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**THE MAKING OF THE CONCEPT OF
THE EU-RUSSIA
COMMON ECONOMIC SPACE**

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Abstract

The paper starts with the analysis of the negotiation process leading to the adoption of the Concept of the Common Economic Space (CES) between the EU and Russia. Focusing on the Russian side, it delineates the phases and main activities of the negotiations. The paper comes to the conclusion that the negotiation process on Russia's side was essentially of a top-down nature, with a dominant role of the governmental bureaucracies and little participation of the business community and the general public. The impact of the economic assessments and studies was limited, too. The paper proceeds with the analysis of the choice of a model for the CES envisaged in the Concept. It argues that the Concept of CES represents an original model in itself, combining elements of the EEA and 'Swiss' models; that is, it unites both horizontal and sectoral approaches. It is questionable whether the model envisaged

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in the Concept is capable to provide a satisfactory solution to the policy-taker challenge.

Introduction

The Concept of the EU-Russia Common Economic Space (CES) was adopted on the EU-Russia Summit in Rome (5-6 November, 2003)². It states that 'Russia and the EU are geographically close, have complementary economic structures and assets, and have strong mutual interest in further economic integration'. As the existing potential of economic cooperation is not fully used (Art. 8), there is a need to bring partners closer together on the way to economic integration. At the present time, a significant spread between the high flight of politics and the day-to-day bottlenecks is observed. It is argued that there is a worrisome discrepancy between the discussions envisaging EU-Russia Common Spaces aiming at the deeper integration in the medium- and long-term term and difficult negotiations on such down-to-earth matters as the extension of the

² *The Common European Economic Space (CEES) Concept Paper*. Annex I to the Joint Statement of the 12th EU-Russia Summit (Rome, 5-6 November 2003). http://europa.eu.int/comm/external_relations/russia/summit11_03/
There is a good deal of terminological confusion. The initially launched idea was that of the Common European Economic Space. The same term has been used in the title of the Concept. However, in the meantime the term "Common Economic Space" (CES) asserts itself in the official discourse. The CES should refer to the contents of the Saint-Petersburg declaration plus related issues, most importantly energy. We use this term consistently throughout the paper. It is not to be confused with the Single Economic Space of Belarus, Kazakhstan, Russia, and Ukraine launched in 2003.

Partnership and Cooperation Agreement (PCA), Kaliningrad cargo transit, or import quotas³.

In the 2000s Russia has found itself on the outskirts of the European integration. There is a growing danger that Russia will be further marginalized. Due to many economic, political and historical reasons, it is likely that the new member states will favour a tougher EU stand on Russia. Besides, the EU has already started re-coupling the economic issues of the EU-Russian dialogue with the political issues of democracy, human rights, and the war in Chechnya. Furthermore, Russia's strive to preserve its influence in the CIS states and build on the CIS economic and political integration may lead to a potential clash with the EU on the issue of the compatibility of Russia's EU and CIS integration.

Against this background, the CES Concept represents a major piece of official conceptual thinking, which aims at bringing the Union and Russia closer together on the economic side, with various linkages to other fields of cooperation. The analysis of the Concept itself and of the way it evolved may be instrumental for our understanding of the nature and prospects of the Russia-EU relations. Furthermore, there are important issues linked to the conceptual framework of the EU-Russia Common Economic Space that are crucial for the eventual success. The definition of the CES is provided in the text of the Concept Paper: 'the CES means an open and integrated market between the EU and Russia, based on the implementation of common or compatible rules and regulations, including compatible administrative practices, as a basis for

³ Cf. Hamilton C.B. (2003) *Russia's European Economic Integration. Escapism and realities*. CEPR Discussion Paper 3840, March.

synergies and economies of scale associated with a higher degree of competition in bigger markets. It shall ultimately cover substantially all sectors of economy' (CES Concept, Art. 12). The task of the Concept was to create an appropriate model for this project of EU-Russian economic integration. This model should combine the issues of potential economic efficiency with existing political possibilities and constraints on both sides. The basic choice is between horizontal and vertical approaches. Under the horizontal approach, the sides choose to integrate 'across-the-board' incorporating the principle of the four freedoms enshrined in the Single Market. As the movement of labor has never been an issue in EU-Russian relations, three freedoms remain: first, free movement of goods and services, second, free movement of capital, and, third, free movement of persons. Meanwhile, the vertical approach would mean the decision to draft a number of sector-specific agreements. We analyze the approach incorporated in the CES Concept and argue that the Concept contains an original model that combines horizontal and vertical approaches.

Furthermore, there is another issue that needs to be resolved on the conceptual level. The experiences of both the European Economic Area and the EU-Swiss agreements have shown that economic integration with the EU could cause a severe policy-taker problem on the opposite side. The EU insists that the free access to the Single market should be coupled with the corresponding obligations so as not to create unfair advantages for the non-EU producers. Under the existing agreements, the EU counterparts are obliged to follow changes in the EU *acquis* to a certain extent, adopting new directives in their own legislation as they come up. If it will be the case also with the CES, Russia will be exposed to the policy-taker problem, that is, it will have to follow the developments of the EU legislation.

In the paper, we analyze the CES Concept from this point of view as well.

The present paper concentrates on the Russian approaches to the economic integration with the EU. The paper has the following outline. It starts with the description of the process leading to the CES Concept, delineating its phases, main activities, and the working mode. It illustrates an essentially top-down nature of the process on the Russian side, with the dominant role of the role of the governmental bureaucracies. It goes on to assess the impact that several economic studies have made on the negotiations on the Russian side and the final content of the Concept. The conclusion is drawn that this impact was limited. It is argued further that the Concept of the CES represents an original model in itself, combining the elements of the EEA and 'Swiss' models; that is, it unites both horizontal and sectoral approaches. On this basis, drawing on the experience of the EEA and EU-Swiss agreements, we go on to discuss the potential policy-taker problem that may arise for Russia.

Phases of the Development of the CES

We start with delineating the major steps and phases of the negotiations leading to the CES Concept Paper and beyond. The *phase 1* started during the EU-Russia Summit in May 2001 when the idea of a Common European Economic Space was thrown in by Romano Prodi in discussions with Vladimir Putin. The latter responded positively, indicating Russia's interest in closer economic cooperation. A High-Level Group (HLG) was created under an appropriate mandate at the *phase 2*. It took a year to set up an HLG to lead the work on the concept. During the Summit in October 2001, the parties agreed to establish a joint HLG to elaborate the Concept. The designated co-chairs were Russian Deputy Prime Minister

Khristenko and Commissioner Chris Patten. In March 2002, the HLG was provided with a mandate to elaborate the CES Concept by the Cooperation Council of the Partnership and Cooperation Agreement. In the *phase 3*, the concept was negotiated by the sides. The deadline set by the mandate was October 2003, that is, in one and a half years, or three summits away. In fact, the first Khristenko-Patten meeting already took place in the second half of 2001. At its second meeting in March 2002, the HLG adopted a work plan for the next eighteen months. To fulfill the task of assessing the potential impact of a CES, a number of economic assessment studies were commissioned separately by Russia and the EU. The negotiations have resulted in the CES Concept, which was agreed upon by the parties as Annex I to the Joint Statement of the 12th EU-Russia Summit in Rome on the 5-6 November 2003.

The current phase (*phase 4*) is an intermediary, however an important one. As the Russian WTO accession is widely perceived to be a prerequisite for the CES talks to continue, waiting for the WTO accession is one of the reasons why the CES Concept was knowingly formulated rather broadly. Besides, it was also the reason for mentioning the term 'free trade' so as not to create additional difficulties in Russia's negotiations with non-EU members of the WTO. In principle, the CES development process goes along three tracks. Art.19 names (1) market opening; (2) regulatory convergence; and (3) trade facilitation. The work on the concrete contents along the first track of market opening depends directly on Russia's membership in the WTO. Many of the issues of trade facilitation are also linked to the adoption of the WTO regulations (e.g. customs and customs procedures). However, the work on the regulatory convergence and infrastructure may be continued in the absence of Russia's WTO membership.

In late April 2004 the European Commission submitted to its Russian counterparts a proposal for an Action Plan. Based along the lines of the Concept, this document aims at specifying more concrete objectives and measures to achieve them. The proposal concerns not only the CES but all the four Common Spaces. In this way the Commission tries to couple the Spaces together, linking, for example, the progress on the market opening with the progress on the visa-free regime. There are two reasons for adopting this approach. First, it goes along the lines of the Commission's Communication on relations with Russia underlying that the EU-Russia partnership must be based on shared values and common interests⁴. It thus couples an economic cooperation with the issues of human rights, democratic rule, and the war in Chechnya. Second, the Commission wants to see a coherent approach so as not to create a considerable discontinuity of advancements in economic and JHA matters that are linked to each other. Russia disagrees with the approach and insists on de-coupling these and other issues. Thus, Russia insists on having four separate roadmaps (a separate one for each Space) instead of an overarching Action Plan. Separate roadmaps should serve the purpose of de-coupling various issues. Technically, the Commission does not mind four separate roadmaps but nevertheless would like to advance the coherence.

⁴ EU Commission (2004) *Communication to the Council and the European Parliament on relations with Russia*. COM (2004) 106, 09.02.04.
Joint Statement of the 12th EU-Russia Summit (Rome, 5-6 November 2003), P.7.
http://europa.eu.int/comm/external_relations/russia/summit11_03/jps061103.htm

In the future, it is possible to foresee *phase 5*, with a new mandate for a new HLG to work on the concrete contents of the CES and on the Action Plan to materialize and operationalize the Common economic space. Russia's WTO accession is a likely requirement for this work to begin.

The CES is perceived as a central element in EU-Russian integration. In other words, there is a widely shared, implicit as well as explicit, understanding that the CES is the central one out of four envisaged Common Spaces⁵. This is the only Space for which a separate Concept exists. Despite the fact that processes and negotiations run on their separate tracks, other spaces are connected to the economic issues raised in the CES and would benefit from the advances in the economic sphere. For example, the Common Space of freedom, security and justice would directly benefit from any advances made on the related aspects of movement of people (Art.18 of the CES Concept). The issue of the free movement of persons, naturally falling within the scope of the JHA common space, has been prioritized in 2003-2004. However, even this issue is closely linked to the successfully facilitated economic cooperation. The external security represents an exception, as there are no direct links between the CES and the external security matters.

Although the idea of a Common Economic Space came out as a surprise in the EU-Russia Summit in May 2001, similar ideas were envisaged in the Partnership and Cooperation Agreement (PCA). The PCA's Art.1 lists among the main objectives the creation of the

⁵ Other Common Spaces envisaged in the Joint Statement of the 12th EU-Russia Summit in November 2003 are the common space of freedom, security and justice; the common space of external security; and the common space of research and education.

necessary conditions for the future establishment of an FTA covering substantially all trade in goods as well as for the freedom of establishment of companies, cross-border movement of services and of capital movements⁶. The idea of a free trade zone has come up in the EU Common Strategy towards Russia in 1999 as well⁷. In fact, the Concept of the CES reiterates the basic idea of the free movement of goods, services, capital and persons, with the labour being excluded from the list. Is the CES an “old wine in a new bottle”? On the one hand, the answer is yes, because the Concept follows the ideas worded by the ten-year old PCA. On the other hand, the CES Concept goes an important step forward conceptualizing the way towards achievement of these objectives, with Russia’s WTO membership being now in sight.

One reason why it took a year to issue an appropriate mandate for negotiators to begin their work is that the conceptual framework of the CES was unclear. There were no concrete and rigid initial positions or conceptions of a desirable outcome. Not only the potential concrete contents remained unknown, but also the general contours of the to-be-created Concept remained vague. The common shared understanding was severely limited to a simple but vague idea that the CES should represent an FTA *plus*. In addition, there was a perception that it should represent a WTO *plus* in two senses, first, being deeper than the WTO, and, second, taking place after Russia’s WTO accession. Another reason for a leisurely procedure was the lack of urgency due to the distant perspectives of Russia’s WTO accession.

⁶ The EU-Russia Agreement on Partnership and Cooperation, 1994.

http://europa.eu.int/comm/external_relations/ceeca/pca/pca_russia.pdf

⁷ The European Council (1999) Common Strategy of the European Union on Russia, 1999/414/CFSP, 4 June 1999,

http://europa.eu.int/comm/external_relations/ceeca/com_strat/russia_99.pdf

Generally, the work on the Concept was organized in the framework of the regular EU-Russia summits as well as the Khristenko-Patten meetings, which also took place on a semi-annual basis. Negotiations and talks proceeded from summit to summit and from HLG to HLG meetings resolving difficulties and gaining new momentum at these points. In fact, the process has proceeded in semi-annual intervals from the very beginning: while the idea was made public at the Summit in March 2001, the decision to create the HLG was made in October 2001, and its mandate was issued in March 2002. Besides, the mandate for the HLG was set for one and a half years of work. Although it is not uncommon for such deadlines to be broken, it nevertheless served as a reference point for the negotiators in their attempts to produce a finished paper.

These peculiarities of the work organization led to two important consequences. First, the negotiators structured their work schedules and proceedings in order to fit into the schedule of the regular meetings at a higher level. Secondly, and more importantly, due to regular semi-annual Khristenko-Patten meetings the negotiations were able to surpass and to move from the deadlocks. The HLG has helped to overcome serious problems, which otherwise might have lead to blocking the negotiations in their totality. It is likely that without such regular meetings of the higher government officials (such as both Patten and Khristenko were at the time) the negotiators would have lacked the "level" necessary to reconcile their positions.

The elaboration of the Concept and the respective negotiations were structured on several levels with various goals and competences. First, at the top, there were semi-annual Khristenko-Patten meetings. Second, Expert groups on each side mastered the day-to-day work. Third, in addition, CES-related questions were occasionally

discussed during the meetings of the EU Trade Commissioner, Pascal Lamy, and Russia's Minister for Economic Development and Trade, German Gref. It was intended to lend high level support to the mainstream process within the HLG.

The main bulk of work – that is, developing the positions of the parties, elaborating the concept and reconciling the final text – was done by expert groups on both sides. While on the EU side these were the European Commission officials, Russia's Expert group was composed of the governmental officials of both the Ministry of Economic Development and Trade (MEDT) and the Ministry of Foreign Affairs (MFA). It is peculiar to the internal composition of the Russian group that it was dominated by the representatives of the MEDT and not MFA. The majority of the members of the group belonged to the MEDT, with Deputy Minister Maxim Medvedkov (who is also the main Russian negotiator at the WTO accession talks) and the Head of the Trade Policy Department Elena Danilova leading the work. Moreover, the MEDT officials assumed a proactive position on the contents of the Concept, whereas the MFA officials, most notably the Russian Mission to the EU, however important to the elaboration of the text, rendered more technical and formal support.

Impact of economic studies and assessments⁸

It is a common rule in the business of negotiating a trade agreement that the parties conduct or commission to an external institution one or more economic assessments, which should provide them with a

⁸ The contents of this section are built on a set of interviews with the Russian officials and experts who took part in the negotiations on the CES concept. The interviews were conducted in February-March 2004.

clearer view on the benefits and drawbacks of a potential agreement. The negotiations on the CES Concept were not an exception to the rule, as both parties commissioned several economic studies. The CES Concept states that 'economic impact assessment studies, conducted separately by the Parties, clearly demonstrated the positive benefits of CES, and, at the same time, highlighted shortcomings in certain areas, which should be addressed in the future work on the CES' (Art. 8). We will go deeper into details and answer the question of what impact the conducted economic assessment studies have had on the Russian position.

Several economic studies were made. First, the MEDT organized a large number of expert working groups on various sectors and issues, such as customs, standards, automotive industry, banking, insurance, telecommunications, etc. The task assigned to experts was to estimate the consequences of a deeper economic integration with the EU in prospective sectors. The leading institutes of the Russian Academy of Sciences served as a core source of experts. Second, the European Commission commissioned an economic assessment study to the Centre for European Policy Studies (CEPS) in Brussels⁹. Third, the White Book "Common Economic Space: Prospects of Russia-EU Relations" was published by the Russian-European Centre for Economic Policy (RECEP) in Moscow¹⁰. RECEP's activities were funded by the EU within the TACIS framework. Both EU and Russian experts took part in working on the White Book under the

⁹ Brenton, P. (2002) *The Economic Impact of a EU-Russia Free Trade Agreement*, CEPS, Brussels (unpublished).

¹⁰ Samson I., Greffe X. (2002) *The White Book "Common Economic Space: Prospects of Russia-EU Relations"* Russian-European Centre for Economic Policy, Moscow, October 2002.

guidance of Ivan Samson. Lastly, the Russian Union of Industrialists and Entrepreneurs (RUIE) has prepared and provided the MEDT with a compilation of useful materials relating to the CEES matters.

In 2002, in the initial stage of working under the HLG mandate, the MEDT organized a number of expert groups on various sectors and issues. The list of sectors and industries included agriculture, automotive industry, banking, insurance, space launching, and telecommunication. The list of related issues included, among others, customs regulations and procedures, standards, public procurement, technical regulation and conformity assessment. Thus, the industries and issues that are the most sensitive to a prospective Russia-EU economic integration were chosen for an expert analysis. The expert groups were composed of academics from the leading institutes of the Russian Academy of Sciences. Neither ministry officials nor representatives of the Russian business community were included in these groups (unless indirectly involved through academic circles). In view of the initial task, which was to estimate the consequences of deeper economic integration with the EU in prospective sectors, the working groups came to conclusions that bore much similarity. While in the short-term a certain degree of negative impact is feasible in many industries and sectors of the Russian economy, the consequences in the medium term are likely to be positive in many sectors. In the long term, the impact would be positive on virtually all issues and in all industries that were assessed by the expert groups.

Interviews done by the author with the Russian officials and experts who took part in the negotiations on the CES Concept and the analysis of the Concept itself lead to the conclusion that the impact of the economic assessments on the negotiations and the Concept's final text varied from the one study to another and was in many

cases rather limited. On the Russian side, the conclusions drawn by the expert groups under the aegis of the MEDT have won most attention. The principal conclusion that a CES would be beneficial for the Russian economy was taken on board. The results of the general equilibrium trade modeling as well as the gravity modeling carried out by CEPS and commissioned by the EU counterpart have also influenced the decision-making on the Russian side. As the findings were used by the Commission in drafting the Concept and in discussing the Concept, the Russian experts received the message, which seemed not to contradict their own findings. Meanwhile, RECEP's White Book was not given much weight on the Russian side. It was perceived as a confirmation of the assessments done by the MEDT's expert groups. A somewhat critical attitude towards RECEP as the working body financed by the European Union seems to have contributed to the insignificant impact of this major work. To complete the picture, the compilation prepared by the RUIE was read and perceived as useful supplementary material.

On the whole, the economic assessment studies rendered some influence on the Russian position and on the final text of the Concept. It can be observed, for example, in the attention that the Concept devotes to such instruments as regulatory convergence and trade facilitation, which are introduced on equal terms with market opening (art. 19). Increased cooperation in the upgrading and enhancement of infrastructure networks is also seen as crucial to the establishment of the framework conditions for increased economic cooperation (art. 20).

The conclusion can be drawn that the more theoretic the studies were, the less impact they rendered. One of the reasons can be that the negotiators were constrained in several respects. They had to comply with other objectives of Russia's multi-vectored economic

foreign policy, most notably with its CIS vector. Besides, they acted under the constraints of governmental politics. Another probable explanation is that the theory runs a few steps ahead whereas the negotiators had to tackle on-the-ground problems. Henceforth, the practitioners were inclined to let the conceptual framework to evolve step by step. Nevertheless, the inherent task of the Concept was to create a framework for further practical contents, leaving elaboration of details for future work. Due to its very nature the CES Concept was supposed to envision the idea and to foresee the deepening and widening of the EU-Russian economic cooperation for a long time to come.

Top-down approach, the role of bureaucracies and the Russian business community

When analyzing Russian foreign policy, it is important to account for the major formal and informal role of the President in the hierarchic governmental structure. From the viewpoint of the bureaucratic politics model, even in a system of decision-making dominated by one person, he/she does not make decisions alone, but collectively, surrounded by other high-level actors, aides, and consultants. The individuals and organizations, who act as agents, are active participants of the process. Thus, they are also “players” who do not just represent a mechanical device but affect the outcome in a variety of ways¹¹.

So far, the CES process has been based on a strong top-down approach with the dominant role played by the governmental bureaucracies. It was initiated from the very top during the EU-

¹¹ Allison G.T. (1999) *Essence of Decision* (2nd Edition, together with Zelikow P.), Longman, New York, pp. 272-273.

Russia Summit in May 2001. Further, the Concept was written and negotiated exclusively by the governmental officials (of MEDT and MFA) with almost no participation of the business community and with limited interest from the general public. The only economic field of the Russia-EU cooperation where the bottom-up approach has been quite strong is the energy dialogue, where big business players have been able and willing to exert influence at the level of decision-making in the presidential administration and in the government. The Energy dialogue is, however, excluded from the CES at present, although Art. 17 of the Concept declares an intention to integrate its results into the CES in due course.

The survey made by *Eurochambres* in co-operation with the Russian Chamber of Commerce reveals that the CES has not been on the agenda of the Russian business community¹². Their counterparts in the EU have acknowledged that they had some idea about the concept of CES and the on-going discussions. The general reaction has been supportive of the idea and optimistic about the impact this initiative could have on the potential lowering of the barriers to trade between the EU and Russia. The EU business representatives cited such benefits as general improvement of the economic relations between the EU and Russia, convergence in the regulatory areas, removal of non-tariff barriers to trade, and faster economic development in Russia. Harmonized and simplified customs procedures as well as more transparent and less bureaucratic administration are mentioned among the specific benefits by the EU business representatives. The security of supply of natural resources

¹² *Eurochambres* and the Russian Chamber of Commerce (2003) *Survey "EU-Russia Trade and Investment: Practical Barriers"*. October 2003, section 7. www.eurochambres.be.

and enhanced possibilities for investment in Russia were also mentioned as potential benefits of the CES. Some respondents underlined that the idea was still vague and highly political, therefore significant progress was required to turn the idea into a workable action plan. At the same time, the Russian respondents were almost unanimous in stating that they had no information on the initiative from either side in the EU-Russia dialogue. Among those who did provide comments some businessmen believed that the CES concept could become feasible only after Russia's accession to WTO. An opinion was also expressed that the CES would result in an even stronger shock than the WTO accession¹³.

The lobbying activities of the Russian business community are concentrated on the WTO negotiations. Russia's large businesses have been lobbying hard not only to keep higher levels of tariff protection but also to retain regulatory restrictions for foreign presence in the financial services. In the bilateral relations with the EU, most attention has been devoted to the specific down-to-earth issues such as the EU import quotas on steel, chemical products, and alike. By contrast, the CES negotiations did not attract as much attention from the Russian business community. A skeptic position of larger companies in metallurgy and chemicals channeled through the Union of Industrialists and Entrepreneurs was the only known major case of involvement. Their position is consistent with pressures that these sectors put in the framework of the WTO accession.

¹³ *Eurochambres* and the Russian Chamber of Commerce (2003) *Survey "EU-Russia Trade and Investment: Practical Barriers"*. October 2003, section 7. www.eurochambres.be, pp. 15-17.

There might be two explanations for the non-involvement of the Russian business community. Firstly, the businesses did not assign significant importance to the negotiations on the CES Concept because of its conceptual and preliminary character. Secondly, the CES development remained an internal governmental affair. The public discussion on the issue was very modest, and the business community remained largely uninformed. This situation is worrisome. The CES discourse on the Russian side seems to run detached from the grass-root level of firms and households. As an essentially governmental undertaking, the CES might find itself in the situation of insufficient support or even of persistent opposition from the business side at the time of discussing the concrete contents of the CES.

Model for the CES and the policy-taker problem

The Concept states that the CES means ‘an open and integrated market’ which ‘shall ultimately cover substantially all sectors of economy’ (Art. 12). The CES is understood as an objective rather than a process. In other words, ‘integration’ is seen as a certain degree of movement along the three freedoms (movement of goods and services, of capital, and of people); however, the degree of integration is ambiguously defined. The list of individual priority sectors and the degree of the possible depth of the integration within them are also left open-ended. In fact, the term “free trade” does come up in the Concept explicitly. However, there is an implicit understanding that the CES would not – in the foreseeable future and in the current framework – move further than an FTA supplemented by a deeper degree of integration in individual sectors. The Russian President confirmed this view in one of his speeches shortly after the CES Concept was agreed upon in Rome. In his words, ‘we consider the main guideline is to create a zone of free

trade with increased cooperation in individual priority sectors. This primarily concerns energy and transport, science and education, ecology and telecommunications¹⁴.

At the present time, there are two cases of deep and comprehensive integration agreements of the EU with non-EU states, the European Economic Area (EEA) and Switzerland. Vahl mentions that the EEA and the Swiss agreements represent two conceptually different approaches towards the goal of ensuring access to the EU market for companies and their products across a wide range of sectors, i.e. their inclusion in the Single Market¹⁵. The EEA is based on a comprehensive horizontal approach incorporating the principle of the four freedoms enshrined in the Single Market, whereas the EU-Swiss arrangement is in fact a bundle of sector-specific agreements. These alternative approaches have also been considered at the CES. According to Vahl¹⁶, 'whereas the EU initially preferred a 'horizontal' approach focusing on harmonization 'across-the-board', Russia favored a 'sectoral' (or 'Swiss') approach, with sector-by-sector harmonization depending on the different effects of liberalization on competitiveness in specific sectors'.

¹⁴ Putin V.V. (2003) *Speech of the President of the Russian Federation Mr. Vladimir Putin at a meeting with representatives of the European Round Table of Industrialists and the Round Table of Industrialists of Russia and the EU Mission of the Russian Federation to the European communities*, Press-release № 38/03, December 2, 2003, www.russiaeu.org.

¹⁵ Vahl M. (2004) *Whither the Common European Economic Space? Political and Institutional Aspects of Closer Economic Integration between the EU and Russia*. In: De Wilde d'Estmael T., Spetschinsky L. (eds.) *La politique étrangère de la Russie et l'Europe*. Peter Lang, Bruxelles, 2004. P. 167-201.

¹⁶ *Ibidem*, p.17.

The CES is expected to cover both horizontal and sectoral targets. A number of areas have been considered for prioritized action: standardization, technical regulation and conformity assessment, customs, audit and accounting, public procurement, competition, financial services, telecommunications, cooperation in space launching, and other sectors/issues (Art. 15). Thus, the CES Concept effectively employs a combined approach uniting both the horizontal base (with the reference to the overarching freedoms) and sectoral issues. The horizontal approach lays the foundation for the Concept, although it is defined broadly and restricted to the relevant fields of economic activity. It is incorporated in the Concept in a specific broad way. Art.18 of the Concept suggests that the CES should focus on four main areas of economic activity: first, cross-border trade of goods; second, cross-border trade of services; third, establishment and operation of companies (including issues related to movement of capital); and, fourth, related aspect of movement of persons. The horizontal approach is combined with the sectoral one, as the Concept assigns priority to an open list of individual sectors and issues. Thus, the Concept of CES represents an original model in itself, combining the elements of the EEA and 'Swiss' approaches.

Russia does not intend to apply for EU membership, even in a long-term perspective. If Russia's foreign policy is to be conducted in compliance with this objective, it becomes a necessity to create such a model of EU-Russian relations that would allow for economic integration of the European Union with Russia as a non-member. While Russia is willing to adjust its legislation according to its

pragmatic commercial interests¹⁷, it will try by all means to avoid the situation of being dictated from Brussels. There are several reasons for that, among which are both the subjective national pride and the objective presence of vital interests in the Pacific and in Central Asia. The key term in this discussion is 'the policy-taker problem'. As such, it was encountered by both Switzerland and the non-EU members of the European Economic Area (EEA), most notably the latter ones. Meanwhile, it has become a serious issue for Switzerland, too.

The question arises whether the model envisaged in the CES Concept can help avoid the policy-taker problem on the Russian side. The authors of the White Book on EU-Russia Common Spaces argue that the CES would be better defined as a co-development path, 'something much more sophisticated than a traditional free-trade area, although the latter dimension is very important, and it is something radically new, which cannot be reduced to a customs union or recognition of the EU *acquis communautaire*'¹⁸. The co-development path can however take various conceptual forms. Besides, it depends on both partners in the process; in other words, there are certain limits, guidelines, and reference points set both by Russia and the EU.

¹⁷ Mau V., Novikov V. (2002) *Otnosheniya ES i Rossii: prostranstvo vybora ili vybor prostranstva? [Relations of Russia and EU: Space of Choice or Choice of Space?]* Voprosy Ekonomiki, 2002/6, p.133-143.

¹⁸ Samson I., Greffe X. (2002) *The White Book "Common Economic Space: Prospects of Russia-EU Relations"* Russian-European Centre for Economic Policy, Moscow, October 2002, P.17.

The EEA implies a comprehensive adoption of the EU *acquis* in exchange for good market access and the right to participate in the EU decision-shaping up to a certain extent. At the same time, it makes the non-EU members of the EEA follow changes in the EU *acquis*, adopting new directives in their own legislation as they come up (“backlog implementation”). Thus, Norway and EEA members are exposed to the policy-taker problem: they are obliged to follow the changes in the EU legislation while possessing only limited leverage on the EU’s internal affairs.

The sectoral model employed in EU-Swiss agreements after Switzerland left the EEA in 1992 aspires to allow to choose those areas and *acquis* chapters which the state is willing to adapt while leaving aside those that it does not want to take on board (‘cherry-picking’). The EU, however, has not been willing to let the non-EU countries enjoy the advantages of such partial integration into the Internal Market without taking the costs of other chapters. This led to the specific arrangements of the EU-Swiss agreements. Emerson, Vahl and Woolcock, comparing the various options, EEA and the EU-Swiss agreements in particular, came the conclusion that the latter provides for no substantially better regime with regard to the policy-taker dilemma¹⁹. On the contrary, while exposing Switzerland to much of the EU internal legislation, this model provides substantially less access to decision-shaping. For example, the EU-Swiss model has a high degree of harmonization required before mutual recognition; besides, it potentially exposes Switzerland to the EU competition policy. On the other hand, while Norway and other EEA states can participate in the Commission working groups and

¹⁹ Emerson M., Vahl M., Woolcock S. (2002) *Navigating by the Stars. Norway, the European Economic Area and the European Union*, CEPS Paperback.

expert groups, Switzerland has no access to the EU internal decision-shaping except via some multi-level channels. The short answer to the question whether the type of arrangement as with the Swiss model can provide a sufficient degree of market access while retaining more policy autonomy appears to be negative²⁰. The EU market access for Swiss producers is guaranteed only when Switzerland adopts the EU *acquis*. Mutual recognition only applies in the so-called harmonized sectors in which Switzerland has fully adopted the EU regulations.

Mau and Novikov argue that Norway (that is, the EEA option) may serve as the model for Russia in its relations with the EU, albeit with qualifications²¹. At the same time, Mau and Novikov go through the chapters of the EU *acquis* trying to figure out which chapters could be beneficial for Russia (and therefore shall be adopted) and what chapters could be detrimental to the Russian economy and therefore shall not become subject of the EU-Russian integration. This approach is questionable. First, as said above, the EEA model would expose the country to the policy-taker problem. The latest internal political developments in Norway show growing dissatisfaction with the EEA and growing support for the EU membership. It indicates that the policy-taker problem might become a trap forcing Norway to become an EU member to be able to exert some influence on the Union's policy-making and, thus, to avoid policy-making being a one-way street. Russia would want to avoid that, unless

²⁰ Ibidem, pp.44-46.

²¹ Mau V., Novikov V. (2002) *Otnosheniya ES i Rossii: prostranstvo vybora ili vybor prostranstva? [Relations of Russia and EU: Space of Choice or Choice of Space?]* Voprosy Ekonomiki, 2002/6, p.133-143 (44-46).

there is an intention to move Russia gradually and imperceptibly in the direction of the EU membership. Second, the divisibility of the Internal Market *acquis* may be questioned. To what extent can the Internal Market *acquis* be 'sliced up' and to what extent can the horizontal approach be eroded by the exclusion of certain areas? The experience of both the EEA and the EU-Swiss agreements shows that this is hardly possible. The EU pursues the policy of linking the advantages of the access to the Internal Market to the relevant costs. For example, the EU would demand the adoption of the environmental directives so as not to allow for unjust advantages for non-EU producers. So, Russia would be pressed by the EU to balance 'advantageous' and 'disadvantageous' chapters.

In view of this discussion, it is worth mentioning that the EU-Chile trade agreement rather than the EEA or the EU-Swiss bundle of sectoral agreements served as an informal technical reference point (not as a model, though) for the CES Concept negotiators. It took ten years for Chile and the EU to negotiate this very comprehensive trade agreement. The negotiators in the CES case shared the perception that a prospective EU-Russia CES agreement should be more compact.

This informal reference to the EU-Chile agreement is interesting because Chile in fact manages to cooperate successfully with both the EU and NAFTA at the same time. This is close to what Russia wants, that is, to be able to pursue independent policies on the post-Soviet space and in the Pacific region. In fact, the EU-Chile Association Agreement contains not only a comprehensive FTA for goods that goes far beyond the respective WTO commitments but also goes far in the direction of free trade in services and free movement of capital. Besides, it contains elements of cooperation on customs procedures, sanitary and phytosanitary issues, standards, technical regulations, and conformity assessment as well as

intellectual property rights. There are a number of priority sectors, such as wines and spirits for which a separate agreement is included. The agreement guarantees a non-discriminatory access to telecommunication networks. It also opens up the public procurement markets. Thus, in some respects it goes beyond the envisaged scope of the CES. At the same time, the EU-Chile relationship does not imply a direct implementation of the EU directives in the national legislation so as to sustain the conformity with the European *acquis*.

So, could the EU-Chile Association Agreement serve as a model for the EU-Russia CES? The EU Commission would argue that it is not the case because of the completely different structure of the EU-Russian relations, geographic proximity, and corresponding sets of interests. The direct neighbourhood is a crucial factor as it defines the scope and vectors of cooperation. Unlike in the Chile case, the contents of the EU-Russia CES should prioritize such vitally important issues as energy, transport, and integration of infrastructure. On all of these issues, the regulatory convergence that would assure a certain degree of legislative homogeneity is essential for successful cooperation. An integration of infrastructure in particular calls for a relatively horizontal approach. The need for regulatory homogeneity on the potential common electricity market can serve as a vivid example. What Chile has with the EU is an FTA, albeit a comprehensive one, and not a common economic space implying an integration of neighbors.

Is the original model of the CES Concept, combining the elements of the EEA and 'Swiss' approaches, capable to provide a satisfactory solution to the policy-taker challenge? The broad definitions of the CEES Concept do not allow answering this question with confidence at the present time. The situation with the policy-taker problem will depend on the more concrete contents of the CEES, which are still to

be elaborated. The CEES Concept in its present form provides for a large degree of flexibility which can be interpreted as a strength and a weakness at the same time. On the one hand, it allows Russia to be sensitive about the policy-taker dilemma; on the other hand, the Concept is defined too broadly, balancing on the verge of being devoid of substance. As the Chilean experience seems to be inapplicable to the neighborly complexity of the EU-Russian relationship, the analysis of the EU's external economic integration agreements with the EEA and Switzerland gives a hint showing that the policy-taker problem is extremely hard to avoid if Russia strives for a comprehensive integration with the EU.

Conclusion

The CES process has so far been based on a strong top-down approach with the dominant role played by the governmental bureaucracies. After being initiated at the very top, the Concept was written and negotiated on the Russian side exclusively by the governmental officials with a very limited participation of the business community and with a limited interest from the general public. The impact of the economic assessment studies prepared by the academia was also limited. This creates a situation when the discourse is concentrated on a detached governmental level, with the business communities and general public not informed, not participating, and therefore indifferent to the process and its outcome. This problem is yet to be overcome for the EU-Russian CES to be successful in the future.

The Concept specifies that the CES should move along the lines of the three freedoms (goods, services, and capital), supplemented by a higher degree of integration in individual priority sectors. The Concept of CES represents an original model in itself, combining

elements of the EE and 'Swiss' models; that is, it unites both horizontal and sectoral approaches. The question remains open whether the model envisaged in the Concept is capable of providing a satisfactory solution. The policy-taker problem represents an important challenge. As the Chilean experience seems to be inapplicable to the complexity of the EU-Russian relationship, the experience of the EEA and EU-Swiss agreements shows that the policy-taker problem would be hard to avoid if Russia strives for a comprehensive integration with the EU.

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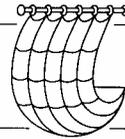
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