



# EU-Armenian Relations: Charting a fresh course

Hrant Kostanyan and Richard Giragosian

## Abstract

The EU-Armenia Comprehensive and Enhanced Partnership Agreement (CEPA), initialled in March 2017, presents a fresh start for the deepening of relations between the two parties in the wake of Armenia's abortive Association Agreement and related Deep and Comprehensive Free Trade Agreement (DCFTA). Despite a difficult and complicated context, both the EU and Armenia have demonstrated the necessary political will to negotiate a new compromise agreement that takes into account Armenia's commitments and limitations as a member of the Eurasian Economic Union (EAEU). CEPA retains a considerable amount of content from the sacrificed Association Agreement, as seen in the areas of political dialogue, justice and freedom, and even security. The new agreement also includes a substantial amount of the EU *acquis* in legally binding provisions across a range of sectoral areas of cooperation, although the effectiveness of CEPA's essential degree of conditionality remains an open question. The issues most affected by Armenia's EAEU membership are core trade policy elements and the consequential loss of any DCFTA. CEPA may be viewed in EU policy terms as an example of 'differentiation' and greater flexibility, as advocated by the 2015 European Neighbourhood Policy review, although this was prompted by Russian *force majeure*. The ultimate impact of CEPA remains a test of implementation, which still poses undeniable challenges for Armenia.

Hrant Kostanyan is a Researcher at CEPS and an Adjunct Professor at Vesalius College. Richard Giragosian is Director of the Regional Studies Center (RSC), an independent think tank in Armenia.

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# EU-Armenian Relations: Charting a fresh course

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## 1. Armenian-EU relations: From adoption to adaptation

In a surprise move that was widely seen as capitulation to Russian pressure, Armenian President Serzh Sargsyan announced on 3 September 2013 that his country was abandoning its Association Agreement (AA) with the EU and instead, committed the country to seek membership in the Russian-dominated Eurasian Economic Union (EAEU). The Armenian President's sudden about-face, which even caught his own political party and government off guard, was later presented as a 'forced error', but one for which there was no alternative, especially in light of his 'summons' to Moscow by his Russian counterpart, Vladimir Putin. Yet the sweeping nature of such a shift in policy, made only more embarrassing after Armenia's successful three years of negotiations over a draft Association Agreement (AA) and related Deep and Comprehensive Free Trade Agreement (DCFTA), had much wider strategic implications for the country than many realised at the time.<sup>1</sup>

Armenia did not actually initiate the U-turn in its policy on its own initiative. Rather, the country was actually responding to pressure from Russia, which reflected a much more aggressive stance towards the EU's engagement with other former Soviet states, including the seizure of Crimea in 2014 and the conduct of military operations in eastern Ukraine. Ukraine, in fact, was Russia's main target, with collateral damage being inflicted, inter alia, on Armenia's abortive AA and DCFTA.

For Armenia, it was the surprising commitment to join the EAEU that had more local implications, including a serious setback that only further undermined the country's independence and sovereignty and stood out as a significant subversion of the country's natural economic and trade orientation.<sup>2</sup> This latter point was by far the more destructive, as it forced an artificial re-orientation of the Armenian economy, shifting from natural export markets to a return to a Soviet-era alignment. This export-related re-orientation was particularly limiting, as it forced Armenia to revert to a Russian-centric trade model, exacerbated by both the country's weak trade links with fellow EAEU members Belarus and Kazakhstan, as well as the absence of any land border with Russia or any other EAEU member. Another related setback was the requirement, stemming from its February 2015 entry into the

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<sup>1</sup> Kostanyan, Hrant (2015), "The Rocky Road to an EU-Armenia Agreement: From U-turn to detour", CEPS Commentary, 3 February (<https://www.ceps.eu/publications/rocky-road-eu-armenia-agreement-u-turn-detour>).

<sup>2</sup> Giragosian, Richard (2014) "Armenia's Strategic U-Turn", ECFR Policy Memo No. 99, European Council on Foreign Relations ([www.ecfr.eu/page/-/ECFR99\\_ARMENIA\\_MEMO\\_AW.pdf](http://www.ecfr.eu/page/-/ECFR99_ARMENIA_MEMO_AW.pdf)).

Eurasian Economic Union, to transfer core elements of its external trade policy to the Union and to accept conformity to the EAEU's common set of higher external tariffs, although Armenia was able to secure 'transitional exemptions' for some 800 goods and products through 2022.<sup>3</sup>

In a welcome chance to repair relations the negotiations for the new framework agreement were officially launched on 7 December 2015, thereby ending a period of 'strategic pause' after Armenia withdrawal from its draft Association Agreement with the EU in 2013. The negotiations over a new mixed Comprehensive and Enhanced Partnership Agreement (CEPA) between the EU and its member states, on the one hand, and Armenia, on the other hand, took place over a 15-month period and were concluded in February 2017. Although the new agreement represents significantly less than the prior AA and especially the related DCFTA, it is strategically significant for Armenia as a framework for deepening relations with the EU. For the EU, CEPA is also significant as an example of the principle of 'differentiation', which was reaffirmed by the 2015 European Neighbourhood Policy (ENP) Review.<sup>4</sup>

For the EU, Armenia's decision in 2013 to forego the AA and the DCFTA was a sudden and surprising move, which only demonstrated that prior assumptions of Russian passivity over EU engagement in the Eastern Neighbourhood were rather misplaced. Within this context, the case of Armenia offered a revealing look at a significant shift in Russian policy toward the Eastern Partnership prior to the Vilnius Summit in 2013, as Moscow adopted a new and more assertive policy aimed at pushing back and pushing out European engagement in the former Soviet space, which Moscow sees as its natural 'sphere of influence'. Under pressure from Russia, Armenia was also compelled to commit to join the Russian-led EAEU, an ambitious project of reintegration among several post-Soviet states.

Against that backdrop, Armenia was, nevertheless, able to enter into a new round of negotiations with the EU over an alternative agreement. For its part, the EU initiated in October 2014 a new 'scoping exercise' designed to identify key areas for inclusion in the new agreement. Yet despite the demonstrable degree of political will in both Yerevan and Brussels, the course of negotiations was inherently more complicated than the earlier round of talks over the previous AA and DCFTA. More specifically, both sides encountered several new impediments, ranging from constraints arising from Armenia's membership in the EAEU to considerations over the bilateral relationship between Armenia and Russia, especially in the area of energy. Most clearly, the economic benefits and trade-related advantages from the

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<sup>3</sup> Treaty on the Accession of the Republic of Armenia to the Treaty on the Eurasian Economic Union of May 29, 2014 (<https://docs.eaeunion.org/en-us/Pages/DisplayDocument.aspx?s=bef9c798-3978-42f3-9ef2-d0fb3d53b75f&w=632c7868-4ee2-4b21-bc64-1995328e6ef3&l=540294ae-c3c9-4511-9bf8-aaf5d6e0d169&EntityID=7297>).

<sup>4</sup> Kostanyan, Hrant (2017) (ed) *Assessing the European Neighbourhood Policy*. Brussels and London: Rowman & Littlefield International and CEPS.

DCFTA were severely curtailed, given Armenia's contradictory position in the Eurasian Economic Union, which negated any chance for a free trade agreement.

Yet beyond these constraining factors, our expectation, based on a set of interviews with key stakeholders and relevant decision-makers, is that the new agreement should be viewed as a short- to medium-term transitional deal, subject to review within the coming five years. In particular, the now-evident weakening of the Eurasian Economic Union project may also create a new set of opportunities for an even-deeper level of EU-Armenian cooperation. At the same time, recent developments over strained Armenian-Russian relations have also tended to spark a deeper interest in the EU on the part of key elements within the Armenian government, including its ruling political and commercial elite, as well as across the wider spectrum of Armenian society.

The new CEPA, initialled in May 2017, is now expected to be signed by the end of the year.<sup>5</sup> Despite the original plan to have it ready in time for the EU Eastern Partnership (EaP) summit in Brussels on 24 November 2017, an unexpected delay within the EU institutions, which then triggered a delay in the legal review and translation, has set the timetable back. That delay, despite being unintended, may raise new concerns on Armenia's part and possibly trigger resentment and frustration that the EU would be well advised to address.

The agreement, once officially adopted, will represent an important breakthrough for both the EU and Armenia, for two reasons. First, although CEPA can be seen more as an *Association Agreement lite*, it is the first successful example of European engagement in the Eastern Partnership that is based less on wishful thinking and more on a realistic consideration of the specific conditions and constraints that are unique to each EaP state. In Armenia's case, this refers to the necessity of recognising the government's insistence on exercising its 'sovereign choice' as a condition for deepening ties to the EU, weighed against the limits inherent in the country's security reliance on Russia. This stance was a result of the May 2015 Riga Summit, when the EU presented its earlier review of the European Neighbourhood Policy (ENP), which was completed in November of that year<sup>6</sup> to the EaP countries. Both the Summit Declaration and the newly revised ENP strongly advocated a policy of 'differentiation' in the EU's relations with the neighbours and prudently abandoning a 'one-size-fits-all' approach, as demonstrated by the EU-Armenia CEPA. In other words, the degree of policy flexibility demonstrated by the EU underscored the modified policy of differentiation by being more acutely attuned to Russian concerns and Eurasian Economic Union constraints.

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<sup>5</sup> As a general rule, the texts of the EU's international agreements are released only upon signature. The authors acknowledge, therefore, that this study has a methodological weakness in that they did not possess the CEPA text and had to rely extensively on interviews with EU and Armenian officials as well as other actors familiar with the process.

<sup>6</sup> 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 ([http://eeas.europa.eu/enp/documents/2015/151118\\_staff-working-document\\_en.pdf](http://eeas.europa.eu/enp/documents/2015/151118_staff-working-document_en.pdf)).

A second element of success stems from the fact that the new agreement was able to replace the Partnership and Cooperation Agreement (PCA) of 1999, with a legally binding and politically significant commitment underpinned by an essential degree of conditionality. And although the coming test of the success of CEPA will be in the implementation stage, there is an additional opportunity stemming from a possible move by the EAEU to leverage Armenia as a potential new platform to engage the EU, thereby offering a chance for garnering greater credibility for the EAEU while also elevating the strategic significance of Armenian membership in the EAEU.

## 1.1 Restarting the talks

After the forced sacrifice of its Association Agreement and DCFTA and once firmly committed to joining the Eurasian Economic Union (EAEU), Armenia was subsequently granted a greater degree of flexibility in seeking a new agreement with the EU, which Moscow generally accepted as a permissible development, for several reasons. First, given the new context, Russia had easily secured its policy goals, with little risk of losing its dominant position over Armenia. A second, subsequent factor stemmed from Russia's desire to garner greater credibility for its Eurasian Economic Union project, with some arguing that Armenian membership could be used to attract EU institutional engagement with the EAEU proper, a scenario less likely in the cases of Belarus or Kazakhstan, as each was less interested in the EU than was Armenia.

Once Armenia was fully on track to join the EAEU and after it secured Russian assent, the EU and Armenia formally re-engaged in October 2014, i.e. little more than one year after the *volte face*, for the launch of a so-called 'scoping exercise', aimed at identifying specific areas for inclusion in a new EU-Armenia agreement. This new round of talks was predicated on the basis of EU respect for "Armenia's sovereign choice", offering a more diplomatic way for Armenian officials to gracefully escape the loss of trust and confidence from the earlier repudiation of 2013. And as one EU official recalled:

We establish a framework where the competences of the Eurasian Economic Union and the objectives of the EU do not clash. We want to respect Armenia's obligations to the Eurasian Economic Union but at the same time promote the EU objectives which includes trade.<sup>7</sup>

Following the conclusion of the scoping exercise, the European External Action Service (EEAS) and the European Commission (Commission) requested and received a mandate from the Council of the European Union (Council) to launch negotiations with Armenia, which duly commenced in December 2015. At the opening of those talks, the EU identified trade, investments, energy and transport as among the key areas to be included in the new agreement, with the Armenian side pledging to "intensify effective cooperation in a large

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<sup>7</sup> Interview with an EU official, Brussels, 9 July 2015.

number of areas, such as education, science, research and innovation, air transportation and others”.<sup>8</sup> Structurally, CEPA consists of political, economic and sectoral components, as listed in the box below.

*Box 1. Structure of the EU-Armenia agreement*

1. General principles
2. Political dialogue
3. Justice Freedom and Security
4. Sector cooperation
5. Trade
6. Institutional provisions
7. Annexes

## 2. Political dialogue

The *political dialogue* section of the EU-Armenia Comprehensive and Enhanced Partnership Agreement (CEPA) is not very different from the previously negotiated EU-Armenia Association Agreement, as there is no issue of incompatibility with the Eurasian Economic Union (EAEU) in a formal sense. Moreover, as there is no EU *acquis* underpinning political relations and the text is rather declarative and general in nature, negotiations in this area were relatively smooth.<sup>9</sup>

The political dialogue element of the new agreement is pertinent in EU-Armenian relations, especially given Armenia’s poor record of past elections, insufficient or inadequate democratic reforms, and due to political economy considerations of entrenched corruption and a dubious enforcement of ethics and the need for the regulatory separation of business and politics.

In contrast to the EU’s Association Agreements with Georgia, Moldova and Ukraine, for example, and in line with the failed EU-Armenia Association, CEPA does not include any stated reference to the “European aspirations” of Armenia. Instead, the agreement highlights the fundamental political aims guiding the relationship between the EU and Armenia. In line with relevant international treaties, such as the UN Universal Declaration on Human Rights and the European Convention on Human Rights and Fundamental Freedoms, the EU-Armenian agreement also reaffirms commitments to uphold and adhere to common values such as democratic principles, good governance, human rights, the protection of rights of minorities, judicial independence and other fundamental freedoms, etc. The implementation and adherence to the commitments of the political values stand as ‘essential elements’ of the

<sup>8</sup> Danileyan, Emil, “EU, Armenia Open Talks on ‘Comprehensive’ Accord”, Radio Free Europe/Radio Liberty’s (RFE/RL) Armenian Service, 8 December 2015 ([www.azatutyun.am/a/27412677.html](http://www.azatutyun.am/a/27412677.html)).

<sup>9</sup> Interview with an EU official, Brussels, 20 June 2017.

agreement, the violation of which constitutes grounds for suspending the agreement.<sup>10</sup> Despite its legal significance, however, the EU has rarely evoked the ‘essential element’ clause in practice.<sup>11</sup>

For Armenia, a record of tainted elections poses an especially significant challenge. Beyond the poor electoral record, Armenia would be helped by a clear and more consistent demonstration of its commitment to improving apparent shortcomings in the areas of civil liberties, including the freedoms of assembly and expression, gender equality, free media and the rule of law. The last area, related to due process and the rule of law, also includes more serious concerns over the abuse of pre-trial detention, weaknesses in criminal law over the introduction of evidence and probable cause, as well as an insufficiently independent judiciary.<sup>12</sup> Against that backdrop, there are also more clear cases of violence and intimidation by the police against peaceful demonstrators and journalists in what has become an even more serious trend in recent years.<sup>13</sup>

Despite these serious shortcomings, there is a new opportunity for leveraging an important period of transition and transformation. More specifically, the political element of the agreement is endowed with a unique chance to encourage reform amid a deeper structural transformation to an unprecedented parliamentary form of government. In light of the country’s political transformation to a parliamentary system in April 2018, a process that remains neither assured nor smooth, this political element represents an important and effective mechanism to incentivise and deepen reform.

In this regard, the new Parliament will face a set of urgent challenges and pressing problems, ranging from the deepening economic downturn afflicting the country to the deep-seated burden of entrenched corruption. Thus, despite the passing of a pivotal parliamentary election and the absence of any post-election unrest or instability, it is now clear that the burden of governance is about to become much more difficult and daunting. And it is precisely this combination of political transition and economic vulnerability that could add pressure to

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<sup>10</sup> Interview with an EU official, Brussels, 16 June 2017.

<sup>11</sup> Simon Lester, Bryan Mercurio and Lorand Bartels (eds) (2015), *Bilateral and Regional Trade Agreements*, 2nd Edition, Cambridge: Cambridge University Press.

<sup>12</sup> Freedom House, “Armenia: Nations in Transit 2016” (<https://freedomhouse.org/report/nations-transit/2016/armenia>) and Human Rights Watch, “World Report Armenia 2016” (<https://www.hrw.org/world-report/2016/country-chapters/armenia>).

<sup>13</sup> Transparency International Armenia (2016) Statement on the Mass Violation of Human Rights in the Republic of Armenia, 29 July ([transparency.am/en/news/view/1565](http://transparency.am/en/news/view/1565)) and Human Rights Watch, “Armenia: Arbitrary Detentions, Brutal Beatings Authorities Round Up, Detain Protest Leaders”, 5 August 2016 (<https://www.hrw.org/news/2016/08/05/armenia-arbitrary-detentions-brutal-beatings>).



encourage greater commitment by the Armenian authorities and increase the likelihood for a deepening of reform.<sup>14</sup>

And on a broader policy level, political cooperation will also include the non-proliferation of weapons of mass destruction, measures to combat organised crime, including cybercrime, as well as cooperation in the fields of information sharing and security cooperation, crisis management and in broader issues of regional and the international security. The general provisions of CEPA's political dialogue are subsequently complemented by the bilateral Partnership Priorities between the EU and Armenia, which are designed to translate the commitments into a specific action points.

This political foundation of relations was particularly important, as it encourages a more resolute Armenian commitment to shared or "common values" with the EU, to "further cooperation aimed at the continuous improvement of democratic institutions and judiciary, the promotion of human rights and rule of law, good governance, the fight against corruption, strengthening civil society, the further improvement of the framework for enhanced trade and investments" and as an incentive for Armenia, to continue implementation of the mobility partnership (or 'visa liberalisation')<sup>15</sup> and increased sectoral cooperation."<sup>16</sup>

Importantly, CEPA acknowledges Armenia's commitments vis-à-vis the EAEU and, in particular accepts the limitations inherent in the loss of the DCFTA. However, to ensure that the values underpinning CEPA remain firm, the EU rejected a proposal by the Armenian side to include a so-called carve-out clause in the agreement that would allow Armenia to opt out of the commitments enshrined in CEPA in areas where the Eurasian Economic Union might make new provisions.<sup>17</sup> In other words, the commitments in CEPA are not legally inferior to those undertaken in the Eurasian Economic Union.<sup>18</sup>

### 3. Foreign and security policy

Similar to the political section of the agreement, *foreign policy* is not directly affected by Armenia's EAEU membership. Armenia has also intensified its cooperation with the EU in the

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<sup>14</sup> Giragosian, Richard (2017) "Armenia's election aftermath: Few street protests, but the new government is set for a bumpy ride," London School of Economics (LSE) and Political Science EUROPP blog, European Politics and Policy, 5 April ( <http://blogs.lse.ac.uk/euoppblog/2017/04/05/armenias-election-aftermath/>).

<sup>15</sup> The Visa Facilitation and Readmission Agreements between the EU and Armenia entered into force in January 2014.

<sup>16</sup> The Armenian commitment was reflected in joint statement between the EU and Armenia on the margins of the EaP Vilnius Summit on 29 November 2013 ([http://www.mfa.am/en/press-releases/item/2013/11/29/eu\\_js/](http://www.mfa.am/en/press-releases/item/2013/11/29/eu_js/)).

<sup>17</sup> Interview with an EU official, Brussels, 5 September 2016.

<sup>18</sup> Kostanyan, Hrant and Giragosian, Richard (2016) "EU-Armenia relations. Seizing the second chance", CEPS Commentary, 31 October (<https://www.ceps.eu/system/files/EU-Armenian%20Relations%20Kostanyan%20Giragosian.pdf>).

framework of the Common Security and Defence Policy (CSDP). For example, in January 2017, Armenia's Defence Minister Vigen Sargsyan met with the EEAS Head of Division for CSDP, Partnerships and Agreements Clara Ganslandt to prepare for Armenia's first-ever hosting of a CSDP High-Level Conference for the Eastern Partnership co-organised by the EEAS, European Security and Defence College and Austria. Held in January 2017, the conference was an opportunity for Armenia to propose expanded EU assistance in the areas of educational programmes and training in the security and defence sectors.<sup>19</sup> Equally significant is the fact that the new EU-Armenia agreement is expected to strengthen the case for Armenia's participation in the CSDP missions.<sup>20</sup> Armenia has been involved in UN and NATO missions and CEPA will clear the way for Armenia to take part in the EU operations for the first time.

Against that backdrop, the strategic significance for Armenia of the agreement's foreign policy and security aspect stems from two primary factors. First, the necessity to address the country's steady mortgaging of national security by aligning itself too closely with Russia is now a well-defined policy objective of the Armenian government. Although driven by a rather belated recognition of the limits of the Armenian security relationship with Russia, most notably in the aftermath of the April 2016 'four-day war' over Nagorno-Karabakh, this is also due to trepidation over the negative consequences from Armenia's vote with Russia against the UN General Assembly Resolution 68/262 related to Crimea. In addition to Russian pressure, the reason for the vote was the language of the resolution: "Armenia would vote for any resolution that prioritised territorial integrity over self-determination."<sup>21</sup> On a personal level, there was not much regret for voting against the resolution in the mind of an Armenian diplomat, who argued that Ukraine has consistently voted against Armenian interests and in favour of Azerbaijan in the UN long before Ukraine had a territorial integrity issue.<sup>22</sup>

A second opportunity for Armenia from a re-alignment with the EU in foreign policy and security is rooted in the need for technical expertise and assistance in the process of the country's transformation to a parliamentary form of government in 2018. With Russia seen as unable to provide the required expertise, Armenia seeks EU assistance and experience with such as issues as parliamentary oversight of the armed forces, the role of "parliamentary foreign policy" and for deeper security sector reform and modernisation.

### 3.1 Opportunities in the security sector

In terms of the ENP Review's overarching goal of "stabilisation" in the neighbourhood over the coming 3-5 years, which is cited as "the most urgent challenge in many parts of the neighbourhood", one of the key new areas of opportunity for Armenia is the emphasis on

<sup>19</sup> "Armenia-EU meeting on defense takes place in Yerevan", Mediamax news agency, 18 January 2017 (<http://www.mediamax.am/en/news/armypolice/21507/>).

<sup>20</sup> Interview with an EU official, Yerevan, 8 May 2017.

<sup>21</sup> Interview with an Armenian official, Yerevan, 4 May 2017.

<sup>22</sup> Ibid.

security sector reform, along with the related areas of conflict prevention and even counter-terrorism. For Armenia, the EU can deepen engagement in several aspects of security, ranging from 'soft' security to more traditional 'hard' security measures.

These involve strengthening civilian control and oversight of the armed forces, including institutional capacity building of the Armenian parliament; leveraging the country's ongoing commitment to Western-oriented defence reform, with a deeper focus on structural changes, modernisation and military education; enhancing threat awareness and crisis response in the areas of counter-terrorism and natural disaster; addressing shortcomings in local and community security in border areas; and deepening cooperation and utilising current 'best practices' for cyber-security.

Another area for cooperation is energy security. More specifically, as the only country in the region operating a nuclear power plant, there is a need for nuclear security and safety activities in Armenia. And the EU may also want to consider attempts to pursue regulatory approximation with Armenia on the nuclear sector as an issue of mutual interest. As a first step, the EU can engage in Armenia by working with interested partners and the International Atomic Energy Agency (IAEA) to establish a comprehensive country energy policy review for the country, including an inventory of barriers to energy investments and the identification the appropriate reforms.

The unresolved Nagorno-Karabakh conflict remains an obstacle to increasing stability and prosperity in the region. Since 2003, the EU Special Representative (EUSR) has been working to facilitate dialogue between the EU and the countries of the region and to assist the EU in developing a comprehensive policy towards the countries of the region. The EU, including through the most recent EUSR, Ambassador Herbert Salber, supports and complements the efforts of the Co-Chairs of the OSCE Minsk Group (France, Russia and the United States) to facilitate resolution of the conflict.

#### 4. Rule of law, justice and migration

As an important element of political association, CEPA includes broad provisions on the rule of law, the judiciary and fundamental freedoms. This part of the agreement addresses crucial deficiencies and challenges in Armenia and, most notably, focuses on the country's lack of a truly independent judiciary and other shortcomings in the rule of law and protection of civil liberties.

Moreover, as Armenia undergoes a structural transformation to a new parliamentary form of government, there is an *elevated significance* to the agreement's attention to the need for a more clearly defined and established separation of powers between the country's three governmental branches, stressing the necessity for greater delineation of the role and authority of the reduced executive, the enhanced oversight responsibilities of the legislature and the insufficiently independent judiciary within the new system. The challenge is more than

structural adjustment, however, as Armenia has traditionally been prone to an overly dominant executive, an ineffective and generally subordinate parliament and a subservient judiciary.<sup>23</sup>

Three issues related to justice, freedom and security are of particular importance in Armenia: i) mistreatment of peaceful demonstrators and journalists including those in custody; ii) systemic corruption and iii) lack of legal norms to counter discrimination and domestic violence. While negotiating CEPA, the EU “underlined the importance for Armenia to tackle problems in the justice sector and to counter discrimination on all grounds, to speedily adopt and implement legislation against discrimination and against domestic violence. A continued concerted fight against corruption and strong support for the rule of law is essential.”<sup>24</sup> Despite the importance of identifying these priorities, the real test lies with the Armenian side, whose commitment to any serious improvement in these areas remains fairly uncertain at best and questionable at worst.

CEPA also reinforces Armenia’s commitment to combating corruption, money laundering, organised crime and terrorism. A particularly pressing concern in Armenia, however, is systemic corruption, both in the public and private sectors. Among the 176 countries included in Transparency International’s Corruption Perceptions Index of 2016, for example, Armenia is ranked at number 113.<sup>25</sup> The Global Competitiveness Index of the World Economic Forum that measures corruption, among other things, puts Armenia 79th among 138 countries.<sup>26</sup> The World Bank’s Doing Business Index ranks Armenia 38th among 190 countries.<sup>27</sup> The Trace International’s 2016 Global Business Bribery Risk Index includes 199 countries and positions Armenia at 64th place.<sup>28</sup>

Addressing corruption in the framework of CEPA goes beyond the Justice, Freedom and Security title and is addressed by trade-related chapters such as competition and public procurement.<sup>29</sup> The effective fight against corruption has a bearing on foreign direct investments that remain low especially from the EU.<sup>30</sup> This is not surprising since Armenia’s

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<sup>23</sup> For more information, see the annual assessments of “Armenia: Freedom in the World 2016”, Freedom House (<https://freedomhouse.org/report/freedom-world/2016/armenia>).

<sup>24</sup> See EU-Armenia Cooperation Council, Brussels, 23 May 2017 (<http://www.consilium.europa.eu/en/meetings/international-ministerial-meetings/2017/05/23/>).

<sup>25</sup> Transparency International, Armenia: Corruption Perception Index 2016 (<https://www.transparency.org/country/ARM>).

<sup>26</sup> Global Competitiveness Index 2016-2017, Armenia, World Economic Forum <http://reports.weforum.org/global-competitiveness-index/country-profiles/#economy=ARM>.

<sup>27</sup> World Bank, Doing Business Rankings 2016 (<http://www.doingbusiness.org/rankings>).

<sup>28</sup> The TRACE Matrix®, 2016 Results (<http://www.traceinternational.org/trace-matrix>).

<sup>29</sup> For more on competition and public procurement chapters of the CEPA, please see the next section.

<sup>30</sup> European Commission, Armenia main indicators ([http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_111471.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_111471.pdf)).

investment climate is in need of improvement as it suffers not only from small market size, closed borders with Turkey and Azerbaijan, low per capita gross national income but also from excessive and pervasive corruption.<sup>31</sup> Moreover, convoluted customs procedures and non-transparent tax collection, control over important sectors of the economy by powerful oligarchs, use of administrative resources for political reasons and an absence of an independent judiciary further impede the country's investment climate and scare away potential investors.

The EU has increasingly put greater emphasis on combating discrimination with a particular focus on the rights of women. Under the GSP+ scheme, the Armenian authorities committed to implement the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Combating discrimination and domestic violence against women along with the need for due process remains on the agenda of the EU-Armenian human rights dialogue.<sup>32</sup> The EU has been particularly vocal on the need for Armenia to adopt a stand-alone law against domestic violence and support victims of domestic abuse.<sup>33</sup>

CEPA also addresses cooperation on legal and irregular migration, border management, asylum, return policies and movement of persons in general terms. Currently, the most pressing issue is the launch of a visa liberalisation process, to which CEPA makes a careful reference.<sup>34</sup> It has long been one of the more attractive and enticing incentives for Eastern Partnership countries; for Armenia as well, it is seen as an important motivation to the successful implementation of the agreement including its provisions on the fight against corruption.

The Mobility Partnership with Armenia was first signed in 2011, with the EU, some of its member states<sup>35</sup> and Armenia committing to an "improvement of the mobility of people" between their territories, while working to ensure better management of migration flows, including preventing and reducing irregular immigration. In this context, the EU-Armenia Visa Facilitation and Readmission Agreements were signed, which entered into force in January 2014. In September 2016, the Armenian Minister of Foreign Affairs officially requested the opening of a visa liberalisation dialogue but did not receive a positive reply. As and when the EU might agree to a visa liberalisation action plan (VLAP) with Armenia, its content could be

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<sup>31</sup> US Department of State (2017) Armenia: 2017 Investment Climate Statements, 29 June (<https://www.state.gov/e/eb/rls/othr/ics/2017/eur/269872.htm>).

<sup>32</sup> EU-Armenia Cooperation Council.

<sup>33</sup> "Press Release: 8th Human Rights Dialogue between the European Union and Armenia", 30 May 2017.

<sup>34</sup> Interview with an EU official, Brussels, 20 June 2017. EU-Armenia Cooperation Council, 18 January 2016.

<sup>35</sup> Participating EU member states include the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Federal Republic of Germany, the French Republic, the Republic of Italy, the Kingdom of the Netherlands, the Republic of Poland, Romania and the Kingdom of Sweden.

expected to have the standard structure of four blocks<sup>36</sup> in two phases: i) legislation and institutions and ii) implementation.

According to the standard model, when these requirements are assessed by the Commission to be satisfactory, the EU Council and Parliament may then grant visa-free travel to the EU for short-term stays (long-term visas lie within the competence of the EU member states).

## 5. Sectoral cooperation

The sectoral cooperation title of the CEPA is wide ranging in its coverage. It includes some 28 sectoral cooperation chapters ranging from energy and environment, economic dialogue, accounting and auditing, corporate governance, social policy, employment, taxation, public finances to cross-border and regional cooperation, transport, education and civil society. This study only focuses on some of the important sectors.

In many of the sectors, Armenia is committed to gradually approximate its legislation to that of the EU and international law in a given timeframe stipulated in the agreement. The feasibility of these commitments is helped by the previous legislative and regulatory harmonisation completed already during the preparatory and negotiation stages.

The negotiators of CEPA heavily relied on the existing texts of the initialled Association Agreement. The negotiators of CEPA first agreed upon the main body of the text, subsequently reviewing the lists of EU legal acts to be annexed to the agreement, and timetable for approximation. This had to take into account new EU legislation, as well as EAEU legislation that should not be contradicted. These issues are often very technical at the level of individual product standards (e.g. Directive 2004/42/EC on the limitation of emissions of volatile organic compounds in decorative paints was checked and verified as compatible with Armenia's EAEU obligations).<sup>37</sup>

The Armenian side would have liked to go further than the relevant Directorate-Generals of the European Commission in two areas, namely in financial markets and food safety. However, these are cases where the Association Agreements and DCFTAs of Ukraine, Moldova and Georgia are subject to controversy over whether they impose excessive implementation burdens on the partner states.<sup>38</sup>

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<sup>36</sup> The four blocks of VLAP include: 1. Document security, including biometric passports; 2. Integrated border management, migration management and asylum; 3. Public order and security and 4. External relations and fundamental rights.

<sup>37</sup> Interview with an Armenian official, 20 August 2015.

<sup>38</sup> Interview with an EU official, Brussels, 5 September 2016.

## 5.1 Energy

Within the energy chapter of CEPA, the gas sector is fairly superficial and structurally restricted by the lack of annexed EU legal acts. In particular, it lacks any reference to the European Energy Community Treaty, to which the three AA/DCFTA states have acceded, and which provides for a comprehensive adoption of EU energy law. For Armenia, the outlook for energy cooperation is limited by the country's overwhelming dependence on imports of Russian natural gas.

Given the country's paucity of energy resources, evident in the absence of oil or gas, there have been attempts to offset this vulnerability by advancing fairly developed hydroelectricity and growing potential in alternative energy sources such as wind and solar power. The country has had little choice but to rely on its sole nuclear power plant. The Metsamor nuclear power plant, which is the only one in the region and produces around one-third of Armenia's electricity, is a source of contention.<sup>39</sup> The EU-Armenia talks revived the longstanding dispute concerning the nuclear facility, as the EU yet again pushed Armenia to decommission the nuclear power station and took issue with Armenia's decision to extend the life of the power plant until 2026. In the absence of a viable alternative, Armenian authorities were largely unable to offer any concession or compromise to the EU. In the framework of CEPA, the EU and Armenia agreed that the Armenian government would adopt a roadmap for decommissioning the nuclear power plant at an early stage.<sup>40</sup>

Although Russia's hold over Armenia's energy sector has slightly loosened after the 'Electric Yerevan' protests against a planned 16% electricity price hike, it remains a concern.<sup>41</sup> In response to those protests, Russia sold its ownership of Armenia's electricity distribution network and largest thermal power plant to an Armenian-Russian businessman, who runs the Tashir Group. Moreover, Armenia also sold its largest hydroelectric complex to New York-based ContourGlobal for the \$250 million deal. There are also plans to build a major hydroelectric station on the Arax River in cooperation with Iran and two new thermal-power plants with European investment.<sup>42</sup> Despite these developments, Russia remains a key player in Armenia's energy sector. A total of 80% of the natural gas consumed in Armenia originates from Russia, Gazprom owns gas distribution network and Russia provides fuel to the Metsamor nuclear plant.

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<sup>39</sup> World Nuclear Association (2017), "Nuclear Power in Armenia", June (<http://www.world-nuclear.org/information-library/country-profiles/countries-a-f/armenia.aspx>).

<sup>40</sup> Interview with an EU official, Brussels, 6 July 2017.

<sup>41</sup> Pete Baumgartner (2015), "Armenians Say They'll Restart 'Electric Yerevan' Protest", 22 July 2015 (<https://www.rferl.org/a/electric-armenia-protests-restarting-/27147277.html>) and Giragosian, Richard (2015), "Armenia: approaching the precipice," European Council on Foreign Relations (ECFR) Commentary, 26 June ([www.ecfr.eu/article/commentary\\_armenia\\_approaching\\_the\\_precipice](http://www.ecfr.eu/article/commentary_armenia_approaching_the_precipice)).

<sup>42</sup> Danielyan, Emil (2016), "Russian State Presence in Armenian Energy Sector Declining" *Eurasianet* (<http://www.eurasianet.org/node/78661>).

The energy sector is not integrated in the Eurasian Economic Union and in theory should not pose a problem for the new EU-Armenia agreement. But natural gas remains problematic because of the bilateral agreement that Armenia signed with Russia three months after rejecting the Association Agreement in favour of joining the Eurasian Economic Union.<sup>43</sup> The gas deal grants Gazprom a monopoly to operate pipelines until 2043 and does not allow Armenia to make, annul or change laws and decision or issue decrees until 31 December 2043. The deal therefore severely limits the scope of Armenian-EU cooperation in the natural gas sector as it is regulated by the existing terms of the Armenia-Russia agreement and rules out key ‘unbundling’ provisions of EU law.

## 5.2 Environment and climate change

Although there is a realisation on the part of Armenia that the EU directives related to the environment have serious budgetary implications, CEPA is very ambitious as far as energy efficiency, environment and climate change are concerned. Armenia kept most of the environmental and climate action *acquis* of its draft Association Agreement, while in some cases slightly extending timetable of the implementation. This includes directives concerning environmental governance, water (e.g. Directive 91/676/EC), air (Directive 2008/50/EC), industrial emissions (Directive 2010/75/EU), waste management (Directive 2008/98/EC), hazards and dangerous substances (Directive 96/82/EC) and chemicals and nature protection (Directive 2009/147/EC).<sup>44</sup>

## 5.3 Transport

Given that it is an important part of the European integration project and the development of the EU internal market, transport-related EU law is quite advanced. For Armenia, as a landlocked country blockaded by Azerbaijan and Turkey, the upgrading of crucial infrastructure, running efficient and safe transport operations and ensuring intermodality and interoperability of transport structures are of crucial importance. Yet, the country’s 845 km of railways are operated by South Caucasus Railway of Russian Railways, and in need of serious improvement. Armenia’s aviation transport sector has also been rather problematic. In the last 25 years Armenia has seen 14 defunct airlines.

CEPA promotes the development and expansion of road, rail and air transport. The agreement provides for the approximation to the EU *acquis*. Moreover, the EU supports the development and improvement of road infrastructure in Armenia. Through the Neighbourhood Investment

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<sup>43</sup> “Armenian Lawmakers Ratify Controversial Russian Gas Deal Amid Protests”, RFE/RL, 23 December 2013 <https://www.rferl.org/a/armenia-russia-gas-deal/25209474.html>.

<sup>44</sup> Interview with an Armenian official, 20 August 2015.



Facility (NIF),<sup>45</sup> the EU provided assistance for the North-South Road Corridor that aims to serve as a highway for transporting Iranian goods to the EU through Georgia's ports.

A related aspect that is perhaps more important in terms of its economic impact and that also has implications for the Armenian government's commitment to develop tourism is the area of air transport and 'open skies'. As the Transport Council has authorised the European Commission to open negotiations with Armenia on a comprehensive EU-Armenia Air Transport Agreement,<sup>46</sup> this is one area that is most likely to receive increased attention from the Armenian side through the implementation of the agreement.

#### 5.4 Employment, social policy and equal opportunities

The commitments enshrined in CEPA cover equal treatment, including gender and racial equality, anti-discrimination, safety related to employment, social policy and equal opportunities. These provisions strengthen Armenia's obligations in the framework of the GSP+ that requires adopting and enforcing a number of international treaties. The chapters related to equal opportunities, social policy and employment include substantial EU *acquis* on safety at work, equal treatment, gender and racial equality, anti-discrimination and essential labour market regulations.

#### 5.5 Regional cooperation, education and civil society

The provisions of CEPA covering regional cooperation, education and civil society do not as a rule take the form of legally binding commitments, but rather are important elements of EU-Armenia cooperation.

In terms of regional cooperation, Armenia is part of the Black Sea Synergy and the Eastern Partnership Territorial Cooperation. The latter in particular has a small but practical value. The Armenian regions of Shirak, Lori and Tavush and Georgia's Samtskhe-Javakheti and Kvemo Kartli regions have both benefited from the programme. Through the Eastern Partnership Territorial Cooperation programme, the EU in particular supported youth employment, cross-border tourism development, etc.

CEPA briefly touches upon education and research cooperation between Armenia and the EU. In particular, Armenia has recently become an associate member of the Horizon 2020

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<sup>45</sup> "The EU Bank and Armenia Sign Agreement Related to the EUR 12 Million to Support Construction of the North-South Road Corridor", Hetq investigative journalists, 18 November 2016 (<http://hetq.am/eng/news/72863/the-eu-bank-and-armenia-sign-agreement-related-to-the-eur-12-million-to-support-construction-of-the-north-south-road-corridor.html>).

<sup>46</sup> Council (2016), Air transport agreement with Armenia: Council adopts mandate, press release 684/16, 01 December (<http://www.consilium.europa.eu/en/press/press-releases/2016/12/01-transport-agreement-armenia/>).

programme. The new agreement also aims to strengthen Armenia's participation in Erasmus+ and refers to the Bologna process.

The EU will remain committed to supporting civil society, and CEPA will establish its own civil society platform. This platform is likely to include many organisations that are part of the Armenian platform of the Eastern Partnership multilateral civil society forum. A separate civil society platform will be established for the purpose of consolidating trade-related matters.

## 6. Economic cooperation

CEPA contains neither a DCFTA nor a simple free trade agreement (FTA), as Armenia forfeited its competence to negotiate free trade agreements to the Eurasian Economic Union (EAEU). Nevertheless, the agreement is still quite comprehensive in its inclusion of chapters with similar titles as used in the DCFTA, but with key substance lacking in areas that would conflict with Armenia's commitments to the EAEU.

### 6.1 Trade structures

The EU is one of Armenia's most important trading partners (see Figure 1 for trade data) accounting for 23.6% of its overall trade in 2016.<sup>47</sup> In 2016, Armenian exports to the EU amount to €335 million and mainly consisted of base metals and derivative articles (49.1%), mineral products (25.5 %), textiles (articles) (12.5%), pearls, precious metals and articles thereof (7.7%) and foodstuffs, beverages and tobacco (2.6%) (see Table 1).<sup>48</sup>

The EU's exports to Armenia in 2016 amounted to EUR 601 million. They consisted mainly of machinery and appliances (23.2%), textiles (15.9%), chemicals (12.7%), foodstuffs, beverages, tobacco (6.9%) and pearls, precious metals and articles (6.2%).<sup>49</sup> While the trade volumes with the EU have been basically static over the last decade, the most recent Armenian data indicate that trade with the EU in the first half of 2017 saw an increase of 18%.<sup>50</sup>

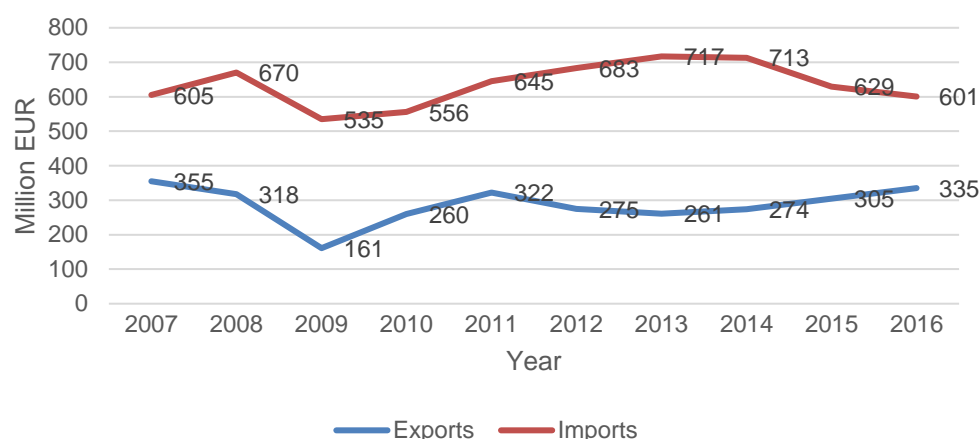
<sup>47</sup> European Commission (2017) European Union, Trade in goods with Armenia ([http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113345.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113345.pdf)).

<sup>48</sup> European Commission (2017) European Union, Trade in goods with Armenia ([http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113345.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113345.pdf)).

<sup>49</sup> European Commission (2017) European Union, Trade in goods with Armenia ([http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113345.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113345.pdf)).

<sup>50</sup> "Russian PM Hails Rising Trade with Armenia," Radio Free Europe/Radio Liberty's (RFE/RL) Armenian Service, 14 August 2017 ([www.azatutyun.am/a/28676359.html](http://www.azatutyun.am/a/28676359.html)).

Figure 1. Armenia-EU trade, 2007-16 (€ million)



Source: Authors' own configuration based on data from the European Commission.

In terms of trade with Russia, Armenian exports to Russia in 2016 were dominated by beverages, representing some 38% of the total exports to the Russian market, while Armenian imports from Russia were dominated by energy and natural gas, which stood at 52% of total imports from Russia (see Table 2).

Armenia has a big structural trade deficit with both the EU and Russia, financed first of all by migrant remittances from Russia and transfers from the Armenian diaspora worldwide. The relative shares of trade between the EU and Russia has been relatively stable over the last decade with Russia's share usually somewhat bigger than that of the EU. For example, in 2016 Russia's trade volume was \$1,347 million (€1,212 million), which compares with €932 million for the EU (30% higher).

In the first half of 2017, trade expanded considerably with both the EU (+18%) and Russia (+24%), resulting therefore in some widening of Russia's lead as Armenia's first trade partner.<sup>51</sup> The Armenia side is concerned about an increasing dependence on trade with Russia, and given its recent accession to the Eurasian Economic Union, a slowing down of efforts to diversify the export base.<sup>52</sup>

<sup>51</sup> "Russian PM Hails Rising Trade with Armenia," Radio Free Europe/Radio Liberty's (RFE/RL) Armenian Service, 14 August 2017 ([www.azatutjun.am/a/28676359.html](http://www.azatutjun.am/a/28676359.html)).

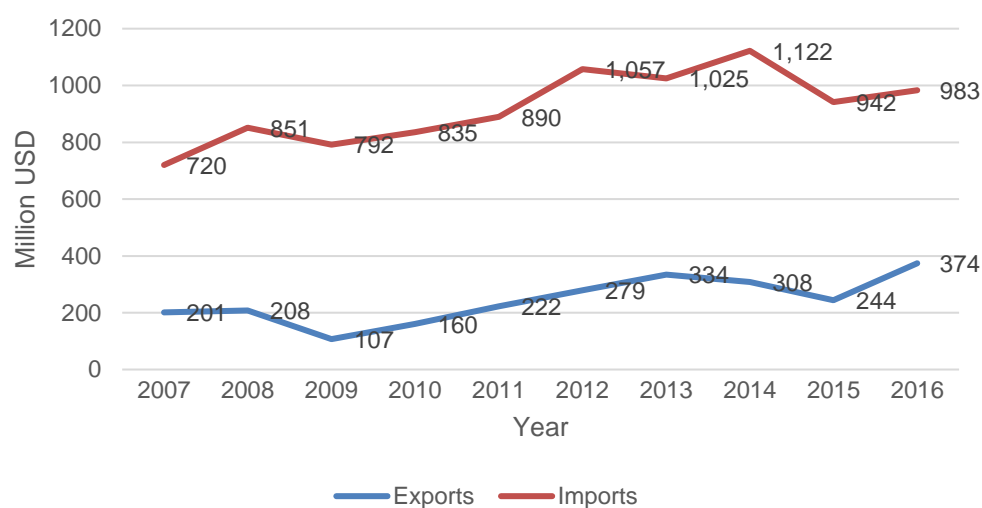
<sup>52</sup> Interview with an Armenian official, Yerevan, 8 May 2017.

Table 1. Composition of Armenia-EU trade, top 10 commodities, 2016

Armenia's exports to the EU	Armenia's imports from the EU
1. Base metals and derivative articles (49.1%)	1. Machinery and appliances (23.2%)
2. Mineral products (25.5%)	2. Textiles and textile articles (15.9%)
3. Textiles and textile articles (12.5%)	3. Products of the chemical or allied industries (12.7%)
4. Pearls, precious metals and articles thereof (7.7%)	4. Foodstuffs, beverages, tobacco (6.9%)
5. Foodstuffs, beverages, tobacco (2.5%)	5. Pearls, precious metals and articles thereof (6.1%)
6. Optical and photographic instruments (0.6%)	6. Optical and photographic instruments (4.6%)
7. Raw hides and skins, and saddler (0.5%)	7. Transport equipment (4.5%)
8. Machinery and appliances (0.4%)	8. Miscellaneous manufactured articles (4.5%)
9. Articles of stone, glass and ceramics (0.3%)	9. Live animals; animal products (4.2%)
10. Animal or vegetable fats and oils (0.2%)	10. Base metals and articles thereof (3.4%)

Data source: European Commission.

Figure 2. Armenia-Russia-trade, 2007-16 (\$ million)



Source: Authors' own configuration based on data from the National Statistical Service of Armenia.

Table 2. Armenia-Russia trade, top ten commodities, 2015 (percent of total exports/imports)

Armenian exports to Russia	Armenian imports from Russia
1. Beverages (38%)	1. Mineral production (52%) (refers to natural gas and other hydrocarbon resources)
2. Textile articles (11%)	2. Cereals (9%)
3. Dairy products (10%)	3. Base metals and articles thereof (7%)
4. Fruits and vegetables (10%)	4. Animals and vegetable fats and oils (3%)
5. Processed vegetables products and fruits (6%)	5. Machinery and equipment (3%)
6. Fish, crustaceans and mollusks (5%)	6. Food, tobacco, beverages (3%)
8. Precious stones and metals (2%)	7. Iron and steel (2%)
8. Tobacco (2%)	8. Transport means (2%)
9. Machinery and equipment (2%)	9. Machinery and equipment (2%)
10. Pharmaceutical products (2%)	10. Precious stones and metals (2%)

Source: Armenian State Statistical Agency.

## 6.2 Market access

CEPA could not commit to tariff liberalisation, since this would be inconsistent with Armenia's accession to the Eurasian Economic Union (EAEU). The two parties reaffirm their general commitment to WTO principles. The EU's exports to Armenia are subject to the common external tariff of the EAEU, complemented however by Armenia's transitional arrangements with the EAEU, which allows it to continue to apply Armenia's former WTO tariff levels for about 800 tariff lines.

As regards Armenia's exports to the EU, these are subject to the EU's common external tariff, as substantially modified however by the EU's granting Armenia continued access to the Generalised System of Preferences (GSP+). Through this scheme Armenia is able to export goods under 6,400 tariff lines to the EU with zero or reduced tariffs.<sup>53</sup> However, this is less than what Armenia could have had under the DCFTA, which would permit 99% tariff-free access to the EU single market.<sup>54</sup>

<sup>53</sup> Official Journal of the European Union (2012) Regulation (EU) No 978/2012 of the European Parliament and the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 ([trade.ec.europa.eu/doclib/docs/2012/october/tradoc\\_150025.pdf](http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc_150025.pdf)).

<sup>54</sup> Interview with an Armenian official, August 2016.

The EU's GSP+ scheme targets those economically vulnerable countries that have not been able to diversify their exports to the EU and are struggling to integrate into the international trading system. In turn, the EU requires that the GSP+ beneficiary countries implement a set of 27 core international conventions covering areas such as good governance, human rights, labour standards and environmental protection.<sup>55</sup>

The European Commission regularly reviews the implementation of the GSP+ system. According to the Commission's latest report on GSP+, although Armenia has made "a serious effort" in the implementation of core international conventions, many shortcomings remain:

Armenia needs to further step up efforts to effectively address several persisting human rights problems, in particular the lack of independence and integrity of the judiciary and of the political system as a whole, no sufficient legislative and enforcement framework against use of torture and ill treatment, corruption.<sup>56</sup>

There are also issues regarding the freedom of association for employers and workers, as the Armenian labour code needs to be improved in order to tackle discrimination in the workplace, enforce workplace health and safety requirements and curb the abusive reliance on probationary labour contracts for short-term employees. Within the good governance cluster, among other things, corruption remains the major challenge.

The use of GSP+ by Armenian businesses has consistently been rather high. In 2015, Armenia made use of a zero- or reduced-tariff regime granted to it through GSP+ for 77.2% of the possible tariff lines. This facility is therefore of real importance for Armenia's trade with the EU.

### 6.3 Customs and technical barriers to trade

CEPA has provisions on customs procedures, technical barriers to trade (TBTs) and sanitary and phytosanitary measures (SPS). However, as these are core areas of competence of the Eurasian Economic Union, the chapters are shallow and lack the depth of the DCFTA.<sup>57</sup>

Although CEPA includes a chapter on customs, it is rather superficial. The Eurasian Economic Union has created its own customs rules and procedures, including a Customs Code that has to be followed by Armenia. However, Armenia is also a member of the World Customs

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<sup>55</sup> European Commission (2016) Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2014-2015, SWD(2016) 8 final, Brussels, 28 January 2016 ([http://trade.ec.europa.eu/doclib/docs/2016/january/tradoc\\_154180.pdf](http://trade.ec.europa.eu/doclib/docs/2016/january/tradoc_154180.pdf)).

<sup>56</sup> Ibid., p. 23.

<sup>57</sup> For more information about the DCFTAs, see Emerson, M. and V. Movchan (eds) (2016), *Deepening EU-Ukrainian Relations - What, Why and How?*, CEPS and Rowman and Littlefield. Emerson, M. and T. Kovziridze (eds) (2016), *Deepening EU-Georgian Relations - What, Why and How?*, CEPS and Rowman and Littlefield and Emerson, M. and D. Cenusu (eds) (2016), *Deepening EU-Moldovan Relations - What, Why and How?*, CEPS and Rowman and Littlefield.

Organisation (WCO), and it will continue to observe its commitments under that organisation. The role of CEPA will be enhance dialogue and the exchange of experience and best practice.

The provisions related to TBTs are based on the WTO TBT agreement. However, unlike the DCFTA countries, Armenia does not go further with any commitments to harmonising with EU regulations, accreditation, standardisation or conformity assessment. There is again a commitment in principle to engage in dialogue with the EU, facilitating the exchange of information on best practices.

The chapter on SPS for agri-food products is also thin, beyond confirming WTO principles. Armenian agri-food exports to the EU are currently extremely limited (mainly non-farmed crayfish).<sup>58</sup> However, if an enterprise in Armenia is interested in exporting to the EU, it can do so when its product complies with EU rules, procedures and standards, for which the EU's technical support can be helpful.

## 6.4 Competition, state aid and public procurement

In Armenia, powerful economic actors and firms - or so-called oligarchs - hold informal control over key sectors of economy and inordinate market share over the import and export of commodities and staple goods.<sup>59</sup> Oligarchs also enjoy preferential market positions and treatment in the state procurement process.<sup>60</sup> In this context, the chapters on competition, state aid and public procurement of CEPA are potentially important, and less constrained by Armenia's membership in the Eurasian Economic Union.

CEPA's competition and state aid chapter aims to establish basic equal conditions for the companies and also covers state-owned companies, state aid, cartels and monopolies. Whereas the Eurasian Economic Union holds the competence of adopting competition legislation, its member states can decide on their own competition authority. Although Armenia will not approximate its legislation to the EU's competition law, it will have an EU-style competition regulator.

Armenia is a partner in the plurilateral Agreement on Government Procurement (GPA) of the WTO. The public procurement chapter of CEPA goes beyond the WTO commitments and goes as far as foreseeing mutual market access between the EU and Armenia.

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<sup>58</sup> European Commission, "Establishments List – Armenia" ([https://webgate.ec.europa.eu/sanco/traces/output/AM/FFP\\_AM\\_en.pdf](https://webgate.ec.europa.eu/sanco/traces/output/AM/FFP_AM_en.pdf)).

<sup>59</sup> For more on the Armenian 'oligarchs', see Giragosian, Richard (2017), "The Armenian Imperative: Confronting and Containing Oligarchs" in Kamrava, Mehran (ed.), *The Great Game in West Asia: Iran, Turkey and the South Caucasus*, Georgetown University, Doha, Qatar. Oxford University Press.

<sup>60</sup> Giragosian, Richard (2011), "Qu'est-ce qu'être « oligarque » au Caucase? Le cas arménien," in Minassian, Gaïdz (ed.), *Eurasie, au cœur de la sécurité mondial*. Paris: Flammarion.

These chapters, if seriously implemented, are of high importance in the fight against corruption in Armenia and in its efforts to attract much-needed foreign direct investment.

## 6.5 Intellectual property rights

The intellectual property rights (IPR) chapter is also deeper than the WTO-based Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and includes detailed provisions on geographical indicators. In this domain Armenia undertook a number of reforms as part of the preconditions for starting the negotiations of the DCFTA, and these have not been reversed with Armenia's accession to the EAEU.

As regards geographical indicators, the only contentious issue was the use of the 'cognac' label by the Yerevan Brandy Company, which is owned by the French company Pernod Ricard.<sup>61</sup> The EU has agreed to a very long 24-year transition period during which Armenia may still label its brandy 'cognac', but only in Cyrillic letters and for export to Russia.

## 6.6 Trade in services

The CEPA chapter on trade in services is one of the most ambitious chapters of the new agreement. It goes beyond the General Agreement on Trade in Services (GATS) of the WTO, which includes four GATS modes – namely, cross-border supply of services (modes 1 & 2), establishment (mode 3) and temporary presence of natural persons for business purposes (mode 4) – and sets the conditions for market access.<sup>62</sup> The trade in services chapter constitutes about 23 % of the whole agreement.

CEPA will provide for mutual access to service markets and national treatment. The agreement details legally binding norms for EU-Armenia mutual market access in different services sectors. Therefore, CEPA foresees the transposition of a significant amount of EU legislation into Armenian national legislation. The general principles and obligations that Armenia undertakes are mentioned in the agreement. CEPA includes provisions on both the Most Favoured Nation (MFN) regime and National Treatment. As an exception from the general rule, however, there will most likely be a positive list that will further restrict access of Armenian businesses to the EU's services market.

The cross-border supply of services chapter of CEPA is likely to cover various sectors, such as computer services, postal and courier services, electronic communication networks and services, financial services, transport services and e-commerce.

CEPA will also focus on the temporary presence of natural persons for business purposes such as business owner, key personnel, graduate trainees and business services seller as well

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<sup>61</sup> Interview with an EU official, Yerevan, 8 May 2017.

<sup>62</sup> Interview with an EU official, Brussels, 06 July 2017.



as services suppliers and independent professionals. The services chapter also deals with the establishment providing for granting national treatment for the establishment and operation of subsidiaries, branches and representative offices.

Armenia will be granted access to the EU internal market only after implementing its harmonisation commitments. Implementation of these extensive obligations is likely to require the country to prepare a roadmap of implementation for each sector and regular progress reports by the Commission.

## Conclusions

After weathering the uncertainty of a period of ‘strategic pause’ in its relations with the European Union, Armenia recently initialled a new EU-Armenia framework agreement. Hailed as a rare second chance to restore relations and regain trust, the agreement, now on track to be signed in November 2017, represents a strategic opportunity for Armenia. The inherent opportunity stems from the agreement’s offer to salvage Armenia’s 2013 decision to sacrifice its earlier Association Agreement and related DCFTA with the EU and, in the wake of Russian pressure, to commit to join the EAEU instead.

Despite inherent constraints, CEPA stand out as an ambitious agreement. It has kept the substance of the Association Agreement in its political dialogue part. The commitments undertaken in the areas of justice, freedom and security and in 23 sectoral cooperation chapters are rather extensive. Many of these chapters are kept at ‘approximation’ levels, which the failed Association Agreement included. Armenia lost the DCFTA because of its membership in the EAEU and the new agreement has shallow chapters covering customs, SPS provisions and TBTs. However, important commitments exist in trade-related areas, such as services, intellectual property rights and public procurement.

Any assessment of the impact of the agreement starts with a recognition of Armenia’s serious shortcomings and remaining challenges. Of the litany of disparate weaknesses hindering trade and economic growth, the priorities include entrenched corruption and inefficient revenue collection, each of which contributes to a weakening of the state and an erosion of reform; a lack of economic diversification, most notably in the country’s over-reliance on rudimentary agriculture and the mining sector for primary exports; and a pronounced structural fragility stemming from a deep over-dependence on remittances to a long-standing vulnerability to spill-over and external shock from developments in the Russian economy.

Despite the obvious shortcomings in the new Armenia-EU agreement, the greatest ones reflected in selective trade chapters, the outlook for a deepening of relations is both positive and practical. On the one hand, the advantage for the EU lies in the successful elevation of bilateral relations with Armenia above and beyond the now outdated Partnership and Cooperation Agreement (PCA). For Armenia, on the other hand, the benefits stem from restored access to the EU toolbox of technical expertise and financial support. This latter point is especially critical to ensure that the reform effort in Armenia is sustained in the face of more

drastic budgetary and political pressures. And for Armenia, this promises to offer more sweeping opportunities in several areas, such as border management, mobility partnerships and democracy-building instruments. At the same time, the new agreement provides a degree of political cover and practical incentives, magnified by the timing of the opportunities with Armenia's own transformation and transition to a parliamentary form of governance in April 2018.

Despite the apparent cost of that setback, demonstrated by both the distortion of trade patterns and the acquiescence to the higher tariffs of the EAEU, Armenia has adapted and adopted a more prudent strategy designed to mitigate the economic costs and to maximise its position. Driven by an imperative to escape isolation, this new Armenian policy of adaptation has benefitted from the timing of the EAEU accession process.

For example, one advantage for Armenia has been the swift shift underlying the context of the EAEU since it joined in 2015. More specifically, the period between Russia's pressuring of Armenia to abandon the EU in 2013 to the country's ascension in 2015 was also defined by a significant transformation of the EAEU itself, which was rapidly seen as both less attractive and less viable.

In that brief, less than two-year period, much had changed, as the negative transformation of the EAEU as an integration project had rapidly escalated, stemming from a convergence of several disparate factors. The first driver came as Russia's heavy-handed domination of the process of the Union's development, especially over fellow member states Belarus and Kazakhstan, triggered an impressive backlash within the EAEU as Presidents Lukashenko and Nazarbayev, respectively, waged an admirable defence of their own interests, often against the wishes of their Russian counterpart.

Another benefit for Armenia was the securing of a set of 'transitional exemptions' for a sweeping set of some 800 goods and products, thereby shielding the its economy from the direct impact of the higher traffic regime required by the EAEU. But it was another aspect of timing that was equally encouraging for the normally timid Armenian officials to return to a concerted effort to re-engage the EU. While this motivation obviously stemmed from the twin necessities of the country's economic fragility and political weakness, nevertheless, it did stand out as a rare example of Armenian statesmanship and strategic vision, not to mention an instance of Armenia defending its own independence and pursuing its national interest.

Timing was also helpful for Armenia in another key regard. Whereas in 2013, when Moscow saw Armenia as the sacrificial pawn and leveraged its successful pressuring of Yerevan as a message of strength aimed to deter other Eastern Partnership countries,<sup>63</sup> by 2015 there was no such need, with Russia also sensing little danger of 'losing' Armenia to the EU no matter what new agreement was reached, especially since any new agreement would be less than the

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<sup>63</sup> Giragosian, Richard, "Armenia's Strategic U-Turn," European Council on Foreign Relations (ECFR) Policy Memo, ECFR/99, April 2014 ([www.ecfr.eu/page/-/ECFR99\\_ARMENIA\\_MEMO\\_AW.pdf](http://www.ecfr.eu/page/-/ECFR99_ARMENIA_MEMO_AW.pdf)).

broader Association Agreement and DCFTA. Thus, Russia provided Armenia with a much greater degree of manoeuvrability, as seen in little real interference and certainly less interference over the negotiations between Armenia and the EU in this second attempt at redefining the relationship.

Amid Russia's demonstration of such a seemingly more permissive stance, Armenia was also able to leverage a third, related trend that was driven by the downturn in fortunes of the Eurasian Economic Union and defined by Russia's recognition of the need to garner greater legitimacy and credibility of the EAEU. In this context, Armenia's argument that its eventual agreement with the EU could actually serve Russian interests by serving as a 'bridge' between the EU and the EAEU began to win adherents.<sup>64</sup> At the same time, Armenia's geographic position, despite the lack of land borders with the EAEU itself, was also reinterpreted as an advantage, offering the EAEU alternative avenues to leverage Armenia's relations with Iran, proximity to the Middle East and even interest in the possible benefits from the possible reopening of its closed border with Turkey.

Yet even with the success to date of CEPA, in terms of both the process and the product, the full realisation of the benefits and gains from the agreement are far from assured. As demonstrated by each of the other Eastern Partnership states, and especially in the cases of those with Association Agreements and DCFTAs, the implementation stage is as daunting as the negotiations, and perhaps even more difficult. And, as the implementation of CEPA will require even greater political will and determination to deepen and accelerate reform in several areas simultaneously, which Armenia has failed to do so far, the outlook for EU-Armenian relations still remains an open question. Thus, this is a strategic opportunity for the country, but one that it can no longer afford to squander.

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<sup>64</sup> "Armenia may serve as bridge between France and Eurasian economic union members, expert," Arka News Agency, 23 March 2015. ([http://arka.am/en/news/economy/armenia may serve as bridge between france and eurasian economic union members expert /](http://arka.am/en/news/economy/armenia%20may%20serve%20as%20bridge%20between%20france%20and%20eurasian%20economic%20union%20members%20expert%20/)); "Armenia building bridge between EU and EEU – Richard Giragosian," Tert.am, 14 June 2017 (<http://www.tert.am/en/news/2017/06/14/richard-giragosian/2402298>).

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