



KAZAKHSTAN AND EUROPE: TOWARDS A NEW PARTNERSHIP

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The signing of the new Enhanced Partnership and Cooperation Agreement between the European Union and the Republic of Kazakhstan offers a good basis for the further development of relations in a range of fields. It also provides a platform on which to deepen ties with other Central Asian countries. Notwithstanding, Astana's membership of the Eurasian Economic Union complicates relations with the EU. In this context, both sides need to work closely to balance relations and promote mutual interests.

On December 21, 2015, the European Union and the Republic of Kazakhstan signed the new Enhanced Partnership and Cooperation Agreement in the Kazakh capital, Astana. The new agreement replaced the original one that has been in force since 1999 and it is considered as a significant step for both sides to advance relations and strengthen political and economic cooperation. This development took place in a year when Kazakhstan joined to the World Trade Organization (WTO). In fact, the two agreements are deeply inter-locked: the Enhanced Partnership and Cooperation Agreement was signed only on condition and after Kazakhstan's accession on WTO. However, Kazakhstan is also a full member of the Eurasian Economic Union, which complicates its relationship with the European Union.

Enhanced Partnership and Cooperation Agreement

The European Union has many forms and shapes of partnership, cooperation and association agreements with third countries. Although they differ in content depending on the partner country, the structure of the chapters of these agreements are much the same, and they usually provide for the progressive liberalization of the trade. The EPCA concluded with Kazakhstan aims to strengthen political dialogue and to promote mutual trade and investments. However, it differs from other agreements in three aspects. First of all, it could be considered a relatively short agreement compared to recent Association Agreements: for example, the EPCA is 350 pages in length, while the

Association Agreement with Ukraine is about 2,000 pages long. Secondly, the EPCA is not a free trade agreement. Since Kazakhstan is a member of the Eurasian Economic Union (EEU), it is not in a position to conclude a free trade agreement with the EU. Lastly, the content of the EPCA is largely concentrated on Kazakhstan's international agreement with the WTO for trade in general but also on services (WTO GATS), international property rights (WTO TRIPS), energy (ECT), and labor affairs (ILO conventions). In other words, in the agreement there are a whole series of references to Kazakhstan's international treaties, which are taken as the basis upon which the EU and Kazakhstan could further enrich their relationship if they wish to do so.

The EPCA does not offer anything dramatically novel. It repeats Kazakhstan's international agreements and its obligations, which the European Union approves of and sympathizes with. The point is that the agreement is an open agenda, and given that the EU and Kazakhstan are significant trade and investment partners, there is certainly ground to think there will be developments that enrich the application of the agreement. Furthermore, the EPCA puts a strong emphasis on democracy and the rule of law, human rights, justice and home affairs and other key policy sectors. Regarding human rights, there is a concern within Europe: in particular, some human rights activists and NGOs in Europe are very skeptical, questioning the worth of opening a human rights dialogue with Central Asian countries, including Kazakhstan.

The EPCA is important also for EU-Central Asian relations, as it is the first agreement of its kind signed by the



European Union and a Central Asian country. As such, it may well have positive impacts on the EU's relations with other Central Asian countries. Interestingly, the signing event of the EPCA in Astana on December 21 was held alongside a meeting between the EU Foreign Policy High Representative and the foreign ministers of all five Central Asian republics (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan). From the EU's perspective, it is possible to envisage observe a broadening of the agenda from a Kazakhstan-focused one to a wider Central Asian agenda. This is related to the fact that the EU has recently decided to update its Central Asian strategy, which offers support and assistance to Central Asian countries on regional sustainable development (cooperation on energy, environment/water and socio-economic development) and regional security for development (integrated border management, the fight against drugs and crime, regional security).

Kazakhstan and the Eurasian Economic Union

In 2015, Kazakhstan became not only a member of the WTO but also the Eurasian Economic Union (EEU) which came into force at the beginning of the year. The EEU, consisting of Armenia, the Russian Federation, Belarus, Kazakhstan and Kyrgyzstan, provides for freedom of movement of goods, services, capital and labor in sectors determined within the Union. However, being a member of both the WTO and the EEU can cause problems, especially regarding external tariff levels. When Kazakhstan negotiated with the WTO, it agreed on a relatively liberal tariff regime. Nevertheless, after the introduction of the EEU, it is now obliged to raise its tariff levels to the higher level largely set by Russia. As Kazakhstan comes operationally into the WTO as a full member (since November 2015), it must still respect the lower tariff levels negotiated earlier with the WTO, which is inconsistent with the higher EEU levels. This conflict is to be resolved by Kazakhstan gradually reverting to the EEU levels, but this then raises issues of claims for compensation by other WTO members which are not yet resolved.

Meanwhile, there is a debate going on in Brussels regarding the EU's potential relationship with the EEU. However, Vladimir Putin's decision to use the customs union as the emblematic instrument hampers progress. From the legal and technical point of view, the idea of a free trade agree-

ment between the EU and the EEU remains controversial due first of all to WTO law; the EU takes the WTO law seriously (whereas Russia does not). As the WTO law states, a country shall not have free-trade agreement with another customs union or any non-WTO member, unless it is willing to extend that preferential agreement to the whole of the WTO. This is a very serious WTO constraint. The fact the Kazakhstan has now acceded to the WTO helps a lot on this point, but the question of Belarus remains, and it is not evident that Minsk takes its possible WTO accession seriously. From the political view, some suggest that an official relationship with the EEU could be a useful diplomatic gesture to facilitate Russian cooperation over Ukraine. However, it seems highly unlikely that this could drive a basic change in Russia's position on Ukraine, and notably whether it would be really ready to go the whole way with implementation of the Minsk-II agreement (i.e. for Ukraine to regain full control of its external border with Russia).

Nevertheless, there is an ongoing debate over the idea that Russia and the other EEU countries might negotiate their own bilateral EPCAs with the EU, thus following Kazakhstan, but going further in allowing for free trade. The choice of the customs union instrument for the EEU has excluded this possibility, tragically forcing Ukraine into an either-or choice. Economists can agree that it would be natural for Ukraine to have free-trade arrangements with both the EU and the EEU. The case of Armenia is a further glaring example, since it was dragged by the Kremlin into the EEU for political and security reasons, and forced as a result to drop its draft free trade agreement with the EU, whereas its clear economic interests are to have free trade with both the EU and EEU.

In reflecting on these different theoretical options, it is instructive to look at developments in Georgia. There is considerable enthusiasm in Georgia about growing Chinese business interest in the country as a location for investments to market sufficiently manufactured Chinese-origin products intended for the EU market. This is similar to the Kazakh argument for investments into Kazakhstan to access the Russian market. However it is unfortunate that because Kazakhstan is locked into the Eurasian customs union instead of a good free trade agreement with Russia, it is unable to make itself – like Georgia – an attractive destination for investments to benefit from free trade with the EU.

Finally, there are some interesting new developments regarding the Silk Road – the efforts to revive the east-west trade corridor across Eurasia. First of all, China has applied



to join the European Bank for Reconstruction and Development (EBRD). This is likely to happen, and it could be a very helpful initiative to link transportation routes between Europe and China. Secondly, China, Afghanistan, Iran, Turkey and the European Union all have the same width of railway gauge. Kazakhstan, occupying one third of the way between Beijing and Berlin, has the narrower Soviet gauge. But if Kazakhstan could find a way to avoid the need to change gauges or at least find less time-consuming ways of switching cargoes at its borders between the different rail gauges, its geographical position could give Kazakhstan an enormous advantage regarding the facilitation of trade between China and the EU. Third, the international sanctions on Iran are expected to be lifted soon, and for the EU's planning of transport corridors the idea of a land route across Kazakhstan, Turkmenistan, and Iran to Europe now becomes a real option. The strategy of multiple Silk Roads is certainly preferable from the EU point of view.

Conclusions

Kazakhstan is the key partner of the European Union in Central Asia. Now that the EPCA instrument is in place, both sides will work on strengthening their cooperation, not only regarding trade and investments, but in many areas. However, the fact that Kazakhstan is locked into Eurasian Economic Union blocks any commitment regarding further liberalization of trade and puts Kazakhstan in a complicated position. In this context, EU and Kazakh leaders could work on several issues. A first priority is to seek to respect the tariff levels negotiated with the WTO and show Kazakhstan's commitment to that. Although Kazakhstan borders China and Russia, the EU is its biggest trading partner. Therefore, it is important that Astana respect WTO laws, which the EU takes seriously. Secondly, Kazakhstan could contribute to the EU's Central Asian strategy by helping Brussels broaden its agenda to other Central Asian Republics. The EPCA could open the way for new enhanced PCAs with other countries in the region. Third, the EU could help Kazakhstan in its efforts to balance its relationship with both the EU and the EEU. As the second most important member of the EEU, it is obviously beneficial for Kazakhstan to have decent economic relations both with the European Union and the Eurasian Economic Union. Finally, both sides could work to use Kazakhstan's geographical advantage to become an essential part of the transcontinental transportation routes. Being in the middle

of the transit route between China and Europe could help Kazakhstan's aim to be a key actor in global trade.

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