A Single Economic Space
From Lisbon to Vladivostok

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The idea of a single economic space between Vladivostok and Lisbon goes back quite some time and was not only expressed by Russian President Vladimir Putin and German Chancellor Angela Merkel, but was also mentioned in such documents as the recent position paper of the German-Russian Chamber of Commerce.

However, in reality the idea never came into action, and there is currently a lack of a more detailed plan of how such a single economic space would operate. The most probable reason for this is that most participating countries have differing understandings of the fundamental principles of such a project.

The motivation behind the idea appears to be quite simple:

- Russia and its neighboring countries possess energy and natural resources and are in need of technology.
- The EU needs natural resources and possesses the relevant technology.

However, in practice, this would be somewhat difficult to accomplish: the Eurasian Economic Union (EEU) has much higher customs rates than the European Union, and the state budgets of Russia and other EEU countries depend to a far greater degree upon customs revenue than those in Western Europe.

A single economic space is based on more than just free trade, and should first and foremost focus more on other areas of common interest. These main areas largely surround non-tariff barriers, such as product certification, legal regulations on court rulings, indirect taxes such as cross-border VAT, visa regulations, etc.

The single economic space would comprise of not only the EU and the EEU, but would involve other countries, in particular, Ukraine.

A symbol of the opportunities between Vladivostok and Lisbon is the single electric plug for the area of over 10,000 kilometers from the Pacific to the Atlantic. It is up to the decision makers in Europe and Eurasia to realize these opportunities.

Kind regards,

Ulf Schneider  
Managing Partner  
SCHNEIDER GROUP
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The Idea of a Single Economic Space from Lisbon to Vladivostok: A History

Proposition by Vladimir Putin

The idea of a single economic space between Lisbon and Vladivostok has generally been generally approved by several statesmen from the countries that would potentially be involved in this project.

The idea was officially presented by Russian Prime Minister Vladimir Putin, in a guest editorial for the German daily newspaper Süddeutsche Zeitung. On November 25, 2010, he stated that while striving for diversification and modernization of its economy, Russia is still mainly an exporter of fossil fuels and commodities. On the other hand, the EU will also face challenges in the near future as its economy has been constantly deindustrialized, with all production capacities moving to other emerging countries that will soon also have the capabilities of outperforming the EU in terms of R&D and technology.

In order to cope with these challenges, Mr. Putin proposed that Russia and the EU should combine their potential and individual advantages by entering into an economic symbiosis, complementing one another, increasing overall competitiveness, and thus stimulating mutual growth. He called this partnership “a harmonious economic community from Lisbon to Vladivostok”. Such a community “would create a common continental market, whose market volume would equal trillions of euros”.

In order to achieve this aim, Mr. Putin envisioned an approach that not only foresees the creation of a free-trade zone between Russia and the EU, but also more advanced integration measures such as a subsequent harmonization of laws and customs codes in the EU and Russia as well as the elimination of bottlenecks in the pan-European transport infrastructure for enhancing logistics. The result of this process would not only be the creation of a huge area without any barriers to trade, but also coordinated industrial, ecological, and energy policies. As an accompanying measure, Mr. Putin also suggested deepening EU-Russia relations on an interpersonal level by increasing academic and professional exchanges between both sides.

A precondition for this is the abolition of the visa regime between Russia and the EU, which Mr. Putin called the most disruptive factor impeding personal and business contacts. In his view, the abolition of the visa regime should not be the final, but rather the first step of a real integration process between Russia and the EU.

However, although Putin’s proposals received extensive media coverage and were controversially discussed in political and academic circles in Russia and the EU alike, they were neither included in the EU’s official political agenda nor promoted by the media during the following years.
Revival of the Concept in the Course of the Ukraine Crisis

Surprisingly, public discussion of the idea re-emerged during the worsening Russo-European relations amid the Ukrainian uprising in winter 2013/2014, Russia’s subsequent reunification with the Crimea and the civil war in Southeastern Ukraine, which led to an imposition of EU sanctions against Russia. Understanding the importance of restoring EU-Russia relations, several pragmatic policy-makers on both sides started to revive Putin’s idea from 2010 as a way out of the crisis that would benefit all parties. Since then, the idea has been discussed as a single economic space comprising not only the EU and Russia, but also the whole Eurasian Economic Union and the countries that lie in between, such as the candidates for EU membership, the EFTA member states, Moldova, Georgia, Azerbaijan and, first and foremost, Ukraine. Some of these potential members and their macroeconomic indicators from the year 2014 can be seen in Figure 1 below.

For example, Tatiana Valovaya, Minister of the Eurasian Economic Commission for Integration and Macroeconomics, explained in July 2015 how such an all-embracing economic space could solve the Ukrainian crisis. According to her analysis, the conflict was caused by forcing Ukraine to choose between integrating exclusively with either the EU or the Eurasian Economic Union during the negotiations on the association agreement with the EU. If there had already been an existing free-trade zone between the EU and the Eurasian Economic Union, Ukraine wouldn’t have been faced with such a dilemma since the country could have been economically integrated with the EU as well as with the Eurasian Economic Union without any tensions. Therefore, Ms. Valovaya deems a comprehensive free-trade zone between the EU and the Eurasian Economic Union as a crucial factor for a peaceful and sustainable solution to the conflict in Ukraine. From the EU side, the idea was put forward by German chancellor Angela Merkel during the World Economic Forum in Davos in January 2015. She stated that there is a definite possibility for cooperation between the European Union and the Eurasian Economic Union in a common trade area after a certain level of stability has been achieved on the basis of the Minsk Agreement. According to Ms. Merkel, this common trade area can perhaps resolve the “association agreement difficulties between the EU and Ukraine”, but that the precondition is sustainable peace in Southeastern Ukraine with a full regaining of control over the Russia-Ukraine border by the Ukrainian government.

The German chancellor confirmed this point of view in a statement she made while visiting her electoral district in April 2015. She underlined the fact that although having “political problems” with Russia at the moment, the long-term goal for her country is “a large free-trade zone, also including Russia”. She also explained that the association agreements the EU has signed with Ukraine and Moldova were not intended as a threat against Russia, but were instead concluded “in order to, on a step by step basis, achieve a single economic space – as Vladimir Putin put it – from Vladivostok to Lisbon.”

<table>
<thead>
<tr>
<th></th>
<th>European Union</th>
<th>Eurasian Economic Union</th>
<th>Ukraine</th>
<th>Moldova</th>
<th>Georgia</th>
<th>Azerbaijan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>508 mn.</td>
<td>183 mn.</td>
<td>43 mn.</td>
<td>3.3 mn.</td>
<td>3.8 mn.</td>
<td>9.5 mn.</td>
</tr>
<tr>
<td>GDP (Nominal)</td>
<td>$18,500 bn.</td>
<td>$2,200 bn.</td>
<td>$134 bn.</td>
<td>$8 bn.</td>
<td>$16 bn.</td>
<td>$74 bn.</td>
</tr>
<tr>
<td>GDP (Nominal) per capita</td>
<td>$36,400</td>
<td>$12,000</td>
<td>$3,100</td>
<td>$2,400</td>
<td>$4,200</td>
<td>$7,800</td>
</tr>
</tbody>
</table>
And Vladimir Putin himself, who returned to Russia’s presidential office in 2012, also retained his idea from 2010, mentioning it, for instance, at his highly regarded speech at the United Nations General Assembly in September 2015. In his speech he highlighted that, disregarding the conflicts with the West, Russia still advocates the harmonization of regional economic projects and favors the “integration of integrations” principle, i.e. the joining of two already integrated economic regions. Hence, Russia continues “to see great promise in harmonizing the integration vehicles between the Eurasian Economic Union and the European Union”.

Conclusion
Similar contributions to the discussion on this topic were made throughout 2015 by several other Russian and European politicians, such as the Russian Foreign Minister, Sergey Lavrov, the German Minister for Economic Affairs and Energy, Sigmar Gabriel, and the High Representative of the European Union for Foreign Affairs and Security Policy, Federica Mogherini.

Therefore, it can be concluded that, notwithstanding the current crisis in Russia-EU relations and the lack of mutual understanding between Russia and Ukraine, this groundbreaking idea is once more being considered, and public discussion about it has gone through a particular resurgence in the last months. This shows that many decision makers, both in Russia and the EU, are seeking a way out of the deadlock in their relations, and that joint efforts to establish a single economic space could put them on the right path to achieving this goal.
Free-Trade Areas

Although not the only element of a single economic space from Lisbon to Vladivostok, a comprehensive free trade area is considered to be at the very core of this project, as Vladimir Putin and other politicians from various countries have emphasized on many occasions. This article will tackle the fundamentals of free trade areas.

Definition

A free trade area is a geographical area within which there are no significant obstacles to free trade, created when at least two countries or unions of countries sign a free trade agreement in order to eliminate tariff and non-tariff trade restrictions. Customs tariffs and quotas between these countries or unions of countries are reduced or even abolished, while technical standards and other non-tariff barriers are at least partially harmonized. Additional elements, such as a permanent investor-state dispute settlement mechanism (ISDS) can be included if desired by the members.

On the other hand, it does not include a common external customs code, meaning that each member state retains its own individual customs policy for trade with other countries. This aspect marks the difference between a free trade area and a customs union with a single customs code, which would be the next step of economic integration.

The difference between a free trade area and a preferential trade area, which is the precedent economic integration step, is the fact that a free trade area reduces trade barriers to all products being traded between its member states, while a preferential trade area applies only to certain products or product groups.

Consequentially, it can be determined that a free trade area is the second stage of international economic integration, lying between a preferential trade area, which is the first stage, and a customs union, which is the third stage. The fourth stage would then be a common market that not only comprises a free-trade area and a customs union, but includes all four freedoms of movement of goods, services, persons and capital.

A typical problem within free trade areas is tariff evasion, which occurs when a member state benefits from the lower customs rates on imports of another member state. This is done by importing goods from a third country into the member state with the lower customs rates, and then re-exporting them to the own state under the customs-free provisions of the free trade area. To avoid this, the member states use a system of certification of origin for goods, which involves minimum requirements for the quantity of local material inputs and local
processing when adding value to the goods. Only goods that meet these requirements qualify for the special treatment stipulated in the free trade area provisions.

There are numerous free trade areas across the world, we outline three of these below; two of which have already been established and one of which is still in the stages of negotiation.

**AFTA**

The ASEAN Free Trade Area (AFTA) is a typical free trade area, it is comprised of the ten member states of the Association of Southeast Asian Nations (ASEAN): Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. The AFTA agreement was signed on January 28, 1992, in Singapore. ASEAN itself was inaugurated in Bangkok on August 8, 1967.

The core feature of the AFTA is its Common Effective Preferential Tariff (CEPT) scheme that summarizes AFTA’s tariff reduction or elimination. As part of this scheme, AFTA members have to apply a customs tariff rate of 0-5% for all goods originating within ASEAN (with a few exceptions). AFTA uses a rule of origin that states that the CEPT only applies to goods originating within ASEAN. It stipulates that the local ASEAN content of these goods must be at least 40% of their customs value in order to qualify. This local ASEAN content can be cumulative, i.e. the combined value of inputs from various ASEAN members must be at least 40%.

Although the AFTA is being monitored by the ASEAN Secretariat, there is no permanent dispute settlement institution since the ASEAN Secretariat has no legal authority for adjudication and enforcing compliance with AFTA rules. Therefore, disputes are resolved either bilaterally through informal means, or through establishing a panel of arbitrators, called...
SEOM (Senior Economic Officials Meetings). But as SEOM decisions require consensus among all AFTA members, and since both parties to the dispute are participating in the SEOM, such a consensus can only rarely be achieved. This discourages AFTA members from invoking the SEOM, and often they seek dispute resolution elsewhere, such as the WTO or even the International Court of Justice.

NAFTA

The North American Free Trade Agreement (NAFTA) was signed by Canada, Mexico, and the United States on December 17, 1992. After being ratified by each nation, it came into force on January 1, 1994, creating a comprehensive trilateral free trade area on the North American continent.

The implementation of NAFTA on January 1, 1994, was marked by the immediate elimination of customs tariffs on more than one-half of Mexico’s exports to the US and more than one-third of US exports to Mexico. Within the following 15 years of the implementation of the agreement, the remaining US-Mexico tariffs were eliminated, while most US-Canada trade was already duty-free prior to NAFTA. As with almost all free trade areas, agriculture was and still is a controversial topic, and was the only section of the provisions that was not negotiated trilaterally; but instead, three separate agreements were signed between the NAFTA parties.

NAFTA has not only eliminated tariff barriers to trade, but it also seeks to eliminate non-tariff barriers by harmonizing, for example, product safety and public procurement standards, and it has provisions that should protect the intellectual property rights of the traded products.

In addition, NAFTA also has two side agreements: the North American Agreement on Environmental Cooperation (NAAEC) and the North American Agreement on Labor Cooperation (NAALC). The first of these agreements created the trilateral Commission for Environmental Cooperation that assesses the potentially negative environmental impacts of NAFTA, and the second led to the formation of the Commission for Labor Cooperation that fights against infringements of workers’ rights in the course of liberalized trade, particularly in Mexico, where many factories import components from the USA under NAFTA provisions for processing and subsequent re-export back to the USA.

For the settlement of disputes between the member states over the application and interpretation of NAFTA provisions and for the settlement of investor-state disputes there is an independent adjudication body consisting of experienced judges from all three NAFTA member states.
The Transatlantic Trade and Investment Partnership (TTIP) is an agreement currently being negotiated between the USA and the European Union that is expected to create a comprehensive free trade area between both sides of the North Atlantic. As the US and EU together represent 46% of global GDP, 33% of world trade in goods and 42% of world trade in services, a free trade area between the two would represent the largest regional free trade agreement in history.

The first discussions on a free trade area between the US and the EU began in the 1990’s, but it was only in February 2013, when a group of high-level experts from both parties recommended the launching of negotiations for a free trade agreement. On February 12, 2013, US President Barack Obama called for such an agreement, and on the following day EU Commission President Jose Manuel Barroso announced that negotiation talks would commence. The first round of negotiations between working groups from both sides took place in July 2013 in Washington, D.C. Since then, ten more rounds of negotiations have followed, these were held in week-long cycles, alternating between Brussels and the USA, with the latest one taking place in October 2015 in Miami and the next one scheduled to be held February 2016 in Brussels. The US and the EU hope to conclude their negotiations before the end of 2016 so that the final agreement can be ratified in 2017 and enter into force in 2018.

Since customs tariffs between the US and the EU are already fairly low in most trade areas, the elimination of barriers to trade in the form of tariffs will have a lower importance in the TTIP than in other free trade agreements. Instead, the reduction of non-tariff barriers by harmonizing technical rules and standards, and also by removing overlapping regulations, is the main focus of the
TTIP negotiations as these are the areas that are expected to account for the majority of potential economic gains from the agreement.

Accordingly, the TTIP will comprise of extensive provisions subdivided into three broad areas: “market access”, “industry specific regulations”, and “broader rules and principles and modes of cooperation”. The first area includes chapters on general market access for goods and services, and aims at removing custom duties on goods and restrictions on services. The provisions on goods also include rules of origin that, as mentioned above, are a crucial part of many free trade areas. Other parts concern the financial markets of the US and the EU, limiting laws that governments can pass to regulate or publicly run insurance and banking. Another noteworthy part foresees the free movement of business managers and other employees for temporary work purposes between all TTIP members. However, at the same time it is stated that no more general free movement of citizens is planned.

The second area on “industry specific regulations” consists of provisions ensuring regulatory coherence and the elimination of technical barriers to trade by harmonizing technical regulations and standards in the following industry sectors: textiles, chemicals, pharmaceuticals, cosmetics, medical devices, cars, electronics and IT, machinery and engineering, pesticides, sanitary and phytosanitary measures.

The third area involves more specific standardization provisions, covering topics such as energy and raw materials, labor and environment, public procurement, intellectual property, competition policy, anti-dumping practices, and many more. An interesting part of this area is the protection of geographic trademarks on certain food products such as Parmesan cheese and Parma ham, so that no US food producer will be allowed to name his products after these European regions after TTIP comes into effect.

TTIP also comprises of permanent bodies for dispute settlement between member states as well as for investor-state dispute settlements, with the latter allowing companies to bring immediate legal actions against governments at a non-state court of arbitration when their rights are breached. However, this mechanism is still subject to revisions as it evokes many concerns from the EU’s citizens who fear that such a provision would endanger the sovereignty of the TTIP member states.
The European Union and the Eurasian Economic Union – a Comparison

Do the EU and the EEU differ so vastly in their structure that any attempts of comparison are futile? At first glance it might look that way; however a closer look can reveal some common features. Firstly, both are based on the idea of integrating the economies of different countries in a specific region. Next, both the supranational decision-making bodies of the European Commission and the Eurasian Economic Commission are based on a majority voting system that more or less grants countries, in most cases, veto rights. For instance, this means that Russia and Belarus cannot overrule Kazakhstan.

Additionally, the EU and the EEU are based on the same four principles: the free flow of goods, services, capital and people. Also, their fiscal provisions with regard to maximum public debt and annual budget deficit are defined very similarly, as demonstrated in Figure 2.

While we can more or less clearly determine the starting date of the EU (1951 with the European Community for Coal and Steel), it is more difficult to define the roots of the EEU. The Customs Union of 2010 is definitely the predecessor of the EEU, although it comprised only Belarus, Russia and Kazakhstan, while the EEU now also includes Kyrgyzstan and Armenia. The Eurasian Economic Community, which also included Tajikistan and was formed in 2000, or the Commonwealth of Independent States (CIS), which included Ukraine and other countries, could be considered as earlier attempts to bring a number of the ex-Soviet countries closer together again.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>EEU (macroeconomic criteria for all members)</th>
<th>EU (first three of the five Euro convergence criteria/Maastricht criteria)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget deficit</td>
<td>No more than 3%</td>
<td></td>
</tr>
<tr>
<td>Debt-to-GDP ratio:</td>
<td>Must not exceed 50%</td>
<td>Must not exceed 60%</td>
</tr>
<tr>
<td>Inflation rate</td>
<td>Inflation rate of the member state with the lowest inflation rate may be exceeded by other member states no more than 5%</td>
<td>Arithmetic mean of the inflation rate of the three best performing member states in terms of price stability may be exceeded by other member states by no more than 1.5%</td>
</tr>
</tbody>
</table>
The EU, however, goes much further than the EEU and not only does it have a single currency, the euro (although not used by all countries), but it also began the process of political integration, such as the Common Foreign and Security Policy and open borders (technically the Schengen-Agreement is not an EU-agreement, but is an EU initiative). Figure 3 gives an overview of the integration steps of the EU and the different approaches in Eurasia.
What is a Single Economic Space?

Several different politicians in the East and West have expressed the idea of a single economic space, although it was sometimes reduced to the idea of a free trade zone. However, free trade is just one aspect, and is in fact much more difficult to achieve than the other aspects of a single economic space. As previously mentioned, typically there are the so-called ‘four freedoms’ within a single economic space:

- Free flow of goods
- Free flow of services
- Free flow of capital
- Free movement of people

The European Union (at the time the European Communities) initiated the project of the single European space (Single European Act) in 1986. This was much later than the agreement on a customs union with the elimination of all customs barriers within the European Communities of 1968. Similarly, the Eurasian Economic Union of Belarus, Russia, Kazakhstan, Kyrgyzstan and Armenia, was first a customs union (created in 2010) and then in 2015 became the Eurasian Economic Union that now includes the abovementioned four freedoms.

This being said, things might be different with the idea of a single economic space from Vladivostok to Lisbon. Free trade does not look realistic in the midterm, as the importance of customs revenue for the state budgets is very different between the EU and the EEU. The average import customs tariff for the EU is 2-3%, while for the EEU it is 5-6%, and thus plays a far more important role in the EEU. This also does not take into account import VAT, which also plays a larger role in the member countries of the EEU than in the EU. It is particularly important to note Ukraine’s average import tariff of 3-4%.

Beside the import tariffs in several EEU countries, the export tariffs on natural resources also play a major role, for instance oil and gas deliveries from Russia to the EU.

However, before implementing free trade, other areas of agreement might be just as important for enhancing trade and business generally between different countries. The following examples could be included within a single economic space:

**Certification and Technical Norms**

For many Western, and also Eastern companies, the regulations for certification (mainly problematic for the East-West Trade) and technical norms are a big obstacle to exporting. A harmonization of standards between Vladivostok and Lisbon, or even a mutual recognition of certificates and technical norms of the individual countries, would significantly reduce this threshold, especially for SMEs. Furthermore, such a standardization would give all involved countries the possibility to eliminate superfluous bureaucratic regulations. The European Union can be regarded as an example of this as it was
largely successful with the project of the European common market in the mid-eighties (at that time still EC), since the member countries agreed on recognizing the certification of goods in other EC member countries and simultaneously in all other countries while keeping several minimum standards. A similar method could be imagined for the countries located between Vladivostok and Lisbon.

**Tax Harmonization**

In both the EU and the EEU there has been a systematic harmonization of indirect taxes, in particular of VAT. It is also helpful that the VAT system in the Russian-speaking countries is very similar to the one in the EU. But it should also be noted here that although there has already been a high degree of harmonization of the tax systems, the tax rates have not been harmonized as of yet.

The largest task of the EEU and the Ukraine is to design a neutral cross-border service settlement between companies, namely to ensure the principle of neutrality of the sales tax in international service transactions. And there are also still many barriers to the import of goods regarding VAT in the Russian-speaking countries.

**Jurisdiction**

A standard question when exporting from the West to the East or vice versa is which jurisdiction one should choose. By choosing the jurisdiction of one’s own country, one can be sure of obtaining their rights in disputes, but this verdict will not be recognized in other countries. However, by choosing an international arbitration tribunal, one can avoid this disadvantage, although it should be noted that in litigation involving a low disputed sum, costs and expenditure can explode rapidly and be in an inappropriate relation to each other. An efficient judicial system also includes court decisions that are being made rapidly. In this area, the German jurisdiction could learn from the successes of the Russian.

**Research and Science**

There are top-scientists in the Russian-speaking countries whose ideas and research results are not practically implemented in their industry. Therefore, although there are already many institutes in the West that contribute to practically oriented research, the creativity of Russian researchers can further increase this potential and release synergy effects. A single economic space with a strong scientific exchange would thus be beneficial to all parties.

**Visa Issues**

In a single economic space it should be possible for all people to move between countries without any visas. Examples of a unilateral abolition of the visa regime for citizens of Western countries in the Ukraine and Kazakhstan have demonstrated that there are many positive effects not only for the economy, but also for the entire relationship between peoples and their mutual understanding. In this respect, the EU or the Schengen states should make a move towards their Russian-speaking partners.

Different countries may also have differing priorities when it comes to the creation of a single economic space, and it is important to look at overlapping areas as well as the key areas that differ from country to country.

The general impression is that Western Europe might view a single economic space more as being driven by common regulations and ruling. The role model for this approach is the Single European Act of 1986 as mentioned above. Russia, however, might understand it as a project driven idea and a know-how transfer from West to East for the provision of natural resources in return.

The real challenge might be to bring these two different approaches together, so that they create a synergy and do not hinder each other.

A single economic space requires substantial alignment and a common understanding of how regulations should be implemented throughout the entire territory. There are different concepts for bringing regulations together, such as harmonization of regulations, regulating via minimum standards, or the recognition of each other’s regulations and or standards. In reality, different approaches are typically used for different areas.

The concept of recognition of country of origin (mutual recognition) means that if, for instance, a certain good receives approval in one country, it is automatically recognized in all other countries, even if it is not in line with local standards. This concept became prominent with the Single European Act of 1986, and it was, in fact, a major motivation for moving the Act forward. It is also worth noting the historic court decision of the European Court of
Justice prior to this (in 1979). The case was about the French liqueur Cassis-de-Dijon, the sale of which the German authorities wanted to block in Germany since the alcohol content was lower than the minimum 25% mark for liqueurs that was defined by the German authorities. The import and sale of the liqueur was, however, permitted by the European Court of Justice.

Harmonization of regulations initially sounds like the most reasonable of the concepts, however very often it is not possible for all related countries to agree on common standards. In the EU, harmonization was reached for the general principles of VAT, as well as for defining for which goods or services a reduced tax rate could be applied. However, the member states could not and do not want to agree on unified tax rates. While it makes sense to have such harmonized taxation principles in order to avoid double taxation or no taxation at all, there has tended to be more discussion on other regulations that are subject to full harmonization, for example the strict requirements, in terms of necessary ingredients and their quantities, in order to be able to call a product ‘chocolate’ within the EU.

Minimum standards are often considered as a compromise when no agreement can be reached, and indeed are often implemented. Typically, minimum standards are agreed upon in the area of environmental regulations or social security standards. However, at the same time, minimum standards can also lead to competition on higher standards, for instance in terms of product security and quality. The CE sign for technical devices of the EU is an example of such minimum requirements. Minimum standards are also applied by the EU for the VAT rates that member states may use.
Taxation in an Economic Area

Since taxes generate the income for the state budget, levying taxes is a core part of national sovereignty. Due to this reason, neither the member states of the EU nor the member states of the EEU have delegated the right to introduce new taxes to the EU or EEU respectively. So far only the member states are entitled to decide what will be taxed and at what rate. A more detailed look at EU law reveals that it already has had a significant impact on the tax law of the member states, suggesting that harmonization is on the way.

Taxes also have a significant impact on the economy and can influence the decisions made by corporations and individuals in a common market. One of the core goals of the EU is to develop a common market with the free movement of goods, services, people, and capital, in part by eliminating all forms of tax obstacles for cross-border economic activity. In order to achieve this goal, authority has to some extent been transferred to the EU on tax matters.

EU Impact on Taxes

Regardless of their final goals or motivation, any EU action in taxation is guided by two principles:

- **Subsidiary:** The EU action must achieve a better result than an action on the member state level.
- **Proportionality:** The EU action must not go beyond what is necessary to address the problem.

Furthermore, any and all actions in taxation require the unanimous decision of all representatives of member states in the Council of the EU.

**Indirect Taxes**

Especially in the area of indirect taxes (VAT and excise duties on mineral oil, tobacco, and alcohol), the EU has significant impact on the tax law of the member states. In this area the EU is tasked with harmonizing such taxes in order to remove trade barriers. This is stipulated in the Treaty of the Functioning of the European Union. The harmonization of VAT in the EU had already started in 1967 with the introduction of a common VAT-system. In 1977, the tax base for VAT purposes was unified, and since 1991 EU tax law has stipulated that the standard VAT rate shall be at least 15%. And in 2007 the Directive on the VAT system was introduced, giving detailed guidance for the implementation of national VAT law.

**Direct Taxes**

The EU’s impact on direct taxes has been lower: there is no explicit legal basis for the harmonization of direct taxes within the EU. But still, the EU is entitled to issue directives to harmonize legislative provisions of the member states if necessary for the common market to function.
In fulfilling this task, the EU has issued a large number of directives, including:

- Merger Directive: this states that a merger of two companies in EU-member states shall not result in taxation of hidden reserves.
- Interest and Royalties Directive: this states that interests and royalties paid by a subsidiary in one member state to the parent company in another member state shall be tax deductible in the member state of the subsidiary and shall be taxed in the member state of the parent company.
- Parent and Subsidiary Directive: due to this directive, dividend payments of the subsidiary in one member state that are paid to the parent company in another member state shall only be taxable in the member state of the parent company.
- Arbitration Convention: this provides a procedure to resolve disputes where double taxation occurs between enterprises of different member states as a result of an upward adjustment of profits of an enterprise of one member state.

EU law treats tax incentives as subsidies, and the EU regulations on subsidies apply to cases where member states grant certain categories of taxpayers specific tax incentives. Article 107 of the Treaty of the Functioning of the European Union authorizes the EU to regulate this area of law as it might substantially impact competition in the common market. Due to this impact, national subsidies are in general forbidden, with certain exceptions. Member states are obliged to notify the European Commission about any such subsidy, and the European Commission is entitled to forbid such subsidies.

**Influence of the European Court of Justice**

Apart from the directives, several decisions of the European Court of Justice exist in the area of taxation that have had a substantial effect on the tax law of EU member states. The role of the European Court of Justice is to ensure that EU member states consider EU law in their national legislation. In particular, it ensures that the non-discrimination rule and the prohibition to restrict EU rights are obeyed by the member states. The non-discrimination rule states that companies and citizens from other member states shall not be subject to worse conditions than a company or citizen from the respective member state.

According to the prohibition to restrict EU rights, member states shall not restrict or obstruct making use of the rights to free movement of goods, services, people and capital. In the area of taxation, landmark decisions of the European Court of Justice include the following:

- Manninen-decision: this decision deals with the dividend taxation in Finland and states that tax credit granted only for corporate income tax paid by companies of the member state, but not by companies of other EU-states, is a violation of the non-discrimination rule. This decision put an end to the tax credit systems in the area of corporate income and dividend taxation within the EU.
- Lasteyrie du Saillant-decision: this decision states that the taxation of hidden reserves in case an individual moves from France to another member state is a violation of EU-law.
- Gerritse-decision: according to this decision, tax residents and non-residents from other EU-countries shall be treated equally with regard to deductions for income related expenses.
- Lankhorst-Hohorst-decision: this decision states that the former German ThinCap-rules violate EU law and shall be amended.
- Marks-&-Spencer-decision: this decision deals with consolidation of losses for profit tax purposes within the EU and states that if, according to UK tax law, losses from UK-companies can be off-set with profits of the parent company, then off-setting losses from other subsidiaries in other EU member states shall also be allowed.

**Upcoming Actions**

Further harmonization of tax law in the EU is also planned. The hot topics in EU taxations are:

- Introduction of an EU Financial Transaction Tax for partly financing the EU.
- Fight against harmful tax competition within the EU, e.g. by “patent box” tax regimes.
- Harmonization of corporate income tax through a commonly consolidated corporate tax base.
- Combating tax avoidance, profit shifting, and abuse of law by information exchange, improvement of corporation between tax administrations and a European Commission action plan.
- Improvement of VAT declaration procedures.
Tax Harmonization in the EEU

In the EEU, the harmonization of tax law is still in its early stages, but the objectives and instruments are similar. The objective of the EEU is to comprehensively upgrade, raise the competitiveness of and cooperation between the national economies, and to promote stable development in order to raise the living standards in the member states. One of the instruments to achieve these goals is the free movement of goods, services, people and capital, like in the EU.

In the area of taxation some harmonization has already taken place:

With regard to VAT, an agreement about the principles of indirect taxes for the export and import of goods, performing work and rendering services in the Customs Union has been concluded. This agreement provides a harmonization of the VAT systems, specific rules for inter-community trade and the introduction of information systems between tax administrations of different member states.

Also, a harmonization of the excise tax rates took place when the Customs Union was introduced. With regard to personal income tax, a non-discrimination rule for citizens of member states has been introduced this year, stipulating that employees shall enjoy the personal income tax rate that is stipulated for tax residents of the respective state from their first day of work onwards. So, for example, employees from Belarus working in Russia enjoy a 13% personal income tax rate from the first day of their stay, even if they do not become taxable residents in Russia.

Direct Comparison

When comparing the EU and EEU in the area of taxation, we see that both unions have one common goal that influences tax law: the free movement of goods, services, people and capital.

In order to implement this goal in an economic space from Lisbon to Vladivostok, work still needs to be done, especially in the area of harmonization of VAT in order to achieve VAT neutrality in rendering services and trade of companies. Furthermore, several instances when double taxation can occur still exist, therefore a more effective arbitration or mutual agreement procedure would prove useful. The respective EU-Arbitration Convention might be used as an example for such a procedure.
Customs and Certification in the European Union and the Eurasian Economic Union

The Role and Mission of Customs

From its origins in the Customs Union between Russia, Belarus and Kazakhstan, the Eurasian Economic Union (EEU) has rapidly developed over the past five years. From the very beginning, its goal was integration and to create a common market for goods, services, capital and labor. The EEU takes much of its inspiration from the model of the European Union, and its creation has promoted trade, the free flow of goods and economic growth.

Due to different aims and functions, it is not easy to analyze the differences between customs in the EEU and the EU. Some similarities are that goods can be moved freely, with no import/export duties or VAT being charged. Also, the customs authorities of the union follow unified standards and procedures. These authorities take control over the international trade of goods at the borders around the union.

This is where the similarities end, however. There are a variety of differences, including the size and scope of their operations, their primary functions, etc.

In contrast to the EU, the customs of the EEU is more focused on generating revenues for the State (particularly in Russia), so it more closely monitors the declared value of goods and collects import duties and VAT (note that the EU also collects import VAT, but no tariffs). Furthermore, the EEU’s customs also controls conformity documents, such as certificates and declarations of conformity and permissions – licenses, notifications, experts’ reports and others. Due to its wider range of responsibilities and functions, it has more employees and a more complex structure than in the EU.

In the EEU customs procedures are regulated by the Customs Code, Decisions of Commission of the EEU and by national laws. The new Customs Code of the EEU, currently under discussion, will be aimed at further developing electronic workflow, minimizing the number of documents, creating a one-stop service for declarants and accelerating the release of goods.

The Federal Customs Service (FCS or “Customs”) of the Russian Federation is obliged to pursue national interests. The main objective of the FCS is to provide revenue to the budget and then, only secondly, create a favorable environment for investment.

By comparison, the main functions of customs in the EU are the control of exported goods and the compiling of statistics about international trade. They focus mainly on controlling counterfeit products, drugs, weapons and rare animals. Furthermore, for some categories of goods, there is a limitation on imports into the EU in order to protect domestic production. The import process is made as simple and transparent as possible to eliminate excessive document exchange. For example, in Germany, the Customs Service is responsible both for the collection of import VAT and control over illegal workforce, the latter of which is not a focus of the EEU’s counterpart.
The import process into the EEU is more complex and the importers have to pay higher duties to customs. The code is also arguably more complex: compared to the HS Codes in the EU with 8 digits, the HS Codes in the EEU have 10 digits, adding another layer of classification. Finally there are five types of payments to be considered for importing into the EEU:

**Figure 4: Comparison of Customs Conditions**

<table>
<thead>
<tr>
<th>EEU</th>
<th>EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Higher Customs Duties (depending on customs tariff number – HS Code)</td>
<td>Lower Customs Duties</td>
</tr>
<tr>
<td>Customs Fees (depending on customs value: value of goods plus delivery costs to border)</td>
<td>No customs fees</td>
</tr>
<tr>
<td>Import VAT</td>
<td>Import VAT</td>
</tr>
<tr>
<td>Bonded warehouse</td>
<td>Non-applicable in the EU</td>
</tr>
<tr>
<td>Broker fee (specialized companies providing the filling in and submission of import declarations to customs)</td>
<td>Relatively lower in the EU</td>
</tr>
</tbody>
</table>

In the EEU, all imported goods have to be placed physically in a bonded warehouse for the time of customs clearance. In the EU, physical presence at customs is not necessary, meaning that the importer can import the goods directly to his warehouse and conduct the customs clearance from his office (as long he has a registered EORI-Number). This allows customs clearance without a stop at customs.

It is also easier to get a consultation regarding the HS code and customs value of the goods at customs in the EU. In the EEU, the Customs Service does not consult importers on HS codes and customs values. The importer undertakes full responsibility for truthfulness and correctness of the declaration.

Recently in the EEU it became possible for large companies to obtain a status of “authorized economic operator”. This concept is being replicated from the EU model. The operators are able to declare the goods and collect duties themselves and send them directly to the State budget.

**Certification and Declaration of Conformity**

There are many conformity documents, steps and governmental organs involved in order to import into the EEU. Every product entering the EEU market must meet established standards (technical characteristics, design, documentation, nutritional standards, etc.). These standards are stated in the Technical Regulations elaborated by the Commission of EEU. Conformity to the Technical Regulations is verified by the certificate of the EEU, which is issued by the certification body of the EEU after testing the goods. Under the EEU regulations, the certificates must be obtained prior to the entry of the goods into the territory of the EEU and must be provided by the importer to the customs authorities during the customs declaration. The goods must also be labelled with an EAC sign prior to their import. Another important condition is that only a juridical or natural person of the EEU can apply for the certificate of conformity.

In the EU it is also obligatory for the manufacturer to carry out the conformity assessment, set up the technical file, and issue the EC declaration of conformity and affix the CE logo on a product. Not all product categories are subject to specific directives, e.g. not all of them must be assessed and have the CE logo. The product assessment is performed by the notified conformity assessment body.

A harmonized standard is a European standard developed by a recognized European Committee for Standardization – CEN. Manufacturers can use harmonized standards to demonstrate that products comply with relevant EU legislation, but it remains voluntary.

The manufacturer or importer is obliged to draw up a declaration of conformity according to the CE marking directives. The declaration must be issued before the product is placed on the market in Europe. For imported products, the importer can take on this responsibility for the declaration of conformity.

The EU is currently working on an initiative, called “Approximation of the EU and RF Technical Regulation and Standardization Systems”. Experts from different EU certification bodies promote cooperation between Russia and the EU in different regulatory areas. In 2016, meetings will be held with the participation of experts from the competent authorities in the field of technical regulation of the Russian Federation, representatives of the Eurasian Economic Commission, and representatives of industries and businesses.
A shipper may choose not only different means of transport but also different routes depending on the place of customs clearance and location of the final consignee.

The transport company prepares a transit customs declaration and sends it to the customs checkpoint on the border before the truck arrives. An electronic transit declaration is forwarded by the customs authorities at the border to the designated customs post of arrival. In this regard, it is important to plan the point of border-crossing and the designated customs post in advance. Preliminary preparation of the specification of goods and transit customs declaration helps to avoid waiting at the border. In rare cases, delays can be caused by the limited capacity of the border point.

The goods are bonded until the customs declaration and release of goods by customs.

The customs declaration of goods can be done either at the customs terminal located close to the final consignee or directly at the border. The recommended plan of delivery can be seen below:

Option 1: relevant for full truck loads and console shipments
The consignee is located in Moscow or in the nearby area

| Customs clearance in Moscow region. |
| Electronic customs declaration is submitted to the post of destination. |

Benefits
- The customs post is close to the declarant and to the consignee.
- The consignee can have access to the goods in case of customs inspection.
- The declarant can quickly deliver hard copies of documents to customs if urgently required.

Option 2: relevant for full truck loads only
The consignee is located in a remote area, for example Magnitogorsk or Perm (Ural region).

| Customs clearance on the border, for example, in Smolensk. |
| Electronic customs declaration is submitted by the declarant from Moscow to the post on the border. |

Benefits
- The truck does not have to pass through Moscow for customs clearance.
- The price of services at the bonded warehouse is significantly lower than in Moscow.
A few words about the prices and time of delivery on the EU – Russia route:

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost Range</th>
<th>Transit Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>The cost of a truck (20 tons) from Germany to Moscow</td>
<td>3000 - 3500 EUR</td>
<td>5-7 days</td>
</tr>
<tr>
<td>The cost of a truck (20 tons) from Italy to Moscow</td>
<td>4000 - 4500 EUR</td>
<td>7-9 days</td>
</tr>
<tr>
<td>The cost of a truck (20 tons) from Moscow to Na-berezhnye Chelny</td>
<td>1000 EUR</td>
<td>2-3 days</td>
</tr>
<tr>
<td>The cost of a truck (20 tons) from Moscow to Magnit-gorsk</td>
<td>2000 EUR</td>
<td>4-5 days</td>
</tr>
</tbody>
</table>

Delivery within Russia may be more expensive than international delivery due to long distances and patchy roads.

Airfreight

In the case of urgent deliveries, the shipper can choose to send their goods by air. Direct flights from the main EU air hubs can carry goods to Moscow within a few hours. Direct flights are also available from large airports in Germany and other EU countries to major cities in Russia, such as Saint Petersburg, Ekaterinburg, Novosibirsk, Krasnoyarsk, among others. But Moscow remains the most important hub for incoming shipments since this is where the customs representatives, warehouses, and transport companies are mainly located.

The most effective way of delivery is flying goods to Moscow, declaring the goods in the Sheremetyevo or Domodedovo airport, and delivering the cleared goods from the airport by truck or by local air carrier to the city of final destination.

It is important to keep in mind the high costs of storage of uncleared goods at the bonded warehouse at the airports and to prepare all the documents necessary for customs clearance prior to delivery. It is highly recommended that companies ship their goods only after having the documents checked and approved by the local customs representative (a.k.a. the practice of “the green light”).

**Containerized and Bulk Shipments**

For heavy and oversized shipments, shippers can consider delivery by sea via the main ports of Germany, Netherlands and Denmark to the port of Saint Petersburg. After customs clearance in Saint Petersburg, further delivery by truck or rail to the final consignee is possible.

Railways can be used for the delivery of dry foods (for example, spaghetti and olive oil) from Italy to the north of Europe. Afterwards, the goods can be delivered by sea to Saint Petersburg or by trucks to Moscow.

**Delivery to other EEU Countries**

Direct delivery from EU countries to Kazakhstan can be performed by truck, rail and air. However, the shipping distance is great, and so the price of delivery substantially adds to the final price of the goods. Unfortunately, Kazakhstan is a land-locked country and there is no sea route for delivery. Therefore, the most cost-effective method is a delivery of cleared goods from Russia to Kazakhstan by truck, provided that the importer has stock in Russia.

Delivery to Belarus is easy and affordable since it neighbors other EU countries – Poland, Lithuania and Latvia.
Legal Harmonization in the EU and EEU

EU Law
The core objective of the EU is the development of a common market allowing for the free movement of goods, services, people and capital; this is being achieved by establishing a standardized system of laws within the EU. EU law consists of treaties, regulations, directives and case law established by the European Court of Justice. The treaties, also called primary law, that are concluded between the member states establish the constitutional basis of the EU, its institutions, objectives and competences conferred to the EU institutions to achieve the objectives. The regulations and directives (secondary law) are based on the treaties and regulate specific areas of law in more detail. While regulations become immediately enforceable as law in all member states simultaneously, directives must be transposed into national law.

The European Court of Justice oversees the uniform application and interpretation of EU law and resolves disputes between national governments and EU institutions, for example in cases of non-implementation or late implementation of directives. Due to several landmark decisions protecting the rights of EU citizens and companies, the European Court of Justice is also sometimes called the “engine of integration”. During these decisions it enforced the “non-discrimination rule”, meaning that all EU companies or citizens are subject to the same conditions no matter which member state they are from, and also protected their rights for the free movement of goods, services, people and capital.

Way to Free Movement in the EU
In order to assist in the free movement of goods, a customs union was established in 1968. As a consequence, customs law, technical standards, trade law, private international law and law on civil proceedings have been unified and harmonized within the EU. In order to protect free trade, competition law, including regulations on the granting of subsidies, is also carried out within the EU.

In order to facilitate the free movement of people, the concept of European Union citizenship was introduced by the Maastricht Treaty. Furthermore, the Schengen Agreement abolished border controls between participating countries and ensures the free movement of people within most EU countries as well as some others, such as Switzerland, Island and Norway. It also harmonizes certain areas of immigration law, like rules for issuing visas to citizens from third countries. But for certain member states, such as the UK and Ireland, the Schengen Agreement applies only to a very limited extent, meaning that there is not a complete harmonization in this area within the EU.

To further facilitate trade between EU member states, the Economic and Monetary Union of the European Union was established, this included a common currency, the euro (since 2002). Currently, the Economic and Monetary Union consists of 19 out of the 28 member states. This shows that harmonization within the EU is not fully applied amongst all member states. For member states wishing for deeper harmonization, the Treaty of
Amsterdam and the Treaty of Nice established a procedure of ‘enhanced cooperation’. This enables certain member states to work closer together and implement a deeper harmonization of certain areas of law. This procedure also applies, for example, in the area of divorce law and patents, and is approved for the field of financial transaction taxes that some member states would like to introduce. The Schengen Agreement can also be regarded as an example of such enhanced cooperation. In general, enhanced cooperation is possible in community, judicial corporation and criminal matters, as well as common foreign and security policy.

Conclusion

Today, the scope of competence of the EU and the area of harmonization of law and politics is extremely broad, especially in areas of shared competence, where both the member state and the EU can exercise competence and issue legislative acts. It covers areas like social policy, agriculture, environment protection, consumer protection, transport, trans-European networks, energy, public health matters, research and technical development, development cooperation, human aid, employment politics, common foreign, security and defense policies, industry, culture, tourism, education, and much more.

As a general rule the competence of the EU is limited to areas of politics and law that were conferred to it. And although the principles of subsidiarity and proportionality apply, meaning that an ‘EU action’ is only carried out if it achieves a better result than an action performed at a member state level (subsidiarity) and that the action shall not go beyond what is necessary in order to address the specific task or problem (proportionality), in practice EU law plays a very important role in the legislative process of all member states. Approximately 66% of all legislative acts passed by members’ national parliaments are based on directives of the EU, meaning that the harmonization of law within the EU has already been achieved to a large extent.

Legal Objectives of the EEU

The Eurasian Economic Union is quite young compared with the European Union. It was established May 29, 2014 by a treaty signed between Russia, Belarus and Kazakhstan, and came into force on January 1, 2015. Armenia and Kyrgyzstan also joined the union in 2015. But today’s EEU is based on earlier treaties, such as the treaty on a customs union that was signed between Russia, Belarus and Kazakhstan in 1994.

The objectives of the EEU are similar to those of the EU; to comprehensively upgrade, raise the competitiveness of and cooperation between the individual economies, and to promote stable development in order to improve the living standards within the member states. One of the instruments used to achieve this is the free movement of goods, services, people and capital.

Free Movement in the EEU

The free movement of goods is a particular focus of the development of the EEU. In 2010, a unified Customs Tariff and Customs Code entered into force, customs control was eliminated between Russia, Belarus and Kazakhstan, and a real customs union was formed. A harmonization of technical standards is still underway, and since 2011 the so called “Technical Regulations” that are replacing the former national technical standards (GOST) have been in the process of development.

Next Steps

Progress also has been made with regard to the free movement of people. Today, citizens of the member states are allowed to move between and work in any member state without a work permit. Social security regulations and personal income tax rules have also been adopted to avoid restricting the right for free movement, for example by stipulating that citizens from member states enjoy tax resident status from the very first day of working in another member state.

Further integration and harmonization is planned, for example in the area of competition law. The idea of a monetary union is being discussed, including a Eurasian Central bank and potentially a joint currency. From 2019 onward the EEU intends to create a common electricity market, and from 2025 a single hydrocarbon market. Other areas of further harmonization and cooperation between member states are the Single Eurasian Sky program, and agriculture policy including subsidies and free trade agreements with other countries, such as Vietnam.

Although the EEU is still at a relatively early stage of harmonization and integration when compared to the EU, significant progress has been made in the last few years.
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