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EU External Energy Policies

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3. EU External Energy Policies

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The Third Chapter of the WP5 aims at outlining the EU's external energy policies in light of the EU's general principles, norms, values and priorities outlined earlier in the introduction. The general objective consists to outline international and regional opportunities and limits for the EU's external energy policies. In the Chapter 2, we have argued that these norms and principles might generate either a collective action (multilateralism) or a clash of values, which stems from a conflict of norms' appropriateness. In other words, practices and norms either generate cooperative institutions or fail to produce a multilateral institution. Globalization trends in the economic interdependency are hindered by a political fragmentation at regional levels (Gilpin, 1986, 11-15). Therefore, regional security complex (RSC) analysis demonstrates how regions are uneven in their integration and disintegration dynamics because of the varieties of norm acceptance by States.

In accordance with the findings of WP 3 and the conclusions of WP4, the EU's general external policies pursue sustainability objectives, which have been observed at the domestic level. Then, stickiness to the EU's norms and practices at the international level might also limit the policy appropriateness in relations with other states¹. Likewise, the success of the EU's external energy policy largely depends on the appropriateness of the security definitions and concerns within other regions and States. That is particularly important in light of the EU's objectives to play a key role in international energy governance, which has been recently declared by the European Parliament (see below). In light of the previously made conclusions on the non-linear link between supply dependency and security, the present Chapter reiterates the conflicts of appropriateness (norms non-acceptance) as the key barrier for the success of the EU's external energy policies.

On these grounds, the present Chapter emphasizes general institutional patterns for opportunities and limits of the EU external energy policies through an overview of the

¹ WP 3, p. 101: "we see that the stickiness of global and sector specific institutional arrangements in reacting to changing market behaviour result in an institutional misfit that fragments the global market place further"

Europeanization of energy policies towards a strategy of market transformation, an overview of the EU's general positioning within international organizations (mostly the Energy Charter Treaty and the climate regime but also the WTO and the OSCE) as well in its direct interrelation with regions, regional and global powers. The present Chapter describes only a general framework for the case-studies, which provide a precise analysis of concrete situations of the EU's external energy policies in relation to RSCs. Case studies are further outlined in Chapter 5 of WP5. Their objective will then consist in understanding risks and policy opportunities from concrete case studies of development of regional institutions. Unlike the case studies, the present Chapter outlines only a general framework for the EU's external energy policy institutional context.

1. Europeanization of EU Energy Policies and External Energy Policy Documents

At first, we will attempt to analyse the development of an RSC within the EU through a long term process of Europeanization of energy policies. On these grounds, there is a need to understand the historical trend of European energy policies from the Fundamental Treaties to the recent ambitious policy objectives in climate change mitigation and in forging an internal market in electricity and gas in the light of principal-agent relations. Principal-agent interrelation involves an implicit influence of the principal on the agent, who reflects in turn the interests of the principal. At the beginning of the European integration, Member States played a pivotal role in both EU domestic and external energy policies and hence played the role of principal. Hence, the evolution of the EU's policy institutions demonstrates a growing role of supranational institutions in the strategy design. Then, since the early 2000s, we observe a higher level of initiative of European supranational institutions on targets in energy policies. On these grounds, we observe a growing Europeanization of policy targets and subsequent transformation of the external energy policies, where the EU increasingly plays a role of a principal.

The EU's energy policies are characterized by energy market transformation objectives, comprising support for renewable and alternative (non-fossil fuel, non-nuclear) energy technologies, as well as targets for efficiency improvements and carbon emission reductions, on one hand, and a pro- competition, market-based approach to the wholesale and retail tiers of the mainstream power and natural gas sector on the other. As these transformation require

a complex institutional innovation, its success might be solely based on a logic of appropriateness (cf Chapter 2) towards the institutional change. Therefore, acceptance and non-acceptance of EU policies in the rest of the world is likely to be dependent on the States and regions attitudes towards such energy market transformation.

Brief Historical Background of the Europeanization of Energy Policies

The roots of the EU energy policy are directly located in its very integration process. The First community integrating European states is the European Coal and Steel Community (ECSC). It takes its roots from the European Coal Organization (ECO) of 1947, an *ad hoc* intergovernmental institution dealing with the dissemination of information on the production and supply of coal among the Member States. Created a few years later, in 1952, the ECSC regrouped only a few members of the ECO with some supranational powers allocated to the ECSC (Haighighi, 2006). The ECSC had been a purely European organization, regrouping both producing and consumer countries. Therefore, it never became an internationally acting organization till the expiration of its Treaty in 2002.

The Euratom Treaty on civil nuclear energy was entered into simultaneously with the creation of the European Economic Community. Indeed, in 1957, both Treaties were signed by the same initial member states. The idea of nuclear energy being a substitute for oil in electricity generation was born after the diplomatic and military crisis affecting the Suez Canal in 1956, which had for a long time served as the main route for oil from the Middle East to reach Europe (Haighighi, 2006). Euratom's external energy policy remained restricted to the provision of technical assistance in nuclear safety, mostly to the former Soviet Union (FSU).

The oil shocks of 1973-4 and 1979-80 boosted a security based approach in the European Union to energy issues. In the aftermath of the crisis of the late seventies, the oil sector has been considered as one of the most strategic political areas. Its economic and political scale was much larger than that following the Suez Canal oil transport disturbances some twenty years earlier. It instilled a real fear of energy supply cuts. A political effect of the crisis was to motivate a nationalization of energy policies. Each state attempted to avoid infrastructural dependency on other states. For instance, sea-bordering states built their own oil terminals on

the coast line. The oil pipeline interconnections between West European states were mostly developed to supply specific refineries. Electricity and gas supply were both considered even more than previously a question of a national sovereignty². Two consequences of these policy developments should be then outlined: first consequence lies in the new European States strategies of energy diversification by developing the nuclear energy, which however lost its actuality due to significant safety issues and public non-acceptance of this energy option; second consequence consists in a higher level of politicization of energy policies, which reduced a Europeanization of the field. Indeed, only recently energy started to become a shared competence between the EU and its Member States.

The external dimension of EU energy security policy at this juncture was limited to a political coordination of energy security measures among EU Member States. These coordinated security measures emerged immediately during the first oil crisis in 1973. Among the first steps taken was Directive 73/238/EC³ of the Council on measures concerning oil supplies. The Directive was a response to an external event (the energy crisis) but it did not result in a common foreign energy security policy of the member states. Once again, the Directive did not generate an Europeanization of the energy security policies occurred much later and was not a result of the 1970s crises. For instance, no general EU-level political objective has been stated for the field of energy security. Hence, the ambitions of the policy targets have been limited to a response to an external shock. This differs much from the current strategy of the EU-guided market transformation.

It should be outlined that the energy security as such never became a subject of the EU's external policies. Interestingly enough, the issue of energy security remained always marginal in the EU's Common Foreign and Security Policy (CFSP) in the later stage of the development. Likewise, institutions set by Lisbon Treaty, such as mandate of High Representative, rarely evoked energy security. Hence, the role of EEAS in the external energy policy has been also rather limited so far (Van Vooren, 2012).

² The situation is different in the new EU member states, which were included in the USSR-lead economic block COMECON and have been interconnected by the oil and gas pipeline networks Druzhba.

³ Prior to the 1973 crisis, measures on oil supply stocks were adopted in 1968: 68/416/EEC: Council Decision of 20 December 1968 on the conclusion and implementation of individual agreements between Governments relating to the obligation of Member States to maintain minimum stocks of crude oil and/or petroleum products.

This differs much from the current strategy of the EU-guided market transformation, which is supposed to have an external effect. Here, one can speak about externalizing EU's domestic targets in both internal market and environment (Van Vooren, 2012).

From Harmonization to Ambitious Targets in Energy Mix

Harmonization of the member states policies is rather a recent institutional trend. For instance, a harmonization of upstream energy policies emerged in mid-1990s, with the Licensing Directive (94/22/EC) of 1994, which regulates the licensing procedures for exploration, taking into account safety and environmental issues. A particular focus of the Directive consists in facilitating upstream access to small and medium oil and gas companies, who are usually keener to develop smaller-sized fields. The objective consists in reinforcing hydrocarbon's resource base by developing smaller and medium-sized fields.

The responsiveness to the fuel mix policies had been also low at the EU level. Only since 1990s, have we observed a slow integration of the environmental policies into the EU policy agenda (Werring 2006, 149-160). Subsequently, in the area of energy efficiency, in 1992, the first European Framework Directive on Energy Efficiency (Directive 92/75/EU) was adopted, which presented an outline for future specific actions such as labelling and standard-setting for various end-use products. General targets have been substituted by a number of specific energy efficiency directives which have been adopted. Among others, specific Directives address the particular field of energy efficiency in buildings. Other important steps in energy policy harmonization are: *Energy Services Directive* (2006/32/EC), *Ecodesign Directive* (2009/125/EC), *Energy Labelling Directive* (2010/30/EU).

Intra-EU best-practice transfer did lead to a prioritization of the EU-level policies. Most particularly, Europeanization occurred in the field of support for alternative energies. This institutional development allowed a more assertive energy policy at the supranational level. Furthermore, in 2007 new policy objectives were declared on “20-20-20” targets and then legalized by the Renewable Energy Directive of 2009 (2009/28/EC). Here, we see that the EU changes the spectrum of fuel mix policy. Instead of being a recipient of the Member States' needs, supranational institutions impose new Europe-wide targets. And therefore by

imposing an objective of 20% renewable energy target by 2020, the EU challenges the Member States energy policy preferences. It could be noted that previous targets on renewable energy have been based on the Member States feasibility studies, which is not the case of the “20-20-20” objectives. Therefore, we observe an important challenge occurred in early 2000s, which reshapes the EU’s role in energy strategy.

In 2010, the European Commission issued a resolution “Towards a new Energy Strategy for Europe 2011-2020”, where a number of targets have been outlined related to the diversification of energy mix and to promotion of carbon-free energies (European Commission website, 2010). Again, the policy priorities are now defined at the supranational level and hence constitute a step towards a common definition of energy security. Therefore, the EU has progressively evolved towards an energy security RSC. Moreover, these fuel mix targets go in line with the Europeanization of electricity and gas markets, which will be outlined hereafter.

European internal energy market

The term “internal energy market” first emerges in 1988, when the European Commission issued a Communication “Energy Internal Market” in order to emphasize the support for free market values based on the General Agreement for Tariffs and Trade (GATT). In mid-1990s, the European Commission has undertaken a number of initiatives in order to consolidate the internal market of energy. In 1996, the White Book on energy policy (European Commission, 1996) outlined three major dimensions of the Community common energy policy: (1) security of supply; (2) competitiveness and (3) environmental protection. The White Book practically established the main EU’s objectives in the development of the energy policy. Indeed, the impact of the White Book does not emerge on the legal level of the EU Community law, but represents a major influence on policy makers.

Furthermore, the principle of subsidiarity created a political and legal framework for the development of the liberalized internal market of electricity and gas. In 1996 the First Electricity Market liberalization Directive was adopted in light of introducing competition in the grid-bound energy sector. Since 1996-1998 Directives, the EU electricity and gas legislation evolved into a new model, which has been mainly borrowed from the UK energy

markets liberalization. It consisted in a separation of gas transport companies from supply companies in order to enhance competition between suppliers. In the larger sense, there is a process of integration of competition into the electricity and gas sectors, which also helps a reallocation of competences from the Member States to the EU (Belyi, 2007).

An Europeanization of the principal-agent relationship has been reflected at three different policy and legislative levels:

- Level of the Directives, which have set legally binding *acquis communautaires* for the electricity and gas liberalization (Directive 96/92 and Directive 98/30/EC respectively), internal gas market (Directive 2003/55/EC), which has revoked an intra-EU transit as such; and, finally, enforcement of the both energy markets and an integration of competition into the energy markets (Directive 2009/72/2009 and Directive 2009/73/EC).
- Level of the supranational authorities, both the European Commission and the European Court of Justice and the co-decision powers of the European Parliament. Both have been monitoring the implementation process by controlling mergers and preventing monopolies and oligopolies from abusing their market power
- Level of national regulators (including newly established ACER, which has taken up the powers previously enjoyed by ERGEG), which have been coordinating their policies between national electricity and gas market regimes. For instance, new the regulatory model includes market-based mechanisms for allocating gas transport capacity, such as auctions for the long or short term use of the network (Council Regulations 714 and 715).

The impacts on external policies are significant though indirect. The third EU gas directive (2009/73/EC) requires an unbundling of both Community and non-Community undertakings. Hence, non-European vertical integrated companies would face an obligation to sell out their assets in energy transportation. This way, the Directive also avoids a massive sell-out of strategic EU energy assets to the external monopolies by making the strict certification procedures.

Second, with the development of Third Party Access, the essence and the length of the supply contracts changed. For instance, principles of competition might forbid long term

reservation of transport capacity, which would bloc competition. In the electricity sector, the European jurisprudence (Case VEMW and others) demonstrated that existing long term capacity reservations should not contradict the application of competition law. The same principle has been further applied to gas contracts (Talus, 2011). Consequently, supply contracts are supposed to become shorter. Indeed, unlike the past, marked by 10 – 20 year contracts, today, one year gas supply contracts (the commodity contracts) are considered to be “long-term” (Talus, 2011). The average duration for a transportation contract (the capacity contract) is today somewhere in the five – six years range. The duration is longer in cases of new infrastructure or additions to existing infrastructure (Stickley, 2006). Shortening of contracts impacts on external gas suppliers to reconsider long term contracts and pricing mechanisms (Belyi, 2012). Hence, the EU’s policy impact goes beyond its own borders through a promotion of the principles of competition in energy markets domestically.

Shaping External Energy Policy

A development of the EU-level targets affect the EU’s relations with other RSCs. Albeit the EU external energy policy has not been an evident step at the beginning of the process, it is now taking a certain shape (Council, 2011). In 2011 and 2012 two important external energy policy (EEP) initiatives have been issued by the European Commission and the European Parliament respectively. These initiatives clearly reflect the effect of agency-principal relationship change within the EU. First, in 2011, the European Commission issued a new document on EEP. In particular, we observe that the EU reinforces its role of a principle in interaction with its Member States and furthermore combines a need to diversify its energy supplies with an objective to reinforce links with various regions and countries.

The document of the European Commission aimed at proposing a “Decision of the European Parliament and the Council setting up an information exchange mechanism with regards to intergovernmental agreements between Member States and third countries in the field of energy”. The Decision was then approved by the Parliament and the Council in the fall of 2013. Noteworthy, the document establishes intra-EU cooperation (information exchange) but does not set any specific benchmark for the EU’s common policy. The spirit of the document consists in providing a coherency of the EU Member States strategies and it does not emphasize on the nature of the strategy (Van Hooren, 2012).

The EEP document iterates four major EU-wide external policy priorities. The first priority consists in “*building up the external dimension of [the] internal energy market*” (Commission 2011: 4-9): 1) Institutionalise information exchange about bilateral agreements of Member States with third countries (possible ex-ante assessment by EU authorities) and possibility of EU-level agreements with third countries when appropriate (e.g. EU-level strategic infrastructure projects identified by the Commission itself); 2) Enhance diversification of “gas and oil supply sources and routes” (*ibidem*: 6) especially away from Russia (Southern Corridor deemed a priority); 3) Deepen cooperation within the Energy Community Treaty and extend its geographical coverage; 4) *On Russia-EU relations*: step up the negotiations to conclude the New Agreement, effectively implement the Partnership for Modernisation (see section 1.2.3), engage Russia in the drafting and implementation of the *EU 2050 Energy Roadmap*, cooperate in the Baltic region to agree on technical rules for the energy network.

The second priority states *strengthening partnership for secure, safe, sustainable and competitive energy*” (*ibidem*: 9-14): 1) Deepen (and establish) existing energy dialogues with major (and emerging) energy suppliers and increase the importance of cooperation on clean energy and technology within them; 2) Step up technological partnership with developed and developing industrialised countries to carry out hi-tech research projects; 3) Extend the *Energy Charter Treaty* geographical coverage but without changing its content and increase industry participation in EU energy dialogues; 4) Implement higher safety standards and technical cooperation with neighbours while advocating legally binding safety standards at the international level, both for nuclear industry and offshore hydrocarbon production.

The third priority is about *improving access to sustainable energy for developing countries* (*ibidem*: 14-16): with particular attention to the EU-Africa 2020 targets, the implementation of market reforms and easing access to financing for least-developed countries;

The fourth priority highlights a need to *promoting EU policies beyond its borders* (*ibidem*: 16-18): 1) Adapt policies and schemes to different (classes of) partners; 2) Set up a “Strategic Group for International Energy Cooperation” to coordinate strategies of Member

States towards third countries; 3) Enforce the “Principle of sincere cooperation, including the duty to ensure unity [of the EU representation by Member States]” (*ibidem*: 17) within the IEA, in addition, improve cooperation with these agencies and continue to have a leading role in the “global energy governance debate”.

It is noteworthy that the EEP document reinforces the logic of regional cooperation, regardless the level of positive and negative interdependencies. But “global energy governance” can only work in the context of a positive interdependency. In this case, the EU policy might need to strongly orient itself on the promotion of multilateralism. However, it remains rather difficult to attract energy producing countries into a multilateralist approach. It could be noticeable that the European Commission’s EEP clearly remains within a framework of the energy sector, without putting the energy policy into its wider external policy context.

In 2012 another Communication on EEP has been then issued by the European Parliament. The European Parliament reiterates a link between the EEP and other policy documents, in particular with the Council’s Resolution of 25th November 2010 “Towards a new Energy Strategy for Europe 2011-2020”. Therefore, the European Parliament links the external energy policy with the ambitious targets related to the diversification of the fuel mix. External energy policy consists then in “unified stance in order to increase diversification of energy sources and routes, enhance security of supply and support sustainable production and consumption” (EP, 2012).

Unlike the European Commission’s EEP document, the European Parliament outlines an importance of the stability of long term investment and of multilateral cooperation on the issue. Promotion of the internal market becomes the key point in the constitution of EEP. Furthermore, export of the internal market norms constitutes an important part of the EU’s external policy.

It is noteworthy that the European Parliament highlights a need to develop multilateral and bilateral fora’s of cooperation. The Communication mentions the Organization of Security and Cooperation in Europe as one of the pivotal organizations in energy security promotion. Likewise, the document reiterates a need to reinforce the Energy Charter Treaty

(ECT) by “extending the Energy Charter Treaty to countries which have not yet signed or ratified it” (European Parliament, 2012). Curiously enough, the document only briefly mentions the World Trade Organization (WTO) alongside the ECT, which is still the widest framework for trade governance, including energy. Last but not least, International Energy Forum is mentioned to be an example of a growing multilateralism in the field. However, the International Energy Forum can be defined as an organization of mutual exchange of information, which does not provide any serious framework for governance (i.e. dispute settlement mechanisms, predictability of norms, stability of market relations).

2. The EU’s role in international organizations

In order to develop the afore-mentioned argument about importance of the logic of appropriateness in the success of multilateral regimes (and hence of the EU’s external policy within those regimes), we will outline a current development of the EU’s policies within the multilateral organizations.

The logic of appropriateness is the key factor which allows us to distinguish the opportunities and limits of the EU’s multilateral and regional commitments. The analysis will primarily cover four international regimes that have been either used by the EU as policy instruments (WTO, ECT and climate regime) or have been at least mentioned in its latest EEP documents (OSCE). Observation of the norms of energy trade promoted by the four regimes demonstrate that: (1) the EU has only limited influence on energy producing countries within the WTO framework despite its active support of the free trade values in energy trade; (2) in turn, the success of the ECT is somewhat hindered by a deadlock through EU-Russian political contradictions over the Transit Protocol; (3) the Kyoto Protocol represents a success for the political influence of the EU although post-Kyoto negotiations reflect a decline in the EU’s international influence; (4) the OSCE remains a very marginal instrument, which have never been used by the EU.

The World Trade Organisation: dual pricing and energy related services

The World Trade Organisation (WTO) is the pivotal regime for international trade (Jackson, 1997) and covers many trade-related areas broader than energy sector. Therefore, our analysis

primarily starts with the WTO. Considering a large scope of the Organization, here the Chapter focuses mostly on dual pricing⁴. Both issues demonstrate the EU attitude towards the energy trade regime at the international level.

As far as the dual pricing is concerned, the EU has focused on the relations with two major energy producers: Russia for gas and Saudi Arabia with oil. Therefore, it is interesting to observe the political negotiations between the EU on one hand and the major energy producers on the other on dual pricing.

The EU position against the dual pricing is mainly based on the WTO Agreement on Subsidies and Countervailing Measures, which does not expressively address the subsidies in energy trade but extends itself to all forms of trade between nations. The Article 3 of the Agreement forbids the following forms of subsidies: *‘(a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export [...] (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods’*.

According to the EU, dual pricing affects exports as it distorts the tariff for energy for domestic industries of the producing and the consuming countries. As many energy exporting countries use different tariff mechanisms for their domestic energy use and energy destined for export, those are considered to be subsidy-influenced exports. The EU argued that dual pricing creates an unfair advantage for the energy intensive industries of energy producing countries where the energy tariff is lower than elsewhere.

During the accession negotiations with Saudi Arabia and Russia, the EU demanded the removal of dual pricing. Dual pricing in oil was initially the subject of negotiations between Saudi Arabia and the EU between 1993 and 2005. The EU considered that the dual pricing system used by Saudi Arabia placed the chemical industries of the EU at a disadvantage and

⁴ Dual pricing refers to a practice of setting price at different levels for domestic and export markets, in case of energy markets we would talk about different price models for the domestic and international price. International price often reflects inter-fuel competition and hence an international price of fuels (oil, oil product, etc), whereas the domestic price is then set in accordance to a cost+ model, where costs are covered. For details cf Energy Charter Secretariat (2007)

constituted an export-influencing subsidy. The EU decided to abandon its requirements on dual pricing with the Kingdom, which demonstrates the EU's preference to compromise with a State (in this case, Saudi) in order to integrate it into a multilateral fora.

More recently, dual pricing in gas has been playing an increasing role in relations with Russia. Indeed, by keeping internal gas prices low the FSU has maintained Russia's ability to safeguard its political influence on its direct neighbours. In turn, the dual pricing of gas is the primary stumbling block in Russia's ability to accede to and be promoted by the WTO. In particular, EU countries perceive the discrepancy between internal Russian prices and export prices to the EU as unfair competition (Selivanova, 2004). This issue was partially resolved by a bilateral agreement between Russia and the EU on the former's accession to the WTO, which also includes tariff reforms for Russia. A compromise was also found during negotiations with Saudi Arabia for dual pricing in oil. Up to now, there is no WTO-based decision on whether the dual pricing is legal or not.

The EU position against dual pricing is based on its internal political and economic concerns. However, the question of dual pricing has never been a subject of particular condemnation on the part of the WTO, due to the abstract definition of subsidies by the Agreement on Subsidies and Countervailing Measures. Indeed, it has been argued by oil and gas exporting countries that the Agreement provides only general information on the definition of subsidies. In turn, it does not provide adequate information on how and against what benchmark the price difference should be compared (Salem Haighighi, 2006, 210). Due to its abstract nature, producing countries have argued that dual pricing in energy should not be included in the definition of a subsidy. Moreover, Russia often argued that dual pricing in energy overwhelms similar problems in other sectors (food, etc.), where the issue is not raised at the WTO level. Consequently, the WTO framework has thus been limited in its influence over the internal policies of the producing countries.

In conclusion, it could be noticed that the EU (alongside the US) has lost its role as a key player in the WTO process as alternative interpretations of the WTO provisions emerge. In particular, the EU's liberal approach to various issues (including license allocation) contradicts the trend observed in the energy producing countries that seek to reduce foreign participation in the energy sector.

Organization for Security and Cooperation in Europe

The OSCE inherited the Conference on Security and Cooperation in Europe, which had been set up back to the 1972. In aftermath of the end of the Cold War, in November 1990, a Declaration of Paris has been signed, which marks new principles of the East-West relations. The Charter of Paris was then the basis for a '*steadfast commitment to democracy based on human rights and fundamental freedoms; prosperity through economic liberty and social justice*' (Charter of Paris, 1990). On these grounds, the Organization for Security and Cooperation in Europe was then created (Ghebali and Sauerwine, 1996, 139-159).

A complexity of the OSCE institutions consists in the latent contradiction between a principle of territorial integrity and a principle of auto-determination. On these grounds, a number of conflicts occurred on the territories of former Yugoslavia and former Soviet Union, mostly in Caucasus (Taylor, 1994, 72-75). Considering a political complexity of the conflicts, an ever-evolving role of mediation becomes then the impacting factor in political influence. It could be noted that the EU (as a single played) did not really play a role in mediation of conflicts in the OSCE area by contrast to Russia, US and some Member States (i.e. France, Germany and the UK).

An opportunity for the EU's role emerges when Russia has been unable to mitigate conflicts with its neighbours, for instance with Georgia in August 2008. Then, Russia intervened on Georgian territory in order to prevent an escalation between Georgia and a breakaway republic of South Ossetia. The EU Presidency has been a mediator in the conflict between Russia and Georgia, but still outside the OSCE framework. Moreover, the EU mediator role did not prevent Russia to recognize the breakaway republic in spite of the EU's support to the Georgia's territorial integrity.

This short description of events clearly demonstrates limits of the EU action within the OSCE. The EU could not have used other mechanisms of policy influence (i.e. sanctions). Russia's military operation of August 2008 in Georgia was the first large action of Moscow within another sovereign state since the collapse of the USSR and provoked a shock in most

of the EU states. Nevertheless, most of them refused to isolate Russia politically mainly due to the energy supply issue.

The Energy Charter Treaty

It could be argued that the Energy Charter Treaty represents a unique attempt at regime formation specifically in energy (Bamberger and Waelde, 2007). However, as this regime operates in a highly politicized area, a number of conflicts about an acceptance of the regime emerged. Therefore, an analysis of the Energy Charter Treaty should include both aspects: particularities of the regime formation on one hand, and the impact on energy governance on the other.

The Energy Charter process started with the European Energy Charter initiated by the Dutch Presidency of the European Community in 1990. In December 1991, the European Charter Declaration was signed with a view to bringing about a new East-West economic relationship. The institutional logic at that time was marked by the 1990 Charter of Paris signed by the two former ideological blocks, and which had often been seen as a starting point for the ‘New Europe’. Unlike other foras, the European Energy Charter declared an objective to create a legally-binding regime. Furthermore, negotiations of the ‘Basic Agreement’ started in order to promote *East-West industrial co-operation by providing legal safeguards in areas such as investment, transit and trade*. Finally, the Treaty was concluded in 1994. The ECT became the first Treaty in international law to include almost all aspects of energy cooperation. The objective of the ECT goes beyond the initial East-West relations and aims to set a global issue-specific regime. The Article 2 declares “*this Treaty establishes a legal framework in order to promote long-term cooperation in the energy field, based on complementarities and mutual benefits, in accordance with the objectives and principles of the Charter.*”

Although the ECT aims at becoming a global governance instrument, its negotiation story mostly focuses on the EU-Russia relations. Indeed, the US and most of the producing countries did not accede to the Treaty. Moreover, Norway and Australia refused to ratify the ECT, which reduced a number of energy exporting States within the energy governance framework.

Therefore, the EU considers the Energy Charter as the main legal basis for the energy relations with the FSU states and Russia in particular. Russia did not ratify the ECT, its ratification being conditional on the success of the negotiations on the Transit Protocol, which has started in 2000 and are still unfinished. In particular, Russia attempted to use the negotiations of the Transit Protocol to clarify transit dispute mediation, which has been foreseen by the ECT. For instance, Russia demanded to clarify the point on the conciliators rights to set the tariffs (Konoplyanik, 2009).

However, the EU has introduced a special status of Regional Economic Integration Organization (REIO) within the ECT. At first, the REIO principle was applied to transit, as since 2003 there is no intra-EU transit with an integration of cross-border intra-EU trade into of the internal market. Later on, the EU claimed a REIO for investment agreements, which do also impact on its position *vis-a-vis* the ECT. It could be noted that the introduction of the REIO clause into the Transit Protocol posed a new challenge in convincing Russia to sign the Protocol and thus to subsequently ratifying the Treaty. The exemption of the EU from international transit norms indicates to Russia that the EU is mainly interested in the uninterrupted transit of gas through Russia from Central Asia. This is opposed by the Russian gas monopoly, Gazprom, which would like to strengthen its control on Central Asian markets. Hence, appropriateness of the ECT has been weakened for Russia (Belyi, 2012).

Consequently, a divide between the EU and Russia over the Transit Protocol demonstrates a conflict of appropriateness of energy governance. For Russia, Transit Protocol aimed at securing long-term supply chain and hence avoiding unnecessary competition. For the EU, Transit Protocol aimed at bringing new aspects of competition in the FSU area and therefore needed to provide flexibility in the gas supply chain (Belyi, 2012).

On these grounds, we can observe that the ECT has been weakened by different understandings of governance. At the same time, the ECT remains a problematic field for most of the producing States, who either did not join or did not ratify the Treaty. Moreover, the REIO complicates rather than favours the acceptance of the ECT legal regime by non-European actors.

Kyoto Protocol and Post-Kyoto regime negotiations

An international climate regime has been established by the UN Framework Convention on Climate Change (1992). The climate regime aims at designing international responsibilities in climate change mitigations. The responsibilities are furthermore distributed according to the States and regions. Indeed, industrialized countries need to reduce the greenhouse gas emissions, whereas developing economies need to improve the emission intensity. Within the UN FCCC, the Kyoto Protocol was signed 1997 with a binding objective to reduce global greenhouse gas emissions by 5.5% by 2012. In 2012, the Kyoto Protocol application has been extended till 2017 in order to allow a sufficient time frame for a post-Kyoto climate regime. However, the States did not reach any decision on the climate regime, which should replace the Kyoto Protocol in the future.

Within the Kyoto-based climate regime, the EU seeks a leading role in environmental diplomacy, which constitutes one of the Union's international "actorness" (Bretherton and Volger, 1990, 90). The EU adopts a bottom-up approach to mechanisms of emission abatement policy. This is where the EU adopts its own cross-border Emission Trading System (ETS), which allows it to play a role of international leadership in climate change policy. Internationally, the EU also positions itself as the most effective interstate regime in the implementation of environmental policies (Birger Skjoerseth and Wettenstad, 2002). Furthermore, the EU system has become the leading framework for other international mechanisms foreseen by the Kyoto Protocol: the Joint Implementation (JI) and Clean Development Mechanism (CDM). Both JI and CDM achieve reduction of GHG emissions, creating additional allowances that can be traded within the EU. In this context, if emission prices rise further, European industry will reinforce the strategy of JI and CDM to purchase emission allowances at lower costs in third countries. The EU successfully convinced Russia in ratifying the KP in 2004 and hence the agreement entered in force in 2005 (Douma, 2007).

Nevertheless, the strength of the EU's negotiation position has decreased at the Copenhagen Conference of Parties after the initiation of post-Kyoto agreement. Indeed, the Kyoto Protocol meant to expire in 2012 and had to be either extended or replaced by a new "post-Kyoto" agreement. The EU was unable to impose a binding post-Kyoto agreement with strict targets, hence the Kyoto Protocol was extended to 2017. The EU strong stance on the

new industrial revolution has faced an opposition from the US and China. Likewise, Russia's interest in the post-Kyoto climate regime significantly decreased. Hence, the EU enters into a new more difficult context of the negotiations.

It could be noted that a link between the post-Kyoto regime and the EU's ambitious targets create a climate of non-acceptance of the ambitious targets by other States (including the US, China and the G-77). Likewise, States with a strong hydrocarbon industry (Russia and OPEC) would also be reluctant for a large scale industrial revolution lead by the KP. At the same time, the EU is losing its policy leverage, which it could have like in case of the WTO accession negotiations.

3. Regional policy preferences

Regional policy preferences remain the key area in the EU's external energy policies. Regional policies reflect a combination of the EU's and its Member States preferences. The regional dimension of the EU external energy policy is closely linked to the Common Foreign and Security Policy (CFSP) because the relations with different energy producing regions involve other non-energy related security issues as well (Belyi, 2007). Effect of the newly set European External Action Service on energy policy is still not clear but could further contribute to an Europeanization of the external energy policies (Konstantyan, 2012).

The link between the EU's foreign policy and its external energy policy has been particularly emphasized by the European Parliament's EEP document. Moreover, the document reiterates a need for coherence "between the horizontal objectives set out in the Lisbon Treaty", which is crucial for the external energy policy. Therefore, relations with the regions rarely involve purely energy matters. By contrast, the EU views its external energy policy as part of its general set of priorities.

Regional "energy" agreements can be classified in accordance to their degree of commitment with the EU. The most integrated commitment is the south-eastern Europe Energy Community Treaty, where the non-EU European countries accept the *acquis communautaire* in energy markets. Here, the EU is in the process of creating a wide energy community, going beyond the borders of the Union based on common rules and practices.

This is followed by the Mediterranean Energy Forum, which was established in the framework of the Euro-Mediterranean partnership. Thirdly, EU-Africa relations remain quite an important aspect, including the energy sector. Fourth, the EU's regional energy policy also concerns the Gulf States. Despite very important oil and gas reserves in the region, EU-Gulf relations are significantly shaped by rather vague political declarations. Relations with the FSU as an RSC and Russia as a global player represent the key area for the EU's external energy relations. Other relations concern major consuming states: the US and China. Here, the EU does not focus on a RSC but on the major consuming country, whose impact goes beyond its own region. It makes a significant difference with other policy agenda's, where RSC logic prevails.

Energy Community Treaty

The most integrated regulatory commitment is the south-eastern Europe Energy Community Treaty, where the non-EU European countries accept the *acquis communautaire* in energy markets. The EU is a Contracting Party to the Treaty and therefore the EU becomes a coherent policy actor in its external energy policy. Hence, the Energy Community Treaty could eventually become an integrated RSC, based on the liberalized and integrated energy markets.

The Energy Community Treaty has been initiated by Athens Memorandum, signed in 2002. The binding Treaty itself was then concluded signed 25th October 2005 between the EU on the one hand and the non-EU countries of south-eastern Europe: Albania, Bulgaria, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Romania and Serbia on the other. The Energy Community has established its own institutions: (1) Ministerial Council representing each contracting party by one representative, with the exception of the European Community, which is attributed two representatives; (2) rotating presidency; (3) Energy Community Secretariat, which, alongside the European Commission, is responsible for the energy markets monitoring. In aftermath of the accession to the EU, Bulgaria and Romania have changed their status within the Energy Community from the Contracting Party and now are represented in the Ministerial Council of the Energy Community through the European Community.

The Treaty introduces a qualitatively new relationship between the EU and the above-mentioned non-EU countries of Europe on energy trade. One of the main objectives is declared as follow:

‘Considering that in order to reduce stress on the state level gas and electricity systems and contribute to resolving local gas and electricity shortages, specific rules should be put in place to facilitate gas and electricity trade; and that such rules are needed to create a single regulatory space for the geographic extent of the concerned product markets’.

The Energy Community will follow the *acquis communautaires* (art. 5) related to the EU internal energy market as well as the European Community’s competition norms (art 18). The impact of EU harmonisation should also spread to the Contracting parties of the Energy Community Treaty.

The political role of the Treaty consists in exporting the EU liberalisation model to other non-EU European countries. A paradoxical situation emerges due to the unfinished nature of the EU regulatory regime and its expanding influence. It seems important to note that in the vast majority of EU Member States the regulatory regimes remain different and the level of the liberalisation varies from one country to another. Moreover, between 2007 and 2009 the European Commission has embarked on legal proceedings against seventeen EU Member States for non-implementation of the gas market *acquis*. Thus, the EU succeeds in promoting its own unfinished regulatory framework as the model for the neighbouring countries. The success of the Treaty’s implementation is consequently largely linked to the success of the EU regulatory regime and of the liberalisation of gas markets. The logic of appropriateness would then explain the expansion of the Energy Community Treaty: states accept general framework of the EU regulation despite of the EU national incumbent’s opposition to the liberalization.

After the 2009 transit crisis, Ukraine was proposed for full membership in the Energy Community Treaty. It would involve an actual integration to the EU market rather than a new framework of cooperation (Prange-Gstohl, 2009: 5299). Such a membership would imply an unbundling of the Ukrainian Naftagas and a creation of market-based anti-hoarding mechanisms for the transport capacity. The Energy Community Membership became one of

the major arguments for Ukrainian long-term pro-EU orientation. However, Ukraine possesses the largest transport network, whose development is conditioned by the long-term predictability of the market, which might be inconsistent with the short and mid-term anti-hoarding markets. Moreover, the full membership would also go in the expense of transit being a political tool for Ukraine in gas price negotiations with Moscow. Last but not least, Ukraine refuted a restructuring of the gas sector, which is considered to be a strategic sector of the country (Pirani, 2009: 103-105). Interestingly, in 2012 Ukraine proposed a gas pipeline network consortium with Gazprom, which is not compatible with the spirit of unbundling promoted by the EU energy acquis. Therefore, Ukraine's membership in the Energy Community Treaty constitutes an important challenge for the implementation of the EU internal market norms outside the EU.

However, Ukrainian decision to integrate itself into the Energy Community highlights its acceptance (at least at declaratory level) of the European norms and practices. A counter-example could be Norway, who refused to adhere to the Treaty and remained an observer. Norway's absence in the Energy Community rather demonstrates varieties in political positions regarding the EU-based governance. Nevertheless, Norway's opposition to the Energy Community did not create a negative interdependency within the European RSC (Belyi, 2012).

It is important to note that the Energy Community Treaty differs significantly from the ECT, as the latter creates a system of international governance, whereas the Energy Community Treaty involves EU-based governance. With the development of REIO clause, it could be argued that the EU increasingly prefers EU-based energy governance to a multilateral one. In turn, this approach might not succeed in generating a wider acceptance of EU norms than the ECT. The European Parliament's declaration to further integrate to the Energy Community Treaty countries from the former Soviet Union (Russia excluded) might be over-optimistic considering their domestic energy policy priorities and latent opposition to the liberalization of the gas sectors.

Euro-Mediterranean Energy Partnership

In the framework of the Euro-Mediterranean partnership, in 1997, a permanent Euro-Mediterranean Forum was officially established. The energy sector is one of the main domains of the free trade area. The gas supply from the Mediterranean to the EU becomes one of the pivotal issues for the forum. The EU has provided technical assistance for gas pipeline projects such as MEDGAS between Algeria and Spain, and GALSI between Algeria and Italy. However, pipeline development does not remove the dominance of Liquefied Natural Gas (LNG) trade in the supply of Euro-Mediterranean gas. The Energy Forum also integrates the idea of a common liberalised electricity market between the EU and the Maghreb countries (Belyi, 2007), albeit there is no binding agreement, like in the case of the Energy Community Treaty.

Apart from inter-regional relations, there are also bilateral ties between the EU and the Mediterranean states. EU has an Association Agreement with Algeria and has regular energy relations with the country. Negotiations on an Association Agreement between Algeria and the EU have been rather focused on the gas trade and the destination clause removal. In fact, the removal of destination clauses for LNG markets brought supply insecurity to the EU and North American markets, since without a destination clause LNG exports can be diverted towards more competitive markets in the US. As a result of this, in January 2005, the EU and Algeria reached an agreement whereby the EU is committed to continue allowing destination for imported LNG from Algeria. EU and Egypt have concluded a bilateral agreement on energy in 2008, which mostly consists of a general memorandum of understanding. In 2011, the EU started negotiations on a general framework agreement with post-Kadaffi Libya.

The EU's policy in the region comprises both multilateral and bilateral links. It could be argued that the region lacks any strong multilateral ties and therefore bilateral contacts remain more effective. In addition, the existing political ties between the States of the region might be further redefined with a growing instability in North Africa and Mashrek countries.

EU-Africa Energy Partnership

The EU has concluded a particular Africa-Europe Energy Partnership (AEEP), which is one of several cooperation fields, at the Euro-African summit in 2007. The partnership is a political dialogue which reflects common needs, such as the promotion of electrification in

Africa through renewable energy sources. In 2010, within the AEEP a Renewable Energy Cooperation Programme was established. However, energy poverty mitigation remains rather a declaratory objective for the European Union. The issue remains much less prioritized than the climate change mitigation. Hence, the energy poverty reduction is viewed mostly in the general context of the climate change regime and the renewable energy promotion.

In addition, the EU has cooperation agreements with the Economic Community of West African States (ECOWAS). Indeed, Nigeria and Ghana are the largest regional oil suppliers. Apart of the two West African States, the EU does not have vital energy interests in this region.

Cooperation with Gulf Countries

In the Gulf region, the EU has a more limited involvement. The EU concluded a general economic agreement with the Gulf Cooperation Council⁵ (GCC). In 1989 the European Community signed a cooperation agreement with the GCC, aiming at establishing a free trade area. Article 6 of the Agreement provides: *‘In the field of energy, the Contracting Parties shall strive to encourage and facilitate, inter alia: cooperation in the two regions by energy undertakings of the Community and the GCC countries, joint analyses of trade between the two regions in crude oil, gas and petroleum products and its industrial aspects with a view to considering ways and means of improving their trade exchanges, exchanges of views and information on matters relating to energy in general and respective energy policies, without prejudice to the parties’ international obligations, training, studies, notably on new and renewable sources of energy’*. This mainly demonstrates that there are no concrete objectives or measures for energy cooperation (S. Salem Haghighi, 2007: 334). At the same time, the discourse on democracy clearly disappears. Indeed, the EU is concerned by the security of supply in the first place while treating the region. Furthermore, relations with other Gulf countries (Iraq and Iran) remain complex due to political reasons.

The issue of the Organization of Petroleum Exporter Countries (OPEC) is closely related to the Gulf States as they remain the largest producers in the organization. Saudi Arabia continues to enjoy its leading positions within the oil producing organization and influences

⁵ Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates

the quota allocation for petroleum production and export. In this regards, the EU's concerns are implicitly oriented towards relations with OPEC, which represents an oil cartel⁶ with an ever-decreasing power on oil markets (Chalabi, 2010). At the same time, oil market volatility, which does not stem from OPEC countries decision, further creates misunderstandings between the EU and the Gulf producing States.

Relations with Former Soviet Union (as an RSC)

Since the collapse of the Soviet Union, FSU emerged as a new RSC in international relations. The RSC is mostly based on the common post-Soviet past and Russia's continuous domination of the region. In turn, the EU views the region as a potential alternative energy supplier.

As far as EU policy towards non-Russian FSU energy is concerned, this emerged as early as the mid-1990s and consisted in backing new oil and gas transit routes that bypass Russian territory. For instance, the EC-funded projects, INOGATE and TRACECA, aimed at financing new pipeline infrastructures from the Caspian Sea and Central Asia (Belyi, 2003: 358). This type of intra-regional cooperation would enable the growth of a new impetus for cross-border integration in the region, but with the EU replacing Russia as the core-integrating pole. This policy has subsequently created competition between European and Russian interests in the region.

The Baku-Tbilisi-Cehyan (BTC) oil pipeline running from Azerbaijan through Georgia (Tbilissi) to Turkey (Ceyhan) can be considered as a major success in the pipeline diversification policy. Its geopolitical impact has nevertheless been less significant than expected. Interest in Caspian oil is quite low and not vital for Western Europe, whereas Eastern European states remain linked by an oil pipeline system inherited from the Soviet era. Pipeline infrastructure is, moreover, far less important in the oil trade than in the gas sector, where sea trade remains minor. A gas pipeline infrastructure from the Caspian Sea and from

⁶ The term "oil cartel" is a generally used term for OPEC because of their market power, which they played during the shocks of 1973. However, the economic viability of using the term "cartel" might be put under question due to a low market share of OPEC in world oil production and a weak impact on the price mechanisms. For the discussion, see J. Colgan (2011) and Alhajji, A.F (2000)

Central Asia would, therefore, indeed create the basis for a diversification of supplies for European states. In 2006, the EU concluded a non-binding Memorandum of Understanding with Azerbaijan, where the EU explicitly recognizes importance of the country as a potential supplier to Europe.

However, a gas pipeline project under the Caspian Sea, connecting Turkmenistan with Azerbaijan and then Turkey (thus bypassing Russia) has not yet emerged. The southern gas corridor (Nabucco project) creates an opportunity to bypass Russia's gas supplies. The EU would support then alternative supplies from Russia by allying itself with autocratic Turkmen regime. It should be noted, that there is no relevant energy-related agreements between the EU and Turkmenistan. Cooperation on energy supplies is only mentioned in the general document on strategy on new partnership with Central Asia, issued in 2007.

One of the reasons for this failure in gas diversification lies in Russian influence in the Central Asian region. Central Asian gas-producing states, namely Kazakhstan, Turkmenistan and Uzbekistan, still prefer to use the old ties with Russian Gazprom to export their gas. In most cases, the Central Asian gas producers have never attempted or wished to export their gas directly to Europe in order to avoid transit responsibility (Mitrova et al, 2009: 406). Since 2006, Gazprom has had a long-term gas purchase agreement with the largest Central Asian exporter Turkmenistan, which has practically annihilated any gas diversification strategies on the part of the EU. Russian-Central Asian gas export competition has not evolved into transit diversification, mainly due to the political and economic links inherited from the USSR. Instead, Central Asian States preferred to find alternative ways avoiding Russia avoiding the transit issue at the same time. Therefore, both Kazakhstan and Turkmenistan have been quite successful in establishing supply agreements and appropriate infrastructures with China.

Since 2003, the EU policy towards the western part of the FSU has been integrated within the European Neighbourhood Policy (ENP), which is designed to be a 'force for good', which allows expanding the EU influence beyond the EU borders [Barbe & Johansson, 2008:]. In 2009, the EU countries Poland and Sweden advanced a proposal on Eastern Partnership, which involves Belarus, Moldova, Ukraine and the three Transcaucasian countries. Central Asia remains a remote region for Europe and does not participate within the ENP.

Relations with Russia

As the majority of the new EU Member States are concerned about their dependency on Russian energy supplies, a particular focus should be mentioned about the EU Russia energy relations.

Institutionally, the EU-Russia energy relations evolved within the two political frameworks:

- In 1994 EU and Russia concluded a Partnership and Cooperation Agreement (PCA), which expired in 2007 and since then, negotiations of a new PCA agreement are on-going since June 2008. Energy-related aspects could then become part of the new PCA agreement. However, two main problems arise: first, transit through Ukraine cannot be addressed within the bilateral Treaty; second, considering difficulties met during the Energy Charter negotiations, there are only little chances for a new legally-binding energy agreement to be ratified by Russia, all EU Members and the EC (Konoplyanik, 2009: 272). Till recently, Lithuania and Poland oppose the conclusion of a new PCA; Warsaw even required a ratification of the Energy Charter Treaty to be a precondition for further negotiations. However, the new PCA remained under negotiation. In the meantime, later EU-Russia Summits focused on various policy areas, such as economic and cultural cooperation, modernization agenda, etc. Hence, the energy issues remained progressively outside the scope of the negotiations, in spite of the country's importance to the EU.
- Since 2000 EU and Russia initiated an Energy Dialogue. Unlike the PCA, it does not create a legally binding structure of governance. Instead, it creates a basis for a policy dialogue, which aims at improving an understanding between the countries. The EU-Russia Energy Dialogue is the first institution in kind and therefore represents a certain success of the EU-Russia relations. At the same time, the Energy Dialogue did not aim to become a conciliation mechanism between Russia and Ukraine while the scope of the EU-Russia bilateral energy relations remained limited and never in turn replaced either the multilateral framework of the Energy Charter nor the aforementioned bilateral PCA (Konoplyanik, 2009: 276). After the gas crisis of 2009, an 'an early warning mechanism' has been set within the EU-Russia Energy Dialogue.

It could be argued that the differentiation between non-Russian FSU and Russia with regards to European policy stems from the very internal EU divide on perspectives of energy transit and supply from the region. This is reflected in a number of competing gas pipeline projects that have emerged with a view to reducing EU dependency either on Russia or on transit through Ukraine (Benavides Salas, 2009, 221-223): Nabucco, Nord Stream and South Stream.

Last but not least, a negative interdependency with Russia leads rather to a marginalization of mutually beneficial projects of energy efficiency and renewable energy cooperation. For example, the EU institutions remain outside a World Bank sponsored project on developing export lines from renewable generated electricity from Russia to Europe. This could be a significant project, similar to the potential export from Mediterranean to Europe. Nevertheless, the Russia renewable export project is still not recognized as a priority area for the EU, albeit it has been already supported by the World Bank (Boute & Willems, 2012).

Relations with the United States

Energy cooperation between the EU and the US has been set up still in November 1990 Transatlantic Declaration. In 2004, the EU and the US committed themselves to “*work together to enhance trade and transport security while facilitating the movement of people and goods and to develop and help disseminate energy efficiency technologies*”. A year later, the scope of energy cooperation went beyond the energy efficiency to strategic energy cooperation, with an objective to ensure sufficient, reliable and environmentally responsible supplies of energy.

In 2010, the EU and the US established a bilateral energy council. Unlike the frameworks existing with energy producing states (i.e. EU-Russia energy dialogue), the EU-US energy council aims at cooperation in the field of diversification. For instance, one of the declarations of the Council: *The Energy Council will study diversification of energy sources, such as through increased use of liquefied natural gas (LNG), solar power, wind power and biofuels, and the use of nuclear power. It will discuss how to effectively promote global*

energy security on the basis of transparent, stable and non-discriminatory global energy markets and diversified energy sources.

In spite of the ever-growing declarative cooperation, EU-US energy relations have been marked by a number of conflicts of appropriateness. The first source of tension is the Energy Charter Treaty, which has been rebuffed by the US during the negotiations of the ECT between 1991 and 1993. Indeed, the US considered that the Treaty should be largely incorporated into the GATT regime. By contrast, the EU adopted a flexible position, which was favourable to the participation of the non-GATT members of Eastern Europe and FSU. A problematic point between the two actors also involved the scope of a National Regime, for in the USA resource ownership is a competence of the sub-national States rather than of the Federal Government. Hence, National Regime should have been, according to Washington, allocated to the Federal subjects of the country (Dore, 1996). In addition to that, the US brought on the table the idea of a non-discrimination of investments at the pre-investment phase, which would aim at easing access to the investments. Hence, the US insisted to enlarge the scope of investment protection to the pre-investment phase, whereas the EU insisted on the protection of the existing investments. Nevertheless, Contracting Parties decided to follow with a Supplementary Treaty on investment protection, which would also involve access to resources and markets. The US in turn withdrew from the Treaty negotiations and remained an observer.

It would not be surprising that the absence of the US among the Contracting Parties clearly hinders the Treaty acceptance in eyes of most of the producing States, who remain under the American influence (particularly Gulf Countries). Noteworthy, Russia's conceptual approach highlighted a need to incorporate the US and to consider the pre-investment non-discrimination issue. Although the European Parliaments EEP likewise prioritizes the expansion of the ECT to new Contracting Parties, it remains silent on the pre-investment non-discrimination and on the involvement of the US into the multilateral framework.

The second divisive issue is the attitude towards climate regime. As it has been mentioned above, the US withdrew from the Kyoto Protocol in 2001 and remained a critical player regarding the climate regime. Therefore, the US position on the issue remains a strong impediment to the EU's leadership in the climate change mitigation issue.

Relations with China

Energy relations with China are becoming key aspects for the EU's external energy policy, especially regarding the climate change issue. Indeed, energy demand is shifting to Asia and most of that energy demand growth is concentrated in China. It could be furthermore argued that China is becoming a competitor for both resources from the Middle East and the Central Asia. In addition, China's energy companies are increasingly active around the world.

A policy dialogue with China has existed since 1994, which is also backed by the EU-China Energy Conference and the EU-China High Level Working Group on Energy. Among the cooperation areas, we could mention:

- The EU-China Action Plan on Clean Coal
- The Action Plan on Industrial Co-operation Energy Efficiency and Renewable Energies
- Co-operation on secure and sustainable energy supplies through improving transparency and reliability of energy data.

In 2012, the EU and China concluded a declaration on energy security. The declaration recognizes the need of comprehensive energy policies at global, regional and national levels. The declaration states that “*energy security will also be enhanced through establishing an open, transparent, efficient and competitive energy market*”. Fields of cooperation, as iterated in the declaration, concern a promotion of clean technologies and renewable energies.

Conclusion

The evolution of both the internal energy market and ambitious carbon emission reduction, renewable energy and efficiency targets have contributed to a principal-agent relations reversal in the EU. This reversal sees the EU itself increasingly taking on the role of principal, whereas Member States are becoming agents of implementation. Energy policy documents issued by both the European Commission and the European Parliament reflect the trend, whereby EU supranational institutions forge priorities and objectives. Although these priorities and objectives primarily impinge on the formulation of principles, goals, and laws

and regulations affecting Member States and actors within the EU, they also increasingly determine the content of external energy policy. A careful analysis of the policy instruments and related documents demonstrates a policy trend towards pre-eminence of the security dimension of EU external energy policy (securitization). Hence, the EU's energy policy has been increasingly characterized by an EU-based RSC. Particularly, the RSC is translated by a growing politicization of the energy issues. In addition, the RSC logic stimulates a perception of a common threat. Useful to note, that the promotion of markets and energy supply diversification become then the most important instruments for the EU's energy policies. However, the mentioned solutions are not always linked to the energy security, nor to the promotion of the EU's role at the international level.

In this Chapter, we argue that the EU external energy policy success largely depends on external multilateral involvement, which in turn is realizable in the context of a logic of appropriateness. The declarative character of most of the external cooperation agreements (region and bilateral) hides institutional differences between the EU and the other states, regions and regional powers.

Although energy policy documents emphasize the importance of multilateral cooperation, the impact of EU institutions remains limited, especially at the level of international multilateral organizations. . The controversial position of the EU regarding dual pricing and energy services constitutes a ground of conflict around norms of the WTO. OSCE remains a troublesome security organization, where the EU's soft power remains limited. Issue-specific regimes (ECT and climate change forums) did not yet produce expected results from the EU international role in energy governance. The ECT became an object of conflicts of values of energy governance between the EU and Russia, which had led to two opposing understandings of the energy governance requirements. Moreover, the EU's positioning of itself as a particular single market (REIO clause) weakened the acceptance of the ECT by other states.

Securitization of climate change mitigation has not been equally shared by the EU and its major partners. Difficulties in post-Kyoto negotiations also reflect a weakening policy leverage of the EU. Last but not least, an inability to attract the US to the ECT and to the climate regime reduces the EU's real ability in promoting international energy governance.

This weakening of the EU's positions within multilateral regimes will provide new challenges for the EU's relations with regions and regional powers. Indeed, the multilateral dimension of energy relations remains much less important than the bilateral ties of key EU Member States. The EU's impact varies in accordance with integrative and disintegrative processes within each RSC. EU policy success stems from the existence of integrative processes. By contrast, existing or latent conflict of appropriateness reduces the EU's role.

In the case of the Energy Community Treaty, the EU becomes a generator of new norms in energy markets, which, regardless of their implementation inside the EU, become a model to follow for non-EU neighbourhood countries. The Euro-Mediterranean forum could evolve towards stronger political integration of North African and Near East nations with the EU. The European Neighbourhood Policy however did not lead to any integrative models. Instead, Russia remains a pivotal player in the region. We should also note that the regional energy security strategy is not always accompanied by the support of values of liberal democracy (such as in the GCC and Central Asia cases).

Regional cooperation agreements also demonstrate the gap between the rhetoric and the reality of the cooperation. For instance, the EU's priorities related to the climate change are not always same in African Union, although somehow the climate change mitigation by promoting renewables can contribute to the energy poverty abatement.

Cooperation with Russia and China remain the most difficult, as the two countries refuted the EU's model of market liberalization. That in turn constitutes a latent clash of values and hence a conflict of appropriateness.

The degree of flexibility in EUs external energy policy, when it comes to accommodation of alternative views on security and on the functioning of energy markets, remains quite low. Therefore, important clashes of values are observed even with ideologically closer allies, such as the U.S.

A paradoxical situation emerges, where Europeanization leads to a more important declarative role for the EU institutions, whereas the actual policy opportunities available to

the EU in relation to global energy governance are reduced. Therefore, strict adherence to the EU internal energy policy agenda, aimed at market transformation at international level, does not in fact always benefit EU external energy policy objectives.

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