

Border Treaties Between Russia and the Baltic States

Ago Tiiman

I. Introduction

The research work *Beyond EU Enlargement* (Volume I)¹ presents the European Union's major problems and risks linked with its enlargement. In a few years, the eastern border of the EU will become a line of direct contact with Russia, one of the main power, economic and development centers of the modern world. Until now, the EU has had such contact along the border between Finland and Russia, which does not conceal any special problems or risks for the EU, because international relations between Finland and Russia have been peaceful and normal for decades. During its ongoing enlargement, however, the European Union is to incorporate territories and states, which Russia regards as part of its sphere of influence on the basis of a long tradition. What that will bring to the EU, what kind of problems and questions have to be solved, and what influence it imposes on both sides of the future border, as well as relations between them – these are very hard but, at the same time, very necessary issues to discuss.

One of the important issues which has to be analyzed is the question of border problems between Russia and the Baltic states. Because none of three border treaties is yet valid (the Russian-Estonian and Russian-Latvian border treaties are not yet signed, and the Russian-Lithuanian treaty is not ratified) for political reasons, an inevitable question arises: Does the lack of these treaties impose a threat to EU enlargement, as well as to an enlarged EU in the future? This paper will analyze the present situation, possible future developments, as well as real and potential threats and risks in fields that are linked with border relations between Russia and the Baltic states: border control, customs, visa regime and cooperation between border regions. The basic material that has been used for these analyses consists of my ten years of experience in the Estonian Foreign Ministry, during which I was responsible for Estonian-Russian relations. I also conducted Estonian-Russian negotiations on a large number of issues, including border problems. I have also used information that I have gathered from meetings with diplomats from the Russian, Latvian and Lithuanian embassies in Tallinn, representatives of the Estonian Board of Border Guards and different ministries, experts on Estonian-Russian relations, as well as information obtained from public documents of the Latvian and Lithuanian Foreign Ministries.

1 *Beyond EU Enlargement*, Volume I, 2001

II. General Assumptions and Framework for Further Discussion

In order to separate from all questions of Estonian-Russian border relations, the specific ones that are or may become problematic, it is necessary to lay down general assumptions and a framework for further discussion. In general, this framework coincides with the broader goals of the EU, regarding its relations with Russia and also its role in the general development of Europe. We will use them as described in *Beyond EU Enlargement* (Volume I)²:

1. Due to its enlargement, for the first time in its history the European Union has a very important role and chance to be a provider of security and stability on the whole continent. This brings along the responsibility of being initiator as well as guarantor for these processes, which cannot divide and split, but must bring together still different parts of today's Europe for the sake of peace and cooperation.
2. The future borderline between the EU and Russia cannot become a new division-line, a new "iron curtain," between two parts of Europe. This line has to unite, not to divide our continent. And it is despite the fact that in the future there is a possibility that on both sides of this border there will be two main but different political and economic centers of the world.
3. As one of the main goals of the EU today is to guarantee peace and security to its citizens, so the future borderline between the EU and Russia has to be firm and controllable to the extent that it should stop any attempt of the import of instability into the EU.

All of the questions and problems presented below are essential to this framework and under these assumptions.

III. Determination of Two Separate Cases: Estonia-Latvia and Lithuania

Despite the circumstance that the three Baltic states are geographically very close and are linked by many quite essential facts (a similar situation with borders – the Baltic Sea on one side and Russia on the other, a quite similar history and destiny during the last century, very easily comparable countries by size and development, and other facts), in the case of border questions with Russia it is worthwhile to distinguish between two separate cases: Lithuania on one side and Estonia-Latvia on the other.

In the case of Lithuania the differences are very easy to notice: peculiarities in history and corresponding differences in mentality, differences in the demographic situation, which have their roots in World War II, two other neighbors (Poland and Belarus), and a strategic location between the "two Russias":

- Considering the history of Estonia or Latvia, we can bring only examples of the powers under whose rule these two nations have been. In the case of Lithuania, we must take into consideration that at one time Lithuania formed (14th-16th centuries) a large and powerful state with Poland, with indirect influences that can be felt even today.

² Beyond EU Enlargement, Volume I, 2001

- A very important fact for Lithuanian development is that it borders Poland. A few years ago, this was one of the major factors in Lithuania's aspiration to join NATO, as well as its current integration process with the EU. In 1998, the Lithuanian foreign minister said officially in the meeting with foreign ministers of the Nordic countries that the aspiration of Lithuania to join NATO and then the EU are closely linked with the relations between Lithuania and Poland. Lithuania wishes, that Poland, after gaining membership to one or another organization, can bring its neighbor into this organization as well.
- In respect to its eastern neighbor, Lithuania is located between two Russias. Russian transit, especially military transit to and from Kaliningrad, runs through Lithuania. This fact has a decisive effect on relations between the two countries, which is not the case for Estonia and Latvia.
- The demographic situation in Lithuania now, and also immediately after regaining independence in 1991, has been homogeneous and stable: 80.6 percent are Lithuanians, and only 12.3 percent are Russian-speaking people. In Estonia, these proportions are 61.5 percent and 35.2 percent, and in Latvia 56.5 percent and 42 percent. Because of these numbers, Lithuania was ready to accept a "zero-option" for citizenship immediately after regaining its independence (Moscow's preferred option) granting all applicants who were previously Soviet citizens Lithuanian citizenship automatically. A political step of this kind has not been feasible for Estonia and Latvia on the ground of internal security. This fact has always been the main tool in the hand of Moscow for the separating the Baltic joint front in relations with Russia.
- As an example, it is worthwhile to look at the official web site of the Lithuanian Foreign Ministry³:
 - "Lithuania and Russia have no unresolved political issues – that creates favourable conditions for the development of relations and co-operation with Russia on bilateral, regional and an all-European scale.
 - "Lithuania has no border problems with Russia, nor does it have problems in relation to its Russian national minority.
 - "Lithuania granted the right to obtain Lithuanian citizenship for all the inhabitants that resided in Lithuania up until the declaration of its independence. The Russian population represents approximately 8 per cent of the population of Lithuania and they enjoy full social, cultural and linguistic autonomy guaranteed by the Lithuanian laws and according to international standards.
 - "Lithuania bases its relations with Russia on universally recognised norms and principles of international law and the Lithuanian-Russian Treaty on the Foundations of Inter-State Relations, signed on July 29, 1991, and entered into force on June 4, 1992."
- This example shows very clearly, that by specifically stressing the lack of a border and minority problems, Lithuania does not want to be regarded as just one of three Baltic states. This fact has been emphasised also by Moscow, as an example to follow for the other two Baltic states.
- Lithuania is strongly not interested in the restitution of the situation before World War II regarding its borders, which Estonia and Latvia are. Such a step would leave Lithuania in a situation where it would to answer to substantial territorial claims

3 http://www.urm.lt/data/5/EF2284527_russia.htm

from all of its neighbors. That is also the reason why it always stresses a lack of border problems with Russia, as well as the fact that it has already signed a corresponding treaty with Moscow.

Border problems for the two other Baltic states, Estonia and Latvia, are quite similar, and they can be analyzed in the same way. Also, it is common in both countries that border issues are still regarded among politicians as a test of patriotism, which leads to the issue's use in internal political struggles between parties.

IV. Overview of Estonian-Russian Border Negotiations

The first international border negotiations between Estonia and Russia took place in 1920, when Estonia was in a position to dictate conditions. Therefore, the borders agreed upon were justified mainly by military facts, not by any other factors. For precisely that reason, this nuance was very well remembered by the Soviet Union leadership of that time, and thus after the occupation of Estonia in 1945, the corresponding borders were changed by a unilateral decision of Moscow. An interesting fact is that border line was drawn not on the site, but only formally on the map in offices in Moscow. It is obvious when Estonia and Russia, as international partners, sat down in 1992 to negotiate the border problem for the second time, why the positions were diametrically opposite.

The Estonians' main goal on those negotiations was not to solve the border problem between the two states, that is, to negotiate and demarcate a border line and fix it in a bilateral treaty. Actually, the main Estonian goal was to reach Moscow's official acknowledgement of Russia as the legal successor to the Soviet Union, of the occupation of Estonia by the Soviet Union in 1940, a public apology for that occupation, and the restoration of the demographic situation of the time before World War II. It can be said that Estonia was seeking the possibility of restoring the situation in place just before World War II. Technically, it meant that the Estonian delegation had instructions to achieve by any means Russian recognition of the Tartu Peace Treaty of 1920, with all the legal consequences flowing from that: recognition of the forceful annexation of Estonia, as well as the illegal change of state borders, with attendant demographic consequences. During preparations for the negotiations many experts in international law indicated that such goals were unachievable for several strong reasons:

- first, because of the Helsinki Declaration of 1975, which Russia interpreted as a solid obligation for Estonia not to seek changes of post-war state borders;
- second, because Russia had many other similar, unopened but potential cases of border problems, it was firmly against any kind of discussions about border changes; and
- third, Russia's succession from the Soviet Union was a very big and painful problem. Thus Moscow chose not to take full responsibility for the actions of the Soviet Union and their legal consequences. The events of World War II were just some of those actions.

Experts also warned Estonian leaders that by demanding restoration of the pre-war situation, Estonia could jeopardize the unity of the Baltic States because of the situation on the Lithuanian-Russian border. Unfortunately, those warnings were ignored. An interesting fact is that even now there is no fundamental and complete analysis of the pre-

war situation and the possible consequences of such aims from the Estonian government. It may mean that behind those actions, there was only the desire for domestic populism.

In negotiations of the border issue the Russian delegation proposed to fix the *status quo* in all questions that were related to preceding events and history. Such a position was not a surprise because the young and democratic Russian leadership of that time wished to find close partners and allies among the Estonian leaders in solving not only the border question, but many other difficult and complex problems of Russia as well. The opposite occurred: Moscow stayed firm in its initial statement that the Helsinki Declaration of 1975 did not allow even discussions on possible border changes. It is also worthwhile to mention that despite written requests of the Estonian government, no third country stated its official position in the dispute over the borders between Estonia and Russia, understanding that any kind of intervention in that dispute might cause a chain reaction of unpredicted and undesired events over the whole of Europe.

Such a formal test of each side's strength lasted until 1994, when the Estonian Government suddenly decided to give up both the territorial claims and its demand for Russian recognition of the Tartu Peace Treaty of 1920. The aim of that sudden move was to catch Moscow by surprise and to achieve a breakthrough in bilateral relations. Tallinn proposed signing the so-called technical treaty, which would specify only geographical coordinates of the future official borderline without reference to any international document, not even the Helsinki Declaration of 1975. Moscow's reaction was very calm: a special delegation was formed with corresponding instructions and with only the right to discuss details of such a document, but not to sign or even to initial any document.

Unfortunately, a breakthrough did not take place because both governments were already so tied up with promises to their domestic electorates, regarding bilateral relations that they could not solve any problem and save face at the same time. Therefore, progress in further negotiations was very slow until March 1999, when the heads of the delegations initialed the text of the Border Treaty between Estonia and Russia, with all its necessary supplements, at last. Now this document is still lying in the archives of Foreign Ministries waiting for a better time in bilateral relations. One can go further – during the recent meeting between the foreign ministers of both countries (March 5, 2002, in Kaliningrad Oblast), this document was not even mentioned in their talks.

The Estonian leadership has not once publicly declared its willingness and readiness to sign and to ratify this treaty, with the aim of solving once and for all this problem between neighboring states. The Russian government has rejected these proposals, referring to the unfavourable situation in bilateral relations and to its powerlessness to push ratification of the treaty through the State Duma. To a certain extent, the latter argument can be regarded as realistic, because up to the moment when President Putin took office, all Russian governments had been very unstable and did not have any kind of political back-up in the Russian parliament. In such situations there are many examples of the Moscow leadership using "foreign enemy tactics" for purposes of internal policy stability. In the mid-nineties the picture of Estonia, which the Russian government created for a wide audience in Russia, was so negative that it was totally impossible to discuss any kind of cooperation or sign any treaty between the two countries. It sounds like nonsense but in a 1994 poll, in which people were questioned about the biggest possible enemy of Russia, Estonia landed in second position after the USA.

Of course it has to be mentioned that the Estonian government also did not act in the most optimal way, with very sharp statements and comments on events in Russia, chaotic and incomprehensible actions toward its neighbor without a specific aim, an unclear and

unsystematic foreign policy. These actions all created a very obscure situation, where even the closest allies could not understand what was and what is the real aim of Estonian foreign policy toward Russia. In general, Estonian society is still divided – and not just into two parts – on the question of how to deal with Russia. One recent example of that occurred in January 2002, when it was just one sentence from Russian Ambassador Provalov (during a meeting with Estonian President Rütel, the ambassador said out of the blue that there is a chance to organize a meeting between the two countries' Presidents) triggered a quite hysterical reaction from the whole Estonian society, with many mutual accusations and warnings between political parties. This shows very clearly that neither any political party nor the Estonian state in general has had or has now a properly analyzed and systematic approach toward relations with our eastern neighbor.

At the same time, other treaties and agreements that are related to or linked with the border issue are already signed and valid. Both sides have also internal laws on the state border, its regimes and control. This gives a solid basis for each side to implement its sovereign power for the control and administration of its territory. At the moment, the following agreements are valid:

1. an agreement between the governments of the Republic of Estonia and the Russian Federation on border crossing points of customs borders (signed and valid from 9 July 1993);
2. an agreement between the governments of the Republic of Estonia and the Russian Federation on activities of border guard's representatives (signed and valid from 20 December 1996); and
3. an agreement between the governments of the Republic of Estonia and the Russian Federation on cooperation and mutual assistance in customs matters (signed and valid 9 August 1999).

In practice, relations between different structures of the public services in both countries are in fact much better than the actual general relations between two states. Practical coordination between state border guards or customs services is well done in everyday life, which is free of political turmoil, mutual accusations or demands.

V. State of Play Regarding Russian-Latvian and Russian-Lithuanian Border Treaties

As outlined above (section 3), it is necessary to differentiate between two separate cases in analyzing border problems between Russia and the Baltic states. The Lithuanian-Russian border treaty was signed on October 24, 1997 with delimitation of the state border between these two countries. The Lithuanian parliament has ratified this treaty already, but the Russian State Duma has rejected ratification of the treaty on political grounds. This has caused some tensions between both countries, but not so much that it can be regarded as a substantial threat to relations between Lithuania and Russia. In general, the situation in connection with the border treaty is quite normal and does not need special attention from Brussels.

Nevertheless, as it is linked with a lot of other questions that are pending between the two states (for example, Russian military transit through Lithuania), it is impossible to predict when and why Russia might use this unsolved issue to strengthen its demands in another field. In Lithuania's case we can speak about relations between almost equal

partners, because Lithuania has a controlling position in the field of transit to Kaliningrad, where Russia has a very substantial interest. One has to remember that if Russia signs border treaties with its Baltic neighbors, it will do this separately with each other of them, not with all three at once, and Lithuania has the highest possibility to reach this goal first.⁴ Moscow has always stressed its specific relations with Vilnius, with an aim of preventing the formation of a joint front of Baltic states on common issues, including border problems. In conclusion we may say that the possibility Vilnius can solve the problem of ratification of signed border treaty is quite high. The question of when ratification will take place remains unanswered.

Border negotiations between Latvia and Russia have a history similar to the Estonian case. Negotiations started just after Latvia regained its independence and have lasted up to the present. The positions of the two sides on negotiations were the same as in the case of Estonia: Latvia wished to gain "historic justice" with the pre-war borders; Russia regarded this wish as a territorial claim in the sense of the Helsinki Declaration of 1975. Despite the fact that Latvia tried to be more flexible during negotiations than Estonia, the result was just the same because Moscow tied the solution of the border problem to many other issues, especially citizenship. Now, the border treaty between Latvia and Russia is still not initialed, although technically negotiations are completed. As in the case of Estonia all other agreements that regulate everyday life on the Latvian-Russian border are signed and valid.

Recently, the Latvian government has substantially increased activity in its policy toward Russia. The government is giving the impression that Riga's new tactic is not to bother about certain sensitive political questions in bilateral relations and to find possibilities for close cooperation outside of them. This approach might help to solve the border treaty issue in the future. The possibility that Moscow will link the solution of this question with "who-knows-what" other issue is very high. Practically, it is impossible to imagine a situation in which Russia would be ready to sign and ratify a border treaty between the two states without linking this process to some other question. One has to remember that bargaining is the traditional way for Russia to reach its goals and satisfy its interests.

VI. Identification of the Main Problems of Unsigned and Unratified Border Treaties Between Russia and the Three Baltic States

Under the umbrella of border problems between Russia and the Baltic states we can distinguish five types of different issues, which will be analyzed further:

- questions linked with a lack of border treaties;
- questions related to the visa regime;
- questions related to border control;
- questions related to customs control; and
- questions related to local cross-border cooperation.

4 This opinion has proved correct. On Wednesday, May 21, 2003, the Russian Parliament (State Duma) at last ratified the Russian-Lithuanian Treaty on State Borders. At the same time, all comments showed that still there is no chance to ratify the other two treaties, with Latvia and Estonia.

The main problem with these unsigned treaties is uncertainty about how Moscow can use this situation, and also treaties themselves, in relations with the Baltic states and the EU now and in the future. At first glance, it seems that Russia cannot harm anyone or anything by these void treaties, because Moscow itself is refusing to ratify them. Even Russian diplomats in Tallinn admit that in their opinion, the border treaty between Russia and Estonia can not be used as a trump card in any other international business because it is Moscow who is refusing, without any specific reason, to sign the treaty. At the same time, throughout history Russia has demonstrated a very high ability to use such unfinished business on the international level for the creation of additional demands, with the aim of reaching its own interests in other fields. Therefore, it is very difficult to predict how Moscow may use these unratified treaties. This lack of knowledge is the main problem regarding border treaties between Russia and the Baltic states. What is certain is that Russia will use these treaties in its foreign policy.

VII. Possible Scenarios and Risks of Future Developments in Border Problems

1. Problems that are linked directly with a lack of border treaties, are not numerous:
 - a) possible continuous political instability between neighbors and security throughout Europe;
 - b) possible territorial claims from both sides; and
 - c) the security of the border itself.

At the same time a lack of border treaties itself is not an essential problem for EU enlargement or the EU in general. Many experts on Russia as well as of the some authors in *Beyond EU Enlargement*⁵ have stated an opposite opinion, but no one has brought out detailed reasons for such a concern. In a way, we can compare this situation with the situation between Russia and Japan: There is still no peace treaty between those two countries, but that has not hindered development of good neighborly relations and large-scale cooperation between them.

We also have to take into consideration that international customs regarding recognition of an independent state and the necessity of a border treaty between neighbors have changed and do not require precise and firm rules any more. Of course, it is strongly advisable that neighbors sign and ratify a border treaty to guarantee peace and security for the future. But as a majority of countries, especially in Europe, are members of numerous international organizations, which automatically demand by their charters guarantees for peace, security and co-operation, among their members, the lack of bilateral treaties does not always imply an automatic problem for peace and security in general.

What practical risks may exist because of the lack of border treaties in Europe? One of them is the possibility that at a certain moment Russia may declare that, due to the lack of a border treaty, it cannot control immigration through this particular border region and open the gate for Third World immigration to Europe through the Baltics. The possibility of such behavior from Russia is highly remote, because this issue is also regulated by many other multilateral agreements, which are obligatory for Russia as well. So Moscow is not in the position to act in such an irrational way. Also,

5 *Beyond EU Enlargement*, Volume I, 2001

we have to take into consideration substantial changes in the world of security measures after September 11th. Russia is strongly supporting the anti-terrorism movement (with the intention of having a free hand in other areas), so such behavior from Moscow is not feasible. The latest developments show that for the Russian foreign policy, the first priority is good and prosperous relations with the EU, which Moscow will not jeopardise with such actions.

The real problem is the chance that Moscow will form a "List of Political Concerns Regarding EU Enlargement" on the pattern of the "List of Economic Concerns," which was given over to Brussels a few years ago. The aim of Russia in such a situation is to play a high-level game by mixing pseudo-problems with its real interests. At the end of negotiations on issues from such a list, Russia would give ground in questions that are not its priorities but rather pseudo-problems. It will make concessions only because it will try to get positive results where its real interests are. In other words, by forming such a list Russia may try to create room for itself in future bargaining. One can be sure that a lack of border treaties between Russia and the Baltic States will be mentioned, but not analyzed or specified in this list. Here it is worthwhile to mention that in its response to the Common Strategy of the European Union on Russia, issued 4 June 1999, Moscow has stated openly that "... as well as to safeguard, in the interests of stability, security and co-operation in Europe, the rights of the Russian-speaking population in the Baltic states, to consider, as a reserve option, a refusal to extend the PCA to cover those candidate-countries that, in spite of the existing agreements, do not ensure fulfilment of the generally recognised norms."

Another problem with these open treaties may be that the Baltic States not try to solve this problem on their own before the accession to the EU, hoping that after accession it will be a problem for Brussels, and they will thus not have to do anything about it now or in the future. There are strong tendencies in all three capitals to use such tactics for the "solution" of this problem. At least in Tallinn such conversations have been heard even at the government level, and Lithuanian diplomats have admitted it as well. Unfortunately in Estonia such an opinion dominates on the whole set of complex relations between Estonia and Russia.

Problems related to the current and future visa regimes between the Baltic states and Russia are more complicated than the treaty problem. Mainly, this is because of historic ties between people on both sides of the border as well as the fact that in this question Brussels, together with the Baltic states, has to find a golden mean between the frames mentioned above in section 2: total control of the borders from one side and not becoming a new "iron curtain" from the other side.

First of all, consider the recent past. Estonia introduced a visa regime with Russia immediately after regaining independence in 1992. Latvia and Lithuania did the same few years later. Since then, the Estonian visa regime has been modified only in the direction of stricter rules. A few times, Russia has proposed negotiating a much softer approach to visa requirements, especially for the people living in the border regions. The Estonian Government has always very firmly rejected those ideas. By tradition, Russia has answered with tit-for-tat measures, making visa requirements stricter even for its own citizens and so-called compatriots living in Estonia. More and more strict rules from both sides has had a substantial impact on the number of visitors, especially but not only tourists, between the neighbors. During the last Round Table Meeting between Estonian and Russian entrepreneurs in Tallinn in

6 http://europa.eu.int/comm/external_relations/russia/russian_medium_term_strategy/index.htm

February 2001, the Deputy Head of Russian Delegation, B. Kurakin, especially stressed this unnatural visa situation, which has seriously hindered economic and trade relations between businesses of two countries. It is worthwhile to mention that Estonia has never had a firm and clear goal regarding its visa policy towards Russia, except emotional statements such as “They must understand that we are an independent country!” even at the government level. As a result, we have to admit that there have been numerous problems in getting visas even for state delegations from both sides.

There are no common rules in the three Baltic states regarding visa policy or regime towards Russia. Each one has its own peculiarities, which it tries to implement by its own methods. For example, Estonia has problems with Russians who are working in Narva, Estonia’s easternmost city, right on the border, but living in Ivangorod, the Russian city just across the river from Narva. Latvia and Estonia both have a problem with two specific categories of people from Russia: those who have either real estate or close relatives in Latvia or Estonia. In the case of Lithuania, a very difficult problem is visas for residents of Kaliningrad. Also because of its homogeneous demographic situation, Lithuania has a special visa regime (lighter requests) for elderly people.

General types of visas, as well as general rules on applications for and reception of visas are also different in all three Baltic states. The strictest rules are in Estonia, where in addition to the usual documents required to receive a visa, there is a demand for a health insurance policy valid in Estonia.

What kind of problems and risks regarding visa regimes may the EU impose after the accession of the three Baltic states? First of all, despite the fact that all three countries have a visa regime with Russia, there are too many specific exceptions from general European rules. It would be quite difficult to suddenly declare these specific rules void, because too many people in Russia will be affected by changes in these special visa schemes. In turn, a sudden change might create substantial social turmoil in Russia, which Moscow in any circumstances would use on a political level to achieve its interests in other fields.

Second, it will be difficult to harmonise the Baltics’ official approach to implementing the EU’s common visa regime. Because attitude and policy toward Russia are quite different in all three countries, present visa regimes and especially their implementations are also quite different. If Estonia, due to its commonly known hostile mentality toward Russia, is granting its visas to Russians on a stricter bases than the EU, then Lithuania’s rules are much more liberal. There is a risk that both of them would like to keep their own principles of implementation of the EU’s general visa rules in the future, even after accession to the EU. In the future there may be a substantial difference in issuing EU visas in Estonian or Lithuanian diplomatic missions. On its own, this is not a problem, but Russia will immediately use such kind of differentiation for its own purposes.

Third, it may cause a problem for Brussels if Estonia goes along with the same mentality and methods of implementation of its visa regime as it is doing now. The general understanding of Estonian consuls in Russia is that they are the first line of the army on the battlefield between both states. If a civil servant is thinking in military terms, then there is a big problem in relations between the two states. After Estonia’s accession to the EU such a mentality will certainly create a tension between these two countries, which will certainly be a problem for Brussels. Brussels also has to take into consideration that there is a peculiar mentality on the level of foreign ministries of all three Baltic states that as new strict rules are coming from EU, then Brussels has to pay for the introduction and implementation of these rules.

As mentioned, the Kaliningrad case is so difficult and also unique for future EU-Russia visa relations that we will not analyze it in this paper, but refer to the article by Arkady Moshes in this volume.⁷

Of course, there is a problem of the technical implementation of EU rules by Baltic consuls. They do not have yet specific training or experience, so it may be a substantial problem for Brussels after the accession of the Baltic states to educate all their consuls on EU standards during a very short period of time.

There are no major problems related to guarding the EU's future eastern border. Specific agreements between corresponding State Boards are signed and valid, so the situation on the border is regulated quite fully. According to information gathered from meetings with Estonian border guards, everyday cooperation between border guards from both sides is good and active. They both have specific tasks to fulfil and as these tasks are not opposing each other's obligations and are even they are quite similar, the border guards' Boards have found an optimal practical level for efficient cooperation. If anything might cause a problem in this situation, it is the lack of professional personnel among border guards, especially on the Estonian side. It is also worthwhile to mention that there have been many discussions between border guards from both sides about possible cooperation and joint projects, especially in the field of constructing check-point facilities on the mutual border. Up to now all such talks have remained only talks due to the lack of necessary finances. In the field of customs control, the lack of border treaties between Estonia and Russia does not have any essentially negative or unwanted impacts. Everyday life and work on the customs border from both sides is normal, and information has been exchanged on the basis of a corresponding agreement on cooperation between the Customs Boards of the two countries. At the same time, some additional agreements (for example, about border crossings and check-points) are needed because of present demands by the business sector to elevate cooperation between two state departments and the effectiveness of customs control to the modern international level. Negotiations on these agreements are hindered due to the lack of border treaties.

A problem that may crop up after the EU enlargement is related to the fact that customs control can be effective only in the case of close cooperation of state departments from both sides of border. The Customs Boards of Russia and the Baltic states are not yet accustomed to this kind of close cooperation, despite the presence of corresponding agreements. Both sides know that the Estonian customs system is still expecting substantial reforms from harmonization with EU customs rules and working methods. They also know that management of the EU customs system will be done from Brussels. Both are waiting for the moment when the Russian State Customs Committee can negotiate all customs questions directly with Brussels. Of course, these questions do not resulting from the fact that there is still no valid border treaty between two states.

5. The question of local cross-border cooperation is not directly related to the lack of border treaties. Essentially, it is more related to the status of general relations between the states, and specifically to three general factors:
 - general state of play in bilateral relations;
 - willingness of central Russian authorities to allow such relations, an unresolved problem in relations between Moscow and Russia's regions; and
 - local economic prerequisites for such co-operation.

⁷ Arkady Moshes, *Kaliningrad; Beyond EU Enlargement*, Volume II, 2002, pp. 132-152

None of these three factors depends directly on the lack of a border treaty. Of course, lack of treaties does play a positive role in the development of general relations between Russia and the Baltic states, but it does not make these relations worse.

In developing cooperation with Russian regions, it has been always hard to understand with whom and on what conditions one can do business or even just create normal relations. Although there is a special law in Russia, which stipulates conditions and rules for the regions and the role of the center in developing the regions' international relations, in real life not one of the agreements concluded between the Estonian government and Russian regional authorities has been successfully implemented. The reasons are many, and among them two are widely recognized: first, that Moscow has not supported such cooperation with Estonia; and second, there have always been problems in relations between the regions and the centre about who is responsible for what in international business affairs. The only exceptions have been cases related to substantial investments in local business.

As is well known, Estonia (and Latvia as well) does not have an agreement with Russia on cooperation in the field of economic and trade relations, which would stipulate a "most favored nation" regime in bilateral trade. At present, it is not worthwhile for Estonian business to sell Russia anything originating from Estonia, because of Russia's double customs tariffs on Estonian goods. At the same time, local Russian business in the border regions nearest to Estonia is so weak (Leningradskaja Oblast and Pskovskaja Oblast are among most poorest regions in Russia), that they do not have anything to trade. Essential problem are also the unwillingness and inability of both capitals to invest their own resources into the development of these provincial regions. These problems are, however, not related to the existence, or lack thereof, of a border treaty. They depend much more on the general level of relations and cooperation between the two states.

Here it is worthwhile to mention that in general, cross-border cooperation in the region between Russia and the Baltic states will not have any positive future without concrete and specific support from the EU for this cross-border region. The present general approach of Brussels to local cross-border cooperation between recipients of PHARE and TACIS programs is not constructive anymore and does not have prospects of success. Currently, the EU's Cross-Border Cooperation (CBC) policy in this region, especially its implementation, has exhausted itself. It has to be rethought and restructured, taking into account the areas' peculiarities.

VIII. What Alternatives does Brussels Have?

There are several alternatives for the EU in this situation, with border treaties between Russia and the Baltic states whose texts are ready but not yet valid.

1. Three Baltic states will succeed in signing and ratifying their border treaties with Russia before accession to the EU. In this case, Brussels will not have any political problem with Moscow concerning these treaties, but problems with the visa regime, customs control and regional cooperation will remain. In this case, any remaining problems can and must be solved, not on the Baltic-Russia level, but on the Brussels-Moscow level. Problems with Baltic mentalities towards Russia will also remain, and Brussels may have some difficulties with stubbornness in the three capitals.

2. The Baltic states and Russia will not sign and ratify border treaties before Baltic accession to the EU. In this case there are two possible options for further development:
 - a) Moscow will not use this fact as a political argument in future relations with Brussels. In this event future developments will be the same as in the case 8.1, but with a certain time shift. The most probable scenario is that border treaties will be signed at the same time as some other agreements.
 - b) Moscow will use this fact as a political argument in the development of its future relations with Brussels. Most probably it will present the border treaty question as a major obstacle to EU enlargement and also to future Russia-EU relations, but without further explanations about the argument's merit. It will be presented as a plain fact. The main aim of such a move would be to improve the Russian bargaining position and to reach its essential goals during negotiations on a "package deal" between Brussels and Moscow, related to Russian demands for some compensations or concessions regarding EU enlargement. Actually, it is impossible to predict what Moscow may ask for in return. At the same time it is not so hard for Brussels to counter Moscow in such a case by firmly holding the position that unsigned border treaties are solely the responsibility of Russia and they can not harm in any way either EU enlargement or future EU-Russia relations, even if the conclusion of border treaties takes years and years. Problems with the visa regime, customs control and regional cooperation will remain similar to those described in 1.

Some additional problems may occur. If Russia uses such tactics, it may be very hard for Brussels to persuade the Baltic capitals to be calm and constructively cooperative. On one hand, all three already wish that Brussels will solve all their problems with Russia, but on the other hand, they will all three demand a seat behind the negotiation table with Russia, out of fear that Brussels and Moscow may agree on something inappropriate over their head. Thus Brussels may find itself between two fronts, an undesirable situation.

There exists the idea that a few symbolic actions or gestures from Moscow might decrease tensions between Russia and the Baltic states. These could include a visit by the Russian president to one of the capitals or, for example, in the case of Estonia, the return of the Estonian Presidential Medal or the treasures of the Museum of Tartu University. Such diplomacy can not have positive results because of the mentality of Baltic people; symbols, even positive, have never had any significance in Baltic culture. Tensions created by historic events from the last century, may disappear only with time.

IX. Main Players in the "Game" of Border Treaties

First of all, it is necessary to notice, that the lack of border treaties is not regarded by both societies as the biggest problem between Russia and the Baltic states. There are more important issues at stake regarding future relations between neighbors, as for example, accession of the Baltic countries to NATO or the lack of traditional agreements on economic and trade relations, investment protection agreements, and agreements on transport and transit freedom. For Baltic business, the lack of primary economic treaties is very big obstacle for their normal development, because the majority of Baltic firms have profound business interests in the Russian market. For Russian business, it is not such a major problem, although Russian businessmen understand very well that with

good economic and trade relations between Russia and the Baltic states they could substantially increase their profits. Thus, the lack of border treaties is regarded generally as a classical example of stubbornness and stupidity of the governments on both sides.

At the same time, Russian and Baltic entrepreneurs are afraid to highlight publicly their business interests towards their neighbors, because of the high-level political tensions and uncertainty in relations between states. In Estonia, for instance, it is well known that no firm can find support at the governmental level for doing business with Russia. Recently there was an article in an Estonian newspaper, in which a representative of the Estonian Parliament, a member of former ruling party Fatherland, accused businessmen of betraying state interests by doing business with our eastern neighbor. Thus it is understandable, why Estonian foreign policy towards Russia has been so eclectic and unpredictable. The same situation applies to Russia as well.

Today, Estonian business is not yet so powerful and does not have sufficient influence in society to demand something from politicians. As the number of entrepreneurs who have real interests and also opportunities in doing business with Russia, is not very big, politicians are not much concerned about their relations with and support for such a business, but more about their domestic popularity. This, unfortunately, is still heavily dependent on strong words and hostile tones against Russia. So for years relations with our eastern neighbor have been sacrificed for cheap domestic popularity. Therefore, the main players in the decision making-process concerning Estonian relations with Russia, including the border treaty, are politicians, who are using this field only for their own popularity. There are no exceptions among politicians; all parties try to show their strength by aggressiveness against Russia.

It is a pity, but no analyses have been made, no round-table discussions have been organized in Estonia with an aim to developing an optimal and pragmatic strategy towards its eastern neighbour. It is a common opinion that everybody knows about Russia and how to treat Russia very well on their own. Today, Estonian society, and especially the government, seem not to need any analyses or research works in foreign policy. Reading any official paper prepared in Estonian Foreign Ministry, which is dedicated to relations with Russia, it is obvious that it is written on the basis of individual belief and subjective opinions, not on a basis of profound knowledge and analysis of Russia and Estonian-Russian relations. A meaningful example of this phenomenon was a meeting of Estonian experts on Russia in spring 2001, where the problem of an investments protection agreement with Russia was discussed. A majority of participants, civil servants from the Ministry of Foreign Affairs, were of the opinion that Estonia did not need such an agreement, because: "You can never rely on Russians! They never obey the rule of law and never carry out agreements." Only after long disputes, in which the opposition used the argument that in this case we do not need any agreements with Russia, was it decided that Estonia will not turn down corresponding Russian proposals, but will keep a very low-profile attitude about further developments. The recent change of foreign ministers in Tallinn has not changed the essence and methods of Estonian foreign policy. This was stressed even by Kristina Ojuland, the new Foreign Minister,⁷ when she publicly admitted that the Estonian Foreign Ministry is still obstructing constructive relations with Russia.

It is a peculiar fact that a common refrain one can hear at the level of the Estonian government is, "We have done this and that, now the ball is on the Russian side!" It shows very clearly that relations with Russia are seen like a tennis-match, where players

8 Interview with K.Ojuland; *Päevaleht*, March 28, 2002

are opponents and the ball is a problem which is not to be solved by joint efforts, but has to be hit in any case to the other side of the net. The Estonian Ministry of Foreign Affairs can not accept the principle that international relations, even with a country that you do not love or trust, have to be developed as a close dialogue with an aim to solving problems, which can help to develop mutually beneficial relations.

The situation is almost the same in Latvia. The situation in Lithuania is a little bit different, for the reasons already discussed. In general it can be said that unratified border treaties do not worry either the Baltic states or Russia right now. There are much more important issues which have to be solved before the signing of border treaties – accession of the Baltic states to NATO and to the EU, bilateral trade treaties and many social-humanitarian agreements. It seems that the border treaties will be signed at some point, but not separately from other agreements.

It is hard to name the main players in Russia regarding relations with Estonia. It is obvious that these relations are not first or second priority for Moscow and that Estonia or Latvia are not of major interest for Russia. On the contrary, Moscow is wisely holding bilateral relations at the level of cold confrontation just to satisfy domestic interests in showing how it is concerned about the situation of compatriots in the Baltic states. It is a pity, but in all four capitals, bilateral relations are used only to satisfy the domestic interests of local politicians. Moscow also tries also enlarge Russian bargaining room for future negotiations with the EU. Who is the final decision maker in relations with Baltic states, is unknown. At least, in Tallinn.

X. Conclusion

1. Under the umbrella of “border problems between Russia and the Baltic states” there are five types of different issues:
 - a) questions related to the lack of border treaties;
 - b) questions related to the visa regime;
 - c) questions related to border control;
 - d) questions related to customs control; and
 - e) questions related to local cross-border cooperation.
2. Each of these issues may be analyzed on two levels: on the level of EU enlargement and on the level of the EU’s ongoing relations with Russia (and, in the case of Lithuania, with Belarus as well). On the first level, these questions do not impose any essential threat or problem to EU enlargement process. On the second level, Brussels has to take over decisionmaking in the last four questions and try to solve them mainly in direct negotiations with Moscow. It is not advisable to give too much authority in these questions to the Baltic capitals.
3. Special emphasis has to be laid on the new developments in relations with Russia after the events in New York and Washington on September 11, 2001.
4. There are no border problems that can be regarded as a threat or essential risk to EU enlargement or to future EU-Russian relations. The treaties can not be regarded as essential conditions for EU membership of the Baltic states, as is widely proclaimed by Moscow.

5. Conclusion of bilateral border treaties between Russia and the Baltic states is a political issue⁹, which may have a solution in a “package deal” at the level of EU-Russian relations. It is certain that Moscow will use the unratified treaties to gain something from Brussels in return.
6. The main problem that has to be analyzed is the present and future visa regime of the Baltic states and its implementation in relations with Russia and Belarus. This problem includes major risks and greater possibilities for the future EU eastern border becoming a new “iron-curtain” between the two parts of Europe.
7. The approach to local cross-border cooperation has to be rethought and restructured. The EU’s present CBC policy, especially its implementation, has exhausted itself. If Brussels would like to see real progress in this field, then a special program has to be developed for the needs of this particular region.
8. All of the issues mentioned above are linked with fundamental and still, from the Baltic point of view, unsolved questions: Do both parties in this West-East dialogue understand each other? Do they understand each other’s interests? What is their joint goal in these relations? And what is the role of the Baltic states in these talks between two world powers?

Bibliography

- Beyond EU Enlargement, Volume I; Iris Kempe and Wim Van Meurs (eds.); Bertelsmann Foundation Publishers, Guetersloh, 2001.
- Beyond EU Enlargement, Volume II; Iris Kempe and Wim Van Meurs (eds.); Bertelsmann Foundation Publishers, Guetersloh, 2002.
- Päevaleht*, March 28, 2002; interview with Estonian Minister of Foreign Affairs K. Ojuland.

Ago Tiiman is currently Managing Director of the Association of Port Operators of Estonia. His responsibilities include among others relations with Russia and promoting of transit through Estonia. In 1991-2001 he was working in the Ministry of Foreign Affairs of Estonia with responsibility for Estonian- Russian relations. During that time he took part as a Deputy Head of Estonian Delegation in general negotiations between two states, which included such a questions as withdrawal of Soviet troops from Estonia, questions of citizenship, economical and cultural relations, as well as questions of borders between two states. In 1997-2000 Mr. Tiiman worked in the Estonian Permanent Representation to the EU in Brussels, where he took active part in negotiations between Estonia and EU on the matter of integration of Estonia into the EU.

⁹ It is obvious that ratification of the Russian-Lithuanian Treaty on State Borders has to be regarded as a “present” from the Russian Parliament to Lithuania for its acceptance of the proposed solution to the so-called Kalinigrad visa problem.