

Chapter Six

Rethinking the European Union's Neighborhood Policy

Michael Leigh

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1. European Commission, Communication from the Commission to the Council and the European Parliament, *Wider Europe—Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, COM (2003) 104 final, Brussels, 11 March. European Commission, European External Action Service 2015. Joint Consultation Paper, *Towards a New European Neighbourhood Policy*, JOIN (2015) 6 final, Brussels, 3 April. Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Review of the European Neighbourhood Policy* JOIN (2015) 50 final, Brussels, 18 November, 2015.

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tries facing life-threatening challenges. In any event, the ENP's values-based approach has received scant support from the EU's own member states, which give priority to their own perceived national interests concerning security, trade, investment and access to resources, paying only lip service to common EU initiatives such as the ENP.

How, for example, can the European Commission expect to nudge Egypt toward more democratic practices when a member state sells its state-of-the-art military equipment without a hint of political conditionality? Will the Baku government listen to civil rights strictures from Brussels when the country plays an essential role in the EU's efforts to diversify energy resources away from Russia?

Despite increasing awareness of such shortcomings, the existing framework will be difficult to change significantly. The ENP represents a compromise among the twenty-eight member states. It balances the concerns of Italy, Spain and other southern Member States about North Africa and the Middle East with those of Poland, the Baltic States, the Nordic countries and other EU members in northern, Central and Eastern Europe about Russia. Both sets of Member States are engrossed in their particular geopolitical preoccupations.

This may be changing, somewhat, as a result of the influx of asylum seekers into the EU from its southern neighborhood and the efforts to achieve an EU-wide arrangement for accommodating them. This situation should oblige northern member states, the destination of choice for most asylum seekers, to give greater support to efforts to contain the explosion of violent extremism in North Africa and the Middle East. Failure to nurture stability and democracy, the avowed goal of the ENP, in these areas, before and after the Arab uprisings, created fertile ground for extremists and contributed to the refugee crisis as well as the spread of violent extremism.

The gravity of the situation should encourage Member States to go beyond bland references to "differentiation" and "mutual ownership" in the ENP review and to commit themselves to policies better adjusted to current realities. Most of these policies lie outside the existing ENP framework in areas like migration, security, energy, and infrastructure as well as poverty alleviation and humanitarian support. Such policies should be pursued vigorously on their own merits, without tying them to an unwieldy mechanism that has little meaning in the countries concerned.

Eastern Europe, North Africa and the Middle East are crucial to any effort by the EU to exercise real political influence beyond its own borders. Effective and joined up policies would tackle migration pressures and violent extremism at their source and help check the growing radicalization of young people within the EU itself. There will never be a common foreign and security policy, worthy of the name, unless the EU manages to act effectively in the part of the world where its potential influence is greatest.²

No Political or Geographical Logic

The single ENP framework for sixteen diverse national settings each facing their own existential challenges accentuates process rather than impact and effectiveness. In future there should not be a single framework covering the East and the South.³ Instead policies should be devised for each country individually. The current geographical scope is both extensive and restrictive. It is arbitrary and follows no coherent policy or geographic logic. The countries included are not all terrestrial or maritime neighbors of the EU. Several pose challenges that are shared with countries outside the ENP, for example, Syria (ENP) and Iraq, Libya (ENP) and Mali, Azerbaijan (ENP) and Turkmenistan.

Policies need to be developed that address the concrete challenges for the EU posed by these countries without creating artificial divisions among them. Key migration issues related to Libya or Syria need to be treated in conjunction with policies for Eritrea, Iraq, Mali, Niger, Sudan, and other countries of origin. Energy policies toward Azerbaijan need to take into account decisions by other possible providers of gas to be transported through the Southern Corridor. The same ministers, officials, committees, working groups etc. that are concerned with Iraq should also address Syria. The ENP framework creates an unnecessary and unhelpful barrier between countries posing related challenges to the EU. These problems are too serious to be consigned to a few

2. The present chapter develops arguments put forward in Michael Leigh, *The European Neighbourhood Policy: A Suitable Case for Treatment*, in Sieglinde Gstöhl and Erwan Lannon, eds., *The Neighbours of the European Union's Neighbours: Diplomatic and Geopolitical Dimensions beyond the European Neighbourhood Policy*, (Ashgate, 2015) and Michael Leigh, *A New Strategy for Europe's Neighbourhood*, German Marshall Fund of the United States, September 2014

3. Those covered by the ENP are Algeria, Armenia, Azerbaijan, Belarus (suspended in practice), Egypt, Georgia, Israel, Jordan, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia, Ukraine.

phrases in a report noting that ‘the neighbors of the neighbors’ also deserve attention.

Ineffective Policy Instruments

The ENP’s main policy instruments, developed first under the ‘Eastern partnership’ and then extended, in principle at least, to North Africa and the Levant, are a new generation of Association Agreements (AAs), incorporating Deep and Comprehensive Free Trade Agreements (DCFTAs).⁴ DCFTAs have been concluded with Georgia, Moldova and Ukraine and are under negotiation with Morocco. Initial conversations have been held with Egypt and Jordan. Provisional application of the agreement with Ukraine was postponed until 1 January 2016 as part of efforts to find a peaceful solution to the Ukraine crisis.

In any event, such agreements are entirely inappropriate for most of the countries to which they are addressed. They are more ambitious than the ‘Europe agreements,’ which were concluded with the Czech Republic, Poland, Hungary and other countries in Central and Eastern Europe that were preparing for EU membership.⁵ These countries had, of their own volition, undertaken fundamental reforms designed to bring about their ‘return to Europe.’ By contrast, the countries covered by the ENP have demonstrated no such determination and, despite the nominal eligibility of European countries for membership, lack a realistic prospect of one day joining the EU. Full scale regulatory convergence with the EU is not high on their priority list anyway, in light of more pressing preoccupations. An EU foreign minister told the author that there is no prospect that the countries concerned will fulfill the majority of obligations imposed by the DCFTAs within the foreseeable future.

Many of these countries are extremely poor (the GDPs per capita of Ukraine and Morocco, for example, are close to that of Bolivia, expressed in current US dollars) and they have fundamental develop-

4. European Commission, Communication from the Commission to the European Parliament and the Council, *Eastern Partnership*, COM (2008) 823/4, Brussels, 3 December; See, for example, European Commission 2013. *EU-Ukraine Deep and Comprehensive Free Trade Area*, April 2013

5. The Europe Agreements were association agreements between the EU and its member states and the Central and Eastern European countries that joined the EU in 2004/2007. They formed the legal framework for the accession process of these countries to the EU.

ment needs.⁶ Some face grave solvability and liquidity problems. Several of these countries suffer from critical political and sectarian conflicts, state failure, dysfunctional democracy, authoritarian rule, corruption, clientalism, transnational terrorism, secessionist wars supported by outside powers, and other problems which cannot be addressed or mitigated within the AA-DCFTA framework.

Despite their asymmetric structure, DCFTAs offer few immediate trade benefits. Many products are still treated by the EU as sensitive. Regulatory convergence, especially regarding health and safety, is a precondition for exports of many products to the EU. North African countries would benefit from real market openings by the EU for the few (largely agricultural) products in which they have a comparative advantage. The economies of several neighboring countries are dominated by agricultural products, energy or raw materials. DCFTAs offer few advantages to such countries and are enormously demanding in terms of negotiation, ratification, and implementation.

These agreements were put forward without a clear vision of their ultimate goals or a detailed assessment of their wider impact. The decision of former Ukrainian President Viktor Yanukovich not to sign the AA-DCFTA with the EU was the proximate (not the ultimate) cause for the Maidan demonstrations in Kiev, the flight of Yanukovich to Russia, and subsequent devastating events. President Vladimir Putin has targeted the AA-DCFTAs as proof of nefarious Western policies to suborn former Soviet states and has obliged Armenia to back off from signing its agreement with the EU.

Under these circumstances, and given that similar agreements have been concluded with Moldova and Georgia and that preparations or negotiations have begun with Morocco, Egypt and Jordan, it will be awkward for the EU to change course. Yet change course it must. Otherwise the EU will be burdened for years ahead with unwieldy and ineffective agreements that are good for speeches and resounding Council of Ministers conclusions but little else.

The notion of an 'Association Agreement' is hard to abandon in mid-stream, especially under Russian pressure. But the scope of each agree-

6. All three countries had GDPs per capita of just over \$3,000 in 2010–2014, expressed in current US dollars, though Morocco and Ukraine come in considerably higher and above Bolivia expressed in purchasing power parity, World Bank, <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD>

ment should be highly differentiated country-by-country. There is no need to make these agreements comprehensive, covering virtually all aspects of the *acquis*. Approximation with the *acquis*—the main thrust of the AAs-DCFTAs—is very low on the list of challenges facing these countries. Regulatory convergence could be limited initially to requirements affecting products and services actually traded between the two sides. The EU should give up any aspiration to remake these countries in its own image.

Action Plans That Do Not Work

“Action Plans,” containing priorities for each country stipulated by the EU, after consultations, figure prominently in the ENP.⁷ They are loosely adapted from the earlier “Accession Partnerships” with countries preparing for EU membership.⁸ They are entirely inappropriate for countries that are not on a path toward membership. They are sovereign states and the EU cannot impose reforms on them.

Over a decade, the governments of ENP countries have signed up to Action Plans that they had no intention or capacity to implement. Action Plans should now be dispensed with in favor of trade and assistance arrangements matching their real needs, capacities and intentions. Outside efforts to bring about change will not succeed unless rulers and citizens in these countries genuinely wish to embrace EU values and regulatory regimes. This problem is too fundamental to be glossed over by a mere change in terminology.

Pitfalls of Working with Civil Society

The EU has in the past sought to work with civil society, especially in countries where governments are disinclined to embrace Brussels initiatives. This may give encouragement to proponents of democratic change but needs to be undertaken with caution. It can be counter-productive for the EU to appear, inadvertently, to be associated with illegal activities, however much the laws in question fly in the face of values which west Europeans cherish. Nascent NGOs in partner countries

7. Actions Plans can be found at: http://eeas.europa.eu/enp/documents/action-plans/index_en.htm.

8. Associations Partnerships are explained at: http://ec.europa.eu/enlargement/policy/glossary/terms/accession-partnership_en.htm.

may be de-legitimized if their very existence depends on financial support from the EU. It may often be better for the EU to support unobtrusively European NGOs that cooperate with corresponding bodies in the countries concerned.

No *locus standi* for Intrusive Progress Reports

Until 2015, the EU produced detailed annual “progress” reports on countries covered by the “ENP”, as it does on countries preparing for EU membership.⁹ However such reports have no constraining effects on ENP countries; indeed, they may appear to them as interference in their internal affairs.

The time, effort and resources that go into these reports are disproportionate to any practical benefits which they may offer. Instead, the Commission and European External Action Service could, in the future, report on situations arising that have real political or economic significance for the member states. There is no need to be bound by a reporting calendar or by an annual ‘package’ that mimics regular reports on countries that are actually preparing for membership.

Assistance Should Focus on Urgent Needs

Economic, technical and financial cooperation with each country should relate to its specific needs and capacities as well as EU interests. There is little to be gained by seeking to cover all aspects of the *acquis* with each partner country. There is no need to be comprehensive in the approach to cooperation. Instead a very limited number of priority issues should jointly be identified with each government, if possible extending the consultation to stakeholders beyond the authorities themselves. Cooperation projects should then focus on those areas where concrete progress can be made in the short to medium term.

In practice each partner country has a limited number of urgent needs and priority areas, which should be the focus of attention. For example, Jordan and Lebanon have overwhelmingly urgent needs linked to the large number of refugees within their borders from Syria and Iraq. This poses demands that cannot be met locally on the education

9. The last such reports, published on 25 March 2015, can be found at: http://eeas.europa.eu/enp/documents/progress-reports/index_en.htm.

system, energy supply, and public finances. Libya, where no single authority is in control of the national territory, manifestly cannot cope with the influx of refugees and asylum seekers, or with criminal gangs trafficking them to Europe in perilous conditions. The Moroccan economy needs diversifying, the taxation system should be made more progressive, and employment creation schemes are required in certain parts of the country. Ukraine is facing critical solvability and liquidity problems and a significant part of its economic base has been destroyed by violent Russian-sponsored intervention.

Against this background, a pragmatic approach is needed to choosing priorities and developing tools for cooperation. Macro-economic stability, poverty alleviation, institution building, the fight against corruption, strengthening the efficiency and independence of the judicial system and the enforceability of contracts should be among the top priorities.

For each country a limited number of priorities should be established commensurate with (a) its most pressing needs, (b) the resources that the EU is able to mobilize to address the issues concerned and (c) the member states' willingness to lend their full support to EU efforts through bilateral initiatives.

A Tangle of Overlapping Policies

The EU has developed many overlapping policy frameworks which apply, at least in principle, to countries neighboring the EU: Barcelona Declaration, Euro-Mediterranean Partnership, European Neighborhood Policy, Union for the Mediterranean, Partnership for Democracy and Shared Prosperity, Eastern Partnership, Black Sea Synergy, European Security Strategy, Common Foreign and Security Policy, Common Security and Defense Policy, etc. This multiplicity of initiatives creates confusion and operational difficulties. It is perplexing for the United States, Canada, Norway and other countries seeking to work together with the EU.

In June 2015, the EU's highest body, the European Council, asked the High Representative to produce a new "Global Strategy for Foreign and Security Policy" by summer 2016.¹⁰ Yet the European Neighbor-

10. European External Action Service, *Global Strategy to steer EU external action in an increasingly connected, contested and complex world*, 30 March 2015. http://eeas.europa.eu/top_stories/2015/150627_eu_global_strategy_en.htm.

hood Policy review, covering the area of the world where the EU could most expect to exercise influence, appeared earlier in November 2015, no doubt through an accident of timing. To be sure, the new take on the EU's security strategy will subsume the results of the ENP review. But an observer from outside the Brussels beltway might well conclude that there is a problem of coordination, at the very least, and that the EU devotes far too much time to paper strategies while burning issues require urgent attention. The EU would do better to eschew grand strategies in favor of well thought-out initiatives with real impact and effectiveness before it is too late.

EU Advocacy of Multilateral Cooperation

The EU often considers that it has a particular vocation to promote multilateral cooperation, for example through regional trade agreements. However the countries concerned trade relatively little with each other and generally do not consider that they have much to gain from such cooperation in terms of the transfer of technology, management experience or capital. Multilateral cooperation, in its different forms, should be approached in a pragmatic case-by-case manner. Its success depends on genuine commitment by the countries concerned to cooperate. No effort should be made to impose multilateral cooperation from outside or to make this a condition for providing assistance or opening markets.

EU Efforts to Promote Religious Freedom

EU efforts to promote religious freedom and to protect religious minorities form part of its policies toward neighboring countries and beyond.¹¹ Guidelines on “the promotion and protection of freedom of religion or belief” were adopted by the Council in June 2013.¹² The Council's conclusions and guidelines established a mechanism for prodig reluctant countries toward guaranteeing religious freedom and for supporting persecuted minorities. They also recognize the importance of freedom *from* religion, i.e. the right not to hold a religious brief.

11. This section draws on Michael Leigh, *Religious Freedom in the European Union and its Southern Neighbourhood*, in *Faith, Freedom and Foreign Policy: Challenges for the Transatlantic Community*, Transatlantic Academy, Washington DC, April 2015

12. Adopted by the Foreign Affairs Council meeting, Luxembourg (June 24, 2013)

The guidelines champion the universal character of the freedom of religion, based on the relevant international conventions. They call for the withdrawal of financial assistance and other benefits from a country if religious freedom is violated. Full implementation of these guidelines requires political will, something urged by the Foreign Affairs Committee of the European Parliament in its 2014 Annual Report on Human Rights.¹³

Until now, the EU's promotion of religious freedom has been largely declaratory. Its effectiveness will be judged by the degree to which it guides action by EU institutions and member states and by its impact in the countries directly concerned. The full commitment of member states is particularly important. However, member states are reluctant to withhold financial assistance from strategically important countries that interfere with religious freedom.

Efforts by EU institutions to promote fundamental rights and freedoms, including the freedom of religion, lose credibility if member states ignore agreed conditionality and pursue business as usual, impelled by security or commercial considerations. At the same time, the failure of European countries to take resolute action when religious and ethnic minorities in their neighborhood are subjected to persecution on an unprecedented scale, calls into question the value of the EU's ponderous procedural approach to the problem.

The willingness of some EU countries to accept in particular Christian asylum seekers from war-torn countries further blurs the EU's proclaimed commitment to universal values. The confusion of the EU's message is exacerbated by its relative inaction following the displacement of one and half million eastern Christians in Syria and Iraq and the singling out of Christians for execution by terrorist groups in Libya and Kenya in 2015.

A fundamental re-think of the EU's approach to the promotion of religious freedom and the protection of religious minorities should be included in the current policy reviews, which are underway.

13. European Parliament Committee of Foreign Affairs, "Draft Report on the Annual Report on Human Rights and Democracy in the World 2013, and the European Union's Policy on the Matter," (November 28, 2014) 2014/2216 (INI).

European Values Face Competition

Societies in countries covered by the ENP do not necessarily share or give priority to 'European values.' Yet the ENP was founded on the principle of commitment to shared values. In 2008, for example, the responsible member of the European Commission told a meeting in the European Parliament that the ENP "is based on a privileged relationship through which we draw our partners closer and closer, building upon common commitments and shared values."¹⁴ In practice, however, values founded on ethno-nationalism, religion, including intolerant, sectarian forms of religion, or social conservatism, and actively promoted by outside powers, are today prevalent in many of these societies.

Russia, China, Iran, the Gulf States and Turkey, whose agendas differ significantly from the EU's, are active influences in the EU's neighborhood. In several cases, they offer far greater finance than the EU, in the form of grants or loans, often linked to specific investment projects. Such support usually comes without western-style political conditionality. Strings may be attached but they are linked to goals that have little to do with the values promoted by the EU. In reviewing the ENP, member states need to take into account the fact that the EU is now only one of several outside powers competing for influence in adjoining countries. Governments and companies in the member states have long since adapted to this new reality. It is time for the Brussels institutions to catch up with their members.

More for More?

This maxim has been invoked many times as expressing the EU's approach to political relations and especially to financial assistance.¹⁵ It implies that the more a country is ready to implement commitments to goals based on European values, the more financial support the EU will

14. Benita Ferrero-Waldner, European Commissioner for External Relations and European Neighborhood Policy, http://europa.eu/rapid/press-release_SPEECH-08-306_en.htm?locale=en

15. For example the "Partnership for Democracy and Shared Prosperity", introduced in March 2011 after the first Arab uprisings, described the initiative as "an incentive-based approach based on more differentiation ("more for more"): those that go further and faster with reforms will be able to count on greater support from the EU." Brussels, 8.3.2011 COM (2011) 200 final Joint Communication to the European Council, the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, "A Partnership for Democracy and Shared Prosperity with the southern Mediterranean."

be ready to offer. However this is not an effective operational strategy for a number of reasons:

- a. “Closer integration” with the EU based on “shared values” is not a viable option for most of the countries concerned.
- b. The amounts of grant assistance available from the EU pale into insignificance compared with assistance from the Gulf States to countries covered by “ENP South.”
- c. Russia, China, Turkey, Iran, and the Gulf States do not impose political conditionality in the financial support that they provide. As noted above, any strings they attach are linked to an entirely different agenda from the EU’s.
- d. Incremental increases in the relatively small amounts of assistance provided by the EU in response to the implementation of specific reforms do not offer a sufficient incentive to most “ENP countries.”
- e. Member States do not practice “more for more” in their bilateral relations with these countries.
- f. The EU and its Member States often provide “more for less” in engaging with these countries for reasons related to security, trade, or access to energy.

Instead of patchily enforced political conditionality, the EU could undertake dialogues with neighboring countries on democracy, human rights, and rule of law issues, as it does with certain other international trade partners. It must expect give and take in such dialogues, with the light sometimes shined on shortcomings in the EU itself. However, experience suggests that this approach is more effective than implausible carrot and stick methodologies.

In a broader sense, the EU can indeed expect to develop closer links with countries with which it has more in common, be this shared values, security and commercial interests or traditional ties. But ‘more for more’ is not a sound guide for European policy-makers. Despite its catchy appeal, it should be given up in favor of balanced and realistic policies toward each country in the EU’s vicinity.

A Membership Perspective for Neighboring Countries?

Political leaders in some EU member states, especially Poland and the Baltic countries, often advocate an EU 'accession perspective' for Ukraine, Georgia and other eastern neighborhood countries. This is intended as encouragement for reforms and for those who seek a more decisive break with Russia. Yet it is misleading to encourage these countries to pursue internal reforms in the expectation that this will earn them a place in the queue to become EU members. In reality, there is unlikely to be a consensus among the 28 member states to offer such a perspective for the foreseeable future. Even existing candidates for membership, like Turkey, Serbia or Albania, will not join the EU during the present decade, if at all.

Armenia, Belarus, Georgia, Moldova and Ukraine, as European states, are generally considered eligible in principle for EU membership under Article 49 of the Treaty on European Union. However, given their very limited progress made in meeting the criteria for membership as well as the current geopolitical, economic and financial conjuncture in Europe, the issue of eventual membership does not arise at present. It is confusing to suggest to these countries that they might be offered such a perspective in the future and that they should work toward it, considering the manifest lack of consensus among EU member states to move in this direction.

If Not Now, When?

The ENP review demonstrates that the current leadership in Brussels has understood the need for change in the EU's approach to its neighborhood and is seeking suggestions from diverse stakeholders as to the future direction of policy. This is a welcome development even if overshadowed by the parallel lengthy review of the EU's foreign and security strategy that is scheduled for summer 2016.

There are two principal risks associated with this exercise. The first is that the ENP review will not be pushed far enough. More of the same, with genuflections to 'differentiation' and 'mutual ownership,' will not help to address urgent problems including poverty, violent extremism, and migration, which pose major challenges *now*. The second is that it will remain a paper exercise. Yet the EU and its member states cannot afford institutional inertia when facing challenges of the magnitude of

those unleashed by the Arab uprisings and by failed or partial transitions to the East. The dangers involved could grow considerably in the years ahead and increasingly affect the EU itself. The EU must not fiddle while Rome burns.

The ENP review should reconcile the traditional interest-based policies pursued by member states and the values-based approach that they have delegated to EU institutions. This dual approach may be defended as a kind of 'good cop, bad cop' strategy, but a decade's experience suggests that it reduces the EU's overall credibility and just does not work. Trade, investment, and security, including energy security, need to be moved to the forefront of the ENP, or rather its successor policies. The promotion of democracy, the rule of law and human rights need to be included more visibly in bilateral national policies if, indeed, the member states consider these important in relations with neighboring countries. A more joined-up approach is essential in future.

Above all, though, the EU and its member states will need to act quickly and pragmatically in a variety of fields beyond the ENP if grave problems to the East and the South are not to threaten security and stability in Europe itself. The diverse initiatives required do not fit into pre-conceived administrative categories that correspond with departmental responsibilities in Brussels. Instead of clinging to familiar but ineffective policy frameworks, the Commission and the European External Action Service should set out clearly concrete priorities for the months and years ahead. They should use their influence to coordinate the necessary response by the Brussels institutions and the member states, accepting that the member states will continue to reserve major foreign policy and security decisions to themselves.

The 2015-2016 policy reviews provide an opportunity to move away from the false comfort of high sounding strategies toward pragmatic initiatives with greater impact and effectiveness. The member states should seize this opportunity without waiting to be further overwhelmed by events.