

Policy Department External Policies

THE FUTURE OF EU–RUSSIA RELATIONS:

A WAY FORWARD IN SOLIDARITY AND THE RULE OF LAW

FOREIGN AFFAIRS

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Executive Summary

The relationship with Russia has become a highly divisive issue for the EU. The crises affecting it are increasingly frequent and serious. The past twelve months alone have seen the relationship damaged by the war in Georgia, by Russia's decision to cut off gas supplies in the midst of a very cold winter, and by the stop-and-go of the negotiations for a successor to the Partnership and Cooperation Agreement. The future is likely to bring new tensions, as both Russia and its neighbours will be hit hard by the global economic crisis.

As this paper argues, the basis for a better EU-Russia relationship is neither confrontation, nor isolation, nor unconditional cooperation, but a policy based on *solidarity* and the *rule of law*.

- To improve its relationship with Russia, the EU must first put its own house in order. There have been too many internal divisions and arguments within the EU over the last few years and too many bilateral deals and disputes with Moscow. The EU should draw up a sufficiently detailed *doctrine of mutual accountability and solidarity*, offering Member States a promise of protection in the event of a clash with Russia whilst discouraging them from unnecessarily inflaming disputes.
- The EU-Russia relationship should be evaluated through a regular process of internal review.
- The new Eastern Partnership will be an important step towards building a long-term relationship with the eastern neighbourhood states. In the short term, there is an urgent need for practical solidarity with states that are weak, subject to Russian pressure and suffering acute economic difficulties.
- Rather than engaging in a geopolitical tug-of-war with Russia in the shared neighbourhood, the EU should work to promote European values of democracy, open markets, social cohesion and the rule of law against the very different model that Russia has on offer.
- The January 2009 gas crisis vividly demonstrated the problems caused by the lack of a functioning internal EU energy market. The EU should make the work on energy solidarity a priority over the next twelve months so as to help prevent yet another crisis next winter. National energy Action Plans should be drawn up, emphasising the need for interconnections, reserve supplies, energy conservation and energy storage.
- In the longer term, the EU should seek much greater transparency in the energy transit system of countries like Ukraine and promote a genuine internationalisation of the pipeline system.

***The Future of EU-Russia Relations:
A Way Forward in Solidarity and the Rule of Law***

Even before the war in Georgia in 2008, Russia had emerged as the single most divisive issue for the EU since the invasion of Iraq in 2003. This has left everyone worse off. EU disputes over Russia have reinforced mistrust and negative stereotypes between EU Member States, hampered the development of relations with the eastern neighbors as well as Moscow, and made the pursuit of collective goals - such as implementing carbon emissions cuts - more difficult. The escalating series of conflicts does not serve Russia's long-term interests either, as, from the Kremlin's perspective, a divided EU is both less predictable and less able to engage in strategic cooperation.

In the 1990s, EU Member States found it easier to agree on a common approach to Moscow. Their respective policies coalesced to form a strategy of democratising and 'westernising' a weak and indebted Russia. That strategy is now in tatters. Soaring oil and gas prices fuelled the development during Putin's second presidency of a more assertive Russia no longer interested in aligning itself with the west. The current economic crisis might change the tone of Russian foreign policy, but is unlikely to change its fundamentals, as these are based on a broad consensus amongst the ruling elite and now have a momentum of their own. Current trends are likely to persist for many years to come.

Since the 2004 enlargement, the new EU has found it much harder to agree on a common approach to the new Russia. At one end of the spectrum are those who view Russia as a potential partner that can be drawn into the EU's orbit through a process of 'creeping

integration'. At the other end are Member States that see and treat Russia as a threat whose expansionism must be rolled back through a policy of 'soft containment'.

The European Council on Foreign Relations (ECFR) has advocated a third approach. Starting with the 'Power Audit of EU-Russia Relations' published in November 2007,¹ and continuing with papers on the election of President Medvedev² and on the EU-Russia gas relationship,³ we have argued that the EU significantly underperforms in its relations with Russia because of the fragmentation of European power, including the power of the single market.

If the EU's long-term vision is to have Russia as a friendly and democratic neighbour on a continent where the last remnants of the Iron Curtain have been dismantled, it must build its partnership with Moscow on the same foundations that made European integration a success – stable rules, transparency and consensus, leading to mutually beneficial interdependence. These foundations will not build themselves. The Union must step up its efforts to agree on rules of engagement with Russia and to defend them. The biggest challenge will not be to devise new individual policies, but to come up with an overall framework that enshrines *solidarity* and the *rule of law* as the twin basic principles for dealing with Russia. EU member states have a basic choice to make: they either continue to pursue bilateral agendas (and all will ultimately lose out), or aim

¹ Mark Leonard and Nicu Popescu, 'A Power Audit of EU-Russia Relations', ECFR Policy Paper, November 2007, www.ecfr.eu/content/entry/eu_russia_relations/

² Andrew Wilson, 'Meeting Medvedev: The Politics of the Putin Succession', ECFR Policy Brief, February 2008, www.ecfr.eu/content/entry/wilson_medvedev_brief/

³ Pierre Noël, 'Beyond Dependence: How to Deal with Russian Gas', ECFR Policy Brief, November 2008, www.ecfr.eu/content/entry/russia_gas_policy_brief/

for greater unity. This latter option would require individual member states to make possibly painful concessions, but it would also enable them to exercise real influence over the nature of the relationship with Russia.

This paper argues that the EU cannot substantially improve its policy towards Russia or the eastern neighbourhood without putting its own house in order. It therefore looks first at how EU Member States might set up mechanisms to provide for greater EU solidarity. It then explores how solidarity and the rule of law can be applied in three policy fields: relations with Russia, the eastern neighbourhood and energy policy. In some cases, solidarity can be treated as a matter of routine; in others, it will need to be actively organised as an essential part of crisis-management procedures.

1. Defining Common European Interests

The unanimous adoption of the mandate for the new EU-Russia agreement and the resumption of negotiations after the war in Georgia have shown that Europeans broadly agree on a number of issues in their relations with Russia: the common eastern neighbourhood; the deepening of economic interdependence and energy co-operation; justice, judicial reform and home affairs; training and cultural matters, and the need for cooperation on strategic issues such as how to deal with Iran or climate change. But over and above their interests in specific areas, EU Member States share two fundamental goals: encouraging Russia to respect the rule of law, and EU unity.

Improving EU-Russia relations has to start with building greater solidarity within the EU. After a new and major crisis over gas supply in January 2009, the EU should use the heightened sense of urgency to unite around some shared principles and rebuild trust

amongst Member States. At the very least, greater clarity on when Member States can expect solidarity from one another will help ensure that the negotiations on the new EU-Russia agreement are kept insulated from increasingly frequent bilateral or third party disputes. More ambitiously, greater trust among Member States will help build a more positive relationship with Russia, because a more united EU will be better able to agree to cooperate with Moscow on issues ranging from energy to joint peacekeeping missions.

2. Getting the Law to Rule

The rule of law is central to the European project, and its weakness in Russia is a concern for all Europeans. Moscow has treated laws and international agreements as no more than expressions of power, to be revised whenever the balance of power changes. As a result, it has sought unilaterally to change the terms of commercial deals with western oil companies, military agreements such as the Conventional Forces in Europe Treaty, and international institutions like the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe.

Medvedev's ascent to the presidency, thanks to his overt emphasis on the rule of law as well as his apparent desire to modernise Russia, opens up the prospect of finding more common ground between the EU and Russia than in the late Putin era. But Russia is ruled by two men and two philosophies. Medvedev has yet to make a clear break with the past, but some early signs have been promising: judicial process has allowed the reopening of both the European University in St. Petersburg and the Russian branch of Internews, and the Deputy Chairwoman of the Federal Arbitration Court felt confident enough (in May 2008) to make a rare public attack on political interference direct from the Kremlin.

On the other hand, Russia's disproportionate military campaign in Georgia, its unilateral recognition of Abkhazia and South Ossetia (together with a continuous military presence in these territories, in contravention of peace terms negotiated by the EU), and the campaign against the OSCE mandate are all clearly negative developments. Even in judicial affairs the record is mixed, with parliament approving a new bill to limit jury trials for a number of cases under a vastly expanded definition of 'treason'. The economic crisis may also lead to increased centralisation of political power in Russia, as the authorities fear discontent and instability.

Russia risks being sued for breach of contract after the January gas row, as does Ukraine. Ironically, this has not deterred Russia from trying to invoke the Energy Charter Treaty to call on Ukraine to fulfil its transit obligations.

If Russia is indeed torn in two directions, there is scope for the EU to encourage it along the more positive path. EU Member States' different interests, history and geography will always generate differing approaches to Russia, and the long-term goal of a liberal democratic Russian neighbour seems increasingly distant. But Russia still prefers to act as a 'joiner' rather than a 'splitter': it likes to claim respectability via the membership of European and global 'clubs'. A more realistic mid-term goal, therefore, is to concentrate on strategies that encourage Russia to respect the rule of law as the price of its global integration.

Pushing for the rule of law means lobbying for real change without being overly prescriptive in determining how Member States engage with Russia. It would build on the leitmotiv Medvedev laid claim to at the beginning of his presidency. More importantly, it would make EU responses to Russia more consistent and underpin common

positions on issues ranging from trade and investment to human rights. An emphasis on the rule of law also facilitates the convergence of EU interests and the national interests of Member States. Finally, it would provide a more effective way of talking to Russia, prodding Moscow to respect its OSCE and Council of Europe commitments rather than lecturing it for failing to uphold 'common values'.

3. A Doctrine of Solidarity and Mutual Accountability

Although the EU is a far bigger power than Russia in conventional terms - its population is three and a half times the size of Russia's, its military spending ten times bigger, its economy fifteen times the size of Russia's - Europeans are squandering their most powerful source of leverage: their unity. On the one hand, *bilateral disputes* between EU member states and Russia have blocked EU-Russia dialogue. On the other hand, *bilateral deals* between some Member States and Russia have been perceived by others as undermining solidarity and trust. When Member States feel their voice is weak, they have been tempted to overuse vetoes in order to be heard (see tables).

The concept of solidarity between Member States forms the core of the European enterprise. It is central to both the Lisbon and Maastricht Treaties, yet it has failed so far to inform the EU-Russia relationship. A first step towards the effective implementation of solidarity would be the definition of a principle of 'mutual accountability' of Member States - a recognition that national foreign policies inevitably impact on other Member States, and that partners therefore need to inform each other about forthcoming and existing important policy initiatives. Second, solidarity must be available to all EU Member States regardless of their size or place on the map: Member States should have an ongoing discussion of

the circumstances in which solidarity applies and of the discipline it demands from each of them. Solidarity is the best principle for the EU's relations with Russia - and for many other foreign policy areas as well. Making it work requires agreement on a certain number of rules:

- *Solidarity* must be imperative whenever there is a threat to *vital national interests* affecting a country's economic well-being or national security, such as energy supply, the functioning of state institutions, or significant exports. Conversely, Member States should accept that a dispute must not be played out primarily for domestic political purposes.
- Other issues falling under the *solidarity principle* should be those with a *clear European dimension*, meaning they affect *more than one Member State* or arise in *areas of EU competence*, such as the ban of Polish meat. Solidarity should be invoked if there is a threat to common policies already agreed; it should also be exercised on important issues where EU competences are less clear-cut, such as extradition in the Lugovoy case or the cyber-attacks on Estonia.
- *Prior consultation*: some issues come out of the blue, but often tensions with Russia have been expected before they erupt. In these circumstances, Member States will have a much stronger case if they have given due notice, especially if they have warned that their own actions were likely to trigger Russian reactions. Member States should also be able to demonstrate they have attempted to solve a dispute with Russia bilaterally.
- *Protecting the rule of law*: the EU and Russia have made a number of binding legal and political commitments to each other in a variety of frameworks ranging from the four Common Spaces to

the OSCE and soon to include the WTO and OECD. Russian legal revisionism and frequent breaches of existing commitments are particularly damaging: they undermine the foundation of the relationship and affect vital interests on both sides. The relationship becomes unpredictable without a strong defence of existing commitments and legal contracts.

- *Proportionality*: Member States need to stick to a *properly graduated policy response* to a dispute. If Member States give up rights of immediate reaction by agreeing to a solidarity principle, the EU should be prepared to back proportionate common action if Russia does not respond to initial measures. Ultimately, this will be more effective than an accumulation of short-term and uncoordinated responses to any 'Russian problem'.

- *Mechanisms of Solidarity and Mutual Accountability*

Once they have worked out a political agreement on principles, EU Member States should explore mechanisms for implementing a solidarity policy. These could include the following:

(a) Solidarity Guidelines

The most important rules within the EU are often the unwritten rules. Whilst it may be impossible to agree straight away on a comprehensive set of principles, a discussion about them would be a useful starting point in itself. Where there is agreement about common principles of accountability, solidarity and proportionality, the Council Secretariat could be asked to draft guidelines - or even a code of conduct - setting them out. This document could then be adopted by the European Council. The mere existence of such an agreement would help make the EU a more predictable and stronger partner for Russia. Such guidelines should include a commitment to refrain from using the EU's strongest diplomatic

levers (vetoes or threats of boycotting events such as the Olympics) without first consulting with other member states.

(b) Information Sharing Mechanisms

Currently, the EU has several official means of acquiring and sharing information on Russia: the Working Party on Eastern Europe and Central Asia (COEST), the EU Commission Delegation in Moscow, and visits to the Russian Federation. But all of these have failed to meet the growing need for transparency and analysis. We recommend setting up three new forums that would provide for a real exchange of views rather than a routine restatement of positions:

(1) As there is a strong case for more regular high-level debates within the EU, the General Affairs and External Relations Council (GAERC) should hold a strategic discussion on Russia twice a year before the EU-Russia summits. This could be prepared by Political Directors and COEST capitals. It would enable Member States to cooperate better and to identify each other's grievances and 'red lines'.

(2) Energy is a particularly sensitive issue: a forum between energy industry leaders and EU political leaders (similar to the one established in France) would be a useful way of sharing information and expertise. The obligation to inform will not threaten commercial sensitivities if it is defined in broad terms and is confined to matters of public policy and third party effects.

(3) There are currently few formal channels - discounting the lobbying process - to elicit the views of the EU business community on the EU-Russia relationship. In Russia, the Russian Union of Industrialists (RSPP) is in close and permanent consultation with the

government. There is the EU-Russia Industrialists' Roundtable, but the EU side of it is underdeveloped. EU institutions and member states need to establish a much better dialogue with big European businesses operating in Russia.

(c) European Assessment Missions

The EU has often struggled to develop a common response when a crisis erupts, because Member States have failed to carry out a common analysis of the facts behind it. The EU should therefore consider sending ad-hoc Joint Assessment Missions of the EU Council and the European Commission to any Member State that finds itself involved in a serious dispute with Russia - or the EU should send such a delegation directly to Moscow when appropriate. Depending on the nature of the dispute, these might be high-level technical missions (during the Polish Meat row, the European Commission's inspection of Polish producers refuted the Russian 'health and safety' case and facilitated the solidarity that had been previously lacking) or more political teams.

The announcement of such a mission would send an important signal to Russia of EU solidarity in action: Moscow would know that the process has been taken beyond the information-sharing stage. The mission would establish facts, initiate parallel contact with Russia, provide common analysis and suggest common EU policy responses. The mission should report back to member states at GAERC.

(d) Review Mechanisms

A formal review process could also help strengthen the strategic dimension of the EU-Russia relationship; the current 'review' is largely a stock-taking exercise. Before every six-monthly EU-Russia

summit, the High Representative and the European Commission should present the European Council with a joint overview of recent bilateral disputes and their management under the solidarity doctrine.

Furthermore, the European Commission should prepare a broader review of EU-Russia relations for presentation to the European Council on the first anniversary of the Medvedev Presidency.

4. The Strategic Context of the EU-Russia Relationship

The EU will be able to build a more durable relationship with Russia once it has strengthened its own foundation. The negotiations on the new EU-Russia agreement provide the EU with an opportunity to advance its long-term goal of binding Russia into a rules-based framework. But EU leaders should supplement the new PCA mandate with an agreement among themselves on how to conduct of negotiations and which goals to aim for in the most sensitive areas:

- ***A Comprehensive and Substantive Agreement.*** The new EU-Russia agreement should not simply be a political declaration that sets out some general principles to be backed up by sectoral agreements. EU-Russia relations are fragmented and spread out across very different policy areas; they must take in diverse business interests and diverging engagements of individual member states. The EU should aim for a broad ranging and legally binding agreement with dispute settlement mechanisms that will streamline the relationship and provide clear rules of engagement in the long term. A comprehensive new contractual framework should make the relationship more predictable, strengthen the EU as

a negotiating partner and deter possible revisionism in the future.

- ***Re-institutionalising European Security.*** In June 2008, Medvedev called for “a legally binding treaty on European security in which the organisations currently working in the Euro-Atlantic area could become parties”. Europeans should treat this opening as a potential opportunity rather than a threat by responding to Russia with a common position. This process could be used to get Russia to commit to the recognition of existing borders in Europe, the creation of road maps and new mechanisms for resolving secessionist conflicts, and to the right of each country to join any security organisation it chooses. Such a process should set up the European Union, along with NATO, as Russia’s key interlocutors on security issues. There may be an opportunity to develop something akin to a Helsinki 2 process that deepens and strengthens mutual commitments. In addition, the EU should work harder to push a joint line in international organisations such as the UN, OSCE and Council of Europe.

5. The EU and the Neighbourhood

There is no question that Russia has undermined its pan-European Security proposals by simultaneously using the Georgia crisis to make its ‘sphere of influence’ strategy much more explicit. In September 2008 President Medvedev declared that “there are regions in which Russia has privileged interests. These regions are home to countries with which we share special historical relations and are bound together as friends and good neighbours.”⁴

⁴See: www.kremlin.ru/eng/speeches/2008/08/31/1850_type82912type82916_206003.shtml

The EU should respond by showing greater solidarity to the vulnerable states of the eastern neighbourhood. In opposing Russian attempts to create a 'sphere of influence', the EU should not strive to build an exclusive sphere of its own, but help the neighbourhood states build the capacity to make their own choices.

Although Russia talks of multipolarity and building its own sphere of influence in a multipolar world, it has been hit particularly hard by the global economic crisis and may not currently have the resources to back this strategy up. Gleb Pavlovsky has voiced the fear that "after seven fat years, Russia is heading for seven lean years"⁵. Nevertheless, current majority opinion in Russia holds that the country will come out of the current economic turmoil *relatively* stronger than the neighbourhood, and will be able to resume its sphere of influence project when the dust has settled in a year or two. As another interviewee claimed bluntly: "Ukraine is cheap, we can buy it".⁶ This projection could of course prove entirely wrong. Recession is a game of last man standing – of who emerges with relatively greater strength. It is not yet clear who the biggest winners and biggest losers will be; what is clear is that in many neighbourhood states, Russian influence will continue to be seen as a potential threat to sovereignty and territorial integrity.

As well as making a frank assessment of Russia's 'sphere of influence' ambitions, the EU needs to draw up a comprehensive inventory of other problems affecting states in the region. The EU must also reassess its basic attitudes towards these states; while it is reluctant to offer a membership perspective to the region, it continues to frame its policy in terms of the accession paradigm of

⁵ ECFR interview, Moscow, 20 October 2008

⁶ ECFR interview, Moscow, 21 October 2008.

the 1990s. The general priority in the eastern neighbourhood is the strengthening of independent nation-states rather than the moulding of potential EU member-states. If the primary reference point for the transition states of the 1990s was the recent memory of their fifty years as the 'kidnapped West' before 1989 or 1991, the states of the new neighbourhood should be seen as shaped by the more recent traumas of the 1990s: widespread economic turmoil and chronic political instability. This was a direct result of a difficult birth as a newly independent state, and – in some cases – as an entirely new nation. This collective past has led to a greater emphasis on sovereignty throughout the region.

The six Eastern Partnership (EaP) states,⁷ therefore, cannot commit unambiguously to the Copenhagen criteria: their statehood is weak, their elites are entrenched, corruption is widespread. They cannot commit unambiguously to NATO or the EU, because their security environment forces them to act in the manner of a 'collective Tito',⁸ balancing East against West to boost their resources. They cannot commit unambiguously to the *acquis communautaire*, so instead they adopt an 'à la carte' approach to the EU.

In response, the EU should itself adopt a much more 'à la carte' approach. The Eastern Partnership is a welcome advance, but it still amounts only to an 'ENP plus', while the European Neighbourhood Policy (ENP) itself is basically a model of 'accession minus'. The 1990s supply-side model of pushing the entire *acquis* across the board will not work for Armenia or Belarus. The EU must be more demand-sensitive and work to insulate each particular country from

⁷ Ukraine, Moldova and Belarus, Georgia, Armenia and Azerbaijan.

⁸ ECFR interview with Modest Kolerov, who was responsible for framing the Kremlin's 'Neighbourhood Policy' from 2005 to 2007, Moscow, 20 October 2008.

the pressure that Russia exerts on each particular state. The EU must do much more to help on soft security and on short-term crisis management, especially if NATO expansion is put on hold. It should prepare a catalogue of just how Russian hard *and* soft power operates in the region, and adopt specific counter-strategies. Russian modes of influence are indeed usually incommensurate with those of the EU, but that only increases the case for learning exactly how Russia operates – understanding what is meant, for example, by so-called ‘political technology,’ so as to prepare effective countermeasures.

The EU should also focus on economic weak spots in the region. The eastern neighbourhood states lack the fiscal resources for the kind of Keynesian stimulus packages already proposed or enacted by many EU Member States. The EU could and should therefore provide support to public works programmes. Additionally, local financial systems are made vulnerable by the relative strength of EU systems. The EU could help to shore up local banks and currencies, thus preventing them from becoming easy targets for speculators moving on from a stronger European core to its more vulnerable periphery.

In short, ENP should become ‘ESP’ – a European *Solidarity* Policy. A more unified Europe could be more honest about the weaknesses of neighbourhood states in the face of the reality of ‘Russian Neighbourhood Policy’. There should be less emphasis on accession or ‘accession perspectives’ as the only purpose of ENP or EaP, and more practical assistance on the ground.

The key to organising solidarity and dealing with Russia’s ‘sphere of influence’ policy is to differentiate much more between the individual states. The so-called ‘neighbourhood’, if it is a single entity at all, is much more diversified than the accession states of

the 1990s or even the Western Balkans of today. The EU should tailor its policies to different states or groups of states. It should focus on a strategy of accelerated integration with Ukraine and Moldova and enhanced cooperation with the countries of the South Caucasus.

Ukraine and Moldova

- Accelerate their inclusion into the European Energy Community. The EU should explore ways of bringing them into a close relationship with the newly-proposed ACER (Agency for the Cooperation of Energy Regulators), once both states have effective independent domestic regulators securely in place.
- Promote the internationalisation of the energy transit infrastructure (see the next section on energy).
- Help build electricity interconnectors.
- Develop road-maps for the establishment of visa-free travel between the EU and Moldova and Ukraine.

Ukraine

- Ukraine is the one country where support for judicial reform could have the most impact, given the setbacks it has suffered since the 'constitutional court war' in 2007.
- The EU should support non-military economic activity in Crimea, and open a European information centre in Simferopol. Sevastopol should be developed as a trading *entrepôt*. EU member states should open a Common Visa Application Centre in Crimea.
- As Ukraine's MAP prospects are fast diminishing, the EU should promote an OSCE or other instrument for use in case of threats to Ukraine's territorial integrity.

Moldova

- The High Representative for CFSP should engage in conflict resolution in Moldova as a flagship EU effort to stabilise the eastern neighbourhood and develop a more cooperative relationship with Russia. The EU should support Moldova's neutrality in exchange for the rapid withdrawal of Russian troops. This should happen before all-Moldovan elections (simultaneous elections in Transnistria and Moldova proper to new joint bodies).
- The EU should put pressure on Moldova to accept a local border traffic agreement with Romania.

Belarus

- Belarus has potentially the most to gain by participating in, or acting alongside, the Eastern Partnership. The EU should drive a hard bargain on expanding civic freedoms and liberalising the economy, linking the six months sanctions review and the proposed Neighbourhood Conference next April.
- Belarus could be considered for eventual inclusion in energy diversification programmes ('reverse flow' from the Baltic states, linkage to Odessa-Brody, helping Ukraine supply electricity to Lithuania to compensate for the promised closure of Ignalina).

Georgia

- EU efforts should be focused on post-conflict stabilisation and the gradual evolution of a 'Cyprus scenario' whereby Georgia is given the breathing space to focus on its own reforms and internal democratisation. This will require a strong and long-term EU peacekeeping presence on the ground and stronger conditionality for the post-conflict rehabilitation fund.

Armenia

- Armenia claims to have suffered \$670 million in lost trade through Georgia because of the war in August 2008. The EU should back the proposed road from Armenia to the Georgian port of Batumi through the Javakheti region. This would have the added benefit of diversifying the southern Georgian economy away from Abkhazia and South Ossetia.

Azerbaijan

- Azerbaijan has little interest in real legislative and regulatory harmonisation with the EU. The EU could offer more by opening up the Minsk process on Nagorno-Karabakh. Otherwise, the EU's strongest card is underpinning Baku's energy options west and east. The threats to the Baku-Tbilisi-Ceyhan oil pipeline are currently indirect. Russia, in the recent war, did not target the pipeline, but sought to undermine investor confidence. The EU should devise strategies to restore it. As well as firming up support for a trans-Caspian line announced in the second strategic energy review in November 2008, the EU should concentrate on enabling the Shah Deniz II consortium and European importers to out-route the Shah Deniz II gas via Turkey to Europe by whatever means most feasible – be it a realistic, scaled-down version of Nabucco or the Turkey-Greece-Italy pipeline.

6. Energy Policy

If the EU is to develop a more coherent and united Russian policy, it must also tackle the twin questions of European gas security and the political divisiveness of Russian gas. Even before the January 2009 crisis, what needed to be done was clear, but there is now greater political will to do it. The EU must make decisive progress

towards the creation of a single, well-functioning gas market; it should establish an EU Standard for the Security of Gas Supply that all Member States should meet, and it should press for the internationalisation of the gas transit system.

- *De-politicisation through market integration*

There are important differences between EU Member States. The EU's eastern national gas markets are, for the most part, small but highly dependent on Russia, whilst the bigger western markets benefit from greater supply diversity. The new Member States may import the highest percentage of Russian gas, but Gazprom's biggest clients are Germany and Italy, which together account for almost half of all Russian gas consumed in the EU. These national differences would not matter too much if there were a single European gas market. But the reality is that Europe's gas market is segmented along national lines. There is little cross-border trading within the EU, and when supply disruptions occur, we see very little reallocation of supply between national markets.

As a consequence, the highly dependent countries in Eastern Europe resent Germany, Italy or France's supposedly pro-Russian stance, which they largely ascribe to the strategic partnerships between Gazprom and importers in these countries. Conversely, Moscow's self-declared strategic partners in the EU resent the 'anti-Russian' approach of some eastern Member States and argue that cultivating good relations with Russia is essential to the EU's energy security. While the recent crisis may have begun to change some of these perceptions, the differences will not be easy to overcome.

Direct energy diplomacy with Moscow is unlikely to solve Europe's problem with Russian gas. Russia's policy towards Europe is

deliberately divisive; the politicisation of the gas relationship has been a central part of that policy since the early 2000s. The most effective response from the EU to the political challenge associated with its reliance on Russian gas would be to build a single, integrated and competitive gas market. Such a policy is all the more attractive as it can begin to be implemented over the next twelve months.

An integrated and competitive European gas market would:

- *Create the maximum possible degree of solidarity between European gas consumers.*
- *Improve collective supply security* by allowing the price mechanism to re-allocate physical supply across the entire market in times of supply or demand shocks.
- *Make Member States' bilateral relations with Russia largely irrelevant* to the conditions of access to Russian gas for consumers. An integrated market would 'Europeanise' bilateral commercial relationships with Gazprom, without the need for political involvement from the EU.

In short, market integration and the emergence of pan-European competitive trading would turn Europe into a single export market for Gazprom, making bilateral relations with Moscow much less critical to accessing Russian gas. Large importers of Russian gas in Western Europe would feel less incentive to accommodate Moscow politically, while highly dependent eastern European countries would feel less insecure. Europe would thus be better prepared to address Moscow with one voice.

There are no serious physical or legal barriers to a much higher degree of European gas market integration. The tools are provided by the second gas directive of 2003 and will be reinforced by the forthcoming third directive. The EU's main task now is political: key

Member States, especially Germany, must live up to the letter and spirit of the EU gas policy, reaffirmed in the 'Energy Policy for Europe' document, adopted at the European Council of March 2007, which put "a truly competitive, interconnected and single Europe-wide internal energy market" at the heart of Europe's energy policy.

- *An EU Standard for the Security of Gas Supply*

A well-functioning European gas market would, in itself, enhance supply security in the highly dependent new Member States. But there is also a strong case for specific gas security measures in those central and eastern European countries where supply is concentrated, market and regulatory institutions are underdeveloped or weak, and energy insecurity is a major determinant of foreign policy attitudes towards Russia.

The EU should be involved in helping Member States devise and implement these gas security measures. The directive from 2004 on security of natural gas supply offers a good conceptual and legal framework for Brussels to build upon. The task now is for the EU to define a real Security of Gas Supply Standard that all Member States should meet through measures and instruments of their choice.

The standard would create an obligation for several Member States to invest in gas security measures. Over the next twelve months, the EU should help them identify the most cost-effective way of doing this. The European Commission should also study how existing instruments like the Structural Funds and the European Investment Bank can be used to finance the required investments. The more integrated the European gas market, the cheaper it would be for any Member State to meet the European Standard.

Helping eastern European Member States to invest in gas and energy security would significantly increase Europe's ability to cope with large-scale or prolonged supply disruptions. It would also help alleviate some of the reservations towards market integration in Western Europe (especially in France and Germany), where some fear that increasing market solidarity without imposing a supply security standard would reward those countries that under-invested in energy security at the expense of the more cautious ones.

- *Internationalising the Gas Transit System*

The EU should revisit the idea of a tripartite consortium (Ukraine, Russia, EU gas companies and the EBRD) as a long term solution to the gas problem. Previous proposals have foundered on Ukrainian reluctance to create a Trojan horse for Russian influence; but Naftohaz Ukraïny is in financial difficulties and a stronger EU role may help counteract these fears. The consortium would function on a long-term lease, with ultimate ownership resting with Ukraine. It should be set up through a legally binding treaty with a clear dispute-settlement mechanism, and should embody high standards of transparency and supply reliability.

Table 1: Russian Bilateral Disputes with EU member states under Putin's Presidency (all tables are indicative rather than comprehensive)

<i>Country</i>	<i>Measures</i>
Bulgaria	Early renegotiation of gas contracts; threat of pork ban
Czech Republic	Missile defence; interruptions of oil supplies
Denmark	Arguments over Kaliningrad led to storm over exile Chechen congress; Diplomatic pressures; harassment of Danish companies and NGOs
Estonia	'Bronze statue affair'- movement of Soviet War memorial led to organised riots in Tallinn; Diplomatic pressures; cyber attacks; trade and transportation embargoes; discriminatory rail tariffs
Finland	Russian export taxes on timber
Germany	Oil supply cuts; Lufthansa cargo dispute
Latvia	Discriminatory rail tariffs; trade sanctions (canned sprats)
Lithuania	Mazeikiu refinery – possible deliberate sabotage of pipeline; oil blockade; discriminatory rail tariffs
Netherlands	Trade disputes (flowers, fruits and vegetables); renegotiation of contracts (Shell)
Poland	Meat and vegetable embargo
Sweden	Russian export taxes on timber
UK	Litvinenko affair. Diplomatic pressures; revision of contracts (BP and Shell); pressure on the British Council

Table 2: Bilateral Deals with Russia

<i>Country</i>	<i>Deal</i>
Austria	Gazprom takes stake in Baumgarten hub, January 2008; suggestion that Austria might join South Stream June 2008
Belgium	Gazprom and Zeebrugge Hub, 2007
Bulgaria	South Stream to Bulgaria, January 2008
Germany	Nord Stream, April 2005
France	Total and Shtokman, July 2007; Gaz de France and Gazprom LNG deal, January 2008
Greece	Southern branch of South Stream, April 2008
Hungary	Blue Stream, February 2007; South Stream February 2008
Italy	ENI allows Gazprom downstream access, 2006; ENI June 2007 South Stream; Prodi offer to head South Stream on hold April 2008; Libya, April 2008
Netherlands	Gasunie joins Nord Stream, November 2007
Slovakia	SPP and Gazprom, 2002; Slovrusgaz
Slovenia	Threat to bypass Austria with South Stream, April 2008
United Kingdom	Centrica deal on hold

Table 3: Solidarity shown

Estonia, 2007	EU Presidency statement, May 2007 (the EU took some time to go public).
UK, 2006, Nashi	EU démarche under the German Presidency, May 2007
UK, 2007, Litvinenko	July 2007 Joint Statement, 'disappointment at Russia's failure to cooperate constructively with the UK authorities'
UK, 2008, British Council	Statement by cultural institutions, EUNIC (European Union National Institutes for Culture)
Poland, 2006-7, meat ban	Combination of EU activity and new Polish government required to bring results
Lithuanian veto of Strategic Partnership talks, 2008	Vilnius persuaded to participate, after assurances that their concerns would be discussed.
Finland, timber	Russian tariffs still in place, may work out in WTO endgame