Multiple Sources of Pressure for Change: The Barroso Commission and Energy Policy for an Enlarged EU

Jan Frederik Braun

Abstract

This article presents a preliminary analysis of how and why the role, work and status of the European Commission are changing in an enlarged European Union. It does so by focusing on multiple sources of pressure for change. These include: enlargement, new modes of governance, administrative reforms and changed leadership under Barroso. Combined, though not interlinked, these multiple sources of pressure are evidence of the increasing difficulty for the Commission to design and propose Community-wide answers to complex challenges in a more diverse Union. For this reason, the Commission under Barroso relies less on its traditional monopoly power to propose formal legislation and more on non-traditional modes of policy-making. Energy policy, especially its external dimension, constitutes a policy field that has been affected by enlargement, i.e. characterised by an increasing heterogeneity of needs and preferences among the member states. Not only does it resists Community-wide answers, it also allows the Commission, as an agent, to make use of bureaucratic drifts, i.e. exploit its strategic position in the EU's governance system and use of a range of formal and informal resources of expertise. To deliver sustainable European added value to this complex policy area, however, the Commission must focus more on pragmatic policy results by making smart use of the EU's increasing asymmetry, diversity and subsidiarity in a bottom-up approach. A non-legislative approach can serve as a *modus vivendi* to keep the momentum going in the Union's difficult struggle to establish a workable energy regime.

Keywords

Commission; Enlargement; external energy policy

THIS ARTICLE ANALYSES MULTIPLE SOURCES OF PRESSURE FOR CHANGE WHICH, PRIOR to and in the wake of the 2004-07 enlargements, explain how and why the role, work and status of the European Commission are changing in an enlarged European Union. These sources include: the rise of new modes of EU governance, administrative reforms in the Commission and changed leadership under President José Manuel Barroso. Recent studies about the effects of EU enlargement on the Commission have all documented a strong sense of continuity in terms of its institutional position and legislative output (see Settembri 2007; Kurpas *et al.* 2008; Peterson and Birdsall 2008). Without fundamentally changing matters, enlargement has interacted with multiple dynamics and reinforced trends and problems that pre-existed in the political system of the Union (Best *et al.* 2008).

Noticeable changes such as the Commission's strategy of proposing less legislative acts in order to dedicate more attention to key proposals are explained as being less a product of enlargement than of the general Euro-sceptic, political context of recent years (Kurpas *et al.* 2008). Therefore, in the overall EU policy-making process, it does not seem possible to measure precisely the impact that enlargement has had on the Commission. Nor can enlargement be isolated from other factors. While acknowledging this fact, this article argues that energy policy constitutes a specific area where enlargement has added increasing complexity and difficulty in EU governance, not least concerning the role of the Commission.

The most recent enlargement of the EU with 10 new member states from Central and Eastern Europe (CEES), plus two Mediterranean islands, has more or less coincided with fundamental changes in global energy markets. These changes include issues such as increased competition for resources and greater concern about climate change. Furthermore, recent events such as the Ukrainian-Russian gas crisis and the Russia-Georgia war have shown wide divisions between member states in the larger EU because of the differences in foreign policy objectives and the strategic security dimensions of energy supply. Add the fact that the enlargement of the Union with states that are asymmetrically dependent on hydrocarbon supplies mainly from Russia has strengthened worries about structural energy import dependency (De Jong and Van der Linde 2008; Van der Linde 2008). Changes on global energy markets and enlargement are sources of pressure that have pushed energy to the top of the Union's current political agenda, with security issues dominating both internal policy debates as well as external relations (Natorski and Herranz-Surrallés 2008). Energy security is defined here as the provision of affordable, reliable, diverse and ample supplies of hydrocarbons (and their future equivalents) to EU member states and adequate infrastructure to deliver these supplies to their markets (see Kalicki and Goldwyn 2005).

In light of these developments, energy has gone from a minor portfolio to one of the prime dossiers of the first Barroso Commission. Hence it formulated in 2007 a new integrated climate and energy policy (Commission 2007a). This Energy Policy for Europe (EPE) covers in a comprehensive approach the three main dimensions of current energy issues, i.e. increasing security of supply and ensuring the competiveness of European industries while promoting environmental sustainability and combating climate change (European Council 2007: 11). Responding to follow-up calls from the European Council, the Commission drafted and adopted further proposals. These proposals included legislative initiatives on issues such as further integration in the internal energy markets ('the Third Package') and the '20-20-20 policy', which is focused on achieving a low carbon economy and a more sustainable and diverse energy mix (Commission 2007b and 2008a).[1] A principal objective of the EPE is identifying the 'European added-value' to national energy policy-making, as the principle of subsidiarity dictates that "an EU role is warranted where EU action genuinely has benefits" (Behrens and Egenhofer 2008: 15). This added-value has been explained in terms of:

- Completing the internal energy market with adequate policy harmonisation;
- Developing a European solidarity or crisis regime in case of an energy supply crisis;
- Building stronger external energy policy capabilities;
- Pushing the development and deployment of energy technologies
  (see Behrens and Egenhofer 2008; De Jong 2008)

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[1] 20% reduction in greenhouse gas emissions, 20% share of renewable energy in EU final consumption and 20% improvement in energy efficiency by 2020.

Actually, achievements in the field of energy, including the adoption of the climate and energy package in 2008 and the activities towards enhancing EU energy security, such as the signing of the Nabucco Intergovernmental Agreement with Turkey in 2009, have been hailed by national capitals as one of the Barroso Commission's greatest successes (Kaczyński 2009).[2] More specifically, the climate change package has been dubbed as being among the top successes in over half of the Union's members, while achievements in energy security were particularly appreciated by some of the new member states such as Poland, Bulgaria and Hungary.

Despite this appreciation, however, the Commission's EPE proposals are marred by problems in areas such as design and implementation. The Third Package, for example, has been criticized by De Jong (2008) for being weakened by market design problems, especially in the areas of cross-border markets and their integration. Concerning the implementation of the 20-20-20 policy attempts, it has been noted that it fails to precisely highlight what national trade-offs exist between the approaches to the internal market, environmental policies and external energy relations (see Röller *et al.* 2007). Furthermore, this policy will lead to diverse implementation outcomes as members states "will take their own existing energy system as a point of departure and, based on their sovereignty over the energy mix, will seek solutions that serve the national interest first" (De Jong and Van der Linde 2008: 8).

To understand the weakness of the EPE proposals we must understand the Commission's incomplete competences in EU energy policy. These competences, or tools, are strongest in the areas of the internal market, competition and trade, while weak in foreign and security policy (Commission 2007; European Council: 2007; Van der Linde 2008). Member states resist increasing influence and competences of the Commission in the external dimension of energy policy because it is a complex issue located in the sphere of high (national) politics. Wide differences in areas such as the energy mix, import dependency, degrees of market liberalisation and limited cooperation in foreign and security policy all undermine the EU's ability to formulate a common external energy policy (see Behrens and Egenhofer 2008; Faber van der Meulen 2008).

This article argues that politically delicate problems such as energy policy cannot be solved through a dogmatic focus on institutional positions and the Community Method, i.e. the Commission's traditional monopoly power to propose formal legislation (Metcalfe 2004; Peterson 2006a).[3] And while 'continuity' seems to be the key term when comparing the Commission's actual output (in terms of acts adopted) under Prodi and Barroso's first college, in policy areas such as energy, the Commission is increasingly using non-legislative or 'soft law' such as Green Papers, White Papers and Communications as tools of policy-making (Kurpas *et al.* 2008). In addition to soft law, new modes of governance can be broadly defined to include voluntary agreements and the open method of coordination (OMC) as practised under the Lisbon process (Héritier 2001 in Jordan and Schout 2006). Instead of focusing on legislation or utilizing market mechanisms, these new modes seek to achieve policy goals via network governance, in which central bodies "have become increasingly dependent upon the cooperation and joint resource mobilization of policy actors outside their hierarchical control" (Börzel 1998: 260). In fulfilling complex policy goals such as energy and with a diminishing capacity to exert hierarchical authority,

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[2] This survey was conducted among national experts from 25 member states in the spring of 2009. The experts were asked to name up to three successes and up to three failures of the Commission 2004-2009 as perceived by national capitals.

[3] Given the variety of institutional arenas in the first pillar, the term Community Method should be regarded as an ideal type notion (Wallace and Wallace 2000 in Stetter 2007).

the Commission needs to reconcile itself to the position of a strategic node in EU network governance (Peterson 2008). By serving as a network manager, it should focus on managerial tasks such as scrutinizing, national energy strategies and publicly name and shame member states. Supplementing its 'grand central approach', i.e. hierarchic policy-making with new modes of governance, the Commission can establish a *modus vivendi* in the EU energy policy. In order to achieve this goal, it needs to focus on promoting bottom-up policy mechanisms that depart from the member states' increasing diversity and asymmetry in energy issues.

To explore the central arguments of how and why multiple sources of pressure for change have affected the Commission, specifically its position on energy policy, this article aims to answer the following questions:

- To what extent are multiple sources of pressure affecting the role, work and status of the Commission in an enlarged Union?

- What does the Commission's changing role and channels of influence in the new Energy Policy for Europe tell us about its position in larger EU governance?

- How can the Commission add more effective European added value to this policy area?

To realise these aims, this article is divided into two parts. Firstly, we introduce the institutional characteristics of the Commission in the EU political system followed by a brief overview of the output and use of hard and soft law in an enlarged Union. Secondly, we discuss some of the rationales that are affecting the Commission in an EU of 27. Taking these diverse rationales into consideration, the general part is concluded by formulating three provisional statements about the effects of enlargement on the role and influence of the Commission in the EU system.

The second part of this article focuses on an individual policy case study, i.e. the external dimension of the EPE. Consistent with literature on delegation, by utilising powers delegated by member states and exploiting its institutional position and overlaps between different policy fields and competences, the Commission is able to find and create major duties for itself. Hereby, the Commission has been able to advance its own interests and policy preferences. While not immune from political member state control, delegation to the Commission has resulted in a degree of bureaucratic drift whereby the latter is able to use its policy discretion to move outcomes closer to its ideal position in certain areas of energy policy (Mayer 2008). This article concludes, however, by arguing that the Commission needs to invest more in new modes of governance to add to the European added value in energy policy-making.

Introducing the Commission in an enlarged EU

As an actor and policy-maker, the Commission has always been a politico-administrative hybrid. This is due to the dual nature of its internal organisation. It consists of a highly political top, namely the College of Commissioners, their cabinets and the Secretariat-General, and the services, or Directorates-General (DG), which constitutes the less politically oriented 'bottom level' (Fugslang and Olsen 2009). As a whole, the Commission performs four main tasks which are quite distinct from one another. Edwards (2006) outlines these as:

- Initiating legislation (1st-2nd-3rd pillars)[4];
- A mediating role (among member states and between institutions);
- Overseeing policy implementation (guardian of the Treaties and the *acquis communautaire*);
- Representing the EU internationally (3rd countries and international organisations)

While overseeing policy implementation is mostly an administrative and legal task, representing the EU internationally constitutes a balancing act, involving work that is often highly technical but also political tricky, "with the Commission having to conduct two-sided negotiations with both the EU's member states and its trading partners" (Peterson 2006a: 504). On the other end of the administrative-political scale, the Commission's exclusive right to initiate policy under the Community method of decision-making is a highly political job. This is because one of the most substantial parts of EU policy-making is the drafting stage. Although it is the work of the Commission alone when the Community method applies, it has the duty to consult with governmental, non-governmental and industry actors to make sure that its proposals are technically viable, practically workable and based on a bottom-up approach. This consultation serves a "dual purpose by helping to improve the quality of policy outcomes and at the same time enhancing the involvement of interested parties and the public at large" (Commission 2002: 5). Also, policy initiation can serve to extend the power of the Commission with regard to the creation of new legislative instruments, e.g. where new issues are raised.

What needs to be further mentioned is that the Commission is no neutral arbiter or technocracy, but a player with vested interests of its own to promote. These interests are to capture authority and establish itself as a significant player in different policy areas (Matláry 1997). Yet, while the discourses and referent objects in the documents presented by the Commission are focused on the sub-system level, i.e. the European economy and European integration as a whole (Natorski and Herranz-Surrallés 2008), it is not just a supranational actor that defends some "composite, supranational, general European interest" (Peterson and Birdsall 2008: 69). Rather, next to pursuing its own institutional interests, it is also an intergovernmental body wherein no officials from the services or members from the College of Commissioners truly act in full independence of external pressure, be it "political, ideological or national" (Diedrichs and Wessels 2006: 224). In sum, the Commission performs a rich variety of functions and is characterized by overlapping loyalties from its service officials, Commissioners and their cabinets. Because of these characteristics and the fact that it is under constant pressure to take on unknown tasks in response to the changing demands of EU integration, it can be argued that the Commission has always been "a strange institution in a strange institutional position" (Peterson 2006a: 503).

Since it is meant to represent the common interests of the Union, the 2004-7 enlargements seem to be less problematic for the Commission than for the Council. In fact, far from causing a system transformation or critical juncture for the Commission, the most recent enlargements (2004 and 2007), which welcomed 12 new states, 10 of which came from Central and Eastern Europe, are merely one of multiple rationales that have been used to reinvent the Commission. These rationales include an increasing awareness that the Community method is no longer the most apt and effective tool for moving European integration forward. For example, when comparing the acts adopted by the Prodi and the

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[4] With few exceptions within the EC framework, the Commission has exclusive responsibility for initiating legislation. In other areas, such as in the 2nd and 3rd pillar, it shares this responsibility with the Member States.

first Barroso Commission, Kurpas *et al.* (2008) notice a significant decrease in new legislative proposals while measuring an overall increase in the use of soft law.[5] Regarding the latter, the most important factor for the increase is a much higher number of Communications and an even larger increase in the use of Green Papers under Barroso. Areas that are marked by an overall increase in soft law include new fields such as energy (see *table 1*).

Table 1: *Changes in output of Prodi Commission (1999-2004) and Barroso Commission (2004-2009)*

HARD LAW (Energy)			SOFT LAW (Energy)		
Directives			Communications		
Prodi	*Barroso*	*Change*	*Prodi*	*Barroso*	*Change*
9	7	**-22,2%**	13	36	**176,9%**
Regulations			Reports		
Prodi	*Barroso*	*Change*	*Prodi*	*Barroso*	*Change*
5	8	**60%**	9	6	**-33,3%**
Decisions			Other (White Papers, Green Papers, Opinions)		
Prodi	*Barroso*	*Change*	*Prodi*	*Barroso*	*Change*
20	14	**-30%**	1	3	**200%**
TOTAL HARD LAW			TOTAL SOFT LAW		
Prodi	*Barroso*	*Change*	*Prodi*	*Barroso*	*Change*
34	29	**-14,7%**	23	45	**95,7%**

Source: PreLex database (http://ec.europa.eu/prelex/apcnet.cfm?CL=en)

The fact that there have been fewer new proposals developed under Barroso indicates that the Commission is more hesitant "to apply hard law measures in 'unknown territory'" while its production of more soft measures suggest that it has "tested the waters at some depth before taking legislative action" (Kurpas *et al.* 2008: 16). This apparent reluctance of the Barroso Commission to present proposals on sensitive matters and avoiding controversy can to some extent be explained by enlargement, which has widened the range of socio-economic backgrounds amongst the member states. Also, in areas where the EU lacks competence, national administrations have little tradition of exchange and policy problems are not identical, using soft forms of coordination such as new modes of governance seems be the most logical method for moving cooperation forward (Stubb, Wallace and Peterson 2003).

Multiple sources of pressure for change

New modes of non-legislative governance such as the OMC, which was established by the Lisbon European Council in 2000, involves the "collective monitoring of the domestic policies of the member states" (Hix 2005: 37). Those are used in areas such as national labour markets and social policy, i.e. areas that resist uniform European solutions as they would "mobilize fierce opposition in countries where they would require major changes in the structures and core functions of existing welfare state institutions" (Scharpf 2002 in Best 2008: 227). The OMC, which is focused on consensus, benchmarking and flexibility, constitutes a significant departure from the orthodox model of European policy

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[5] The output of the two Commissions under Prodi and Barroso compared by Kurpas *et al.* is based on data retrieved during both their first two-and-a-half years in office. In contrast with this study, the two legislative packages on energy from September 2007 and January 2008 were not included.

management – the Community Method. The OMC and other forms of new modes of EU governance have in common that they do not give "the Commission pride of place in operational management processes and [underline that] differentiation is the keynote of European policy management" (Metcalfe 2004: 84). Instead, decision-making is centralised in the European Council and the preparatory work is undertaken by prime ministers' personal offices, the Council secretariat and the relevant DG's of the Commission (Hix 2005). Furthermore, in essence, non-legislative modes of governance such as the OMC have two main features:

> The first is the agreement of a common set of goals, which the member state governments have promised to achieve independently and without recourse to EU legal instruments. The second involves 'naming an shaming', whereby the governments regularly monitor each other's progress towards the agreed goals, and publicly congratulate or admonish each other accordingly. (Hix 2005: 247)

The rise of non-legislative approaches like the OMC is not a consequence of enlargement. As Best (2008) explains, various forms of non-binding policy coordination, both within and outside of the Community framework, have been under development since the early days of the EU.[6] Other explanations describe this rise with reference to the Commission's success in the last few years as a policy entrepreneur (Mazey and Richardson 2006) or explain it as a response to the imbalance between market-creating and market correcting policies, which have been analysed by many scholarly accounts of European integration (Scharpf 2001). Without giving preference to either explanation, it is important to underline nevertheless that, in the face of multi-dimensional issues, differentiation is the keynote in European policy management. As a consequence, in policy areas where the application of the Community Method is politically unfeasible, European institutions in general, and the Commission in particular, will continue to use new modes of governance to become involved in new policy areas.

In addition to these rather exogenous developments on a macro-level, there are further indicators that point more towards changes within the Commission from 2004 onwards. These include, amongst others, the Kinnock reforms and changed leadership of the Commission under Barroso. Concerning the former, and under the leadership of Prodi's Vice-President Neil Kinnock (2000-04), an administrative reform agenda was pushed through between 2004 and 2007. These reforms were focused on creating specific changes in organisation, financial control and personnel policies and practices. To achieve these aims, it ushered in more systematic budgeting and personnel management, as well as better preparation and consultation mechanisms (Kassim 2004).

Furthermore, Barroso's leadership of the Commission constitutes another indicator of change within this institution. A general perception is that Barroso exercises weak leadership by visibly serving the interests of the larger member states, sometimes even at the expense of the smaller member states, while concentrating even more intensively than its predecessors on its role as a consensus-seeker (Kurpas *et al.* 2008; Kaczyński 2009). On the other hand, in reaction to the failed Santer and Prodi presidencies and as a result of subsequent treaty reforms, the President has gained in importance within the College since enlargement, hence the establishment of a highly Presidential Commission under

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[6] Concerning examples of non-hierarchical negotiations between states completely outside the Community framework, Best (2008: 224-5) mentions the establishment of the second pillar (Common Foreign and Security Policy) at Maastricht. Regarding developments in non-binding policy coordination within the Community, he mentions the Cardiff Process on structural reform and a Cologne Process of Macroeconomic Dialogue leading to the 2000 Lisbon Strategy and the open method of coordination (OMC) (see Jordan and Schout 2006).

Barroso.[7] In the context of a considerable larger College, Barroso warned of the dangers of 'Balkanization' in the absence of a president that is seen by the other members of the Commission's political top as the last resort arbiter and authority (Peterson 2008: 763). In the first Commission ever in which each member state supplied only one Commissioner, reshaping the College according to the configuration of the Council, Barroso argued that a strong President was a purely functional necessity. In this context, it is possible to better understand his greater media presence and his successful efforts in personally linking himself to the major policy initiatives of the Commission, "from roaming tariffs to the proposals on energy and climate change, from reducing bureaucracy to the Commission's actions for growth and jobs" (Kurpas *et al.* 2008: 32). Furthermore, Barroso's embrace of policies such as better regulation strongly contributed to his position of respect in the European Council. The Commission President's standing in this institution is mentioned here because this constitutes one of the most important determinants of the Commission's standing in the overall EU system (Peterson 2006b).

New modes of governance, the Kinnock reforms and Barroso's changed leadership all serve as internal and external sources of pressure that have affected the Commission in several ways. To some extent, enlargement has merely interacted with and reinforced some of these sources of pressure for change that were already present. The Kinnock reforms, for example, were the result of the Santer Commission's resignation in 1999 rather than a response to the enlargements that were then looming on the horizon. And while it can be argued that the more consensus-seeking, more presidential approach of Barroso reflects his personal preferences, this cannot fully explain the above-mentioned increasing preferences for soft forms of coordination. Enlargement has increased the underlying diversity within the Union, underlining the limits of uniform European solutions in areas such as economic and social policy. Therefore, enlargement did "bring about some changes in the balance of forces within the Union regarding the design of specific forms of cooperation" (Best 2008: 238). This argument urges us to present three further provisional statements about why and how enlargement did bring about these changes.

First of all, enlargement has emphasised the central role of the Commission in delicate policy areas such as foreign policy; including the external dimension of energy policy. Schmidt-Felzmann (2008) argues that the EU serves as an additional avenue for member states to pursue salient foreign policy interests. Due to considerable advantages in administrative capabilities and material resources, larger states are more inclined to pursuing policies bilaterally if no consensus at the EU level can be achieved. This means that they do not need to seek EU agreement at all costs. Smaller states, like most CEES states that recently joined the EU, lack these advantages. Therefore, in seeking to strengthen their position in relation to dominant external actors such as Russia, these and other smaller states are actively seeking support from both their fellow member states as well as from EU institutions such as the Commission. Barroso has acknowledged that the central role of the Commission has been reinforced because the new member states "look at the Commission as the honest broker and the fair partner" (Barroso in Peterson 2007: 3). In playing the 'Brussels Game' new member states proactively lobby the Commission to have their interests taken into account while also approaching the latter as a mediator to resolve bilateral problems with, for example, Russia. The strategy of these states is trying to resolve problems at a low political profile while, for the sake of not being labelled as one-issue countries, downplaying or avoiding these problems at higher political levels in the Council. Also, in making sure that their interests are taken into account, smaller states rely on proactive lobbying of the Commission and fellow (larger) member states. One way in

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[7] Literature commenting on the failed Santer and Prodi presidencies include Macmullen (1999) and Peterson (2006b).

which they pursue this goal is through "careful positioning of their nationals in the Commission and the Council Secretariat" (Schmidt-Felzmann 2008: 173).[8]

Secondly, Barroso's College is characterised by a two-tier system, with significant differences between 'old' and 'new' member states. Most new EU member states have only been allocated minor portfolios, rather than key economic portfolios such as Competition and Internal Market. Also, Barroso's Commission is dominated by "an intermediate generation of technocrats [*from*] the first post-Communist political classes" (Peterson 2008: 765). These technocrats from the CEES states seem to point to little incentive for any political activism. The previous arguments are made even stronger when one considers that the above-mentioned move of one Commissioner per member state has reduced the formal equality of Commissioners and that there is little doubt that Commissioners more closely represent their member states.[9]

These two statements highlight that enlargement, while having led to greater formalisation of official meetings and procedures, has also strengthened the use of informal channels to prepare and influence decision-making. This has led to more and more decisions being taken in "administrative spheres rather than in the political fora of the EU" (Eberlein 2004; Best *et al.* 2008: 12; Kurpas *et al.* 2008). Stated differently by a Director in the Commission services: "Enlargement pushes things down" (Peterson 2008: 768). This refers to how weak political authority, sometimes up to the level of the Commissioners and their cabinets, increasingly places responsibility regarding the actual content of proposals on the services. In an organisation consisting of "several sub-organisations with different wills" (Mazey and Richardson 2006: 283), and given that agenda setting and decision-making at the relatively early stages of the EU policy process are critical determinants of eventual policy-outcomes, the shift towards administrative governance seems to have gained importance in the enlarged Union (Peters 1992). In this context, a prominent question for future research agendas on European integration will be to analyse to what extent the services will "try to resort to more informal means of governing by networks, and in ways that allow for little political input from the College" (Peterson 2008: 773).

Consequently, it can be concluded that enlargement has added fuel to the fire of multiple sources of pressure that have changed the Commission both internally and in its role and influence in the larger system of EU governance. Having become one of Europe's flagship dossiers under Barroso, energy policy is considered here to be a highly relevant and specific policy area to analyse. However, EU energy policy is characterised by issues such as a lack of competence for the Commission in external policy, increasing complexities due to heterogeneity of energy situations in the enlarged Union and therefore a considerable degree of resistance towards legislative solutions. Considering these problems, we now turn to analysing how and why the Commission has exerted influence and has moved cooperation and integration forward in the external dimension of energy policy.

The Commission's shifting involvement in external energy policy for an enlarged EU

The absence of a coherent and credible external dimension constitutes the main weakness of the new Energy Policy for Europe. Van der Linde (2008) underlines that the internal and external dimensions of energy policy should be connected in order to develop coherent

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[8] In exemplifying this claim, Schmidt-Felzmann (2008) states that it is no coincidence that Finnish nationals have been working on Russia and Russia-related portfolios in the Commission's Directorate General for External Relations (RELEX).

[9] This is because, following the enlargement of the EU, larger member states no longer nominate a second Commissioner to represent the political opposition in their country.

energy policy-making. This is because the internal market approach alone cannot secure results in the other policy areas of the EPE. "The market is a coordination mechanism for scarce resources but cannot by itself produce the transition to a larger sustainable fuel base nor generate a consistent crisis policy mechanism or other long-term goods such as long-term security of supply" (Helm 2006 in Van der Linde 2007: 278). Yet, where energy security has been focused upon, this has been at the national rather than at the Community level, with "oil and gas pipelines supplying the EU today having been constructed in the interest of energy companies rather than with the guarantee of the EU's energy security in mind" (Piebalgs 2009).

The 2004-07 enlargements have further complicated the formulation of a common external energy policy. This is because enlargement has strengthened the main characteristics of energy issues for the 27 member states, i.e. a combination of high heterogeneity of situations (if not preferences) and therefore the difficulty of choices (Van der Linde 2007). Factors such as limited domestic energy resources and geographical proximity, for example, make the CEES states traditional importers of Russian gas, mainly through the Ukrainian transit route. Also, as they are mostly small states, their markets (and often their companies) are too insignificant to influence or engage in security of supply strategies and the great cost involved. All this considerable heterogeneity is further reinforced by the fact that the member states of an EU of 27 have differing and complex relations with key external energy companies such as Gazprom (Larsson, 2006). In addition to issues such as specific long-term contracts, these relations are increasingly determined by joint ventures between Gazprom and European energy companies. The latter are increasingly taking place on the integrated European energy markets and are focused on the highly profitable midstream/downstream links of the gas-value chain (Mijknecht 2008).[10] At the same time, the asymmetric exposure to political and economic risks due to import dependence on only one or two suppliers has pushed the CEES states to insist on reinforcing solidarity among European member states and to reduce the dependency on countries such as Russia (Geden *et al*. 2006).

In fact, windows of opportunity brought about by external events have been mainly responsible for developing both the internal as well as the external dimension of the EPE (Natorski and Herranz-Surrallés 2008). Particularly encouraged by the Russian-Ukrainian energy dispute in 2006, the European Council expressed their regret over "increasing import dependency and limited diversification achieved so far", as well as the "limited coordination between energy players" (Council 2006a: 20). And while recognising these and other challenges formulated in a Commission Green Paper (2006a), the EU Heads of State or Government declined to endorse the Commission's call for a "Common European strategy for Energy" (Commission 2006a: 4). Instead, it decided to instigate the EPE, inviting the Presidency, the Commission, and the High Representative to take forward work on "the development and implementation of an external energy policy in a coherent and coordinated manner, making use of all available instruments including CFSP [Common Foreign and Security Policy] and ESDP [European Security and Defence Policy]" (Council 2006b: 10). A joint paper by the Secretary-General of the Council/High Representative for the CFSP (SG/HR) and the Commission, which was shortly published after the Council's decision, seems to underline the intergovernmental nature of the EU's latest proposals in external energy policy. This paper does not propose any transfer of power or authority from the Union's member states regarding energy issues. In contrast, it states that: "The legitimate right of individual member states to pursue their own external energy relations for ensuring security of energy supplies and to choose their internal energy mix is not in question" (Commission/SG/ HR/ 2006: 1).

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[10] The midstream activities in the gas value chain concern supply/transport and trade of gas, while downstream activities focus on the distribution and retail of gas (Mijknecht 2008).

The sovereignty of member states over the energy mix is further emphasized in the Lisbon Treaty. The specific chapter on energy (Title XX, Article 176 A) mentions that the Union shall aim at promoting the interconnection of energy networks. At the same time, it indicates that any measures to that effect "shall not affect a member state's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply".[11] And while Article 2c makes energy a shared responsibility between the Union and its member states, this does not easily transform into a shared interest or view among the 27 member states. "It is therefore doubtful that effective policy-making, bridging the many differences, can be expected" (De Jong and Van der Linde 2008: 6). In sum, looking at both the establishment of the EPE and the Lisbon Treaty, measures that the EU should undertake in the external dimension of the EPE contain proposals that push for further integration, although due to resistance by the member states, their scope and their institutional linkage within the EU system remain ambiguous (Natorski and Herranz-Surrallés 2008).

To a large extent, this 'neither-fish-nor-fowl' character of the EU energy policy is noteworthy as closer integration of European energy markets has undermined the effectiveness of member states' national instruments. At the same time, the EU toolset is both incomplete and incomparable to that of the member states. The result is that "both elements of internal energy policy-making and external energy policy-making do not fully belong in the authority of either the Commission or the member states" (Van der Linde 2008: 9). The incompleteness of the EU and member states energy policy toolsets is nowhere more obvious than in the external dimension of the EPE. At the European level, two of the Commission DG's - External Relations (RELEX) and Trade, Transport and Energy (TREN) - have been delegated supranational competences in the external energy field with partners such as Russia. By virtue of the Union's common trade policy, DG TREN negotiates on behalf of all member states in international consultations on energy-related issues, while DG Trade holds the key responsibilities for all external economic matters (Smith 2006). At the national level, member states' toolsets focus on the mixed or non-economic or political-strategic kind such as foreign and security policy and trade promotion (Schmidt-Felzmann 2008; Van der Linde 2008). At the same time, this separation is not as clear-cut as it looks, as there are increasing overlaps in areas. For example, trade policy represents an EU competence, whilst stimulating trade relations is usually a member state's undertaking. With regard to control over competition, this applies to competition beyond the national markets of member states, not to competition within them. And while the EU sets and shapes the member states' economic policy-making into an EU mould, "in the foreign relations area, this mould is still in a pre-infant stage" (Van der Linde 2008: 9-10).

If we take these competency problems and overlaps into consideration, we can understand why the Commission relies on proposing energy legislation if it can be linked in some way to the internal market. Controversial issues in the Third Package such as the reciprocity clause serve here as a prime example. This clause, which prohibits third country companies or states ownership of European transmission networks, has been dubbed the 'Gazprom Clause' as it seems principally directed towards Russia's partially state-owned gas company. Hence, this clause has been interpreted as aiming not to enhance liberalisation of the market, but to create leverage in negotiations with third parties (Faber van der Meulen 2008). It directly links internal gas market designs to energy security, i.e. the Commission trying to use "low politics" competition policy in order to guarantee "high politics security of supply" (Faber van der Meulen 2008: 53).

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[11] Treaty of Lisbon amending on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007.

This use of low politics 'Community tools' underlines that the Commission fails to secure the foreign policy powers needed to create a full policy toolbox to underpin any full-fledged external energy policy. Member states do not want to increase its autonomy in external energy relations. When one considers the EPE through the prism of intergovernmentalism, it is evident that the institutional settings are dominated by national preferences and that any possible outcome should be fully attributed to member states' preferences. In this view, the SG/HR not only controls the Commission, the latter's role is reduced to that of an agent, delegated with cost-reducing tasks such as providing information and instruments (Pollack 2003; Mayer 2008).

All this complexity leads us to conclude that a common external energy policy, where national energy cultures would become congruent with the EU's nascent culture, seems highly unlikely to be achieved in the short- or medium-term. Despite these valid assumptions, however, and like in other domains of European foreign policy, energy does raise questions concerning agent-structure problems and unintended consequences of delegation. The former revolves around the extent to which actors have the space to be creative and the extent to which the formal and informal properties of structure impose constraints and define the boundaries of possible behaviour (Wendt 1987). Delegation is a central element in conceptualising the relationship between different executive actors in terms of principal-agent, i.e. "principals demand certain tasks that agents supply" (Hix 2005: 28). A central implication of this approach, however, is that for reasons such as its own interests and policy preferences, the agent (Commission) sometimes wishes to diverge from the original policy intention of the principal (Council). In addition, despite the principal setting constraints, such as monitoring and designing rules and procedures which minimise the autonomy of agents, the delegation of power often results in a bureaucratic drift in which the Commission is able to use its policy discretion to move final policy outcomes closer to its ideal position (Pierson 1996). Key variables that define the relationship between the Council and the Commission in the larger EU system, i.e. the degree of autonomy that the latter is given by the former, depends on:

> The nature of the tasks in question, the institutional rules under which they operate, the degree of conflict between the principals and the amount and quality of information the principals have on the likely actions of the agents. (Horn 1995; Tsebelis 1999, 2002; Huber and Shipan 2002 in Hix 2005: 31)

First of all, with regard to the degree of conflict between the principles, i.e. taking the difficulty to reconcile the needs and preferences of member states into account, energy constitutes a policy area in which the Commission has become, at least potentially, a stronger player. As a policy entrepreneur, the Commission has greater ability to set the policy agenda when the Council is divided (Pollack 1997). In this case, the Commission can shape the policy agenda by manipulating the asymmetries between the member states. At the same time, there is little question that with regard to issues such as energy, enlargement has made the Commission's job "both much tougher and – if the EU [is] to have ambitions and pursue them collectively – more consequential" (Peterson and Birdsall 2008: 62).

Secondly, concerning institutions and institutional rules, while the joint paper by the SG/HR and the Commission does underline the legitimate right of individual member states to pursue energy relations on an intergovernmental basis, it also underlines the European dimension by stating that a coherent and focused external EU energy policy draws on the full range of EU internal and external policies. Also, "an effective external policy on energy depends on being able to harness our considerable collective resources and put them at the services of shared interests" (Commission/SG/HR 2006: 1, 4). By

placing energy holistically in the entirety of EU external relations, the Commission and the SG/HR do not approach energy policy merely in terms of market liberalisation. More importantly, by underlining that all EU foreign policy instruments are to be recalibrated in order to pursue an external energy policy suggests that the latter must be understood as a multi-dimensional issue, which resists uniform European solutions, but requires strong coordination. This latter point underlines that energy constitutes an issue that increasingly cuts across the national/supranational axes and therefore internal and external energy policy-making.

Hence, energy policy is cross-pillar in nature (Stetter 2007). In other words, it develops across multiple pillars, through interaction between those pillars, as well as through interaction with the foreign policies of member states. To clarify this further, "cross-pillar" means here that there is a much larger complexity of, and diversity within, the EU's foreign policy mechanism than the simplistic categorisations of EC versus CFSP/EDSP and Community method versus intergovernmental method (Stetter 2004). Instead, it might be more accurate to characterise EU foreign policy as "existing on a continuum, going from various degrees of supranational integration, over various degrees of intergovernmental integration, to purely intergovernmental cooperation" (Keukeleire and MacNaugthan 2008: 31).

This complex interaction between actors and between external and internal policy issues exemplifies that the role of the Commission in energy policy is not merely determined by formal Treaty provisions. This is due to the fact that it is often unclear what the competence of the Commission is or ought to be because of boundary problems in energy policy-making, The downside of this situation is that the Commission has struggled with major boundary problems between the first (EC) and second pillar (CFSP/ESDP) competences, which have led to a succession of border conflicts or "outright war" between the Commission and the Council or member states, as well as within the Commission's own structures (Keukeleire and MacNaughtan 2008: 86). On the other hand, boundary problems have also allowed the Commission to pursue a strategy of extending or creating its own competence where possible. It has done so by "building precedents" (Smith 2006: 324), or "redefining issues in ways that bend them towards those areas where [the Commission] yields power" (Matláry 1997: 143). As is further exemplified below, a weak or almost non-existent power to act in one issue area, such as in foreign policy, may successfully be coupled by the Commission with competition policy, defining the former issue in competition terms.

Thirdly, on the nature of the tasks of the Commission in the EPE, Mayer claims that, consistent with rationalist principal-agent conceptions of "agency slack" (2008: 257), it appears that the member states sought to control the Commission by drawing upon the SG/HR, whilst the Commission was only asked to provide information and technical assistance. Yet, when we consider the problem of bureaucratic drift, also taking into account the fact that the Commission is an actor with interests in capturing authority, the formal setting of the EU's networked administrative system allows it to exploit its position as an "animateur" (Ludlow 1991: 97) and "process manager" (Pierson 1996: 153). Or, stated differently: "It provides and applies its accumulated knowledge and 'occupying' a strategic location where it supervises and administers complex arrangements of increasingly coupled issue areas" (Mayer 2008: 253). As a process manager, for example, the Commission has played a prominent role in being in continuous interaction with third parties in developing the EU's structural foreign policy. A prime example of this concerns the EU's energy dialogue with Russia (Hadfield 2008; Romanova 2008). Also, based on its monopoly right to propose legislation hence being a major energy policy-maker, the Commission serves as a continuous centre of attention for lobby groups from the energy industry (Matláry 1997). Through it's role as an *animateur*, which allows it to raise any issue

of European concern, the Commission is often capable of exploiting the fuzzy notion of community interests (Mayer 2008: 260). At the same time, energy constitutes an issue in which the Council is heavily divided and strongly in need of new information or policy ideas. In this context, the increasing use of communications and other documents under the Barroso Commission have served:

> As stream of often-thorough conceptual and operational preparatory work. [These] have allowed the Commission to quickly deliver at those moments when the policy context was ripe for concrete policy actions. They have also contributed in terms of agenda setting, and putting 'external policy' actions in a clear strategic 'foreign policy' perspective. (Keukeleire and MacNaughtan 2008: 90)

In the context of agenda-setting in the right policy context, the increasing amount of Commission Green Papers that have been published since 2000 on a European energy strategy were not only released in the face of external windows of opportunities. They also increasingly preceded the formulation of new foreign policy orientations by Council actors.

For example, in 2004, Energy Commissioner Andris Piebalgs made proposals attempting to blend energy issues with more general external relations tasks. He did so by stating that the recently created European Neighbourhood Policy (ENP), which is fully coordinated by the Commission, could serve as a vehicle for conducting future dialogues with energy producers and transit countries (Piebalgs 2004). To achieve this, the Commission exploited vague clauses of the EC Treaty on measures in the spheres of energy, or Article 155, on Trans-European Networks, which it further expanded and incorporated in the ENP. The Commission "thus moved from relatively technical activities in economics or trade towards more geopolitical aspects during negotiations over strategic infrastructures" (Mayer 2008: 267-8).

This similar pattern was extended in the run-up and establishment of the EPE. Here, the Commission seized on windows of opportunity provided by peaking global hydrocarbon prices and promoted a clearly articulated view that energy security had moved from being a technical issue to an issue of international relations. More specifically, Piebalgs described energy security as an issue which was now "on the table of every energy minister, as well as foreign, finance and industry ministers across Europe" (Piebalgs 2006). In March of that same year, a Commission Green Paper proposed various measures and recommendations that would alleviate the weaknesses of the EPE by implying pooling of sovereignty and further integration in issues such as energy infrastructure and energy mix (Commission 2006a). While the Council rejected many of these far-reaching proposals, it did accept the idea of a regular Commission publication called the *Strategic EU Energy Review*. This review offers a single reference point "for all actors in European energy at both Community and national level, enabling not only an effective exchange of information but also a real coordination approach" (Geden *et al.* 2006: 12).

In January 2007, the Commission presented the first *Strategic EU Energy Review* with a number of proposals that the European Council adopted as a prioritised EPE action plan. This included the "establishment of an energy observatory within the Commission" (Council 2007) and the appointment of "European coordinators to represent EU interests in key international projects" (Commission 2007a: 19)[12]. Even more, in May 2007, the Commission launched the *EU Network of Energy Security Correspondents* (NESCO) "to assist

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[12] These projects include the construction of the Nabucco gas pipeline. This pipeline aims to diversify the Union's gas supplies by bringing gas from non-traditional suppliers (e.g. Russia) via new transit routes. In November 2007, Energy Commissioner Piebalgs appointed Jozias van Aartsen, former Dutch Foreign Minister, as European Coordinator for this project.

the EU's early response and reactions in case of energy security threats" and serve as a "forum which can provide shared assessments of external factors impacting on Europe's energy supply" (Commission 2006b). Endorsed by the European Council in December 2006, this high level network consists of representatives from the Commission, the Council Secretariat and EU member states and consequently cuts across multiple actors and institutions. NESCO is also prominent in the Eastern dimension of the ENP, i.e. the Eastern Partnership (EaP), whose establishment was accelerated in the wake of the Russia-Georgia war. Providing a framework for deeper co-operation through both bilateral as well as multilateral channels with partners in Eastern Europe and the Southern Caucasus, in the EaP the Commission proposes mutual energy support and security mechanisms (Commission 2008b). As prominent tools, an energy security panel should be established to support work on strengthening energy crisis preparedness. For that purpose, it suggests linking its work with that of NESCO and bearing in mind the work being undertaken in other fora such as the Energy Community and INOGATE (Commission 2008b: 12).[13]

In short, economic integration in the single market has drawn issues of high politics (energy) into the EU remit. Through limited forms of delegation, member states have begun to share certain tasks in the areas of legislation and coordination with EU actors such as the Commission. The result is that:

> While the Energy Policy for Europe is linked with the intergovernmental CFSP framework, it is supplemented by a large number of Commission-controlled responsibilities and instruments. They compromise a substantial multifaceted and cross-sectional 'energy tool box of spheres of (shared or exclusive) community activity'. None of these spheres themselves can generate complete autonomy with regard to political objectives. Therefore, as a whole, they comprise a novel multi-level energy governance system with nested policy processes, drawing together a number of supranational, intergovernmental and member-state actors with a high degree of functional and organizational segmentation. (Mayer 2008: 271)

Consequently, within this novel system, one can argue that while member states persist in their national prerogatives in energy policy-making, the preferences of national governments are increasingly channelled into the EU decision-making process alongside those of executive actors such as the Commission (Stetter 2004, 2007). Although it is far from being independent from the member states, the Commission's relationship with the member states can increasingly be described as being interdependent through the multi-level energy governance system (Stetter 2007; Mayer 2008). Finally, the term "intergovernmental" has been used here several times, for example, to describe the enlarged Commission under Barroso and as an institutional approach towards explaining delegation in the EPE. However, in light of what has been argued here, in the enlarged EU, intergovernmentalism has acquired a new meaning. It does not mean a sharp, simple, enhanced rivalry between EU member states and the EU institutions. Rather, it refers to a more complicated process of bargaining and coalition-building, in which the Commission represents a central and influential player. It is influential not in the sense that it has acquired more formal powers or has played its role as a legislative initiator, but in the sense that it is a strategic node in the EU's network governance system (Peterson 2008).

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[13] The *raison d'être* of the Energy Community is to provide a framework for the South East European region to rebuild its energy networks, hence offer a regional approach to energy security. INOGATE is an international energy co-operation programme between the EU, the littoral states of the Black and Caspian Seas and their neighbouring countries, which have agreed to work together in areas such as enhancing energy security and supporting sustainable development.

New modes of governance in EU energy policy-making: a non-legislative approach as a *modus vivendi*

Several scholars have recently criticised the meagre results of nearly two decades of European efforts to construct an energy policy (see Helm 2007; Van der Linde 2007; Natorski and Herranz-Surrallés 2008). While the Commission has made far-reaching efforts in strengthening existing internal market provisions via the Third Package, it has also been criticised for failing to clearly show how to strike a balance between the three dimensions of the EPE, i.e. reasonable prices, security of supply and environmental sustainability (Röller *et al.*, 2007). Also, the Commission has failed to demonstrate that policy-making at the EU level is more effective in achieving results in all three of these areas than policy-making at the national level (see Van der Linde 2007; Behrens and Egenhofer 2008; De Jong 2008).

To convince member states of the European added-value to national energy policy-making is crucial as effective hence structural results in this area requires a strong degree of relinquishment of national control to the European level; with inevitably more power to the Commission. Helm states that European energy institutions require 'expertise, information and regulation' (2007: 58). He further argues that essential elements in creating a viable external energy policy, such as establishing well-functioning European energy grids, require a top-down European perspective. This is because "[the European energy grid constitutes] a public good [...] and needs to be designed with the interests of the whole in mind – just as in mid-century the national grids were designed from a national perspective" (Helm 2007: 51).

Even more so in an enlarged Union, the Commission has failed to understand and make smart use of the increasing diversity and asymmetry among the member states. Whether as a legislator or in its broader role furthering EU policy through non-binding recommendations, opinions or other forms of 'soft law', the Commission has engaged too much in making proposals with a heavy top-down orientation. This governance by hierarchy denies the differences in the referent objects at the national level, i.e. the things that are considered to be affected by threats in energy security in national energy systems (Natorski and Herranz-Surrallés 2008).

 Furthermore, in the controversial area of energy, it is highly unlikely to see the emergence, in the short- or medium-term, of - any effective and common energy policy. It will certainly not develop quickly enough to deal with current strategic energy issues. The most recent gas crisis in January 2009, caused by Russian-Ukrainian disputes over gas and transit prices, painfully underlined the shortcomings of the current crisis mechanisms in place. This lack of European added value undermines the energy security of the enlarged Union. According to Helm, the hope that a bottom-up process will lead to a well-designed system seems misplaced as he argues that, "it is not in the incumbents' (or even necessarily national) interest to take a European perspective" (2007: 52).

The EU, however, has extensive experience in building coherence by using harmonisation, coordination and only then unification. Therefore, Van der Linde claims that instead of pursuing a strong focus on unification – trying to coerce member states into giving up competencies – the EU should engage more in a bottom-up and tailor-made approach by making "smart use of diversity, asymmetry and subsidiarity" (2008: 2). In the face of heterogeneous energy needs and preferences and asymmetric exposure to disruption risks, the member states of an enlarged Union might require different policies rather than just one. Stated differently, "allowing member states to find their own efficient and appropriate solutions for (mostly localised) security of supply issues is the best tactic that at a minimum keeps the momentum going and allows for a search for cost efficient solutions" (Van der Linde 2008: 12). This evolutionary or economist approach to integration in energy policy, i.e. via harmonization, coordination and (only then)

unification, is the only workable way forward in directing 27 member states with asymmetric interests into a coherent approach.

In the context of increasing diversity within the Union, a variation on the Lisbon Strategy and the OMC can serve as a workable *modus vivendi* in establishing progress in external energy policy, hence in the overall EPE. This will take place through the creation of the groundwork for some benchmark for security of supply; peer-review systems for member states to look at each others' arrangements; learning from each other practices and making effective use of the practice of naming and shaming those which lack behind or are reluctant to contribute to agreed common priorities (Jordan and Schout 2006; Best 2008; Van der Linde 2008). Benchmarking and fostering convergence on common issues, however, only works when there is something at the end of the road, i.e. as a means to an end. In the case of energy, a crisis mechanism that effectively deals with disruption of supply by providing redistribution for a relatively short duration could serve as an incentive to member states in achieving specified targets set at the European level. Not only would this create a buffer against disruptions such as the one caused most recently in January 2009, it would create an ends, i.e. a sense of solidarity among larger and smaller member states alike.[14]

The EU can and must play an important supporting role by providing the stage where a broad framework strategy can be agreed and underpinning national measures with complementary (European) action. As a central node in the EU's networked administrative system, and as a process manager, the Commission can play a leading role. It can do so by, for example, creating and monitoring the aforementioned benchmark for supply security and the promotion of information exchange, i.e. the transfer of good practice and experience (Helm 2007; Best 2008). Also, by offering support in the development of a crisis mechanism, which is developed from the bottom-up, is cost efficient and avoids heavy bureaucracy, the Commission would let member states remain largely sovereign over their energy policy, yet would manage to share risks and costs in energy security. This will not only provide security for smaller 'follower' states, but it will also help overcome "the battle of wills" between the Commission and certain larger member states about vertical integration and the wish among the latter for strong European companies (Van der Linde 2008: 33-4). In the wake of enlargement, a variation on the OMC seems the most realistic and practically workable policy measure.

This need for a *modus vivendi* in the EU's multi-level energy governance system is in need of a network manager who provides not only leadership, but also motivation and trust (Jordan and Schout 2006). For obvious reasons such as its formal policy initiating role, good access to information and serving as a focal point of many sectoral networks, the Commission seems to be the most obvious candidate for this job. Yet, in providing leadership, motivation and trust in effective EU governance, the Commission still has far to go before it can provide either of these tasks in an apt manner Concerning deficiencies in trust, member states lack trust in the Commission as a provider of effective policy-formulation. Again, this is related to its often top-down approach, or its tendency to oversell its own analysis, but also due to the fact that actors in networks do not often recognise their interdependence. Enlargement has strengthened this lack of recognition as "it may require years before actors know, let alone trust one another" (Peterson 2008: 773). And finally, there is the problem of motivation, as the Commission often fails in motivating voluntary co-operation, assuming that it will occur spontaneously (Jordan and Schout 2006).

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[14] Van der Linde (2008: 33) underlines that a crisis management mechanism arrangement for fuel, such as for gas, could be more complicated and more costly to realise in comparison with the oil crisis mechanism which has been developed by the International Energy Agency.

In light of this criticism, it is important to note that, in the Commission's second *Strategic EU Energy Review*, there has been a clear shift away from geopolitics towards a focus on pragmatic policy results. First, the overarching focus of the review is mostly inward looking. It has a strong focus on issues such as increasing energy efficiency, improved oil and gas stocks, as well as crisis response mechanisms. Also, in the context of a currently insufficient crisis mechanism, it is equally important to note that the Commission emphasises that speaking with one voice does not mean a single Community representative for external issues, but effective planning and coordination at Community and member state level. At the same time, with regard to the external dimension of energy relations, there is a much stronger emphasis on "energy interdependence provisions", which should be developed in "broad-based agreements with producer countries" (Commission 2008c: 8). This emphasis on interdependence is further articulated by underlining both the Union's quest for "security of supply" as well as external suppliers seeking "security of demand" (Commission 2008c: 7). Finally, the inclusion of major energy chapters in the EU's relations with neighbouring countries, e.g. via the EaP, is noted as an important step towards establishing a visible European added-value in energy policy (Behrens and Egenhofer 2008).

In the meantime, the call made in the review to update and improve existing Community rules on crisis mechanisms for oil and gas has been supported by the European Council of 19-20 March 2009. Stimulated by the January 2009 gas crisis, the European Council underlines the urgent need to:

> Establish adequate crisis mechanisms in the EU as well as to work to obtain clear guarantees from suppliers and transit partners that supplies will not be interrupted. The Council should examine by the end of 2009 the forthcoming Commission proposals to revise legislation on the security of gas supply. This should include an appropriate crisis mechanism ensuring the preparedness of all actors, including the energy industry, transparency and prior information through the development of EU and regional plans for security of supply; solidarity among Member States through the development of regional plans; and improved assessment and coordination through the redefinition of the threshold for deciding actions at Community level (European Council 2009).

Conclusion

This article has argued that multiple sources of pressure have affected the role, work and status of the Barroso Commission in several ways. While not being exclusively or even specifically related to each other, these sources of pressure have included: enlargement, new modes of governance, administrative reforms and changed leadership under Barroso. As a result of these pressures, the Commission under Barroso has become more presidential and intergovernmental and has increasingly used soft law to drive European integration forward. Furthermore, Barroso's preference for new modes of governance such as the Lisbon Strategy and the OMC seem to be driven by the realisation that the increasing underlying diversity in the Union resists Community solutions. This increasing use of non-binding forms of policy coordination is not a consequence of enlargement, but has been strengthened by it. More importantly, besides enlargement, in policy areas where uniform policies at the European level seem politically unfeasible or even desirable, the Barroso Commission seems to consider this the only way forward towards a 'Europe of results' of some sort.

The EU energy policy constitutes an area that has been affected by multiple sources of pressure. In particular, the external dimension of the EPE serves as a prime example of a policy area that is unsuitable for Community-wide answers. In addition, enlargement has

strengthened the diversity in the composition of energy mixes in the EU. Also, it has further complicated the problem that the inextricably interlinked internal and external energy policy making spheres do not fully fall under the authority of either the Commission or the member states. This deadlock situation makes the establishment of a common energy policy very difficult. Instead of a common policy, an analysis of the external dimension of the EPE tells us that energy is characterised by an interdependent, cross-sectional tool box of spheres in which the member states (Council) and the Commission are the main actors. While in this complex institutional setting member states maintain the main source of power and legitimacy, they have begun to share some of these sources with EU actors, notably the Commission. This is due to delegation in the cross-pillar energy setting, which is characterised by boundary problems, a high degree of conflict among principals and information asymmetry. This has led to a bureaucratic drift, allowing the Commission to exploit its strategic position as a node in the EU's networked system. As a process manager and *animateur*, it positions as an influential actor in external energy policy-making.

In an enlarged Union, intergovernmentalism has acquired a new meaning. It refers to more complicated bargaining and coalition-building in which the Commission represents an influential player - not in its role as a legislative initiator, but more as a strategic actor that focuses on pragmatic policy results through non-binding recommendations, opinions and other forms of soft law. In an area such as energy where the Council is highly divided, this strategy allows the Commission to shape the policy agenda.

Barroso's preference for non-legislative approaches in politically sensitive areas seems to be the only way forward in focusing on results rather than concerning oneself with institutional prerogatives such as the Commission did under Prodi. This is a reminder that the EU has extensive experience in building coherence by using harmonisation, coordination and only then unification, a non-legislative approach in (external) energy policy can serve as a *modus vivendi*. A focus on benchmarking for security of supply and peer-review systems, while pushing for cost-efficient tools such as a crisis mechanism, will avoid the trappings of fruitless exercises such as pushing member states into accepting a top down Community approach. At a minimum, this tactic of establishing cost-efficient solutions will keep the momentum going in the Unions struggles for deeper integration in energy and will provide European added-value.

To stimulate cooperation and integration via a non-legislative approach, the Barroso Commission should focus on offering leadership, motivation and trust as it strives for pragmatic and economic policy results. In addition to any effort it will make itself, however, the Commission makes very little of its own luck and is either strengthened or marginalised by broader political developments, which are almost entirely beyond its control. These developments include not only inward-looking issues such as amending the Treaties, but also political problems beyond its borders such as an assertive Russia which affects the EU in one-way or another. Much of the future status of the Commission during Barroso's second term will depend on these external developments. In the meantime, the Commission under Barroso can only do so much as it is highly dependent on the willingness of member states to cooperate and delegate to the European level. However, whether in energy policy or in any other area that has been highly affected by enlargement and other sources of pressure for change, the Commission can contribute to both its own relevance and the generally desired 'Europe of results' by engaging more in defining and implementing the distinct European added-value. By proposing to adapt different instruments such as the Lisbon Strategy to fit the post 2010 period and to channel strategies to deliver on the sustainable development targets by 2020, Barroso has made a first step in redefining his next Commission as the engine of the European project (Barroso 2009).

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