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# European energy policy: Power and limits of discourse

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Since the 1990s, the European Commission has pushed for the liberalization of European electricity and gas markets, gradually linked energy and climate policies, and asked for a common voice in energy relations with third parties. Energy policy has also been explicitly integrated in the Lisbon treaty. This paper's attempt is to show how the Commission framed and linked these issues in order to enhance its own intervention in a policy domain, which member states used to consider as domestically relevant. The framing has been successful to the extent that it gained the consent of the member states. Based on a case study including Germany, France and Poland I argue that the frame's efficiency depends largely on its polysemy or, in other words, on its "constructive ambiguity". There is however a constraint to this ambiguity as heterogeneous interpretations bring to light the contradictions inherent in the "energy policy framing". Thus, policy implementation cannot be taken for granted. This paper explores institutional conditions to explain the success or failure of the framing.

Energy has always been a salient issue on Europe's political agenda, but specific concerns have shifted over time. Established by the Paris Treaty (1951), the European Coal and Steel Community (ECSC) is Europe's foundation stone. The European Atomic Energy Community (EURATOM), established a few years later by the Rome Treaty (1957), was supposed to add to the powers of the Community in energy matters. In the aftermath of the Suez crisis, nuclear energy was considered as an alternative to the potential decline of coal reserves and as a way to reduce dependence on foreign oil. The oil shock of the 1970s put oil into focus and national energy policies were framed around reducing independence and diversification, as the exploration of the North Sea or the massive French investment in nuclear energy exemplify. Institutionally, the oil crisis resulted in the creation of the International Energy Agency (IEA), where Europeans followed the lead of the US without an attempt to communitarize energy policy. Energy policy issues lost some traction in the 1980s, not least because of decreasing oil prices, but they have been back on the political agenda since the 1990. Since then, the European Commission has shown remarkable leadership, first in pushing for the creation of a internal energy market, then by linking issues of climate change, security of supply, and the

need for coordinated external action. Today, the result of this leadership is mirrored in the Energy article of the Lisbon Treaty.

As I argue in this paper, without having explicit powers with regard to energy, the Commission framed the need for a common energy policy by linking three issues that, initially, were not related and upon which the Commission had unequal authority: the internal market for energy, climate change, and external action with regard to security of supply. This is what I call the "CSS frame", whereby the objective of energy policy is construed as being inherently about creating a *competitive*, *sustainable*, and *secure* market. This innovative frame has allowed the Commission to intervene in the field of energy policy, which used to be a preserve of the Member States, from the mid-1990s on. To a large degree, Member States have bought into this frame. The question I explore in this paper is whether this frame was effective in transforming the energy policy field within the EU. To do so I compare the resonance of the CSS frame and its implementation in three large European countries with very different energy situations: France, Germany, and Poland.

Based on expert interviews in these countries and in Brussels, I will argue that the CSS frame has been successful to the extent that it has been taken over and incorporated in the everyday discourse of national policy makers. However, the CSS frame has been institutionalized to different degrees at the EU level. The reason, I argue, is that the polysemous, constructive ambiguity of this frame has allowed national actors to emphasize the specific elements that were congruent with their national interests (Chester 2010). More progress was made when the Commission had a preexisting institutional basis as in the case of the internal market, where it drew upon its competence in competition ("the free circulation of goods, services, capital and persons") or managed to push legally binding targets through as in the case of climate change. But when it comes to external relations, the Commission was largely unable to force Member States to change their positions through framing. Here, I argue, the CSS frame has faced limitations.

This argument lies within the literature on the role ideas play in public policy. The question I ask is not whether ideas matter, but how they matter. The power of ideas derives from their intersubjectivity (Blyth 2002, 2003). As Metha (2011: 24) writes, an idea does "matter when it (a) shapes people's actions and (b) is not reducible to some other nonideational force". He defines three kinds of ideas: ideas as policy solutions, ideas as problem definitions, and ideas as public philosophies or *Zeitgeist*. To him, problem definition and framing are similar in that they limit a complex situation by stressing some elements, but they are different in that framing insists more

on how to package preexisting ideas to gather support on one's position. In that sense, a frame "point[s] to the cognitive process wherein people bring to bear background knowledge to interpret an event or circumstances and to locate it in a larger system of meaning. Framing processes are the ways actors invoke one frame or set of meanings rather than another when they communicate a message, thereby indicating how the message is to be understood" (Oliver and Johnston 2000: 45). With regard to European energy policy, I am looking at the way different components – competition, sustainability, and security – are assembled and communicated to justify the need for common action.

In line with the Europeanization literature, I am looking at how a body like the European Commission is able to mobilize Member States in support of a common policy through soft instruments of persuasion. For example, Schmidt (2006) has argued that EU leaders can push for Europeanization through a varied mix of communicative (i.e., political) and coordinating (i.e., technical) discourses. But there is a long tradition, to which I subscribe, according to which ideas are more likely to be effective when they are congruent with either institutions or (material) interests, and ideally both (Hall 1993; Surel 2000). The interplay of these three elements in the process of Europeanization is what I am interested in.

I will argue that the Commission's framing has worked best when it could either resonate with strong domestic interests or rely on an institutional basis. Although compatible with it, this argument is different from Natorski and Herranz Surrallés (2008) recent analysis of the EU's energy policy framing, which focuses more squarely on energy security whereas I include economic and environmental attributes in the CSS frame. For Natorski and Herranz Surrallés, the Commission and the Parliament's framing effort, which they analyze as a securitization move in the Copenhagen school tradition, failed because it relied on too many "referent objects": for instance, the economy, European consumers, or national electricity structures. In contrast to Natorski and Harranz Surrallés, I do not attribute the failure of the Commission's framing effort to the polysemous content of the frame, which in fact probably helped Brussels' case to a large extent. Rather, I argue that this ideational strategy reached important *institutional* and *material* limits.

The paper is structured as follows: First, I outline the development of the European energy policy frame. Second, I analyze to what extent this discursive frame produced institutional results at the EU level. Third, I examine how Member State representatives interpret and use the frame today. In conclusion, I will discuss whether the polysemy of the European energy frame is a case of "constructive ambiguity" or rather a rhetorical void. The first two parts of the paper build on the

analysis of official documents, whereas the third part refers to a case study that includes expert interviews conducted in three Member States, Germany, France and Poland, as well as in Brussels.[1]

## CSS: Framing a European energy policy

While coal and nuclear issues topped the energy agenda in the early stages of the European Union (EU)[2], oil dominated the agenda in the 1970s and 1980s. To protect economic activity from supply reduction and interruption, the Council of Ministers adopted a first directive (68/414/EEC) in 1968: Member States were asked to maintain a minimum stock of crude oil and/or petroleum products for 65 days of consumption. Growing concerns about import dependency let to an increase of this strategic reserve to 90 days in 1972 (directive 72/425/EEC). Similar measures to secure stocks of fossil fuels followed in 1973 (73/238/EEC) and 1975 (directive 75/339/EEC) in the wake of the 1973 oil crisis. The crisis also led to a growing intergovernmental cooperation that was institutionalized with the creation of the International Energy Agency (IEA) in 1974. Its aim was initially to respond to physical disruptions in the oil supply and to provide (statistical) information about the international oil market and other energy sectors.

It has to be noted that the impetus for this new institutional arrangement came from the US and not from the Europeans. But shortly after US Secretary Kissinger considered the oil crisis as "the economic equivalent of the sputnik challenge of 1957" (Kissinger 1973: 8) and addressed the need for coordinated activity, EU Member States declared that it would be "useful to study with other oil-consuming countries within the framework of the OECD ways of dealing with the common short and long term energy problems of consumer countries" (European Communities 1974: 487-490).

In the 1980s, energy policy in Europe focused basically on the reduction of oil imports from unstable producing countries; diversification was the key word for increasing energy security, but it was taken care of within the Member States. Overall, Europe's dependence on OPEC oil decreased temporarily in this period (European Communities 1988). From the 1990s on, energy policy attention shifted strongly from oil to market issues: the restructuring of energy markets in a new geopolitical context would remain on the political agenda for the next 20 years. On the one hand, there were negotiations about international energy cooperation, which began with a

[1] This is an ongoing SSHRC funded research project.
[2] The term 'European Union' (EU) replaced 'European Community' only in 1993; I will use EU throughout the text for ease of reading.

political declaration of principles in 1991 and led to the signature of the Energy Charter that became effective in 1998. This legally binding treaty intended to encourage investment and trade through common rules, to guarantee reliable cross-boarder energy transit, and to promote energy efficiency. It also aimed at integrating the energy sector of the former USSR into European and world markets (Energy Charter Secretariat 2004). The integration and restructuring of energy markets were supposed to generate stable conditions for investments and, ultimately, ensure energy security.

On the other hand, the idea of the energy market as an instrument of energy security appeared in the internal debate of the EU. For example, the *Green Paper for a European Union Energy Policy*, published in 1995, insisted that the establishment of market rules – contracts and conditions for investments – would contribute to energy security (European Commission 1995). The Green Paper and, even more, the *White Paper on an Energy Policy for the European Union* (European Commission 1996) that followed in 1996 began to advocate the integration of both an environmental and an external dimension into energy policy.

Even though environmental and foreign policies were referred to in the 1990s, it was the market issue that dominated the discussion. Despite controversy, the EU adopted its first directive concerning an internal electricity market in 1996 (Directive 96/92/EC). It established a certain degree of third party access to electricity networks and put an end to construction monopolies of power lines and power stations. With this directive energy policy issues started moving from Member States towards the European level. Eising et Jabko (2001) point out that this shift was not "a foregone conclusion at the outset in the energy sector. When the European Commission introduced a working paper on the Internal Electricity Market (IEM) in 1988, it only set the relatively modest goal of achieving price transparency and freer transit of electricity across borders. In fact, the prospect of a European energy policy had initially appeared so utopian that the electricity sector was simply not mentioned in the original 1985 White Paper on the Internal Market."

In search for a common energy policy, the Commission pursued the consolidation of the internal energy market in the 2000s. Most Member States had implemented the first directive by September 2000, but the Commission considered the progress made towards liberalization insufficient. Thus, a second energy package was proposed to complete the internal electricity and gas markets (directive 2003/54/EC for electricity and directive 2003/55/EC for gas). The

directives' objective was "to create conditions more conducive to genuine, fair competition and to put in place a true single market".[3]

Both these directives were replaced in 2009 by the ones following the third energy package: directive 2009/72/EC for electricity and directive 2009/73/EC for gas. The Commission, once again, revised the rules and legislative measures, but the objective remained the same: completing the internal energy market. Basically, the directives impose further requirements with regard to the unbundling of generation, transmission and distribution, impart more power of oversight and more cooperation among national regulators, and establish a European Agency for the Cooperation of Energy Regulators (ACER).[4] Since the first wave of liberalization rules, the Commission has attempted to break national and regional monopolies; these often vertically integrated electric utilities control prices on the wholesale market and prevent new market players from accessing the market.

Energy policy related activities within the EU proliferated in the 2000s, as the number of strategic publications illustrate: the Green Paper *Towards a European Strategy for the Security of Energy Supply* (2000), the Green Paper *A European Strategy for Sustainable, Competitive and Secure Energy* (2006), and the Green Paper *Towards a Secure, Sustainable and Competitive European Energy Network* (2008). Moreover, three Strategic Energy Reviews (2007, 2008 and the follow-up of 2009) were published. Underlying this discursive production was the argument, made explicit in the 2000 Green Paper, that "without an active energy policy, the European Union will not be able to free itself from its increasing energy dependence" (European Commission 2000: 2).

Finally, the European Commission proposed a "climate and energy package" in 2008 to implement the "20-20-20" targets by 2020, which imply the reduction of $CO_2$ emissions of at least 20% below the level of 1990, the increase of renewable energy to an amount of 20% of energy consumption in the EU, and the upgrade of energy efficiency to reduce the projected primary energy consumption by 20%. In 2008, the European Council and the European Parliament agreed to this binding legislation, which came into force in 2009.[5] By accepting this "climate and energy package", the Member States backed the Commission's drive for a common energy policy and approved an explicit link between climate and energy policies.

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[3] http://europa.eu/legislation_summaries/energy/internal_energy_market/l27005_en.htm (accessed February 17, 2011).
[4] http://europa.eu/legislation_summaries/energy/internal_energy_market/en0016_en.htm (accessed February 17, 2011)
[5] http://ec.europa.eu/clima/policies/brief/eu/package_en.htm

In the first decade of the 21st century, the Commission also became increasingly vocal about the need for common energy policy with regard to external relations. The 2000 Green Paper alludes to geopolitical issues in the Middle East and the unfortunate circumstance that the EU lacks the powers and means to "negotiate and exert pressure" (European Commission 2000: 28). The 2006 Green Paper boldly reiterates this need: "The energy challenges facing Europe need a coherent external policy to enable Europe to play a more effective international role in tackling common problems with energy partners worldwide. A coherent external policy is essential to deliver sustainable, competitive, and secure energy. It would be a break from the past, and show Member States' commitment to common solutions to shared problems" (European Commission 2006: 14). The call for an external energy policy was highlighted by the Russian cut-off of gas deliveries to the Ukraine in early 2006. This incident illustrated Europe's vulnerability with regard to energy supply and infrastructures. In other words, the fear of gas shortages across Europe helped to integrate the external policy dimension into the common European energy policy frame.

The three dimensions – internal market, environment, and external relations – finally materialize in the 2009 Lisbon Treaty, which, for the first time, introduces energy as a "shared competence" (like the environment or the internal market), whereby Member States cannot exercise authority when the Union has done so. Article 176 A on energy reads as follows:

> 1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to: a) ensure the functioning of the energy market; b) ensure security of energy supply in the Union; and c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and d) promote the interconnection of energy networks. (…)

Such measures, the article adds, should not affect the right of Member States to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply.

Competitive, secure and sustainable have become the key words of the energy policy that the Commission insistently framed over the years (the CSS frame). They are used in various sequence in almost every document produced by the Commission since the mid-2000s. In the development of this frame, "Kyoto" and "Moscow" were helpful external drivers (Convery 2009). More importantly, however, I have argued elsewhere (Jegen 2011) that the very ambiguity of the CSS frame gave it a broad appeal reaching out to very different audiences, from large energy

firms in Western Europe looking for geographical expansion to insecure political leaders in the Central Europe looking for guarantees vis-à-vis Russia, via the Green movement in Germany or Scandinavia. With CSS, the Commission managed to create in Europe a set of policy ideas that looked coherent and inextricably linked: in this quasi-syllogism, sustainability is necessary to reduce insecurity, but competitiveness is necessary to tackle climate change (Wood 2010: 318). Actually, when one looks closely, the conceptual linkages between these three elements are not that evident. Nevertheless, the Commission's discursive strategy forged a tacit coalition of actor – by packaging preexisting ideas – that increasingly used the same language. It might be interesting to contrast Europe's energy policy frame with its North American counterpart to emphasize the uniqueness of the packaging of ideas: in the US, the reference to sustainability is virtually absent, while the reference to both sustainability and security is negligible in energy policy discussions in Canada (Jegen 2011).

## Institutionalizing the CSS frame

To which extent has the CSS frame been institutionalized? Long without explicit powers with regard to energy, the Commission referred to other competences to materialize a European energy policy. Exclusive powers in the field of competition and shared powers with regard the internal market and the environment helped the Commission institutionalize its energy policy frame, at least partially. In fact, one could argue that the CSS frame originated as much from the Commission's appraisal of its room for maneuver vis-à-vis Member States as from any objective assessment of the energy challenges facing Europe by Member States themselves. In this section, I distinguish competition, sustainability and security to explore how the Commission used the CSS frame to foster both EU-level coordination and domestic-level Europeanization.

*Competitive Energy*

As mentioned above, the Commission began in the mid-1990s to adopt directives to liberalize electricity and gas markets, using "competition" as its exclusive treaty power and also its internal market competence, which was much strengthened after the Single Market Program of the late 1980s. The move from domestic energy policies towards European rules was however only gradual and not taken as a given. To push the liberalization process, the Commission first established informal structures to bring together state and non-state actors to discuss the construction of an internal electricity and gas market. The Florence forum for electricity was created in 1998 and participants meet once or twice a year. The same holds for the Madrid

forum, which was created in 1999 and deals with gas market issues.[6] The objective of these forums was to enhance the dialogue between the Commission, national actors and market players, but there was no regulatory power associated to these meetings.

The next step in institution building was the creation of the Council of European Energy Regulators (CEER) in 2000. As an output of the forum dialogue, CEER regroups the independent regulatory agencies of Member States. Still informal, it is a more institutional venue for regulators as regular meetings facilitate the exchange of information. As Thatcher and Coen (2008: 813) note, it reduces "collective action problems by having narrower and hence less diverse membership". Three years later, the process was formalized by the creation of the European Regulators Group for Electricity and Gas (ERGEG). The Commission established ERGEG, composed of national energy regulators, as its advisory body. ERGEG facilitates the coherent implementation of the directives in the Member States, and advises the Commission – on its own initiative or upon request – with regard to drafting implementation measures. In this role, it must consult the different stakeholders involved in the liberalization process. ERGEG influenced, for example, the draft of the third energy package. Backed by the Commission, it also launched the regional initiatives in 2006 to accelerate the completion of the internal market.[7]

The latest institutionalization move in the field of the internal energy market was the creation of the Agency for the Cooperation of Energy Regulators (ACER). Introduced with the third energy package in 2009, the agency based in Ljubljana become fully operational in March 2011. Its objective is the same as the ones of the previous institutionalizing steps: to improve the functioning of the electricity and gas markets in Europe. It will coordinate the activities of national regulators, contribute to the establishment of European network rules, take binding individual decisions concerning access and operational security for cross border infrastructure. It will also have an advisory role for European institutions, and monitor and report to the European Parliament and the Council.[8]

In sum, based on its competition and internal market powers, the Commission started an institutionalizing process, from informal governance towards new institutions of coordination with formal powers. The breaking of trade barriers in the late 1990s was followed by vigorous regulatory initiatives. The forums were set up as a venue of information exchange, whereas a

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[6] Participants include the European Commission, Member States governments, national energy regulators, transmission system operators (TSOs), electricity traders, power exchanges, network users, and consumers.

[7] http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_ABOUT/ERGEG (accessed February 21, 2011).

[8] http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_ABOUT/Tab (accessed on February 21, 2011)

more powerful ACER centralizes and formalizes the network of national regulators and gains independence from Member States' governments (Thatcher and Coen 2008). In parallel, liberalization pressures have considerably reshaped domestic markets. For instance, small-business costumers can switch their supplier for electricity and gas since 2004, and, in theory, all consumers have the same choice since 2007.[9] In these two processes, a number of stakeholders have at least tacitly supported the Commission's efforts. There is no doubt that the European energy policy frame has been followed by real instances of Europeanization with respect to its competitive component. One major hurdle, however, remains the paucity of infrastructure such as interconnectors, which despite liberalization prevents the functioning of an internal energy market. The EU recognizes the need for improving the infrastructure to transport energy efficiently to where it is needed and for eliminating barriers to cross-border trade.[10] This points to the importance of institutions in supporting discursive strategies: In contrast to market *rules*, infrastructures are not covered by the EU's exclusive competence in competition policy and shared competence on the internal market.

*Sustainable Energy*

The EU has emerged as a leader in the context of the international negotiations on climate change. As a regional economic integration organization, it ratified the United Nations Framework Convention on Climate Change and related Kyoto Protocol, as did its Member States. Schreurs, Selin, and VanDeveer (2009) explain the EU's leadership in climate change policy by a combination of actions by some "green" Member States – Germany, Denmark, Sweden and the UK – as well as initiatives by EU level organizations. Illustrations of this leadership are, for example, its "major role in bringing the negotiations on the Kyoto Protocol to a successful conclusion, in particular after the U.S. withdrawal", or the fact that the EU, based on Kyoto's flexible mechanisms, pioneered in 2005 the establishment of a cap-and-trade system for $CO_2$ emission, the European Union Emissions Trading Scheme (EU ETS).

EU ETS is certainly the most explicit example of how the sustainable component of the energy policy frame has been institutionalized, but the set up of this institution was not self-evident. Now, as Ziesing (2009) argues, "the sampling that became EU ETS was a product of two failures; first, the European Commission failed in its initiative to introduce an effective EU-wide carbon tax in the nineties. Secondly, the Commission fought unsuccessfully against the inclusion of trading as a flexible instrument in the Kyoto Protocol in 1997". Whereas the idea of a carbon

[9] http://ec.europa.eu/energy/gas_electricity/index_en.htm (accessed March 5, 2011)
[10] http://ec.europa.eu/energy/gas_electricity/index_en.htm (accessed March 5, 2011)

tax met with insurmountable opposition from Member States and industries, the idea of a trading system morphed into an opportunity for the Commission: a legal advice stated the Commission could ratify the Kyoto Protocol together with the Member States if it showed itself capable of contributing to the objectives. EU ETS became an essential element for the Commission to prove its qualification (Ziesing 2009).

EU ETS relies on directive 2003/87/EC. The pilot phase was launched in 2005 and was succeeded by phase II (2008-2012), which coincides with the period covered by the Kyoto Protocol. Member States decided on the volume of $CO_2$ emissions to be traded and on the conditions to do so. Member States then allocated, on an individual basis, allowances to their industries and electric utilities. Directive 2009/29/EC has recently amended the previous directive and the Commission will launch an improved and extended EU ETS in phase III (2013-2020). The individual allowance of Member States will then be centralized at the EU level.[11] Besides the EU ETS as an institutional pillar of the sustainable energy policy component, the creation of the Climate Action Directorate-General (DG) in February 2010 can be considered as another institutional move. This DG pools climate-change related units from DG Environment, together with activities in DG External Relations and DG Enterprise and Industry.

In sum, parallel to the institution building process with respect to the competitive component of a European energy policy, we can observe significant institutionalization with regard to its sustainable component. In contrast to competition, climate action is a shared competence, like the internal market except that it is much more recent and less developed. Whereas the internal energy market started out by networks of information exchange before moving to more binding policies, climate change policy relied quite early on binding targets. Also, the Commission's discursive strategy was helped by the commitment of a certain number of Member States, as well as the lock-in of the EU's negotiation system vis-à-vis climate change. For instance, 30 countries – the 27 Member States, Iceland, Liechtenstein, and Norway – are involved in the EU ETS, which covers $CO_2$ emissions from power stations, combustion plants, oil refineries and iron and steel work, as well as from various factories (cement, glass, lime, bricks, ceramics, pulp, paper and board). Moreover, EU ETS will be expanded to airlines in 2012 and to petrochemicals, ammonia and aluminum industries in 2013.[12] Gradually, the EU seems as well to succeed in softening Member States resistance to centralizing emission allocation plans.

[11] http://ec.europa.eu/clima/policies/ets/index_en.htm (accessed February 25, 2011)
[12] http://ec.europa.eu/clima/policies/ets/index_en.htm (accessed March 5, 2011)

*Secure Energy*

To some extent, the internal energy market can ensure the securitization of energy supplies, for instance, by the development of interconnectors inside Europe, which would allow electricity and gas to flow multidirectionally between Member States. However, there is an important external dimension to this issue where institutionalization is much more timid. In principle, the European Court of Justice (1977) has argued that the EU's internal competences could be "projected" externally. The European External Action Service (EEAS), emanating from the Lisbon Treaty and in existence since 2010, insists on the importance of an external energy policy that focuses on consumers, producers and transit countries. The EU has launched various initiatives with energy content such as the sub-regional energy dialogues with the Maghreb and Mashreq under the Euro-Mediterranean Partnership in the late 1990s or the European Neighborhood Policy. In 2003 a (probably dead as we speak) energy dialogue with Libya was set off, and in 2004 a bilateral political dialogue between the EU and the Organization of Petroleum Exporting Countries (OPEC). Also, on a *ad hoc* basis, the EU sought international partnerships with countries from the former Soviet Union such as a dialogue with Russia (2000), a Black Sea and Caspian Sea cooperation (2004), the Energy Community South East Europe Treaty (2005), as well as partnerships with Ukraine (2005) and Azerbaijan and Kazakhstan (2006) (Youngs 2009). Furthermore, in 2007, the Network of Energy Security Correspondents (NESCO) was set up to bring together central energy stakeholders in Brussels and the Member States; NESCO was considered as a "new tool for enhancing EU's external energy security".[13]

In spite of all these initiatives and rhetorical commitments on the part of European officials, much less coherent institution building seems to occur. As Baumann and Simmerl (2011: 31) observe, "from the European Neighborhood Policy – where it is included into the specific action plans – to the actual bilateral forums – e.g. the EU-China Energy Conference or the EU-OPEC Energy Dialogue – all these approaches remain a piecemeal strategy and are therefore not adequate to form the fundament of a comprehensive CEEP (Common External Energy Policy). Another important deficit is that all these initiatives are not inter-linked and thus possible synergies between them remain unused. So while those initiatives are per se desirable, their problem is that they are rather ad-hoc and without authority, and hence their added value to the strategic goal of increasing the EU's energy security is quite limited".

[13] http://eeas.europa.eu/energy/network_en.htm (accessed February 25, 2011)

More importantly, perhaps, we observe that the interests of Member States remain extraordinarily heterogeneous: there is little agreement between countries that have different energy mixes, different suppliers, and different political allies. When compounded with the novelty of the EU's energy policy competence and the strong intergovernmentalist tradition that dominates external relations, it is not surprising that the Commission's discursive strategy has failed to produce tangible effects so far.

## Does the CSS frame resonate among policy makers?

As we have seen, European actors have been rhetorically pushing a common energy policy based on competitive, sustainable and secure components. Some of these ideas and rhetoric substantiated in institutions: this is the case with regard to the internal market and sustainability (i.e. climate change), but less so when it comes to a common external energy policy. In what precedes, I have argued that the polysemy of the CSS frame was a condition of its success. But I have also suggested that diverging institutions and interests probably go some way towards explaining the limited impact of the CSS frame. In this last section, I want to explore this issue by looking at the reception of the Commission's discursive strategy by national policy makers.

Although Member States adopted stepwise the three energy packages, the energy and climate package, and various directives and strategies with respect to competitive, sustainable and secure energy, it is not evident that Member States assess the three[14] different components in the same manner. Fieldwork in Germany, Poland and France hint at a different appraisal of the common European energy policy among Member States. In Germany, where the market is reasonably competitive and supplies fairly diversified, energy policy is increasingly understood as an environmental issue. In Poland, by contrast, the security of supplies is a priority. While paid lip service, liberalization and environmental concerns are seen as constraints rather than drivers. With regard to France, its energy and climate policy objectives seem – at least on a general level – to match European goals.

*Germany: enhancing climate policy*

Germany is the largest economy in the EU, the third largest in the OECD and the fifth largest in the world. Compared to other modern economies, Germany still has an important industrial

[14] Recently, affordability was added as a forth component: "Safe, secure, sustainable and affordable energy contributing to European competitiveness remains a priority for Europe. Action at the EU level can and must bring added value to that objective. Over the years, a lot of work has been carried out on the main strands of an EU energy policy, including the setting of ambitious energy and climate change objectives and the adoption of comprehensive legislation supporting these objectives. Today's meeting of the European Council underlined the EU's commitment to these goals through a number of operational conclusions, as set out below" (European Council 2011).

sector (25% of GDP), which includes iron, steel, coal, cement, chemicals, machinery, vehicles and electronics manufacturing. The German energy portfolio is relatively balanced with more than one-third of oil, 24% of coal, 23% of natural gas, 12% of nuclear and about 5% of renewable energy. Over the last decades, the energy mix has changed: compared to 1985, coal dropped 40% and natural gas increased 13%. Renewable energy – biomass, solar, wind and geothermal – experienced an average annual growth rate of 10.1% since 1995. Over 60% of German energy needs are imported (IEA 2007: 15-16). The "Big Four" – E.ON, EnBW, RWE and Vattenfallen – dominate the electricity market with three-quarters of the electricity production. The high-pressure gas system is controlled by five companies – E.ON, Ruhrgas, Wingas, VNG/Ontras, BEB and RWE – but 750 local gas companies are operating at the municipal level. In general, they are owned partly by the municipalities, partly by the big companies mentioned (IEA 2007: 30).

Germany also has an important environmental movement and the Green Party, in a red-green coalition with the Social Democrats, was in power from 1998-2005. Concerns of sustainable development such as the Renewable Energies Act (2000) or the decision to phase out nuclear energy were set on the political agenda during this period. Meanwhile Germany has become a leader in the development of renewable energy, notably wind energy, and its renewable technologies are among the most competitive worldwide. Thus, it comes as no surprise that Germany seeks to pursue a progressive sustainable policy on the European level, too: the sustainable – or climate change component – of energy policy within the EU is seen as very important: combating climate change implies reducing the dependence of imported fossil fuels, which are out of European (price) control. The emphasis is on indigenous, renewable energy sources. The Kyoto process is seen as the catalyst for the common European climate change activity and all German interviewees pointed to the key role Germany played with regard to climate change in the EU. Angela Merkel is seen as the "Climate Chancellor", who anchored climate-relevant issues as renewable energy and energy efficiency on the EU agenda during the 2007 EU presidency (while running against skeptical industries at the domestic level).

The third dimension of the CSS frame, by contrast, does not seem to resonate much among German officials. From the German side, it is clear that private companies are the key players with regard to the internal energy market, but also with respect to international relations: it is up to German firms to close energy deals with their foreign counterparts. Even if the German government would like to regroup the different interests of energy companies, it would not know how to do so. All German interviewees emphasized that German energy companies' interests do

not necessarily coincide with the priorities of the German government. It would seem even more difficult for the European Commission to regroup these different interests and speak with one voice to Gazprom, for example. A diplomat argued that it might be useful to speak with one voice, especially with Russia, but he immediately added that Member States should not be restrained from concluding bilateral agreements. Thus, it seems that the fairly liberal state of the German energy market partly undermines attempts to create a strong external policy.

An expert on EU energy policy assesses that Member States from Central Europe need a common external energy policy with regard to supply security, whereas Western Member States and, the big ones in particular, only have a limited interest. In other words, Germany can do without an EU foreign energy policy. In that sense, Germany subscribes to the spirit of solidarity evoked by the Lisbon Treaty, but circumscribes it when it comes to the funding of infrastructures. Again, the argument is that this is private companies' business: firms should take the profits, but also bear the risks. Thus, security of supply remains a domestic issue, largely assured by private companies, and Member States as Germany lack an impetus to ask for more EU activity.

*Poland: securing energy supplies*

One of my interviewees described Poland as "the largest amongst the poorest (within the EU) with a lot of aspirations", but also as "the poorest among the largest", meaning that because of its economic weakness it is not able to impact Germany, France or the UK as much as it would like to. Poland relies heavily on its domestic resources to secure its energy supply. Polish coal accounts for 55% of its primary energy supply and for 90% of electricity generation. 95% of its crude oil demand and about two-thirds of its gas demand are imports, whereof 94% of oil imports and over 80% of gas imports come from Russia (IEA 2011: 9-10). In addition, according to the OECD, "Poland is the OECD country where the grip of the state on the economy is the tightest, and privatization was largely stopped in the mid-2000s" (OECD 2010: 9). This is reflected in the energy sector where, for instance, the Polish Oil and Gas Company PGNiG controls 98% of the gas sector (Buchan 2010: 50). The electricity sector is dominated by an oligopoly, and there are two major oil companies that are not state-owned, but where the State Treasury is an important stakeholder and defines the policies.[15]

The concentrated energy portfolio and dependency vis-à-vis Russia explain why energy security is vital and why the climate change approach is a genuine challenge to Polish energy policy. It

[15] Author interview April 2010

also explains why the Commission's CSS frame is interpreted differently than in Germany. Whereas Germany seems to emphasize climate change in the CSS frame before competition and security, Poland gives security priority. As a Polish energy expert sums it up: "If you look at Polish issues, than you can definitely put the supply issue at the top, it is the priority: how to make us less vulnerable to any potential problems with the supply from the East. Then, recently, the climate issue that emerged not as an opportunity, but as a challenge because of our coal dependence. Lastly, it's the market issue, which is still on the bottom of the Polish debate although, for the Commission, it is one of the corner stones". Indeed, the competitive component of the CSS frame is clearly the less important in Poland: "Electricity and gas markets are still dominated by incumbent companies, and competition is limited, particularly in the gas market" (IEA 2011: 13).

The Polish concern for energy security was publicly highlighted in 2006 when the Polish Prime Minister Kazimierz Marcinkiewicz proposed to EU and NATO partners a treaty on energy security. Against the background of the Russian gas cut-off to the Ukraine, which affected several EU Member States, the idea behind the treaty was based on the "musketeer principle": "All for one – one for all": if one of the members of such a treaty faces shortages of supply, the others should be compelled to help out (Marcinkiewicz 2006). Shaped by the Russian legacy, the proposal mirrored Polish fears of a powerful neighbor and advocated a clause for mutual assistance in case of energy disruptions. At least on a symbolic level, the Polish security concern met with some response. The Lisbon Treaty adopted in 2009 includes a reference to the spirit of solidarity between Member States to ensure security of energy supply in the Union as well as to the promotion of the interconnection of energy networks. This however does not answer the immediate energy problem of Poland, as summarized by a energy expert: "The problem is that countries like Poland and others (from Central Europe) are vulnerable here and now and not in 20 or 30 years from now".

Conversely, it is the sustainable component of the CSS frame that poses a significant challenge to Poland. Whereas indigenous coal is the pillar of its energy security strategy, European efforts to reduce $CO_2$ emissions without an international agreement run against the competitiveness of Polish industry: "The problem is not the level of ambition, the problem is competitiveness of the industry and carbon leakage", says a senior official. When negotiating the climate-energy package, Poland bargained hard and obtained some compromise. Poorer Member States will receive more emissions permits to auction, which will allow them to generate revenues from selling allowances. Moreover, Poland (and 9 other Member States) can apply for reduced,

gradually rising auctioning rates in power production. These measures, it is hoped, should facilitate the transition to a low-carbon economy.[16]

*France: Pursuing French policies within Europe*

As the largest EU Member State, France pursued a strong nuclear energy policy since the 1970 oil crises. In 2008, France generated 77% of its electricity from nuclear. Although most of its oil and gas and all coal is imported, imports are diversified and France is a net exporter of electricity (IEA 2010: 15-17). Due to the importance of nuclear energy, France's economy is one of the least $CO_2$ intensive among industrialized countries. Following the adoption of the directives on the internal energy market, France disengaged somewhat from the traditional state monopolies, but the "French government still has significant stakes in GDF Suez (35.6%) and EDF (84.8%)" (IEA 2010: 16). This means that the positions of GDF and EDF are still quite dominant, that market prices and regulated tariffs coexist, and that consumers hardly take advantage of the internal market.

France's energy policy relies on four objectives: security of energy supply, competitive energy supply, sustainable energy development, and equal level of energy service to everyone. These objectives are mirrored in the 2005 Energy Law (*Loi de programme fixant les orientations de politique la énergétique*)[17], which includes targets to reduce CO2 emission, to promote renewable energy and energy efficiency. The French objectives match fairly well with the CSS frame, or as a French expert explains "the [European] discourse is convenient for the French. Take the 2005 Law where we have these four objectives. There is an environmental policy objective, the reduction of $CO_2$ emissions, but there is also an objective of security of supply, and an objective of having energy access at a low price. The idea that energy policy serves different objectives is not at all incongruent with our approach"[18].

Two other examples illustrate the issue linkage in France in terms of sustainable development: The *Grenelle de l'environnement*[19], an initiative including political meetings between state and non-state actors, was launched by Nicolas Sarkozy in 2007 and resulted, among others, in different legislations (*Grenelle* 1, *Grenelle* 2), which define sector specific targets (e.g. building energy improvements, environment friendly organization of transport). Second, and also in 2007,

[16] http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/misc/107136.pdf (accessed March 5, 2011)
[17] http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=F23F8912E2543DC7AB0435B14FDABD9F.tpdjo13v_3?cidTexte=JORFTEXT000000813253&dateTexte= (accessed August 8, 2011)
[18] Author's translation.
[19] http://www.legrenelle-environnement.fr/

different ministries were integrated into the new Ministry of Ecology, Sustainable Development, Transport and Housing in an attempt to enhance its status and to assign it to a Minister of State.

It is therefore not surprising that France has been proactive during its presidency in 2008 and pushed through the energy and climate package in a record time. A French official makes clear that France wanted an integrated energy policy approach addressing all topics to avoid a perceived drift towards a European energy policy that would be addressed only in the of competition and market liberalization. This is where the French nuance on the CSS frame comes in: even though France supported all three energy packages and is in favor of the internal market, it does not entirely share the (Anglo-Saxon) conception of liberalization promoted by the Commission. Again the French official: "We are not against opening up to competition, but we don't think that it is enough just to liberalize the market in order to make it work (…). We don't translate security of supply and competitiveness solely into the break up of big energy companies".[20]In other words, the competition dimension of the CSS frame resonates in France, although the conception of liberalization and competitiveness is perceived somewhat differently in Paris and Brussels.

Finally, France perceives the need of a common external energy policy with regard to supply security in a similar way as Germany. France as other big Member States has its own diplomatic service, which deals with all issues, including with energy policy. Like Germany, France has big energy firms capable of talking on their own to foreign suppliers and making contracts with them. As a French official sums up: "Our companies make deals with their partners and we do not interfere. We don't want to interfere and we certainly don't want the Commission to interfere"[21].

## Conclusion: constructive ambiguity or rhetorical void?

This short comparison between Germany, Poland and France helps elucidate both the conditions for success and the limitations of a discursive strategy. There is no denying that, despite the lack of a formal mandate, the Commission has managed over the past 20 years to expand its power in the field of energy policy. It has done so by developing a discursive strategy that became progressively accepted by policy actors and led to some institutionalization. The success of the CSS frame is largely based on its polysemous nature, similar to what Stanley Hoffman has described as "constructive ambiguity". Much like in the case of the Single Market Program of the 1980s (Jabko 2006), the Commission has skillfully manipulated a strategic

[20] Author's translation.
[21] Author's translation.

repertoire of ideas linking the free circulation of services and competition with the environment and external security. This seemingly coherent polysemy is what allows the CSS frame to resonate with different categories of actors in different Member States, from environmentalists to nuclear producers, and from conservative politicians to liberal economists. To a large extent, the CSS frame has been seized and "used" by policy actors in their everyday discourse, both at the EU and at the national level (Jacquot and Woll 2008). Of course, each of these actors has his way of hierarchizing the different elements of the frame. (Natorski and Herranz Surrallés 2008) make the same finding within the Commission itself, where different DGs naturally have different priorities when it comes to energy policy.

But, as I argued, this productive discursive strategy has also reached important limits. The Commission's energy policy frame faces different material situations. Rather than focusing only on ideas, the simple model I proposed includes three elements to understand the effectiveness of a discursive strategy: the Commission's framing (ideas), the Member State's energy situation (interests), and the existence of an EU regulatory space (institutions). How these three elements combine, strengthen or undermine each other helps explain how far the Commission was able to push its agenda. The Commission's framing was most effective when it was harnessed to the Commission's strongly institutionalized competence, whether because it is exclusive vis-à-vis Member States (competition) or because it is quite ancient (internal market). Although less institutionalized at the EU level, the sustainability dimension also made some progress because it had a strong resonance with member state interests (Germany, France, UK, Scandinavian countries). Security, however, is a component of the frame that, even though it strongly resonates with public perceptions, especially in countries such as Poland, cannot rely on formal institutions or the interests of large states. As a result, it remains the poor relation of the EU's energy policy. In that regard, I concur with (Natorski and Herranz Surrallés 2008) but for different reasons: it is not the content of the CSS framing that is problematic, but its lack of institutional and material support.

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