

## *Chapter 10*

# **Buying Time: Energy and the Art of Sustainable Advancement in Transatlantic Relations**

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This chapter investigates major developments in the energy security and sustainability policies of the European Union (EU) in relation to the United States (U.S.). Will energy and sustainability challenges bring these key transatlantic partners together or drive them apart between now and 2020? The impact of sentiment and perception on fundamental socioeconomic developments is growing, fueled by access to instant information and hypercommunication through global media reach and portable screens. Policy optics and/or postures are therefore more likely to affect international relations and global markets in future than the rule of law, economic disciplines and universal norms alone. Both the EU and U.S. should therefore handle their positioning and messaging to partners prudently.

Global economic, energy and climate trends are unsustainable.<sup>1</sup> Business-as-usual scenarios point to unprecedented crisis in energy networks and in supply and demand patterns of critical resources to satisfy demand. Major disasters expose systemic vulnerabilities, ranging from Hurricane Katrina and the Macondo oil well spill in the Gulf of Mexico to the impact of earthquakes and tsunamis in the Pacific on the use of nuclear power. Rising resource nationalism, transit disputes and the reinforcement of authoritarian trends in energy producing states reveal that energy governance advancement of market economic integration and value- based social economic growth appears to have

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<sup>1</sup> See for instance the *IEA World Energy Outlook* of 2009 and 2010, which describe the contemporary challenges to global energy security and sustainability in the context of major financial economic crisis and fragile recovery: “The present world faces unprecedented uncertainty,” which government policy must address.

stalled. Fear of potential and actual resource scarcities<sup>2</sup> sharpen geopolitical rather than market dependencies, signaling a policy race to the bottom.

A bidding war for access to both resources and markets in a zero-sum-game among adversaries appears to be taking over the post-Cold-War globalization game of the 1990s. The latter's long-term rule-based market vision of unlocking value from mutual co-dependencies among producers and consumers only faintly projects itself amidst rising insecurities, economic crises and unsustainable futures. The turbulence created by a world re-polarizing around resources worsens problems in developing countries and negatively affects stability and growth in other less-well-integrated and or potentially bypassed regions. Now that both the EU and U.S. are fiscally constrained, as well as geopolitically challenged by emerging economies, the bottom line is that new, essentially protectionist policy trends may emerge that alter the governance disciplines for energy and sustainability. This in turn risks a departure from the value- and rule-based market economic governance system that largely defines the transatlantic relationship and global market integration itself. As Europe risks edging towards a fortress Europe policy stance and the U.S. risks retreating into itself on the back of its shale gas revolution and national energy policy, the transatlantic relationship could fall apart, at the expense of global energy market security and overall socioeconomic sustainability. Weathering the storm and ensuring the enduring viability of transatlantic partnership requires, counter intuitively, a steady-handed policy stance by governments focused on doing less rather than more, while enabling well-functioning markets, the self-regulating effect of fundamental co-dependencies, enhanced interconnectivity and last but not least the general applicability of universal norms.

Since the turn of the millennium the U.S. and EU member states have been assessing options and rolling out policies to move together towards more viable pathways that could lead to a more secure and

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<sup>2</sup> Predictions of disruption are not uncommon, and range from the Club of Rome's *Limits to Growth* and gloomy global predictions of the late 1970s to alarmist peak oilers and the advent of catastrophic climate change today. See for instance Walter J. Levy, "Oil and the Decline of the West," *Foreign Affairs*, Vol. 58 No. 5 (Summer 1980), pp. 999-1015.

prosperous future. Dialogue has intensified at the highest EU-U.S. policy levels<sup>3</sup> to deal with common energy and sustainability challenges. Ultimately, Europeans and Americans will make their own choices, due to different market structures, import needs and other macroeconomic dependencies. From an oil and gas market perspective this may look like a transatlantic flight into a new yet far-from-certain 'green' economy that can be bridged by unconventional gas resources in the U.S. and through gas import diversity in the EU. This however may also pressure producer-consumer relations and risks adverse policy reflexes.

On the other hand, the civil uprisings in the Middle East and North Africa (MENA) expose weaknesses in the institutional arrangements governing transatlantic relations as well as varying perspectives regarding the very nature of long-term challenges. Most revealing today is the risk to energy security and sustainability when normative foreign policy is subsumed to transatlantic preoccupations, or when security of supply and sustainability concerns are based only on considerations regarding investment, trade and technology. Comprehensive transatlantic energy diplomacy across the full ambit of foreign policy will be essential if these relationship risks are to be managed credibly.

A complex yet complementary system of governance and institutional structures defines transatlantic relations. This relationship must evolve and be strengthened to deal with energy sustainability challenges for both sides of the Atlantic as well as globally beyond 2020. The alternative option is that its texture, which already appears strained by the "rise of the rest," as well as its own institutional rigidities and poor policy reflexes, cause the transatlantic partnership to unravel in ad-hoc approaches and brinkmanship. The erosion of EU-U.S. global engagement has strengthened geopolitical undercurrents in a subtle but steady de-globalization process.

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<sup>3</sup> 'New EU-US Energy Council to boost transatlantic energy cooperation' EUROPA – Press Releases IP/09/1674, Brussels, 4 November 2009 at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1674>; 'EU-US Energy Council Press Statement' Council of the European Union, Lisbon, 19 November 2010 16724/10 Presse 314 at [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/117862.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/117862.pdf).

Thus the key question is how energy security and sustainability trends and challenges affect the advancement of the fundamental norms and values shared by the EU and U.S. The transatlantic rule-set encompasses the market model, as applied to investment, trade, transport, transit and innovation, with the energy sector as an engine for growth to service these universal humanist values and norms. In the lengthening shadows of growing global imbalances, this model appears to be facing its biggest test.

### **Shared Legacies, Economic Recovery, Energy Sector Cooperation and Events**

Over the postwar period the transatlantic economies moved from reconstruction under the Marshall Plan for the rebuilding of Europe to state industry and subsequent progressive trade liberalization, market opening and deepening economic integration. This required decreasing state ownership of undertakings and increasing degrees of policy coordination in the Organization for European Economic Cooperation established in 1948, which became the Organization for Economic Cooperation and Development (OECD) in 1961 and which is undergoing further reform today.

The benefits Robert Schuman and Jean Monnet saw in energy sector and industrial cooperation for Western European economic recovery led to the formation of the European Coal and Steel Community in 1951 and the European Community for Atomic Energy, or “Euratom,” in 1958; both instruments used energy, industrial policy cooperation and embrace of new technologies to boost economic growth and implement the vision of the EU’s founding fathers of socio-economic integration in postwar Europe.<sup>4</sup> This mirrored post-

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<sup>4</sup> Former European Commission President Jacques Delors and European Parliament President and former Polish Prime Minister Jerzy Buzek followed somewhat haphazardly into the footsteps of these men in May 2010 by declaring energy to be the center of EU integration and economic recovery. They argued that rules granting equitable access to common resources no longer existed and that, beyond market liberalization and interconnection, new bolder approaches were required. Their new “European Energy Community” proposes a variety of initiatives, including the creation of combined purchasing concepts, possibly involving a degree of regionalization of the internal market through enhanced cooperation among its member states.

war developments in the U.S., where new nuclear technology was deployed for civil economic advancement through the 1954 Atomic Energy Act.

Together with EU enlargement and neighborhood policies this model functions. Some argue for an even broader vision of U.S.-EU-Russia energy cooperation, the feasibility of which remains hard to estimate though its logic is self-evident. This is because of the variation in energy market models and application of norms. After efforts towards market integration with OECD policies in the 1990s under the Energy Charter and Multilateral Agreement on Investments, Russia has returned to manage its energy resources with a strong geopolitical edge. Though market disciplines and norms are shared at the policy level with the EU and U.S., their implementation remains “fluid.” While in general Russian exports have been reliable, there have been exceptions, prompting Western concern, for instance regarding gas market upsets in countries providing transit<sup>5</sup> and disputes with foreign investors. Moreover, the lack of independent outlets for Central Asian resources to Western markets enables Russia to act as a monopoly marketer of Caspian gas to the EU.

OPEC’s 1973 embargo of U.S. and European oil markets, which included oil export cutoffs to the Netherlands and Portugal, served as retaliation for Western support of Israel in the Yom Kippur War. The International Energy Agency (IEA), which U.S. Secretary of State Henry Kissinger proposed in 1973 and was established in 1974 as an autonomous institution within the OECD, strengthened transatlantic energy security and policy coordination to overcome the OECD’s fragile emergency response capability. The OECD’s mechanisms had proved ineffective because member states failed to act collectively and decisively, even though individual or fragmented efforts increase the risks and cost to all. Globally the IEA has successfully evolved as the transatlantic platform<sup>6</sup> for intergovernmental cooperation on energy

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Recent Commission efforts to forge a common EU energy policy have moved forward roughly along these lines.

<sup>5</sup> Sijbran de Jong, Jan Wouters & Steven Sterkx, “The Russian-Ukrainian Gas Dispute: Lessons for European Energy Crisis Management after Lisbon,” *European Foreign Affairs Review* 15: 511-538 (Kluwer law International B.V., 2010).

<sup>6</sup> This is reflected in the widening of its Eurocentric membership and the relative weight of membership voting rights.

security, policy dialogue and technology transfer. In this capacity the IEA remains the singular stage for transatlantic oil market security and energy policy dialogue regarding global energy market dynamics. To maintain its effectiveness and extend the success of its policies into the 21<sup>st</sup> century, outreach has increased steadily since the 1990s. This has involved oil and gas producers such as Russia and the Middle East; cooperation with OPEC; and efforts to engage with China, India and Brazil, the major energy consumers of the emerging economies group.<sup>7</sup> Outreach is at the core of the IEA's mission today. Indeed, how the IEA engages in global energy dialogue to accommodate current challenges to energy security and sustainability and facilitate congruent energy policy and security measures by key non-member countries will in large part define the enduring nature of transatlantic energy relations.

The June 2011 IEA stock release in response to the outage of Libyan supplies of light sweet crude and conservative OPEC production policies was allegedly driven by fears among some IEA member states of an oil product supply crunch and the challenge high oil prices pose to economic recovery<sup>8</sup>. While the action is a *'first of its kind'*<sup>9</sup> by the IEA's own admission and was acclaimed as a success in terms of market response, it has also prompted criticism and raised questions about the IEA's role in upholding market discipline. Previous IEA stock releases were associated with mitigating the effect of oil market disruptions occurring as a consequence of major geopolitical upheavals or extreme weather related outages, for instance at the onset of operation Desert Storm during the 1991 Gulf War or the impact of Hurricane Katrina on the Gulf of Mexico oil industry in 2005. The subsequent Iraq War did not necessitate a stock release, even though the IEA had readied itself for such an eventuality. In the June 2011

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<sup>7</sup> See for instance Henry Kissinger's views on the 'The Future Role of the IEA' in his speech for the 35<sup>th</sup> anniversary of the International Energy Agency, Paris, October 14, 2009 at <http://www.henrykissinger.com/speeches/101409.html>; and Jeff Colgan, "The International Energy Agency, Challenges for the 21<sup>st</sup> Century," GPPi Policy Papers Series No.(6) 2009, at [www.gppi.net](http://www.gppi.net).

<sup>8</sup> IEA 30-Day Review of Libya Collective Action, at [http://www.iea.org/press/pressdetail.asp?PRESS\\_REL\\_ID=421](http://www.iea.org/press/pressdetail.asp?PRESS_REL_ID=421).

<sup>9</sup> IEA Farewell to IEA Executive Director Tanaka *IEA News* July 2011, at <http://www.iea.org/IEAnews/news5511.htm>.

IEA collective action, its Executive Director Nubuo Tanaka acted preemptively, thus enabling IEA member states to utilize the Agency as ‘central commodity banker.’ This ‘*first of its kind*’ action outraged OPEC’s Iranian Secretary-General Abdallah El-Badri and prompted pundits to question whether this is an appropriate role for the IEA to take.<sup>10</sup> No doubt this newly established practice of acting preemptively ahead of market forces shall affect the IEA’s credibility.

Other intergovernmental platforms and organizations, such as the International Energy Forum IEF,<sup>11</sup> embed transatlantic energy relations in a wider system of energy market governance that also involves emerging economies outside the OECD/IEA. Because views differ as to how and when norms and values apply to the specific socioeconomic circumstances of the countries involved, this wider governance system involves flexible and varying degrees of commitment, and is therefore inherently fragile. Though informal forms of cooperation enable the formulation of coherent policy responses to energy and sustainability challenges with greater flexibility and larger political effect, when put to the test their implementation often seems rhetorical. Here the focus is on confidence-building and process, not on the application of multilateral market disciplines on energy markets, which would enable the application of more fundamental norms and values. Given current energy security and sustainability challenges, there is therefore a danger that transatlantic values and service to broader “human interests” could be sacrificed to expedient government policies and a false sense of urgency advanced by market actors intent on capitalizing on economic opportunities.

In this regard it is useful to ask whether the challenges we see are still the challenges we need to address, and whether the venues we choose are really still the best.

Among the informal platforms that embed the transatlantic relationship in the wider world is the G8 and its subsequent and expanded incarnation, the G20. The G-8 evolved from a 1975 summit meeting

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<sup>10</sup>OPEC Outrage at IEA’s release of Oil reserves, *Economy Watch* 29<sup>th</sup> June 2011, at <http://www.economywatch.com/in-the-news/opec-outrage-at-iea-release-of-oil-reserves.29-06.htm>.

<sup>11</sup>Bassam Fattouh and Coby van der Linde, *The International Energy Forum: 20 Years of Producer – Consumer Dialogue in a Changing World* (IEF Riyadh, Saudi Arabia 2011).

among six key industrialized economies at Rambouillet.<sup>12</sup> The objective was to address the impact of oil market dynamics on macroeconomic development while escaping the rigidity of existing institutions and avoiding protectionist reflexes. Today the G20 offers the world's most prominent policy stage, yet it is still an 'informal' meeting of the major economies to deal with energy security from a macroeconomic, fiscal and monetary policy perspective. The prospect of global economic recovery from the current financial economic crisis remains uncertain, also because of rising energy security and sustainability concerns. The perceptions of impending resource scarcity, catastrophic climate change or geopolitical maneuverings between Russia and the U.S. and EU in wider Europe have become a cause of concern to the U.S., also in respect of the EU's gas market diversification to Caspian and Central Asian gas resources. Political events unfolding in the MENA, spiked by nuclear disaster in Japan, will impact energy security and sustainability. Even with proper diversification, Russia's oil and gas market dominance in the EU's future energy mix will last. Alleviating normative governance hurdles, regardless of inconsistencies among market models alone, is therefore critical for energy security and sustainability and must therefore become a priority in dialogue between the transatlantic partners and the rising 'Rest.' Indeed the tragic events in the MENA underscore the unprecedented uncertainty to which global energy markets are exposed if they are not sufficiently anchored in shared values and socioeconomic policy goals.

The International Energy Forum (IEF), which resulted from the 1991 producer-consumer dialogue among IEA members and MENA provides a key platform for dialogue between major energy producer and consuming countries. Taken together, the countries involved represent 90% of the world's oil and gas supply-demand balance. The IEF, which has been served by a permanent secretariat in Riyadh since 2002, gathers energy ministers to foster informal dialogue on oil and gas market fundamentals and underlying investment and trade patterns, while contributing to market stability through enhancing market data transparency in the Joint Oil Data Initiative (JODI) and Joint Gas Data Initiative.

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<sup>12</sup>The 'Group of Six' comprised the United States, the United Kingdom, France, Germany, Italy and Japan.



The G20 economies' ever-tighter codependency requires strengthened multilateral cooperation and formulation of shared visions in support of global macroeconomic stability and sustainable economic growth. Yet energy sector volatility and climate threats affect North Atlantic and emerging economies differently. These differences exacerbate major trade and monetary imbalances and lead to conflicting priorities. The February 2011 communiqué issued by the G20 finance ministers and central bank governors meeting welcomed the collaborative work undertaken by IEA IEF, OPEC on JODI to at least improve data transparency and mutual understanding of market fundamentals. The G20 Paris communiqué called on these organizations to recommend how it could extend its work on oil price volatility to gas and coal by October 2011—thus embracing organizations as varied as the International Monetary Fund (IMF) and the Gas Exporting Countries Forum—a gas producer organization said to be modeled after OPEC (GECF).<sup>13</sup>

At the extraordinary IEF ministerial meeting on February 22, 2011 in Riyadh, ministers signed the IEF charter, which enshrines the work and organization of the forum as a neutral facilitator for intergovernmental dialogue among producing, consuming and transit states in a legally non-binding document. The communiqué announces that signature of the Charter:

marks a new era of international energy cooperation built on greater mutual understanding and trust, with significant reinforced political commitment to an informal, open, informed and continuing dialogue in the framework of the IEF.. With all the major energy producers and consumers united in this dialogue framework, this fact sends a powerful positive signal to the energy world and energy markets that difficult issues can and will be tackled in a *global context*, whenever necessary.<sup>14</sup>

<sup>13</sup>See item 5 of the 'Communique Meeting of Finance Ministers and Central Bank Governors', G20 France Paris, 18-19 February 2011 at [http://www.g20.org/Documents2011/02/COMMUNIQUE-G20\\_MGM%20\\_18-19\\_February\\_2011.pdf](http://www.g20.org/Documents2011/02/COMMUNIQUE-G20_MGM%20_18-19_February_2011.pdf).

<sup>14</sup>Extraordinary IEF Ministerial Meeting Concluding Statement by the Kingdom of Saudi Arabia and the Secretariats of IEA, IEF and OPEC, 22 February 2011, Riyadh at <http://www.ief.org/whatsnew/Pages/ExtraordinaryIEFMinisterialMeeting,22February2011,Riyadh.aspx>.

In addition to the welcome diplomatic engagement of the IEF globally, basic norms and values codified in predictable and transparent rule of law, including fiscal and regulatory stability, will continue to be essential to let societies prosper and boost the necessary investor confidence to address the world's energy and sustainability challenges. The transatlantic relationship may be in some disrepair due to geopolitical and economic dynamics in the post-9/11 world, but its long-standing and well-established fundamental disciplines and humanist bearings did not turn post-modern with the turn of the century; indeed, the Arab Spring shows how they in great part represent a self-propelling and universal human force. Alternative rule sets and terms of international engagement are difficult to envisage if they largely serve industry interests. Because of the universality of these values, which govern basic transatlantic market, trade and investment disciplines, the EU and U.S. are duty bound to help carry them forward until there are sufficient other safe harbors out there.

During the 1990s there was a broad trend of multilateral energy market integration; this has given way in large part to greater government-orchestrated efforts to attain energy security and sustainability goals. This interventionist trend mirrors the resource nationalism of producers whose integrated companies seek to capture the premium values that are best attained, despite their indebtedness, on open liberalized EU and U.S. markets. This now prompts energy-consuming governments to declare the need to “protect the integrity of internal markets”<sup>15</sup> and hedge against real and perceived risks of scarcity and the intangibilities of geopolitical concerns. With the wisdom of hindsight and well-established market principles tested in practice, such initiatives are not very convincing, diminish EU and U.S. security by questioning their commitment to established norms and policies, and in practice will most likely prove to be self-defeating. Most importantly, however, is that their rather self-serving tit-for-tat character creates poor policy optics in wider contexts. It reveals a lack of confidence in the adequacy of the existing governance system and rule-set

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<sup>15</sup>“The EU should continue to develop stronger common actions and accompanying measures on external energy matters to increase its influence on regional and global energy markets and to protect the integrity of the internal market and the security of energy supplies for all its members.” Cited from: Stock taking document Towards a new Energy Strategy for Europe 2011-2022 para 2, p. 14.

in terms of overcoming or accommodating energy security and sustainability challenges that could spawn bigger catastrophes globally before 2020.

Sluggish multilateral progress regarding the Energy Charter Treaty<sup>16</sup> and the Climate Summits in Copenhagen and Cancun of the United Nations Framework Convention on Climate Change<sup>17</sup>

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<sup>16</sup>The Energy Charter was signed in the Hague in 1991 by the member states of the OECD and the newly independent states of the Former Soviet Union to promote energy sector trade & investment and spur economic integration and recovery. The Energy Charter Treaty signed in Lisbon in 1994 sets out non-discriminatory market rules for energy trade, transit and investment and dispute settlement procedures thus creating a level playing field between producer consumers and transit states. The United States and Canada though signatories to the 1991 Energy Charter and negotiating parties did ultimately not sign the 1994 Energy Charter Treaty due to the federal governance system of their energy sectors and the obstacle provided in the Jackson-Vanik Amendment. Ratification of the 1994 Energy Charter Treaty is still pending for Norway, Iceland and Belarus. Russia withdrew its signature from the 1994 Energy Charter Treaty to end its provisional application and because it believes the Treaty to be out of date with the substantially changed circumstances in global energy markets. Negotiations on a Energy Charter Protocol on Transit were launched in 1998 but have not been concluded to date. The Energy Charter Conference remains the intergovernmental body for negotiation of multilateral energy market rules. Also in light of Russia's concerns and the proposal of President Medvedev of Russia for a new conceptual approach for a legal basis in international cooperation in energy in April 2009, the Energy Charter is considering modernization in a strategy group and a new Russian draft convention on energy security circulated in November 2010. For a discussion see Christof van Agt, 'Tabula Russia, Escape from the Energy Charter Treaty' Clingendael International Energy Paper, October 2009 at [http://www.clingendael.nl/publications/2009/20091001\\_ciep\\_paper\\_cvagnt\\_russia.pdf](http://www.clingendael.nl/publications/2009/20091001_ciep_paper_cvagnt_russia.pdf). The original new concept can be retrieved at *Konceptual'nyj podchod k novej pravovoj baze mezhdunarodnovo sotrudnichestva v sfere energetiki (celi i principy)*" President of Russia, Official Web Portal, 21 April 2009, retrieved at <http://www.kremlin.ru/text/docs/2009/04/215303.shtml>

<sup>17</sup>The Conference of the Parties COP 15 Copenhagen summit of December 2009 was meant to agree on a legally binding treaty to replace the 1997 Kyoto Protocol that expires in 2012 and sets binding targets for reducing greenhouse gas emissions on mature industrialized economies through the principle of common but differentiated responsibilities relative to emissions in 1990. The rising expectations to make progress ultimately became an obstacle to move forward. The Kyoto Protocol a separate legally binding agreement under the 1992 UNFCCC is not ratified by the United States though under the current administration there is much more engagement for reaching an effective arrangement for the second commitment period

(UNFCCC) are often cited as proof that the transatlantic relationship has become inadequate or insufficient with regard to the globalization of energy security and viable governance arrangements regarding sustainability. Due to the rising need to cater to public perceptions, EU and U.S. governments have surrendered to a fundamentally flawed assumption that lies behind these allegations, namely that governance has to be fast and furious when confronting crisis and glamorous for the voting public to perceive it as operating effectively. The truth is that international governance's main characteristic is that it is a painstakingly slow process in which process and product serve equally important goals. Its torturous tendency towards patience is only broken in case of clear and present breaches of national and human integrity and, as the Libyan intervention demonstrated, only in the face of great disunity.

A more broadly shared vision for socio-economic integration and growth derived from transparent and nondiscriminatory energy market rules and robust engagement on climate change could possibly be achieved in the context of the WTO. There is no need for new institutions or yet another informal intergovernmental initiative. In fact, there is even an argument to be made to leave the now rather bizarre and rising complexities of multilateral negotiations on energy and climate in the context of the Energy Charter or UNFCCC for what they have achieved, and first make progress in other more homogeneous regional contexts. Ultimately, such efforts at 'buying time' will require multilateral validation to obtain the required critical mass. This means that progress between the U.S. and EU as key stakeholders in the transatlantic relationship through the WTO will be a key test of their

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after 2012. Despite strong efforts by the European Union to become a lead actor in making progress, President Obama's grabbed the headlines as the broker of a non binding agreement to salvage the gridlock and keep the process moving. The COP 16 Cancun summit in Mexico in December 2010 was characterized by a much more operational approach and made progress on some important elements of what might ultimately become a comprehensive agreement but pushed the agreement on a legally binding commitment for mature economies only or all further over the horizon. As a consequence the EU is now like the US moving ahead more unilaterally on its climate policy goals. See Richard Wolf, 'Obama claims partial victory in Copenhagen,' *USA Today*, December 18, 2009, at <http://content.usatoday.com/communities/theoval/post/2009/12/obama-claims-partial-victory-in-copenhagen/1>.

ability to further develop their relationship while welcoming the ‘Rise of the Rest’ within multilateral frameworks.

In July 2011 the WTO ruled against export restrictions imposed by China on its raw materials on environmental grounds since 2009. This provided some comfort to importing parties and enhances confidence in the ability of multilateral frameworks to deal with rising tensions effectively. “This is a clear verdict for open trade and fair access to raw materials. It sends a strong signal to refrain from imposing unfair restrictions to trade and takes us one step closer to a level playing field for raw materials,” noted EU Trade Commissioner Karel De Gucht.<sup>18</sup>

It is of interest that in relation to Russia’s impending accession to WTO and the “reset” of relations between Russia and the U.S. that Vice President Joe Biden encouraged the strengthening of political freedoms and rule of law in Russia even as Prime Minister Putin made the lifting of visa restrictions a condition for moving forward towards a “new moral atmosphere”:<sup>19</sup> *“The reset is working, working for all of us, working for Russia and I would presumptuously say working for the world.”*<sup>20</sup>

Transatlantic energy and sustainability concerns institutionalized in the OECD/IEA and embedded in the wider world through the informal context of the G20 and other platforms and institutions such as the, IEF, Energy Charter and UNFCCC can thus still be strengthened and extended, notably through the WTO, by virtue of its general cross-sector approach. “A stronger rule book could benefit the energy sector”<sup>21</sup> and help to maintain a predictable and transparent basis for rational energy market development and sustainability goals. This will avoid fragmentation of effort and zero-sum games between various stakeholders and country groups, much like the IEA did for the coun-

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<sup>18</sup>Karel de Gucht, cited in ‘EU hails WTO ruling on Chinese raw materials export restrictions’ *Platts*, 6 July 2011, at <http://www.platts.com/RSSFeedDetailedNews/RSSFeed/Metals/8083493>.

<sup>19</sup>Speech of Vice President Joseph Biden at Moscow State University cited in ‘US Warns Russia for investor risk’ *Financial Times*, March 11, 2011, p. 2.

<sup>20</sup>Speech of Vice President Joseph Biden at Moscow State University cited in ‘US Warns Russia for investor risk’ *Financial Times*, March 11, 2011, p. 2.

<sup>21</sup>Remarks by Pascal Lamy Director General World Trade Organizations during the 21<sup>st</sup> World Energy Congress cited in ‘Lamy: “A stronger WTO rule book could benefit the energy sector;”’ WTO, 16 September 2010.

tries of the OECD and WTO disciplines for opening markets and strengthening of universal norms.

For these reasons energy security and rule-based economic integration, as well as sustainable growth are back at the center of the U.S.-EU agenda:

Energy is an important component of the EU-U.S. dialogue in the 21<sup>st</sup> century, because it has effects across our foreign, economic and development policies. By working together on energy, the EU and the U.S. are increasing our mutual security and prosperity; underpinning stable, reliable and transparent global energy markets; and coordinating our regulatory regimes and research programmes to speed the development of tomorrow's clean and efficient energy technologies.<sup>22</sup>

Changes in the geopolitical landscape of the modern world show that, although historic, the transatlantic relationship is no longer the "one and only" nor can or should it claim exclusive authority over the now much more widely acknowledged norms and values at its core. The transatlantic relationship could in fact become a victim of its own success due to

- the fact that economic growth and rising energy demand of Asian-Pacific and other rising non-OECD economies may crowd out the impact of transatlantic policies on global energy and foreign economic relations;
- the growing macro-economic gravity of other interdependencies, such as U.S.-China monetary relations or the economic co-dependency between Russia and the EU in energy issues;
- the EU's ambition to become a more effective and cohesive actor on the international stage to confront risks from globalization, demographic trends, energy and sustainability and its mistaken ambitions (when considering EU capabilities), floated occasionally, to 'go it alone' or seek new non-transatlantic or U.S. alliances.

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<sup>22</sup>See 'EU-US Energy Council, Press Statement' Council of the European Union, Lisbon, 19 November 2010 16724/10 Presse 314 first paragraph at [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/117862.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/117862.pdf).

## Europe's 'California Dreaming'

The entry into force of the Lisbon Treaty on December 1, 2009 reformed the workings of EU institutions to enable EU member states to “act as one” in confronting 21st century challenges, which means “rethinking some of the ground rules for working together.”<sup>23</sup> While these public relations intonations may sound catchy, they reveal that Europe might be edging into panic mode to harness political unity and protect the integrity of its internal market rather than extending these rules externally. New measures to ring-fence open market disciplines and norms, as if these are the EU's exclusive domain and not also governed by international treaties, with measures to leverage market power against monopolist energy suppliers such as Russia's Gazprom, in favor of possible new market entrants such as gas supplies from a normatively underperforming Turkmenistan, represent the opening move in a dangerous and not-so-great game. Here real and perceived security of supply concerns cut through much broader foreign policy goals of the EU and the fundamental norms and values that the transatlantic relationship must carry at its core. The ambivalence shared by the EU and U.S. towards Russia and their preoccupation with project-specific policies in the Caspian region reflect divisions in a cumbersome and failing energy dialogue. They call into mind statements made by U.S. Secretary of State Henry Kissinger in 1973 at the Pilgrims society, where he launched the concept of the International Energy Agency. Indeed these words could be voiced today from a Russian perspective as well:

Europe's unity must not come at the expense of the Atlantic community, or both sides of the Atlantic will suffer, it is not that we are impatient with the cumbersome machinery of Europe, it is rather the tendency to highlight division rather than unity with us which concerns us.<sup>24</sup>

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<sup>23</sup>From the EU website notice marking the entry into force of the Lisbon Treaty on the 1<sup>st</sup> of December 2009 ‘Taking Europe into the 21<sup>st</sup> Century’ Europa, gateway to the European Union at [http://europa.eu/lisbon\\_treaty/take/index\\_en.htm](http://europa.eu/lisbon_treaty/take/index_en.htm).

<sup>24</sup>Henry Kissinger, Text of address in London to the Pilgrims society on energy and European problems, *New York Times*, December 13, 1973.

Of course the world, the EU and U.S. have changed since the Arab oil embargo in 1973 and with the end of the Cold War in 1991. The EU has enlarged its membership and seeks a more active engagement with its neighborhood policies, although this does not involve key Central Asian energy producers such as Kazakhstan, Uzbekistan or Turkmenistan, even though they are the focal point of EU and U.S. efforts to diversify gas markets via establishment of a Southern corridor around Russia.

Emerging economies such as China and India have increased the living standards of millions, but as a consequence they have also become more dependent on energy imports. China has made rapid progress in securing oil and gas supplies across the world and notably in Central Asia, with speedy and straightforward government-financed deals. Here the issue the transatlantic partners face is not so much new competition over resources but the fact that particular Asian-Pacific players fail to buy into the application of economic and other values and norms. On the transatlantic side, business-like cooperation with key MENA energy producers has improved in the producer-consumer dialogue and become more effective, as demonstrated by the willingness of OPEC producers to boost oil production and calm world energy markets in the wake of the Libya crisis, even though ultimately this was considered not enough.<sup>25</sup>

The geopolitical turmoil unleashed by the 9/11 terrorist attacks has tested the mettle of transatlantic partnership and considerably damaged the global market economic vision the twin towers stood for and was widely shared in the post-Cold-War world of the 1990s. Russia's policy turns in utilizing its energy wealth as a geopolitical lever in response to military intervention in Iraq and Afghanistan or the U.S. Congress denial of CNOOC's bid to take over UNOCAL are at least illustrative of the loss of confidence in level playing fields globally. Yet as the dust settles a decade on now we do see increasing system convergence around an enduring social and economic value-set reemerging.

Evidence hereof lies in the success of emerging economies in the Asia-Pacific and in Latin America, which today drive much of the world's economic growth; and in the growing populations in MENA's

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<sup>25</sup>Members of Opec join Saudis in oil boost, *Financial Times Europe*, March 8, 2011, p. 1.



opening societies, who no longer wish to be excluded from the freedoms and benefits that transatlantic societies stand for. In addition, countries in the EU's Eastern and Mediterranean partnership seek to become more closely associated with the EU. This should encourage the transatlantic relationship not to respond defensively to the rise of the rest, but rather take to a more daring posture claiming co-ownership and therefore being entitled to press for implementation of market disciplines and socio-economic values and norms. This provides the impetus to regain the confidence of the 1990s and to equip transatlantic partners with a clear basis from which to more confidently project their foreign economic policy.

Looking forward into the 21<sup>st</sup> century, what is certain is that the world and its macroeconomic and fundamental energy market dynamics will change in ways that are difficult to foresee. Finally, the shale gas revolution in the U.S. and the wide application of biofuels in Brazil are both examples of how the deployment of technology can affect market dynamics and sentiment.<sup>26</sup> But crises in the Gulf of Mexico and Japan also show that vigilance with respect to the management of industrial risk is also needed.

### **Meet You in Geneva**

In times of unprecedented uncertainty, innovative approaches that sidestep norms or economic discipline in anticipation of future challenges will not strengthen stability and investor confidence. Dilution of market discipline will diminish options for further engagement between the EU and the U.S., and will weaken the ability of the transatlantic partners to engage constructively with emerging economies. In the absence of more even-handed and effective multi-lateral approaches (think of Russia's escape from the Energy Charter in relation to its impending WTO accession), the standing and credibility of the transatlantic rule-set will be lost. In this scenario, transatlantic states expose themselves in the eyes of the people of the "rising rest" to claims of neglect for taking responsibility for the protection

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<sup>26</sup>John Deutch, 'The Good News About Gas, The Natural Gas Revolution and its Consequences,' *Foreign Affairs*, January-February 2011.

and advancement of values and norms that also determine their well-being and prosperity.

### **Shared Visions, from Stable to Dynamically Evolving**

The IEA/OECD ensures the cohesion and consistency of energy market policy and regulation among its members precisely because there are important differences in energy governance, market structures and external dependencies between the EU as a whole, its member states, the U.S. and other transatlantic partners.

Despite the Lisbon Treaty's<sup>27</sup> chapter on energy,<sup>28</sup> the EU mixes community competencies with intergovernmental forms of cooperation among EU member states. These retain sovereignty over their resources, the composition of their energy mixes and investment policies. Though parallels can be drawn between the federal governance system in the U.S. and the governance structure of the EU these are often misleading. First, the U.S. represents a stable federal governance system with a single department for energy and federal regulatory authority that ensures coherence in energy policy and regulation. The EU is, with the Lisbon Treaty in place, still a political process of governance formation in which the institutional set-up and division of competencies among EU bodies and member states is in dynamic evolution. Second, the use and ownership of subsoil energy resources in the EU are governed by EU member states, but are often privately held in the U.S., with the notable exemption of offshore resources. Although the predictability of the rule of law, policy objectives and market economic, fiscal and commercial disciplines are now equally shared as implementation of the EU's "third energy package" is underway,<sup>29</sup> the U.S. does not have a requirement for full-scale energy market liberal-

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<sup>27</sup>Consolidated versions of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), *Official Journal of the European Union* (OJ) C115 Volume 5 Notice 2008-C115-01 (Brussels 9<sup>th</sup> of May 2008).

<sup>28</sup>TFEU Title XXI Article 194 Energy C115 Volume 5 Notice 2008-C115-01 (Brussels 9<sup>th</sup> of May 2008).

<sup>29</sup>See the 'Third Energy Package': (OJ L 211, 14 August 2009) Legislative acts that formally entered into force on the 3<sup>rd</sup> of March 2011. Due to the delay's by some EU member states the Commission would only consider next steps and or infringement procedures in 4Q 2011 at best. See also 'Brussels weighs legal action on internal

ization. Unlike the EU's state traditions in economic governance, private enterprise is at the core of U.S. policymaking. This means that significant differences still exist between EU member states and U.S. states. Finally, governance in common law and civil law cultures mean that policy and regulatory approaches cannot automatically be transposed and that their utility and effect are not necessarily the same.

The division of responsibilities among senior representatives of the EU and member state institutions means that EU energy policy emerges from a complex process of negotiations and compromise between stakeholders with divergent perspectives, in particular with regard to its external relations. The EU, a post-modern entity in which the actors and elements together make up the EU's single voice on foreign policy, focuses through a kaleidoscope of interests that can both blur and sharpen views. In the search for an external energy policy therefore, not only cohesion and consistency, but above all caution, remain key:

There is a need for better coordination of EU and Member States' activities with a view to ensuring consistency and coherence in the EU's *external relations* with key producer, transit, and consumer countries. The Commission is invited to submit by June 2011 a communication on security of supply and international cooperation aimed at further improving the consistency and coherence of the EU's external action in the field of energy. The Member States are invited to inform from 1 January 2012 the Commission on all their new and existing bilateral energy agreements with third countries; the Commission will make this information available to all other Member states in an appropriate form, having regard to the need for protection of commercially sensitive information. The High Representative is invited to take fully account of the energy security dimension in her work. Energy security should also be fully reflected in the EU's neighborhood policy.<sup>30</sup>

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energy market' EurActiv, 01.03.11, and The internal energy market—Time to switch into higher gear.'

<sup>30</sup>Conclusions on Energy European Council EUCO 2/11 CO EUR 2 CONCL 1(Brussels 4 February 2011) item 11 pp 4 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).

By establishing an Agency for Cooperation of Energy Regulators (ACER)<sup>31</sup> the EU has moved one step further in the direction of an independent European regulator that may contribute to a more optimal regulatory environment, as the U.S. ensures through the Federal Energy Regulatory Commission (FERC). Indeed, here the EU appears to have followed the U.S. lead.<sup>32</sup> Another important policy trend is that since the 1990s, when the policy consensus was for energy to be governed by general non-discriminatory economic rules and commercial principles checked by competition and antitrust law, the policy and regulatory domain today seems more characteristic of the 1950s in terms of financing and industrial needs for dealing with real and perceived challenges and achieving a “green economy.”<sup>33</sup> The weaknesses observed in the application of multilateral frameworks for open energy market integration gives rise to complaints over the absence of a European energy policy to cover also more clearly the external energy dimension of Europe’s internal energy market and to protect its integrity over the dominance of external monopoly power. The opportunities this creates for new “innovative” approaches are reflected in the concept of a Caspian Development Corporation<sup>34</sup> and other initiatives that in their most radical interpretation will amount to ring-fencing the EU’s internal energy market.<sup>35</sup> It is unclear how

<sup>31</sup>See 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.

<sup>32</sup>*Issues for consideration for the longer-term: Strengthening the role of ACER & ENTSO (European Network of Transmission System Operators ed) to develop a more integrated regional and **European energy market*** (emphasis added) cited from Stock taking document Towards a new Energy Strategy for Europe 2011-2022 para 2, p. 12.

<sup>33</sup>See Sami Andoura, Leigh Hancher and Marc van der Woude ‘*Policy Proposal by Jacques Delors Towards a European Energy Community: a Policy Proposal*’ (Notre Europe March 2010) that proposes to put energy itself at the centre of EU policy in marked contrast to its own multilateral open market model and universal appeal of humanist rules.

<sup>34</sup>To enhance, in its totality the competition on the EU’s own internal gas market, the European Commission jointly with the European Investment Bank, World Bank and the Public Private Infrastructure Advisory Facility investigates the option on bundling European gas demand in a single corporate vehicle to purchase gas and facilitate infrastructure investment with Turkmenistan and other Caspian and Middle Eastern producers. See also CERA HIS Caspian Development Corporation Final Implementation Report December 2010 presented to WB, EC, EIB *Confidential Report*.

<sup>35</sup>Full text of the Buzek and Delors Declaration on the creation of a European Energy Community, The President of the European Parliament, Press Releases (Brussels – Wednesday, May 5<sup>th</sup>, 2010) paragraph 7.

such approaches will pass the test of the EU's own general market rules<sup>36</sup> or add cohesion and consistency to the EU's own multilateral policy posture<sup>37</sup> within the transatlantic relationship on the international scene, but as is already mentioned above these policy optics look rather poor.

Looking at the energy and sustainability challenges themselves, these center on managing rising import dependencies notably for gas in the EU and oil in the U.S. as well as the need to manage climate change and sustainable economic growth by reducing carbon emissions and decreasing the energy intensity in GDP. Energy efficiency, innovation and transition to alternative non-fossil sources of energy such as biofuels, wind and solar and other renewable energies are key. This is part of the Europe 2020 strategy for smart, sustainable and inclusive growth,<sup>38</sup> which among its five goals lays down where the EU should be on climate and energy in 2020:

- 20% reduction of greenhouse emissions (binding and on track)<sup>39</sup>
- 20% increase in the share of renewable in the EU's energy mix (binding and on track)
- 20% improvement of energy efficiency targets (non-binding and not on track)<sup>40</sup>

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<sup>36</sup>General market rules as provided for in the EU Third energy legislative package and EU competition rules.

<sup>37</sup>See in addition to multilateral energy market rules under in international frameworks such as the Energy Charter Treaty and WTO TEU Title V Chapter 1 General Provisions on the Union's External Action Art. 21(2) paragraphs (a),(d),(e),(f),(g),(h). *Official Journal of the European Union* C115 (Brussel 9<sup>th</sup> of May 2008).

<sup>38</sup>Europe 2020 strategy for smart, sustainable and inclusive growth last updated on 6 August 2010 at [http://ec.europa.eu/economy\\_finance/structural\\_reforms/europe\\_2020/index\\_en.htm](http://ec.europa.eu/economy_finance/structural_reforms/europe_2020/index_en.htm).

<sup>39</sup>Without prejudice to an offer in international negotiations to raise this to a 30% target.

<sup>40</sup>But if this could be met through full implementation of the revised Energy Efficiency Plan this would enable a 25% reduction in greenhouse gas emissions by 2020 instead of the 20% reduction target today. See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions A roadmap for moving to a low carbon economy in 2050, (Brussels COM 2011 xxx) p 12.

Next to climate change, this also serves security of supply and strategic economic interests in a resource-efficient economy to create jobs and boost competitiveness by stimulating investment in innovation and deployment of new more efficient “green” technologies.<sup>41</sup>

Unlike the U.S. and other transatlantic partners, the EU must manage these challenges while completing its internal market and moving forward with its own political and institutional integration in accordance with the Lisbon Treaty. This means that it can rely less on merely creating fiscal and regulatory conditions, as for instance is provided for by FERC in the U.S., or fostering public private partnerships to enable that ultimately market mechanisms ensure these challenges are met in an optimal and economically viable manner. The EU must focus permanently on policy coordination and consistency of effort among its member states. Thus the EU is becoming much more reliant than the U.S.—if not entrapped—on strategic inward planning and cooperation,<sup>42</sup> which relies on a complex procedural universe internally that has become a science in its own right. For this reason next to the already observed sluggish multilateral negotiations internationally the EU will continue to need the U.S. to voice international policy clear and effectively. The fundamental belief in the U.S. in markets, combined with a federal system that works effectively,<sup>43</sup> means

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<sup>41</sup>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions A Resource efficient Europe Flagship initiative under the 2020 strategy at Europe <http://ec.europa.eu/resource-efficient-europe/>.

<sup>42</sup>*‘The third internal energy market package laid the basis for European network planning and investment by creating the requirement for Transmission System Operators (TSOs) to cooperate and elaborate regional and European 10-year network development plans (TYNDP) for electricity and gas in the framework of the European Network of TSOs (ENTSO and by establishing rules of cooperation for national regulators on cross-border investments in the framework of the Agency for the Cooperation of Energy Regulators (ACER)’* Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions Energy infrastructure priorities for 2020 and beyond—A Blueprint for an integrated European energy network, (Brussels 17 November 2010) COM (210) 677 final p 8. at [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT\\_COM:2010:0677\(01\):FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2010:0677(01):FIN:EN:PDF).

<sup>43</sup>Compare the role of FERC in facilitating the expansion of interstate gas infrastructure—a major obstacle to integrate the gas market in the EU and diversify gas supplies—in the period 1998-2008 the interstate grid was expanded by some 30.000 km

that the U.S. can project foreign policy much more swiftly and straightforwardly than the EU, with or without an effective External European Action service and despite the EU's ambition, laid down in the Lisbon Treaty's new article on energy, that individual EU member state energy security and sustainability policies are to be governed in 'a spirit of solidarity.' This appears to go against the principle of subsidiarity, by which EU member states retain authority on how best to implement EU policy.<sup>44</sup>

In parallel to the adoption of the Lisbon Treaty and implementation of the third energy package, the EU is launching (among a wide range of new policy initiatives) major strategic approaches to tackle the challenges it sees on energy and sustainability. Among these are:

1. **The Energy 2020 Strategy (2020 Strategy)**<sup>45</sup>: Sets out the EU's key priorities in a step change to meet the energy challenge ('the life blood of our society ... one of the greatest tests which Europe has to face')<sup>46</sup> in five goals:
  - i) Achieving an energy efficient Europe;
  - ii) Building a truly pan-European integrated energy market;
  - iii) Empowering consumers and achieving the highest level of safety and security;
  - iv) Extending Europe's leadership in energy technology and innovation;

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see Aad Correljé, Dick de Jong, Jacques de Jong 'Crossing Borders in European Gas Networks, the missing links' Clingendael International Energy Programme (CIEP) Energy Paper 2009 at [http://www.clingendael.nl/publications/2009/20090900\\_ciep\\_paper\\_gas\\_networks.pdf](http://www.clingendael.nl/publications/2009/20090900_ciep_paper_gas_networks.pdf).

<sup>44</sup>TFEU Title XXI Article 194 Energy C115 Volume 5 Notice 2008-C115-01 (Brussels 9<sup>th</sup> of May 2008).

<sup>45</sup>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions Energy 2020 A strategy for competitive, sustainable and secure energy, (Brussels 10 November) 2010 COM (2010) 639 final at <http://www.energy.eu/directives/com-2010-0639.pdf>.

<sup>46</sup>Ibid., A strategy for competitive, sustainable and secure energy, (Brussels 10 November) 2010 COM (2010) 639 final p.1 at <http://www.energy.eu/directives/com-2010-0639.pdf>.

- v) Strengthening the external dimension of the EU energy market.<sup>47</sup>

## 2. The European Energy Infrastructure Package (EIP)<sup>48</sup>:

Sets out the EU's vision of what is needed to mobilize the EU's infrastructure investment needs, estimated at one trillion euro, making oil gas and electricity networks efficient and resilient to meet energy and sustainability needs by 2020:

- i) Efficient and transparent project authorization and permitting procedures;
- ii) Financing incentives that the current regulatory framework does not provide;
- iii) Cross-border cooperation on European value-added as opposed to member state policy.

It maps out the necessary infrastructure, qualifies those of 'European interest' and offers a tool box for their timely implementation that includes a public co-financing Connecting Europe Facility.<sup>49</sup>

## 3. The Roadmap for moving to a low carbon economy and energy policy beyond 2020 towards 2050 (Roadmap 2050)<sup>50</sup>:

Sets out the EU's roadmap for action to fulfill its objective to reduce GHG emissions by 80-95% compared to 1990 that enable a 50% reduction in emissions globally by 2050<sup>51</sup> outlining milestones achieving 40-60% reduction lev-

<sup>47</sup>Ibid, p. 5-6.

<sup>48</sup>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions Energy infrastructure priorities for 2020 and beyond – A Blueprint for an integrated European energy network, (Brussels 17 November 2010) COM (210) 677 final at [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT\\_COM:2010:0677\(01\):FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2010:0677(01):FIN:EN:PDF).

<sup>49</sup>Ibid., A Blueprint for an integrated European energy network, (Brussels 17 November 2010) COM (210) 677 final at [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT\\_COM:2010:0677\(01\):FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2010:0677(01):FIN:EN:PDF) pp. 5-6.

<sup>50</sup>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions A roadmap for moving to a low carbon economy in 2050, (Brussels COM 2011 xxx).

<sup>51</sup>In accordance with necessary reductions by IPCC taken on by developed countries as a group and multilateral agreements on climate change struck at Copenhagen and



els by 2030 and 2040 respectively, energy policy challenges, investments and opportunities. It identifies electricity as the key enabler to eliminate CO<sub>2</sub> emissions in 2050.

This is in addition to a communication on security of supply and international cooperation aimed at further improving the consistency and coherence of the EU's external action in the field of energy. While the EU affirms open energy market integration and the application of competition policy as its foreign economic 'leitmotif,' it will look at foreign energy relations more on a case-by-case basis, rolling out the 'principle of differentiation' that remains to be tested notably in EU support for negotiations for an intergovernmental agreement on a Trans-Caspian gas pipeline between Azerbaijan and Turkmenistan.<sup>52</sup>

### Summary: A False Sense of Urgency?

After a period of high geopolitical and energy market volatility, a striking feature is the sense of alarm about the energy security and sustainability challenges and the apparent frustration with the EU's own functioning that resonates throughout these documents though the above referred to communication on external energy relations radiates more policy calm, The EU's ambition to shepherd Caspian intergovernmental gas relations may provide comfort to some, while for others this is a cause for alarm. The sense of urgency is also apparent in the swift succession of initiatives to foster new rules and the leadership role the EU contemplates to take on globally to tackle the challenges it sees. This can also be derived from a general report on the EU's activities that discusses energy, climate and environment prominently in chapter III.<sup>53</sup> Options for more Europe (EU), govern-

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Cancun to limit climate change to 2°C.

<sup>52</sup>Conclusions on Energy European Council EUCO 2/11 CO EUR 2 CONCL 1(Brussels 4 February 2011) item 11 pp 4 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). See also Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions On security of energy supply and international cooperation—"The EU Energy Policy: Engaging with Partners beyond Our Borders" Brussels, 7.9.2011 COM(2011) 539 final.

<sup>53</sup>The *General Report on the Activities of the European Union — 2010* was adopted by the European Commission on 16 February 2011 under reference number SEC(2011) 189 See at [http://europa.eu/generalreport/pdf/rg2010\\_en.pdf](http://europa.eu/generalreport/pdf/rg2010_en.pdf).

ment intervention, public funding and coordination to deal more innovatively with the EU's increasing energy market exposure to largely imported sources of fossil energy are recurrent themes. Policies and technologies are increasingly mandated aside of actual EU governance and market realities due to the preponderance of a strategizing bureaucracy based on yet to be tested extrapolation of existing trends. This creates both process and perception risks for EU governance in relations with the U.S. and with external partners,<sup>54</sup> apart from reactions by the EU's own member states, which despite the Lisbon Treaty's appeal for solidarity retain important competencies over energy security and sustainability.

### *Make Haste with Slow Policy*

More consolidated approaches based on agreed policy such as through implementation of the third energy package in the EU and working through multilateral frameworks and dialogue by Transatlantic partners on the international scene should add rationality and predictability. This will allow energy markets, themselves characterized by long-term approaches and an "ecosystem" of complex codependent international relations, to develop and capitalize on new opportunities while adapting to enduring challenges of climate change and energy security based on market needs. Time and transparency are of the essence to foster the necessary trust and confidence in effective multilateral frameworks through cooperative approaches by governments and competition by the energy industry. This enables deployment of the most economically viable options offered by new technology or allow markets to retain sufficient flexibility to capitalize on other unforeseen market developments effectively.<sup>55</sup>

The February 2011 EU Council meeting conclusions on energy and innovation contributed to instill some calm and discipline in EU

<sup>54</sup>Interview with Alexander Medvedev: "There is no need to build the Great Wall of China on the gas market" *Gazprom* (14 October 2010) retrieved at: <http://www.gazprom.com/press/reportages/interview-medvedev/>.

<sup>55</sup>See the speech by the former executive director of the international energy agency Mr. Claude Mandil on energy security to the Clingendael International Energy Programme Advisory Board meeting on the 14<sup>th</sup> of December 2010 in The Hague at <http://www.clingendael.nl/ciep/events/20101214/CIEP%20Lecture%20by%20Mr%20Mandil%2014%20December%202010.pdf>.

policymaking on energy security and international cooperation, especially with respect to its foreign policy implications. The EU gears up to navigate the still rather uncharted limits of all that the Lisbon Treaty provides for, and certainly transatlantic partners have been eager to have a more robust partner on their side. This assessment however finds that in principle a transatlantic energy and climate policy is best served by buying time to recalibrate much more cautiously approaches based on market austerity and a reengagement on normative policy. A spirit of solidarity should accommodate diversity of situations among its partners rather than superimpose a centrally administered protectionist EU energy policy. U.S.-EU cooperation should be geared to 2020 by avoiding strident approaches and focusing on well-measured steps in a highly fluid energy market context to minimize rather than exacerbate geopolitical turbulence.

## **Conclusions**

Today's events, notably in relations between the transatlantic partners and the Middle East and North Africa, but less so with former cold war foes China and Russia, underscore the unprecedented uncertainty to which global energy security and sustainability is exposed when normative foreign policy is made secondary to transatlantic preoccupations with security of supply and sustainability concerns. These show that new U.S. and EU energy policy choices, whatever they might be, should be embedded much more convincingly into the values and norms that the transatlantic partners share in their foreign affairs and security policies. This is not only in the interest of economic development, primarily driven by emerging economies, but required to embed more firmly energy security and sustainability concerns in socioeconomic stability. Universal application of fundamental values and norms, which the transatlantic partners provide safe harbor to but do not hold on their own exclusively, must come to the fore in the articulation of a new and more appealing narrative on long-term energy market stability and sustainable economic growth.

Outreach is at the core of the OECD and IEA's mission today. How these institutions engage in global dialogue to facilitate compatible governance, energy policy and security measures by non-member countries shall define the endurance and nature of transatlantic energy

relations. Transatlantic energy and sustainability policies institutionalized in the OECD/IEA are also embedded in the wider world through the informal context of the G20 and other platforms and institutions such as the IEF, Energy Charter and UNFCCC. Though policy dialogue can still be strengthened and extended here, the WTO stands out as a more appropriate venue to move towards further inclusion and implementation notably by virtue of its general cross-sector approach and genuine global appeal.

More consolidated approaches based on agreed policy and through multilateral frameworks and dialogue on the international scene is a sluggish undertaking. Informal venues may provide political impetus and some relief, but cannot provide a viable alternative. Time is an essential component in advancing multilateral market disciplines. With the exception of elementary norms and values, the transatlantic partners should not expect to receive instant gratification on these where we disagree. However, increased U.S. engagement in the multilateral scene is urgently required to add weight and augment appeal through modernization and re-engagement. Emphasis could be shifted from debating market models with Russia, MENA and the Asia Pacific towards more fertile ground, such as their own modernization, governance and development needs.

While buying time by avoiding the launch of new organizations, initiatives and rules on energy, a new policy narrative on energy security and sustainability needs to be created. This should enable the formulation of a credible and comprehensive energy diplomacy for the 21<sup>st</sup> century that the transatlantic partnership urgently needs. Such a narrative should go beyond market fundamentals, investment and trade terms that carry themselves quite well, but dare to speak to the norms and values that characterize the transatlantic relationship at its core and need to be carried more convincingly, as they ultimately provide for its global appeal.