



## **The European Union and its energy security challenges: engagement through and with networks**

Leal-Arcas, R; Rios, JA; Grasso, C

© Informa UK Limited, an Informa Group Company

For additional information about this publication click this link.

<http://qmro.qmul.ac.uk/xmlui/handle/123456789/10030>

Information about this research object was correct at the time of download; we occasionally make corrections to records, please therefore check the published record when citing. For more information contact [scholarlycommunications@qmul.ac.uk](mailto:scholarlycommunications@qmul.ac.uk)

This article was downloaded by: [169.255.160.239]

On: 14 July 2015, At: 08:21

Publisher: Routledge

Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: 5 Howick Place, London, SW1P 1WG



## Contemporary Politics

Publication details, including instructions for authors and subscription information:

<http://www.tandfonline.com/loi/ccpo20>

### The European Union and its energy security challenges: engagement through and with networks

Rafael Leal-Arcas<sup>a</sup>, Juan Alemany Ríos<sup>b</sup> & Costantino Grasso<sup>b</sup>

<sup>a</sup> European and International Economic Law, Centre for Commercial Law Studies, Queen Mary University of London, London, UK

<sup>b</sup> Centre for Commercial Law Studies, Queen Mary University of London, London, UK

Published online: 14 Jul 2015.



[Click for updates](#)

To cite this article: Rafael Leal-Arcas, Juan Alemany Ríos & Costantino Grasso (2015): The European Union and its energy security challenges: engagement through and with networks, Contemporary Politics, DOI: [10.1080/13569775.2015.1061242](https://doi.org/10.1080/13569775.2015.1061242)

To link to this article: <http://dx.doi.org/10.1080/13569775.2015.1061242>

PLEASE SCROLL DOWN FOR ARTICLE

Taylor & Francis makes every effort to ensure the accuracy of all the information (the "Content") contained in the publications on our platform. However, Taylor & Francis, our agents, and our licensors make no representations or warranties whatsoever as to the accuracy, completeness, or suitability for any purpose of the Content. Any opinions and views expressed in this publication are the opinions and views of the authors, and are not the views of or endorsed by Taylor & Francis. The accuracy of the Content should not be relied upon and should be independently verified with primary sources of information. Taylor and Francis shall not be liable for any losses, actions, claims, proceedings, demands, costs, expenses, damages, and other liabilities whatsoever or howsoever caused arising directly or indirectly in connection with, in relation to or arising out of the use of the Content.

This article may be used for research, teaching, and private study purposes. Any substantial or systematic reproduction, redistribution, reselling, loan, sub-licensing, systematic supply, or distribution in any form to anyone is expressly forbidden. Terms &

Conditions of access and use can be found at <http://www.tandfonline.com/page/terms-and-conditions>

## The European Union and its energy security challenges: engagement through and with networks

Rafael Leal-Arcas<sup>a\*</sup>, Juan Alemany Ríos<sup>b\*\*</sup> and Costantino Grasso<sup>b\*\*\*</sup>

<sup>a</sup>European and International Economic Law, Centre for Commercial Law Studies, Queen Mary University of London, London, UK; <sup>b</sup>Centre for Commercial Law Studies, Queen Mary University of London, London, UK

Energy security remains a vital issue for the European Union (EU), even more so in the wake of the events that unfolded in early 2014 in Ukraine. The EU's already fragile position in the international energy arena in terms of security of supply appears to be more uncertain than ever after its umpteenth fallout with its historic energy supplier, Russia. This situation is untenable and calls for swift and decisive action to adequately tackle the issue once and for all. The article looks at the creation of a single EU energy market through the integration of energy networks in the EU. This article then examines various ways to diversify its energy supply, whether through increasing the import of liquefied natural gas or through its relations with the Eurasian Union. It then explores the International Energy Charter as an example of the EU's engagement with transnational policy networks. It concludes that from energy transit, to technology transfer, to investment protection, energy and trade present interplays across various fields. Improvements can be made to the EU trading system to ensure greater energy security and more efficient energy markets.

**Keywords:** EU; energy security; single EU energy market; energy supply; natural gas; Eurasian Customs Union

### 1. Introduction

Energy security remains a vital issue for the European Union (EU), even more so in the wake of the events that unfolded in early 2014 in Ukraine. The EU's already fragile position in the international energy arena in terms of supply security appears to be more uncertain than ever after an umpteenth fallout with its historic energy supplier, Russia. This situation is untenable and calls for swift and decisive action to adequately tackle the issue once and for all.

---

\*Rafael Leal-Arcas, Reader in European and International Economic Law, Queen Mary University of London (Centre for Commercial Law Studies), United Kingdom. 2015 Fellow, Energy Community Secretariat. Ph.D. (European University Institute, Florence); JSM (Stanford Law School); LL.M. (Columbia Law School); M.Phil. (London School of Economics and Political Science); BA, LL.B. (Granada University). Member of the Madrid Bar. Author of: *International Energy Governance: Selected Legal Issues* (Edward Elgar Publishing, 2014); *Climate Change and International Trade* (Edward Elgar Publishing, 2013); *International Trade and Investment Law: Multilateral, Regional and Bilateral Governance* (Edward Elgar Publishing, 2010) and *Theory and Practice of EC External Trade Law and Policy* (Cameron May, 2008). Email: [r.leal-arcas@qmul.ac.uk](mailto:r.leal-arcas@qmul.ac.uk)

\*\*Juan Alemany Ríos, Research Associate, Queen Mary University of London (Centre for Commercial Law Studies). LL.M. (in European Law) (Queen Mary University of London); LL.B. (Université Catholique de Louvain). Email: [lc13239@qmul.ac.uk](mailto:lc13239@qmul.ac.uk)

\*\*\*Costantino Grasso, Research Associate, Queen Mary University of London (Centre for Commercial Law Studies). Ph.D. (University of Naples); LL.M. (Queen Mary University of London); International Research Fellow (Depaul University, Chicago). Qualified to practise as a solicitor in England and Wales, and as a lawyer in Italy. Email: [c.grasso@qmul.ac.uk](mailto:c.grasso@qmul.ac.uk)

In addition to the EU's energy dependence on the outside world,<sup>1</sup> other considerable difficulties exist. Firstly, the current regulatory framework on global energy governance is largely multi-layered and fragmented (Leal-Arcas & Filis, 2013a). The absence of both a single international organization that regulates global energy governance as well as a single agreement governing energy in a comprehensive manner contribute to this legal *vacuum* at the international stage on a crucial issue. Moreover, the disparate energy realities of the EU member states further aggravate this lack of cohesiveness within the EU itself by hindering a regional and comprehensive response from the EU (Leal-Arcas & Filis, 2013b, p. 1241).

If effective energy security is to be attained by breaking the Russian stronghold on energy supplies, the EU will need to mobilize multiple courses of action, both internally and externally. These measures should seek to enhance the governance of energy trade in order to foster energy security. We shall suggest measures and models which could normatively encourage this.

First, we will argue that the establishment of a single EU energy market could entail notable benefits in terms of global energy security through the interconnection of grids and transit rules with other regional energy markets.

Moreover, we shall contend that the diversification of energy supply sources should be a prime concern for the EU. In that sense, all EU member states should seek to trade with as many suppliers as possible. For instance, European countries should aim to import more liquefied natural gas (LNG) from an array of emerging energy exporters such as Iran, Indonesia, Malaysia or the USA, for instance. Consequently, the EU should invest in the construction of LNG terminals scattered all over the European continent.<sup>2</sup> Additionally, the construction of (abandoned, in some cases) alternative pipelines and energy routes, such as the Trans-Adriatic pipeline (TAP), the Trans-Anatolian gas pipeline (TANAP), Nabucco, South Stream or the Trans-Saharan gas pipeline, should be encouraged as a means to broaden energy trade relations and diversify energy imports. The idea of creating an EU energy union may help make all of this possible.

Finally, we shall argue that the Energy Charter Treaty (ECT) has considerable potential to play a determining role in attaining effective EU energy security. This could be the case were the ECT to be thoroughly revised and strengthened in order to effectively address today's energy security challenges. Moreover, expanding the Energy Charter's membership to energy-rich countries in the Middle East, North Africa and the Economic Community of West African States might enhance EU energy security through the creation of infrastructure that will boost international, long-distance trade in energy. In that vein, as of October 2014, the fourth round of negotiations regarding the creation of an International Energy Charter had been concluded.<sup>3</sup> The International Energy Charter is intended to be formally adopted and signed at a Ministerial Conference in The Hague in 2015. This declaration reflects the ambition of the Energy Charter to play an important role in the evolving architecture of global energy governance, well beyond the initial Eurasian steps.

After this introduction, the article will look at the creation of a single EU energy market through the integration of energy networks in the EU. This article will then examine various ways to diversify its energy supply, whether through increasing the import of LNG or through its relations with the Eurasian Union and explore the International Energy Charter as an example of the EU's engagement with transnational policy networks (TPNs).

## 2. The creation of a single EU energy market

### 2.1. General overview

Whilst the EU, in general, relies on the outside world for over half of its primary energy needs, the landscape changes vastly from one member state to another (e.g. Denmark is entirely self-sustaining, as it covers the totality of its energy needs through its own production, whilst Malta is

completely dependent on energy supplies from abroad).<sup>4</sup> These acute disparities in energy realities within the 28 EU member states lead to a certain fragmentation which hampers cohesive EU policy-making. In addition, the versatile nature of energy further exacerbates this cleavage, as certain aspects of energy fall within EU exclusive competence<sup>5</sup> or shared competence<sup>6</sup> between the EU and its member states, whilst others firmly remain within the sole competence of member states. Therefore, the EU faces unique challenges, at the moment of taking decisions on the international stage, that are inherent to its one-of-a-kind legal nature and which are not encountered by any other sizeable global actor, such as the USA or Japan, for instance (Leal-Arcas, 2008, p. 70).

Notwithstanding the traditional perception of energy policy as a profoundly delicate question that should be left to the individual discretion of each EU member state, the interdependence between EU member states in this particular field has never been so strong in political, economic and technical terms (Delors, Nilsson, Andoura, & Buffetaut, 2012, p. 2). For instance, Germany's unilateral decision to switch off nuclear power plants without consultation, in the wake of the Fukushima Daiichi nuclear disaster, triggered the decoupling of energy prices between Germany and the Netherlands on one side, and France and Belgium, on the other (Palle, 2013, p. 9). The EU is at a decisive juncture that calls for a comprehensive and solidarity-oriented approach in energy. If such a resolution is to be achieved,

the Europeans need to collectively move on, consigning to the history books their 'energy patriotism', their permanent dithering which has led to a situation where it is no longer clear who of the Union and its member states guarantees the shared interests of the peoples of Europe. (Delors, Andoura, & Derdevet, 2013)

The creation of the EU ensued from the Treaty Establishing the European Coal and Steel Community, concluded in 1951 between the six EU founding member states (Belgium, France, West Germany, Italy, the Netherlands and Luxembourg). At the time, this was an unprecedented agreement which guaranteed cooperation among these nations in order to assure peace but also prevent competition between European countries over energy resources.<sup>7</sup> In that sense, the European Commission has, on several occasions, prompted EU member states to remain loyal to the EU's roots: 'Europe needs to act now, together, to deliver sustainable, secure and competitive energy. In doing so, the EU would return to its roots ( ... ) the founding member states saw the need for a common approach to energy.'<sup>8</sup>

For a long time, EU energy policy has exclusively targeted the establishment of the internal energy market for gas and electricity, or the so-called European energy union, with the strong belief that such a development would reduce energy prices as well as promote energy security, by pushing for the gradual integration of national markets (Andoura, 2013). The advent of the Lisbon Treaty enabled the enshrinement of the concept of solidarity in Article 194.1 of the Treaty on the Functioning of the European Union (TFEU), which introduces the TFEU's Title XXI on energy. Even though Article 194.1 TFEU expressly calls for solidarity among member states in, *inter alia*, the attainment of effective energy security supply, this provision fails to endow EU institutions with the effective legislative means to fulfill this goal (Leal-Arcas & Filis, 2013a). In spite of this unfortunate deficiency, the EU gained a formal legal basis from which to derive an energy infrastructure policy as a means to accomplish a true internal energy market, a development which would constitute an undoubtedly important step towards energy security (Palle, 2013, p. 4).

The completion of a single EU energy market was set to be accomplished by 2014, with the aspiration that no EU member state would remain isolated from gas and electricity networks after 2015.<sup>9</sup> Taking into account the crucial importance of the energy sector for Europe's competitiveness, welfare and energy independence, the EU cannot afford failure.<sup>10</sup> Moreover, a 2014 study

by the European Commission projected that, were this internal energy market to be effectively created, it would entail a net economic benefit ranging from €16 billion to €30 billion per year (Booz & Company et al., 2013, p. 4).

In sum, the very disparate realities of each EU member state and the myopic pursuit of national interests are proving detrimental to the quest for effective EU energy security. Were EU member states to agree to cooperate and act within a ‘spirit of solidarity’ (as enshrined in Article 194.1 TFEU), thus enabling the EU to speak with a single voice, this longed-for comprehensive and regional approach would certainly prove more effective than a myriad of individual and national measures, thereby increasing the EU’s bargaining power at the global stage.

## 2.2. *Integration of energy markets between EU member states*

For many years, the EU has encouraged the development of energy networks in a variety of ways:

- (1) by financing, at the European level, the construction of trans-European energy networks;<sup>11</sup>
- (2) by adopting measures in order to foster the liberalization and opening up of electricity and gas markets;<sup>12</sup> and
- (3) by creating specialized European bodies to facilitate cooperation between transmission system operators (TSOs)<sup>13</sup> and energy regulators, such as the Agency for the Cooperation of Energy Regulators (ACER).

The EU’s Third Energy Package,<sup>14</sup> adopted in 2009, provides the EU with the necessary regulatory and legislative tools to complete a single EU energy market. More specifically, this legislative package tackles issues such as ownership unbundling,<sup>15</sup> regulatory oversight and cooperation, network cooperation, transparency, record keeping and access to storage facilities and LNG terminals by regulating transmission network ownership; ensuring more effective regulatory oversight; reinforcing consumer protection; regulating third-party access to gas storage; and promoting regional solidarity among EU member states in the event of a severe disruption of gas supply.<sup>16</sup>

In spite of calls (Delors & Nilsson, 2012) being made by reputed pundits and think tanks (such as Notre Europe, for instance) to promote a common response at the EU level through top-down measures<sup>17</sup> in order to achieve the completion of the internal energy market, to engage in such a movement straight ahead might prove counter-productive. Indeed, successful past experiences demonstrate that a regional, bottom-up<sup>18</sup> dynamic seems to be more suitable to tackle the issues encountered by the actors involved in the internal energy market, as the latter generally prefer to work with their neighbours, with whom they tend to share common interests and hardships, rather than at the EU level, where it is often difficult to reach a common position (Palle, 2013, pp. 5–6).

That said, the ultimate objective still remains the successful establishment of a fully fledged single EU energy market. Nonetheless, one may argue that the progressive integration of European energy markets through regional initiatives appears to be a more feasible route towards this goal than the imposition of binding EU targets, which could disregard national circumstances. Therefore, a collective response is indeed necessary at the EU level. However, given the multi-faceted nature of energy and the divergent realities surrounding each EU member state, a truly European response might be best achieved through a gradual blending of regional enterprises that would hopefully lead to the effective ‘Europeanization’ of the internal energy market.

This option seems to have been recognized by the European Commission in one of its communications,<sup>19</sup> and there are several examples that support our views. For instance, the Nordic power market (also known as Nord Pool) is a regional success story which proved that regional initiatives are well suited to fuse energy markets between EU member states (Palle, 2013, p. 7).

This bottom-up initiative resulted in the integration of the electricity markets of all Nordic countries (Denmark, Finland, Norway and Sweden), with the exception of Iceland, and should be shortly expanding to the Baltic States as well as the UK. Further illustrations of such regional ventures include the Pentilateral Energy Forum (Austria, Belgium, France, Germany, Luxembourg, the Netherlands and Switzerland)<sup>20</sup> and the Iberian electricity and gas markets (Portugal and Spain), to name a few (Palle, 2013, p. 7). The aim of all these enterprises is to harmonize prices and operations as well as to optimize cross-border capacity allocation. Thus, market integration favours the emergence of 'European' energy prices.

Broadly speaking, the security of natural gas supply is a more pressing concern in Central and Eastern Europe, whilst environmental considerations tend to underlie the energy policies of most EU member states located in the North-West of the continent (De Jong & Egenhofer, 2014, p. 2). Regional initiatives which are tailored to address specific difficulties encountered by a particular area of Europe seem to constitute a preferable alternative to a hasty 'Schengenization'<sup>21</sup> of the EU energy policy. This perception is further reinforced by the principle of subsidiarity,<sup>22</sup> which guarantees that action is taken at the lowest appropriate level of government. In that respect, the European Commission notes that

a regional approach has been and will also in the future be decisive for the integration of the European energy market. It allows for immediate results and can stimulate cross-border exchanges, increase security of supply and facilitate the integration of renewables. Often cooperation in a smaller group than the entire EU can go faster and can be better suited to address the particular challenges of the region concerned.<sup>23</sup>

The EU has undergone considerable progress over the last few years in its journey towards the effective materialization of the internal energy market. This drive has engendered a number of significant developments: wholesale electricity prices have remarkably declined, while the more volatile wholesale gas prices have remained stable since 2008;<sup>24</sup> there is a wider range of choice for consumers in terms of energy suppliers (European Commission, 2014b); more infrastructure links have been created;<sup>25</sup> and cross-border trade in gas and electricity between EU member states has experienced an upsurge.<sup>26</sup>

In spite of these auspicious advancements, much remains to be done. More concretely, investments should be directed towards the gas sector as a means to end the network isolation to which Baltic States are subjected, by diversifying the energy supplies in Central-Eastern and South-Eastern Europe.<sup>27</sup> In addition, linking the electricity grids within Germany and intra-Baltic States, those of the Iberian Peninsula, and Ireland as well as the UK with the European continent, constitutes a prime concern.<sup>28</sup> Further challenges that lie ahead include the creation of an integrated offshore grid in the Northern Seas as well as electricity highways that will enable cost-optimal integration of the EU's substantial offshore and renewables generation in the power system.<sup>29</sup> On 29 October 2014, EU member states voted in favour of allocating €647 million to finance key energy infrastructure projects, three-quarters of which should be completed by 2020 (European Commission, 2015). These initiatives will carry the label of 'projects of common interest' (PCI), which will entitle them to benefit from more expedient granting procedures as well as an enhanced regulatory treatment.<sup>30</sup> These projects will be scattered all over the European continent and will follow the guidelines instituted by the latest regulation on trans-European energy infrastructure.<sup>31</sup>

Moreover, the efficiency of the current European electricity infrastructure needs to be enhanced by establishing smooth and harmonized rules across Europe; these rules should be adopted by the European Commission (2014a). In addition, public intervention should be restrained, inasmuch as secure energy flows can be guaranteed by the energy market, since such interference may undermine investments in the necessary infrastructure and energy efficiency, as well as result in adverse consequences on consumer bills.<sup>32</sup> Finally, the role of



consumers within energy markets should become more active and links between wholesale and retail markets further strengthened in order to make the benefits of the European internal energy market more apparent on the retail level.<sup>33</sup>

In sum, referring vaguely to the concept of solidarity in order to trigger a truly comprehensive European response towards the completion of the internal energy market seems to be somewhat naïve and illusory. Our premise is that a cohesive European blueprint may be better achieved through the gradual blending of regional initiatives, instead of hastily pressing for an EU common position in order to finalize the European internal energy market. Although a harmonized position by the EU would undoubtedly be preferable to an array of discordant national measures, our premise is more nuanced. Indeed, pushing *ipso facto* for an EU common position in such a delicate and versatile matter as energy might prove counter-productive, especially if the EU member states involved lack the political will to do so. Instead, we would suggest that a bottom-up, regional approach could be better suited to finalize the longed-for European energy union. One may contend that these regional initiatives (which, as outlined earlier, have already proven remarkably successful in the past) composed of states confronted with the same adversities and pursuing similar goals will eventually merge into a coherent European blueprint. Such an approach might not bring about a truly internal energy market by as hoped for in the short term. Nonetheless, the advocated resolution presents the advantage of securing the foundations of such an ambitious enterprise by guaranteeing the effective commitment of all EU member states.

### 3. The diversification of energy supplies

#### 3.1. Increasing the import of LNG

LNG<sup>34</sup> is increasingly being perceived as providing the most immediate and promising alternative EU energy source to Russian gas (Stern et al., 2014, p. 29). This is so for a variety of reasons. First, LNG presents the invaluable advantage of transportation flexibility, which enables its effective geographical diversification (Brunekreeft & Guliyev, 2009). This point is of vital importance from a European perspective, as it would enable the EU to deal with alternative energy markets to Russia's (such as the USA or Qatar), which are recognized as strategically more reliable, in spite of involving longer distances, than energy supplies transported via pipelines from and through conflict-ridden or war-torn gateways, as is generally the case. Second, LNG encourages competition in the market. This is because the tankers and LNG terminals (which constitute the capital) are geographically less confined than gas pipelines. Therefore, they enable third parties to enter the market, thereby increasing competition.

Notwithstanding a meager rise in LNG imports to Europe in 2014, European LNG terminals (which enjoy a total re-gasification capacity of 200 billion cubic meters *per* year) have ample spare capacity, as their re-gasification capacity was less than 22% utilized in 2013 (Stern et al., 2014, p. 29). The issues of LNG imports displacing Russian gas revolve around the question of whether LNG supplies can actually be delivered to Central and Eastern Europe (i.e. countries such as Austria, Bulgaria, Czech Republic, Estonia, Latvia, Lithuania and Slovakia almost entirely depend on Russian energy exports), and whether LNG prices will be competitive with Russian gas. Following an assessment of May 2014 by the Commission,<sup>35</sup> Central and Eastern European countries, which are in a particularly vulnerable plight vis-à-vis Russia, have been taking preventive measures. For instance, Lithuania is striving to construct a new LNG terminal, in order to store and re-gasify LNG supplies originating from alternative energy partners (Buchan, 2014, p. 6). This initiative was praised by the European Commission as a pivotal advancement towards the alleviation of the region's energy hardships, since the Klaipėda LNG terminal will readily ensure LNG supplies to all Baltic States, were Russia to cut-off its gas flows (Seputyte, 2014).

In spite of having a considerable total re-gasification capacity, European LNG terminals are scattered in a singularly uneven manner across the continent, further deepening the fracture on the approach adopted by different regions towards energy security. Indeed, most of this re-gasification capacity is located in North-West Europe (namely Belgium, France, the Netherlands and the UK) and South-West Europe (Italy, Portugal and Spain), which accounted for a towering 97.1% of the total European re-gasification capacity; South-East Europe (with only one LNG terminal, based in Greece) merely represented 2.9%, whilst the Baltic region remained idle on this front, as of 2014.<sup>36</sup> Notwithstanding notable improvements being undertaken (especially with the increase of the network's capacity to reverse energy flows) following the so-called security regulation,<sup>37</sup> most of the existing European energy infrastructure and grids were originally assembled with the main purpose of delivering Soviet gas to the West and the South of Europe. In that sense, the somber circumstances surrounding South-East Europe and the Baltic States may only be surmounted through prominent investment in new infrastructure (Stern et al., 2014, p. 37).

Over the last few years, the EU has been striving to finance and foster LNG terminals across Europe in order to diversify its sources of supply, thereby revitalizing its energy security. As far as the 'danger zones' alluded to earlier are concerned, the most promising developments seem to be the Klaipėda LNG terminal in Lithuania and the Świnoujście LNG terminal in Poland.<sup>38</sup> Indeed, in spite of having a relatively negligible capacity of nine billion cubic metres,<sup>39</sup> their inception marks the first material steps embodying the yearning within that region to overthrow its historic energy dependence on Russia. Moreover, these auspicious initiatives have inspired other countries to follow suit. For instance, Latvia is contemplating the construction of an LNG terminal in Riga; Estonia is working on a number of projects, including Paldiski, Muuga Tallinn and Sil-lamäe LNG terminals; whilst Croatia is considering the construction of a floating re-gasification unit in Krk Island, to name a few (Stern et al., 2014, pp. 38–39). Furthermore, many of these enterprises enjoy a PCI status, thereby entitling them to significant licensing and regulatory benefits, which should hopefully spur their finalization.<sup>40</sup>

### ***3.2. The Eurasian Customs Union, the Single Economic Space (SES) and the Eurasian Union***

The dissolution of the Union of Soviet Socialist Republics (USSR), which followed the Belavezha Accords,<sup>41</sup> ushered in several regional integration initiatives (on the collapse of the Soviet Union – de Tinguy, 1997). As a matter of fact, the Belavezha Accords represent the agreements that declared the Soviet Union effectively dissolved and that established, in its place, the Commonwealth of Independent States (CIS). As Hanson argued, although this agreement was signed on 8 December 1991 in Belovezhskaya Pushcha, the dissolution of the USSR has its roots in the systemic reform and revolutionary change adopted in the early 1990s (Hanson, 2004, p. 531). In the ensuing years, other regional organizations such as the Eurasian Economic Community (EurAsEC) (WIPO, 2000), the Russia–Belarus Union<sup>42</sup> and the Collective Security Treaty Organisation (CSTO) (ODKB, 2002) were established. Notwithstanding such initiatives, until recently real integration was absent. The situation appears to have changed only in 2010 with the entry into force of the Eurasian Customs Union and the following set of agreements that formed the Single Economic Space (SES)<sup>43</sup> in 2012 (Libman & Vinokurov, 2012, p. 29).

The Eurasian Customs Union (CU) of the Republic of Belarus, the Russian Federation and the Republic of Kazakhstan represents an integrated customs area which forms part of the EurAsEC. Under such supranational agreement, no customs duties or economic restrictions apply to reciprocal trade within the Union's territory. Its geographical area covers more than 20 million sq. kilometres and includes an overall population of around 170 million people (see Figures 1 and 2).

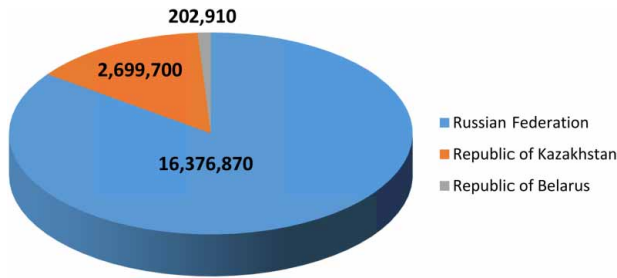


Figure 1. Eurasian Customs Union’s Geographical Area.  
 Source: The World Bank – Land Area (2010–2014), available at <http://data.worldbank.org/indicator/AG.LND.TOTL.K2>.

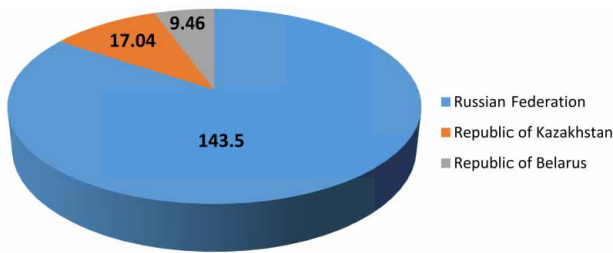


Figure 2. Eurasian Customs Union’s Population (in million of inhabitants).  
 Source: The World Bank – Data by Country (2013), available at <http://data.worldbank.org/country>.

The regulatory system adopted by the Eurasian Customs Union resembles that of other customs unions. In fact, its supreme body is the Interstate Council (the so-called *Mezhgossovet*) which, like the European Council, consists of state and government leaders and is presided over by a chairman elected twice a year. Moreover, as of October 2007, a Customs Union Commission (CUC) was established as an executive body, whose main task is to assure a proper functioning and development at the supranational level (Krotov, 2012, p. 130). In accordance with the terms of an agreement with the Russian government, the CUC, whose executive body is the Secretariat, is based in Moscow. This structure represents an absolute innovation in the Eurasian context because, since its beginnings in the 1970s, socialist economic integration traditionally showed considerable opposition and reluctance to introducing supranational institutions and, consequently, was diametrically opposite in its infrastructural details to the integration strategies pursued in Western Europe (Butler, 2013, p. 604). The Eurasian Customs Union’s legal and regulatory framework, comprising more than 70 international treaties and more than 900 regulations issued by the Eurasian Economic Commission, achieved full functionality by the end of 2011 (Eurasian Commission, 2013, p. 17).

On 18 November 2011, the presidents of Belarus, Kazakhstan and Russia signed a Declaration on Eurasian Economic Integration, predicated on recognition of the success of the Customs Union. Consequently, the Supreme Eurasian Economic Council developed a package of international agreements setting out the legal framework that established a SES, to come into effect among Belarus, Kazakhstan and Russia. On 1 January 2012, the SES became eventually operational (Eurasian Commission, 2013, p. 7). The SES represents a further stage of Eurasian Economic Integration and is based on the recognition of the so-called ‘four freedoms’ (i.e. the free movement of goods, capital, services and people) within the SES (Eurasian Commission, 2013, p. 18). The functioning of the SES entails that the member states should pursue coordinated

Downloaded by [169.255.160.239] at 08:21 14 July 2015

policies in key areas of their economies (e.g. macroeconomics, the financial sector, transportation, energy, trade and industry).

On 29 May 2014, the presidents of Kazakhstan, Belarus and Russia signed the agreement on the Eurasian Economic Union (EEU), also known as Eurasian Union, which came into effect on 1 January 2015. In October 2014, a treaty was signed to enlarge the EEU to Armenia (Eurasian Economic Union countries and Armenia arrange to ratify accession agreement soon, 2014). It represents the most recent stage of Eurasian integration. There are prospects that the EEU will be the most advanced organization for regional cooperation that the former Soviet bloc has ever seen, an achievement preceded by many false starts (Vitkine, 2014). According to this project, the Eurasian Customs Union and the SES represent the two main pillars of the EEU. The establishment of the EEU is based on a large codification work of the Eurasian Customs Union's and SES's laws and regulations. Such a codification is aimed at improving the applicability of the agreements between member states in several economic areas and defining the path to further Eurasian integration (Eurasian Commission, 2013, p. 39). From the EU's perspective, the entry into force of the Eurasian Union should be regarded, first and foremost, as the incarnation of a political project instigated by President Putin, which represents an alternative to the EU for Eastern European countries (Garcés De Los Fayos, 2014, p. 5).

### 3.2.1. *Link to the broader European context*

There is a variety of cogent reasons that explain the important role that the Eurasian Customs Union plays in the European context and that justifies the considerable influence on policy and decision-making that such a supranational institution and its members might exert within the EU. Energy policy and security appear to be the common thread running through the several critical issues that have arisen from the establishment of the CU as well as from its members' activities and policies.

First of all, as will be shown in the ensuing part of this section, the EU should be concerned about Eurasian political instability. Although Russia remains a major military power and attempts to project its dominance in Eurasia, the fact that a growing degree of instability is affecting the region calls into question Russia's capacity for leadership (Mamlyuk, 2014, p. 620). Several events are emblematic of the political fragility that the entire region is currently suffering. The so-called 'Five-Day War' is a case in point.

On 7 August 2008, Georgian forces responded to attacks by secessionists in South Ossetia and Abkhazia. The rebels were supported by Russian troops deployed as peacekeepers in those regions 15 years earlier with Georgia's consent. Because the Georgian attack killed some Russian soldiers, Moscow intervened and the two countries fought a five-day bloody war that killed more than 800 people (King, 2008). On 26 August 2008, the Russian President Medvedev unilaterally recognized Abkhazia and South Ossetia as independent states. Such recognition by Russia was condemned by the USA, the G7, the secretary-general of the Council of Europe, the president of the Parliamentary Assembly of the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE) chairman because of the violation of Georgia's territorial integrity. The conflict was motivated by a wish to control strategic oil and gas pipeline routes and, specifically, the Baku–Tbilisi–Ceyhan pipeline as a major route for oil delivery from Kazakhstan to Europe (Shanahan Cutts, 2008, p. 287).

Moreover, in June 2010, the adoption of a new constitution in Kyrgyzstan that aimed to establish a parliamentary system of governance resulted in four days of fierce ethnic clashes in the Southern cities of Osh and Jalal-Abad, leaving as many as 2000 people dead (Toktogulov & Boudreaux, 2010).

More recently, the 2013–2014 ‘Euromaidan’<sup>44</sup> protest in Ukraine led to Russian military occupation of Crimea and support to rebels in East Ukraine. Such hostile actions seem to represent a punishment for the Ukrainian decision of moving closer to the EU and refusing to join the EEU (Vitkine, 2014). The drastic nature of this retaliation appears to be related to the crucial importance that Ukraine assumes in the Eurasian context. As the former US national security adviser put it, ‘without Ukraine, Russia ceases to be a Eurasian empire’ (Brzezinski, 1998). Consequently, it is reasonable to suppose that further acts of violence will be perpetrated in the Caucasian region and that some currently frozen conflicts may be re-ignited, including the one related to Transnistria in Moldova and Nagorno-Karabakh in Armenia and Azerbaijan (Mamlyuk, 2014, p. 621).

Furthermore, the Eurasian Customs Union is assuming a greater role as a European antagonist in the confrontation for political and economic control and influence over the Eurasian region. According to Butler, the EU holds that some former Soviet Republics, such as Armenia, must choose between Brussels and Moscow (Butler, 2013, p. 599). As a matter of fact, from a European perspective, there is an inherent incompatibility between being associated with the EU and being a member of the Eurasian Customs Union. As reported by the Wall Street Journal, ‘countries in the Moscow-led customs union can’t be integrated into the EU [...] because they have effectively ceded sovereignty over trade issues to Russia’ (Bendavid & Norman, 2013). As a consequence, in a realist view of power relations, any success for Russia in terms of institutional realignment with its former Soviet ‘satellites’ represents inevitably a loss for Europe, and vice versa.

The serious deterioration in relations between Armenia and the EU is highly illustrative of this conflicted approach. In fact, Armenia was expected to enter into an Association Agreement with the EU during the Third Eastern Partnership summit held in Vilnius in November 2013, aimed at establishing closer cooperation between the EU and its eastern European partners (i.e. Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine) (European Union External Action, 2014). However, on 4 September 2013, the website of the Kremlin in Moscow posted a brief statement declaring that during a meeting between the President of the Russian Federation, Vladimir Putin, and the President of the Republic Armenia, Serge Sargsyan, Armenia had disclosed its decision to accede to a Customs Union originally formed by Belarus, Kazakhstan and Russia, rather than sign an Association Agreement with the EU (Bendavid & Norman, 2013). Although foreseeable and convincing motives led to this sudden and complete reversal, it caused considerable consternation within the EU. In fact, the choice appears to be based on Armenia’s crucial national interests. In order to obtain the turnaround, Russia used its powerful economic and military leverage: it is Armenia’s sole natural gas supplier and is able to determine the price of fuel; moreover, according to a bilateral treaty signed in 1996, there are about 3000 Russian soldiers officially reported to be stationed at the 102nd military base located in the Armenian town of Gyumri (Bendavid & Norman, 2013).

### 3.2.2. *The role of energy*

In such a complex scenario, energy plays a fundamental role. The dependence of the EU on energy imports, particularly oil and more recently gas, forms the backdrop for policy concerns relating to the security of energy supplies. Russia is currently the main exporter of gas and crude oil to the EU (see Figure 3).

As a consequence, the need to establish a closer dialogue with the Eurasian Customs Union appears to be unavoidable in the near future. The situation is exacerbated by the fact that the EU’s new Eastern members and aspiring members depend on Russian energy supply more than other EU member states. In fact, many countries that were members or satellites of the Soviet Union rely exclusively on gas and oil supply from Russia for their energy consumption. For countries

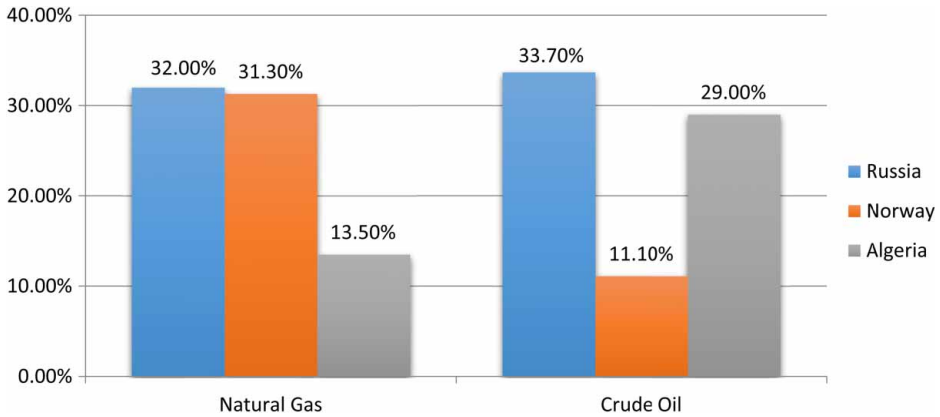


Figure 3. EU's Main Origin of Primary Energy Imports (2012).

Source: European Commission – Eurostat, 'Energy production and imports', available at [http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Energy\\_production\\_and\\_imports](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Energy_production_and_imports).

such as Poland, Hungary, Romania and Ukraine, obtaining energy independence from Russia seems even more difficult to achieve within a reasonable time frame. As opposed to Western Europe, gas pipelines in Eastern European countries mainly follow an east-west direction, without many interconnections (see Figure 4). As demonstrated during the gas crises between

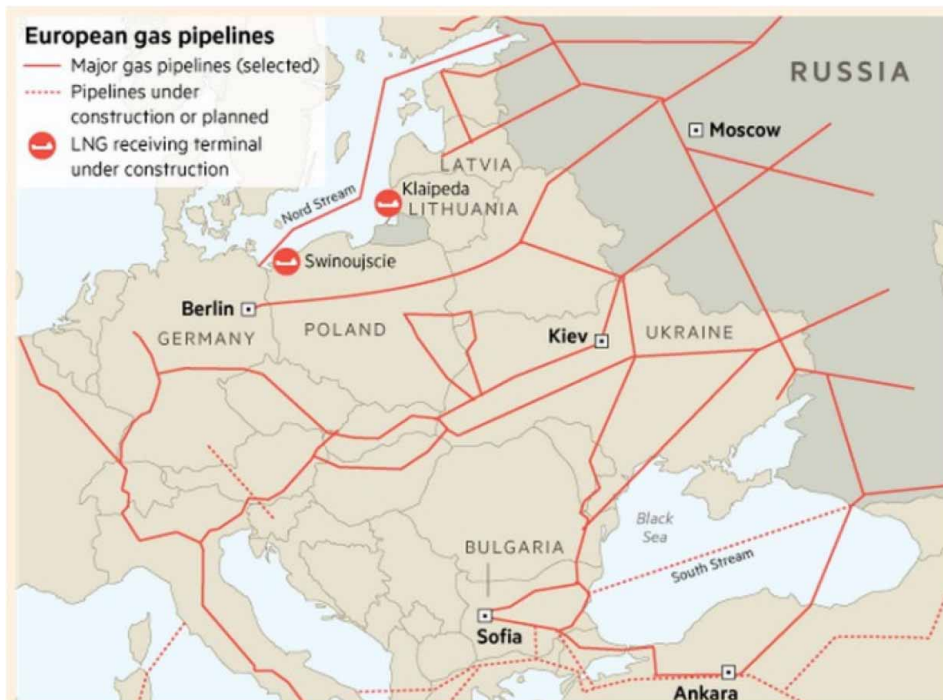


Figure 4. European Gas Pipelines.

Source: Exectech – Europe's Dependence on Russian Gas, available at <https://executivetechnology.wordpress.com/2014/11/09/europes-dependence-on-russian-gas-part-2/>.



Ukraine and Russia in 2006 and 2009, the absence of interconnections makes it almost impossible to provide gas to Eastern European countries in the event of a sudden interruption of supply from Russia. It is therefore not surprising that the EU is not only trying to improve the diversification of sources and routes of oil and gas furnishing but also to enhance the security of energy supply through the establishment of a Central Eastern European Pipeline Ring, aimed at closing the gaps in the existing network (European Commission, 2011).

### 3.2.3. Russian energy companies

In order to establish a dialogue on energy issues with the Eurasian Customs Union, Europeans inevitably need to build up a commercial relationship with the main Russian giant oil companies. The central complication here arises from the fact that, due to the strong influence that the Russian government exerts on these companies, they operate more like national oil companies than private companies, which renders the creation of a TPN more difficult because of lack of transparency and independence. They do not seek to only maximize profits, but also have politically driven aims such as fostering foreign and strategic policies, wealth redistribution and job creation (Olsen, 2013, p. 618). Because of profound differences in pursued policies, establishing a dialogue with these companies appears dependent upon more intense mediation by the EU institutions.

In this context, it is necessary to highlight significant features that distinguish the main Russian oil companies from all other international oil companies. Specifically, both Gazprom, the largest Russian gas producer, and Rosneft, which is the largest Russian oil producer (see Figure 5), will be briefly analyzed.

*Gazprom.* Gazprom's CEO, Aleksej Borisovič Miller, was politically appointed and is seen as one of Vladimir Putin's most trusted lieutenants. This fact is emblematic of the influence exerted by the government on the company (Olsen, 2013, p. 627). Since the collapse of the Soviet Union, the company has represented an extension of Russia's foreign policy in Europe. In the 1990s,

Russia's oil production by company, 2012		Russia's natural gas production by company, 2012	
Company	Thousand bbl/d	Company	Bcf/d
Rosneft	2,448	Gazprom	47.1
Lukoil	1,670	Rosneft	1.2
TNK-BP	1,493	LUKoil	1.6
Surgutneftegaz	1,223	Surgutneftegaz	1.2
Gazprom Neft	626	TNK-BP	1.3
Tatneft	518	Others	1.6
Slavneft	356	ITERA	1.2
Gazprom	314	Novatek	5.5
Bashneft	307	PSA operators	2.6
Russneft	295	<b>Total</b>	<b>63.4</b>
PSA operators	283		
Novatek	85		
Others	697		
<b>Total</b>	<b>10,315</b>		

Figure 5. Russia's oil and natural gas production by company (2012).

Source: Eastern Bloc Energy, available at <http://www.easternblocenergy.com>.

Gazprom entered into joint ventures with several companies in Germany, France, Italy and Finland and, by 1995, it already accounted for 21% of the Western European market and 55% of the Eastern European market (Poussenkova, 2010, p. 107). The significance of Gazprom as a fundamental actor in the energy sector can also be seen in the fact that the pipelines managed by the company are essential to the economies of Eurasian countries. The 2004 crisis with Belarus and, more recently, the gas disputes between Russia and Ukraine of 2006 and 2009 (Poussenkova, 2010, p. 117) are illustrative of Gazprom's strategic relevance and its willingness to adopt an aggressive approach to foster Russian economic and political interests.

In order to reduce its dependence on Ukraine as a transit country and to foster Russia's geopolitical aspirations, Gazprom has recently shown great interest in expanding its pipelines (Olsen, 2013, p. 629). In particular, it organized the construction of the Nord Stream pipeline, which runs under the Baltic Sea, with the capacity of 55 billion cubic metres annually. Gazprom signed for a 51% share in a joint venture with two German companies (EON Ruhrgas and BASF/Wintershall) (Tarasov, 2011, p. 77). Moreover, Gazprom participated in the South Stream pipeline project as a response to the European and American plan for constructing Nabucco, a 3300-km-long pipeline going from Turkey to Austria through Bulgaria, Romania and Hungary in order to obtain gas directly from Central Asian countries such as Azerbaijan, Turkmenistan and Iran (see Figure 6) and, consequently, make Europe more independent of Russian supply (Tarasov, 2011, p. 84).

The statement issued by the then President of the European Commission José Manuel Barroso appears emblematic of the importance that such a pipeline had for Europe: 'The Nabucco project is of crucial importance for Europe's energy security and its policy of diversification of gas supplies and transport routes' (European Commission, 2009). In 2010, Putin intervened, signing an agreement with Turkey forbidding the Nabucco pipeline to pass through Turkish territory in exchange for supporting another pipeline to be built in Turkey. As a result, by the end of 2012, the Nabucco project was officially abandoned, whereas the construction of the South Stream pipeline was initiated (Olsen, 2013, p. 631) but eventually abandoned. This project would have allowed Gazprom to send its gas to Southern and Central Europe via a pipeline under the Black Sea (see Figure 6).

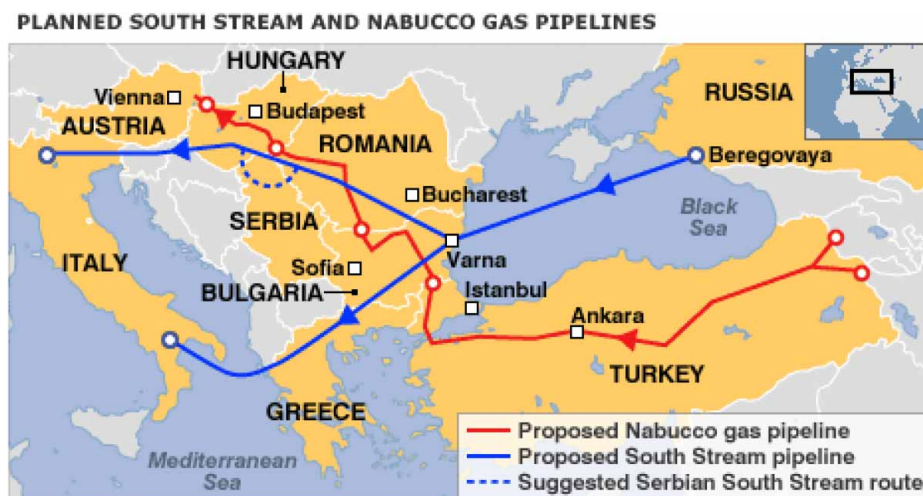


Figure 6. Nabucco and South Stream Pipeline Projects.

Source: BBC – Gazprom to control Serbia's oil, available at <http://news.bbc.co.uk/1/hi/world/europe/7799396.stm>.



Despite the enormous costs and difficulties of building such a pipeline, Gazprom repeatedly said it was committed to the project. In the absence of other valid economic reasons for the company, its main purpose appears to be to undermine European ambitions of reducing dependence on Russia's gas supply by means of the construction of Nabucco.

In conclusion, Gazprom has actively sought to thwart any European attempt to obtain energy supply from other nations and its expansionist ambitions have caused a significant political instability in the Eurasian context (Olsen, 2013, p. 631). Moreover, Gazprom has become the Kremlin's faithful servant and dangerous sword. Its role in today's Russia is best described by an old cliché: 'what is good for Gazprom is good for Russia' (Poussenkova, 2010, p. 111).

*Rosneft.* Rosneft's relevance among Russian oil companies grew exponentially after Vladimir Putin was elected president in 2000. Rosneft was chosen by Putin as an instrument to achieve his aim of establishing state control over the Russian energy sector. As a consequence, Rosneft consolidated its assets, becoming a national oil company (Olsen, 2013, p. 624). However, it acquired its strategic importance after the elimination of its rival gas company Yukos.

At the turn of the twenty-first century, Yukos was one of the largest private oil companies in the world and the largest in Russia (e.g. in 2003 it produced 589.11 million barrels of oil equivalent and signed important deals to export to both China and USA) (Poussenkova, 2010, p. 110). In the early 2000s, the CEO of Yukos, Mikhail Khodorkovsky, challenged Putin and his party, United Russia. Consequently, in 2003, Khodorkovsky was arrested and his company was accused of crimes, including tax evasion, by the Russian government. Throughout the summer of 2004, the government betrayed its real objective by announcing its intention to sell off Yukos' stock. The Baikal Finance Group, a shell company (i.e. a corporation without active business operations or significant assets), created two weeks before the auction and registered at the same address as a grocery store in the provincial Russian town of Tver, put in the only bid above the reservation price and then, eventually, Rosneft acquired Yukos' most valuable assets. This move ended days of speculation over what has been defined as one of the most bizarre and controversial sell-offs in Russian history (Belton, 2004).

The final liquidation of the company occurred in the fall of 2007 and all the assets of Russia's largest energy company passed into the hands of Rosneft (Stephan, 2013, p. 25). Rosneft has more than tripled its daily production in barrels of oil, becoming, since 2007, the largest oil producer in Russia. However, the arrest of Khodorkovsky and the seizure of Yukos' assets seriously weakened investors' confidence in the integrity of the Russian economy and many of them moved their capital out of the Russian market (Waltrip, 2008, p. 584). It appears evident that the massive expansion of this Russian energy corporation has its roots in a symbiotic relationship between the company and the government and, specifically, in the interests pursued by Putin and his entourage of oligarchs (Poussenkova, 2010, p. 103). The Khodorkovsky affair and the prominent role that Rosneft has currently assumed among Russian oil companies make it hard to keep believing in the project – launched after the collapse of the Soviet Union in 1991 – for creating a 'new Russia' through the privatization of industry, housing and land (Goldman, 2004, p. 33).

#### **4. EU engagement with energy TPNs: an International Energy Charter**

This section aims at showing the EU's influence and engagement in energy networks. Its involvement has shaped the EU's approach to energy security very successfully, as discussed below. This shows that the EU should continue to be engaged with energy TPNs moving forward.

Ever since Russia hastily withdrew from the ECT, there has been an unyielding resolution towards the modernization of the Energy Charter, which seems to be slowly but surely

materializing into concrete steps. Most notably, at the time of writing, there are rounds of negotiations regarding the creation of an International Energy Charter, which is intended to be formally adopted and signed at a Ministerial Conference in The Hague in 2015 (Energy Charter, 2014). An enlightening draft of the proposed text has already been released.<sup>45</sup> This declaration reflects the ambition of the Energy Charter to play an important role in the evolving architecture of global energy governance. Given the seemingly far-reaching consequences of this advancement, one may ask: what exactly will be the differences between the old and the new Charter?

First, the new Charter will seek to get rid of the perceived geographical ties with Europe. The new Charter will depict a new vision of energy security by defining the concept in such a manner that will enable the term to encompass not solely security of supply, but also other perspectives such as predictability of demand, safety of transit and absence of energy poverty (Beckman, 2014). In terms of their legal nature, the new Charter will merely be a political declaration which will lay out common principles for international cooperation in the field of energy (Energy Charter Secretariat, 2014, p. 1). Moreover, the new Charter will endeavor to accurately interpret and identify the new energy challenges of the current volatile juncture. Indeed, the need to replace ageing infrastructure, coupled with the unbridled growth of renewables and the establishment of new climate goals, exacerbates the uncertainty amidst investors as to where to invest (Beckman, 2014). Therefore, by clearly singling out the most pressing issues, the new Charter should empower countries to develop a luring investment climate through the waning of these trade and investment uncertainties within the energy sector.

The major challenge for the new Charter will be to attract nations which enjoy momentous energy wealth. The legitimacy and credibility of a new global agreement on energy would certainly, at best, be questionable were energy giants such as Russia or Saudi Arabia to articulate a blunt reluctance to the conclusion of such a treaty. In that sense, the new Charter will have to break free from the, alleged, aura of favoritism towards European hardships and goals that the current Energy Charter unpins. An international agreement which takes into consideration the disparate energy realities encountered by the various nations around the globe would enjoy greater recognition and hopefully become a cornerstone of more cohesive international energy governance for the future. In a similar vein, one may argue that the negotiations on this new Charter may provide an optimal platform for Europe and Russia to reconcile their wildly discordant stands on the energy front. In that sense, it is a remarkably telling fact that the current negotiations are held in English with Russian translation and that one of the official languages of the new Charter is Russian (Energy Charter Secretariat, 2014, p. 5).

These great expectations should be tempered by recalling that the updated Energy Charter will merely have a political nature.<sup>46</sup> That said, one may contend that the purely voluntary essence of this visionary enterprise might be pivotal towards achieving a larger consensus between countries of all continents confronted with eminently divergent energy afflictions and aspirations. By laying down harmonized principles which truthfully reflect the current dynamics of the international energy scenery, one may anticipate that an initial political agreement on these matters might be the prelude to a more daring and ambitious multilateral legally binding treaty. If this more affable setting enables the accord of a vast number of energy importers and exporters, the advent of the new Charter will represent an unsurpassable opportunity to push for the enlargement of the Energy Charter's membership to energy-rich countries in, *inter alia*, the Middle East, North Africa and the Economic Community of West African States, thereby constituting a further avenue towards the enhancement of EU energy security through the creation of an infrastructure that will boost international, long-distance trade in energy.

In order to accentuate Europe's determination to truly diversify its sources of energy supplies, all EU member states should seek to trade with as many suppliers as possible. As a means to press for the fulfillment of this particular goal, a norm, whereby each signatory of the ECT should not

rely on a single supplier outside its own continent for more than 50% of its primary energy needs, should be enshrined in the International Energy Charter. Why 50%? One may contend that this target (50%) has, arguably, the merit of being challenging enough so as to spur EU member states and other ECT signatories to resolutely diversify their sources of energy supply. Moreover, from the EU's point of view, such a rule would imply drastic changes in the energy policies of many of its member states (particularly those located in Central and Eastern Europe). Indeed, countries such as Austria, Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania and Slovakia almost entirely depend on Russian energy exports. As to the 50% target per se, one may argue that given the current energy juncture within the European continent (characterized by the Russian stronghold on energy supplies), the figure acknowledges the difficulty of the task, whilst remaining daring and ambitious.

While waiting for the developments regarding the new Charter to unfold, one may argue that (except for Australia, the Caspian countries and Norway) most of the ECT parties are also craving energy importers, especially after Russia's withdrawal from the ECT. Therefore, these states may benefit from such a rule by diversifying their sources of energy supply for their own sake. In a similar vein, taking into account, the arguably, moderate success of the EU's self-indulgent strife to promote its regional energy interests through the ECT, we suggest that embracing a more constructive and comprehensive approach by truly acknowledging the energy woes of other states would be more effective towards the attainment of global energy security which, in turn, would entail positive consequences for Europe.

In sum, we contend that, the current winds of change, through the prospected advent of an International Energy Charter in 2015, provide a preeminent chance to modernize the current Energy Charter in order for the International Energy Charter to adequately confront the current threats that loom over the international energy landscape. The new Charter could play a key role in the carving of the future architecture of global energy governance. To do so, the anticipated International Energy Charter will have to encompass the very diverse energy afflictions that smite all states around the globe, by redefining the term energy security, to gather major energy players and pave the way for more cohesive international energy governance.

## 5. Conclusion

From energy transit, to technology transfer, to investment protection, energy and trade present interplays across various fields. Improvements can be made to the EU trading system to ensure greater energy security and more efficient energy markets. The international community could create single energy markets at the regional level in different regions of the world (e.g. the internal energy market in the EU) and then connect the various regions (inter-regional connection of energy agreements). This entails the interconnection of grids and transit rules, which would provide energy security globally. Here is where the notion of energy TPNs can play a major role moving forward, both for the EU's own energy networks and more generally energy networks around the globe. Moreover, the expansion of the Energy Charter's membership to countries in the Middle East and North Africa and to the Economic Community of West African States may be an avenue to enhance EU energy security through the creation of an infrastructure that will enhance international, long-distance trade in energy. Also, the promotion of sustainable energy use abroad may, in the long run, contribute towards EU energy security indirectly by making more efficient use of energy resources globally.

## Disclosure statement

No potential conflict of interest was reported by the authors.

## Notes

1. The EU is 54% energy dependent on the outside world. See Rostowska (2014, p. 1).
2. That said, given the high cost of LNG infrastructure, an alternative way to enhance EU energy security would be through renewable energy, which is currently expensive. Southern Europe is blessed with sunlight; there is a lot of wind in northern Europe. The EU should therefore explore renewables as a long-term mechanism to achieve energy security and subsidies should go to this industry to make it cost-effective.
3. [http://www.encharter.org/index.php?id=21&id\\_article=568&L=0](http://www.encharter.org/index.php?id=21&id_article=568&L=0). To access the document of the proposed International Energy Charter, see [http://www.encharter.org/fileadmin/user\\_upload/document/IEC\\_ENG.pdf](http://www.encharter.org/fileadmin/user_upload/document/IEC_ENG.pdf)
4. European Commission, *Key Figures*, Market Observatory for Energy, Directorate-General for Energy, p. 8 (June 2013).
5. The EU alone is able to legislate and adopt binding acts in these fields. The role of the member states is therefore limited to applying these acts, unless the Union authorizes them to adopt certain acts themselves. Certain energy-related matters fall within exclusive EU competence, such as the competitive conditions of energy trade within the internal market, for instance. Article 3 TFEU.
6. Both the EU and member states are authorized to adopt binding acts in these fields. However, member states may exercise their competence only in so far as the EU has not exercised, or has decided not to exercise, its own competence. Energy, in its wide sense, is expressly referred to as a matter of shared competence between the EU and its member states. Article 4 TFEU.
7. Article 67 of the Treaty establishing the European Coal and Steel Community.
8. Communication from the Commission to the European Council and the European Parliament: An Energy Policy for Europe, at p. 3, COM(2007) 1 final (10 January 2007).
9. Conclusions of the European Council of 4 February 2011 (pp. 1–2), available at [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/ec/119141.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/119141.pdf)
10. Conclusions of the European Council of 21 March 2014 (p. 1), available at [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/ec/141749.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/141749.pdf)
11. Regulation (EC) No 67/2010 of the European Parliament and of the Council of 30 November 2009, laying down general rules for the granting of Community financial aid in the field of trans-European networks.
12. Directive 96/92/EC of the European Parliament and of the Council (19 December 1996) concerning common rules for the internal market in electricity; Directive 98/30 of the European Parliament and of the Council (22 June 1998) concerning common rules for the internal market in natural gas.
13. European Network of Transmission System Operators for Electricity (ENTSO-E) in 2003 and Gas (ENTSO-G) in 2005.
14. The EU's Third Energy Package is a legislative package for an internal gas and electricity market with the purpose of further opening up these markets in the EU. It consists of two directives and three regulations: Directive 2009/72/EC, concerning common rules for the internal market in electricity; Directive 2009/73/EC, concerning common rules for the internal market in natural gas; Regulation (EC) No 714/2009, on conditions for access to the network for cross-border exchanges in electricity; Regulation (EC) No 715/2009, on conditions for access to the natural gas transmission networks; and Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators.
15. Ownership unbundling is the

process by which a large company with several different lines of business retains one or more core businesses and sells off the remaining assets, product/service lines, divisions or subsidiaries. Unbundling is done for a variety of reasons, but the goal is always to create a better performing company or companies.

Investopedia, <http://www.investopedia.com/terms/u/unbundling.asp>.

16. European Parliament, "Towards a European Energy Community for the 21st century?" Directorate-General for Internal Policies of the Union (p. 12), available at <http://www.europarl.europa.eu/webnp/webdav/site/myjahiasite/users/nsalliarelis/public/BN%20on%20June%202010%20JPM.pdf>
17. A top-down approach to a problem is a situation that begins at the highest conceptual level and works down to the details. An example of such an approach would be where targets are set out at the international level and must be attained through national policies and measures.

18. A bottom-up approach to a problem is one that begins with details and works up to the highest conceptual level. An example of such an approach would be where action starts at the national level based on each country's circumstances through a patchwork of national policies and measures (which are not necessarily binding) until they develop into unified policies at the international plane.
19. See, for instance, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Progress towards completing the Internal Energy Market, at p. 15, COM(2014) 634 final (13 October 2014).
20. In 2005, the energy ministers of Belgium, France, Germany, Luxembourg and the Netherlands created the Pentalateral Energy Forum in order to promote collaboration in the field of cross-border exchange of electricity. See [http://economie.fgov.be/en/consumers/Energy/Energy\\_policy/International\\_context/Pentalateral\\_Energy\\_Forum/](http://economie.fgov.be/en/consumers/Energy/Energy_policy/International_context/Pentalateral_Energy_Forum/). Austria and Switzerland joined at a later stage.
21. The term Schengenization refers to the Schengen Agreement, which abolishes passport or any other form of intra-European border control among the 26 participating European countries, thereby establishing a common internal visa policy.
22. The principle of subsidiarity aims to determine the level of intervention that is best suited to address a task which falls within the areas of competences shared between the EU and its member states. Action may be taken at the EU, national or local level. The EU may only intervene when its intervention would prove more effective than that of its member states. See Article 5 of the Treaty on the European Union.
23. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Progress towards completing the Internal Energy Market, at p. 9, COM(2014) 634 final (13 October 2014).
24. Communication from the Commission to the European Parliament, the Council, The European Economic and Social Committee and the Committee of the Regions: Energy prices and costs in Europe, at p. 6, COM(2014) 21 final (22 January 2014).
25. *Ibid.*
26. *Ibid.*
27. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Progress towards completing the Internal Energy Market, at p. 15, COM(2014) 634 final (13 October 2014).
28. *Ibid.* at 9.
29. *Ibid.*
30. *Ibid.*
31. Regulation (EU) No 347/2013 of the European Parliament and of the Council (17 April 2013) on guidelines for trans-European energy infrastructure.
32. Communication from the Commission: Delivering the internal electricity market and making the most of public intervention, at p. 18, C(2013) 7243 final (5 November 2013).
33. 'Common rules and Infrastructure needed to complete Energy Market', available at [http://ec.europa.eu/energy/infrastructure/pci/pci\\_en.htm](http://ec.europa.eu/energy/infrastructure/pci/pci_en.htm).
34. LNG is a gas (usually methane) which has been cooled to  $-162^{\circ}\text{C}$ , where it condenses into a liquid phase. Compared to its gaseous form, LNG's energy density is 600 times greater, which enables marine transportation. Szalai (20 August 2012).
35. European Commission, 'In-depth study of European Energy Security,' accompanying the document Communication from the Commission to the Council and the European Parliament: European energy security strategy, SWD(2014) 330 final/3 (2 July 2014), available at [http://ec.europa.eu/energy/doc/20140528\\_energy\\_security\\_study.pdf](http://ec.europa.eu/energy/doc/20140528_energy_security_study.pdf).
36. These figures are calculated based on data as they appear in Gas Infrastructure Europe, Gas LNG Europe LNG Map, available at [http://www.gie.eu/download/maps/2014/GLE\\_LNG\\_JUNE2014.pdf](http://www.gie.eu/download/maps/2014/GLE_LNG_JUNE2014.pdf).
37. Regulation (EU) 994/2010 of the European Parliament and of the Council (20 October 2010) concerning measures to safeguard security of gas supply.
38. European Commission, 'A boost for clean and secure energy in Poland: European Commission approves more than € 200 million EU regional funds for liquefied natural gas terminal' press release (16 July 2013), p. 2, available at [http://ec.europa.eu/commission\\_2010-2014/hahn/projects/pdf/pl\\_2013\\_07\\_16\\_liquefied\\_natural\\_gas\\_terminal.pdf](http://ec.europa.eu/commission_2010-2014/hahn/projects/pdf/pl_2013_07_16_liquefied_natural_gas_terminal.pdf).
39. These figures are calculated based on data as they appear in Gas Infrastructure Europe, GLE LNG Map, available at [http://www.gie.eu/download/maps/2014/GLE\\_LNG\\_JUNE2014.pdf](http://www.gie.eu/download/maps/2014/GLE_LNG_JUNE2014.pdf).
40. This information can be accessed in the Excel format of the GLE Map Dataset (version 2014), available at <http://www.gie.eu.com/index.php/maps-data/lng-map>.
41. International Legal Materials [ILM] (1992, p. 138).

42. ILM (1996, p. 1190).
43. <http://www.eurasiancommission.org/en/Pages/ses.aspx>.
44. Euromaidan refers to the wave of demonstrations and civil unrest in Ukraine, which began in November 2013 and whose aim was to bring Ukraine closer to the EU.
45. See the proposed text at [http://www.encharter.org/fileadmin/user\\_upload/document/IEC\\_ENG.pdf](http://www.encharter.org/fileadmin/user_upload/document/IEC_ENG.pdf).
46. Ibid, p. 1.

## References

- Andoura, S. (2013). Energy solidarity in Europe: From independence to interdependence. *Notre Europe*, 25–26.
- Beckman, K. (2014, October 6). Exclusive: “In 2015, The Hague should see the birth of a new global Energy Charter” *Energy Post*. Retrieved December 2, 2014, from <http://www.energypost.eu/exclusive-2015-hague-see-birth-new-global-energy-charter/>
- Belton, C. (2004). ‘State steps in for Yukos unit’. *The Guardian* [Online]. Retrieved November 26, 2014, from <http://www.theguardian.com/business/2004/dec/23/russia.oilandpetrol>
- Bendavid, N., & Norman, L. (2013). Jilting EU, Armenia ties knot with Moscow. *The Wall Street Journal* [Online]. Retrieved November 19, 2014, from <http://online.wsj.com/articles/SB10001424127887324577304579054931777439514>
- Booz & Company, Newbery, D., Strbac, G., Pudjianto, D., Noël, P., & LeighFisher. (2013). *Benefits of an integrated European energy market* (p. 4). Retrieved from [http://ec.europa.eu/energy/infrastructure/studies/doc/20130902\\_energy\\_integration\\_benefits.pdf](http://ec.europa.eu/energy/infrastructure/studies/doc/20130902_energy_integration_benefits.pdf)
- Brunekreeft, G., & Guliyev, F. (2009). Gas supply security and the competitiveness on the European gas market. In C. J. Jepma (Ed.), *Gas market trading* (pp. 68–123). Groningen: Energy Delta Institute.
- Brzezinski, Z. (1998). *The grand chessboard: American primacy and its geostrategic imperatives*. New York: Basic Books.
- Buchan, D. (2014). Europe’s energy security- caught between short-term and long-term goals. *The Oxford Institute for Energy Studies*, 6, 1–11.
- Butler, W. E. (2013). Russia and the WTO system: Law, regionalism, and politics. *The University of Memphis Law Review*, 44, 599–617.
- De Jong, J., & Egenhofer, C. (2014). *Exploring a regional approach to EU energy policies* (CEPS Special Report No. 84), p. 2. Retrieved from <http://www.ceps.eu/publications/exploring-regional-approach-eu-energy-policies>
- Delors, J., & Nilsson, S. (2012). Energy policy needs more Europe: We call for a European Energy Community. *Notre Europe*.
- Delors, J., Nilsson, S., Andoura, S., & Buffetaut, S. (2012). Joint responses to energy challenges through a European Energy Community. *Notre Europe*, 2.
- Delors, J., Andoura, S., & Derdevet, M. (2013). France paving the way for a European Energy Community. *Notre Europe*, 1.
- Energy Charter. (2014). Negotiating parties agree on the text of the international energy charter. Retrieved December 2, 2014, from [http://www.encharter.org/index.php?id=21&id\\_article=568&L=0](http://www.encharter.org/index.php?id=21&id_article=568&L=0)
- Energy Charter Secretariat. (2014). “Updated” energy charter: Frequently asked questions (at p. 1). Retrieved from [http://www.encharter.org/fileadmin/user\\_upload/document/UEC\\_FAQ.pdf](http://www.encharter.org/fileadmin/user_upload/document/UEC_FAQ.pdf)
- Eurasian Commission. (2013). *Eurasian economic integration: Facts and figures* [Online]. Retrieved November 30, 2014, from [http://eurasiancommission.org/ru/Documents/broshura26Body\\_ENGL\\_final2013\\_2.pdf](http://eurasiancommission.org/ru/Documents/broshura26Body_ENGL_final2013_2.pdf)
- Eurasian Economic Union countries and Armenia arrange to ratify accession agreement soon. (2014, 10 October). *ARKA News Agency*. Retrieved from <http://arka.am/en/news/economy/eurasian-economic-union-countries-and-armenia-arrange-to-ratify-accession-agreement-soon/>
- European Commission. (2009). *President Barroso and Commissioner Piebalgs welcome the signature of the Nabucco Intergovernmental Agreement* [Online]. Retrieved November 24, 2014, from [http://europa.eu/rapid/press-release\\_IP-09-1114\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-09-1114_en.htm?locale=en)
- European Commission. (2011). *North-South Interconnections in Central-Eastern Europe*, [Online]. Retrieved November 24, 2014, from [http://ec.europa.eu/energy/infrastructure/north\\_south\\_east\\_en.htm](http://ec.europa.eu/energy/infrastructure/north_south_east_en.htm)
- European Commission. (2014a, October 13). Common rules and Infrastructure needed to complete Energy Market. Press release. Retrieved from [http://europa.eu/rapid/press-release\\_IP-14-1124\\_en.htm](http://europa.eu/rapid/press-release_IP-14-1124_en.htm)



- European Commission. (2014b). Internal energy market. Retrieved November 10, 2014, from [http://ec.europa.eu/energy/gas\\_electricity/internal\\_market\\_en.htm](http://ec.europa.eu/energy/gas_electricity/internal_market_en.htm)
- European Commission. (2015). Projects of common interest (PCI). Retrieved November 10, 2014, from [http://ec.europa.eu/energy/infrastructure/pci/pci\\_en.htm](http://ec.europa.eu/energy/infrastructure/pci/pci_en.htm)
- European Union External Action. (2014). *Multilateral Platforms 2014–2017* [Online]. Retrieved November 26, 2014, from [http://eeas.europa.eu/eastern/index\\_en.htm](http://eeas.europa.eu/eastern/index_en.htm)
- Garcés De Los Fayos, F. (2014). The signature of the Eurasian Union Treaty: A difficult birth, an uncertain future. European Parliament – Policy Department [Online]. Retrieved November 30, 2014, from [http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/536391/EXPO\\_IDA\(2014\)536391\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/536391/EXPO_IDA(2014)536391_EN.pdf)
- Goldman, M. I. (2004). Putin and the oligarchs. *Foreign Affairs*, 83(6), 33–44.
- Hanson, S. E. (2004). Reform and revolution in the late soviet context. *Slavic Review*, 63(3), 527–534.
- International Legal Materials. (1992). Armenia – Azerbaijan – Belarus – Kazakhstan – Kyrgyzstan – Moldova – Russian Federation – Tajikistan – Turkmenistan – Uzbekistan – Ukraine: Agreements establishing the commonwealth of independent states. *International Legal Materials*, 31(1), 138–154.
- King, C. (2008). The Five-Day War. Managing Moscow after the Georgia Crisis. *Foreign Affairs* [Online]. Retrieved November 17, 2014, from <http://www.foreignaffairs.com/articles/64602/charles-king/the-five-day-war>
- Krotov, I. (2012). Belarus, the republic of Kazakhstan and the Russian federation within the framework of the Eurasian economic community. *World Customs Journal*, 5(2), 129–137.
- Leal-Arcas, R. (2008). *Theory and practice of EC external trade law and policy*, p. 70 (Cameron May).
- Leal-Arcas, R., & Filis, A. (2013a). The fragmented governance of the global energy economy: A legal institutional analysis. *The Journal of World Energy Law & Business*, 6(4), 348–405.
- Leal-Arcas, R., & Filis, A. (2013b). Conceptualizing EU energy security through an EU constitutional law perspective. *Fordham International Law Journal*, 36, 1225–1301.
- Libman, A., & Vinokurov, E. (2012). Eurasian Economic Union: Why now? Will it work? Is it enough? *The Whitehead Journal of Diplomacy and International Relations*, 13, 29–44.
- Mamlyuk, B. N. (2014). Russia and regional trade integration in a historical perspective: Response to William E. Butler. *The University of Memphis Law Review*, 44, 619–632.
- ODKB. (2002). *Collective security treaty organisation* [Online]. Retrieved November 26, 2014, from [http://www.odkb.gov.ru/start/index\\_aengl.htm](http://www.odkb.gov.ru/start/index_aengl.htm)
- Olsen, M. (2013). The future of national oil companies and how they may improve their global competitiveness. *Houston Journal of International Law*, 35(3), 617–654.
- Palle, A. (2013). *Regional dimensions to Europe's energy integration*. Oxford: The Oxford Institute for Energy Studies.
- Poussenkova, N. (2010). The global expansion of Russia's energy giants. *Journal of International Affairs*, 63(2), 103–124.
- Rostowska, M. (2014). Energising TTIP: A step towards better EU energy security. *PISM Bulletin* 57(652), 1–2.
- Seputyte, M. (2014). "Lithuania grabs LNG in effort to curb Russian dominance". *Bloomberg*, 27 October 2014. Retrieved November 13, 2014, from <http://www.bloomberg.com/news/2014-10-27/lithuania-grabs-lng-in-effort-to-curb-russian-dominance.html>
- Shanahan Cutts, N. M. (2008). Enemies through the gates: Russian violation of international law in the Georgia/Abkhazia conflict. *Case Western Reserve Journal of International Law*, 44(9), 281–310.
- Stephan, P. B. (2013). Taxation and expropriation – the destruction of the Yukos oil empire. *Houston Journal of International Law*, 13(1), 1–52.
- Stern, J., Dickel, R., Hassanzadeh, E., Henderson, J., Honoré, A., El-Katiri, L., ... Yafimava, K. (2014). Reducing European dependence on Russian gas: Distinguishing natural gas security from geopolitics. *The Oxford Institute For Energy Studies*, 29, 1–81.
- Szalai, P. (2012, August 20). Gas in central Europe: From Russia to Qatar and back. *V4 Revue*. Retrieved November 21, 2014, from <http://visegradrevue.eu/?p=1016>
- Tarasov, J. D. A. (2011). The making of empires: Russia's gas-exporting pipelines v Nabucco. *The Journal of World Energy law and Business*, 4(1), 77–87.
- de Tinguy, A. (Ed.) (1997). *The fall of the soviet empire*. Ann Arbor, MI: East European Monographs.
- Toktogulov, K., & Boudreaux, R. (2010). Kyrgyzstan endorses new constitution. *The Wall Street Journal* [Online]. Retrieved November 17, 2014, from <http://online.wsj.com/articles/SB10001424052748703964104575334083904710678>

- Vitkine, B. (2014). Vladimir Putin's Eurasian economic union gets ready to take on the world. *The Guardian* [Online]. Retrieved November 19, 2014, from <http://www.theguardian.com/world/2014/oct/28/eurasian-economic-union-russia-belarus-kazakhstan>
- Waltrip, J. M. (2008). The Russian oil and gas industry after Yukos: Outlook for foreign investment. *Transnational Law & Contemporary Problems*, 17, 575–602.
- World Intellectual Property Organization (WIPO). (2000). Treaty on the establishment of the Eurasian Economic Community [Online]. Retrieved November 26, 2014, from [http://www.wipo.int/wipolex/en/regeco\\_treaties/details.jsp?group\\_id=24&treaty\\_id=443](http://www.wipo.int/wipolex/en/regeco_treaties/details.jsp?group_id=24&treaty_id=443)