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The European Union and the G20: a Central Role for the European Commission?

Peter DEBAERE¹

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Introduction

The Group of Twenty (G20) may have declared itself as the premier forum for international economic cooperation, close cooperation with other international organizations and forums is still necessary in order to address the current challenges of globalization. For this reason, the G20 has repeatedly invited representatives from organizations such as the International Monetary Fund, the United Nations, the African Union and the Organization for Economic Cooperation and Development. Yet, over time, the G20 has developed a special relationship with one specific organization, the European Union (EU). Since 1977, the European Community and later the EU has been increasingly involved in the G7 and G8 and has eventually become an official member of the G20. Nevertheless, the relationship between the EU and the G20 (as well as the G7 and G8) is still largely neglected in the literature.

Currently, the EU delegation at G20 summits comprises the President of the European Council, Herman Van Rompuy and the European Commission President, José Manuel Barroso, while at the meetings of finance ministers and central bank governors, the EU is represented by the Minister of Finance of the country holding the rotating Council Presidency, the European Commissioner for economic and monetary affairs and the President of the European Central Bank. The EU indirectly involves its 27 member states, while the four largest EU member states France, Germany, the UK and Italy (hereafter the 'EU4') have their additional national seat at the G20 negotiating table.² Given this specific membership arrangement, it is interesting to see if and how the G20 exerts any influence on the EU. To examine the influence of the G20 on the EU, this paper focuses on the role of the European Commission. After all, the Commission can be considered as the crucial link between the G20 and the EU because, on the one hand, it is fully involved at all levels in the G20, while on the other hand, it holds the sole right to propose new EU legislation and serves as the Union's executive body.

This paper examines whether the European Commission strategically exploits its central position in the EU-G20 relationship to strengthen its own position in the EU as well as in the G20. To what extent does the Commission use G20 decisions to legitimize its EU legislative proposals;

¹ Peter Debaere is researcher at the Ghent Institute for International Studies at Ghent University and currently working on a research project on EU and G7/G8/G20 funded by the Research Fund Flanders (FWO). Contact: Peter.Debaere@UGent.be

² The G20 consists of the Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, United States, Japan, Canada, Germany, the UK, France, Italy, Russia, Australia, Argentina, Brazil, China, India, Indonesia, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, United Kingdom, United States and as well as the European Union. Spain is also involved in the G20 as it has acquired the status of 'permanent guest'.

and reversely, does the Commission attempt to steer the G20 forward by developing an EU legislative framework? Even though this paper provides insight in the influence of the G20 on the EU, it is not the aim to assess the actual influence of the G20 on the outcome of EU policy processes. Rather it aims to concentrate on the strategic behavior of the Commission in the context of the G20.

Analyzing the Commission's role in the reciprocal EU-G20 relationship and the G20's impact on the EU is relevant in three ways. First, it contributes to our understanding of the G20 as an informal, non-binding network of states. Is the G20 merely a 'talking shop' of which its outcomes hardly surpass a listing of national initiatives given the diverse circumstances of its members? Or is the G20 able to stimulate and shape policy processes in each of its members by providing a coordinated international framework? And to what degree do G20 members feel themselves bound by their engagements in the G20 context? Second, it sheds light on the implications of EU G20 membership for non-G20 EU member states. To what extent do G20 decisions affect the non-G20 EU member states? Indeed, a significant part of the G20 agenda has implications that go beyond the G20 membership such as the reform of International Financial Institutions or G20 commitments on banking regulation. Third, this study also addresses a gap in EU literature. Although several works on the European Commission exist, they do not have the same interest in its power (Schmidt 2004). Furthermore, the strategic behavior of the Commission is particularly underexposed, with the exception of Schröder (2010) and Mayer (2006).

The remainder of this paper is divided into two parts. First, an analytical framework is built upon the Second Image Reversed literature which examines the causal linkages between international agents and domestic actors. Second, I will illustrate how the Commission incorporates the G20 decisions in its discourse. Empirical evidence, mainly based on an analysis of policy documents and speeches, will be drawn from developments in the EU's subsidy regime for fossil fuels as well as in European financial market reform, in particular remuneration policy and the regulation of hedge funds and over-the-counter derivatives.

PART I: THEORETICAL FRAMEWORK

The study of the influence of the G20 on EU policies and institutions can be structured in the 'second image reversed' framework (SIR). This framework provides a general rubric for theories that discuss external influences on state formation, structure and institutions (Pevehouse 2002). SIR is a term first coined by Gourevitch (1978) in a response to Waltz' (1959) conception of domestic structures as an explanatory variable for international politics. Gourevitch developed the argument that, in turn, international factors may also influence domestic political outcomes. Subsequently, the work of Gourevitch has generated increasing attention from a broad range of International Relations scholars (Rogowski 1986, Keohane and Milner 1996, Cortell and Davis 2000, Inoguchi 2010). Also in the field of European studies, the SIR perspective inspired a number of scholars to examine whether and how the EU transforms its member states (Börzel 2005, Featherstone and Radaelli 2003, Schimmelfennig and Sedelmeier 2005). Up till now, the vast majority of studies in the SIR tradition only focuses on the influence of international structures, norms, regimes or institutions on settings within nation-states. Even though the EU is also an actor in international politics, the impact of international factors on the EU remains largely unexplored, with the exception of the work of Costa (2008, 2010).

Influencing the EU: How and Why?

According to the SIR literature, the influence of international institutions depends on the actions of domestic political actors. In order to influence the EU, first, the norms or decisions of the institution must gain the support of a domestic agent, the policy entrepreneur. Secondly, the domestic policy entrepreneur needs to be successful in promoting the policies and norms of the institution within the EU (Costa 2008: 529).

Given its specific multi-layered institutional structures, the EU provides an unusual abundance of access points to the policy-making process for interested actors. Consequently, there are plenty of opportunities for international institutions to gain the support of a domestic agent in the EU (Jönsson et al 1998: 328). However for the G20, the number of potential supportive policy entrepreneurs is more limited. For example, some non-G20 EU member states are rather reluctant to refer to the G20 power in policy initiatives as they criticize the illegitimate character of the G20, although they recognize its merit in tackling the global economic crisis (Debaere 2010: 152). On the other hand, the EU4 can be regarded as possible policy entrepreneurs. Since the EU4 are fully involved in the G20 process and the G20 decides by consensus, it is expected that they will endorse G20 outcomes, which they have negotiated themselves. Nonetheless, one may ask whether the EU4 would be successful in promoting the policies and norms of the institution within the EU, i.e. to build a 'winning coalition'.

In this regard, it is valuable to look at the ability of the European Commission to act as policy entrepreneur and its capacity to build a winning coalition. Firstly, the Commission also participates to a full extent in the G20 and would consequently support G20 outcomes (Debaere and Orbie 2011). Secondly, in the EU, the Commission has not only the exclusive right to initiate legislative proposals within the Community's area of competence, political realities from the institutional structure of the EU also dictate that the Commission should be centrally involved in formulating and developing policy in order to secure a successful implementation. For this reason, it is a target for everyone who wants to influence the content of policy (Nugent 1994: 98, Wallace et al 2010: 74). Thirdly, the European Commission plays a central role in the construction of coalitions in the EU and its presence in a coalition of policy entrepreneurs is vital if it is to be successful (Costa 2008: 530-531). In addition, since the four largest EU member states endorse the G20 outcomes as well, in theory, the Commission can at least count on their support, which is crucial in building a winning coalition. Hence, more than other possible domestic policy entrepreneurs, the Commission is ideally positioned to gain the support of the G20 to promote its norms in the EU.

But why would the Commission support G20 norms and promote them in the EU? In the literature, both rationalist and sociological institutionalism provide an explanatory framework for the influence of international institutions on domestic processes. In a rational choice tradition, it is argued that domestic actors make cost-benefit calculations based on their preferences. Depending on the anticipated consequences (rewards or punishments), actors may change their strategies. Alternatively, social-constructivists state that international institutions shape the goals and behaviors of domestic actors by modifying their underlying preferences. While acknowledging the merits of the latter approach, this paper only focuses on a specific aspect within a rational choice perspective: the strategic calculations of the European Commission.

The European Commission as a Strategic Actor

According to Hix (1999: 52), the European Commission has, like any bureaucracy, specific policy preferences. It has an incentive to promote its own power and organizational development. But instead of pursuing a greater budget for the EU, the Commission aims more EU regulatory policies. In order to push forward the process of European integration and to enhance and develop further the policy role of the EU, the Commission may use its strategic goal-setting capacity (Cini 1997: 19). Hence, the European Commission can be conceived as a strategic actor. Consistent with a rational choice paradigm, the Commission would thus promote norms of international institutions if these norms would benefit its own preferences: a greater European integration or an increase of its power.

There are several reasons that explain how the Commission could empower itself by strategically promoting international norms. First, international norms are instrumental to generate pressure on domestic actors. It is widely recognized that government officials appeal to international norms and rules to further their own interests in the domestic political arena (Cortell and Davis 1996: 453, Gurowitz 1999: 418). Accordingly, the Commission may use G20 norms as an argument for its policy initiatives and to further European integration, in line with its preferences. Second, international norms may induce institutional gains for specific EU institutions (Costa 2009: 248). Since the range of policies within the proper purview of the EU is not clearly defined, an active policy entrepreneur may be able to expand the range of issues under consideration and with it expand the scope of Union action (Peters 2001: 88). Therefore, substantive issues may be instrumentalized to establish informal institutional gains. This informal institutional expansion results in a new status quo which could eventually lead to changes in formal institutions (Farrell and Héritier 2003: 583-584). Thus, the Commission might use G20 norms to trigger institutional expansion.

Such a strategic behavior may not only empower the Commission within the EU, it could also have implications for its position in the G20. In particular, the Commission could enhance its political position in the G20 by successfully promoting G20 norms and ensuring their effective implementation in the EU. This would allow the Commission to increase pressure on its G20 partners to comply with their commitments. In addition, the EU could also benefit from a first-mover advantage in the G20 when it succeeds in translating broad principles that are agreed in the G20 into concrete measures. Later on, when the G20 decides to elaborate those principles more specifically, the EU might already have laid the basis.

Hence, this illustrates the interaction between internal and external motives. International norms could be used to put pressure on domestic actors in order to advance internal legislative processes after which these processes are used to put pressure on international actors. In his analysis of the international negotiations at the G7 Bonn summit of 1978, Putnam (1988) conceptualized the interaction between the domestic and the international level as a two-level game where the negotiators operate on two 'tables' at once: the domestic and the international. Diplomatic options are constrained by what the other negotiators will accept and what domestic constituents will ratify. The range of possible outcomes that would command sufficient domestic support for ratification is referred to as the win-set (Young 2003: 55). An international agreement is possible only if the win-sets of the negotiating parties overlap and the larger each win-set, the more likely they are to overlap. Conversely, the smaller the win-sets, the greater the risk that the negotiations

will break down. But from a single negotiator's perspective, a small domestic win-set could be a bargaining advantage because the larger his perceived win-set, the more he can be 'pushed around' by the other negotiators (Putnam 1988: 440). Consequently, by fostering an EU legislative framework, the Commission could reduce the size of its win-set which might imply a strategic advantage in the G20. This paper examines the extent to which the Commission uses the internal EU legislative developments as an argument towards the G20, rather than analyzing whether this argument is used at the G20 negotiating table. Therefore, further research will be needed to assess the impact of a first-mover advantage on the Union's bargaining power in the G20.

To summarize, the European Commission is extremely well positioned to act as a domestic policy entrepreneur promoting norms of the G20. Moreover, the central position of the Commission on the EU-G20 connection offers a number of strategic opportunities for the Commission itself. Subsequently, this leads us to expect that the Commission would strategically exploit its role of policy entrepreneur in order to strengthen its own position both domestically (EU) and internationally (G20). Before turning to the empirical analysis, it is imperative to dwell upon the problem of causality.

The Problem of Causality

If one wants to examine to what extent the G20 has urged the Commission to initiate legislation, causality problems may arise. In a complex policy-making setting with a national, supranational and international component, it is difficult to exactly pin down the impact of each actor. Therefore, by focusing on the use of G20 norms by the European Commission rather than on the actual G20's influence on the outcome of policy processes, this paper circumvents these difficulties. Nonetheless, it is necessary to consider the following elements when reading the empirical part of this paper. First, the global economic and financial crisis has forced the EU to coordinate a common response even before the first meeting of the G20 Heads of State and Government took place in November 2008. The EU's crisis response was deemed essential to deal with the current and future crises regardless the outcome of the G20 meetings. For example in October 2008, the EU composed a High Level Group under Jacques de Larosière to look at cross-border financial supervision. The group's report contained elaborate recommendations which laid the basis of the EU's agenda on financial regulation and supervision. Therefore, the case of fossil fuel subsidies is particularly interesting because it is not directly crisis-related. Second, the European Commission also experienced pressure from the European Parliament and the member states, in particular the EU4. For example with regard to the excessive bonus culture in the financial sector, there was a wide-spread consensus in the EU to address this problem. France and Germany have led the fight against bankers' bonuses in the EU as well as in the G20 and even the UK recognized the need for increased regulation of remuneration structures. Consequently, it can be assumed that the EU would have taken measures on compensation practices if the G20 would not have existed. A third aspect is the possibility that the EU4 could influence the EU through the G20. It is not inconceivable that the EU4 could put a significant mark on the G20 outcome, for example when the UK held the G20 presidency in 2009. This complicates attempts to isolate the G20 effect.

PART II: EMPIRICAL EVIDENCE

Remuneration policy

The financial crisis has launched a debate on remuneration in the financial sector. Especially since several banks have been bailed out with taxpayers' money, the culture of bank bonuses have come under heavy fire from citizens and policy-makers. There are two dimensions to this problem: one is the often excessive level of remuneration in the financial sector; the other one is the structure of this remuneration, notably the fact that they induce too much high risk-taking and encourage short-termism to the detriment of long-term performance. Even though social-political dissatisfaction has tended to focus on the former, it is primarily the latter issue which has contributed to the crisis (de Larosière 2009).

At their first summit in November 2008, the G20 Heads of State and Government called the financial institutions to promote stability with clear internal incentives and to avoid compensation schemes which reward excessive short-term returns or risk-taking.³ In London, the G20 endorsed the *Principles for Sound Compensation Practices* issued by the Financial Stability Board (FSB)⁴, the executive arm of the G20. The FSB principles call for a greater involvement of the firms' boards of directors in the remuneration process. The FSB also says pay should be adjusted for the risks an employee takes and payments should not be finalized over short periods where risks are realized over long periods. The FSB does not, however, attempt to place any kind of cap on the amounts banks pay out to their employees.⁵ Later, the FSB elaborated these principles and submitted detailed specific proposals on global standards on pay structure to the G20 Pittsburgh summit.⁶ Subsequently, the G20 entrusted the FSB with the task to monitor the implementation of the FSB standards.⁷ However since Pittsburgh, it seems that the momentum is gone, with the G20 in Toronto en Seoul asking for a full implementation of the FSB's standards. A peer review report on the implementation of the FSB standards⁸ shows that most developing nations are lagging behind advanced economies, partly because of diverging views on the importance of compensation in fixing the financial system (Masters 2010).

The question is now whether the European Commission has proposed measures to regulate compensation policies in the financial sector and to what extent the Commission has used the G20 to legitimize these initiatives. On April 30, 2009, the Commission adopted two recommendations, one on remuneration policy in the financial services sector⁹ and one on

³ 'Declaration summit on financial markets and the world economy', November 15, 2008.

<http://www.g8.utoronto.ca/g20/2008/2008declaration1115.html>

⁴ formerly Financial Stability Forum. The FSB consists of the G20 members, Hong Kong SAR, the Netherlands, Singapore, Spain, Switzerland and a number of international organizations and standard-setting bodies.

<http://www.financialstabilityboard.org/members/links.htm>

⁵ 'FSF Principles on Sound Compensation Practices', April 2, 2009.

http://www.financialstabilityboard.org/publications/r_0904b.pdf

⁶ 'FSB Principles on Sound Compensation Practices. Implementation Standards', September 25, 2009.

http://www.financialstabilityboard.org/publications/r_090925c.pdf

⁷ 'Leaders' Statement: The Pittsburgh Summit', September 24-25, 2009.

<http://www.g7.utoronto.ca/g20/2009/2009communique0925.html>

⁸ Thematic Review on Compensation. Peer Review Report', March 30, 2010.

http://www.financialstabilityboard.org/publications/r_100330a.pdf

⁹ C(2009) 3159

remuneration of directors of listed companies¹⁰. The recommendations lay out some general principles on sound remuneration practices, but without legal force. In these recommendations, the Commission calls for an appropriate balance of fixed and variable remuneration components. Companies should also be able to reclaim the variable component if it is paid on the basis of data which proved to be misstated. Of course, the main argument for the Commission to adopt the recommendations is substantive, improving the risk management in financial firms and align pay incentives with the sustainable performance of companies in general. But the Commission's accompanying communication also reveals another rationale behind this recommendation stating that it "puts the EU in the vanguard in implementing the commitments made at the G20 summit in London on 2 April 2009".¹¹ Also in the Frequently Asked Questions on the recommendations, the Commission emphasizes that the EU will be "leading the way in implementing the G20 commitments but will also be working with other G20 members to ensure their global implementation". The creation of a level playing field definitely seems to be a priority for the Commission as it "intends to ensure that, through its participation to the FSB and G20, an effective application of similar rules on remuneration policy in the financial services sector is taking place at global level to provide a level playing field on this issue".¹²

However remarkably, the G20 is not mentioned at all in the actual texts of the two recommendations. International cooperation on remuneration in the G20 context is only referred to by general reference: "it is acknowledged that to be more effective, principles on sound remuneration policy would need to be implemented globally and in a consistent manner"¹³. This could possibly be explained by the reluctance of the non-G20 EU member states to recognize the G20 as a legitimate global decision-making body. Therefore, non-G20 EU member states asked to remove all references to the G20 from legislative EU documents, especially in the early months after the emergence of the G20 in 2008.¹⁴ Yet, EU member states have by now shown a more tolerant attitude towards references to the G20.

Later in 2009, the European Commission proposed to make the relevant principles of the recommendations binding by including them in a revision of the Capital Requirements Directive¹⁵ (CRD). The CRD will strengthen rules on bank capital and bring remuneration arrangements of banks and investment firms within prudential oversight. Under the new framework, banking supervisors will be given the power to sanction banks with remuneration policies that do not comply with the new requirements. In the legislative proposal as well as in the accompanying press release and Frequently Asked Questions, references to the G20 were less in number and strength compared to the non-binding recommendations of April 2009. The Commission mentioned the G20 by saying that the proposal "is consistent with the high level international objectives agreed by G20 leaders", which is the strongest reference to the G20 made by the Commission in the context of the CRD. Nonetheless, in this respect, it is worth noting that the European Parliament has put forward up to 13 amendments to the Commission's proposal in order to align the text "to the FSB principles as endorsed by the G20". The Parliament also managed to adopt an article in the final text of the Directive which states that, "in line with the

¹⁰ C(2009) 3177, this recommendation complements earlier recommendations 2004/913/EC and 2005/162/EC

¹¹ COM(2009) 211 final

¹² COM(2010) 286 final

¹³ C(2009) 3159

¹⁴ Interview with Belgian official on January 12, 2011.

¹⁵ A directive is a legislative act in the EU.

conclusions of the G20, the FSB and the Basel Committee on Banking Supervision, further reforms may be necessary and in order to ensure appropriate democratic oversight of the process, the European Parliament and the Council must be involved in a timely and effective manner”.

Hedge funds and over-the-counter derivatives

Hedge funds have become the subject of increasing regulation by public authorities since the global financial crisis. A hedge fund is an actively and alternatively managed private investment fund that seeks to generate positive returns in good and bad markets (Frush 2007: 3). There are numerous types of hedge funds, varying by their investment strategy and the instruments they use. While originally, hedge funds often sought to evade (‘hedge’) some of the risk inherent in their investment, many current hedge funds do not hedge risk at all and even create more risk. Hedge funds typically are exempt from registration and disclosure requirements. The danger of hedge funds lies in the fact that, if a problem should arise, the downgrading of their positions could cause major turbulence in the financial markets, given the scale at which hedge funds operate.

One of the techniques that hedges fund can use is trading derivatives.¹⁶ Derivatives are contracts that protect the risk of owning things that are subject to unexpected fluctuations in for example interest rates, prices or weather conditions, but they may also be used to speculate on volatility. These financial instruments have no intrinsic value, but derive their value from the underlying ‘product’ such as a commodity, a currency, or even another derivative. Again, there are many types of derivatives.¹⁷ Some are standard products such as futures or options, while others are non-standardized (e.g. swaps) and customized to the specific needs of both parties. A minor part of all derivatives are traded in organized trading exchanges where prices are publicly displayed. The exchange acts as a central counter-party (CCP) which reduces counter-party risks by acting as an intermediary between the seller and the buyer of a contract. The CCP forces all participants to put up collateral against their trades which can be drawn upon collectively to cover losses if a counterparty collapses (Helleiner et al. 2010). However, most derivatives are traded off-exchange or, as commonly called, over-the-counter (OTC). As these contracts are negotiated bilaterally, prices remain private and each party is exposed to the risk that a counterparty may default. Because of the interconnectedness of the financial system, the lack of transparency and oversight of OTC derivatives poses a significant challenge to financial stability.

The G20 declared in November 2008 that all financial markets, products and participants must be regulated or subject to oversight.¹⁸ Later, in London, the G20 explicitly asked for regulation and oversight of systemically important hedge funds. Hedge funds or their managers should be registered and required to disclose appropriate information, including on their leverage. They should also ensure adequate risk management.¹⁹ Subsequently, the G20 extended the scope of regulation to OTC derivatives. The Pittsburgh communiqué states that all standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms and cleared

¹⁶ Other techniques include short-selling and employing leverage.

¹⁷ COM(2009) 332 final

¹⁸ ‘Declaration summit on financial markets and the world economy’, November 15, 2008. <http://www.g8.utoronto.ca/g20/2008/2008declaration1115.html>

¹⁹ ‘Global Plan Annex: Declaration on Strengthening the Financial System’, April 2, 2009. <http://www.g8.utoronto.ca/g20/2009/2009ifi.html>

through CCPs by end-2012. Derivatives that are not centrally cleared should be subject to higher capital requirements.²⁰

In spring 2009, the European Commission put forward a directive to regulate the managers of alternative investment funds (AIFM). Alternative investment funds (AIF) encompass, among others, hedge funds, private equity funds and commodity funds. Similar to the recommendations on remuneration policy, the European Commission did not refer to the G20 in the actual text of the directive. Nonetheless, in an impact assessment, the proposed directive is considered as fully consistent with the G20 appeal for appropriate regulation and oversight. Furthermore, the Commission explicitly expressed the hope that this EU level initiative will give the discussions on AIF regulation in international forums such as the G20 a further impetus and contribute to an international agreement on principles at least.²¹

Shortly after the G20 Pittsburgh summit, the Commission also outlined future policy actions to reduce the negative impact of OTC derivatives markets on financial stability.²² In this document, the Commission uses G20 norms in particular to legitimize substantive aspects of its approach. Remarkably, when reading carefully, the Commission suggests that it is the G20 that endorses the position of the Commission and not vice versa. Illustrative are the following two examples:

“The Commission has identified CCP-clearing as the main tool to manage counterparty risks and the G20 shares this view.”

and

“[...] the Commission explored the idea that non-centrally cleared contracts be subject to higher capital requirements. Following the G20 meeting in Pittsburgh, this has now become an internationally accepted principle.”

Later, the Commission also initiated legislation on OTC derivatives in which it clearly refers to the commitments made in G20 context.²³ This could indeed indicate that references in legislative documents have become less controversial for EU member states. Yet, it remains to be seen if the paragraph on the G20 will appear in the final text as the proposal on OTC derivatives is still under consideration in the European Parliament and the Council of Ministers.

With respect to the AIFM directive, the EU has reached a hard-fought agreement in November 2010. In this regard, it is noteworthy that G20 norms were used to defend as well as to criticize the proposed directive. A first illustration is related to the access of foreign hedge funds to European markets. France and Germany were opposed to giving a pan-EU license to foreign funds as they were concerned that controls on those would unlikely to be tight enough. Instead, they wanted member states to keep control of what products are sold in their individual markets. The UK, supported by the EU institutions, argued that pan-European access – a ‘passport’ – should be available for hedge funds which meet required standards. The British hedge fund industry criticized the scope of the draft AIFM directive claiming that it goes beyond the recommendations of the G20. According to the think-tank Open Europe, the Commission’s

²⁰ ‘Leaders’ Statement: The Pittsburgh Summit’, September 24-25, 2009.

<http://www.g7.utoronto.ca/g20/2009/2009communique0925.html>

²¹ SEC(2009) 576

²² COM(2009) 563 final

²³ COM(2010) 484/5

proposal would envisage virtually all hedge fund managers which is in contrast with the G20's emphasis on *systemically important* hedge funds.²⁴ US funds were also concerned that the rules may limit their access to European investors, whichever version would finally be adopted by the EU.²⁵

The European Commission tried to sideline any hint of a political plot against the UK by framing the proposed regulation as a priority that was set at the G20 talks and not just an EU initiative.²⁶ Similarly, it responded to American concerns that the EU decision to act on hedge funds was in line with the G20 commitments.²⁷ However, in turn, the UK and the US received backing for their position from the G20 ministerial meeting in June 2010. The group's finance ministers and central bank governors declared that regulatory measures on hedge funds must be implemented in a non-discriminatory way, clearly alluding to Anglo-Saxon worries.²⁸ Eventually, France surrendered not only because of wavering German support but also because it was sensitive to criticism from the US on the eve of its G20 presidency. France accepted to let funds qualify for a license to work across the 27 member states, while it obtained more policing power to a Paris-based European watchdog allowing it to monitor foreign funds.²⁹

Finally, the EU managed to reach a compromise shortly before the G20 summit in Seoul. As stated by the Commission, the deal is "another example of how the EU is leading the way in implementing our G20 commitments".³⁰ Also German and Belgian officials confirmed that this deal would allow the EU to hold its head high at the G20 Seoul summit.³¹

Fossil fuel subsidies

Generally, governments may subsidize energy either on production side by lowering the cost of energy production or raising the revenue of energy producers, or the consumption side by lowering the price paid by energy consumers. Subsidies on fossil fuels in particular have recently come under scrutiny because of their harmful economic and environmental impact. Studies have shown that fossil fuel subsidies not only encourage wasteful consumption and hinder investment in clean energy sources, they also cause market distortions and put a heavy burden on state finances. However, subsidies on fossil fuel consumption might meet social policy objectives by lowering the price of fuel and electricity for the poor. Yet, often the poorest do not benefit from these subsidies since their energy consumption is usually rather marginal (IEA et al. 2010, Runnals, 2009). In this context, the G20 decided in Pittsburgh to '[r]ationalize and phase out over the medium term inefficient fossil fuel subsidies that encourage wasteful consumption'. This commitment was reaffirmed at the subsequent G20 summit in Toronto.

²⁴ Persson, M., The EU's AIFM Directive: Likely impact and best way forward, Open Europe, September 2009.

²⁵ 'Germany and France join to block hedge fund rules', 29 September 2010. Financial Times

²⁶ 'Hedge funds face uncertain future after EU votes', 18 May 2010, EurActiv.com

²⁷ 'France, UK poised for EU hedge fund deal', 12 October 2010. EurActiv.com

²⁸ G20 Communiqué Meeting of Finance Ministers and Central Bank Governors, Busan, 5 June 2010.

²⁹ 'France, UK poised for EU hedge fund deal', 12 October 2010. EurActiv.com

³⁰ European Commission statement at the occasion of the European Parliament vote on the directive on hedge funds and private equity, MEMO/10/573, 11 November, 2011.

³¹ 'Ministers resolve row on hedge fund regulation', 20 October 2011. EurActiv.com; 'EU deal on hedge funds 'passport'', 20 October 2011, Irish Examiner.

In the EU, several member states subsidize fossil fuels by providing state aid to their coal mining industry. Although free competition is one of the founding principles of the EU's single market, the EU allows a derogation from this central rule for state aid to coal mines. Regulation of aid to the hard coal industry originated in the 1960s (World Coal Association 2011). That time, indigenous coal was given preferential treatment to compete on the international energy market. The EU continued to allow state aid for reasons of employment and energy security (Riise Kolstad 2004). Restructuring the coal industry would imply the closure of many uncompetitive coal mines leading to a loss of more than 100 000 jobs. Additionally, the European Commission deemed it necessary to preserve domestic coal production to maintain a degree of energy self sufficiency. Germany, Spain and Poland are the main beneficiaries of the EU's state aid regime for coal mines. Now that subsidized coal serves for only 5.1% of the electricity production in the EU, this regulation has become unsustainable.³² The state aid regime for the coal mining industry was set to expire at the end of 2010. As the industry was not yet ready for the highly competitive energy market, the Commission sought to establish a transitory regime to help the sector's transition to cleaner energy and the eventual closure of mines.

In June 2010, a leaked document from the European Commission showed that it was planning to prolong subsidies for the coal industry to 2023.³³ The document came at a bad timing since it leaked a few days before European Council President Van Rompuy and European Commission President Barroso would attend the G20 summit in Toronto. In a letter to the G20, both presidents even explicitly reaffirmed their commitment to rationalize inefficient fossil fuel subsidies. The Commission's draft proposal immediately evoked protest from environmental organizations as well as the from the European Commissioners for climate action, Connie Hedegaard, and environment, Janez Potocnik. They argued that the proposal goes against the EU's ambition to move to a low-carbon economy, as well as the EU's pledge in the G20 to phase out fossil fuel subsidies. Consequently, the European Commission decided to postpone the official publication of its proposal.³⁴

Some weeks later, the Spanish Commissioner for Competition Joaquin Almunia presented a new proposal to his colleague Commissioners in which he suggested to extend the state aid regulation to 2018. This would be in line with Germany's national plans to close all its hard coal mines by 2018. Almunia argued that the G20 conclusions referred to a gradual closure of the mines and stressed that the priority was to maintain a realistic period for implementing the closures. He also emphasized that the aim of the proposal was not to resolve problems relating to energy or environmental policy, but solely to address questions relating to the application of state aid control policy.³⁵ Nevertheless, he did not gather sufficient support and the Commission decided to prolong the subsidy regime only to 2014. Germany was certainly not pleased by this move, especially since the German Commissioner Oettinger was not present at the crucial meeting.

³² COM(2010) 372 final

³³ 'EU plans 'transition subsidies' for coal sector', June 24 2010, EurActiv.com

³⁴ 'Concerns put coal subsidy plans on hold', July 8 2010, European Voice.

³⁵ Minutes of the meeting of the Commission on July 20 2010, PV(2010)1927 final

The member states could change the deadline with unanimity, but given the opposition from the Netherlands, Denmark and Sweden, this would be nearly impossible.³⁶ The only option for Germany was to convince the Commission to alter its proposal. Hence, Germany and Spain started an intensive lobbying campaign and managed to receive support from the European Parliament, advocating the 2018 deadline. Even though the European Parliament's opinion was only consultative, the Commission faced extreme high pressure. Eventually, the Commission surrendered and changed the deadline to 2018 which was formally approved in December 2010.³⁷

Conclusion

It is argued that the European Commission uses its function as the connection between the EU and the G20 strategically to enhance its own position in the EU as well as in the G20. Though, empirical analysis of the EU's remuneration policy, the regulation of hedge funds and OTC derivatives and the state aid regime for coal mines only partially confirm our expectations set out in the analytical framework. On the one hand, the Commission uses the G20 norms only to a limited extent as an argument to further European integration. It does not seem that the Commission uses the G20 to pressure EU member states as it merely notes that its proposals are in line with G20 commitments. This could possibly be explained by reluctance of non-G20 EU member states to recognize the G20 as a legitimate decision-making body. Yet, EU participants in the G20 do refer to their G20 commitments when negotiating modalities of proposed EU legislation. However, since G20 communiqués remain rather general and multi-interpretable, both proponents and opponents of EU legislation may employ G20 norms to their own benefit. In addition, the EU4 do not automatically support the Commission's proposals and the case of state aid for coal mines demonstrates that strong national interests of an EU4 country overrule the G20 argument. On the other hand, it seems that the Commission refers extensively to the G20 to increase pressure on its G20 partners, by emphasizing the EU's swift implementation of G20 decisions. It is clearly illustrated that the Commission is determined to create a level playing field in the G20 context and that it will shape this process. In the case of OTC derivatives, the Commission also stresses its substantive contribution to the development of G20 norms. By doing this, the Commission may attempt to strengthen its delicate role in the G20 as a supranational organization in a club of nation-states.

References

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³⁶ 'German commissioner counting on MEPs for coal subsidies', November 18 2010, EUObserver.com

³⁷ 'Germany wins extension of coal subsidies', December 10 2010, Financial Times