “Semi-Outsiders or Close Outsiders? Russia and Its Kaliningrad Region in European Integration”, paper presented at the New World Politics Conference, Hameenlinna, Finland, 12-13 January 2004.

<sup>23</sup> P. Aalto, “A European Geopolitical Subject in the Making? EU, Russia and the Kaliningrad Question”, *Geopolitics* 7 (3), 2002.

integration, is questioned by some of the most authoritative Russian foreign policy experts.<sup>24</sup>

The question looming large at this point is how one can venture to identify her/his country – either by contrast or by association – vis-à-vis such an elusive entity in a permanent state of flux, if not decay? The issue under consideration might be approached from the perspective of the ‘hermeneutic circle’, a concept presuming that “the interpretation of a given ‘web of meaning’/social practice can never be tested against an objective standard. Rather, the testing and refinement of particular interpretations is always done on terms of other interpretations”.<sup>25</sup> To extrapolate this approach to the sphere of the European discourse in Russia, one may come up with the following supposition: since Europe lacks an undisputable set of characteristics shared by the bulk of the opinion-makers, Russia needs, *first*, to explain what Europe is, and then – *secondly* – to define and reposition itself vis-à-vis this reinvented image. Expressed differently, Russia uses the alleged emptiness of Europe as a signifier for filling it with a variety of discourses and playing with them afterwards.

Another pathway of conceptualising Russia’s European discourse is through the ‘Old-New’ debate. Of course, there is a group of Russian opinion- and policy-makers who are distrustful of France and Germany due to their alleged ambitions to monopolise the European identity. Yet an opposite viewpoint seems to dominate, that of one in which the so-called ‘junior Europeans’ are eager to shoulder responsibility for degenerating EU-Russian relations through their treatment of Russia’s neighbours, trying to impose their policies/visions upon the ‘senior Europeans’ to this end.<sup>26</sup>

In particular, in the Russian media Poland is currently presented as a country striving to undermine the current elites in Ukraine and Belarus, to hinder the EU-Russian rapprochement, and even to play the role of a peace-keeper in the CIS.<sup>27</sup> Some Russian experts attribute to Poland the

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<sup>24</sup> F. Lukianov, *Prizrak nad Evropoi* (A Ghost over Europe), 2004 (available at [http://www.gazeta.ru/comments/2004/06/a\\_127704.shtml?](http://www.gazeta.ru/comments/2004/06/a_127704.shtml?)).

<sup>25</sup> M. Neufeld, *The Restructuring of International Relations Theory*, Cambridge: Cambridge University Press, 1995.

<sup>26</sup> K. Privalov, “Oдиночество Европы” (Europe’s Solitude), *Itogi*: 9 (403), 2004.

<sup>27</sup> A. Vol’nov, Panskie ambitsii, *Rossiiskie vesti*, 28 April-11 May 2004 ([http://www.rosvesty.ru/numbers/1724/europe/article\\_43.phtml](http://www.rosvesty.ru/numbers/1724/europe/article_43.phtml)).

responsibility for the emergence of new dividing lines between the West and the East.<sup>28</sup> In Filip Kazin's reasoning, "the Poles ... are prone to strictly fix the 'weight categories' and put one of players (Russia) beyond the competition, while the EU bureaucracy wants to place everybody in the same stadium, have a training exercise and see what comes out of it".<sup>29</sup> There exists a wide spread feeling that Poland is reluctant to accept the common 'rules of the game' offered by the EU to all its adjacent countries and is eager to distinguish Ukraine (and potentially Moldova and Belarus) from all eastern neighbours.<sup>30</sup>

Polish commentators partly confirm these Russian fears by suggesting that relations with Moscow should not dominate the EU foreign policy agenda and ought to develop as a direct function of Russia's approximation of her political and legal norms with those of the EU. Polish experts seem to be selective in offering partnership arrangements to the eastern countries. Some authors in Warsaw even try to make the procedure of 'granting the EU neighbour state' status dependent upon a list of normative criteria.<sup>31</sup> In the meantime, Russia seems to be willing to explore the vulnerability of Poland presuming that "almost nobody would take seriously a country that, on the one hand, has pretensions for a leading role in designing and coordinating the eastern policy of the EU, and on the other hand, proves incapable to maintain normal relations with the main country"<sup>32</sup> of the region to the east of the EU.

Within this discursive stream, Russian commentators make efforts to deploy the complexities of Russia's relations with the 'New European' countries in, at least, two wider contexts. The *first* one is related to the EU,

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<sup>28</sup> N. Bukharin, *Rossiia i Pol'sha: obozrimye perspektivy* (Russia and Poland: Foreseeable Perspectives), 2001 (<http://www.ieras.ru/journal/journal2.2001/11.html>).

<sup>29</sup> F. Kazin, *Zakat tranzitologii, ili seraia zona Evropy?* (The Dawn of Transit Studies, or Europe's Gray Zone), Center for Integration Research and Projects, St. Petersburg, October 2002 ([www.cirp.ru/publications/kazin/transition\\_cont.htm](http://www.cirp.ru/publications/kazin/transition_cont.htm)).

<sup>30</sup> Ibid.

<sup>31</sup> See J. Cichocki, M. Cichocki and P. Kowal, "Poland and the EU's "Eastern Dimension", in Pawel Kowal (ed.), *The EU's "Eastern Dimension" – An Opportunity for or Idee Fixe of Poland's Policy*, Warsaw: Centre for International Relations, 2002.

<sup>32</sup> N. Bukharin, "Rossiisko-pol'skie otnoshenia i vstuplenie Pol'shi v ES" (Russian-Polish relations and Poland's accession to the EU), *Vestnik Evropy*, No. 11, 2004.

which is expected, in Russia's reasoning, to bear responsibility for the behaviour of its newcomers. In its statement of 22 October 2004, the State Duma declared that in the aftermath of Latvia's and Estonia's accession to the EU, these two countries have reinforced their anti-Russian attitudes through promulgating a number of initiatives aimed at laying material and political claims against Russia, as well as reconsidering the outcomes of the Second World War (meaning by that an alleged tendency of rehabilitating of Nazi combatants). Even more eloquent was Sergey Yastrzhembskii, President Putin's aide on European affairs, who accused the EU newcomers of demonstrating political radicalism and "fairly primitive Russophobia". These countries, in his assessment, are trying to actively "complicate the dialogue between Russia and the EU", which appears to contradict the interests of the EU's "old residents" (*Nezavisimaya gazeta*, 17 November 2004).

A *second* context has to deal with the United States, since the new EU members are gloatingly depicted by some Russian commentators as "America's fifth column in Europe".<sup>33</sup> "Congratulate Adamkus and then America"<sup>34</sup> is how one Russian policy commentator assessed the results of the 2004 presidential election in Lithuania. This argument seems to be meant for both German and French consideration.

All in all, a significant part of Russia's elites tends to suspect 'New Europe' countries as seeking to undermine Russia's positions, which resonates quite well with the opinions of some European policy analysis that the "three Baltic republics and Poland will definitely turn into a complicating factor in the EU-Russia relations. Nevertheless, the political elites of France and Germany, willing to keep working with Russia, won't allow the small countries to significantly spoil the work done before".<sup>35</sup> In Putin's vision, it is France and Germany that could bring Russia closer to Europe, "particularly if they would agree to avoid unpleasant topics" like Chechnya, or the democratic deficit in Belarus.<sup>36</sup>

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<sup>33</sup>Echo Moskvyy Radio, 28 April 2004 (<http://www.echo.msk.ru/interview/1.html>).

<sup>34</sup>Center for Political Conjunction, 28 June 2004 (<http://www.ancentr.ru/portal/printout2056.html>).

<sup>35</sup> Interview with Erhard Kromme, *Izvestia*, 30 October 2003.

<sup>36</sup> P. Baev, "The European Troika meets in Sochi", *Eurasia Daily Monitor*: 1 (76), 2004.

This way of reasoning is well complemented by voices assuming that the Russian-German alliance is a key factor of all-European stability. In particular, Alexander Dugin treats the French-German Europe as an historical chance for Russia to provide its security: “we have no right to miss this opportunity and plug into this process at any conditions”<sup>37</sup>. In his reasoning, Russia is to offer itself as a logical extension of Paris – Berlin alliance to the east. “It is in this sense that the Russian patriots can proclaim: To Europe!”<sup>38</sup> In this context, the ‘Old Europe’ could be articulated as – and paralleled with – ‘the main Europe’ (Mark Urnov’s enunciation), or “an old good Europe”,<sup>39</sup> preserving its cultural roots and resisting to the America-led globalisation.

Finally, the ‘true-false Europe’ couple can be viewed through a different but conceptually rather promising frame grounded in a Lacanian vocabulary. There is some potential for (re)interpreting the discursive tug-of-war between the ‘true Europe’ and ‘false Europe’ as a particular case of the wider opposition between the *Real*, on the one hand, and the *Symbolic*, on the other. To uncover the hidden meaning of this peculiar opposition, let me refer to Slavoj Žižek whose interpretation of the Real seems to be rather compatible with the conception of ‘true Europe’. The Real is “the starting point, the basis, the foundation of the process of symbolization”, claims Žižek and then goes on: the Real “precedes the symbolic order and is subsequently structured by it”.<sup>40</sup> Having extrapolated this broad methodological observation to the field of our interest in this paper, one can (re)interpret it in a sense that the process of symbolisation has to start with what is considered as true, genuine and real in a given system of thought. More specifically, this is the ‘true Europe’ which can and has to be symbolized, and for this symbolisation it needs a contrast, an opposite vision of Europe.

Coming back to Žižek, the symbolic relation is “differential: the identity of each of the moments consists in its difference to the opposite

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<sup>37</sup> A. Dugin, “Franko-germanskaya imperia: zdes’ i seichas” (Franco-German empire: Here and right now), *Izvestia*, 6 February 2003.

<sup>38</sup> Ibid.

<sup>39</sup> A. Okara, *Kakaya Evropa nuzhna Rossii* (What kind of Europe Russia needs?), 2000 (available at <http://nationalism.org/library/publicism/okara/okara-what-europe.htm>).

<sup>40</sup> S. Žižek, *The Sublime Object of Ideology*, London & New York: Verso, 1989.

moment. A given element does not fill in the lack in the other, it is not complementary to the other but, on the contrary, takes the place of the lack in the other, embodies what is lacking in the other: its positive presence is nothing but an objectification of a lack in its opposite elements. The opposites, the poles of the symbolic relation, each in a way return its own lack".<sup>41</sup> On a different occasion he claims that "the Symbolic emerges from the very imaginary mirroring: from its doubling, by means of which ... the real image is substituted by a virtual one... Within the Imaginary itself, there is always a point of double reflection at which the Imaginary is, so to speak, hooked on the Symbolic".<sup>42</sup> It is exactly through this theoretical background that one may tackle the collision between the 'true Europe' and the 'false Europe' (as a product of its negative symbolisation).

An interesting move here is that this inevitable and constitutive symbolisation of the Real turns into "a hole, a gap, an opening in the middle of the symbolic order – it is a lack around which the symbolic order is structured... The Real is ... a product, a leftover of symbolisation... the void, the emptiness created, encircled by the symbolic structure". In a radical version, the Real is "an entity which does not exist but has nevertheless a series of properties... If we get too near it, it loses its sublime features and becomes an ordinary vulgar object – it can persist only in an interspace, in an intermediate state, viewed from a certain perspective, half-seen. If we want to see it in the light of day, it changes into an everyday object, it dissipates itself, precisely because in itself it is nothing at all".<sup>43</sup>

Would not this stimulating albeit provocative description serve as a good framework for understanding the nature of discursive construction based upon the notions of 'true' and 'false' Europe? On closer scrutiny, the 'true Europe' turns into a product of mental imagination. This observation is partly confirmed by a German author Herfried Munkler who assumed that "it is impossible to single out a kind of 'genuine' notion of Europe and then to separate it from falsifications... Moreover, each attempt to redefine

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<sup>41</sup> Ibid.

<sup>42</sup> S. Žizek, *For they know not what they do. Enjoyment as a Political Factor*, second edition, London & New York: Verso, 2002.

<sup>43</sup> Ibid.

a ‘true’ and ‘false’ Europe through contradistinction between the two turns into an element of a political struggle”.<sup>44</sup>

Two points have to be made at this stage of my analysis. *Firstly*, this observation brings us to Žižek’s assumption that this is “only in dreams that we encounter the real of our desire... The social reality then becomes nothing more than a fragile symbolic tissue which can be torn at any moment by the intrusion of the real”.<sup>45</sup> To figuratively rephrase this statement, Russia needs a ‘bad dream’ about ‘false Europe’ in order to reinstall her European credentials and feel at home with what she considers a ‘true Europe’.

*Secondly*, Munkler makes a good point in discovering a political dimension in the gesture of opposition between the two patterns of Europe. This discovery of a considerable Schmittian background in the Russian debate on ‘false’ and ‘true’ Europe makes it possible to interpret it as an act of power manifested through discursive means.

The approach inspired by Lacan and picked up by Žižek gives us an example of the deconstruction of the binary opposition grounded in ‘false-true Europe’ debate. The mentally constructed ‘true Europe’ could – paradoxically – be described in terms pertinent to the opposite pole of the pair, namely as composed of ‘the post-Germans’, ‘the post-French’, etc. ‘The true Europe’ turns out to be even more ‘un-European’, with strong influx of alien cultural flows and steady penetration of terrorist networks inside Europe. Another paradox could be found in the fact that the countries belonging – in Russian eyes, at least – to ‘false Europe’ are in possession of some characteristics supposedly attributed to their imaginary opponents, like the (hyper-)valorisation of national identity as manifested in highly restrictive citizenship legislation.

### 3. Acting politically: Two ways of reasoning

A second source of discursive asymmetry is grounded in the different understandings of what has to be meant by ‘*acting politically*’ in areas of mutual concern. For Russia, political logic lies in the ability to take

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<sup>44</sup> H. Munkler, “Europa als politische Idee // Reich – Nation – Europa. Modelle politischer Ordnung”, Weinheim: Beltz, 1996.

<sup>45</sup> *The Žižek Reader*, edited by Elizabeth Wright and Edmond Wright, London: Blackwell Publishers, 1999.

decisions based upon sovereign will, as opposed to a technocratic logic of searching for a more or less neutral field of alleged objectivity that would be able to reconcile ideological differences for the sake of managerial efficiency. In the EU eyes, political logic is basically understood in terms of leaders' "ability to initiate and the ability to put a halt to conflict".<sup>46</sup> Acting politically, for the EU members, is not so much related to taking sovereign decisions, but rather to the adherence to a certain set of values grounded in liberal traditions of thought.

Two specific illustrations of this type of discursive asymmetry seem to be rather appropriate at this juncture. The first case worthy of attention is Russia's multiple appeals to the EU's political subjectivity in the case of the Kaliningrad issue. In fact, the Russian government insisted on a predominantly *political* – as opposed to *technical* – solution, presuming that the EU should make a number of *exceptions* from the existing rules regulating border-crossing procedures. It is exactly this approach that Russia appears to put into practice while lobbying for a political settlement of the Kaliningrad conflict, referring to Brussels as a state-like decision-making authority (including its presumed ability to take decisions on exceptions from the Schengen rules, or what could have been called their 'flexible implementation').

The 'Kaliningrad puzzle' seems to be a good example of a situation of *undecidability*, which was differently assessed by the two parties involved. Russia tended to explain the complexities in visa and transit issues mainly by a lack of political subjectivity on the part of the EU. More specifically, Russia did its best to apply a *political logic* to the Kaliningrad issue, thus appealing to the necessity of *making a decision*, a political move that is, in the words of Ernesto Laclau, "not predetermined by the 'original' terms of the structure" and "requires a passage through the experience of undecidability ... to a creative act".<sup>47</sup> The EU, in the meantime, referred to a *structural logic*, giving a clear priority to following the existing rules and regulations stipulated by the already existing EU policies. In fact, the

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<sup>46</sup> See W. Rasch, "Conflict as a Vocation: Carl Schmitt and the Possibility of Politics", *Theory. Culture & Society* 17, 2000.

<sup>47</sup> See E. Laclau, "Deconstruction, Pragmatism, Hegemony", in Chantal Mouffe (ed.), *Deconstruction and Pragmatism*, London and New York: Routledge, 1996.



predominance of this structural logic proves that the European project is “ultimately a project of administration”.<sup>48</sup>

A second good illustration of the political grounding of the Russian position is the Russian appeal to the governments of EU countries (particularly Denmark and the UK) expecting them to take political decisions concerning their hosting of individuals who are regarded in Russia as envoys of Chechen terrorists. Anti-terrorist partnership, according to the Russian interpretation, also implies a *special* type of political bargaining. In this framework, the EU countries were expected to display greater compassion for Russian losses and grievances, and to abstain from criticising what is presumed to be Russia’s own ‘war against terror’. It is this understanding of the political – evidently grounded in the traditions of Carl Schmitt – which Russia had in mind while appealing to the ‘political’ background of the Danish authorities’ non-decision concerning the convention of the Chechen Congress in Copenhagen in 2002. Russia was trying – although with scarce success – to explicitly refer to the Danish authorities as a presumed locus of decision-making, including decisions for *exceptions* from the legal rules regulating the public meetings of this sort. The Danish stance, in the meantime, was grounded in delineation between *the political* and *the private* (since it was argued that the Congress in question was convened and sponsored by a private institution). According to the Danish official reacting to the Russian criticism of the Copenhagen-based Chechen Congress, it is not the prime minister that runs the country, but the law. However, the Danish references to the legal obstacles that prevented them from banning the Congress were interpreted in Russia not as a legal hindrance, but rather as ‘political’ manoeuvring.

This situation, being a ‘language game’ at first glance, contains some meaningful explanations of the clash between two interpretations of the nature of political acts/decisions. Yet at a deeper level of interrogation, it turns out that the explanations of asymmetry do not stop here. Both actors under consideration, apparently adhering to a specific type of logic, cannot evade embracing the opposite logic. The EU intentionally prefers to use different types of language in dealing with different countries. Despite the EU sympathies to what we called ‘technical’ solutions, in certain cases the EU is not free to avoid taking political decisions. The membership granted

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<sup>48</sup> S. Žizek, *Iraq. The Borrowed Kettle*, London and New York: Verso, 2004.

to Cyprus and the debates on the possible accession of Turkey are, perhaps, the most telling proofs of the constitutive necessity of political language in the EU vocabulary. As far as Russia is concerned, its predisposition towards playing the political cards appears to be highly selective. The EU's inclination to non-political approaches could fuel Russia's irritation in security matters, but it works much more smoothly in the area of trans-border cooperation with Russia's North-West regions. Russia does accept technical solutions as soon as it feels that they may bring additional resources.

An even more difficult situation could be discerned in the case of the North European Gas Pipeline system: the kernel of discursive asymmetry here lays *not* in the constitutive incompatibility of the two logics clashing with each other, but rather in the disagreements over the qualification of each of these two logics. Thus, a country like Poland or Lithuania accuses Russia of constructing politically-motivated energy transportation routes, while Russia itself thinks of its moves as strictly technological ones, dictated primarily by economic rationale and therefore de-politicised. This discursive asymmetry seems to be a perfect illustration of a situation described by Carl Schmitt: the reason one may wish to disqualify or denounce an adversary as political is exactly to portray oneself as non-political "and thereby superior". Yet an important reminder could be pertinent at this point: "designating the adversary as political and oneself as nonpolitical ... is in actuality a typical and unusually intensive way of pursuing politics".<sup>49</sup>

What complicates the situation even further is that the EU does not seem to speak with a single language while dealing with Russia. In fact, from the very beginning of 1990s, there were two different discursive strategies inscribed in what conventionally is regarded as the EU-Russian discourse. These two strategies are differently structured and, what is more important, are coined for different political purposes. This discursive cohabitation is nicely reflected in the very title of the "Partnership and Cooperation Agreement". The title itself contains a sort of uncertainty incarnated in a tacit and alleged opposition between the two key words. One may wonder why both of them gave birth to the famous PCA abbreviation. As soon as one logically admits that cooperation is simply a

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<sup>49</sup> C. Schmitt, *The Concept of the Political*, Chicago, IL: University of Chicago Press, 1996.

particular case of partnership, the simultaneous usage of the two terms would turn into a mere tautology.

Yet there could be an alternative (and less banal) explanation pointing to the intrinsically dual and ambiguous nature of the EU discursive approach to Russia. The ‘partnership and cooperation’ couple could be therefore split/decomposed into two autonomous and self-sustaining types of discursive articulations. Table 1 is meant to illustrate the divergence between the logic of partnership and that of cooperation.

Table 1 shows some other *semantic couples* that are easily identifiable in the EU documents.

*Table 1. Two types of the EU discursive strategies towards Russia*

	<b>Discursive strategy 1 (friendly relations)</b>	<b>Discursive strategy 2 (strained relations)</b>
Background of EU assistance to Russia	Reciprocity/benchmarking	Conditionality
Current state of EU-Russian relations	Integration/close association/convergence	Engagement/approximation/rapprochement
Strategic landmarks in the bilateral relationship	(Strong/strategic) partnership	Cooperation/reinforced relationship/dialogue
Type of policy the EU is pursuing	Neighbourhood policy	Proximity policy
Russia’s role	Partner	Interlocutor
Fields of mutual interests	Spaces	Zones/areas/spheres

As one may see, the first group of interrelated concepts reflects a more Russia-friendly discourse presupposing a pretty close state of bilateral relations (what I call for convenience sake ‘Discursive Strategy 1’). The second column of notions is most appropriate for a scenario of strained relations with Russia marked by less pronounced enthusiasm and much stronger reservations, if not doubts, concerning the perspectives of bilateral projects (‘Discursive Strategy 2’).

In a Foucauldian approach, which unites these two types of discourse, their focus is on the same object, the more or less similar style of enunciation and topical sustainability. The differences between the two are

grounded, first, in the way their elementary details are tied to each other, which leads to different hierarchies of signs that constitute the discourse. Secondly, the internal logics and intentions that shape each of the two discourses seem to be also different.

The Foucauldian reading of EU-Russian relations presupposes a number of important logical operations. One of them would be to find the *points of equivalence* between the two discourses. Different words, indeed, sometimes produce similar, if not identical meanings. This is the case of ‘reinforced’ and ‘strengthened’ relations, the two adjectives that could be used interchangeably to substitute each other without any visible harm to their semantics.

The second operation would be to identify possible *points of incompatibility*. The whole idea here is based on the fact that the same words could be attributed different meanings and, therefore, may belong to different discursive strategies. An appropriate example could be found in different interpretations of the nature of ‘pilot region’ (as applicable to the Kaliningrad oblast) in Russia and the EU. The spread of self-consciously technical project-oriented discourses stands in contrast to the more political (at first glance) Russian discourses of ‘strategic partnership’, which located all major issues in EU-Russian relations in the domain of interstate, frequently bilateral, dialogue on the level of political leadership.

The third operation would be to define the status of the discursive strategies under consideration and the degree of their formalisation. Using Foucauldian terminology, the EU-Russia “Four Spaces” discursive field could be located between the “*threshold of positivity*” (a stage of individualisation and autonomisation of discursive practices) and the “*threshold of epistemologisation*” (a stage at which a certain group of statements tends to play a role of a dominant explanatory model). To put it differently, the Four Spaces discourse, still lacking due clarity and conceptual precision, aspires to hegemonise the field of EU-Russian relations. A good indication of these discursive ambitions is the transformation of the Northern Dimension which is expected to become “the regional expression on the North of Europe of the four Common Spaces and their road maps” (Joint Press Release...2005).

The fourth operation would be to decompose the discourses we study into a number of ‘*layers*’. These may include: single/separate discursive elements (key words – see table above); concepts that predetermine strategic choices; and new rules of forming the discursive practices. One

concept, therefore, may unleash a chain of other related departures (to be dealt with in more detail below).

#### 4. Russia's exceptionalism and its discontents

Russian demands for *political* bargaining were repeatedly expressed in Moscow's ambitions to be treated *differently* (not like all other neighbours of the EU). Exceptionality elevated to the level of political doctrine exerts powerful influence on the Russian political discourse. References to Russia's specificity have become a sort of political ritual in Moscow's foreign policy circles, which nevertheless keeps open at least two most important questions: what kind of exceptionality Russia is referring to, and what stems from it in practical terms?

Arguably, the Russian version of exceptionality is a double-faced political phenomenon and it comes in two versions. On the one hand, it could be easily (re)interpreted as a form of either voluntary distancing from the EU or exclusion. Indeed, if Russia itself repeatedly claims that it doesn't fit in some of the most important mechanisms of cooperation with the EU, it then has to be kept away from the process of integration. On the other hand, exceptionality could signal a need for special, individually-tailored solutions based upon non-standard decisions, those stretching beyond the routine logic of governance.

Generally speaking, Russia is simultaneously longing for an exceptional status in its relations with the EU and, at the same time, does not know how exactly to turn it into her advantage. Therefore, exceptionality is both a promise and a challenge, a possible asset and a probable disadvantage. This situation of inherent uncertainty and ambiguity in fact constitutes a framework for discursive hegemony, which could be understood as a process of carrying "out a filling function",<sup>50</sup> i.e. a process of saturation of "empty signifiers" with contextual meanings.

Within the above-mentioned framework of the 'old-new Europe' debate, Russia comes with its own understanding of exceptionality. Being politically attached to 'old Europe' (as exemplified by Germany and France), Russia underlines her 'special' relations with the strongest EU founding members. What is interesting is that this manifestation of Russian

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<sup>50</sup> A. Smith, *Laclau and Mouffe: the radical democratic imaginary*, London and New York: Routledge, 1998.

exceptionality transforms into a tool of Russia's own 'policy of exclusion', turned, in particular, against some of the EU newcomers. Russian debates on the possibility of the Latvian President's participation in the Moscow-based celebration of the 60<sup>th</sup> anniversary of the end of the Second World War, as well as a non-invitation of the leaders of Poland and Lithuania to the celebration of the 750<sup>th</sup> anniversary of Kaliningrad/Konigsberg, were the most visible symptoms of this emerging policy.

In a wider context, the transition from the European Neighbourhood Policy (ENP) to the Four Common Spaces reveals the difference between the two forms of political subjectivity that Russia could think of. The ENP, to a certain degree, could be viewed as a failed '*act of interpellation*': the EU called Russia a neighbour but it refused to recognise itself in this capacity. By this gesture of disavowal, Russia opted for a different pathway towards gaining its subjectivity – not through accepting and legitimising the EU's interpellative call (and the symbolic identity attached to it), but through resisting it. This is where the idea of "*subjectivity through exception*" comes from.<sup>51</sup> To put it differently, this is a certain form of exceptional arrangement (based upon Russia's symbolic *exclusion* from the group of the EU neighbours) that forms and sustains Russia's subjectivity vis-à-vis the EU.

Yet the "process of self-exception",<sup>52</sup> as exemplified by Russia's voluntary removal from the ENP area, was incomplete, since Russia has to find a balance between stressing its individuality/peculiarity/autonomy, on the one hand, and staying in close touch with the EU, on the other. By presenting itself as an exception in terms of the EU-developed ENP, Russia had to simultaneously engage in a controversial game of *inclusion* and *exclusion*.

The combination of these two dispositions has had an interesting and somehow unexpected effect: the Four Spaces displayed the features of both *exception* and *example*. To illustrate this slightly provocative argument, let me refer to Giorgio Agamben: "If we define the exception as an inclusive exclusion, in which something is included by means of its exclusion, the

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<sup>51</sup> J. Butler, *The Psychic Life of Power: Theories in Subjection*, Palo Alto, CA: Stanford University Press, 1997.

<sup>52</sup>R. Butler, *What is a Master-Signifier*, 1998 (available at <http://www.lacan.com/zizek-signifier.htm>).

example functions as an exclusive inclusion. Something is excluded by means of its very inclusion”.<sup>53</sup>

The allegedly inter-subjective background of the Four Spaces could be grounded in and interpreted by a formula nicely described by Slavoj Žižek as “*include me out*”.<sup>54</sup> In similar terms of Giorgio Agamben, the nature of the Four Spaces could be understood as a peculiar case of “*inclusive exclusion*” which serves “to include what is excluded”. In other words, “what cannot be included in any way is included in the form of the exception”.<sup>55</sup> This is exactly what the whole conception of the Four Freedoms is about.

The distinction between Russia and the EU, perceived in terms of a ‘chaos-cosmos’ dichotomy, adds to this understanding. For Agamben, “since there is no rule applicable to chaos”, it must “be included in the juridical order through the creation of a *zone of indistinction* between outside and inside, chaos and normal situation”, which is conceptualized as “*the state of exception*”. To continue this logic, “the exception is what cannot be included in the whole of which it is a member” (Russia is geographically and culturally an undeniable member of the European family of nations and cultures) “and cannot be a member of the whole in which it is always already included” (Russia’s membership in the EU will evidently undermine the institutional structures of the Union).<sup>56</sup> Interestingly enough, the Russian political elite, according to a widespread view, is eager to “become part of the EU without joining this union... to be almost within the EU but simultaneously to avoid having to fulfil orders given by it”.<sup>57</sup> Parenthetically, it could be noted that this logic of accommodation mirrors the EU strategy of presenting itself as the subject without taking political

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<sup>53</sup> G. Agamben, *What is a Paradigm?*, 2002 (available at <http://www.europeangraduateschool.de/faculty/agamben/agamben-what-is-a-paradigm-2002.html>).

<sup>54</sup> S. Žižek, *The Ticklish Subject*, op. cit.

<sup>55</sup> G. Agamben, *Homo Sacer. Sovereign Power and Bare Life*, Palo Alto, CA: Stanford University Press, 1998.

<sup>56</sup> Ibid.

<sup>57</sup> F. Sergeev, “Vostochnaya politika ES i perspektivy Rossii” (EU’s Eastern Policy and Russia’s Perspectives), in *Postsovetskoe prostranstvo: model’ dlia sborki* (Post-Soviet Space: A Model for Assemblage), National Strategy Institute and APN Agency, Moscow, 2005.

moves, as a key international player which in the meantime evades a great deal of responsibility for its actions.

Seen from this theoretical angle, the Four Spaces edifice manifests the characteristics of not only an *exceptional* institutional arrangement between the EU and Russia, but also that of an *example*, a model of integration to link two different entities, each one possessing its own subjectivity. In this vein, one may treat the Road Maps as a *model* in a strictly Lotmanian sense – namely, as an analogue of reality (for Yurii Lotman, each discourse is not only a communicative but also a *modelling system*).<sup>58</sup> In this context, ‘the state of exception’ could be understood in an innovative sense, as being synonymous with experimentation, piloting and so on. Therefore, the application of Agamben’s approaches to the Four Spaces may offer a wider modality of exceptions, otherwise associated with predominantly negative connotations.

*Bilateralism* in this sense is a form of *exceptionalism* pointing to a privileged status of Russia and individual, country-specific, if not unique, arrangements standing apart from the others.<sup>59</sup> To a certain degree, this exceptionalism is due to the fact that the whole idea of the Four Spaces was initiated by France and Germany and, therefore, may be viewed as an old Europe’s project.<sup>60</sup> However, it seems unlikely that Russia feels happy about reaching this kind of compromise based on its exceptionality. Intuitively, Russia anticipates that the ‘New Neighbourhood’ idiom might in the nearest future efface the semantics of ‘Near Abroad’. Yet more important sources of Russian criticism are grounded in disagreements with the basic ideas of the Four Spaces. What appears to be an inter-subjective construct turns out to be used as an instrument meant for a sort of ‘subordinate adaptation’. In particular, some Russian analysts deem that “the Common Economic Space is not really intended to foster further economic integration ... but to make Russia accept certain rules and to

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<sup>58</sup> Y. Lotman, *Struktura khudozhestvennogo teksta* (Structure of Artistic Texts), Moscow: Iskusstvo Publishers, 1970.

<sup>59</sup> P. Joenniemi, “The EU’s New Neighborhood Policy: Probing the Impact in Europe’s North and South”, in Andrey S. Makarychev (ed.), *The EU and Russia’s North-West: A Playground for Innovations?*, Nizhny Novgorod: Nizhny Novgorod University Press, 2005.

<sup>60</sup> P. Sutela, *EU, Russia, and Common Economic Space*, Bank of Finland, BOFIT – Institute for Economies in Transition, BOFIT Online: 3, 2005.



force it into a certain framework”.<sup>61</sup> Perhaps, the most intransigent position was taken by the Moscow-based Council for Foreign and Defense Policy (SVOP), which lambasted the Four Freedoms for unilateral concessions from the Russian side, a lack of legal precision, arbitrary interpretation of key terms used in the Road Maps and procedural opaqueness. In SVOP’s opinion, the Four Freedoms are merely an intermediary stage in the EU-Russia relationship and reflect the lack of long-term vision in both Moscow and Brussels.<sup>62</sup>

A similar viewpoint could be found in the European literature as well: “The mechanism of cooperation is simple: in return for effective implementation of reforms (including aligning national legislation with the EU *acquis*), EU will grant closer economic integration with the prospect of realising the so-called Four Freedoms”.<sup>63</sup> According to this Finnish analyst, “the adoption of first the common European economic space and later the four common spaces can be seen as attempts to ‘operationalise’ the rather monolithic and abstract obligation for Russia to harmonise its trade-related laws and rules with that of the EU *acquis*”.<sup>64</sup> Therefore, it might be presumed that the Four Spaces symbolise both Russia’s subjection/subordination to the outside power and some degree of resistance to it.

## 5. Conclusion

The lessons drawn from the story of EU-Russia inter-subjective (dis)connections could be interpreted in two different ways. It may be argued that the two subjects – Russia and the EU – speak the same language in which the sources of discord are embedded. In this way of reasoning, it might be presumed that the very recourse to a political sort of argument by either Moscow or Brussels inevitably and necessarily paves

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<sup>61</sup> P. Erokhine, “Common Economic Misperceptions”, *Moscow Times*: 3146: 8, 2005.

<sup>62</sup> Council on Foreign & Defense Policy, *Rossiya i Evropa: k novoi povestke dnia* (Russia and Europe: Towards a New Agenda), Moscow (available at <http://www.svop.ru>).

<sup>63</sup> H. Haukkala, *A Hole in the Wall? Dimensionalism and the EU’s ‘New Neighbourhood Policy’*, UPI Working Papers No. 41, Finnish Institute of International Affairs, Helsinki, 2003.

<sup>64</sup> H. Haukkala, *The Relevance of Norms and Values in the EU’s Russia Policy*, UPI Working Papers No. 52, Finnish Institute of International Affairs, Helsinki, 2005.

the way to a number of conflictual departures expressed through such categories as sovereignty, the state of exception, decisionism, etc.

However, an alternative explanation seems to be not only plausible but even more pertinent in our case: the EU and Russia, in communicating with each other, use the same words but nevertheless speak different languages, thus playing with the multiple meanings embedded in them. It is through this prism that I have ventured to explain the intricacies of the EU-Russian relationship, as seen from three inter-connected concepts – that of neighbourhood, political decisions and exceptionality. The Russian version of neighbourhood as an area predominantly marked by enmity and competition does not seem to correspond to the EU's expectations embedded in the ENP. Due to that, Russia prefers to overtly politicise its approaches to the whole spectrum of relations with the EU countries, thus claiming its irreducible specificity and demanding exceptional measures to be applied by Brussels when dealing with Moscow.

It is tempting to draw a more or less strict line of demarcation between the Russian vision of neighbourhood as being presumably hyper-politicised, on the one hand, and the European attitudes as embedded in a predominantly de-politicised logic. However, a reference to Derrida (2005) might somehow question the logical grounds of this alleged opposition: in his interpretation, the question of friendship has the same rights to be attributed to the political as that of enmity: “the properly political act or operation amounts to creating (to producing, to making, etc.) the most friendship possible”.<sup>65</sup> What may stem from this assumption is that both parties, Russia and the European Union, in their relations with immediate neighbours are engaged in different types of political practices. They both are ‘politicising subjects’ but in a different sense: as I have argued above, the EU equates the very concept of neighbourhood with ‘a ring of friends’, while Russia seems to perceive the bulk of her neighbours as sources of danger and irritation. Yet – perhaps paradoxically – this conceptual gap contains a certain symmetry grounded, in particular, in Jef Huysmans reasoning: the “most radical form of political articulation is ... a desire to overcome all estrangement – that is, the fact that we have to live with others who are not like us – either by eliminating or radically marginalizing those who are different or by turning those who are different into the same

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<sup>65</sup> J. Derrida, *The Politics of Friendship*, London and New York: Verso, 2005.

as us”.<sup>66</sup> This is exactly what makes us perceive the European and Russian policies towards their neighbours as the two poles of the same chain of political options, i.e. opposing each other but being subsumed to the same political logic.

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<sup>66</sup> J. Huysmans, “International Politics of Insecurity: Normativity, Inwardness and the Exception”, *Security Dialogue*, 37, 2006.

### 3. THE RUSSIA-EU 2007 QUANDARY

NADEZHDA ARBATOVA

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#### Abstract

*There are two main groups in Russia striving to upgrade the level of Russian-EU relations. These are, first of all, democratic factions within the political elite and the expert community who believe that the European model, adapted according to national differences and specifics but based on general, fundamental principles. The second group, comprising elements within Russia's ruling establishment, argue that upping the level of relations with the EU symbolises Russia's importance in the modern world, with a special responsibility for international security and stability. Three scenarios are identified as theoretical options for how to deal with the 10<sup>th</sup> anniversary of the PCA: 1) continuing with the PCA, 2) modernising and revamping the PCA and 3) creating and ratifying a wholly new agreement. The second scenario, which the author favours, would in particular spell out in more operational terms the four common spaces agreed in May 2005.*

#### Introduction

The Partnership and Cooperation Agreement (PCA), a document underlying the relations between Russia and the European Union, expires on 30 November 2007. The PCA, signed between the Russian Federation and the European Communities and their member states on 24 June 1994, entered into force on 1 December 1997. Concluded for an initial period of ten years, the Agreement shall be automatically renewed year by year provided that neither party gives the other party written notice of termination of the Agreement at least six months before it expires.

The PCA has been a major factor in the establishment, development and expansion of a fundamentally new relationship between Russia and the EU. The present level of cooperation in all fields has amply

demonstrated its effectiveness. Nevertheless, it is becoming increasingly obvious that the situation has changed drastically compared with the early 1990s, when the PCA was still on the drafting boards. Both Russia and the EU have changed, as has the nature of relations between them. The world itself is also a much different place.

Partnership and cooperation between the EU and Russia have become a common, daily practice, while the level of political interaction between the parties has long transcended the boundaries of the Agreement. A joint initiative, known as the Road Maps for the creation of the four Common Spaces, approved at the Russia-EU Summit in May 2005, raises these relations to a fundamentally new strategic level of interaction.

An 'advanced partnership' requires the formalisation of a full-fledged, legally-binding treaty, as opposed to political accords and joint statements regularly issued at Russia-EU summits. Russian President Vladimir Putin and European Commission President José Manuel Durão Barroso first discussed this possibility in April 2005. The Russian President also stressed the need to upgrade the legal framework at the Russia-EU Summit in London (October 2005).

## **1. Conservatives and progressives**

Different political forces both in the EU and in Russia have a different vision of the way a 'Russia-EU quandary 2007' may be avoided.

European conservatives do not think there is a need to change anything in the PCA. Their traditional position has been to keep Russia at arm's length and not overburden the EU's agenda with extra issues. The number of advocates of this approach has increased considerably with the EU enlargement, most notably after the admission of the Baltic states and several Central and East European countries that continue to be affected by a 'victim syndrome' with regard to the Soviet Union and equate the former Soviet Union with the present Russian Federation.

Russia has experienced a recent surge of pro-Asian sentiments (with an especially strong orientation toward China), together with the rise of hard-line nationalists who conceal their inferiority complex over Russia's loss of superpower status with ideas to the effect that the country is 'self-sufficient' and should remain an independent 'centre of force' in international relations.

Of course, Russia is interested in promoting neighbourly relations, trade and mutually advantageous cooperation with all of its neighbours. It is not clear, however, how the deepening of contacts with the EU could prevent it from trading with, for example, its partners in Asia. Yet this does not only refer to trade and cooperation, but to the choice of a model for the country's political and socio-economic development in the future.

Russia's experience shows that the Chinese model (i.e. authoritarianism mixed with a 'New Economic Policy') has failed to produce the desired result in a different national environment. Furthermore, an unbalanced, excessive rapprochement with China could lead to a situation in which Russia loses its Far Eastern and Siberian regions to Chinese demographic expansion, thus becoming China's raw-materials adjunct and waste-disposal grounds for its dynamic economy.

As for the belief that Russians are 'God's chosen people', this can hardly be taken serious when 70% of the Russian population is worse off than 10% of the neediest Americans, while the self-congratulatory theory that says "We are poor, but we are the most virtuous" holds no water amidst the rampant corruption and organised crime that is eroding Russian society.

At the same time, there are forces both in Moscow and in West European capitals that are convinced that the search for a solution to the 'Russia-EU Quandary 2007' cannot be put off any longer.

There are two main groups in Russia striving to upgrade the level of these relations. These are, first of all, democratic factions within the political elite and the expert community who believe that the European model, adapted according to national differences and specifics but based on general, fundamental principles, can best meet the needs of Russia, which is still in the process of a systemic transformation. The second group is comprised of elements within Russia's ruling establishment. They argue that upping the level of relations with the EU symbolises Russia's importance in the modern world and its status as a 'core' state with a special responsibility for international security and stability.

As for the EU, in the wake of the failed referenda on the draft EU Constitution in France and the Netherlands, many European politicians realized that Brussels' old strategy, aimed at simultaneously expanding and deepening European integration, had collapsed. Therefore, the elaboration of a new strategy is impossible without ensuring stability along the perimeter of the EU borders, especially in the east. Upgrading the level

of Russian-EU relations and rapprochement on the basis of shared interests and values will eliminate, or at least considerably reduce, the possibility of a clash of interests in CIS countries, such as Ukraine, Georgia, Moldova and Belarus. In other words, resolution of the 'Russia-EU Quandary 2007' will be crucial for the stability and development of Greater Europe, as well as for effective multilateral cooperation in countering new threats to international security.

## **2. A Partnership or an Association**

There are three basic options for the formalisation of EU-Russia relations after 2007.

1. Renewing the PCA (under the provisions of Art. 106) until both sides decide to replace the document.
2. Making amendments and additions to the existing Agreement (taking into account the current level of 'advanced partnership' and the prospects for the further development of relations within the next 10 to 15 years), including a provision on forming an association.
3. Creating and ratifying a new agreement between Russia and the EU and EU member states to supersede the PCA.

The third option is unrealistic since it requires the ratification of a fundamentally new document. This is all but impossible in a situation where the total burden of mutual claims, problems and distrust has been escalated by EU expansion into countries of Central and Eastern Europe.

Furthermore, failure to renew the PCA could cause a temporary legal vacuum that would affect the interests of both individual Russian citizens and the Russian Federation as a whole. Such a scenario could jeopardise PCA-related trade relations (e.g. the textiles and steel agreements), while undermining established PCA implementation mechanisms.

This applies in particular to the right of Russian nationals legally employed on the territory of an EU member state. These individuals must be accorded treatment free from any discrimination based on nationality, working conditions, remuneration or dismissal, as compared to its own nationals (Art. 23). [A European Court of Justice ruling in the case of Russian footballer Igor Simutenkov set a precedent. On 12 April 2005, the ECJ ruled that the Spanish football association's refusal to provide Simutenkov a license to play professionally in official Spanish football competition was a form of discrimination. The discrimination was due to

the fact that, under the EU-Russian partnership agreement, Russian nationals should be entitled to the same treatment as Community nationals when already employed in that country. – Ed.] The ECJ instructed the courts of the member states to apply PCA provisions in instances when their national laws did not ensure Russian nationals the same working conditions as compared to their own nationals. Should such rights be eliminated or made subject to formal approval, Russian and EU nationals, including businessmen, will risk losing much of the gains already achieved.

Naturally, similar provisions could be included in a new replacement agreement to the PCA, but then the ECJ would have to reaffirm their direct application. Until that time, Russian nationals would lose their rights.

This leaves only two realistic options: the automatic renewal of the PCA and its modification. If (as in Scenario 1) the Agreement remains unchanged while relations are increasingly built on new parallel rules and regulations, the PCA will eventually become ineffectual. This will become a burden on bilateral relations, causing irritation and disagreement, while pushing the sides back into the past.

Preservation of the PCA in its present form after the 2007 termination date would in effect mean that the partners are not prepared for a closer rapprochement. However, the adoption of a non-binding political declaration on 'strategic partnership' as well as a number of issue-specific agreements that will be signed anyway could sugar-coat such a possibility. This 'cost-effective' option, which would not require a new ratification of the Agreement, is favoured by the majority of parties concerned both in Russia and the EU.

Taking into account the course for strategic 'advanced partnership' and given that the greater part of the PCA is in need of revision, Scenario 2 appears to be the most expedient and realistic option. In implementing this option, the Agreement can be modernised with amendments modifying its substance and even its name, while still preserving its legal continuity. The goal of a revamped PCA can and should be the formation of an association between Russia and the EU.

There are three known types of association agreements: the European Agreements (for Central and East European countries), the Association and Stabilisation Agreements (for the Western Balkans) and the European-Mediterranean Agreement (for South Mediterranean states). From a legal perspective, the most advanced form of association is between the EU and the European Free Trade Association (EFTA), including Iceland,



Liechtenstein, Norway and Switzerland. It is remarkable that proponents of 'Russia's self-sufficiency', who are greatly concerned about what they see as its excessive dependence on the EU, hold up the Swiss or Norwegian model of relations as worthy of emulation. They are apparently unaware, however, that by so doing, they are promoting the highest and most binding level of association.

There is an erroneous belief that an association agreement, unlike the PCA, ultimately presupposes obligatory EU membership, something that neither Brussels nor Moscow is interested in today. Indeed, both the preambles and the first several articles of the European Agreements mention the prospect of EU membership. At the same time, the first few articles of the Association and Stabilisation Agreements with Macedonia and Croatia, for example, say nothing about their possible admission to the EU, although in the preambles they are described as potential candidates. As for association agreements with Mediterranean countries, the prospect of their membership is not mentioned at all.

The PCA's principal difference from association agreements is that it does not contain provisions about the liberalisation of the movement of goods, persons, services and capital. It does not contain any provisions about practical steps, although a free trade zone is mentioned as the partnership's ultimate goal. Meanwhile, association is predicated on a free trade zone. The current Russian-EU document in the majority of cases provides instead for the most-favoured nation (MFN) treatment.

Association agreements, as a rule, have a timeframe for a gradual reduction of customs and equivalent duties (over the course of 10 to 12 years) aimed at their eventual elimination. They also provide for the lifting of import and export quotas and other equivalent restrictions, as well as the prohibition of discriminatory taxation related to the origin of goods. The absence of such provisions in the PCA creates considerable difficulties for its ultimate implementation. According to officials of the Russian Economic Development and Trade Ministry, Russia is ready to open negotiations on establishing a free-trade zone with the EU as soon as it has been admitted to the WTO. At the same time, a well-planned procedure for the creation of such a zone would conform to Russia's economic and trade interests.

We do not know what lies in store for Russia. Opponents of its membership in the EU, who represent the majority both in Russia and the EU, provide abundant argumentation that can be summed up by the word 'never'. They argue that Russia, with its vast territorial expanse, will never

fit into the EU (although the population factor is more important than the geographical factor). Furthermore, Russia will never cede even a fraction of its sovereignty (but even the Soviet Union managed to do that when it signed wide-ranging strategic arms limitation and control agreements with the United States). Lastly, the EU, so the argument goes, will never want to share borders with China (the EU is prepared to grant Turkey membership, for example, yet this nation borders on the most unstable part of the modern world – the Greater Middle East), and so on and so forth.

The rapid radicalisation of the Islamic world amidst the proliferation of weapons of mass destruction and the spread of terrorism, however, could lead to a new line-up of forces along the North-South line, to new alliances and coalitions. The danger carried by Islamic radicalism necessitates a strategic alliance between all members of the Euro-Atlantic community and their potential allies outside the region. Therefore, it is not so important whether Russia becomes a member of the EU or whether a real, and not merely symbolic, strategic alliance is formed, based on the protection of shared values and interests. Experience shows that alliances of partners which are equal in all respects prove to be the most viable and effective option. The creation of four common European spaces within a modernised PCA could become a strategic goal.

A revamped Russian-EU agreement should be signed for an indefinite period. One of the first articles in this future document should contain a provision to change its official name from the Partnership and Cooperation Agreement to, for example, Advanced Partnership/Association Agreement.

It is essential to revise the preamble so that it clearly and unambiguously states that Russia is a developed country with the basic elements of a market economy and political democracy in place. The preamble should reflect such factors and processes as the high level of existing partnership, the creation of the four Common Spaces and Russia's admission to the WTO. Furthermore, it should also mention new global threats, most notably international terrorism and the proliferation of weapons of mass destruction, as well as the efforts to fight them.

Title I, General Principles, could be modified into General Principles and Objectives, incorporating Article 1 in its present form and complementing it with a number of provisions, taking into account the experience that has been gained and the new tasks and objectives of 'advanced partnership'.

Title II, Political Dialogue, should be transformed into a section on political dialogue and cooperation, incorporating a new article that would record the current level of political interaction. Here, a provision may be added about the “development of new forms of cooperation in the interest of achieving common objectives and countering new threats, in particular the problems of ensuring peace and security, fighting international terrorism and organised crime, and promoting democracy and human rights.”

Following this are four sections (titles) on matters relating to the creation of a specific Common Space. Title VII, Economic Cooperation, should be amended and divided into four chapters, one for each Common Space. It is essential to formulate detailed provisions that spell out the ‘road maps’ that were adopted in May 2005. The section on the common economic space should include a provision on the establishment of a timeframe for the full liberalisation of trade in goods within 10 to 12 years.

The document should clearly spell out the specifics in each of the following four spaces:

#### 1. Common economic space

##### Objectives:

- Free movement of goods, services, persons, and capital;
- Development of compatible standards and regulations ensuring the implementation of the four freedoms and the equality of competitive conditions; and
- Harmonisation of relevant legislation and close cooperation in other spheres of economic and social policy to the extent necessary for the effective functioning of the common economic space.

#### 2. Common space of freedom, security and justice

##### Objectives:

- Freedom of movement, residence and employment, including professional activity, for Russian nationals, entitled to the same treatment as Community nationals;
- Equal personal security guarantees for Russian and Community nationals wherever they may reside within the Common Space; and
- Harmonisation of relevant legislation and judicial procedures in Russia and the EU, as well as close, permanent cooperation between judicial authorities, including the fight against transnational organised crime.

### 3. Common space of external security

#### Objectives:

- Continuous and regular dialogue on all matters of political relations, foreign policy and security (especially in Europe and adjacent regions) coordinated within established mechanisms;
- Convergence of positions and joint actions in foreign policy and security if and when Russia and the EU may deem this expedient or necessary;
- Close cooperation in preventing and combating international terrorism; and
- Cooperation in the military field, especially in conducting joint peacekeeping, rescue or humanitarian operations.

### 4. Common space of research and education, including cultural aspects

#### Objectives:

- Close and continuous cooperation in fundamental and applied sciences based on joint long-term programmes and financing, as well as harmonised legislation, in particular guaranteeing intellectual property rights;
- Establishment of a European Higher Education area on the basis of the Bologna Process, including the harmonisation of educational systems and broad educational exchanges in which staff and students can move with ease, while receiving fair recognition of their qualifications; and
- Creation of favourable conditions for the development of cultural exchanges, the dissemination of art and culture, inter-cultural dialogue and knowledge of the history and cultural heritage of the peoples of Europe. This would include the promotion of cultural and linguistic diversity as a basis of vitality of civil society in Europe without dividing lines.

Specific provisions on the four Common Spaces could be spelled out in special protocols to the Agreement, in separate agreements on these spaces, or in some other documents – e.g. annual priority-action programmes approved and supervised by the Permanent Partnership Council. It is also important to consider such institutional changes that would facilitate and expedite the creation of the four Common Spaces. Today, Russian-EU interaction in the foreign policy sphere is mainly aimed

at bilateral problems, not joint initiatives on current issues of international security.

A separate protocol or declaration in the form of an annex to the modified Agreement could be devoted to a whole array of problems that have emerged around the Kaliningrad Region. Art. 55 (Legislative Cooperation) should be amended to include provisions on the gradual (in two stages) approximation of legislation whereby Russia will endeavour to ensure that its legislation will be made compatible with that of the Community based on a jointly elaborated special indicative programme. This harmonisation mechanism should be enshrined in a special agreement on the implementation of Art. 55, the signing of which should be envisioned under the Partnership and Cooperation Agreement.

Substantial modernisation of the PCA will require its formal ratification. However, since it will be based on jointly approved initiatives, the chances for its ratification are very good.

## 4. RUSSIA AND THE EUROPEAN UNION AFTER 2007

*TIMOFEI BORDACHEV*

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### Abstract

*The development of a new format for developing political and legal relations between Russia and the European Union requires revising some of the present approaches. First, the future model of Russia-EU relations must reflect Russia's special role in Europe and the world. Second, the new agreement cannot be an 'instruction' for drawing Russia closer to the constantly changing regulatory policies concerning political and economic life in the European Union. And third, any new document between the parties must avoid evaluative judgments about the state of the Russian economy and its society as a whole. The author advocates a three-level system of political and legal relations between Russia and the EU. At level one, a Declaration for a Strategic Union would set the framework. At level two, a strategic agenda would name specific areas for cooperation. At level three, there would be operational sectoral agreements, which would be the true 'motor' and practical instrument for EU-Russia relations. Only these agreements would be subject to ratification, thereby minimising risks of problems with EU member states with which Russia has strained relations.*

### 1. Introduction

The Partnership and Cooperation Agreement (PCA) between Russia and the European Union is due to expire in the autumn of 2007. This deadline presents the parties with a challenge to negotiate a legislative and institutional basis for their future relations.

Both Russia and the EU, however, are approaching this discussion with a noticeable lack of disinterest toward each other, if not outright irritation. By February 2004, when it became obvious that the socio-political

and economic models of the parties had greatly diverged, Moscow and Brussels almost assumed the logic of 'peaceful coexistence'. The rapprochement issue is now used only as a pretext for achieving economic concessions that are not related to long-term objectives, while the "strategic partnership" slogan often conceals bitter competition on specific economic issues. Meanwhile, bilateral summits, together with any meaningful documents that these events may produce, have been decreasing. Both Russia and the European Union have displayed their inability to formulate joint strategic objectives and tasks, and to define their common values and even their real interests.

This drop in enthusiasm to engage in debate causes the parties to make 'pragmatic and earthly' decisions in the spirit of 'obligation-fulfilment' (or, rather, non-fulfilment). The public and political atmosphere, every bit as dull as the texts of the Russian-EU joint Road Maps approved in May 2005, does nothing to help find answers to longstanding problems. Adherence to a policy of pragmatism can bring about a situation where breakthrough ideas for the future may become unclaimed.

However, given that Russia and the European Union are already so close, and the real content of their mutual relations is so considerable, the parties require a fundamentally new level of confidence. This will be impossible to accomplish, however, by relying on practices and institutions that were formed in the early 1990s when the situation was quite different. The Russian-EU agenda now includes issues that were impossible to imagine 10 to 15 years ago.

Russia and the European Union – two inseparable parts of the Old World that is presently losing its global influence – must free themselves from the fetters of their bilateral legal and institutional base. Although this base keeps their mutual relations from further degradation, it serves to hinder further progress at the same time. Russia and the EU will be able to formulate a long-term model for their relations only if they overcome stereotypes and recognise the possibility of diverse variants, including unorthodox ones. Genuine integration wherever possible and necessary is more likely to bring about open markets and the free movement of people, goods, services and capital than the hasty inclusion into grand bureaucratic plans of ever-new directions of the 'harmonisation'. It is also more advantageous than to simply proclaim that an association of such diverse actors as a common goal.

The historical division of Europe will not be overcome unless Russia and the EU form an alliance genuinely oriented to the future. The geo-strategically ailing European Union has entered a long period of internal transformation; from an objective view, it needs Russia economically and politically to advance its interests on the international stage, although it is not ready yet to admit this officially. Russia, presently involved in a complex geo-strategic encirclement and losing its positions in many objective parameters, needs the European Union, at least in the medium term, as well.

The relative stability of the Russian system of government, which rests on the population's support and the favourable situation on the world energy market, allows Moscow to more actively advance its own vision of strategic objectives and forms of cooperation, while ensuring equal rights for its partners. Therefore, Russia must not be viewed *de facto* as a 'junior partner' of the EU. The EU should gradually depart from its present position that its outside partners must adopt 'light' versions of EU laws and standards (*acquis communautaire*) in order to bring about progress in their relations with Brussels.

## **2. After 2007: Three variants**

From the legal point of view, there is no '2007 problem' in Russian-EU relations. Art. 106 of the Partnership and Cooperation Agreement stipulates that the Agreement shall be automatically renewed year by year provided that neither Party gives the other Party written notice of termination of the Agreement at least six months before it expires. Yet, the need for a new document is already on the Russia-EU agenda. There are now three ways for the parties to formalise their relations after 2007.

The first way is to provide for the automatic renewal of the PCA on an annual basis, as provided for by Art. 106. At this point, the main emphasis of the agreement will be to fill the joint Road Maps on Four Common Spaces with specific content. Some of the PCA provisions may lose their force after a passage of time. One thing is certain: the PCA will gradually die out without an adequate replacement.

The second way is to add new provisions to the PCA in order to revise the basis for institutional cooperation for the next 10 to 15 years. For example, it may acquire the format of the EU's relations (an association, a free trade zone, etc.) with states located along its periphery and with former colonies of European nations in Africa.



The third way is to draft a new political and legal document (a package of documents) that will completely replace the PCA and that will be ratified, if need be, by Russia, the European Union and its member countries. Ratification may not be required for the general political document (Declaration), but only for individual agreements on specific issues (sectoral agreements).

However, it seems that the less painful method would be to simply extend the PCA, providing it with new articles that would reflect the achievements scored over the last few years, including the Energy Dialogue and the Road Map on Four Common Spaces. Brussels prefers exactly such a scenario, as it will allow the European Commission to retain the role of leader in relations with Russia, while reducing the influence of individual EU member countries that are more interested in the development of contacts with Moscow. This type of relationship model would suit a significant part of the EU political elite, as it would save the Union the need to work out a clear-cut strategy for developing relations with Russia. Moreover, it would enable Brussels to focus on efforts to overcome its own system crisis.

At the same time, Moscow may find this variant attractive because it would spare it the need to form a strong negotiating team for drafting, together with the European Union, a new document. The catastrophic shortage of qualified experts, in addition to the marked disunity among government agencies, makes it very difficult to form an efficient task force.

However, by agreeing to extend/renew the PCA, or replace it with another document taken from the foreign-policy nomenclature of the European Commission that reflects its terminology, Russia would be voluntarily admitting to its status as a 'junior partner', thus becoming an object for inspection and instruction. The arm-twisting technique frequently used by the European Union in economic issues (witnessed by the Siberian overflight payments charged to European airlines) would become a regular practice.

On the whole, the format of political and legal relations between Russia and the EU does not essentially influence the development of real integration wherever there is mutual interest. Many countries that have much closer and effective ties with the EU than Russia do not seek to formalise their commitments by ratifying them in parliament and making them part of national law. One of these countries is the United States, which has a visa-free regime and a huge trade turnover with the European

Union; yet, it makes do with general political declarations accompanied by a package of bilateral agreements and binding working plans on specific issues.

### **3. An emphasis on equality**

The development of a new format for developing political and legal relations between Russia and the European Union requires a revision of some of the present approaches.

First, the future model of Russian-EU relations must reflect Russia's special role in Europe and the world. This means that the new document (package of documents) cannot fall within the same 'system of coordinates' as the EU's present practice of formalising relations with neighbouring states. Thus, any new model should not stem from other generally known formats and titles of EU agreements with other countries, such as Partnership and Cooperation Agreement, Association Agreement, European Agreements, and so on.

Second, the new agreement cannot be an 'instruction' for drawing Russia closer to the constantly-changing regulatory policies concerning political and economic life in the European Union. In practice, bilateral documents are usually substituted by agreed versions of the EU's internal documents reflecting its vision of what Russia should do. Broadly speaking, it is necessary to avoid excessive emphasis on 'harmonisation of legislation' as a universal instrument for developing trade, economic and humanitarian ties. Russia's adoption of EU legislation, without raising the issue of obtaining EU membership, would make no sense.

Both parties must be guided by international law, World Trade Organisation regulations and other legislative norms. This does not rule out Russia's adoption of individual norms in cases when it does not involve yielding its state sovereignty. Moreover, in the future, if the parties are prepared to form supranational forms of cooperation in one or another field, new regulations may be hammered out at that time.

And third, any new document between the parties must avoid evaluative judgments about the state of the Russian economy and its society as a whole. Statements to the effect that the European Union recognises Russia as a "developed democratic country, possessing the fundamentals of a market economy" look as an attempt to place the EU a step above Russia, thus undermining the principle of equality.

Instead, the parties should consider a document that acknowledges the establishment of a strategic union (community) between Russia and the European Union as a new means for ensuring regional and international security. To this end, Moscow and Brussels must voice their common vision of major issues concerning international life. Despite their tactical disagreement on a majority of pressing issues (such as the role of the United Nations and other international institutions, the supremacy of international law, non-proliferation of weapons of mass destruction, counterterrorism measures, cross-border crime and drug-trafficking, measures to stabilise the Greater Middle East, environmental problems, etc.), the positions of Russia and the European Union are quite close. Therefore, the parties should see to it that their common strategic interests take precedence over individual disagreements or phobias inherited from the past.

A new joint document could cite universally-agreed principles, by which Russia and the EU abide in their international affairs and bilateral relations. These principles include the observance of human rights, freedom and equality in international trade and the organisation of the due political process in keeping with the existing norms. The parties should clearly state that they will continue to build their bilateral economic relations on the basis of, and taking into account, the adaptation of Russian legislation to the rules and standards of the WTO which Russia seeks to join in the near future. If economic interests demand closer integration in one or another field, the corresponding harmonisation of legislation in the given area will be adopted in a separate agreement.

Russia and the European Union should focus on selective integration in economic areas where it can bring them real added value, as well as a long-term instrument for building their economic and geopolitical community. For example, the parties may consider the possibility of setting up supranational associations, e.g. a Russian-European Oil and Gas Association, a Russian-European Transport and Space Association or a Russian-European Environmental Community. In those areas where the parties are not yet ready for integration, they will retain their full sovereignty and relations in the form of cooperation. The Energy Charter, in my view, cannot be used as an example, since the main methodological point – common and joint work on the text from the very draft beginnings – was missing.

#### 4. Three levels of relations

The above principles can be translated into life on the basis of a three-level system of political and legal relations between Russia and the European Union. This system will allow the parties to take into account their unique characteristics, interests and international circumstances.

##### 4.1 *Level one*

A strategic framework for Russian-EU relations would be established by a general political document – a *Declaration for a Strategic Union Treaty*<sup>1</sup> – that would work as a detailed preamble. Its stated goal would be the establishment of a Strategic Union between Russia and the EU, aimed at overcoming the syndrome of enmity, rivalry and psychological consequences of wars and conflicts of the past, and at consolidating truly allied relations that would provide for deeper integration in individual areas. These relations will not be directed against third countries. The relationship will be based on a common vision of challenges and security threats, the interdependence and interoperability between Russia and the European Union in key economic sectors, and their common cultural and scientific heritage. A final key is that both parties recognise the importance of their rapprochement for ensuring their mutual development and security.

The Declaration should state that the common strategic interests of Russia and the European Union have a priority, and specify areas within the realm of international politics where the interests of the two parties objectively coincide. The Declaration should also cover other issues essential to both parties, among them devotion to basic democratic values, such as supremacy of the law, human rights and the rights of minorities, independence of the judicial system, the division of powers, a competitive political environment, independence of the mass media and the freedom of citizens' movement. Also, it should stress that Russia and the EU will build their mutual relations on the basis of equality, mutual benefit and transparency, and that, while operating within the framework of international and regional organisations, they will seek to take into account

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<sup>1</sup> The author admits that the term 'Treaty' is very vague and might be not legally correct in this particular case. Therefore, he leaves the exact name of the construction to the legal and administrative services of the parties.

each other's positions, coordinate their efforts and align their approaches as close as possible.

A strategic union between Russia and the European Union would serve as a crucial link between regional security systems in Europe, Asia and North America. To add a systemic nature to the parties' relations in the military and political spheres, the Declaration must name instances when it would be appropriate for mutual cooperation in their foreign policy and military cooperation, as well as in peacemaking efforts.

#### 4.2 *Level two*

Russia and the European Union would adopt a *strategic agenda* that would name specific areas for their cooperation. One would be cooperation in ensuring international and regional security, as well as eliminating 21st century threats and risks, including terrorism, environmental problems, poverty and others. This section may include a list and description of joint initiatives for resolving specific issues pertaining to international security, military cooperation and peacemaking activities, as well as references to specific provisions of international law underlying such joint activities. This section being the most important, it should pave the way for a new and common approach of the EU and Russia to the most challenging problems of international security. Our inability to respond together, quickly and effectively even recently (e.g. Lebanon) cost many human lives.

Another important area is cooperation in the realm of international trade and the global economy. It would be expedient to specify the parties' plans with regard to issues of mutual interest in individual sectors of the economy and international trade, provided in detail in the general section of the Declaration.

The third section of this agenda could focus on cooperation in ensuring freedom of people's movement and unimpeded transit. This cooperation must be based on the declared intention of introducing visa-free movement of citizens through a gradual simplification of the visa regime. Also, the agenda should mention the need to simplify, as much as possible, a mechanism of transit through the Kaliningrad Region.

Another section, devoted to cultural and humanitarian cooperation, which is a major area of concern in the debates on rapprochement between Russia and EU, may contain a list of the existing and planned initiatives for the development and strengthening of joint activities. This section should

state the plans of the parties to intensify and encourage the exchange of students, teachers and scientists.

Of fundamental importance is a special section that calls for cooperation between businesses and civil societies. The lack of mechanisms and instruments for protecting business interests is now a key problem in Russian-EU relations. This section must contain a list of plans and ideas for advancing dialogue inside the business community, as well as between non-governmental organisations. First, Russian businesspersons, with rare exception, are not ready to invest seriously in the creation of a lobbyist infrastructure. Secondly, the nature of the relationship between business and government in Russia is not always conducive to protecting the interests of Russian entrepreneurs abroad. The Russian-EU negotiating process remains at a dead end and lacks real transparency for the Russian business community; this is why its interests are not duly taken into consideration.

Considering the unique role the EU plays in Russia's foreign trade (accounting for about 50% of the total), it would be expedient to raise the issue of expanding the representation of Russian business interests at European supranational institutions, and creating a legal foundation for the integration of Russian businesses into the business community of the United Europe. Russia and the EU may even work out a separate agreement to support the representation of non-governmental interests. The main objective of this (sectoral) agreement would be to grant Russian and EU businesspersons the right to represent and protect their interests on the territory of their partners.

At the same time, business circles must be obliged to coordinate their approaches with issues of economic relations within the framework of special consultative mechanisms. Associations, companies and their representatives should be guaranteed access to governmental information (this would require, of course, strictly-defined types of documents and could occur only at a certain stage of development between the parties). Also, the parties should submit drafts of the interstate agreements and other documents to Russian and EU councils of entrepreneurs for consideration prior to the decision-making stage.

The last section of the agenda should be devoted to the documents implementation, including a provision on the creation of a special mechanism for supervising the implementation of the agreed plans between Russia and the European Union.

### 4.3 *Level three*

This includes sectoral agreements of various scales and binding to different degrees. These agreements will serve as a true ‘motor’ and practical instrument for developing Russian-EU relations. They must provide for the functional integration in individual areas between the parties, up to and including the unification of market segments. Years ago, this was the functional approach – the achievement of political integration through in-depth cooperation in purely technical areas – that launched the entire process of European integration. So it would be expedient to apply to Russian-EU relations those practices that formed the European Coal and Steel Community (ECSC) of the early 1950s – the only successful experience of overcoming conflict and contradictions between formerly unfriendly countries, when the participation of France and Germany met their economic interests and also became a decisive factor in their historical reconciliation.

Cooperation on a functional basis makes it possible to reduce discrimination towards one of the partners in the project to the minimum. At least three of the ECSC founders (France, Germany and Italy) strengthened their shaken positions with the help of the new organisation and became leaders of the new historical process. The functional approach enables countries to be more flexible in the adoption of certain norms and values as a mandatory condition for integration. In the Treaty of Rome, signed in 1957 and established the European Economic Community (EEC), it did not occur to anyone to make France’s participation conditional upon the cessation of its military operations in Algeria.

Additionally, the functional rapprochement and direct interaction of the supranational governance bodies, businesses and societal structures of the parties involved will help create what the present relations between Russia and the European Union and, perhaps, between the EU countries themselves, lack most of all, and that is an atmosphere of confidence. However, functional integration can be successful only if the rules of the game are equally advantageous to all the participants. If, on the other hand, integration presupposes or results in the ousting of any of the participants from the market, it will never work.

Obvious potential areas for Russian-EU cooperation include transport, education, space exploration and, possibly, power engineering. Transport – especially air transport – is one of the best areas to launch a Russian-European integration project. Profits in this sphere are minimal,

while large airlines, both in Russia and the EU, experience similar difficulties. The scale of state support in this industry, which is necessary even in the United States, is approximately the same in all countries. But most importantly, the potential contribution of Russia and the EU to the 'joint stock' can be equal. This factor will let the parties avoid seller-buyer relations, which inevitably transform any dialogue into a banal form of bargaining.

Of all the aforementioned documents meeting the new political and legal format of Russian-EU relations, only sectoral agreements require parliamentary ratification. Therefore, the parties will avoid negative consequences that would stem from the need to push the issue of a Russian-EU strategic union through the legislatures of EU member states with which Moscow has strained relations due to historical and psychological factors.



## 5. A NEW AGREEMENT BETWEEN THE EU AND RUSSIA: WHY, WHAT AND WHEN?

*MICHAEL EMERSON, FABRIZIO TASSINARI AND MARIUS VAHL*

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### Abstract

*The 10<sup>th</sup> anniversary of the Partnership and Cooperation Agreement between the EU and Russia due on 1 December 2007 is already prompting thoughts on whether and how to replace it. This raises basic issues about the form, purpose and content of bilateral treaties in the context of an integrating Europe. We argue that the model of the comprehensive multi-sectoral treaty, well known to the EU and its neighbours that aspire to membership, is not suited to the case of Russia, which is not an applicant for membership. Attempts to produce weaker derivatives of this model result in long-winded and pretentious texts that are thin or devoid of legally-binding substance. The treaty form also involves extremely long and risky ratification procedures on the side of the EU and its member states, and is extremely inflexible, even possibly becoming outdated before entry into force. For the foreseeable future, it would be best to focus efforts on concrete, sector-specific agreements.*

*We advocate a three-stage concept, starting with an extended status quo in the short-run (scenario II), trying to give useful effect to the four Common Spaces agreed in May 2005 and various sector-specific agreements. This could lead on in the medium-term to a Political Declaration on Strategic Partnership (scenario III) to revise and update priorities after Russia's WTO accession and more experience with the four Common Spaces. In the long-term we would like to see a Treaty of Strategic Union (scenarios VI and V) as and when there is a greater convergence and mutual trust on matters of political values.*

## 1. The 2007 question

The so-called '2007 question' arises because on 1 December 2007, the Partnership and Cooperation Agreement (PCA) between the EU and Russia reaches the 10<sup>th</sup> anniversary of its entry into force. Actually the PCA is even older, since it was signed on 24 June 1994 by President Yeltsin in Corfu, and the ratification process took over three years.

There seems to be a presumption in official circles that there should be a new Agreement to replace the PCA, even though there is no compelling legal argument to do something. On the contrary, the existing PCA will live on automatically in the absence of agreement to do the contrary. The PCA says in Art. 106:

This Agreement is concluded for an initial period of 10 years. The Agreement shall be automatically renewed year by year provided that neither Party gives the other Party written notice of denunciation of the Agreement at least six months before it expires.

The simplest reason why there should be a new agreement is that much has changed since the PCA was negotiated in both the EU in its membership, policies and competences, and in Russia since the early days of the post-communist and post-Soviet period. It can be argued therefore that the PCA is obsolete.

There are, however, more precise motivations on both sides. There is unease over the status quo, which has become a complex but also irritable relationship.

## 2. Interests and values

The relationship has become a complex and rich one as the post-Soviet Russia has opened itself to the world and especially its European neighbours. The EU and Russia find themselves interacting on a huge agenda of common interests and concerns. This is illustrated by the fact that the Russian mission to the EU in Brussels is now believed to be Russia's biggest embassy in the world, staffed with diplomats and experts covering every aspect of the wider European integration process. It appears that the European Commission and the Russian government are setting up no less than 40 bilateral dialogue groups on specifically identified policy domains, which suggests that the two administrations are getting to know each other extremely well. Could this also lead, in the words of political science, to 'Europeanisation' by 'socialisation'?

At the top level, however, the relationship has also become irritable, essentially because of the different world views of the two parties. In the summary language of international relations theory, this reflects different positions in the realist-idealist spectrum. Russia today behaves as a predominantly *realpolitik* actor, with little recognisable trace of what EU people consider to be political values. The EU advocates for itself and its partners much more of a values-based conception of public policy, both domestically and in foreign policy.

According to Timofei Bordachev, Russia now aspires to an agreement that would project its specificity – its size, geo-political significance and unwillingness to be an EU associate that automatically accepts alignment on EU norms. Russia's idea of being an 'equal partner' with the EU is reflected in an increasing self-confidence and assertiveness on the international stage, boosted by the trump cards it can play in the energy sector. The 'Europeanisation' of Russia in terms of political and societal norms remains a motivation for some at least, for example Nadezhda Arbatova. But Russia has in any case some quite pragmatic interests in Europe, for example freedom of movement for its people – businessmen, students, tourists, officials, etc. - in the EU, as has been illustrated by its strong demands for visa facilitation.

The EU for its part is uneasy over political and foreign policy developments in Russia, which are perceived to be increasingly divergent from the EU's conception of European values. This 'values gap' is perceived to have widened especially during President Putin's second term in office as a result of two developments, one internal and one external.

The first, internal development has been the strengthening of the Kremlin's 'power vertical', the absence of pluralist party politics, the erosion of media and NGO freedoms, and the lack of an independent judiciary and rule of law. President Putin was widely credited with having reversed the comparative chaos of governance in Russia under Yeltsin during his first term of office. He is now perceived in Europe, however, as having gone unnecessarily and undesirably far in reverting to a semi-authoritarian and only pseudo-democratic state. These tendencies have interacted with the huge incentives presented by Russia's oil-gas resources to create a rent-controlling and distributing regime.

The second, external but related development has been the emergence of the new Russian geo-politics, in which the Kremlin-Gazprom complex exerts pressure on former Soviet states bordering now both Russia

and the EU with a combination of commercial-energy and politico-diplomatic instruments. Deputy Prime Minister Sergei Ivanov has set this out in writing in a text he placed in a Western newspaper (see Box 1), in terms that appear to aim at a cross between a new Yalta and the old Monroe Doctrine. Maybe he wishes to go down in history as originator of an Ivanov Doctrine. But, not surprisingly, this doctrine is fundamentally unacceptable to the EU and no less so to independent states such as Ukraine, Moldova and Georgia. The values gap has – in a typical EU view – become distressingly and alarmingly wide when Russia punishes former Soviet states with gas supply or wine import sanctions for trying to become more democratic or simply not being Russia-compliant.

*Box 1. “The New Russian Security Doctrine” by Sergei Ivanov  
Deputy Prime Minister and Minister of Defence of Russia*

Russia is not itching for war. War is never by choice. Right now, there is no conflict or dispute outside the country that could be seen as a direct military threat. However, to ignore the future is irresponsible. We need to look several moves ahead – on all levels, from military planning to a strategic vision of the future of armed conflict. We need to consider the implications of the ‘uncertainty factor’ as well as of the high level of existing threats. By uncertainty we mean a political or military-political conflict or process that has a potential to pose a direct threat to Russia’s security, or to change the geo-political reality in a region of Russia’s strategic interest. Our top concern is the internal situation in some members of the Commonwealth of Independent States, the club of former Soviet republics, and the regions around them.

*Source: Extract from article in Wall Street Journal, 11 January 2006.*

The EU in principle seeks a policy of maximum practicable engagement with Russia. It has strategic economic interests in maintaining reliable energy supplies from Russia, and strategic political and security interests in having a cooperative rather than conflictual relationship. The EU hopes for some kind of ‘socialization effect’, which in due course would see Russian society, private enterprises and government converge on European standards and values.

Could a new agreement contribute to these objectives? The question may be asked, but the answer is not self-evident. Opinions within the EU vary, with the familiar spectrum of hard vs. soft positions. The hard position says that the EU must stand firm on its political principles, and

that to agree to Russian demands at this stage for an ambitious new agreement would amount to appeasement of an increasingly undemocratic and arrogant regime. The soft position would give greater credence to possible socialisation effects, or simply give primary weight to economic interests with little regard to political values.

Views within the EU are certainly not static, while Russia and the EU have constantly to interact in response to events. To track the evolution of EU perceptions of Russia as a partner state is of course difficult or speculative. Nevertheless, it seems possible to identify some evolution in these perceptions. At the time of the EU's 2004 enlargement, there was a marked widening in the spectrum of perceptions of Russia. 'New' Europe could be heard saying "the only language Russia understands is that of strength, and we know Russia best". 'Old' Europe, represented by the Chirac-Schroeder-Berlusconi trio, gave priority to personalised diplomacy with President Putin in pursuit of various commercial and diplomatic objectives. Berlusconi's role as EU President in 2003 carried this to *reductio ad absurdum* levels, famously nominating himself as advocate of Putin's Chechnya policy in a press conference at the end of an EU-Russia summit. However it seems that these extreme divergences have narrowed in more recent times. The new member states have moved more towards the centre of the spectrum, possibly through their deeper socialization within the workings of the EU, while the Chirac-Schroeder-Berlusconi trio has now dwindled to one, with the Merkel-Prodi pair apparently more centrist than their predecessors in their positions on the interests-values spectrum.

### **3. Forms of agreement in international and European regimes**

International regimes these days have many different forms and structures. The comprehensive bilateral treaty of the kind the EU has developed with many of its neighbouring states is only one particular case, which has been driven by the unique nature of the European integration process, including the prospect of leading to EU membership.

At the other end of the spectrum stands the EU-US model. This relationship has no overarching bilateral treaty. Rather, is anchored in several multilateral treaties, which form the backbone of the post-second world war multilateral order: the UN family, the WTO, NATO, IMF, IBRD and OECD. These organisations were designed first of all to order trans-Atlantic relations, and to establish the rules of the game that suited the advanced western democracies. These rules and organisations were so

substantial and successful that the idea of a comprehensive bilateral treaty between the US and its European allies has been considered superfluous.

These multilateral organisations were also designed for the huge asymmetry of the early post-world war order, namely to organise relations between US as the only global power and the many small- or medium-sized European states. This asymmetry has been most evident in NATO, where the principle of sovereign equality of all member states stands alongside the obviously dominant position of the US.

This asymmetry has itself become increasingly obsolete, however, as the EU has progressively developed in recent decades. Some of these older multilateral organisations have become embarrassingly ill-adapted to the new situation. The many medium and small European states all have their formal place in them on a basis of sovereign equality, yet they have less and less to say, beyond referring to positions of the EU. The EU institutions are themselves only patchily represented, for example through observer status only, or through the voice of the rotating presidency.

Since these organisations (such as the OECD and the OSCE) failed to adapt fully to changing needs, there has been a tendency not to abolish or even reform them (which would prove all too difficult), but to supplement them with new informal structures, of which the G7 summits have been the prime example. The G7 started with hardly any EU presence, but soon the big four EU states were obliged to accept, under pressure from the smaller non-represented member states, to have the Commission included as full participant. More recently of course the G7 became G8, with Russia taking on the presidency role in 2006 for the first time. The G8 also now tends to extend partial invitations to new world powers (China, India and Brazil). All this has happened without any legal agreement or treaty, which has facilitated the organic evolution of this quasi-institution. It is a reminder of the disadvantages of over-reliance on rigid, legally entrenched treaty agreements in an ever-changing world, and notably the need for avoiding legally-binding formalism where there is not a functional necessity for it.

The US and Russia have not had an overarching agreement, but have still made a number of exceptionally important sector-specific treaties, of which the outstanding examples have been the Strategic Arms Limitation Treaties (SALT I and II).

The EU's model of the comprehensive bilateral agreement was initiated with the so-called 'Europe Agreements' negotiated with the Central and Eastern European states, in response to their applications for

full membership at the beginning of the post-communist period. These treaties were accordingly anticipating subsequent accession. They were effectively a comprehensive and legally binding training programme for the candidates. There was no question about the final objective, and so the use of the EU *acquis* as the legal and normative reference was readily accepted.

This model was then adapted with not only the Partnership and Cooperation Agreements (PCAs). It was seen also later with the Stabilisation and Association Agreements (SAAs) with the west Balkans states that did not have candidate status, but did have acknowledged 'membership perspectives'. It has been seen again more recently with the Action Plans of the European Neighbourhood Policy (ENP), which is open for European CIS states (except for Russia, which has rejected the formula) and the Southern Mediterranean states of the Barcelona Process with which the EU has concluded comprehensive Euro-Mediterranean Association Agreements. These several models share in common with the Europe Agreements the fact that they all start with the same structure of topics, which in turn find their origin in the EU *acquis*. Reflecting the advance of European integration into the fields of justice and home affairs and foreign, security and defence policy since the early 1990s, the SAAs in particular are broader in coverage than the earlier Europe Agreements.

The Action Plans of the ENP are not themselves binding treaties under international law, but merely jointly agreed policy documents of intentions. Nevertheless, it is anticipated that they may lead to 'Neighbourhood Agreements', i.e. treaties whose likely content may be pre-figured by the Action Plans. Moreover several of the European states concerned (Georgia, Moldova and Ukraine) have declared that full membership is their long-term objective, even if this is not acknowledged at this stage by the EU itself. In the case of Ukraine, it was agreed at summit level in December 2005 that the two parties will work towards an 'enhanced agreement' (i.e. a treaty) as soon as Ukraine accedes to the WTO, with a presumption that a free trade agreement would be a core economic component of a comprehensive treaty. The European Parliament in April 2006 adopted a resolution calling for an Association Agreement with Ukraine, which was immediately translated in the Ukrainian media as meaning associate membership. A new 'Enhanced Agreement' with Ukraine is currently under discussion in the EU institutions and between

the EU and Ukraine, and negotiations on this agreement may commence before the end of 2006.

There are also some special cases where the EU has very close relations with European neighbours without the legal base of a comprehensive agreement. This concerns in particular Switzerland, where the regime that emerged over the last decade was to a degree an accidental and improvised response to unexpected referendum results. It has become nonetheless a model of wider interest for students of the conceivable options for systemic relationships with the EU. Indeed, in large part due to the pillar structure of the EU, a growing number of sectoral agreements are concluded with non-member states, although, in contrast to the Swiss model, these are concluded alongside (and often in the framework of) the comprehensive agreements.

Comparisons of these various forms of 'association agreement' serve to highlight Russia's unease with the PCA for reasons that go beyond its obsolescence. As Bordachev says quite clearly, Russia does not want to be an associate of the EU. It wants to be its equal partner, with no presumptions about Russia's possible convergence on the EU *acquis*, which might be seen as implying its normative superiority. On the other hand, Russia has negotiated, and signed in May 2005, the Four Common Spaces with the EU (for economics, justice and home affairs, education and culture, and external security). In fact these documents are not so different from the Action Plans of the European Neighbourhood Policy, with the major exception that they exclude the big missing common space – that of democracy and human rights.

A comparison of these agreements such as the PCA on the one hand, and the four common space agreements and action plans on the other hand, raises the issue of legal form. The agreements such as the PCA are treaties, i.e. having the highest status in international law and being binding in their content. The four Common Spaces and Action plan documents are agreements signed by the two parties, but are not subject to ratification, which would give them the status of treaties.

Bordachev emphasises that any new agreement or package of documents "cannot fall within the same 'system of coordinates' as the EU's present practice of formalising relations with neighbouring states". However, any agreement concluded by the EU with Russia must be based on the EU treaties. International agreements are mentioned in numerous articles in both of the main treaties – the Treaty Establishing the European



Community (EC) and the Treaty on European Union (TEU) – and the EU is thus faced with several options and choices as to the legal base of any new agreement with Russia (see Box 2).

*Box 2. Legal aspects of an upgraded agreement between the EU and Russia*

**A European Community agreement?**

While treaty revisions in recent decades have added to the number of provisions providing for international agreements, the two original provisions – for **trade and tariff agreements** (Art. 133 EC) and **association agreements** (Art. 310 EC) – remain the dominant types of Community agreements concluded by the EU, with many sector-specific agreements also concluded on the basis of Art. 310). The PCA is a trade and tariff agreement (i.e. based on Art. 133 EC).

Comprehensive agreements with third countries are increasingly concluded as association agreements. This is the case not only with accession candidates but also with Southern Mediterranean partners, and not just with neighbours but also with countries as far away as Chile. There are mainly two reasons for this. First, association agreements are not limited to any particular policy area, as are trade and tariff agreements and other sector-specific agreements provided for in the treaties. Secondly, it is preferred by the member states as it requires unanimity in the Council. Trade and tariff agreements by contrast, (as well as some other sector-specific agreements) are adopted in the Council by qualified majority vote.

The assent of the European Parliament is required for association agreements, but not for agreements concluded on the basis of Art. 133 EC. Such assent is also required when an agreement establishes “a specific institutional framework by organising cooperation procedures” and/or has budgetary implications for the Community.

**A mixed agreement?**

Most agreements between the EU and third countries, including the PCA, are concluded by both the Community and the member states acting jointly, even if there is no specific provision in the treaties for such ‘mixed agreements’. The principal reason is to enable the EU to conduct political dialogue – which the Community as such does not have the competence to conduct – within the framework of the agreement. Mixed agreements are mostly negotiated under the Community method, although there is no formally-established procedure for negotiation of mixed agreements, and in practice they are ratified by the national parliaments of all member states. The PCA is a mixed agreement, and a new supposedly more ambitious agreement would surely also be a mixed agreement.

**A European Union agreement?**

Art. 24 of the Treaty on European Union provides for international agreements to be concluded by the Union as such in areas covered by the **Common Foreign and Security Policy** and **police and judicial cooperation in criminal matters** (the aspects of justice and home affairs covered by the third pillar of the EU). Two of the four Road Maps are dedicated to these two policy areas, and these topics would presumably be included in a new agreement. Such an agreement would likely be concluded between Russia and the Union as such, i.e. based also on Art. 24 TEU. An alternative, however, would be to leave these areas out of the new 'comprehensive' agreement and conclude separate agreements in these policy areas in parallel.

On the EU side, the legal issues are particularly complex for comprehensive agreements that mix issues where the European Community has exclusive competence such as for trade policy, others areas such as energy where the competences are shared between the European Community and member states, and other areas such as foreign and security policy where the formal competence lies mainly with the Union as such and the member states.

If the EU and Russia were to embark upon the negotiation of a comprehensive agreement encompassing roughly the policy areas covered in the four Common Spaces it would be a first example for the EU of a 'multi-pillar' agreement. There are different procedures for the conclusion of Community and Union agreements, set out in Art. 300 EC and Art. 24 TEU, respectively. The treaties provide no clear guidelines as to how such a 'cross-pillar' agreement should be concluded. There are for instance no provisions in the treaties on how the negotiations should be conducted. In order to comply with the treaties, it would have to be negotiated by both the Commission (the normal practice for mixed association agreements) and the Presidency (which concludes Union agreements on CFSP and JHA).

This also affects the ratification process, since with 'mixed' agreements there has to be ratification by all 25 member states, both the governments represented in the Council, national, and in some cases sub-national parliaments, as well as the assent of the European Parliament. This heavy ratification procedure in any case means considerable delay, and therefore rigidity. The EU, now with 25 and soon 27 member states, also faces increased risks of one or other national parliaments failing to ratify,

and thus negating perhaps years of negotiation work. This risk seems especially pertinent in the case of a future agreement with Russia, given the wide dispersion of political sentiments towards Russia in the enlarged EU.

#### **4. The-EU-Russia status quo**

##### *4.1 The Partnership and Cooperation Agreement (PCA)*

The PCA has a similar structure and scope in terms of policy areas covered as other agreements, such as the Europe Agreements and the EEA, concluded in the same period (see Annex 1 for the main headings of the PCA). The commitments are much more limited in the PCA than in the Europe Agreements, because Russia was only at the beginning of its post-communist transition, not an EU accession candidate, and lacking WTO membership and, at the time, even market economy status. The political dialogue, on the other hand, is more extensive, with bi-annual summits in addition to the typical ministerial meetings.

Apart from Title III, which deals with trade in goods, and the general and institutional principles and frameworks set out in Titles I, II and XI, most of the provisions of the PCA consist of vague commitments to 'cooperate' in various areas. A frequent complaint is that many of the provisions remain un-implemented, although the precise number is uncertain, as the vagueness of many of the provisions makes it sometimes difficult to determine whether they can be said to be 'implemented' or not.

The relative weakness of the PCA regime since its entry into force in late 1997 seems to be testified by efforts to deepen and broaden the bilateral relationship further, as reflected in two sets of documents adopted: first, in 1999, the EU and then Russian strategy documents on the future of the bilateral relationship; and secondly, in 2005, the set of Road Maps for the development of four 'Common Spaces'.

##### *4.2 The Strategy documents*

The 1999 Common Strategy on Russia (Annex 2) was the first experiment with a new CFSP instrument introduced by the Amsterdam Treaty. It was an attempt to upgrade the EU-Russia relationship beyond the PCA. The EU's document was unilateral, through which the EU institutions and the member states sought to define more precisely what they wanted from the relationship with Russia. Its content also reflected the development of the

EU itself, with much more prominence given to issues of foreign policy and matters of cross-border crime as well as democracy and the rule of law.

Russia for its part replied later in 1999 with its 'Medium-Term Strategy for Development of Relations between the Russian Federation and the European Union' (Annex 3). This was at least a statement by Russia to the effect that the relationship was not to be defined only in a unilateral document by the EU.

A first review of the process by the High Representative in late 2000 was not encouraging. Although the process was renewed for a year upon the end of its four-year duration in June 2003, it was quietly ignored and allowed to expire the following year. The Russia document has followed a fate similar to the EU's 'Common Strategy'. Although due to expire only in 2010, it has been rarely referred to in the bilateral relations in the following years.

#### *4.3 The Road Maps for the four 'Common Spaces'*

Following the decisions to create a 'Common European Economic Space' in May 2001, subsequently expanded to four 'Common Spaces' in May 2003, the EU and Russia adopted four Road Maps for these four 'Common Spaces' in May 2005. The Common Spaces reflect the extent to which the relationship has evolved beyond the areas of cooperation envisaged in the PCA. Two of the Common Spaces are dedicated to 'external' and 'internal' security issues respectively, corresponding to the common foreign and security policy (CFSP) and the justice and home affairs agendas in the EU. These are relatively new policy areas in the EU that existed only in embryonic form at the time of the signing of the PCA.

The parties are currently in the process of establishing the numerous 'dialogues', mainly on economic regulatory issues, called for in the Road Maps. An important question of interpretation and evaluation is where all these dialogue groups are heading. In particular are they preparing the ground for the regulatory convergence announced in the 'Common European Economic Space', and if so, convergence on which norms and standards? The story that seems to emerge is one of a two-level Russian discourse and practice. At the top political level, the discourse is all about being equal partners, with silence over matters of alignment on EU norms and standards. At the more technical and expert level, the practice seems to become one of far more alignment on EU norms and standards, especially where they can stand as proxy for wider international standards, than the

political strategists suggest. The interpretation can be that across the very wide range of business interests there are many sectors where it makes sense for Russian enterprises, or the Russian regulator to adopt European standards. This would surely be the case for example for product standards and accounting, audit and financial regulation standards for enterprises seeking access to European and Western markets for trade, investment or capital market (IPO) access. This is a complex process of case-by-case and autonomous decisions by Russian government departments and business interests to choose where and when to align on common (i.e. European and/or international) standards. It is not evident whether the Russian policy-maker even has a clear idea of what the overall score is on these accounts, which means that the gap between discourse and practice may indeed be substantial.

The Road Maps for the four Common Spaces also have indicated a long list of sector-specific agreements that would be negotiated (a selection is presented in Box 3). This means a lot of work in progress, which will be a task of several years.

*Box 3. Agreements envisaged in the Road Maps on the Four Common Spaces*

**Common Economic Space**

Investment-related issues  
 Veterinary  
 Fisheries  
 Galileo/Glonass cooperation  
 Trade in nuclear materials

**Freedom, security and justice**

Visa-facilitation  
 Readmission  
 Mutual legal assistance  
 Europol-Russia operational agreement  
 EuroJust-Russia agreement  
 Judicial cooperation in civil matters

**External security**

Framework on legal and financial aspects of crisis management operations  
 Information protection

#### 4.4 World Trade Organisation

Russia's WTO accession process has taken much longer than initially expected. Russia applied in 1993, and at the time of the signing of the PCA, it was envisaged that accession could occur as early as 1998 or 1999. By contrast, at the time of writing it seems unlikely that Russia will be able to accede by the end of 2006, the most recent date suggested by Russian officials. This delay has put a brake on the development of the trading relationship between the EU and Russia, most notably by postponing indefinitely talks on the creation of an eventual EU-Russian free trade area, one of the most ambitious projects mentioned in the PCA. The EU has agreed bilaterally with Russia on the terms of its accession. However the agreement of other WTO member states is still lacking, including the United States. Moreover Russia's trade sanctions against Ukraine (farm produce), Moldova (wine) and Georgia (wine and drinking water) in the first half of 2006 would almost certainly have been illegal by WTO standards, given that adequate justification for these restrictive measures has not been supplied. These actions are further pushing back the prospects of Russia's WTO accession, with the United States making high-level criticisms in public (such as the remarks made by Vice-President Dick Cheney in Vilnius in May 2006).

The intentions of the EU and Russia on the question of eventual free trade are not made explicit in the Roadmap for the Common Economic Space, since WTO accession is the next step in any case. However there is a tendency for the EU to extend its set of bilateral free trade agreements, especially for nearby countries. In particular the Commission has been contracting a number of feasibility studies on the content and consequences of free trade with major trade partners, such as Ukraine, India and Korea. A first study has been recently completed on Ukraine, entitled *The Prospect of Deep Free Trade between the EU and Russia*,<sup>1</sup> for which negotiations are set to begin as soon as Ukraine enters the WTO, which is now expected in 2006. The accent on the word 'deep' implies that there will be many detailed topics for negotiation. As and when these negotiations take real shape,

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<sup>1</sup> Michael Emerson, Huw Edwards, Ildar Gazizullin, Matthias Lücke, Daniel Müller-Jentsch, Vira Nanivska, Valeriy Pyatnytskiy, Andreas Schneider, Rainer Schweickert, Olexandr Shevtsov and Olga Shumylo, *The Prospect of Deep Free Trade between the European Union and Ukraine*, Centre for European Policy Studies, Brussels, April 2006.

there will be impetus to review the same agenda between the EU with Russia.

#### *4.5 The Energy Charter Treaty and the Kyoto Protocol*

In the energy sector, the EU and Russia are formally engaged in the Energy Charter Treaty, but in practice they have not reached a political consensus on the actual degree of commitment to the obligations of the Treaty and implementation of its provisions.

The European Energy Charter Treaty of 1994 sought to provide the political, technical and legal foundations for East-West cooperation in the energy sector. The Treaty covers the protection and promotion of foreign investment in the energy sector, free trade in energy goods and services (based on the WTO rules and practice), energy transit, energy efficiency and environment, and multilateral mechanisms of settlement Investor-to-State or Government-to-Government disputes. By now, 51 countries plus the European Communities have signed the Treaty; 46 countries, including the EU member states, have ratified it. Russia has signed but postponed the ratification and is currently applying the treaty on a provisional basis.

Russia has been persistently called upon by the EU and member states to ratify the treaty and also to proceed with negotiations on a related Transit Protocol. These issues rose to the top of the political agenda in the first half of 2006, as a result of the Russian-Ukrainian gas supply crisis of January. They were then actively debated in the run up to the G8 Summit in St Petersburg in July 2006. Indeed the G8 summit opened the opportunity for the outstanding issues to be tackled at the highest level.

In fact, the Russian position in public was heard through two voices, the first being that of the energy minister and the second that of Gazprom spokesmen. The government said that there were some technical concerns to be resolved. However the spokesmen of Gazprom, which is majority-controlled by the government, was utterly dismissive of the Energy Charter, saying that it was either of no interest or contrary to Gazprom's interests. The two key articles of the draft Transit Protocol are reproduced in Annex 5. Concretely, Article 8 would require Gazprom to make its pipeline capacity open for transit for third-country suppliers, such as from Turkmenistan to Ukraine or the EU, and thus curb Gazprom's monopolistic position as supplier of gas. Article 20 is effectively addressing analogous obligations to the EU (the language is about 'regional organisations') to

make its internal distribution networks available to third-country suppliers on no less favourable terms than for domestic suppliers.

These are extremely important matters for both sides. The fact that these negotiations took place in the first half of 2006 under very special circumstances (Ukraine crisis, G8) highlights two important points about how to organise the EU-Russian relationship. First, the main texts and treaties are multilateral, not bilateral. Second, the impetus to conduct substantive negotiations came at a particular point in time from a specific political context that forced the issues to the top level. Both factors are warnings to those who might have excessively high expectations for the plausible content of a comprehensive bilateral treaty, addressing so many issues at the same time, and intended to last for many years. Nonetheless, given the failure to agree at St Petersburg, the scenario now seems to be to explore the same issues in the bilateral framework of negotiations over the proposed Strategic Partnership Treaty.

Overlapping energy and environmental policy domains, Russia has signed and ratified in 2004 the Kyoto Protocol on global warming, and is therefore a full player in detailing implementation measures, and in debates that are now beginning on the post-Kyoto regime to be devised for 2012 onwards. There will surely be intense bilateral dialogue between the EU and Russia on possible designs for the post-Kyoto regime. Also there are likely to emerge many issues requiring bilateral operational agreements in this field.

#### *4.6 Other agreements and initiatives*

The EU and Russia have concluded several limited sectoral agreements since the entry into force of the PCA in 1997. This includes agreements envisaged in the PCA, such as the agreements on trade in textiles, steel and nuclear materials, as well as other agreements, for instance the agreement between Russia and Europol, and the Science and Technology agreements.

In addition to the high-level dialogues on energy, foreign, security and defence policy, the EU and Russia have agreed on a series of joint initiatives in recent years, covering a broad range of areas including organised crime, non-proliferation and nuclear disarmaments, higher education, civil protection, human rights, and transport.



## 5. Scenarios for 2007 and beyond

We identify six scenarios for the post-2007 outlook of EU-Russia relations, and evaluate each for their possible content and timing.

### *Scenario I. Retire the PCA without replacement*

*The PCA would be retired because it has not been particularly effective and has also become increasingly obsolete, and overtaken by subsequent initiatives; but it would not be replaced by a new treaty.*

The hypothesis of retiring the PCA without any replacement is not inconceivable. As already noted, in the case of relations with the US the absence of an overarching bilateral treaty has not stood in the way of the deepest of alliances. However this scenario has two disadvantages in the case of EU-Russian relations.

First, the PCA today provides the legal base for EU-Russian trade relations, which is necessary given that Russia is not yet a member of the WTO. While Russia may finally accede in 2007, the history of this application has been one of continuous rescheduling and delay. The present legal base should in any case not be scrapped until its successor is in place.

Second, in accordance with Art. 106 of the PCA it would require that one party gives six months notice to denounce it, i.e. a deliberate negative act, which would be open to more negative interpretations than were intended. It is one thing for the EU and US not to have a comprehensive treaty, with their affairs having always been managed without one, but quite another one to scrap an existing treaty. It would still be possible to go ahead with various sector-specific agreements (as detailed under the next scenario) without an overarching treaty, but the act of scrapping the PCA without replacing it would risk signalling or being interpreted as a political rupture, especially in the current uneasy atmosphere between the two parties.

### *Scenario II. Extend the status quo*

*The PCA would continue to live on, as provided automatically by Art. 106, alongside the continuing negotiation of operational sectoral agreements, each of which would follow its own timetable.*

These sector-specific agreements can be grouped in two main categories. The first group links to major steps to complete Russia's

participation in global multilateral processes, namely through WTO accession, ratification of the Energy Charter Treaty and implementation of the Kyoto Protocol on global warming. All three cases could lead on to further related bilateral agreements.

The second category concerns agreements already anticipated under the programmes for the four Common Spaces (as indicated above). Other operational agreements can be expected as a result of the work of the many dialogue groups already underway, or currently being initiated. The parallel negotiation of multiple sector-specific agreements should offer opportunities for *log-rolling* between issues that may be only loosely or not all connected. A recent example of log-rolling was apparent in the deal in May 2004, when the EU and Russia concluded negotiations on Russia's WTO accession,<sup>2</sup> to be followed only a few months later by Russia's ratification of the Kyoto Protocol on climate change, which needed Russia's approval in order to enter into force.

Retaining the PCA as the political framework at least provides a common denominator to uphold that which Bordachev calls 'peaceful coexistence' between the parties. Nonetheless the substantive business agenda that could be pursued under this scenario is very substantial, and it is perhaps best to do this with minimal politicisation under the present circumstances.

***Scenario III. Extend the status quo, adding a Political Declaration on Strategic Partnership***

*The previous scenario is retained, with only the addition of a Political Declaration to be adopted at summit level providing an updating of the de facto system as it has emerged and continues to develop.*

The decision to add here a "Political Declaration on Strategic Partnership" would be justified as and when a new phase in the relationship becomes realistic. Conclusion of Russia's WTO accession and ratification of the Energy Charter could be conducive elements for this scenario. The PCA could then be retired with dignity. Any remaining details of the PCA that were of significant operational use after WTO accession could be made the subject of specific and technical agreements.

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<sup>2</sup> The agreement included outstanding issues such as tariffs, anti-dumping measures and most notably, Russia's commitment to gradually raise domestic energy prices.

The name “Strategic Partnership” would signal the change of circumstances warranting replacement of the PCA and the essential quality of the EU-Russian relationship as equal partners within Europe. The EU side would presumably be attentive to the political climate within Russia, and especially also regarding Russia’s policies towards the European near abroad states, before adopting a text with language about common geo-strategic purpose and common values uniting the EU and Russia.

There are precedents for such a “Political Declaration on Strategic Partnership”. This is exactly the title of a declaration adopted by the EU and India in 2003, which was a short document of two pages. It was accompanied by a detailed Action Plan not so dissimilar from the Roadmaps of the four Common Spaces. The Indian precedent is of course all the more interesting as an example of a relationship between the EU and an emerging global power, unencumbered by complexities of the EU’s integration model. It might also be noted that this declaration starts by proclaiming the two parties to be the “world’s two biggest democracies”, which is in itself an accurate statement. The EU and India seem to have got closer and faster to a viable and unambiguous model for formalising their cooperation than has been the case between the EU and Russia.<sup>3</sup>

#### ***Scenario IV. Replace the PCA with a short Treaty of Strategic Partnership***

*A simple variant of the preceding scenario would turn the Political Declaration into a legally-binding treaty and the PCA would be repealed.*

This supposes identical substance to the previous scenario, but gives the top document the form of a treaty, rather than a political declaration. In legal terms of course the treaty has the highest level of obligation, and in terms of procedure requires ratification.

There are some fundamental disadvantages to this scenario. It would debase the use of the treaty instrument in present circumstances, if the content were merely updating the status quo with language about the four Common Spaces and the Permanent Partnership Council procedures. There are signs that Russia would like a new treaty simply for reasons of diplomatic prestige – one could call it ‘trophy diplomacy’ or ‘cosmetic

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<sup>3</sup> For more on the EU’s relationship with India, see *Perspectives on EU-India Relations*, Feng Geng, CEPS Working Document No. 253 (text in Chinese; summary in English), Centre for European Policy Studies, Brussels, October 2006.

diplomacy'. It is hard to see what interest the EU could find in this, unless the treaty were marking a real rapprochement politically.

Being a treaty, there would have to be ratification by parliaments on both sides, including all EU member states. The experience gained with the extension of the PCA to the 10 EU new member states suggests that ratification of any new legally binding document that was not convincingly advantageous could encounter political obstacles. Potentially divisive issues could be downplayed or bypassed in a Political Declaration. In a treaty, these would have to be addressed, for the fairly straightforward reason that the text would otherwise be blocked in national parliaments, or already at the negotiation table in anticipation of such difficulties. The EU of 25 member states has seen a quantitative and qualitative change in the facility with which treaties may be passed, especially for Russia, given the sensitivities of the former Soviet and Warsaw Pact member states. It is all too easy to imagine some emotionally charged political incident occurring sometime during the two or more years of the ratification procedure just at the time when a parliament is preparing to vote on the new treaty. A single parliament's negative vote would then block the entire process. This is itself not so much an unhealthy prospect, since it is the essence of democratic procedure, but the prospect of possible difficulties is also a reality check. Treaties are meant to be the highest form of internationally binding agreement. It is better for them to be reserved for texts whose content and indeed political intent truly warrant such status.

***Scenario V. Replace the PCA with a comprehensive Treaty of Strategic Partnership***

*A comprehensive new treaty, replacing the PCA, would give binding form to the subject matter of the four Common Spaces, including annexed protocols with various sector-specific agreements, and updated institutional provisions.*

The form and substance of this scenario come closest to Nadia Arbatova's preferred option. Although she terms it a "modified" and "modernised" PCA, the content of the new PCA version would in fact be a new Treaty that integrates, specifies and upgrades the general provisions contained in the Road Maps, and tops them up with two Titles on General Principles and Political Dialogue, and two separate protocols on implementation of the agreement and on Kaliningrad.<sup>4</sup>

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<sup>4</sup> See chapter 3 of this volume.

This scenario takes into account significant developments since 1997, both in the four Common Spaces, and institutionally through the Permanent Partnership Council established in 2005. The new agreement would, like the old PCA, be a treaty. It would consolidate and improve on these developments, and reflect changes also in the EU's competences and policies over the last decade, such as in the justice and home affairs and foreign, security and defence domains.

The most serious problem with this scenario is precisely the opposite of that of the preceding scenario offering a short treaty. This comprehensive treaty would involve lengthy negotiations to progress beyond the content of the old PCA and the newer four Common Spaces. The process has the hazard of having to bring so many sectoral negotiations to a point of maturity at the same time. It would then be subject to the long ratification delay before entry into force. The overall result would be vulnerable to two problems: inflexibility and rapid obsolescence of the substance, and risks of rejection of ratification in some member states.

#### **Scenario VI. A Treaty of Strategic Union**

*This would be a short Treaty, but a very ambitious one, raising the level of mutual commitment to deep cooperation in the affairs of Europe to the highest possible level. This is signalled by the name – Treaty of Strategic Union.*

This scenario adopts the name 'Strategic Union', as proposed by Timofei Bordachev in chapter 4. The role of this treaty would be to do on an all-European scale between the EU and Russia something comparable to what the French-German reconciliation and their bilateral treaty has done in Western Europe. Of course this analogy cannot be taken too far. Yet there are certain properties that the Treaty of Strategic Union might aim at, which the French-German model of the Elysée Treaty brings to mind (see Box 4). These include a partnership of equals, a determination to replace old enmities with a totally new paradigm of common purpose, the building of total trust on fundamental matters, and search for total agreement in as many domains of common interest as possible. For Russia this new state of affairs would mean also dissolving any sense of exclusion from European society, and for the EU and Russia to be able to observe that together they are Europe, and working according to common ideas and even ideals.

Today this can be no more than a thought experiment, but it may still be a useful one at a time when trends in EU-Russian relations appear to be

moving further away from this ideal case, and to becoming more tense, without any sense of how to reverse this.

There are major prerequisites for achieving this ideal Europe, on both sides. The EU, for its part, would have to build up its capacity as strategic international actor, for example with at least implantation of the draft Constitution's proposal for a foreign minister and enhanced security and defence capabilities, and also perhaps a single seat on the UN Security Council.

Russia for its part would have to become a real democracy and redefine its security doctrine. Russia's leadership says that there are many forms of democracy, and Russia has its own model. This argument fails to convince. While it is true that democracy has many forms, there are some necessary conditions, such as a truly multi-party political structure, media freedoms and an independent judiciary, which today Russia does not meet.

Russia's current security doctrine, as defined recently by Sergey Ivanov (see Box 1, p. 65), would have to be revised. Of course it is not so difficult to replace one piece of paper with another. But more fundamental is the matter of the prevailing mind-set of the governing class, and of the so-called 'power ministries'. These qualitative changes would go with resolution at last of the so-called 'frozen conflicts'.

The new treaty would see the two parties constantly seeking to form common positions on matters of foreign and security policy. Russia would find satisfaction in being co-promoter of European interests and values. This would be the opposite to Russia's current behaviour of using its considerable capacity as 'spoiler' in international affairs, by taking positions that complicate the search for international consensus, while clothing such positions in the language of national interest.

One should not try too hard to anticipate what the Strategic Union would do. The essential point is that it would get started with leaderships that were determined to achieve certain overarching objectives, and to respect certain guiding principles. The precise mechanisms and actions would follow in accordance with the concrete problems of the time. The French-German relationship was founded by Konrad Adenauer and Charles de Gaulle, and greatly deepened for its European content by Helmut Kohl and François Mitterrand. The Treaty of Strategic Union would be born of enlightened and indeed visionary future leadership.

*Box 4. The Elysée Treaty [extracts]*

General De Gaulle, President of the French Republic, and Dr Konrad Adenauer, Chancellor of the Federal German Republic, (...)

Convinced that the reconciliation of the German People and the French People, ending a centuries-old rivalry, constitutes an historic event which profoundly transforms the relations between the two peoples (...)

Recognising that a reinforcing of cooperation between the two countries constitutes an indispensable stage on the way to a united Europe, which is the aim of the two people (...)

Have given their agreement to the organisation and principles of cooperation between the two States such as they are set out in the Treaty signed this day (...):

The two Governments will consult before any decision on all important questions of foreign policy and, in the first place, on questions of common interest, with a view to reaching as far as possible an analogous position. (...)

The two Governments will study jointly the means of reinforcing their cooperation in other important sectors of economic policy, such as agricultural and forestry policy, energy, the problems of communications and transport and industrial development, within the framework of the Common Market, as well as the policy of export credits. (...)

In the field of strategy and tactics, the competent authorities of the two countries will endeavour to bring their doctrines closer together with a view to reaching common conceptions. (...)

*Drawn up in Paris on 22<sup>nd</sup> of January 1963.*

## 6. Conclusions – Why, what and when?

Why? The EU and Russia need an ordered relationship because they are ever-closer neighbours, and they are Europe's only two major powers, both with aspirations to be global actors as well. Their list of common concerns and interests is extremely long and inescapable. In general terms the EU wants its big neighbour to be the friendly and reliable partner, both on concrete matters of which energy supplies is the most important, and on matters of political values for both internal and external affairs. Russia wants to confirm and deepen its presence and identity in modern Europe, but without being tied to the EU's all-entangling mass of legal and normative rules and regulations.

What? The model of the comprehensive treaty, covering all sectors of mutual interest in legally binding form, ratified by the parliaments of all

EU member states, is ill-adapted to the needs of the EU-Russia relationship. The comprehensive treaty model is suited to the case where the partner state wishes to accede to the EU, since in these circumstances the permanent stock of laws of the EU provides a mutually acceptable anchor. For Russia, however, and other cases such as the United States, this form of agreement has serious disadvantages. It is extremely rigid, given that the process of negotiating across the board on all economic, political and security matters requires that many issues are brought to the point of agreement at the same time. And this has to be followed by the heaviest of ratification procedures on the EU side, which experience shows can take up to three years, with non-negligible risks that a single member state's parliament might wreck the endeavour right at the end of the laborious process.

A far more realistic and efficient model would seem to be one of negotiating multiple sector-specific agreements, each adapted to the most appropriate timing and format. There could be strategically important agreements for free trade after Russia's WTO accession and on energy questions. There are so many issues of mutual interest that one can also envisage loosely connected packages of agreements, allowing for the advantages of some log-rolling (i.e. a balanced set of advantages between several agreements of unequal interest to each party). This would be somewhat similar to what has emerged as the EU-Swiss model of multiple agreements, more than the Europe Agreement model with the EU's accession candidates. The PCA started as an experimental weak derivative of the Europe Agreement model, and the experiment failed basically because Russia does not fit into the mould of a long-range accession candidate. The successive strategy documents and roadmaps that have emerged in recent years have been a search for a better model, but they too have failed to satisfy.

In the longer-run, the time may and hopefully will come when a deeper and more mature relationship can be established. The only certainty is that the large majority of the Russian population will carry on living in Europe. This inescapable co-habitation should lead at some stage to a noble formula, maybe a Treaty of Strategic Union. However even this should probably not be in the shape of a huge comprehensive treaty document. Rather, it would consist of some basic institutional provisions and a solemn commitment to fundamental political and societal objectives, for which the French-German Treaty of 1963 offers a very different model. The wisdom



of this model is that there can be historic moments when political leaders can take steps to consolidate trust and chart a fresh course for history. But trust can not be legislated. Either it becomes an evident fact, or it does not exist. For modern Europe this would have to be based on deeply shared common values.

When? We therefore argue in favour of a three-stage scenario for the years and decades ahead. In the short-run, the accent should be on pragmatic, tangible, sector-specific agreements. It is clear that the EU and Russia do not need to rush into making a new agreement, since there is automatic extension of the status quo after the tenth anniversary on 1 December 2007, and therefore no problem of a legal void. There are also several reasons why it would be better not to rush. Russia's WTO accession is still not decided, and this is the key to further developments of the economic side. There are important discussions currently underway over energy matters, including whether Russia ratifies the Energy Charter, and this is equally key to further developments in this sector. There are very sensitive issues surrounding the 'frozen conflicts', and that of Transnistria comes closer now to EU interests with the accession of Romania in 2007 or 2008. Resolution of this irritating anomaly in the neighbourhood would be helpful to creating fresh conditions for cooperation. Russia has presidential elections in 2008, for which President Putin cannot stand according to the Constitution. It might be prudent to wait and see what the intentions of his successor might be, thus to see the answer to the 2008 question, before tackling the so-called '2007 question'. In practical terms, the recommended Political Declaration on Strategic Partnership might best wait until after the 2008 presidential elections in Russia.

How long away might be the prospect of the model Treaty of Strategic Union? 2010? 2015? 2020? Nobody knows. However conventional wisdom does often err on the side of extrapolating the present for too long, while underestimating the chances for breaks in trend. On the EU side, the ongoing dynamics of its foreign and security policies seem quite robust, and not really damaged by the failed referenda on the draft Constitution. The expectations-capability gap on the side of EU foreign policy may become smaller. On the Russian side, it would seem quite possible that with growing economic well-being the people will come to demand a real democracy and an equitable and efficient rule of law. The values gap may also close in due course, perhaps sooner than expected.

# ANNEX 1

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## The Partnership and Cooperation Agreement

Signed June 1994, in force since December 1997

		Article	(no.)
	Preamble	1	(1)
Title i	General principles	2- 5	(4)
Title ii	Political dialogue	6- 9	(4)
Title iii	Trade in goods	10- 22	(3)
Title iv	Provisions on business and investment Chapter i: labour conditions (art. 23-27) Chapter ii: conditions affecting the establishment and operation of companies (art. 28-35) Chapter iii: cross-border supply of services (art. 36-43) Chapter iv: general provisions (art. 44-51)	23- 51	(29)
Title v	Payments and capital	52	(1)
Title vi	Competition; intellectual, industrial and commercial property protection; legislative cooperation	53- 55	(3)
Title vii	Economic cooperation	56- 83	(28)
Title viii	Cooperation on prevention of illegal activities	84	(1)
Title ix	Cultural cooperation	85	(1)
Title x	Financial cooperation	86- 89	(4)
Title xi	Institutional, general and final provisions	90- 112	(23)
Annex 1	Indicative list of advantages granted by Russia to the countries of the former USSR in areas covered by this agreement		
Annex 2	Derogations from article 15 (quantitative restrictions)		
Annex 3	Community reservations in accordance with article 28(2)		
Annex 4	Russian reservations in accordance with article 28(3)		
Annex 5	Cross-border supply of services list of services for which the parties shall grant most-favoured-nation (MFN) treatment		

Annex 6	Definitions in relation to financial services
Annex 7	Financial services
Annex 8	Provisions in relation to articles 34 and 38
Annex 9	Transitional period for provisions on competition and for the introduction of quantitative restrictions
Annex 10	Protection of intellectual, industrial and commercial property referred to in article 54
Protocol 1	On the establishment of a coal and steel contact group
Protocol 2	On mutual administrative assistance for the correct application of customs regulation
	Final act

## ANNEX 2

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### **The Common Strategy on Russia**

EU document adopted in June 1999

Preamble

Part I: Vision of the EU for its partnership with Russia

Principal objectives

1. Consolidation of democracy, the rule of law and public institutions in Russia
2. Integration of Russia into a common European economic and social space
3. Co-operation to strengthen stability and security in Europe and beyond
4. Common challenges on the European continent

Instruments and means

1. General provisions
2. The council, the commission and member states
3. Coordination
4. Implementation and review
5. Cooperation with Russia
6. Specific initiatives

Part II: Areas of action

1. Consolidation of democracy, the rule of law and public institutions in Russia
  - a. Strengthen the rule of law and public institutions
  - b. To strengthen civil society
2. Integration of Russia into a common European economic and social space
  - a. Consolidate the process of economic reform in Russia
  - b. Support the integration of Russia into a wider area of economic cooperation in Europe

- c. Lay the basis for a social market economy
3. Cooperation to strengthen stability and security in Europe and beyond
  - a. Reinforcing political dialogue
  - b. Russia's place in the European security architecture
  - c. Preventive diplomacy
4. Common challenges on the European continent
  - a. Energy and nuclear safety
  - b. Environment and health
  - c. Fight against organised crime, money laundering and illicit traffic in human beings and drugs; judicial cooperation
  - d. Regional and cross-border cooperation and infrastructure

Part III: Specific initiatives

- Political and security dialogue
- Dialogue on economic questions
- Trade and investment
- Fight against organised crime
- Twinning programmes
- Exchange programmes for students and young scientists
- Establishment of a viable health and welfare system

Part IV

Duration

Publication

## ANNEX 3

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### **Medium-term strategy for development of relations between the Russian Federation and the European Union**

Russian government document presented in October 1999

1. Strategic character of Russian-EU partnership
2. Enlarging the format and improving the efficiency of the political dialogue
3. Development of mutual trade and investments
4. Cooperation in the financial field
5. Securing the Russian interests in an expanded European Union
6. Development of the pan-European co-operation infrastructure
7. Cooperation in the field of science and technologies, protection of the intellectual property rights
8. Trans-boundary cooperation
9. Development of the legal basis for cooperation. Approximation of the economic legislation and technical standards
10. Cooperation in the law enforcement sphere
11. The role of business circles in cooperation development
12. Ensuring the implementation of the strategy inside Russia

## ANNEX 4

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### **Road maps for the four 'common spaces'**

Adopted in May 2005

#### **The common economic space**

##### 1. Trade and economic cooperation

- 1.1. Regulatory dialogue on industrial products
- 1.2. Public procurement
- 1.3. Intellectual, industrial and commercial property rights
- 1.4. Competition
- 1.5. Investment
- 1.6. Enterprise policy and economic dialogue
- 1.7. Interregional and cross-border cooperation
- 1.8. Financial services (banking, insurance, securities)
- 1.9. Accounting/auditing and statistics
- 1.10. Agriculture, forestry, timber, fisheries. Sanitary and phyto-sanitary measures

##### 2. Trade facilitation and customs

##### 3. Networks

- 3.1. Telecommunications, information society and e-business
- 3.2. Transport

##### 4. Energy

##### 5. Space

##### 6. Environment

#### **The common space of freedom, security and justice**

##### 1. Freedom

- 1.1. Movement of persons, readmission
- 1.2. Border issues
- 1.3. Migration policy
- 1.4. Asylum policy

## 2. Security

- 2.1 Counter terrorism
- 2.2 Security of documents
- 2.3 Transnational organised crime
- 2.4 Anti-money laundering
- 2.5 Narcotic drug problem
- 2.6 Trafficking in human beings
- 2.7 Corruption
- 2.8 Trafficking in stolen vehicles and items of cultural and historic value

## 3. Justice

- 3.1 Judicial system
- 3.2 Criminal matters
- 3.3 Civil matters

## 4. Monitoring mechanism

### **Common space of external security**

#### 1. Objectives

#### 2. Scope

- 2.1. International scene
- 2.2. Terrorism
- 2.3. Non-proliferation of weapons of mass destruction, export control, disarmament
- 2.4. Crisis management
- 2.5. Civil protection

### **Common space of research and education, including cultural aspects**

#### 1. Research, science and technology

#### 2. Education

#### 3. Culture



## ANNEX 5

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### **Draft transit protocol of the energy charter (extracts)**

#### Part iii - specific provisions

##### *Article 8 - utilisation of available capacity*

1. Each contracting party shall ensure that owners or operators of energy transport facilities under its jurisdiction will negotiate in good faith with any other contracting parties or entities of contracting parties requesting access to and use of available capacity for transit. Such negotiations shall be based on transparent procedures, on commercial terms, and be non-discriminatory as to the origin, destination or ownership of the energy materials and products.
2. Contracting parties shall ensure that owners or operators shall be obliged to provide a duly substantiated explanation in case of refusing access to and use of available capacity for transit.

#### Part v - implementation and compliance

##### *Article 20 - regional economic integration organization*

1. For the purposes of this protocol, the "area" of a contracting party referred to in article 7(10) (a) of the treaty shall, as regards contracting parties which are members of a regional economic integration organization, mean the area to which the treaty establishing such a regional economic integration organization applies.
2. A regional economic integration organization undertakes to ensure that its provisions treat energy materials and products originating in another contracting party and in free circulation in its area no less favourably than energy materials and products originating in its constituent member-states. Furthermore, the rules of a regional economic integration organization shall provide an overall standard at least equivalent to that resulting from the provisions of the protocol.

## 6. SEIZING THE OPPORTUNITY: A VIEW ON THE POTENTIAL OF THE EU-RUSSIA COMMON ECONOMIC SPACE

### *EUROPEAN ROUND TABLE OF INDUSTRIALISTS*

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#### **Abstract\***

*EU-Russian relations have enormous economic potential. In the view of the European Round Table of Industrialists (ERT), the future benefits available to the EU and Russia from closer cooperation on economic issues are greatly underestimated. Russia has an unprecedented opportunity to strengthen its position as a global economic powerhouse. Meanwhile the European Union could benefit substantially from increased economic integration with its largest neighbour and one of its best customers.*

*The foundations for realising the potential of this relationship are already in place. In May 2005, the EU and Russia agreed to establish detailed frameworks for intensifying mutual cooperation in four areas, including the creation of a Common Economic Space. This approach provides an excellent opportunity to work together to foster shared economic growth and prosperity.*

*ERT member companies together account for a level of foreign direct investment in Russia in excess of €32 billion and around 150,000 employees. As a result, ERT takes an active interest in fostering the EU-Russian economic relationship and firmly believes that substantial benefits can be gained from working more closely together towards the achievement of shared goals.*

*This report marks ERT's contribution to the debate on the shape of the future EU-Russian economic relationship. Building on the experience of the last 15 years, we present our view of what would constitute a successful Common Economic Space 10 years from today. We then put forward suggestions on how to move towards making this vision a reality, by highlighting some of the most promising measures amongst those already agreed in the Roadmap to the Common Economic Space. We believe our vision is encouraging and we will strongly support any moves towards delivering this outcome.*

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\* By Antony Burgmans, Chairman, ERT Enlargement and Neighbourhood Policy Working Group, and Chairman of Unilever; and Peter Sutherland, Chairman, ERT Foreign Economic Relations Working Group, and Chairman of BP.

### **An ERT view on the potential of the Common Economic Space**

The last 15 years have brought significant changes to the EU-Russian relationship. In this time, the Russian Federation has emerged as a nation state and embarked on the complex process of transforming itself into a market economy and becoming integrated into the world trading system. Today, Russia ranks as the fourth largest EU trading partner, while the EU is in first place on Russia's corresponding list.

Economic ties between Russia and the EU have strengthened more rapidly over this period than with other regions of the world<sup>1</sup> and were worth more than €126 billion<sup>2</sup> by 2004. The trade relationship is complementary, with Russia being the EU's most important supplier of energy, iron and steel, while the EU is among Russia's most important suppliers of telecommunications equipment, machinery and chemicals. In addition to these strong trading links, the stock of foreign direct investment (FDI) had grown to around €21.9 billion in 2003,<sup>3</sup> with €17.1 billion of this accounted for by EU investments in Russia. By the end of 2005, ERT companies alone accounted for investments of more than €32 billion in Russia, highlighting the progress made even over a relatively short time horizon.

ERT welcomes the agreement on these common spaces, in particular the 'Common Economic Space' (CES), aiming to promote trade and investment, economic cooperation and reforms based on good governance. The proposed CES covers a wide range of policy areas and industry sectors and includes the establishment of sectoral EU-Russian industry dialogues. ERT fully supports this approach and welcomes the intention to consult the

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<sup>1</sup> Between 2000 and 2004, the average annual growth rate of the EU's trade with Russia was 7.2% against 0.8% with the world as a whole. Corresponding figures for Russia are 25.1% against 15.5% respectively. Source: European Commission, DG Trade, "Russia: EU bilateral trade and trade with the world", 17 June 2005, (available at: [http://trade-info.cec.eu.int/doclib/docs/2005/July/tradoc\\_113440.pdf](http://trade-info.cec.eu.int/doclib/docs/2005/July/tradoc_113440.pdf)).

<sup>2</sup> All figures in this paragraph are Eurostat figures, published in European Commission, DG Trade, "Russia: EU bilateral trade and trade with the world", 17 June 2005 (available at: [http://trade-info.cec.eu.int/doclib/docs/2005/july/tradoc\\_113440.pdf](http://trade-info.cec.eu.int/doclib/docs/2005/july/tradoc_113440.pdf)). The trade figure is for 2004, the investment figure an estimate for 2003. All EU figures are for EU25.

<sup>3</sup> Available official figures at the time of going to print.

business community on ways to improve the shared investment climate in the EU and Russia. We are committed to playing a full part with other business organisations in this process.

*Box 1. The formal framework of EU-Russian relations*

Since 1997, the EU-Russian relationship has been formally governed by the Partnership and Cooperation Agreement (PCA). The PCA will continue to be the main legal reference document unless one of the two signatories requests renegotiation. This is a possibility from 2007. Following agreement in principle at the 2003 St Petersburg summit, the EU and Russia decided in May 2005 to work towards establishing four 'Common Spaces' to provide a more detailed framework for mutual cooperation. These four spaces are in the areas of economic relations; freedom, security and justice; external security; and research and education.

ERT welcomes the agreement on these common spaces, in particular the "Common Economic Space" (CES), aiming to promote trade and investment, economic cooperation and reforms based on good governance. The proposed CES covers a wide range of policy areas and industry sectors and includes the establishment of sectoral EU-Russia industry dialogues. ERT fully supports this approach and welcomes the intention to consult the business community on ways to improve the shared investment climate in the EU and Russia. We are committed to playing a full part with other business organisations in this process.

**Russia as an economic powerhouse: A possible scenario**

Consistent policy choices could lead to even greater changes over the next 10 years. An improved socio-economic situation has the potential to provide a stable basis for further investment, both domestic and foreign, and thereby to strengthen Russia's position as a leading partner in the world economy.

*Key features of a favourable socio-economic and investment scenario*

- Favourable commodity prices in the mid-2000s lead to significant capital inflows.
- An improved capital base provides sound leverage for the modernisation of the country's transport infrastructure, seen as one of the key pre-conditions for attracting foreign direct Investment by making the provinces more easily accessible. This enables the societal

gains from increased investment to be spread more widely throughout the country.

- Reforms to the health and social security system strengthen financial sustainability and lead to an improvement in quality of services and the overall level of public health. A reformed social system will facilitate the restructuring of inefficient industry by allowing employees greater flexibility in retraining and seeking alternative employment.
- Building on its strong legacy in education, a modernisation of the school and university system puts Russia on track to become a competitive knowledge-based economy with reducing dependence on raw material-based industry. The well-educated workforce becomes a strong attraction for high-technology companies.
- Development of a more professional public administration, focused on facilitating the economic and social development of the country, plays an important role in achieving a more favourable investment climate capable of channelling savings into investment on a long-term basis.
- Restructuring improves the efficiency of existing Russian companies in all sectors of activity – sometimes aided by investments of foreign multinational firms – allowing them to develop into world-class multinational companies operating in many of the most attractive world markets. Developing production capacity in Russia will create more high-quality jobs and improve the trade balance in quality goods and services.
- A developing track record of successful anti-trust and merger regulation fosters business competition to the benefit of Russian consumers.

### *The investment climate*

- A simplified, transparent and predictable tax system, administered in a consistent manner, coupled with reliable property rights and an independent judicial system supporting the clear rule of law, play a major part in fostering investment by domestic and foreign investors.
- Increased economic integration with the rest of the world economy, developing in particular within the framework of WTO membership and the EU-Russia Common Economic Space, enhance market access

opportunities both for Russian companies in global markets and for international companies in Russia.

- Policy reforms lead to visible progress in the key global rankings regarding the ease of doing business<sup>4</sup> and thereby contribute to growing investor confidence. Entrepreneurs, encouraged by a reliable legal and regulatory environment, increasingly respond to market opportunities and develop a growing base of healthy small-and medium-sized companies.
- Continuing economic growth and social welfare lead to reduced tolerance for corruption at all levels and a clear step up from Russia's low standing in the global corruption ratings,<sup>5</sup> thereby contributing to further growth in investment and accelerating economic and social progress.

### *Russia as a strong partner in the world economy*

- For some companies, Russia could become a highly attractive production location. A large internal market with growing consumer spending power, relative proximity to the EU market to the west (increasingly integrated with the Russian economy through the EU-Russia Common Economic Space) and the booming Chinese market to the south-east, all combine to attract growing investment in consumer-related production.
- Growing economic strength increases the global visibility of Russian corporate names and brands. As Russia's economy thrives, more tourists are attracted to Russia and the tourism industry begins to realise its true global potential. Easing of visa restrictions makes the country even more attractive for both business and tourism and helps to accelerate this process.

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<sup>4</sup> World Bank, "Doing Business in 2006", September 2005. Russia ranks 79th below Romania, Argentina, El Salvador and Sri Lanka.

<sup>5</sup> Russia ranks 126th with Albania, Niger and Sierra Leone in the Transparency International Corruption Perceptions Index for 2005 (available at [http://www.transparency.org/cpi/2005/cpi2005\\_infocus.html](http://www.transparency.org/cpi/2005/cpi2005_infocus.html)).

***Economic forecasts are encouraging...***

This forward-looking scenario for Russia is undoubtedly ambitious and certainly not the only path the Russian economy could take. The ability in practice to transform this ambitious vision into a reality will depend on many factors, including the successful implementation of determined and well-coordinated structural reforms. Nevertheless, a review of prominent economic forecasts supports the view that sustained structural reforms have the potential to realistically deliver a scenario along the lines presented above, provided the appropriate policy decisions are taken soon, leading to implementation of measures that further improve the business climate.

*Box 2. Alternative scenarios*

Should the opportunities available now not be seized, Russia could readily take other paths in its further development. As with the European Union, the worst option for Russia is to do nothing. Continued insecurity for domestic and foreign entrepreneurs would mean that Russia continues to grow below potential. In these circumstances, investment, employment, growth and wealth creation will remain lower than they could otherwise have been. Effects may include a continuing reduction in the working-age population and life expectancy and a brain drain of Russia's highly qualified scientists and engineers – all helping to prevent Russia from asserting its potential as a global economic powerhouse. Russia clearly deserves more.

For example, an investment bank study<sup>6</sup> covering Russia and a number of other emerging market economies, models possible development until 2050 based on the assumption that current policies supportive of growth are maintained and compatible institutions are developed. On this basis, the most significant outcomes for Russia can be summarised as follows:

- In terms of GDP per capita, Russia could catch up with Italy in 2018, with France in 2024, the UK in 2027 and Germany in 2028.
- These growth predictions allow for a predicted shrinkage of the population and assume only slow progress in institution-building.

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<sup>6</sup> Goldman Sachs, Global Economics Paper No 99, "Dreaming with BRICs: The Path to 2050" (October 2003). The study also covers Brazil, India and China.

- Higher growth may lead to higher return and increased demand for capital. Russia's weight in investment portfolios could rise sharply as a result, further moving global capital flows in its favour.

As another example, the Economist Intelligence Unit (EIU) forecasts the major economic indicators until 2009<sup>7</sup>. The prediction shows real GDP growth well above projections for the European Union as a whole (see Table 1).

*Table 1. Selected forecasts by the Economist Intelligence Unit (EIU)*

	2004	2005	2006	2007	2008	2009
Russia: Real GDP growth (%)	7.2	6.2	5.5	4.8	4.7	4.4
EU25: Real GDP growth (%)	2.4	1.6	2.0	2.2	2.2	2.1
Consumer price inflation (%)	10.9	12.8	9.5	8.6	8.3	7.7
Budget balance (% of GDP)	4.2	5.5	2.5	2.1	1.9	1.8
Stock of inward direct investment (% of GDP)	7.4	7.9	8.4	9.0	9.8	10.3

Nevertheless, a relative deceleration in growth is also predicted and explained by a “sluggish performance in key industrial sectors – most notably oil extraction – against a backdrop of persistently strong import demand.” The EIU observation that “Foreign Direct Investment (FDI) will remain below potential” is a reminder both of the continuing low investment rates in the Russian economy and of the upside opportunity.

*... but structural reforms can unlock an even greater potential*

These predictions are based largely on the assumption that trends and framework conditions already visible today will persist, with some minor changes in the business environment. On this basis alone, the forecast results are encouraging. But in our view, they can lead to an even more positive conclusion. It is clear that Russia has the potential to develop more rapidly than the forecasts suggest, provided that reforms continue to provide the basis for a properly functioning market economy able to deliver growth, jobs and prosperity and to increase Russia's stake in the global economy. We believe that Russia has at its disposal all the necessary elements to emerge as a global economic powerhouse. This view is

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<sup>7</sup> Economist Intelligence Unit, *Russia Country Forecast*, September 2005.



supported by a World Economic Forum (WEF) study,<sup>8</sup> stating that “there is no intrinsic reason why the Russian economy could not enter a period of high, sustained growth in coming years”. Some analysts estimate that the benefit to Russia from increased global integration could provide annual average growth as high as 6.5% in the period to 2025.<sup>9</sup> Whether this potential can be realised hinges crucially on policy decisions over the next few years, without which the Russian economy risks to continue operating below its true potential.

### **The current economic climate favours reforms**

Reforms should in principle be facilitated by the current favourable economic situation. The first half of this decade has seen Russia grow at a strong pace. In 2005, real GDP is forecast to be more than 34% higher than in 2000,<sup>10</sup> reaching €4,161 per inhabitant. At the same time, consumer price inflation fell from 20.8% in 2000 to 10.9% in 2004. The primary balance is likely to exceed 6% of GDP in 2005, and government debt is forecast to fall further to around 13% of GDP in 2006. Thus, the key macroeconomic indicators have broadly stabilised (see Table 2). In the face of persistent inflationary risk, it will be important to continue this stabilising trend as the necessary basis for further structural reforms.

Increasing revenues from hydrocarbon exports (making up over half of Russia’s exports) have played an important role in strengthening Russia’s fiscal position and have enabled it to run sizeable current account surpluses since 1999 (10.2% of GDP in 2004.<sup>11</sup> This has allowed Russia to repay significant amounts of its foreign debt, some of it early, to reach a level of just under 13% of GDP in 2006.<sup>12</sup> The stable fiscal situation has also

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<sup>8</sup> Augusto Lopez-Claros, “Russia: Competitiveness, Growth, and the Next Stage of Development”, cited in World Economic Forum, “Nordic countries and East Asian tigers top the rankings in the World Economic Forum’s 2005 competitiveness rankings”, 28 September 2005 (available at: [www.weforum.org](http://www.weforum.org)).

<sup>9</sup> Shell Global Scenarios to 2025, p. 180 (available at: [www.shell.com/scenarios](http://www.shell.com/scenarios)).

<sup>10</sup> Based on GDP figures from the Economist Intelligence Unit’s “Russia Country Forecast”, September 2005.

<sup>11</sup> European Commission, DG Trade, “Russia: EU bilateral trade and trade with the world”, 17 June 2005.

<sup>12</sup> Forecast in Economist Intelligence Unit’s “Russia Country Forecast”, September 2005.

enabled Russia to sustain a regime of low tax rates, including income and corporate profit taxes. The current revenue situation gives Russia the flexibility to accommodate the impact of further economic reforms, while continuing to build up a long-term stock of financial reserves. In short, the current economic climate is favourable to continued reforms. A number of important structural reforms carried out in recent years, already testify to policy-makers' capacity to effectively address areas for improvement in the business climate.

*Table 2. Recent performance on selected economic indicators (2004)*

	<b>Russia</b>	<b>EU</b>
Real GDP growth (year-on-year)	7.2%	2.4%
Per capita GDP (at market prices)	\$4,040	\$28,100
Consumer Price Inflation (average)	10.9	2.1
Government budget balance (% of GDP)	4.2	-2.6
Government debt (% of GDP)	24.8	63.8*

*Source:* EIU Russia Country Forecast (September 2005) and EIU European Union Country Forecast (September 2005), except (\*): Eurostat.

### **The next few years will be decisive in securing Russia's long-term economic prosperity**

Russia's wealth in hydrocarbon reserves (around 6% of the world's proven oil reserves and around 27% of proven world gas reserves<sup>13</sup>) offers enormous opportunities to underpin the development of economic structures able to sustain continuous increases in prosperity. At the same time, history shows that over-reliance on revenues from hydrocarbon exports – especially during times of high energy prices – can reduce the pressure for reform of fundamental economic structures and induce policy-makers to excessively focus their attention on the energy sector. The development of wider industrial activity can be further hampered by an appreciation of the exchange rate due to substantial capital inflows from export markets.

The main challenge facing Russian policymakers in the foreseeable future will be to avoid Russia becoming a victim of this phenomenon, now known as the 'Dutch disease'. The key condition for meeting this challenge

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<sup>13</sup> *BP Statistical Review of World Energy*, June 2005 (available at: [www.bp.com](http://www.bp.com)).

is the maintenance of responsible fiscal, monetary and economic policies and the continuation of structural reforms in all key areas of the economy. The remaining reform potential in the Russian economy is significant. There is considerable scope for restructuring of inefficient legacy industries. This can lead to the reallocation of labour and capital towards more efficient uses that can drive future economic growth. In other words, the diversification of the Russian economy can provide the basis for future sustainable economic growth and the ensuing increase in prosperity.

In this context, reforms that improve the conditions for foreign direct investment can have a catalytic effect, since the associated transfer of technology and skills can accelerate efficiency improvements in a number of key industry sectors and help to make them more powerful players in the global economy. Russia's future economic development lies in the hands of Russian decision-makers. However, we hope that our analysis can contribute to the formulation of overall policy objectives and to a sense of optimism regarding the achievable outcome. In all circumstances, we see that close cooperation with the European Union should provide constructive support, to the benefit of both Russia and the EU. In particular, European and Russian companies can make a substantial contribution to continuing economic growth in the Common Economic Space by means of increased investment, job creation and suggestions on ways in which the EU-Russia Common Economic Space can be used most effectively in addressing the numerous challenges ahead.

### **Unleashing the potential of the EU-Russia common economic space**

While EU-Russian trade relations have strengthened greatly over the past decade, the principal flows are still limited to a relatively small number of industry sectors. A widening of the mutual trade portfolio is in the interest of consumers and companies on both sides. The EU can benefit from Russia's economic growth through increased trade with Russia, while Russia can use the EU market to support greater economic diversification. An intensified EU-Russia relationship can therefore yield substantial mutual benefit.

A promising process for strengthening the EU-Russian economic relationship is already in place, in the form of the May 2005 agreement to work towards establishing four common spaces, including the EU-Russia Common Economic Space (CES). This aims to promote trade and investment and to strengthen economic cooperation and reforms based on

good governance. The proposed CES covers a wide range of policy areas and industry sectors.

With political agreement already reached on all the measures listed in the Roadmap to the EU-Russia Common Economic Space,<sup>14</sup> the major challenges are now prioritisation and implementation to ensure that businesses and citizens can see the benefits as rapidly as possible. With this in mind, we outline below the measures that in our view hold the greatest potential for moving towards the positive outcomes presented in the first part of this paper.

### **Improvement of the investment climate<sup>15</sup>**

This should be the overarching objective of all actions undertaken in the context of the EU-Russian Common Economic Space. As shown in the potential scenario for Russia's economic future, an improved investment climate would boost business activity, thus increasing employment and wealth generation. At the same time, the variety of goods and services offered to citizens would increase, along with tax revenues for the government. Furthermore, the need for attracting significant long-term investment in the hydrocarbon sector could be addressed in this context.

It should be underlined that there is not one single measure that can improve the investment climate overnight. Investment decisions are closely related to investor confidence in the future performance of an economy. Policy-makers can best strengthen investors' confidence by taking measures that strengthen the perception that investments are safe and can be put to the most productive use. Investment decisions will ultimately be taken on the basis of quality and implementation of the measures provided for by the law. Strict and non-discriminatory enforcement of applicable law is a fundamental requirement for investors. The Roadmap on the Common Economic Space rightly highlights the importance of transparency, non-discrimination, predictability and simplification of regulation. From a business perspective,<sup>16</sup> the continued fight against corruption is an essential

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<sup>14</sup> Available at: [http://europa.eu.int/comm/external\\_relations/russia/summit\\_05\\_05/.nalroadmaps.pdf#ces](http://europa.eu.int/comm/external_relations/russia/summit_05_05/.nalroadmaps.pdf#ces)

<sup>15</sup> Point 1.5 in the Roadmap to the Common Economic Space.

<sup>16</sup> Refer also to the recommendations in "Russia: Investment Destination", by the Foreign Investment Advisory Council (FIAC), March 2005 (available at: [www.pbnco.com/.acsurvey](http://www.pbnco.com/.acsurvey)).

element of moving towards an improved investment climate. Further measures should aim to streamline government bureaucracy at all levels. Additional improvements could be achieved by ‘mainstreaming’ investment-friendly criteria into the policy-making process as an objective of all economic legislation. All new legislative proposals should be required to work towards this overarching objective. Consistent application of these principles would contribute significantly to improving Russia’s investment climate. A close dialogue with industry, as provided for in the Roadmap, is essential to highlight the most important areas for policy action and coordination.

### **Enforcement of intellectual, industrial and commercial property rights<sup>17</sup>**

Effective protection of intellectual, industrial and commercial property rights is a critical element of an investment-friendly business climate. Investor confidence largely hinges on the degree to which these property rights are enforced. Progress in these fields, especially strengthening of the relevant legislative and law enforcement systems, would greatly increase confidence. Further improvement of the investment climate could be achieved through the approximation of the EU and Russian regulatory systems in line with best international practice. The Roadmap includes this objective.

### **Measures to boost EU-Russia trade and investment**

The scenario outlined above shows that expansion of EU-Russian trade, as well as of Russia’s trade with other parts of the world, would provide a sound basis for further economic growth and integration. One major step towards improving Russia’s international trading relationship is accession to the World Trade Organisation (WTO). The EU-Russia Common Economic Space holds further potential in providing a number of mechanisms that envisage the removal of additional obstacles to trade. In our view, some of the most important of these are described below.

*Trade Facilitation and Customs.*<sup>18</sup> The Roadmap on the EU-Russia Common Economic Space includes an objective to facilitate, standardise and

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<sup>17</sup> Point 1.3 in the Roadmap to the Common Economic Space.

<sup>18</sup> Point 2 in the Roadmap to the Common Economic Space.

automate procedures connected with external trade. Measures aimed at facilitating the physical movement of goods across borders have great potential to stimulate investment. An ERT survey on Trade Facilitation<sup>19</sup> – which covered all countries around the world – confirmed that a majority of companies would look more favourably at new investments, or additional business activities, in economies where substantial progress is being made on trade facilitation. Indeed, a significant proportion of companies confirmed that they have foregone investment opportunities because of trade barriers that could have been eliminated through trade facilitation measures. Thus, greater use of mutually compatible information technology can help rationalise and speed up the processing of imports and exports and stimulate investment. Closer EU-Russian cooperation in this area would also facilitate the fight against fraud, smuggling and other distortions, in line with the objectives of the Roadmap to the Common Economic Space.

*Regulatory dialogue.*<sup>20</sup> Standards, technical regulations and conformity assessment procedures can also represent significant barriers to trade. Many Russian products can today not be easily imported into the European Union (and vice versa) due to differences in technical standards. Increased cooperation between Russia and the EU in this area has great potential for enhancing trade volumes. As a matter of principle, international standards should be used where available. In other cases, standardisation organisations should work together to develop single or mutually compatible standards, regulations and conformity-assessment procedures, through an enhanced regulatory dialogue. The relevant organisations should be given the necessary capacity to deal with this important area.

*Ongoing EU-Russian policy dialogues.*<sup>21</sup> In order to allow the EU-Russian relationship to blossom and to ensure that both sides derive the greatest possible benefit from stronger economic links, it is essential that all parties are committed to a strong and continuous process of policy dialogue. ERT particularly supports the objective, stated in the Roadmap to the Common Economic Space, of developing an in-depth dialogue on economic reform and enterprise policy. This dialogue can provide a strong platform for a constructive exchange of experiences in economic policy, including on

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<sup>19</sup> ERT survey on Trade Facilitation, November 2005 (available at: [www.ert.be](http://www.ert.be)).

<sup>20</sup> Point 1.1 in the Roadmap to the Common Economic Space.

<sup>21</sup> Point 1.6 in the Roadmap to the Common Economic Space.

continuous improvement of the investment climate. Both the EU and Russia have much to contribute to such an exchange.

*Accounting and auditing rules, especially regarding company taxation.*<sup>22</sup> The consistent application of the latest international accounting and auditing standards is the guarantee for a fair and predictable corporate taxation system. Reliable rules in both areas are indispensable to ensure an attractive investment climate. ERT therefore welcomes the proposed EU-Russian cooperation on accounting and auditing rules. This dialogue will also form an essential basis for the proposed approximation of competition legislation systems and the implementation of national competition policy.<sup>23</sup>

### **ERT is committed to a stronger EU-Russian economic relationship**

ERT welcomes the agreement on the Roadmap of the EU-Russia Common Economic Space, which provides a solid basis for a strengthening of bilateral economic relations. ERT members believe that the potential of this relationship is considerable and encourage EU and Russian policy-makers to pay particular attention to the issues outlined above. These are seen as the key foundations for deeper economic integration, which will benefit businesses and citizens in Russia and the EU alike. Most of the issues outlined here can only be addressed by policy-makers, but this does not mean that business does not have a role to play. Companies in all sectors are ready to contribute their operational, investment and marketing expertise to the wider process of policy formulation. Policy-makers should be confident that bold economic reforms will be recognised by businesses around the world and that Russia and the European Union can only gain from greater recognition in the global business community as an attractive investment location.

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<sup>22</sup> Point 1.9 in the Roadmap to the Common Economic Space.

<sup>23</sup> Point 1.4 in the Roadmap to the Common Economic Space.

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**The European Round Table of Industrialists (ERT)** represents the leaders of 45 of Europe's most important private sector companies from 18 countries, whose collective turnover amounts to €1,500 billion, employing 4.5 million people worldwide. Antony Burgmans is Chairman, ERT Enlargement and Neighbourhood Policy Working Group, and Chairman of Unilever; Peter Sutherland is Chairman of ERT Foreign Economic Relations Working Group, and Chairman of BP. The ERT paper was produced jointly by the ERT Foreign Economic Relations and Enlargement & Neighbourhood Policy Working Groups, and is also available on the ERT website ([www.ert.be](http://www.ert.be)), including a Russian language version.