

Towards a fresh deal for Ukraine, the EU and Russia and their neighbourhood policies: 15 steps

Michael Emerson

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1. *Now that Petro Poroshenko has been convincingly elected President of Ukraine, notwithstanding practical problems in some eastern regions, there should be a new fresh start for Ukraine and its relations with both the EU and Russia. Putin could try harder to contribute to peace in Eastern Ukraine.*

Poroshenko's first objective is to secure the peace and unity of Ukraine. The Maidan should be dismantled, the armed militias disbanded and, as regards Donetsk and Lugansk, Russia could help the process by advising Russian-flag-waving people in the eastern regions to cooperate. Putin says he respects the results, but he could do more to influence his 'compatriots' in Eastern Ukraine, thus facilitating the end to military operations by Kyiv. Russian official discourse and the mass media should stop their gross propaganda about so-called 'fascists' running Kyiv. Dmytro Yarosh of the Right Sector and Oleh Tyahnybok of Svoboda collected 1% each of the vote, and so Ukraine voted overwhelmingly against violent extremism. Russia's own neo-Nazis would score much better.

2. *Ukraine could join with Georgia and Moldova to complete the signing of its Association Agreement with the EU (notably to now include its DCFTA) on 27 June.*

Ukraine could sign soon after Poroshenko's inauguration. And to sign with Georgia and Moldova would reverse the Vilnius fiasco and give vital credibility to the EU's Eastern Partnership process.

3. *Ukraine would declare its intention not to join any military alliance and to write that into the constitution.*

Russia wants a pledge of neutrality from Ukraine to guarantee against its future NATO membership, while many NATO member states do not see a compelling case for Ukrainian membership. The EU has several member states that have their own formula for either neutrality or non-NATO membership (which are not the same things) - Austria, Finland, Ireland, Sweden, Cyprus and Malta.

Michael Emerson is Associate Senior Research Fellow at CEPS.

These 15 italicised points were first presented to the Baltic Forum at Jurmala, Latvia, on 25 May 2014, and updated to reflect the results of the Ukrainian presidential election, as well as expanded to include background information on each point.

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4. *Ukraine would complete the revision of its constitution, including appropriate safeguards for the Russian language.*

This should be a easily manageable problem. Europe has numerous examples of bi- or multi-lingualism being handled in a sustainable way: Swedish in Finland; French, Flemish and German in Belgium; Catalan and Spanish in Catalonia; French, German and Italian in Switzerland; Welsh and English in Wales; Italian and German in Italian Tyrol, etc. There are a number of well-identified policy variables that are negotiable: language regimes in schools, public mass media, dealings with local administrations and practice in central government institutions. A bi- or multi-lingual regime may involve federalism, but it does not have to. The challenge for Ukraine is in principle easier than for the cases just mentioned, since the Ukrainian and Russian languages are close brothers, and mutually understood by much of the population.

5. *Russia would agree to align the price of its gas sales to Ukraine on the average German import price, thereby removing this item from the political agenda once and for all.*

It is not sustainable for Gazprom to attempt to impose politically motivated, monopolistic prices, such as the \$485/'000m³ being currently demanded, when latest data for the average German import price is \$360/'000m³ in March. For Ukraine around \$10-20 should be deducted for the shorter transport costs, and the price should then be indexed on the German price less the transport cost factor. Already reverse flows from Slovakia are beginning to circumvent uncompetitive Russian prices. Above all, the politicisation of this price means constant threats to the smooth supply of gas through Ukraine to Europe, and intensification of European efforts to go for alternative sources that are actually now quite abundant, which is not in Russia's interest. Trilateral consultations are now underway with the European Commissioner for energy, Günther Oettinger, and here should be agreement on a formula like the above.

6. *Ukraine and the customs union of Russia, Belarus and Kazakhstan (RBK) would engage in negotiations for a high quality free trade agreement (FTA).*

It is clear now that Ukraine will not join the Russian-led customs union, which was a thoroughly bad idea economically from the beginning, as evidenced in various studies. Ukraine's future prosperity will have to come from developing internationally competitive industries and their inclusion in European supply chain structures. To hide behind the relatively protective tariffs of the customs union would cut Ukraine off from the international economy, which is the opposite position of what is needed. On the other hand the current CIS vintage FTA should be much improved, and above all implemented properly by Russia without politically fabricated technical barriers to Ukrainian imports.

7. *The EU and Russia would examine together with Ukraine any unintended problems arising for Russia as a result of the DCFTA (completing a bilateral process that the EU and Russia initiated in 2013).*

There was a lot of disinformation spread by Viktor Yanukovich and his prime minister Mykola Azarov to justify renegeing on signing the DCFTA, such as the insistence that by adopting EU industrial standards the Ukrainian machine industry and major exporters to Russia would be put out of business. In fact, the DCFTA allows complete freedom for Ukrainian exporters to follow whatever standards are required in the Russian market, and the adoption of European standards by Ukraine for its domestic market is intended to be a gradual process, with flexible provisions for accommodating problems that may arise (Ukraine may request extended timetables).

8. *The EU would move rapidly to conclude visa-free agreements with Ukraine and Georgia, and towards this goal with Russia, notably with much facilitated 5-year multi-entry visas without delay.*

The crucial goal of implementing visa-free travel to the EU from Eastern Europe advances well. Moldova is already there as of 1 January 2014, and Ukraine and Georgia are in the final stages of the process of meeting EU conditions. For Russia there have been long negotiations over visa facilitation and the longer-term objective of visa liberalisation, in particular for visa-free travel for officials and greatly facilitated access to multi-year, multi-entry visas, which gets close to the same thing. Negotiations with Russia are currently suspended, but in the right political context, they could be rapidly re-activated and concluded in a positive manner.

9. *The EU, Russia and Ukraine would engage in a regular trilateral cooperation process, without prejudice to the effective independence of any party. They would promote projects of common interest, such as integrated transport and energy pipeline corridors. The process should be initiated with a trilateral summit.*

Trilateral dialogue or cooperation is hardly possible when the context is one of overt confrontation. However, if a context of well-established political benchmarks could be established (as under other points proposed here), then trust could be built up and cooperation developed. The simple fact that Ukraine occupies such a large place on the map between the EU and Russia means that there will always be a host of issues requiring trilateral cooperation, and of opportunities for new common ventures. But for such arrangements to flourish, the rules of the game have to be clear, balanced and well marked out. Given the depth of the Ukraine crisis, the initiation of positive movements in this direction will require clear commitment and personal trust at the highest level. The starting situation is manifestly at a low point, but the election of the new Ukrainian president could provide the moment to turn the page and start afresh in a positive direction. An obvious trilateral agenda item would be to ensure that the three (future) bilateral free trade arrangements around the EU-Ukraine-Russia triangle function efficiently without inconsistent provisions, and that future possible negotiations over 'Lisbon to Vladivostok' (point 12) take the interests of all parties into account. Another item would be the modernisation of the trunk gas pipelines, as has been under discussion for some years.

10. *The EU and Russia would resume negotiations for a new basic agreement.*

This idea has been limping along for years without getting anywhere that the outsider can see. But with goodwill, there is much that could be done to deepen the cooperation between the two parties in many sectors beyond the trade sphere (which would be handled by the RBK customs union), including education, culture, research, industrial cooperation, etc.

11. *The EU and the RBK customs union would open negotiations for a FTA, on the understanding that Belarus and Kazakhstan would accede to the WTO during the course of the negotiations.*

The non-membership of WTO of Belarus and Kazakhstan is regarded by the European Commission to be grounds for refraining from opening free trade negotiations for 'Lisbon to Vladivostok'. There are legal reasons to support this position. However, the negotiations would doubtless take a long time in any case, so the EU could adopt the position of saying that the accession of Belarus and Kazakhstan would have to be completed before signing an agreement. This is the position taken by EFTA in their ongoing negotiations with the customs union.

12. *Russia would propose its customs union partners to adopt European and international industrial standards for tradeable goods as the standards of the Eurasian Economic Union.*

It is not clear what the customs union policy will be. Vague statements have been made about convergence on European and international standards, but the official documents of the Eurasian Economic Commission refer to some 7,000 standards, 4,000 of which would be GOCT standards (i.e. derived from old Soviet standards). Another view is that the standards will often copy European standards, subject only to local conformity assessment procedures, which will affix 'EAC' (Eurasian Conformity) marks like the EU's 'CE' marks. But this is more than a technical matter, and would be fundamental in determining whether or not the Russian economy will become modernised and internationally competitive. Russian industry is in need of long-overdue domestic economic reforms, especially now that economic stagnation has set in (the official forecast for 2015 sees 0.5% growth of GDP), and the proposed free trade agreement (point 11) should include the transparent adoption of European industrial standards, which is essential for Russian industry to connect with European and international supply chains.

13. *The EU would scrap sanctions against Russia.*

No further comment required.

14. *The EU, Moldova (Chisnau and Transnistria) and Russia would work out arrangements for Transnistria to profit from Moldova's signing of the DCFTA with the EU. Transnistria would be subject to an additional Protocol for basic free trade with the EU, with zero tariffs and acceptance of EU industrial standards.*

The present position is that the European Commission (Directorate-General for Trade) requires Transnistria's acceptance of the complete DCFTA package (which includes compliance with 400 EU laws) in order to benefit from tariff-free access to the EU market. Not surprisingly, the result is deadlock, although Transnistria will still profit from existing preferences through 2015. The EU should see that it is in its political interest to take a more flexible position here, for example agreeing to simpler conditions for Transnistria.

15. *Armenia's accession to the Eurasian Economic Union needs special conditions in any case, since it has no common frontier with the RBK customs union. But Armenia now requests 900 exemptions from the common external tariff, which makes its inclusion in the customs union technically implausible, if not impossible. Both the RBK customs union and the EU could arrange special free trade conditions with Armenia.*

Armenia's manifest economic interest is to have basic free trade with both the RBK customs union and the EU. Given that its full accession to the RBK customs union is now deadlocked, practical solutions should be found, enabling simpler free trade with both the customs union and the EU, while Armenia could still otherwise integrate with the Eurasian Economic Union if it so wished.