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The Commission as a policy entrepreneur? The case of energy security and increasing supranationalism

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Abstract: Focusing on gas, this article explores the extent to which the Commission has driven energy security policy developments since 2000, and the extent to which the policy area is becoming increasing supranational. Situating the research within the literature on agenda-setting and framing, the article focuses on natural gas and evaluates how a policy window was opened as a result of EU enlargement to include more energy import dependent states, a wider trend towards greater import dependency, and gas supply disruptions which have contributed towards an degree of EU consensus around the perception that this was a negative dependency. It is argued that the Commission has successfully framed the problem as requiring an EU-level solution, based on the institutions pre-existing preferences for a diversified energy supply and internal energy market. Member States retain a large degree of sovereignty; the Commission has achieved, since 2006, creeping competencies in the policy area.

Key words: energy security, European Commission, policy entrepreneurship, EU agenda-setting, European integration

Introduction

The article aims to analyse both the extent of Commission activism in the policy field of energy security, and the degree to which it has been successful in producing EU policy and legislative outcomes in line with its recommendations, and the extent to which it has gained increased competencies in the policy area. The analysis is conducted by tracing Commission proposals since the 1950s, comparing these to EU Regulations, Directives and treaty evolution. In doing so it describes how governance of energy and gas policy, long an intergovernmental policy area, includes supranational elements, despite Member States retaining the right to decide their own energy mix.

Drawing upon elite interviews with actors in the Commission, and numerous primary documents, the empirical data reveals that the Commission has a growing role in energy and gas policy, and this has occurred since the 2004 enlargement of the EU and 2006 and 2009 gas supply disruptions. The Commission has demonstrated successful policy entrepreneurship

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through exploiting recent opportunities to promote its long held preferred policy solutions; framing energy (in)security as an EU problem requiring increased supranational governance as the solution. This article utilises a theoretical framework that draws upon the ideas of Kingdon (1995) and others on political agenda-setting and policy entrepreneurship to explain the Commission activism and its effects.

This article will first situate the research within the academic literature on European integration, and the role of the Commission related to agenda-setting and framing, before tracing policy development in the energy sphere in section two. This policy tracing to 2006 demonstrates that Commission proposals regarding energy (gas) security were largely ineffectual. The third section highlights that in recent years a policy window has opened due to several factors; increasing EU gas imports, disproportionate dependence on a single transit route for gas, competition for supplies and gas supply disruptions. The fourth section addresses how successful the Commission has exploited this policy window.

1. Theorising European Commission policy entrepreneurship

The concept of policy entrepreneurship has been applied to the Commission by several authors (Pollack 1997; Laffan 1997; Moravcsik 1999; Peterson, 2008; Kaunert, 2009). As Perkmann (2003: 5) notes, 'the Commission is described as a policy agent capable of entrepreneurially exploiting the resources at its own disposal in order to generate new policies that are acceptable to various coalitions of Member States'. Policy entrepreneurs offer solutions to policy problems. Energy security is one such problem which has become increasingly salient in the 2000s, as will be demonstrated in section four. This article applies the concepts of Commission policy entrepreneurship, framing and agenda-setting to energy policy.

Pollack (1997: 221) concluded that the informal supranational policy entrepreneurship and agenda-setting is likely to occur when information and resources are asymmetrically distributed in favour of the Commission, and where members have difficulty monitoring its activities. Due to an emphasis on output legitimacy in the EU, notably the quality of policies in terms of 'rationality' and 'effectiveness' (Kaunart, 2010; Scharpf 1999), the Commission actively tries to develop European networks of experts and stakeholders, by convening expert groups, to increase expertise and support from stakeholders (Princen, 2011). As Wallace notes, usually new formal policy competences follow, rather than precede, informal Community discussion into policy areas not firmly defined by treaties (Wallace, 2002: 328), and these are bolstered by high quality, rational and effective arguments.

The recognition of a shared political problem can lead to agenda-setting, and Princen and Rhinard (2006: 1121-1122) distinguish between two ways in which issues can become established on the EU agenda. The first is from above, through the Member State derived political 'high politics' route, within the European Council. The second route is from below, through a technocratic 'low politics' route from Commission Expert Groups or Council Working Parties. The article explores the extent to which this policy area remains a reserved domain of sovereignty for Member States, and how the Commission's role is increasing as a result of agenda-setting through policy entrepreneurship.

The Commission's role as a policy entrepreneur is partly derived from providing Member

States with expert knowledge that can be used from above, especially, though not exclusively, by smaller members whose limited administrative capacity can impede information gathering ability, and comprehension of complex policies and policy-making rules and norms (Panke, 2010: 803). The Commission can provide information regarding Council agendas and the policy positions of other actors, helping members prepare positions even in advance of Council debates of draft proposals. The institution can then act as a useful partner, providing sufficient expert knowledge of the policy and policy-making process to contribute towards a 'self-sustaining dynamic' (Princen and Rhinard, 2006: 1122), entrenching an issue as a priority on the EU's agenda, and increasing EU activity and outputs in the policy area (even after the 'high politics' focus, at Council level, may shift away to new or other concerns). With relevance to (energy) relations with Russia for Member States, Schmidt-Felzmann (2008: 174) highlights how the majority of bilateral disputes involving the small(er) Member States are resolved with the Commission assistance. The Commission then has the potential to provide a channel of influence for Member States through providing expertise, advocacy and leadership before and during negotiations. Through interaction with Member State actors it also can propagate policy solutions.

Though the Commission does not necessarily favour smaller Member States (Thorhallson, 2000: 126), it has been argued that there is predisposition of smaller EU Member States towards the EU; a mutually beneficial and reciprocal relationship which increases the Commission's power base and aids its policy initiatives, relative to a more often confrontational relationship with the larger states (Bunse *et al.,* 2005: 6; Katzenstein, 2003). In this regard, the enlargement of the EU from fifteen to twenty-seven Member States since 2004 is likely to have aided the Commission's policy entrepreneurship with regard to energy policy, particularly given their greater dependence on Russian gas imports.

The Commission develops issues and initiatives through work with its own experts, and those from Council working groups and interested Member States. In the words of Dur *et al.*, (2010: 615) 'the Commission is not monolithic', rather, it ‘consists of a range of DGs that often have distinct perspectives on the same issue' (Princen, 2011: 932). Each DG has its own overlapping, but distinct, purview within the Council's often general aims and direction. Differences and disputes between DGs are common and often considerable (Commission interview, 2010). Despite this, there can be synergy between DG Trade, External Relations and Energy on interlinking issues such as climate change and security of supplies. Different (even competing) institutional venues may have different priorities and perceive EU concern differently, yet solutions need not be mutually exclusive.

Both DG Trade and DG Energy frame the problem of reliance on Russian gas as risks in different ways, that of a growing trade deficit and of posing risks to gas supply disruption respectively. Both DGs conclude as a result that (over) reliance on a single source, Russia, is a negative dependency (Commission interviews 2 and 3, Brussels, 2010).[2] The solutions may be broadly shared though, that both problems would be ameliorated by diversifying supply sources away from Russia. The result would also increase the EU's energy security, a general EU priority, but 'strategically minded policy units [and Member States] frame initiatives to fit with certain institutional venues' (Princen and Rhinard, 2006: 1126).

[2] Whilst this article focuses on gas, it is important to note that the EU in 2009 also imported 33.1% of its oil, and 30.2% of its coal from Russia (Eurostat, 2012).

Due to the Commission's role and the lack of complete autonomy in realising political objectives for any single actor, EU energy security policy is a multi-level governance system (Mayer, 2008; Van der Linde, 2008). The Commission can frame problems and discourse to 'influence the interpretation of the problem, thereby pre-determining possible answers', which Bauer describes as 'discourse framing' (Bauer, 2002: 386). This can be done in such a way that it requires policy and legislation development, that can lead to 'creeping competences', 'a steady, if surreptitious, growth of the powers of the Commission' (Majone, 2002: 380; also Mayer, 2008). This is partly through exploiting the notion of community interest (Lequesne, 2000: 39–40), and also given the actor's role managing policy at the focal point of the EU's 'networked administrative system' (Egeberg, 2006: 15).

Yet the Commission can act autonomously and have influence as a policy entrepreneur, particularly in situations of 'member-state uncertainty regarding the problems and policies confronting them' (Pollack, 1996: 450-451). This article applies Kingdon's (1995) work on federal government to EU energy policy. Kingdon theorised that successful policy entrepreneurship required the 'coupling' of policy, political and problem 'streams'. The problem stream consists of those conditions which policy-makers have chosen to interpret as problems. The policy stream consists of the various 'solutions' developed by the Commission, since the 1950s, of a communitarianisation of energy policy that would incorporate gas. The politics stream consists of political developments, in this case a trend of increasing energy and gas imports, along with enlargement of the EU to include newer Member States which felt their national security was undermined by dependence on gas imports (particularly from Russia).

Kingdon (1995) posited that an issue would develop on the policy agenda when there was a coupling of the three streams, which could occur during the opening of policy window of opportunity. It is argued here that successive gas supply disruptions in 2006 and 2009 supplied this policy window, and this article will demonstrate that since January 2006, the Commission has been particularly active in 'coupling' the problem stream of contemporary energy security issues, to the 'policy stream' of its long-held solutions, contributing to a degree of consensus amongst Member States that whilst significant sovereignty of energy mix and source remains their sovereign right (Article 194(2) TFEU, 2007), it is the EU which is an appropriate level at which to mitigate and solve the problem of energy insecurity.

2. Early Commission energy policy entrepreneurship, until 2006

This section explains how the policy stream, or 'solutions', developed by the Commission to counter the problem of energy insecurity import dependence have been developed since the 1950s, though outcomes were limited and the policy remained one characterised by member state sovereignty. Prior to enlargement and gas supply disruptions there was no window of opportunity for the Commission to couple its solutions to a tangible problem and receptive Member State governments.

The context to recent Commission activism is that energy security has been an ever present concern for the Union; defined by the Commission as '[r]eliable energy supplies at reasonable prices for businesses and consumers' (DG Competition, 2010). The Commission's Community Energy Policy in 1968 (Commission, 1968) set out dependency concerns, and a Community energy policy was a stated aim of the Council as early as 1964 (European

Council, 1964). In 1968, lack of integration in the energy sphere was considered to be a 'dangerous trend' which could be changed only through a 'Community energy policy which fully integrates the energy sector into the common market', counterbalancing 'risks arising from the great dependence of the Member States on imports and from insufficient diversification of the sources of supply' (Commission, 1968: 5).

The proposals in 1968 were broadly similar to those in 2012; that the EU should have a general framework for action and measures in place in case of supply disruption, and that a common energy market should be implemented. Despite awareness of the potential hazards of energy dependency, the period up to 1970 was characterised by a combination 'relatively low prices' and 'ample availability', until a restriction of oil supplies led to the prediction that the era of easy supply 'has little chance of being maintained' (Commission, 1972: 2-3). The 1973 'energy crisis' highlighted both concerns about vulnerability to interruptions of energy supply, and the inadequacy of securing supplies for the EU whilst policy-making remained within an intergovernmental domain.

Commission recommendations were largely ignored by the Council and Member States until the 1990s. In 1981, the Commission predicted a substantial increase in energy demand, but recognising the heterogeneity of preferences amongst Member States did not propose any 'substantial centralization of energy policy instruments' nor 'uniformity in the diversification of supply' (Commission, 1981: 10). The potential for Community action was exemplified by, but also limited to, the Union's nuclear energy policy. The 1986 Single European Act introduced measures to establish an internal market by the end of 1992 (SEA, 1986: Art 8a), providing the groundwork for legislation on the internal energy market implemented from the 1990s. Alongside the objective of an internal market an energy plan of action to 1995, focused on putting the 'concept of Community solidarity into practice' with the objective of 'geographical diversification of the Community's external sources of supply' and 'greater integration, free from barriers to trade, of the internal energy market' (Council, 1986: point 5d). However, energy objectives lacked substantive legislation to achieve them.

No Community action was set out in the in the external dimension in either the Maastricht (1992), Amsterdam (1997) or Nice (2001) Treaties. The Council had competency, acting unanimously on Commission proposals (consulting the European Parliament (EP)) (Art. 130s). Commission competency was limited to the internal energy market, though Maastricht's Article 3 set out the objective of extending the activities of the Community to the sphere of energy infrastructure through 'the establishment and development of trans-European networks.' Throughout the 1990s, the Commission attempted to increase energy security by exporting EU legislation, to develop the principle of interdependence and rules-based market multilateralism through such policies as the Energy Charter Treaty (ECT), which focused on market access issues for transit and supply, and market governance, and this principle was successfully exported to fifty one countries in Asia and Europe. Crucially, Russia signed but did not ratify the ECT and withdrew its provisional application in August 2009[3] (Energy Charter, 2010).

In 2000, the Commission continued to emphasise the need to diversify supplies, and offered a warning that 'the Union suffers from having no competence and no community cohesion in

[3] Specifically, Russia refused to accept the Transit Protocol of the Energy Charter Treaty (De Jong and van der Linde, 2008: 6).

energy matters' (Commission, 2000: 28). The 2000 Commission Green Article on the security of energy supply did highlight that external energy dependence was increasing, from 50 per cent in 1999 to a projected 70 per cent in 2030 (Commission, 2000), and proposed a long-term strategy 'aimed at reducing the risks linked to this external dependence' (Commission, 2000: 69). Yet these statements were coupled with the prediction of short term (5-10 years) security of gas supply, which is likely to have reinforced a degree of complacency. Dependency on Russia was considered positive, and 'relatively comfortable' (Commission, 2000: 81), based on the opinion that 'the continuity of [gas] supplies from the former Soviet Union, and then Russia, over the last 25 years is testimony to an exemplary stability' (Commission, 2000: 40).

At an informal European summit in October 2000, the Commission received the mandate for a regular energy dialogue energy with Russia, from January 2001, but whilst the European Security Strategy of 2003 (European Council, 2003: 3) referred to energy dependence as a 'special concern' as the largest world importer of gas and oil, it was not considered to be one of the five 'Key Threats' facing the EU.[4]

The Commission had developed its preferred solutions to address EU energy insecurity within the policy stream. As section four demonstrates, not until the EU enlargements in 2004 and 2007 was there a convergence with the political stream, a receptive environment of newer and to a lesser extent older member states concerned with rising gas imports. The Commission's long-standing promotion of the communitarianised EU gas policy as a solution to energy insecurity. With the policy window of the gas supply disruptions of 2006 and 2009, the Commission was able to couple these streams with the problem stream, framing and problematising these events in such a way as affect Member States' perception of the issue as one that required EU level action.

3. Gas supply disruptions of 2006 and 2009 contributing to a 'policy window'

The EU is at risk from disputes between Gazprom and third countries, because it is highly dependent both on a single source of gas, from Russia, and also a single transit route, though Ukraine. Until the completion of the first section of North Stream in 2011, 80 per cent of gas to the EU from Russia transited through Ukraine (Commission, July 2009b). After thirty years of stability of Russian /USSR gas supplies to the EU and fulfilled contractual obligations, a dispute between Ukraine and Russia led to a gas supply disruption leading to a shortfall in supplies in the following countries: Hungary (40 per cent), Austria, Slovakia and Romania (33 per cent), France (25-30 per cent) and Poland (14 per cent) (BBC, 2006).

The perception of Russia as a reliable partner largely endured until the most serious gas supply disruption occurred in January 2009, providing a 'wake-up call' to both the gas industry and Member States (Commission interviews 1 and 2; Brussels, 2010). Negotiations between Ukraine and Russia broke down and the disruption lasted from January 1st to January 21st. The Czech Republic, Poland, Hungary, Romania and Bulgaria (all NMS) suffered gas supply reductions of between 5-30 per cent (Womack, 2009). The Slovakian government claimed that the economy suffered damage to the sum of 0.5 per cent of GDP, or €100m per day for the duration of the disruption (Laca, 2009). Cuts in supplies and the structural gas

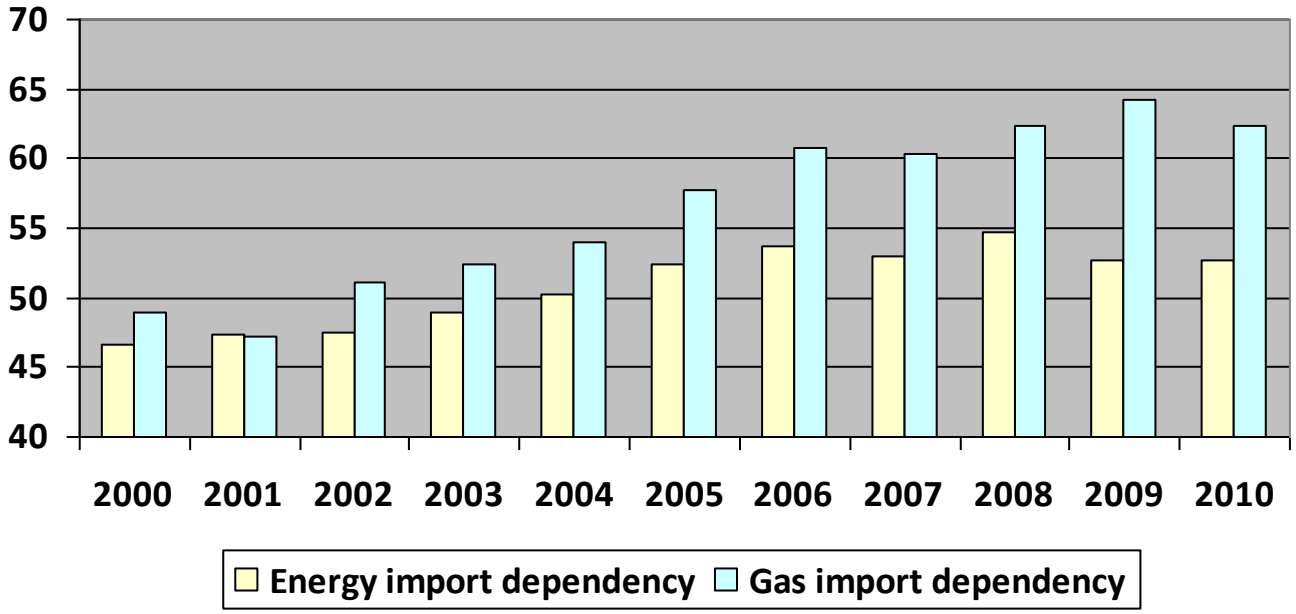
[4] Terrorism, the proliferation of weapons of mass destruction, regional conflicts, state failure and organised crime.

situation in new Member States also highlighted to other Member States their particular dependency on Gazprom and Russian gas, and the risks associated with this.

The Commission responded by continuing to advocate a community internal and external energy policy, and this exogenous shock proved a catalyst for top down pressure on policy units to formulate policies specifically related to addressing the issue of energy security (Commission interview 1, Brussels, 2010), and 'a new dynamic as a result of the [2006 and 2009] crises' (Commission interview 2, Brussels, 2010).

The EU's dependency on energy imports has been exacerbated by the enlargements of 2004 and 2007. General energy dependency increased to 52.7 per cent in 2010 (from 46.7 per cent in 2000). For gas, the focus of this article, the figure was 62.4 per cent (from 48.9 per cent in 2000) (Eurostat, 2012; see figure 1). The Commission's 2011 opinion was that '[i]f nothing changes, by 2030 more than 70 per cent of EU oil and gas will have to be imported while energy prices will be rising in the next decades' (Commission, 2011b). In this 'business as usual' scenario (without significant energy efficiency improvements and renewable deployment), gas import dependency is expected to reach 76 per cent by 2020 and 83 per cent by 2030.

Figure 1: EU-27 total energy dependence rate (EDR)



Source: Eurostat, 2012

The risk for importers such as EU Member States is that a reduction or the (implicit or explicit) threat of energy resource restriction can be used to exert economic and geopolitical pressure. EU dependence on gas imports in the EU's energy mix has increased since 2000. Despite imports from Russia decreasing slightly in this period (see figure 2), it the disruption of Russian gas transited through Ukraine that affected the EU in 2006 and 2009, and as noted earlier gas imports are predicted to increase significantly. The Commission's objectives are to diversify: a) gas transit routes, and b) gas sources. With North Stream pipeline half completed (fully by 2013), and the South Stream pipeline proposed, these Russian led pipeline projects will address the first concern, though will run counter to the second objective. EU

enlargement increased gas import dependency, and disruptions highlighted the risk of supplies concentrated on a small number of suppliers and transit routes.

Figure 2: EU gas import dependence

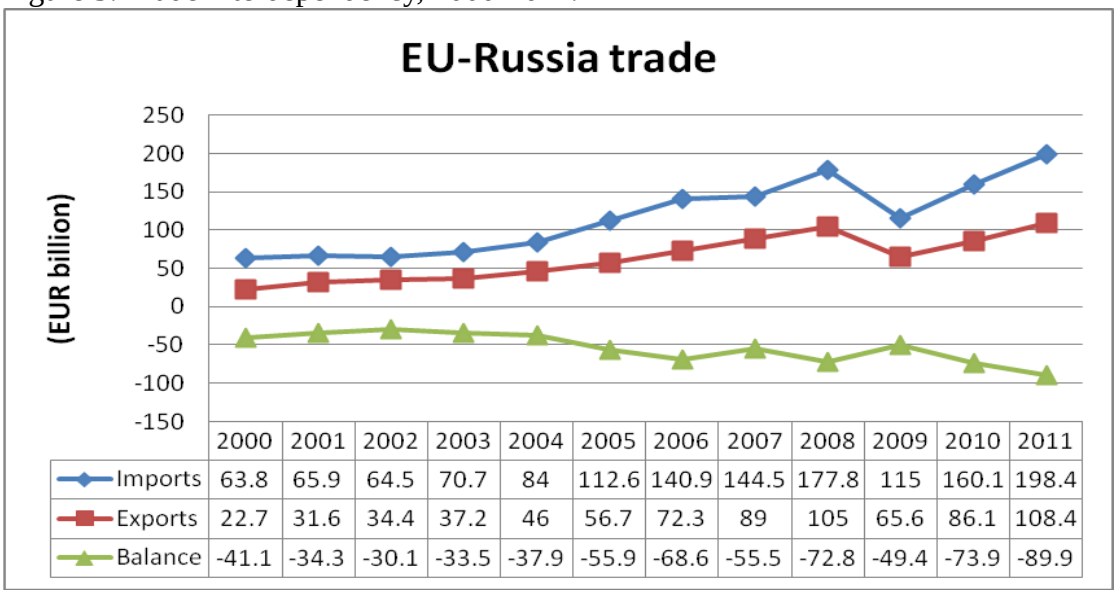
	Gas imported (%)	Gas in EU energy mix (%)	EU gas imports from Russia (%)	Consumed EU gas from Russia	Russian gas as % of total EU primary energy consumption
2001	47.2	22.91	47.7	22.5	5.4
2010	62.38	25.11	33	20.59	5.17

Sources: Author's calculations, based on figures from Eurostat (2011; 2012)

There exist divergent dependencies on gas imports between Member States. For example, in 2007 Bulgaria, Czech Republic, Lithuania, Latvia, Slovakia, Finland and Estonia were between 78-100 per cent dependent on Russia for their gas consumption (Commission, July 2009), and several NMS (Hungary, Slovakia, Lithuania and Latvia), relied on Russian gas for approximately one third of their primary energy usage in 2008 (compared to the EU average of 8 per cent) (Europe's Energy Portal, 2010). However, the disruptions of 2006 and 2009 drew newer and older Member States closer together in perceiving significant dependence undiversified sources of gas as a risk to energy security; a convergence with the Commission's long-standing objective of diversifying energy supplies. NMS such as Poland perceived dependence on Russian gas as constituting the most significant national security risk (Polish Government, 2007).

As figure 3 illustrates, the trade between the EU and Russia increased steadily though slowly between 2000 and 2003. Comparison of the 2003 and 2005 figures show that the fifth enlargement, in 2004, contributed to a 59 per cent increase in imports and a 52 per cent increase in exports. The balance of trade deficit grew by two thirds to €55.9 billion, and peaked at €89.9 billion in 2011, after the sixth enlargement. The EU and Russia are interdependent, though Russia relies far more heavily on trade with the EU than vice versa. However, energy accounted for 79 per cent of imports from Russia, energy that cannot be produced in sufficient quantities domestically (Eurostat, 2012b).

Figure 3: Trade interdependency, 2000-2011.



	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Imports	63.8	65.9	64.5	70.7	84	112.6	140.9	144.5	177.8	115	160.1	198.4
Exports	22.7	31.6	34.4	37.2	46	56.7	72.3	89	105	65.6	86.1	108.4
Balance	-41.1	-34.3	-30.1	-33.5	-37.9	-55.9	-68.6	-55.5	-72.8	-49.4	-73.9	-89.9

Sources: 2010-2011 figures: Eurostat (2012b) 2007-2009 figures: Commission, 2010; 2000-2006 figures: Eurostat, 2009.

Gas prices in the EU27 between 2005 and 2011 rose on average by 41.4 per cent for households, and 49.4 per cent for businesses (Eurostat, 2012b). This constitutes a threat to the EU's energy security; that of 'reasonable prices'. It has also led to shift in balance of power between consumer and supplier, exacerbating fears of both energy import dependence and the increasing trade deficit as part of an asymmetry of trade relations and perception of a lack of binding trade rules for Russia (Commission interview 4, Brussels, 2010).

In 2009, the IEA warned that 'falling energy investment will have far-reaching…[and] potentially serious consequences for energy security', citing a 19 per cent decrease in investment in upstream[5] gas projects in 2009 (IEA, 2009: 5). As the major supplier of gas to the EU, there are concerns regarding whether investment in gas infrastructure is sufficient to keep pace with the forecasts of steadily increasing EU demand to 2030, as well as in the future satisfying the requirements of the fast expanding Indian and Chinese gas markets (Russian Energy Strategy, Government of the Russian Federation, 2010). To meet increasing demand, gas production is expected to rise by 0.6 per cent p.a. (EIA, 2010: 46). Russia's failure to guarantee supplies to nine EU Member States in February 2012 highlighted ongoing supply concerns (Rettman, 2012). In the policy window has continued to be open.

Russia has exploited divisions amongst the EU, and individual Member States (including Italy, Germany, Hungary, Belgium, France, Bulgaria and Poland) have simultaneously attempted to derive energy security through bilateral deals with Russia (Gazprom), undermining the development of a common EU external security policy. This has been widely perceived by the Commission to represent a deliberate 'divide and rule' strategy by Russia (Commission interviews 1 and 2, Brussels, 2010). There is also the risk that certain Member States are vulnerable to economic pressure that may be politically derived (given the strong link between Gazprom and the Russian state) (Hulbert, 2010). The 2003 Energy Strategy of Russia (Government of the Russian Federation, 2003: 2) highlighted the use of 'great energy resources' as an 'instrument of carrying out internal and external policy'. A stated Russian objective is that 'international policy for the long term will focus on the possession of energy sources' and '[u]nder the conditions of competition for resources [it] cannot be excluded resolv[ing] problems by military force' (Security Council of the Russian Federation, 2010).

Enlargement of the EU in 2004 and 2007 has occurred alongside: a) an increase in EU energy imports; b) an increasingly unbalanced trade relationship with Russia; c) gas supply disruptions since 2006. The opening of the policy window related to c) enabled the Commission to couple a supranational 'solution' to this 'problem'; that more reasonable pricing and reliable supplies could be through an internal EU gas and energy market, supplied by more diversified sources of gas.

4. Commission energy policy entrepreneurship after 2006, exploiting the policy window

This section evaluates the extent to which the Commission's 'discourse framing' (Bauer,

[5] Exploration and production.

2002; Drauth, 2007) has successfully capitalised on the policy window to implement proposed solutions to the policy problem that developed after 2006, and whether this has translated into increased policy competencies. This is assessed with reference to the EU's definition of energy security: a) security (reliability) of supply, and b) improving the reliability of prices through the implementation of an internal gas market (which will also mitigate against supply disruptions).

Security of supply

In 2005, the UK presidency's study concluded that stronger EU energy policy cooperation was necessary to improve security of supplies (Helm, 2005), and the Commission's March 2006 Green Article on energy advocated a comprehensive Common European Energy Policy, emphasising that energy security of the external dimension will be improved through diversified sources of supply and supply routes, and negotiating with a 'single voice' (Commission, 2006a). The Green Article also contained the objective of regular Strategic EU Energy Reviews (SEER), the first of which was completed in January 2007.

The 2007 Lisbon Treaty (TFEU, 2007) incorporated for the first time an Energy title and co-decision (ordinary) legislation procedure was introduced into the policy area (Article 194). Article 4 sets out '[s]hared competence between the Union and the Member States' in the '(a) internal market; (h) trans-European networks; [and] (i) energy'. The objectives of Article 194 included the Union acting 'in a spirit of solidarity' to: '(a) ensure the functioning of the energy market [internal]; (b) ensure security of energy supply in the Union [external];…(d) promote the interconnection of energy networks [internal]'.

Despite the objective of 'security of energy supply in the Union' and the inclusion of a 'spirit of solidarity' in the functioning of the energy market, it was also decided that '[s]uch measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply' (TFEU, 2007: Art. 194). What 'solidarity' means in this context remains vague. The Article provided an, 'interpretative, rather than legally binding, commitment' (Konstadinides, 2011). In terms of formal instruments and competence, the decision-making in the policy area relies on intergovernmental cooperation and remains dominated by national preferences.

The Lisbon Treaty reiterated existing decision-making rules in the sphere of energy. Where the EU's energy security is compromised by severe disruptions energy supplies, the competency for deciding on measures remains with the Council (though acting on a Commission proposal). Despite the evident shift in perception and priority relating to the development of the EU's energy security identified in this chapter, binding regulation upon Member States with regard to *external* energy security policy is lacking. Here the Commission's competence remains limited.

The Council's 2008 report on the Implementation of the European Security Strategy reflected the Commission's advocacy of energy security as a high priority; to be secured an internal energy market, diversification, and promotion of 'transparent and well-regulated global markets' (Council, 2008: 5). SEER II in 2008 highlighted the importance of 'speaking with one voice', 'identifying [and constructing] infrastructure of major importance', increasing energy efficiency, developing crisis response mechanisms and 'acting coherently to deepen its partnerships with key energy suppliers, transit countries and consumers' through an 'EU

Energy Security and Solidarity Action Plan' (Commission, 2008: 3). SEER II put projects to diversify sources and transit routes, to increase the Union's external energy security, at the centre of the overall policy sphere.

The Commission's 2009 Security of Gas Supply Directive (Commission, 2009a) facilitates the creation of the internal market and also security of supply responses. Through proposed funding for €9 billion for energy infrastructure (Oettinger, 2012) external energy projects for which commercial viability is doubted (but which are deemed of political importance by meeting diversification objectives), will be supported, such as the proposed Southern Gas Corridor pipeline(s) (including the Nabucco gas pipeline or a competitor).

After initially raising the idea for 'a block purchasing mechanism for Caspian gas' in 2008 (European Commission, 2008: 4), the institution received the go ahead for the Caspian Development Corporation, though this is awaiting unanimous Council ratification ahead of a binding treaty. Though unrealised as yet, the concept is a significant proposal for a Europeanised economic bloc for gas (European Commission, 2010b), and in September 2011 the Council mandated the Commission to negotiate a legally binding treaty on behalf of the EU, with Azerbaijan and Turkmenistan to build a Trans Caspian Pipeline System (Europa, 2011), 'a milestone in the realisation of the Southern Corridor...the first operational decision as part of a co-ordinated and united external energy strategy' (Commission, 2011a). After a proposal in 2009, the Commission was also empowered in 2010 to check and offer an opinion on Member State energy infrastructure investments, and intergovernmental energy agreements for 'conformity of these agreements with EU law and EU security of supply objectives' (Commission 2011a). In the past, bilateral energy deals with Russia have demonstrated how '[e]nergy policies and industries tended to divergent national models' (Wood, 2010: 308). Whilst these can still be agreed bilaterally, the Commission's new powers were successful in amending the 2010 Poland-Russia Yamal pipeline and Bulgaria-Russia South Stream gas pipeline contracts, to ensure third party access and re-export of excess Russian gas. For the latter, it is at the Commission's discretion whether to allow shareholders of the project exclusive gas transportation by granting it 'priority status'. It has yet to do this, providing the EU's competing project Nabucco an advantage in terms of commercial attractiveness.

The internal energy market

The 2006 Green Paper on energy (A European Strategy for Sustainable, Competitive and Secure Energy) was published just three months after the 2006 gas supply disruption. Regulation and promotion of the realisation of an internal EU energy market was a natural corollary of its existing single market competencies.

The realisation of an interconnected and integrated internal energy market, is considered by the Commission to increase energy security through increasing competition, reducing prices, and providing mechanisms to mitigate disruptions of external supplies. Co-decision legislative procedure, where Commission legislative proposals are decided upon by the Parliament and Council, is used energy policy where it relates to environmental and common market measures. As will be demonstrated, the Commission has been able to exploit this power to regulate the internal energy market it has promoted and successfully proposed the financing of.

Following proposals from the Commission, and ordinary legislative procedure (formerly co-

decision), the first Gas and Electricity Directives were established in 1998 and 1996 respectively. Infringement procedures were high though for both the first and second Directives, and support from Member States and industry was low (Commission interviews 1 and 2, Brussels, 2010). In 2006, the Commission took action against 17 Member States, following a warning in 2005 that it would be giving top priority to the 'transposition of both the letter and the spirit of the [gas and electricity] directives' (Commission, 2006b). This was followed by action against 21 Member States regarding gas directives in June 2009 (European Commission, 2010a: 2-3), and 18 Member States in September 2011 (Europa, 2011) plus 20 gas companies, including Gazprom, in an anti-monopoly investigation into gas contracts (Neslen, 2011). The Commission's role of enforcer was demonstrated, though delays in transposing gas directives continue despite the threat of financial sanctions.

The EU's Energy Commissioner highlighted in 2006 that 'security of energy supply is only really considered at national Member State level; but in reality we need a much greater European-wide approach on the issue' (Piebalgs, 2006). The Commission's 2008 SSERII was a reaction to Member State energy divergence, and enlargement derived discrepancy of import dependence, stating '[i]nterconnection and solidarity within the internal market is not only a natural feature of an integrated market-based system but is equally essential to spread and reduce individual risk' (Commission, 2008).

Energy markets remain highly concentrated and national in scope. Long-term contracts and vertical integration between wholesalers and retailers foreclosed markets to new entrants. Divergent energy mixes between Member States contributed to a lack of focus from Member State governments and industry in completing the internal energy market. In June 2009, following the second significant gas supply disruption, a third internal energy market package was adopted. The Gas Directive of the third package for an internal EU gas and electricity market, transposed into national legislation by March 2011 (EP and Council, 2009b) anticipates a role for the Commission in negotiating international agreements with third countries on behalf of the EU to address Security of Supply issues. Article 6 obliges Member States promote regional and bilateral solidarity to safeguard security of supply of natural gas, through interconnections, mutual assistance, and co-ordination of contingency measures. Article 7: obligates Member States to co-operate at regional level to ensure security of the network. The Commission produces an annual report (Art. 52(1)) and Internal Energy Market progress report (Art. 52(6)): to assess Security of Supply issues, including bilateral relations with third countries.

The Commission also considers there to be 'a logical need to reflect the external dimension of this internal market… [and] intensify external energy actions at the EU level' as it is assumed that 'there will be joint EU interests with regards to gas once there is a complete internal market' and a consequent '*need* at the European level for a stronger external policy' (interview 1, Brussels, 2010).

Following the gas supply disruption of January 2009, the Commission proposed a regulation on the Security of Gas Supply in the internal market (Commission, 2009a). The regulation was adopted in 2010 (EP and Council, 2010), and makes explicit that security of gas supply in the EU 'cannot be sufficiently achieved by the Member States alone and can therefore, by reason of the scale or effects of the action, be better achieved at Union level' and that 'Security of gas supply is a shared responsibility of natural gas undertakings, Member States…and the Commission' (Article 3(1)). Member States' infrastructure should be capable

of supplying demand during an instance when the single largest gas infrastructure were disrupted during a day of exceptionally high demand. If contingency plans are insufficient the Commission has been empowered to declare a Union or regional emergency (Article 11).

The obligation for Member States to provide information on long term contracts with third countries included in both the 2009 Internal Gas Market Directive and 2010 Security of Gas Supply Regulation has already had the effect of altering gas contracts between Poland and Russia (PGiNG and Gazprom) and between Bulgaria and Russia (Bulgargaz and Gazprom).

The Commission noted that the gas 'crises' triggered the increased policy actions at the EU level (interview 3, Brussels, 2010), and whilst Johnston (2012) notes that original proposals for the Security of Gas Supply Regulation were weakened during negotiations in the Council, the Commission now has a 'co-ordinating role, some decision-making powers and on-going duty to monitor and report on gas supply security measures.'

Associated measures in the internal dimension (with an external overlap) have aimed to increase gas storage capacity and interconnectedness within Europe by prioritising Trans-European Energy Networks (TEN-E). These list and rank 'project[s] of European interest' to 'improve the interconnection of the EU's energy networks' (EP and Council, 2006: 2). In October 2011, the Commission proposed a Regulation on 'Guidelines for trans-European energy infrastructure', aimed at ensuring that strategic energy networks and storage facilities are completed by 2020 (Commission, 2011a).

In addition to the €9 billion of proposed funding noted above, as part of the European Economic Recovery plan, there exists €4 billion as co-financing for energy infrastructure (€2.4 billion for electricity and gas infrastructure projects (EP and Council, 2009b)), though there exists no legal obligation for Member States to either cooperate on infrastructure investments or to act to support one another in a crisis situation (Andoura *et al*., 2010: 59). From the European Energy Programme for Recovery, the European Commission gave grants of €80m to fund Poland's first LNG terminal at Swinoujscie (in addition to the European Bank for Reconstruction and Development's (EBRD) €200m loan as part of a €1 billion banking consortium to build) (Polskie LNG, 2010). The Commission and is considering similar financial support for the Baltic States' LNG terminal to supply 25 per cent of the three countries' energy needs. The decision regarding the destination of this has been delegated to the Commission (Euractiv, 2011).

Pollack (1997: 125) argues that a successful policy entrepreneur 'propose[s], lobb[ies] for, and sell[s]' a policy proposal as a solution to problems, and Kingdon's (1995) view is that crises result in conditions that policy-makers interpret as requiring action, entering the problem stream. The 2006 disruption was a highly influential factor in post 2006 energy discussions in the Council, and the Commission had pre-existing solutions in the policy stream, framed and proposed to be coupled to this policy 'problem'. The politics stream existed as there was a convergence between the preference of newer Member States regarding dependence on Russian gas and vulnerability to supply disruptions and older Member States concerned with the trend towards increasing gas imports. The Commission has had a degree of success as a policy entrepreneur in 'coupling' of policy, political and problem 'streams.'

The Commission has proposed the creation of an internal energy market as part of the single European market. An interconnected internal energy market increases competition within

national energy markets, increasing the 'reasonableness' of price, a key tenet of the EU's definition of energy security. It also linked to the second element, reliability of supply. An internal gas market will mitigate against future gas supply disruption(s), allowing for supplies within the EU to reach Member States most affected, those isolated in 2006 and 2009. The Commission has the role as 'enforcer' of the internal market (Hadfield, 2011).

Conclusion: Increasing though limited supranational governance

The Commission had a solution already in the policy stream (further internal market integration, diversification of supply) and was able to couple this to a problem perceived as being pressing due to underlying trend towards greater gas import dependency, EU enlargement highlighting the perceived risks to national and energy security. The Commission was then in a position to exploit the policy window that opened due to the two gas supply disruptions in quick succession (2006 and 2009).

The Commission's steady stream of policy proposals as a solution to the problems associated with undiversified and increasing energy import dependency, demonstrated a key element in the process of agenda-setting, whereby the Commission has had a degree of success in creating a policy monopoly through problematizing the issue, influencing how energy security is perceived and interpreted. The Commission has successfully framed energy policy as a problem that requires increased (though not exclusive) supranational governance, recommending solutions, but establishing a role for the institution in their implementation, regulation and governance.

In contrast to period before, the gas supply disruptions of 2006/09 provided a window for the Commission to act as an energy security policy entrepreneur, shifting the perception of Union gas supplies from secure to insecure, and dependency on gas imports on a small number of suppliers (particularly Russia) from positive to negative. Whilst the institution's power and authority regarding the EU internal energy market is greater than in the external aspect, Member States have demonstrated their willingness to delegate competencies to the Commission. Commission activism and rhetoric is increasingly backed with legal instruments, as a result of both successful exploitation of a policy window in the mid to late 2000s, but also the result of the concerted effort of certain, non-large, newer Member States to solve intra- and inter-state conflicts of interest through (formally reversible) delegation of regulatory and financing powers to the Commission.

The Commission now has a role as: 1) 'enforcer' of the internal market (Hadfield, 2011); 2) financer of gas infrastructure, internal energy market interconnections and pipelines to diversify sources of supply; 3) regulating the supply of Russian gas supply contracts with individual Member States; and 4) since September 2011 negotiating new supplies of natural on the behalf of the EU27. EU Member States continue to have the central position in energy policy-making, though the Commission as a supranational actor now has a significant and growing role. This article has argued that a notable factor in this shift has been the successful policy entrepreneurship of the Commission. As a result of Commission activism in the form of problem-solution coupling and 'discourse framing', a degree of communitarisation of this energy policy area has been accepted by Member States as a mechanism to increase their individual and collective energy security.

Further research is needed to investigate the constellation of shifting power and authority

within a multi-level governance policy sphere, in which supranational institutions, Member States and also Member State actors such as national energy champions and private energy companies all play a role in steering the development of EU energy policy.

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