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From ‘Unilateral’ to ‘Dialogical’: Determinants of EU– Azerbaijan Negotiations

ESKE VAN GILS

Abstract

The European Union (EU) and Azerbaijan have negotiated three different agreements for a new legal basis underpinning their relationship since 2010. Whereas the EU tries to adhere to a more unilateral approach, Azerbaijan wants cooperation to take place on a more inclusive, dialogical, basis. The essay will present a model of ‘bargaining power’ to analyse how the Azerbaijani government has tried to enforce this, and to what degree it has been successful. It finds that the bargaining power model can explain some of the changing power dynamics in EU–Azerbaijan relations, and that these might speak to the broader Eurasian region too.

RELATIONS BETWEEN AZERBAIJAN AND THE EUROPEAN UNION (EU)¹ HAVE BECOME MORE AND MORE INTENSE over the past decades. Cooperation is particularly smooth in the area of energy supply as well as trade. However,

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¹ For this case study, the ‘EU’ refers to the EU actors involved in the negotiations with Azerbaijan, namely the European External Action Service and its delegation in Baku, and the EU Council. Member states,

in recent years there has been discussion over the future of relations, in particular the limits to cooperation as well as the legal foundation for these relations.

Relations between the EU and Azerbaijan are presently conducted within the Eastern Partnership framework (EaP) (EC 2010b), which involves political and economic cooperation between the EU on the one hand, and Belarus, Ukraine, Moldova, Armenia, Georgia and Azerbaijan on the other (EC 2010b, p. 6). Bilateral relations are still based on the legally binding Partnership and Cooperation Agreement (PCA) from 1996, which entered into force in 1999 and has been renewed since. In this sense, relations can only develop and expand within the boundaries set by this PCA.² With the inclusion of Azerbaijan in the European Neighbourhood Policy (ENP) and the EaP in 2004 and 2009 respectively, the two sides have discussed possible follow-up agreements that could serve as a legal basis for relations. While the PCA is mostly technical in nature, with an emphasis on material objectives such as cooperation in the field of trade and energy supply, the objectives of the ENP and EaP have an additional, transformative aspect and aim at support for economic (market) reforms and values promotion.³

In 2009 the EU started searching for a replacement for the PCAs. In 2010, a new type of legal framework for the EaP countries was proposed: the Association Agreement (AA). Georgia, Ukraine and Moldova signed an AA in 2014;⁴ Armenia intended to sign the agreement, but then opted for integration into the Eurasian Customs Union instead (Gardner 2013; Eurasian Economic Commission 2015). The Azerbaijani government initially

their embassies in Baku, the European Commission and the European Parliament are included in the analysis to the extent that their bilateral contacts with Azerbaijan are relevant to the overall EU-led negotiations on this subject. ‘Azerbaijan’, in turn, refers to the elements of the Azerbaijani government conducting negotiations with the EU. These are often the highest-level officials, including the president, representatives of the Ministry of Foreign Affairs, and members of the presidential administration. There are naturally more actors involved; however, for the sake of clarity this essay only examines bilateral relations at the executive level.

² Interview with European affiliate 3, Brussels, 2014. For reasons of confidentiality, all names and positions of interviewees have been omitted. Interviewees will only be referred to by their broad affiliation (‘European’, referring to EU institutions as well as national member states; Azerbaijani establishment; or independent expert) in addition to the date of the interview.

³ Interview with European affiliate 3, July 2014.

⁴ ‘Georgia ratifies EU association agreement’, RFE/RL, 18 July 2014, available at: <http://www.rferl.org/content/georgia-eu-association-agreement-ratification-parliament/25461441.html>, accessed 2 October 2014. The AAs would at a later stage be complemented by a Deep and Comprehensive Free Trade Agreement (DCFTA) (EC 2008, p. 4). In the case of relations between the EU and Azerbaijan, only the negotiations over the AA are relevant, since the country is not eligible to start DCFTA negotiations until it becomes a WTO member (see also ECFR 2013; Gstöhl 2015, p. 863).

started the negotiations with the EU for an AA but decided against it in 2013, wanting instead a tailor-made policy adjusted to its own interests and objectives. It therefore proposed two alternative frameworks: first, the Strategic Modernisation Partnership (SMP) in 2013, which the EU soon dismissed; and second, in 2015, the Strategic Partnership Agreement (SPA). The latter was taken into consideration by the EU, and negotiations commenced in 2016. Initially this seemed a bargaining victory for Azerbaijan, considering the unprecedented nature of the situation, with a partner state proposing such initiative, and Baku's assertive tone. However, since 2016 the EU and the Azerbaijani government have been involved in a negotiation process that required concessions and at times pragmatism, as will be set out in the analysis later on in this essay.

The essay makes two main contributions. First, it will add to the literature on EU external relations and the limits to the EU's transformative power by analysing the actions and interests of a third country, namely Azerbaijan, rather than only seeking explanations for the EU's reduced influence in the EU's own behaviour and motives. The second contribution to the literature will be an insight into how Azerbaijan has been a forerunner in resisting the EU's agenda. In the past few years, several other smaller states in the region have followed its example, albeit in a more moderate way (for example, Armenia and Belarus). Relations between Brussels and Baku are therefore particularly interesting because they appear to be illustrative of a broader change in power dynamics between the EU and neighbouring countries. While the EU still adheres to a largely EU-centred agenda for relations with its Eastern neighbours, Azerbaijan only wants close cooperation with the EU on its own terms (Van Gils 2018). Azerbaijan is not the only country to desire a more equal relationship with the EU, but it stands out because it has openly challenged the state of affairs. The Azerbaijani government has tried to alter negotiation practices, to move from a unilateral to a more dialogical decision-making process. Yet since 2013, when the AA was rejected, there have been several remarkable shifts in the negotiation dynamics. At times, Baku seems to have been successful in reaching its aim; yet in other stages of the negotiations the EU has re-established itself as the main actor. The question arises: how can these dynamics be explained? A possible answer might be found in the concept of 'bargaining power', which captures both the EU's and Azerbaijan's material and immaterial sources of power. As such, the case of Azerbaijan is simultaneously both an outlier and an illustration of a larger, upcoming change in the region, and can thus help us to understand the mechanisms of resistance to the EU's policies by smaller states in the EU's neighbourhood.

The aims of this essay therefore are to analyse, first, what changes in dynamics have occurred in negotiations over the AA, SMP and SPA; second, if, and to what extent, these dynamics can be explained by the framework of 'bargaining power'; and third, what these findings on EU–Azerbaijan relations tell us about the

broader context of changing power relations between the EU and post-Soviet states. The essay will argue that Azerbaijan's growing leverage has allowed it to resist the EU's unilateral mode of policy-making to a certain extent, and that it has partially succeeded in enforcing more dialogical forms of policy-making. However, this power seems conditional on a number of factors, which are outlined in the bargaining power model. A change in conditions in recent years—notably Azerbaijan's weakened economic position since 2015—may affect significantly the outcome of the ongoing negotiations over the SPA.

The essay also covers the three 'tectonic shifts' that are discussed in this Special Issue. Firstly, while Azerbaijan is a relatively young and small state, its more assertive stance in international politics can be seen as part of a larger emergence of new powers. Second, the country is seen as an important player in several transnational issues: the EU and United States particularly value Azerbaijan as a strategic ally in a volatile and unstable region, and Azerbaijan is also an ally of Russia, Turkey, Iran and Israel. With growing religious tensions in the wider region, President Ilham Aliyev's secular regime is appreciated by Western states.⁵ Another main transnational issue that links Azerbaijan to among others Europe and the US is the supply and trade of energy. One would expect this to lead to an increase in the level of partnership and reciprocity in relations, yet what can be observed is that the policy remains mostly unilaterally set by the EU, without regard for the interests and perceptions of Azerbaijan. This essay finds that, in response, the Azerbaijani government tries to influence the policy-making process and even to hinder the implementation of EU policies that are not in its interests. Third, the essay will argue that the institutional architecture of relations should be re-considered, and perhaps (gradually) move from an EU-dominated agenda to a more inclusive one. The research⁶ presented here is therefore situated in the broader framework of the EU's changing external relations, and possible obstacles to the EU's desired transformative effect.

The following section will discuss each of the three agreements that have been negotiated since 2010: from the discussion and rejection of the AA to the proposal of the SMP and the negotiations over the SPA since

⁵ Expert interview 1, July 2014.

⁶ The analysis is based on the investigation of a range of sources, including policy documents, newspaper archives, and other secondary literature. Secondary sources were integrated by a total of 25 interviews, conducted in 2014, 2015, 2017 in both Baku and Brussels. Twelve respondents were representatives of or affiliated with the different EU institutions and national member states; six were representatives of or affiliated with the government of Azerbaijan; and seven interviewees were independent experts. While the number of interviews is rather limited, they provided comprehensive information, as demonstrated by the fact that a point of data saturation was reached whereby the interviews turned up the same or similar information..

2015. Subsequently, the essay will present a model of bargaining power as a conceptual framework to answer the main question about changing negotiation dynamics. Next, the essay will analyse these negotiations in light of the different elements of this model. Lastly, in the conclusion, the essay will reflect on the significance of these findings for relations between the EU and the broader emerging Eurasian space.

Negotiations over three agreements

Between 2010 and 2017, three different agreements were negotiated as possible follow-ups to the PCA. What follows is a brief discussion of the context of these subsequent negotiations and the proposed agreements. The aim of this section is to shed light on the unique situation posed by these developments.

Association Agreement (2010–2013)

As was discussed in the introduction, after 2010 the EU aimed to sign an AA with Azerbaijan. Association Agreements have the aim of bringing partner states' legislation in a number of policy areas in line with the EU's standards (Della Sala in Dutkiewicz & Sakwa 2015, p. 167). Signing an AA would effectively update the legal basis for bilateral relations between the EU and Azerbaijan, which would facilitate deeper political and economic cooperation (EC 2010c).

Negotiations between the EU and Azerbaijan on the AA started in July 2010 (EC 2010c). The EU identified a number of chapters that did not require any negotiations, since both parties were already aligned in a number of areas, including, for instance, energy and technical cooperation.⁷ Negotiations on the other chapters proved more difficult. First of all, the EU had a mostly regional policy framework in mind, whereas Azerbaijan wanted a more differentiated framework that represented its own interests better. Furthermore, AAs have a strong transformative dimension, in that they aim at significant political and economic reform in the partner states (EU Council 2014). This normative dimension can also be seen in the EU's policies towards the post-Soviet region more broadly, as demonstrated by Siddi and Vilpisauskas in their respective contributions to this collection of essays. As a consequence, the Baku government perceived that the agenda was set mostly unilaterally by the EU and did not sufficiently include Azerbaijani interests. Specifically, the two key issues at stake in the negotiations over all three suggested agreements have been the inclusion of a political and values dimension (desired by the EU, in line with its transformative objectives) and that of a stronger reference to the Nagorno-Karabakh conflict

⁷ Interview with European affiliate 3, July 2014.

(Azerbaijan's wish, based on the belief that more active EU engagement would benefit the conflict resolution process).⁸

The Azerbaijani government has indicated numerous times that while it seeks in-depth cooperation with the EU it has no interest in extensive integration through further institutionalisation of relations. This lack of interest is predominantly based on the country's (economic) independence, its relations with Russia, and Baku's reluctance to include the transmission of values as part of the relationship (Babayev 2014, pp. 61–2). The government only wants to cooperate on the following three conditions: any integration must be on equal terms; there must be economic benefits; and Azerbaijan must be able to influence the decision-making process in bilateral relations.⁹ These conditions were not met in the AA negotiations, which made Baku reconsider the partnership in the shape as foreseen by the AA,¹⁰ and to aim for a 'lighter' alternative agreement instead. Government representatives announced at the Vilnius Summit in November 2013 that the planned signing would not proceed (Della Sala in Dutkiewicz & Sakwa 2015, p. 167). Instead, the government proposed a Strategic Modernisation Partnership (SMP): an agreement tailor-made for bilateral relations between Brussels and Baku.

Strategic Modernisation Partnership (2013–2015)

On 4 April 2013 a draft of the SMP was proposed by Azerbaijan as an alternative to the EU's AA. This proposed agreement addressed all of Azerbaijan's three key objections against the AA. The SMP would not be legally binding (as opposed to the AA), and the PCA would remain the legal basis for relations (Rettman 2013). Furthermore, the SMP would largely follow the lines of the EaP but exclude the parts on 'democratization, human

⁸ The EU refers to the OSCE Minsk Group as having the official mandate for the conflict resolution process, and therefore does not wish to become engaged in the process itself, other than through an indirect role as a supporter of the Minsk Group's efforts. The Azerbaijani government, however, wants the EU to take on a more active role, as it has no confidence that the OSCE Minsk Group has the will or capacity to solve the conflict in a manner beneficial to Azerbaijan's interests. The EU's position in this regard conflicts somewhat with its stated desire to become a regional security actor and its commitment to regional security cooperation recorded in the ENP and EaP (Freire & Simão 2013, p. 465). While resolving the conflict would benefit the EU, as regional stability is in its immediate interest (Nuriyev 2008), involvement would also be a delicate matter considering that both Azerbaijan and Armenia are partners of the EU, and Russia would likely not approve of the EU's involvement.

⁹ Interview with Azerbaijani affiliate 5, May 2014.

¹⁰ Interview with Azerbaijani affiliate 5, May 2014.

rights and freedoms'.¹¹ A SMP would thus allow Azerbaijan to be selective in the areas of cooperation,¹² and lead to less cooperation rather than more, as opposed to the AA.¹³ Apart from largely omitting the value-based dimension of an AA, the SMP would further differ from such agreement in that Azerbaijan's territorial integrity, relating to the Nagorno-Karabakh conflict, would be mentioned (Rettman 2013).¹⁴

The EU received the SMP proposal with scepticism. One interviewee expressed doubt about whether Azerbaijan really wanted a Strategic Partnership comparable to that of other states, as existing Partnerships with countries such as China or the United States mean more cooperation with the EU rather than less.¹⁵ Furthermore, if the SMP largely followed the lines of the AA, this should then include the issues of human rights and transparency. Thus, it was clear from the EU side that Azerbaijan wanted to exclude these issues from the realm of cooperation.¹⁶ However, according to one of our interviewees, Baku was willing to include the human rights dimension in the SMP.¹⁷ The proposed text contained a reference to political reform and the promotion of democracy (Rettman 2013); but, without having seen the text, it can be assumed that, unlike the AA, the proposed SMP did not require the same level of commitment to these two processes.

The EU rejected the SMP in 2015.¹⁸ In response to the halt to SMP negotiations, the EU prepared another document to bridge the period until Azerbaijan 'provided clarity' about what it wanted from either an AA or Strategic Partnership.¹⁹ This Strategic Modernisation Agreement was a political working document with no legally binding power, and was to be agreed between the Commission and the Azerbaijani government. Therefore, it would be restricted to those areas in which the Commission has competence. The document contained a matrix with all goals for future, and seemed to meet demands from both parties by including references to human rights

¹¹ 'EU–Azerbaijan: the game in modernization', Turan Information Agency, 17 June 2014, available at: <http://www.contact.az/docs/2014/Analytics/061700081652en.htm#.VClu3mOx3YU>, accessed 29 September 2014.

¹² Interview with European affiliate 7, May 2014.

¹³ Interview with European affiliate 5, May 2014.

¹⁴ Interview with Azerbaijani affiliate 3, July 2014.

¹⁵ Interview with European affiliate 5, May 2014.

¹⁶ Interview with European affiliate 3, July 2014.

¹⁷ Interview with Azerbaijani affiliate 3, July 2014.

¹⁸ Interview with European affiliate 3, July 2014.

¹⁹ Interview with European affiliate 3, July 2014.

and democracy and to the territorial integrity of Azerbaijan.²⁰ Azerbaijan did not sign the document because it disagreed with the language used concerning the Nagorno-Karabakh conflict.²¹

Strategic Partnership Agreement (post-2015)

In May 2015, the process received fresh impetus when the Azerbaijani government proposed a new agreement at the Riga Summit.²² This Strategic Partnership Agreement (SPA) would be the second proposed alternative to the AA that aimed to update the legal basis of relations.²³ In contrast to the SMP, this time the EU was willing to seriously consider Azerbaijan's proposal. However, it took until November 2016 for the European External Action Service (EEAS) to obtain a mandate for negotiations from member states in the EU Council (EU Council 2016). Negotiations began in February 2017 (EU Council 2018).²⁴

Again, the objectives from both sides were to increase cooperation, and again, the contested issue was whether or not to include chapters referring to values and to Nagorno-Karabakh.²⁵ Initially, the fact that the EU was prepared to consider the proposal seemed a bargaining victory for Azerbaijan. However, in the course of negotiations, the European Union managed to convince Azerbaijan to include a chapter on democracy and human rights,²⁶ an important goal for Brussels. With the negotiations still ongoing at the time of writing (Gotev 2018), it is unclear as yet whether Azerbaijan can successfully put the Nagorno-Karabakh conflict on the agenda. The Azerbaijani side has stated that the inclusion of references to the conflict is crucial.²⁷

In July 2018 the EU and the Azerbaijani government signed a document called the Partnership Priorities, which, as it replaces the current ENP Action Plan (EC 2018a), can be seen as a step towards setting the agenda for cooperation until the legal basis for relations is updated. The priorities listed for cooperation in the next few years represent the EU's as well as Azerbaijan's interests but show that the EU has been the most successful of the two in advocating its own interests: the first priorities listed relate to 'good governance, the rule of law and

²⁰ Interview with European affiliate 3, July 2014.

²¹ Interview with European affiliate 3, July 2014.

²² Interview with European affiliate 1, October 2015.

²³ Interview with European affiliate 1, October 2015.

²⁴ 'Azerbaijan, EU to hold another meeting on Strategic Partnership Agreement', AzerTac, 25 August 2017, available at: <https://azertag.az/en/xeber/1088555>, accessed 6 September 2018; 'Baku hosts Azerbaijan-EU negotiations', News.az, 25 April 2017, available at: <http://news.az/articles/politics/121064>, accessed 16 June 2017.

²⁵ Interview with European affiliate 1, October 2015.

²⁶ Interview with Azerbaijani affiliate 1, May 2017.

²⁷ Interview with Azerbaijani affiliate 1, May 2017.

human rights', and the functioning of civil society is mentioned multiple times (EC 2018b). Priorities of more interest to the Azerbaijani government concern economic diversification and energy trade, as well as the implementation of the Mobility Partnership (EC 2018b). The Nagorno-Karabakh conflict is not mentioned in the document at all, however (EC 2018b), even though the conflict was raised by government officials in most, if not all, official meetings with the EU in the year preceding the signing of the document.²⁸ While Partnership Priorities are not legally binding and could therefore be seen as less important to the Azerbaijani government, it is nonetheless telling that the authorities in Baku have agreed to sign these priorities without the document containing any references to the Nagorno-Karabakh conflict.²⁹

It is thus clear that the SPA, at least initially, established a clear tendency towards a more dialogical form of negotiations, yet the negotiations reverted to a more unilateral tendency from 2016, as reflected in the 2018 Partnership Priorities document. The next section will introduce a conceptual framework to help us unpack the dynamics of these negotiations, to understand whether, why and how the two parties managed to successfully defend their interests.

A new model of bargaining power to assess negotiation dynamics

This brief overview suggested that negotiations over all three agreements have revolved around similar issues: the EU seeks to secure a political and values dimension in each agreement, while Azerbaijan wants more dialogical, rather than unilateral, negotiations, to ensure representation of its own interests, namely less attention on the values dimension and a more prominent position for the Nagorno-Karabakh conflict.

The desire for more dialogical relations seems unnecessary when looking at the official narrative. Bilateral relations between the EU and Azerbaijan are officially founded on partnership, a core concept in the EaP (Korosteleva 2011). It is argued that genuine partnership should consist of reciprocity in relations: attention to the interests and policy priorities of both actors (Weber et al. 2007), and joint ownership of the policy (Korosteleva 2011, p. 5; Khasson 2013, p. 334). In theory there should be equal input from the EU and Azerbaijan in their bilateral relations. Yet in practice, while the relationship has certainly developed in that direction to an extent, we

²⁸ 'Baku hosts 15th meeting of EU–Azerbaijan Parliamentary Cooperation Committee', AzerTac, 8 May 2018, available at: <https://azertag.az/en/xeber/1160813>; 'Azerbaijan, EU discuss bilateral cooperation', AzerTac, 20 February 2018, available at: <https://azertag.az/en/xeber/1138634>, accessed 6 September 2018.

²⁹ The importance attached to the conflict is reflected in the fact that the overall majority of official statements, comments and speeches released by the Ministry of Foreign Affairs between January and November 2018 concerned Nagorno-Karabakh (MFA 2018).

observe that the proposed policies, and therefore the negotiation practices, remain very one-sided. Azerbaijan views itself as an equal if not stronger partner than the EU (Franke et al. 2010) and therefore disagrees with the EU-centred policies and the EU's tendency to dictate policy rather than engage in dialogue.

What makes this situation so unique is that in the case of the SMP and SPA, it is the first time a non-EU actor has proposed an agreement rather than the EU taking the initiative.³⁰ Moreover, the EU's readiness to negotiate the SPA is in stark contrast to its unwillingness to discuss the SMP, while the two agreements themselves do not substantially differ. After Azerbaijan's initial successes, Brussels now appears to have the stronger position in the negotiations again. Azerbaijan is assertive and does not accept the status quo, while the European Union is not used to being confronted in this way by its smaller partners. Regarding a follow-up agreement for the PCA, both actors are thus actively seeking to promote their own interests.

How can we explain the changing dynamics in negotiations between the EU and the Azerbaijani government over a follow-up to the PCA in this rather rare case of EU external relations? The concept of bargaining power may prove useful to address this question. As a concept borrowed from negotiation and conflict mediation literature (see e.g. Jervis 1976; Zartman and Rubin 2002), bargaining power is here understood as the ability to influence the outcome of relations to one's own benefit, either through the ability to affect the policy-making process or through the capacity to curb the competitive influence of other actors.³¹ The notion of bargaining power has been applied in the context of the EU's external relations in a limited number of studies (Zartman 1978; Elgström & Jönsson 2005). The concept is often used to study EU decision-making processes or fixed-stage negotiation processes in international politics.³² By viewing the policy-making process as a form of negotiation, it becomes possible to take into account all actors involved, and to capture both their input and the other parties' response to that input, allowing us to assess both what enables and what prevents actors from exerting influence in political relations. The innovation here is that the concept is used to analyse an ongoing process of 'interdependent decision-making' (Sjöstedt in Goldmann & Sjöstedt 1979, p. 279) between two parties on an international level, in a non-linear process with no clearly defined stages, start or end point, as opposed to, for example, negotiations on conflict resolution or clearly defined scenarios for international bargaining.

³⁰ Interview with European affiliate 1, October 2015.

³¹ This definition is the author's, constructed on the basis of a range of literature on bargaining power (see e.g. Zartman 1978; Doron and Sened 2001)

³² Many studies apply bargaining power in light of rational choice theory or game theory, with fixed stages and 'purposeful action' of agents (Doron & Sened 2001, p. 19). This essay does not adhere to this interpretation of the negotiation process.

Using the concept in this way has the advantage of granting the EU and Azerbaijan equal analytical relevance. Usually EU external relations are only studied from the EU perspective. For instance, the external governance approach is very helpful in categorising relations between the EU and partner countries in terms of forms of cooperation and levels of EU influence (Lavenex 2004; Börzel 2010),³³ but it has several limitations compared to bargaining power in the context of this study. While this approach allocates space for the partner states in the outcome of the process, the centre of the analysis is still the EU's position and behaviour, and it is still assumed that the EU can choose for, or decide upon, a specific form of governance in relations with an external actor. Governance can thus only explain the EU's policies, not Azerbaijan's resistance to them. Also, the existing literature on external governance mostly looks at policy outcomes rather than policy-making, while this essay aims to unpack the very process of negotiation and bargaining in EU–Azerbaijan relations. Similar limitations apply to the notion of ‘decentring’. Bechev and Nicolaïdis assess how relations between the EU and neighbouring countries can be improved by allocating a greater role to the partner states in designing and implementing the policies (Bechev & Nicolaïdis 2010, pp. 490–91). The desire for decentring certainly captures the Azerbaijani government's motivation for its aims and actions in relations with the EU, but is not useful in understanding the actual process of bringing about a more decentred *modus operandi*.

Therefore, the bargaining power concept will be applied to shed light on the interaction between the EU and Azerbaijan and to understand why and how power dynamics changed during the course of this interaction. The notion can give us insight into the strategies and instruments used by Baku and Brussels to influence the policy-making process. It may illuminate the ways in which the Azerbaijani government tries to make negotiations more dialogical and the measures taken by the EU to secure its dominant position. To analyse bargaining power in EU–Azerbaijan relations, five core aspects have been identified as particularly relevant. Some of these have a material basis (the power base); others are non-tangible in nature (negotiation skills and capacity as well as perceptions of the Self and Other) or refer to non-material considerations affecting an actor's room for manoeuvre (domestic context and available alternatives). The analysis uses an interpretivist approach and the five elements

³³ The concept defines a form of relationship between the EU and third countries in which the EU can exert a certain influence in a non-accession framework (Lavenex 2004, p. 680). Different modes of external governance have been conceptualised, including ‘hierarchical governance’, when relations are top-down and mostly determined by the EU rather than based on equal input from both sides (Börzel 2010, p. 191, 198); and ‘network governance’, whereby views of all actors involved are taken into account (Pierre and Peters 2000, p. 19). Korosteleva argues that genuine partnership should go even a step further, and not be based on governance but on genuinely equal cooperation (Korosteleva 2011).

are not to be seen as independent variables but rather as dimensions that all contribute to a broader picture of the interaction during negotiations.

The first element is the actors' power base, the most material form of power in the bargaining power model. The European Union traditionally enjoys an asymmetry in relations with smaller neighbouring and candidate countries; in the case of Azerbaijan, there seems to be a more symmetrical relationship or at least a less asymmetrical mode than in relations with other states in the Eastern Partnership. This power base has played out differently over time, as will be shown in the empirical segments of this essay. Notably, between 2010 and 2015, oil prices were high and Azerbaijan's economy boomed; the 2016 economic downturn naturally affected the country's power base in a negative manner. The second important element of bargaining power is negotiation skill and capacity. Diplomacy, lobbying and winning political support can all be put under this category (Goldmann 1979, p. 29; Melissen 2005). Both the EU and Azerbaijan have used this element extensively with regards to the AA, SMP and SPA negotiations. Azerbaijan is an unusual partner for the EU in that it has a comparatively strong diplomatic body for the country's size and its relatively young statehood. This relative strength seems to play out favourably for Baku in relations with Brussels. A third element of an actor's bargaining power is the domestic context, which sets which boundaries and expectations for the negotiation process (Turner in Putnam & Roloff 1992, p. 233).³⁴ Relevant variables can be opportunities, internal legitimacy, consensus among EU member states, and tensions between institutions on a (supra)national level. Fourth, perceptions of the Self and Other are crucial to an actor's bargaining power. Perceptions of the Self are important because of the domestic dimension: negotiators have to behave in accordance with the role and expectations that they consider to apply to themselves as an actor. Perceptions of the Other, in turn, legitimise certain actions or policies towards other actors (Diez 2005, p. 629). The fifth and last element of bargaining power model is the attractiveness of alternative options. The availability of alternatives also potentially affects the receptiveness of partner countries to EU influence and vice-versa; having alternatives affects the offers an actor makes in negotiations since there is less need to compromise (Tutzauer in Putnam & Roloff 1992, p. 73). Alternative options may also affect the perception of the Self.

Importantly, some facets of these five elements may overlap or may be interlinked. For instance, domestic factors will also inform an actor's perception of the Self and may influence its negotiation skills. An actor's power base directly influences its negotiation capacity too, whereas the availability of alternatives can be dependent on the perception of the Self and the Other.

³⁴ See also Iklé (1985 [1964], p. 122).

What we expect to find on the basis of this bargaining power model is that increased bargaining power for Azerbaijan would allow its government to enforce more dialogical forms of decision-making, to be measured by representation of its main priorities, namely, more attention on the Nagorno-Karabakh conflict and less emphasis on values promotion. More bargaining power for the European Union would facilitate in turn the continuation of more unilateral modes of negotiation, resulting in a strong values-promotion dimension to a negotiated agreement, and less commitment to engage directly in conflict resolution regarding Nagorno-Karabakh.

Bargaining power and the negotiations over time

When applying the bargaining power model to the negotiations over the AA, SMP and SPA, we find that the five elements have a clear role in explaining the negotiation dynamics.

Power base

The power base—the actors' material sources of power—is less asymmetrical than could be expected on the basis of Azerbaijan's population, territory and GDP in comparison to those of the EU. Two key factors are energy and the subsequent economic interdependence between the two sides (Nuriyev 2008; Gahramanova 2009).

While both actors are economically independent, there is at the same time a great interdependency between Brussels and Baku. Azerbaijan's energy is sought by the European Union, in particular as a means of diversifying supply and reducing its reliance on Russia, while Azerbaijan needs the EU as a customer for this energy (European Commission 2015a).³⁵ In absolute numbers, the trade balance remains in favour of the EU, but energy is a valuable asset for Azerbaijan, as demonstrated by the repeated references to the country's importance in EU in official documents and statements (European Commission 2015a).³⁶ Therefore, we can still speak of a certain power balance in terms of economic interdependence. Simultaneously, energy plays an indirect role in the bargaining power model in that it facilitates self-reliance for Azerbaijan; in other words, the EU's model of financial conditionality as a means for political reform will not be effective with regard to Azerbaijan (Simão 2012, p. 198). This higher degree of mutual dependence has placed Baku in a much more solid bargaining position compared to other states in negotiations over a follow-up agreement to the PCA. Between 2010 and 2015, Azerbaijan enjoyed economic growth amidst worldwide economic contraction, including in the EU, where the

³⁵ Interview with Azerbaijani affiliate 3, July 2014.

³⁶ Interview with European affiliate 1, October 2015.

economic growth figure briefly went negative during the 2008 financial crisis and only slowly recovered after (World Bank 2017a, 2017b). This relative symmetry might explain why Azerbaijan felt able to reject the AA and to propose an alternative agreement. Moreover, the EU's weakened position likely reduced its attraction for cooperation and legal approximation for partners, as it had less to offer in economic terms, than previously (Kavalski 2012, p. 84).

This balance has altered, however, since the economic downturn that hit Azerbaijan in 2015, following a drop in oil prices worldwide.³⁷ The country's economy relies on energy revenues for over 65% (Jafarli 2016) and in December 2015 the government was forced to unpeg the Azerbaijani manat from the US dollar (Agayev 2015) and to devalue the currency by 32% (Farchy 2015). The resulting inflation led to small-scale protests³⁸ and forced the government to intervene over bread prices in an attempt to maintain domestic stability (Salimova 2016). The Azerbaijani government realised that a diversification of its economy was necessary, and received support from the EU for this.³⁹ Azerbaijan's reduced economic independence diminished the country's power base, which in turn may have affected the negotiation dynamics. Moreover, the EU's need for energy diversification lessened as oil prices fell. Import of Azerbaijani goods into the EU declined by more than 28% in 2016, and EU exports to Azerbaijan dropped even further, by over 45% (European Commission DG Trade 2017). This likely places the EU in a more favourable bargaining position, as possibly evidenced by the fact that Baku agreed in 2017 to include a chapter on democracy and human rights into the latest agreement under negotiation.⁴⁰

In short, until 2015, economic interdependence meant that the EU and Azerbaijan were negotiating from similar power bases. The post-2015 economic downturn diminished Azerbaijan's power base relative to the EU, altering in turn the negotiation dynamics in favour of Brussels.

Negotiation skill and capacity

As a large and experienced negotiator, the European Union naturally outweighs Azerbaijan in terms of negotiation skill and capacity. Yet, one of the features that makes Azerbaijan stand out in the post-Soviet region is its

³⁷ 'How Azerbaijan is coping with crisis', Stratfor, 20 February 2015, <https://www.stratfor.com/analysis/how-azerbaijan-coping-crisis>, accessed 6 December 2015.

³⁸ 'Arrests as Azerbaijani police use water cannons, tear gas against protesters', RFE/RL, 15 January 2016, available at: <http://www.rferl.org/content/azerbaijan-protests-increased-security-popular-discontent/27489831.html>, accessed 7 September 2018.

³⁹ Interview with European affiliate 5, May 2014; interview with European affiliate 1, October 2015.

⁴⁰ Interview with Azerbaijani affiliate 1, May 2017.

disproportionate negotiation strength as a relatively small power. The government has invested heavily in diplomatic capacity in recent years, and uses lobby and PR activities in Brussels and other European capitals to advance its own interests (ESI 2012; Knaus 2015).

A strategy of first resort used by the Azerbaijani government is to postpone or call off negotiations. Negotiations over the legal framework for relations have so far taken place during official visits and at EaP Summits.⁴¹ In 2013 a number of official meetings were held in Baku and Brussels to discuss the SMP.⁴² Then Commissioner for the ENP Štefan Füle stressed the EU's willingness to develop relations with Azerbaijan further.⁴³ In reality, this seemed conditional on relations developing in accordance with the European Union's design. While Füle stated that Azerbaijan agreed that 'negotiations on the AA and the document on a SMP run in parallel and are complementary',⁴⁴ the EU's plan remained to sign only the AA at the Vilnius Summit in November 2013 (Rettman 2013). Moreover, according to interviews with Azerbaijani representatives, it transpires that Azerbaijan saw the SMP as an alternative to the AA, rather than a parallel development. Despite diplomatic attempts at streamlining,⁴⁵ the Vilnius Summit instead showed the differences between the EU and Azerbaijan regarding their vision of the future.

In the period 2014-2015 the Azerbaijani government twice backed down from signing the SMP because references to the Nagorno-Karabakh conflict were unsatisfactory for the government. At the same time, the EU did not wish to continue negotiating the SMP either, because of the demand for references to the conflict.⁴⁶

⁴¹ The AA and SMP had not been discussed in the Cooperation Council of Parliamentary Cooperation Committee, since those meetings had been called off between 2013 and 2016, following EU criticism over Azerbaijan's human rights record (Interview with European affiliate 3, July 2014; European Parliament 2017).

⁴² Interview with European affiliate 2, July 2014; interview with Azerbaijani affiliate 3, July 2014.

⁴³ 'EU refused to enter into the Strategic Modernization Partnership with Azerbaijan until the Association Agreement is concluded', *Abc.az*, 31 August 2013, available at: <http://abc.az/eng/news/75788.html>, accessed 8 September 2014.

⁴⁴ 'EU refused to enter into the Strategic Modernization Partnership with Azerbaijan until the Association Agreement is concluded', *Abc.az*, 31 August 2013, available at: <http://abc.az/eng/news/75788.html>, accessed 8 September 2014.

⁴⁵ 'EU refused to enter into the Strategic Modernization Partnership with Azerbaijan until the Association Agreement is concluded', *Abc.az*, 31 August 2013, available at: <http://abc.az/eng/news/75788.html>, accessed 8 September 2014.

⁴⁶ Interview with Azerbaijani affiliate 3, July 2014; interview with European affiliate 1, October 2015.

The Riga EAP Summit in May 2015 showed the showed the difficult nature of negotiations. Azerbaijan did not expect any new agreements to be signed at the summit.⁴⁷ One day before the start, President Aliyev decided not to participate,⁴⁸ and the Minister of Foreign Affairs and the head of the presidential administration attended instead.⁴⁹ European newspapers reported this as a protest against the EU's criticism of human rights in Azerbaijan (Walker 2015) while other commentators believe that the reasons given by the president to be genuine, namely that he was busy with the final preparations for the European Games and a fire that occurred in an apartment block in Baku on 18 May.⁵⁰ Indeed, any protest by Azerbaijan would most likely be made explicitly, as a negotiation tactic.

A second tactic used by the authorities in Baku was to use a critical situation to its own advantage and change the power dynamics. The SPA negotiations had a very difficult start. The EEAS decided to send a mission to Baku in September 2015, to explore options for the SPA.⁵² However, several days before the mission, a critical resolution on Azerbaijan was approved by the European Parliament, condemning the state of democracy and human rights in the country (European Parliament 2015). In response, the Azerbaijani government asked the EEAS to postpone the mission (European Parliament 2015). Thus, by approving a resolution criticising the Azerbaijani authorities, the European Parliament inadvertently passed the initiative to Baku: the EEAS had to wait for approval to come to the Azerbaijani capital to talk about the former's proposal.⁵³ This added pressure to the relations.⁵⁴

⁴⁷ Interview with Azerbaijani affiliate 4, May 2015; 'Azerbaijan, EU unlikely to sign any document at Riga Summit', News.az, 19 May 2015, available at: <http://www.news.az/articles/politics/98094>, accessed 7 September 2018.

⁴⁸ 'Ali Hasanov: Azerbaijani president will not participate in Riga summit', Azeri Press Agency, 20 May 2015, available at: http://en.apa.az/xeber_ali_hasanov_azerbaijani_president_will_227319.html, accessed 1 November 2015.

⁴⁹ 'Ali Hasanov: Azerbaijani president will not participate in Riga summit', Azeri Press Agency, 20 May 2015, available at: http://en.apa.az/xeber_ali_hasanov__azerbaijani_president_will__227319.html, accessed 1 November 2015

⁵⁰ Interview with Azerbaijani affiliate 2, May 2015.

⁵¹ The fire in the apartment block was a major incident which left 15 people dead, and led to protests in the country against cheap but unsafe infrastructural adjustments to make the city look more presentable.

⁵² Interview with European affiliate 1, October 2015.

⁵³ Interview with European affiliate 1, October 2015.

⁵⁴ Interview with European affiliate 1, October 2015.

Baku's proactive promotion of Azerbaijan's interests is another example of its diplomatic capacity. Not only was the issue of Nagorno-Karabakh raised in nearly every meeting with the EU, the Ministry of Foreign Affairs furthermore engaged in what its spokesperson called a 'digital diplomacy policy': 'issues related to the foreign policy of our country were delivered to the wider public and relevant inquiries were responded in an operative manner', while at the same time 'disinformation' was responded to, 'by using the right of reply were [sic] provided'.⁵⁵ Azerbaijan's interest group abroad, the European Azerbaijan Society (TEAS), organises many activities in European capitals to raise awareness of the Nagorno-Karabakh conflict.⁵⁶ The effectiveness of this proactive stance is open to question, given the reduced financial means available following the economic downturn. Up until 2017 the Azerbaijani government maintained that a satisfactory reference to the conflict was a precondition for signing any new agreement; however, the 2018 Partnership Priorities (albeit not comparable to a new legal basis for relations) do not mention the conflict even once (European Commission 2018).

While the AA and SMP were being negotiated simultaneously, both sides appeared to have similar bargaining power: the negotiations, as a consequence, ended in a deadlock. Goldmann's distinction between offensive and defensive power (Goldmann in Goldmann and Sjöstedt 1979)⁵⁷ suggests that neither side had the offensive power to successfully change the agenda; all they could do was to apply their defensive power by postponing negotiations and rejecting proposed agreements. Yet at first sight, the fact that the EU was willing to negotiate the SPA, and that the EEAS seemed to be taking this proposal much more seriously than it did the SMP, points to Azerbaijan's increased bargaining power. The 2015 downturn may have changed these dynamics, however, leaving Azerbaijan in a more vulnerable position; for instance, having to make concessions on the values dimension, as described earlier. It is too early to tell how this new dynamic has affected the use of specific negotiation strategies. Overall, the government's tactics have not changed. However, following the 2017 Laundromat scandal, the government's lobbying attempts have been brought into disrepute, which may have led to the reduced effectiveness of such a strategy; furthermore, lobbying in the policy world is costly and the economic downturn may have affected the government's ability to finance such activities (Van Gils 2018).

⁵⁵ 'Azerbaijan continues independent, multidimensional, balanced and active foreign policy in 2017', AzerTac, 28 December 2017, available at: <https://azertag.az/en/xeber/1125089>, accessed 7 September 2018.

⁵⁶ See for instance the group's event calendar: <https://www.eventbrite.co.uk/o/the-european-azerbaijan-society-teas-1348104131>

⁵⁷ Offensive power is power in which A can chose to make B do something; defensive power is possessed by B and refers to the situation in which A cannot succeed to make B do something (Goldmann in Goldmann & Sjöstedt 1979, pp. 13–4).

Domestic context

The domestic context plays an important role in determining the two actors' priorities—values promotion (EU) and the agenda-setting of the Nagorno-Karabakh conflict (Azerbaijan). These priorities can be related to the EU's and Azerbaijani government's support bases.

The issues of legitimacy and constituency are interpreted differently by the Azerbaijani government and EU institutions, mostly as the former has a more direct relation to its citizens than the latter do towards the 28 EU member states. Supranational actors (EEAS, the EU Delegation in Baku, the European Parliament and the European Commission) need to take into consideration the viewpoints and interests of the member states, which in turn have their own respective constituencies in the form of citizens and electorate.

One of the main concerns of the Azerbaijani government is maintaining legitimacy on a domestic level, to ensure regime survival and resilience (Dimitrov 2013): its behaviour in negotiations over the agreements is immediately affected by this necessity. For the EU, legitimacy is a more indirect and longer-term asset, yet its credibility both at domestic and international levels is equally crucial. As will be shown in the following section on perceptions, credibility and roles significantly affect the EU's behaviour in relations with Azerbaijan. Both sides are as such similarly restrained in their room for manoeuvre by domestic pressures and their anticipation of potential threats to their legitimacy or credibility. Closely connected to these domestic priorities is the fact that signing the AA was not a viable option for Azerbaijan. As mentioned above, one of the points of disagreement over the AA as well as the SMP was the manner in which they referred to the Nagorno-Karabakh conflict. Since resolving the conflict is a national priority, having the matter included in any future agreement signed with the EU is crucial to the Azerbaijani government's internal legitimacy.

Securing this legitimacy could also be a factor in the government's preference to hold SPA negotiations in Baku rather than in Brussels. Whereas the AA and SMP were discussed in various locations, the first SPA negotiations were held in Baku, with the government letting the EEAS delegation wait for an invitation to come to Baku, after the issue of the European Parliament's resolution on human rights in Azerbaijan. This move reflected Azerbaijan's strong bargaining power position at the time. In February 2017 President Aliyev did go to Brussels, although he cancelled a meeting with the European Parliament because it was hosting an event on human

rights in Azerbaijan.⁵⁸ After the European Parliament's September 2015 resolution on human rights issues in Azerbaijan, the government made the EEAS delegation wait for an invitation to come to Baku for the first SPA negotiations. This reflected Azerbaijan's bargaining power at the time. When President Aliyev went to Brussels in February 2017, he cancelled a meeting with the Parliament because it was hosting an event on human rights in Azerbaijan. Such national assertion in the matter of negotiating the SPA may have served to enhance the government's domestic legitimacy, too.

The European Union's options to negotiate the SMP with Azerbaijan were limited because the member states had only given the EU a mandate to negotiate an AA.⁵⁹ At the same time, the EEAS also realised that if negotiations over the AA were to remain deadlocked, there would be a point at which the member states would request a change of mandate.⁶⁰ While the EEAS did not have a mandate to negotiate the SMP alongside the AA, it did obtain a mandate for the SPA in 2016 (EU Council 2016). The domestic context may also shape the EU's preference for a regional approach over individual country agreements, with the EU aspiring to further regional integration in the South Caucasus (Babayev 2014, p. 108). This preference for a regional approach could also be a result of the fact that the EU member states simply could not reach consensus on a country-specific policy towards Azerbaijan, considering that they have different interests at stake and cooperate with Baku to varying degrees, and therefore continued to advocate the AA, which did have such regional rather than country-specific focus. The Council's decision to provide a mandate for the SPA negotiations in 2016 will be explained in the next section on perceptions.

For both the EU and the Azerbaijani government, domestic factors thus played a significant role in determining whether or not the proposed agreements were acceptable. It appears that the disagreement over the reference to the Nagorno-Karabakh conflict and to values led to the discontinuation of negotiations over both the AA and the SMP. It remains to be seen how the two actors will include these issues in negotiations over the SPA, as the negotiations are still on-going at the time of writing.

⁵⁸ 'Azerbaijan's Aliyev cancels Brussels meeting with EU Parliament President', RFE/RL, 6 February 2017, available at: <https://www.rferl.org/a/azerbaijan-eu-aliyev-partnership-talks-human-rights-pressure/28281494.html>, accessed on 16 June 2017.

⁵⁹ Interview with European affiliate 3, July 2014.

⁶⁰ Interview with European affiliate 3, July 2014.

Perceptions of the Self and Other

Perceptions and misperceptions appear to be a powerful influence in negotiations over the AA, SMP and SPA. Interestingly, both actors have perceived themselves to be more powerful than the other. That the EU thinks of itself as the strongest actor is probably not surprising. Azerbaijan's perception of itself as insufficiently acknowledged is more striking, especially in comparison to other, less assertive states in the EaP. This notion seems to have played a key role in the AA negotiations in particular. Azerbaijan has a strong desire for acknowledgement and respect as serious player in international politics,⁶¹ in line with its self-perception as a growing economic and political power,⁶² which is (partially) based on its oil revenues since the 2000s (Babayev in Reiter 2009, p. 83).

The Azerbaijani government has strengthened its narrative about the country's meaningful place in the international community. Government officials often refer to the country's (perceived) importance, particularly Azerbaijan's 'strategic importance' for the EU.⁶³ A public statement by President Aliyev in early 2018 asserting Azerbaijan's identity a 'dignified and reliable partner in the world' is indicative of this narrative.⁶⁴ Government-supported media regularly report on when and how Azerbaijan is positively referred to in international media or by international actors. This narrative is further supported by Azerbaijan's showcasing itself as a resource-rich and proactive country, for instance, through organising large international events (Ismayilov 2012; Van Gils 2018). The government invests heavily in public relations to promote Azerbaijan abroad; at home, large infrastructural investments have been made, particularly in Baku's city centre.⁶⁵

According to Azerbaijani government sources, by failing to give Azerbaijan 'any ownership of the project' and by not including any of Azerbaijan's key priorities, the AA was in effect not meeting the condition of acknowledging Azerbaijan as an equal international partner.⁶⁶ In the EU account, Azerbaijan had decided not

⁶¹ Interview with independent expert 1, July 2014; with European affiliate 6, May 2014; and with Azerbaijani affiliate 3, July 2014.

⁶² Expert interview 1, July 2014.

⁶³ 'Democratic processes taking place in Azerbaijan are highly appreciated by the world community, President', AzerTac, 10 July 2018, available at: <https://azertag.az/en/xeber/1178670>, accessed 17 September 2018; 'President Ilham Aliyev received delegation of European Commission', AzerTac, 29 January 2018, available at: <https://azertag.az/en/xeber/1132224>, accessed 17 September 2018.

⁶⁴ 'President Ilham Aliyev: Azerbaijan has asserted itself as a dignified and reliable partner in the world', AzerTac, 1 January 2018, available at: <https://azertag.az/en/xeber/1125637>, accessed 17 September 2018.

⁶⁵ Expert interview 1, July 2014.

⁶⁶ Interview with Azerbaijani affiliate 3, July 2014.

to sign the AA; in the Baku version, the EU put Azerbaijan in the position of having to reject it.⁶⁷ In a slightly different narrative, the government considered non-exclusive programmes with the EU, such as the AA, to be ‘too low profile’⁶⁸ and believed that modernisation would be possible without EU support (Babayev 2014, p. 62). This attitude was typical of the period 2010–2015, when Azerbaijan’s economic growth facilitated such an assertive and confident stance.

The EU also sees itself as the stronger actor in bilateral relations with Azerbaijan as well as other states in its neighbourhood. Conceptualisations of the EU’s international role, such as Normative Power Europe (Manners 2002), provide valuable insight into the way the EU perceives itself as an actor in international relations. This self-representation may be one possible explanation for the EU’s behaviour in relations with other actors, including Azerbaijan (Orbie 2008, p. 2). It also translates into objectives that are often transformative and political in nature, among others: support for market economic reform and free trade; encouragement for WTO accession; and promotion of democracy and human rights. As these are the underlying principles of the EU’s own institutional project, Brussels is adamant to have these included to at least a certain extent in the agreements under negotiation with Azerbaijan, as they are seen as ‘universal’ values.⁶⁹

The EU knows that Azerbaijan perceives itself as a stronger actor, but believes this to be misguided, mostly due to the lack of awareness of what the relationship has on offer.⁷⁰ Regarding the SMP specifically, the European Union argued that Strategic Partnerships would be exclusively reserved for great powers —including Russia.⁷¹ The EU’s willingness to negotiate the SPA in 2015, then, seems to be a U-turn. For the EU, the SMP was not acceptable but since negotiations over the SPA started in 2017, it seems that Brussels has acknowledged that it has no alternative but to negotiate with Azerbaijan. When asked about the reason for this changed attitude towards Azerbaijan’s first and second proposed alternative agreement, one interviewee referred to the urge to update the PCA as well as the changed emphasis of the renewed European Neighbourhood Policy.⁷² The ENP’s

⁶⁷ Interview with Azerbaijani affiliate 3, July 2014.

⁶⁸ Interview with European affiliate 5, May 2014. In this sense Azerbaijan’s reasoning is very similar to that of Russia at the time, when Moscow demanded individual treatment rather than being included in the ENP, because it felt more important to the EU than the other states that are currently included in the Eastern Partnership and European Neighbourhood Policy.

⁶⁹ Interview with European affiliate 2, July 2014.

⁷⁰ Interview with European affiliate 4, April 2014.

⁷¹ Interview with European affiliate 5, May 2014.

⁷² Interview with European affiliate 1, October 2015; see also Korosteleva et al. (2015).

new strategy, presented in November 2015, officially allows for more differentiation between country policies (EC and HR/VP 2015), which would allow the EU to consider alternative frameworks, such as the SPA.⁷³ Indeed, the Azerbaijani negotiators have perceived the current European Commission as more ‘pragmatic’.⁷⁴ Despite this pragmatic approach, the EU would still prefer to have signed an AA with all political dimensions included but realised that this was not realistic in relations with Azerbaijan.⁷⁵

Availability of alternative options

For both the EU and Azerbaijan, a follow-up to the PCA is important.⁷⁶ This means that no agreement is not an option, but at the same time there does not seem to be a rush to find a follow-up agreement. This provides both sides with space for negotiation. Yet simultaneously, both sides have made clear that they have had strong reasons for not signing the proposed agreements so far. As stated previously, for the EU, incorporating a values dimension is crucial; for Azerbaijan, so is the absence of a strong political approach and, in addition, the inclusion of stronger references to the Nagorno-Karabakh conflict.

In addition, Azerbaijan was reluctant to sign the AA because of its foreign policy strategy of ‘balancing’, which requires a multi-vectored policy aimed at maintaining positive relations with many different powers in the region.⁷⁷ The late President Heydar Aliyev established this strategy in order to maintain good relations with all surrounding neighbours. The EU is therefore an important partner but not the only one. The Azerbaijani government feared that signing formal mechanisms offered by the EU, such as an AA or DCFTA, would send the wrong signal to other crucial partners, especially Russia (Della Sala in Dutkiewicz & Sakwa 2015, p. 167).⁷⁸ Moscow would perceive an AA as ‘one step away from EU membership’.⁷⁹ Nearly all Azerbaijani interviewees referred to the previous experiences of Georgia, Armenia and, most recently, Ukraine, in trying to forge closer relations with the EU, to show why Azerbaijan as a post-Soviet state should not sign any other formal agreement with the EU. There is great doubt as to whether the EU would ever come to Azerbaijan’s aid (Cornell 2011, p. 392), a feeling that was strengthened after the EU’s inaction when Ukraine and Georgia requested Brussels’ help

⁷³ Interview with European affiliate 1, October 2015.

⁷⁴ Interview with Azerbaijani representative 1, May 2017.

⁷⁵ Interview with European affiliate 1, October 2015.

⁷⁶ Interview with European affiliate 1, October 2015.

⁷⁷ Interview with Azerbaijani affiliate 5, May 2014.

⁷⁸ Two interviews with European affiliates 6 and 7, May 2014.

⁷⁹ Expert interview 3, May 2014.

following Moscow's military interventions.⁸⁰ The alternative agreements are seen as a way of enabling further cooperation with the EU while avoiding upsetting Russia, by giving the Partnership essentially the same content as an AA but with a different name, making it seem less formal.⁸¹

Unlike Armenia, Azerbaijan has rejected membership of the Eurasian Economic Union (EEU, previously the Customs Union). At the same time, however, Azerbaijan seeks to maintain good trade relations with the Eurasian bloc (Glazyev & Tkachuk in Dutkiewicz & Sakwa 2015, p. 74). The EEU is therefore not seen as a real competitor by the EU with regard to Azerbaijan. Some have argued however, that if Turkey were to enter a special relationship with the EEU, this might also open the door for Baku (Trudos International, 2016). Meanwhile, there has been increased economic cooperation between Azerbaijan and Turkey, and between Azerbaijan, Iran and Russia.⁸² This reduces Azerbaijan's need to cooperate with the EU and is gradually strengthened its bargaining position in this respect.

Conclusion

Since 2010, three different proposed agreements have been negotiated between the EU and Azerbaijan to form the new legal basis for relations, replacing the PCA currently in place: the AA, SMP and SPA. Negotiations over all three agreements faced the same problematic points: the EU insists that there should be a chapter referring to values, particularly democracy and human rights, while the Azerbaijani government does not want too much emphasis on values in any future agreement, and instead wants more focus on the Nagorno-Karabakh conflict, which in turn is undesirable for Brussels.

The Azerbaijani side has argued that the EU's proposals are too unilateral and not dialogical in that they do not sufficiently take into account Azerbaijan's interests. Seen from another angle, one could argue that since neither side is willing to compromise on the key issues mentioned above, both parties appear 'unilateral' in their own way. To an extent one could argue that Azerbaijan has succeeded in representing its interests; however, a values chapter will most likely still be included in the SPA, showing that the EU remains the strongest actor. Still,

⁸⁰ Expert interview 2, May 2014; Interview with Azerbaijani affiliate 5, May 2014.

⁸¹ Expert interview 3, May 2014.

⁸² 'Azerbaijan, Turkey define scope of preferential trade deal', AzerNews, 6 May 2017, available at: <https://www.azernews.az/business/112577.html>, accessed 17 June 2017; 'Iran and Azerbaijan to join railways as part of freight route', Reuters, 5 March 2017, available at: <http://www.reuters.com/article/us-iran-azerbaijan-railways-idUSKBN16C0MW?il=0>, accessed 17 June 2017.

the fact that the AA was challenged by Azerbaijan in the first place has created a unique situation in relations with the EU.

We can observe different tendencies in the negotiations over time, and the question asked in this essay was, therefore, how can we explain these changing dynamics? To answer this question, the essay introduced a new model of 'bargaining power' to analyse the interactions and negotiation dynamics between Brussels and Baku. It was found that bargaining power can be gained and lost quickly, and that five aspects are vital to explain Azerbaijan's and the EU's behaviour in negotiations, and to assess their success in having their key interests represented.

The first vital aspect is the power base of both actors, with both sides' bargaining power significantly affected by their economic performance. This seems to have led to a stronger position for the Azerbaijani government prior to 2015; but to a weakened stance after. In terms of negotiation skill and capacity, the second aspect, it was argued that while the EU is traditionally a strong and experienced negotiator, Azerbaijan has used its non-material resources in the smartest way possible to maximise its leverage. Regarding the domestic context of actors, the third aspect, for both the EU and the Azerbaijani government domestic constituents played a significant role in determining whether or not the proposed agreements were acceptable, especially in terms of values and the Nagorno-Karabakh conflict.. The fourth aspect of the bargaining power model is actors' perceptions of the Self and Other. Generally, both Brussels and Baku appear to feel that they hold the stronger position in negotiations—or at least they keep up that appearance. These (mis)perceptions seem to stay firm across the different agreements that were negotiated. While other aspects of bargaining power have changed, and the perception of the Other has transformed over time as well, the perceptions of the Self (at least, those admitted to the outside world) appear remarkably constant. The last bargaining power dimension is the availability of alternative options. Here, both actors remained rather weak, since both agreed on the necessity of a follow-up agreement to the PCA. Neither Brussels nor Baku appear to have any significant alternatives, since Azerbaijan has declared it does not wish to join the EEU, and the EU had no other means to induce Azerbaijan to sign the AA.

Some would question that there have been any remarkable dynamics, and indeed, over the years there has been no significant change from the EU side: Brussels has consistently applied a policy based on a combination of strategic interests and values promotion (Youngs 2009, 2010; Kotzian et al. 2011) and has explicitly named this 'principled pragmatism' in the EU Global Strategy (EEAS 2016, p.16). What this analysis has shown however, is that the situation is more nuanced and that there are more aspects to be considered than

strategic interests alone: the non-material dimensions, such as domestic context and perceptions, matter more than often thought. Moreover, apart from factors influencing the EU's behaviour, including stability and continuity in its own policies, there has been considerable change on the other side, namely, in the approach and behaviour of the Azerbaijani government. Its increased bargaining power prior to 2015 led the government first, to reject the AA in 2013, and second, to propose an alternative agreement in 2013, which was unique in the history of EU external relations. Since 2015, as the foundation of Azerbaijan's bargaining power has been reduced somewhat, the government has had to make a number of concessions and has become more accommodating regarding the political dimension of the new agreement, which is what the EU desired. What we see, therefore, is that only viewing the EU perspective is insufficient: taking into consideration the Azerbaijani side of the story is crucial in understanding the dynamics in negotiations over the new legal agreement.

Naturally, over this period the EU remained the actor with most bargaining power. Given the sheer size of the EU and its market, Azerbaijan could not resist the EU's agenda altogether. However, in relative terms we have witnessed that, especially in the period 2013–2015, Azerbaijan has had significant bargaining power and that it has been able to challenge and resist the EU's proposed policies to an extent. Putting the negotiations in a broader perspective, one can see how remarkable and important Azerbaijan's contestations in this negotiation process have been, even if they have not (yet) led in full to the outcome desired by the government in Baku.

Overall, what the analysis of bargaining power made most clear, is that the negotiations over the AA, SMP and SPA are a relevant example of the changing power dynamics between the two sides. While back in the 1990s, the PCA was signed without any difficulties, it has since become a stronger actor with a clear agenda of its own. Baku's reluctance to sign the AA and the fact that it even proposed an alternative, show how the government perceived its own strength. Neither the EU nor Azerbaijan has, so far, had the offensive power to alter the agreements under negotiation to its own benefit; both had the defensive power to reject agreements that did not sufficiently meet their own interests. Nonetheless, that a relatively small country such as Azerbaijan can halt negotiations over such major agreement and can subsequently induce the EU to negotiate an alternative, is meaningful, even more so because Baku pointed out that it considers the lack of dialogical policy-making that it perceived as part of the AA, not acceptable.

What can we learn from the case of negotiations between the EU and Azerbaijan that is applicable to the broader region? On the one hand, Azerbaijan is perhaps not representative for the entire Eurasian region, given

that the EU has clear transformative objectives in its relations with Azerbaijan.⁸³ The negotiation strategies used by the government in Baku are thus far also rare for the smaller states in the region. On the other hand, Azerbaijan is not unique in its resistance against a unilaterally set agenda, and there are indications that several countries in the region are becoming more assertive in applying their different (material and non-material) forms of power to enable themselves to co-shape relations with the EU and other actors. Following in Baku's footsteps, the Armenian government negotiated an individual, differentiated agreement in 2017 (EEAS 2017), and Moldovan President Igor Dodon has stated that he wants to reconsider the AA signed by the country in 2014 (Hille & Buckley 2017). Belarus might request a similar pathway at a future date. What the Azerbaijani case has shown, is that the quest for dialogicism instead of unilateralism may be successful if countries can capitalise on their economic resources; if they can use their negotiation skill in the most effective way possible; if their domestic constituents push for a clear discourse and strong demands; if the perceptions of the Self facilitates an assertive stance in international relations; and if there are alternative options available. The 'starting point' still seems to be a unilateral policy based on the EU's wish for cooperation, unless the partner state manages to influence the policy through its bargaining power. The question is whether all states in the Eurasian region can meet these conditions.

From the EU's side, this shift in power dynamics seems to be facilitated by the rethinking of its policies towards the neighbourhood, following its economic decline after 2008 and the awareness that previous governance strategies in relations with neighbouring countries were not successful. The 2015 review of the ENP envisaged more differentiation (European Commission 2015b), and the European Commission installed in 2015 appears to be more pragmatic in determining the foundations for relations with the Eurasian region. The more pragmatic approach does bring along an important moral issue, in that key values of the EU may be (partially) sacrificed for the sake of cooperation. Change can be expected, but all sides will have to engage in lengthy negotiations over the final outcomes.

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⁸³ Such clear objectives do not receive the same weight in relations with, for example, Central Asian states. While they do play a key role in the EU's agenda vis-à-vis Russia, we cannot compare Russia and Azerbaijan in this regard, because of their differing economic and political power.

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