



Thinking the Unthinkable: Promoting Regional Approaches to EU Energy Policies for a More United and Effective Europe

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1. Introduction

Following the 2007 European Council meeting that led to the 2007-08 Climate and Energy Package, reinforced by the entry into effect of the Lisbon Treaty, which established a European Union competence for energy, as well as by the “third package” of legislative proposals for an internal gas and electricity market, an energy policy for the EU was thought to be within reach. The belief was that three pieces of legislation, the internal market electricity, gas and renewable directives, and the Climate and Energy Package with the Emissions Trading System (ETS), would lead to a convergence of member states’ energy policies or at least better cooperation. While conceptually this

Regional approaches to EU energy policies have been termed the “Schengenisation” of energy, making reference to the Schengen Convention eliminating intra-European border controls. They aim to hone the effectiveness of EU energy policy objectives through enhanced policy coordination at the regional scale. Typically, this includes energy market integration while accounting for member states’ continued deployment of national-level policy instruments regarding the appropriate energy mix and the security of energy supply, which is foreseen in the EU Treaty. This report explores the potential for such regional approaches. It assesses lessons from existing initiatives to determine whether regional energy initiatives are an efficient, effective and politically acceptable approach toward reaching three EU energy policy objectives: competitiveness, supply security and sustainability. Regional approaches could possibly play an important role for governing EU renewables policy, which the European Commission has identified in the 2030 climate and energy framework as an important element for governance.

ABSTRACT

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might still hold true, in reality member states' energy policies diverged, and cooperation did not materialise, at least not on an EU-wide basis. In the absence of an effective ETS, the internal energy market on its own was not enough to elaborate a European energy policy. European energy policy involves more than the single market.

But the story does not end here: too often the rhetoric on energy policy coordination is not matched by implementation. Germany's implementation of its unilateral decision to switch off nuclear power plants without consultation is but one, if extreme, example. However, as long as national policy-making remains dominant, there is a high likelihood that cross-border benefits are being missed. The economic opportunity is significant. An assessment for the European Commission estimates that 40 billion euro per year could be saved as a result of more integrated European power markets, enabled through cross-border infrastructure.¹ Other studies come to similar results.² European Climate Foundation modelling shows that the system efficiencies achieved through interconnected markets could save up to 426 billion euro by 2030. Part of the savings results from renewable generation where the resource availability is highest; however, the bulk of the value comes from more efficient system operation and balancing in the context of higher levels of variability in renewable resources.³

Moreover, ambitions to move toward a low-carbon energy economy have introduced new instruments that are having an impact on existing energy markets. Renewable energy source (RES) targets, energy efficiency policies and choices regarding fuel mixes all affect the EU's regional and national energy markets. This became especially apparent when national governments started to implement their own policies⁴ to comply with the Climate and Energy Package. Examples are national roadmaps, capacity remuneration

¹ Booz & Co., *Benefits of an Integrated European Energy Market*, Final report for European Commission Directorate-General Energy, 20 July 2013, http://ec.europa.eu/energy/infrastructure/studies/doc/20130902_energy_integration_benefits.pdf.

² Georg Zachmann, "Electricity without borders: a plan to make the internal market work", in *Bruegel Blueprints*, No. 20 (September 2013), <http://www.bruegel.org/publications/publication-detail/publication/791-electricity-without-borders-a-plan-to-make-the-internal-market-work>.

³ European Climate Foundation, *Power Perspectives 2030: On the Road to a Decarbonised Power Sector*, 2013, <http://www.roadmap2050.eu/project/power-perspective-2030>.

⁴ Robert Grant (ed.), *A Smart EU Energy Policy*, Final report CIEP, EUI, FEEM and Wilton Park, April 2010, <http://www.clingendaelenergy.com/publications/publication/a-smart-eu-energy-policy>.

mechanisms to ensure generation adequacy and market designs, regional approaches to new network investments, RES support policies, col-phase out policies and even market monitoring and industrial strategies.

This is in contrast to the measures relating to the political commitment to complete the single EU energy market by 2014-15. This process has triggered numerous activities such as the development of target models – i.e. gas and electricity market designs – network codes and regional markets. Among other things, it has become increasingly clear that adjacent national markets require specific arrangements that facilitate cross-border trade.

This paper argues that instead of pursuing the “illusivive” internal energy market, a better way to create a more unified and effective Europe would be to seriously embark on regional energy approaches. The condition would be that they are embedded in a EU framework. If so, could regional approaches be an efficient, effective and politically acceptable approach towards reaching the three EU energy policy objectives of competitiveness, supply security and sustainability?

2. Regional Approaches

Regional approaches, which are a means of taking into account country-specific circumstances and characteristics, can explore and assess potential opportunities for coordinated energy policy cooperation. There may be another rationale for regional initiatives; it is far from certain that the specificities of national situations are always considered when policy objectives are translated into regulation and implementation at the EU level.

Yet, policy coordination at the regional level requires some form of governance structure within the wider context of EU energy policy-making, hence the expression “Schengenising” European energy policy, referring to the Schengen Convention eliminating intra-European border controls among participating nations. In light of the challenge of finding EU-wide energy solutions that fit the needs of all 28 member states, regional solutions tailored to the specific preferences of certain parts of Europe are a promising, complementary

alternative. Notably, security of natural gas supplies is a more salient issue in Central and Eastern Europe, while environmental considerations feature more prominently in northwestern Europe. Important regional forms of cooperation include the Visegrad countries' V4 initiative (Poland, the Czech Republic, Slovakia and Hungary), the Pentalateral Energy Forum (PF, which involves France, Germany, the Benelux countries, Switzerland and Austria) and the related North Seas Countries Offshore Grid Initiative (NSCOGI, for ten nations bordering or close to the North Sea), as well as the Mediterranean Energy Forum.

3. Regional Initiatives: Examples and Concepts

This section briefly describes a few concepts and initiatives, some of which have been discussed and presented in previous workshops. They are examples highlighting the generic issues that will have to be addressed, including the energy policy/market, as well as institutional and political perspectives, in light of the many regional initiatives that exist.

- A “corridor” approach has been adopted for the development of energy from renewable sources (RES) in the Mediterranean region, whereby countries are linked by infrastructure pathways. This approach has been further refined⁵ to focus on specific corridors inside the EU as a whole. For Mediterranean RES exchanges to overcome the patchwork of member states', third countries' and EU energy regulations, they have to be complemented by case-sensitive renewables-specific trade arrangements that frame EU imports of RES. The approach is expected to unlock investment and stimulate regulatory and legal reform.
- An “infrastructure” approach, with a focus on reducing carbon emissions, has been taken by E3G,⁶ a non-governmental organisation working toward sustainable development. This concentrates on renovating and creating network infrastructure to underpin deployment of low-carbon-generation resources within an integrated European power market. The regional element is that it also calls for strengthened

⁵ Jean-Michel Glachant and Nicole Ahner, “In Search of an EU Energy Policy for Mediterranean Renewables Exchange: EU-Wide System vs. ‘Corridor by Corridor’ Approach”, in *Florence School of Regulation Policy Briefs*, No. 2013/06 (October 2013), <http://hdl.handle.net/1814/28359>.

⁶ Jonathan Gaventa, “Infrastructure networks and the 2030 climate and energy framework”, in *E3G Working Papers*, September 2013, <http://www.e3g.org/news/media-room/infrastructure-networks-and-the-2030-climate-and-energy-framework-03>.

institutional capacity for cross-border collaboration on infrastructure development and trading. Regional initiatives are thought to be better at capturing the value derived from resource sharing while reflecting differing national circumstances.

- In contrast, the think tank Notre Europe has proposed an institution-based approach whereby a new European Energy Community⁷ would operate under the present EU institutional structure but according to rules that would only be compulsory for those member states that join, in other words, enhanced cooperation as defined in EU treaties. Other member states would later be able to join later. This would be coupled with ad hoc measures designed to meet and anticipate the objectives of the European Energy Community on specific issues. The proposal describes a number of clearly identifiable competences, but others could be conceivable.
- The Visegrad 4 approach aims for regional energy policy cooperation and market integration. It emerged from the Russia-Ukraine-EU gas crises of 2006 and 2009, the former affecting Poland and the latter hitting the Czech Republic, Slovakia and Hungary hard. This resulted in discussions about essential gas infrastructure investment in the region and, more broadly, about the need for a Visegrad 4 gas target model⁸ (compatible with EU framework legislation). The V4 initiative is unique because it combines political cooperation within the V4 with energy market cooperation.
- The objective of the North Seas Countries' Offshore Grid Initiative⁹ (NSCOGI) is to maximise the potential of the renewable energy sources of the North Sea region. It aims at coordinated and cost-effective development of offshore and onshore grids by, for example, linking wind farms and other renewable energy sources across the northern reaches of Europe. Innovative grid solutions with offshore wind projects connected to more than one member state face major regulatory and market challenges, owing to the complications introduced by different national renewable

⁷ Sami Andoura, Leigh Hancher and Marc Van der Woude, "Towards a European Energy Community: A Policy Proposal", in *Notre Europe Studies & Research*, No. 78 (March 2010), <http://www.eng.notre-europe.eu/011-2155>.

⁸ Péter Kaderják, Adrienn Selei and Antal Hum, *Energy Market Integration in Central Eastern Europe (CEE): Drivers, Early Lessons and the Way Forward*, paper based on proceedings of a workshop at the Regional Centre for Energy Policy Research, Corvinus University, Budapest, 4 April 2013, http://www.rekk.eu/index.php?option=com_content&view=article&id=281.

⁹ The ten countries involved are Belgium, Denmark, France, Germany, Ireland, Luxembourg, the Netherlands, Norway, Sweden and the UK. See the ENTSO-E website: <https://www.entsoe.eu/about-entso-e/system-development/the-north-seas-countries-offshore-grid-initiative-nscogi>.

energy support schemes.

- A climate-centred approach has been chosen by the Nordic countries.¹⁰ Fuelled by the ambition of developing a carbon-free energy system that could serve as a model for cross-border cooperation, the Nordic approach falls under the umbrella of the Nordic Action Group on Climate and Energy.¹¹ In this context, the collaboration of the Nordic countries relies on four main “pillars”: i) the adoption of common (low-carbon) energy policies, ii) the promotion of Nordic market design solutions across the EU, iii) the devising of common incentives for the deployment of low-carbon technologies and iv) intensified cooperation of the Nordic renewable energy industry.
- A 2012 Clingendael International Energy Programme (CIEP) paper¹² discussed in some detail a number of possible approaches to fostering further policy cooperation in northwestern Europe. These range from informal information-sharing devices to a much more focused harmonisation of various policy instruments. The details will be covered in the next section. In a more recent paper, CIEP described the ongoing developments of energy policy discussions in the Pentilateral Energy Forum platform for the northwestern Europe region.¹³

4. A Conceptual Framework for Northwestern Europe

Leonie Meulman et al.¹⁴ have explored and assessed the potential for coordinated energy policy in northwestern Europe on behalf of CIEP. This can serve as a ‘checklist’ of opportunities. Note that the following text is a shortened version of Meulman et al.

- Information sharing could be relevant for all fuels used in the power generation/

¹⁰ Namely Iceland, Norway, Sweden, Finland and Denmark.

¹¹ Nordic Action Group on Climate and Energy, *Nordic Energy Ways in Europe. Clean, Competitive and Connected*, November 2013, <http://en.globalutmaning.se/?p=3589>.

¹² Leonie Meulman et al., “Harvesting Transition? Energy Policy Cooperation or Competition around the North Sea”, in *CIEP Energy Papers*, January 2012, <http://www.clingendaelenergy.com/publications/publication/harvesting-transition>.

¹³ Jacques De Jong and Koen Groot, “A Regional EU Energy Policy?”, in *CIEP Energy Papers*, No. 2013|06 (August 2013), <http://www.clingendaelenergy.com/publications/publication/a-regional-eu-energy-policy>.

¹⁴ Leonie Meulman et al., “Harvesting Transition?”, cit.

distribution sector and for infrastructure improvements. This could be extended to sharing data on all issues having an impact on other national markets.¹⁵

- The next level is “some kind of coordination, building further upon the existing PF and NSCOGI structures”. This means that knowledge and information could be developed jointly on issues such as energy storage facilities, and tendering processes for offshore wind could be coordinated, as could the implementation of RES support schemes. At the industry level, transmission system operator (TSO) cross-border cooperation could be strengthened to take into account regulatory impacts and mandates as well. Yet, countries would still make all decisions individually, and no joint institutions would be developed.
- Next, a “coordination plus” process could be instituted, encouraging neighbouring countries to search for common policy considerations. RES support is a good example, with the partners striving to formulate a scheme that incentivises RES production that is not too costly and does not create windfall profits. Sharing and comparing information about the pros and cons and the costs of RES energy could be more than useful. Such a level of coordination offers a basis for covering broader issues, such as the interactions between the power and gas grids and systems. Discussions on short- and longer-term system reliability and fuel supply security, back-up capacities, storage and demand-side management could be added as well, seeking cross-border solutions while exploring the most cost-efficient possibilities. This would require joint policy frameworks at the regional level. Wide-ranging discussions would take place, but specific policy instruments could still differ from country to country according to legal and parliamentary traditions.
- Developing “joint instruments” – not yet defined – could come next, if a differentiated approach were no longer effective. The joint instruments could, for instance, require a joint incentive mechanism for RES and could be expanded to the formulation of a single RES objective for the whole region. Various models for market design could be jointly introduced, paired with a harmonising of the legal instruments of system operation and balancing. A final ‘maximum approach’ would be that of a joint electricity policy across the whole region. This would not necessarily be relevant for local options such as types of heating systems or building codes but could include all

¹⁵ Note that some information sharing has taken place in the context of the Pentalateral Energy Forum; the UK, Norway and Denmark might join in this activity, and it could perhaps be organised in a memorandum of understanding.

aspects of the power market and the gas market.

While there are opportunities in such an approach, the CIEP report then discusses what it calls a “fundamental road block”: the institutional legacy. The report defines this as “the way in which decision-making structures play a role in influencing each other before various degrees of consensus are developed – in policy terms, in political terms, but also very much in the way in which stakeholders in industry and as consumers are organised”. This refers, for example, to the safeguarding of national interests in the energy policy process, to basic energy security and public policy concerns, even to just the different ways in which things are done in various member states. Nevertheless, the report closes with a positive assessment, expecting that as the “awareness increases that neighbouring member states have to cooperate more together in managing their cross-border issues, they will realise that this has to be done within the common EU legal framework”. The report concludes as follows: “The development of such a framework is the responsibility of the EU, whereas implementation is usually done at the national level.”

5. Opportunities and Risks

From the short discussions above on the merits of regional initiatives and the challenges inherent in applying them, one can identify a number of issues that need further attention. Regional approaches offer opportunities for more effective EU energy policy coordination through structured or semi-institutionalised discussions, including, for example, continuous peer review of national energy policies. At the same time, there are risks of further fragmentation of the internal energy market; regional sub-sets of markets may be more difficult to integrate into a common EU market, provided that this remains a credible and achievable objective.

There is a risk of tensions between different regional approaches. The possibility is especially pronounced in cases where regional approaches pursue divergent political or strategic objectives, notably if they venture beyond market functioning and general energy policy coordination. For example, there have been attempts by the V4 to adopt a strong energy policy position in the context of the 2030 climate and energy policy

framework discussion, which risks blocking progress in this important area.

Finally, doubts arise on governance; if regional platforms become more “institutionalised”, issues concerning the limits of competence or overlapping responsibilities are likely to appear. Most likely, this would extend to questions about the “institutional fit”, especially but not only vis-à-vis the remit of the European Commission, and even to debates on how to finance the organisational arrangements.

6. Testing Regional Approaches: The Next Steps Forward

There are a number of useful steps forward that could help in exploring further the potential of regional approaches. The first is clarity and consistency of the terminology used. Section 4 made evident that regional initiatives can mean very different things. A more precise definition of the different approaches or models is required.

Second, these “regional models” could be further analysed in relation to their mandates and policy content, which will vary for each. A “menu for mandates” could be developed, including the distinction between (more) bottom-up or top-down models.

Finally, taking regional approaches or models further will require reflection on the meaning of subsidiarity and the position and role of the European Commission.

6.1. Terminology

The various regional approaches all have their own nomenclatures, such as “forum”, “council” and “platform”. All are using different conceptions of policy discussions and various degrees of policy consultation and information, coordination and even more concrete harmonisation or joint instruments. Energy regulators have arranged “regional initiatives”, and the European Commission has set up a number of regional Projects of

Common Interests,¹⁶ in which the respective governments, national regulatory authorities, project promoters, the European network of transmission system operators and the EU Agency for the Cooperation of Energy Regulators (ACER) are working with the Commission on projects considered to be of common interest under the EU's energy infrastructure regulation.

Terminology also matters in terms of geographical coverage. For example, the Pentalateral Energy Forum, in addition to the Benelux countries, Germany and France, comprises Austria and Switzerland and could easily take in Italy and maybe Denmark as well. The Nordic Co-operation partnership also includes non-EU Norway. The Visegrad 4 group has become engaged in affairs beyond the four founding member states and stretches toward the southeastern part of the EU. The Mediterranean Energy Forum extends past the EU to welcome the EU's southern (North African and Levantine) neighbours.

The desire to give regional approaches a "simple brand," which also hints at their scope and content, is understandable. However, this is likely to create misunderstandings. One is the use of the term "Schengenisation", which has been used for regional approaches. The reference is to Schengen, the Luxembourg village where the "Penta-ministers"¹⁷ concluded an agreement on free movement of persons without border controls. That agreement has expanded over the years, currently embracing 22 EU and 4 non-EU countries, and it is now fully integrated into the institutional and legal set-up of the EU. The "Energy-Schengen" project does not quite take the same approach. The term "regional energy cooperation approaches," making clear that the cooperation process is unique to energy issues, may be more suitable.

6.2. Bottom-up Processes

The Regional Initiatives by the Council of European Energy Regulators (CEER), the association of European energy regulators, emerged more or less in a top-down fashion from deliberations about the various implementing devices relating to cross-border issues as a follow-up to the EU energy market directives and regulations. Practical reasons were

¹⁶ European Commission, *The future role of regional initiatives* (COM(2010)721), 7 December 2010, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52010DC0721>.

¹⁷ Again, the Benelux countries, France and Germany.

behind this, including divergent interests, infrastructure constraints, etc.

The Pentalateral Forum was a more bottom-up process, springing from a decision by TSOs, national regulatory authorities and governments to establish specific market rules and institutions that would facilitate and stimulate market integration in the region in question. Their successful set-up later became the “target model” for the wider EU.

Visegrad 4 could also be considered as bottom-up in origin, when the four governments involved decided to raise their political profile and interests in the wider EU context. This was to some extent further expanded to the whole Danube region and developed as a platform for discussing common energy security concerns, leading to joint policy approaches and actions.

The Mediterranean region’s “energy corridor” approach was also driven by bottom-up considerations of developing and bringing energy flows to the wider region, with the potential for further energy market integration through regulatory action and the participation of industrial institutions.

Following bottom-up types of approaches, the respective mandates could be further expanded whenever appropriate.

- Common methodologies could be developed for assessing generation and system adequacy, as has already started to happen in the Pentalateral Forum. On that basis, common assessments could be made about regional generating capacity as a basis for discussing future supply and delivery security.
- Similar approaches could be used to assess ways of managing cross-border balancing issues, notably in terms of regulatory design. Different instruments could be developed and tested.
- These common approaches would be particularly relevant for the integration of rapidly increasing renewable energy sources. They could be a meaningful starting point for the governance of (renewable) energy that the European Commission has proposed in its 2030 Climate and Energy Framework.¹⁸ Tools to integrate them at regional level

¹⁸ European Commission, *A policy framework for climate and energy in the period from 2020 to 2030* (COM(2014)15), 22 January 2014, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52014DC0015>.

could be developed.

- When there are concerns about gas supply security, as in the case of the Visegrad 4, gas market integration issues could be discussed and eventually agreed upon. The development of what could be considered a regional gas target model for the V4 group may be seen as a step in this direction.
- Further, infrastructure project development could be handled also by discussing and then testing appropriate regulatory designs, even on a pilot basis. The NSCOGI process is an example, as is the “corridor” approach in the Mediterranean Energy Forum.

In addition to these issue-specific instances of cooperation, one could also envision a broader scope for collaboration. The following list offers a few examples.

- Whenever member states make strategic energy choices that significantly affect their neighbours, their governments should carry out a compatibility check with the energy policy of nearby countries and EU internal market rules.
- Member states ought to consider whether or not to develop and coordinate regional energy strategies, as a matter of principle, building upon existing region-wide initiatives (e.g. the Pentalateral Energy Forum), thereby gradually moving beyond strictly national energy policies as part of a broader EU vision. This could include:
 - an assessment of the regional effects of current national energy policies (such as on cross-border flows and system security), as a means to develop a joint list of energy and climate change policy measures that could have major cross-border impacts;
 - commonly designed action plans aiming to mitigate the negative effects of national energy choices.
- Coordinating of national policies could also be considered for
 - regional market integration and the infrastructure interconnections required to achieve such market integration,
 - meeting the various policy targets and instruments for the deployment of renewable energy technologies and the supporting infrastructures,
 - fuel mix policies,
 - (cross-border) regulatory approaches and incentives,
 - the establishment of specific legal procedures, for instance, when substantial off-shore developments are at stake.

Finally, another road toward policy coordination might involve exploring measures related to market design, such as new networks for RES production (for example, using offshore North Sea resources or new storage options and technologies) or pilot projects benefiting from exemptions of legal obligations, which would make it possible to test new regulatory approaches for managing and accommodating large RES flows.

6.3. Top-down Approaches

A regional approach could also be considered as a more top-down process, for instance, following the CEER Regional Initiatives (CEER/RI) experience. Essentially, the CEER/RI has been purely regulatory-driven. Top-down approaches, however, do not necessarily have to stop at regulation. One could imagine applying them to policy formulation, in particular, to the 2030 Climate and Energy Framework, the post-2020 EU low-carbon agenda. Suggestions have been made in recent years to strengthen the governance of the Regional Initiatives by creating Regional Steering Committees including ACER and the European Commission, as well as the member states and the national regulatory authorities from the region. Although the Commission presented a number of ideas in this vein,¹⁹ there was not much support for them, either from governments or their regulators. Nevertheless, ACER has a review function. The EU Regulation governing ACER in its Article 7.3 makes review an explicit task, together with a monitoring function in Article 6.9. It thus seems appropriate for ACER to play an active role in what is happening in the Regional Initiatives.

Another example of the top-down approach can be found in the new energy infrastructure regulation,²⁰ whereby a number of regional groups with clear and specific mandates have been created. They are charged with proposing and reviewing the so-called Projects of Common Interest (PCIs). In order to muster broad consensus, the regional groups should ensure close cooperation between member states, national regulatory authorities, TSOs and other project promoters and relevant stakeholders. The regulation establishes numerous regional groups,²¹ with membership to be aligned with the PCI priority corridors and their

¹⁹ European Commission, *The future role of regional initiatives*, cit.

²⁰ Regulation (EU) No 347/2013 of 17 April 2013 on guidelines for trans-European energy infrastructure..., <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32013R0347>.

²¹ Groups on the Northern Seas Offshore Grid (NSOG), North Sea Infrastructure (NSI)-West Electricity, NSI-

respective geographical coverage. Decision-making powers in the groups are restricted to the member states and the Commission. The Commission is chairing the groups (with one exception²²). ACER and the groups concerned are responsible for monitoring the progress achieved in implementing the PCIs and making recommendations when necessary.

6.4. Institutional Issues and Governance

Regional cooperation approaches immediately raise issues of governance and more specifically the role and involvement of the European Commission. This has now been acknowledged in a recent EU communication on the post-2030 framework, in which the Commission has explicitly broached the topic of governance and the indicators closely associated with it.²³

This does not touch on the competences of the European Commission under the Treaty of Lisbon, which will remain unchanged. What is meant here is the function of the European Commission in member state or regional energy cooperation approaches. There is no need to resort to such subsidiary arrangements as long as the EU is able to address the challenges at hand through the passage and implementation of law. However, implementation especially often requires new tools and instruments at the EU level, whose adoption can be uncertain or turns out to be ineffectual.²⁴ Developing EU-wide solutions covering all national and regional circumstances is often a drawn-out process and is sometimes not feasible at all. As a result, the EU can find itself with watered-down compromises not always suitable for its purposes.

Making use of regional approaches could be relevant in two ways:

- Learning lessons about bridging the gap between EU and national levels that can be applied in other, non-energy-policy domains; the effectiveness of policymaking can

East Electricity, Baltic Energy Market Interconnection Plan (BEMIP) Electricity, NSI-West Gas, NSI-East Gas, Southern Gas Corridor (SGC), BEMIP Gas.

²² The group on the Northern Seas Offshore Grid is similar to the existing NSCOGI framework, rotationally chaired by its member states.

²³ European Commission, *A policy framework for climate and energy in the period from 2020 to 2030*, cit.

²⁴ The German example is apposite: German Energiewende policies have direct impacts on Germany's neighbours, requiring some kind of coordination to manage them.

be improved when information is shared in smaller groups and new policies explored, anticipating each other's reactions, experimenting, testing, verifying, etc.

- In a more formal approach, applying and implementing at regional level the global objectives and guidelines set by the EU. This could require that the European Commission assess and approve specific policy instruments at regional levels to guarantee compliance with broader goals. This approach would probably need some kind of governance structure at regional level, including a role for regional industrial institutions, for instance, regarding system operation and market mechanisms.

6.5. Subsidiarity

The proposals above will need to be compatible with EU law, including the subsidiarity principle. By “subsidiarity”, the EU Treaty means with that competence should be assigned to the level at which a task can be done best, that is, at the local, regional, member state, EU or even international level. Reasons for assigning competences are economies of scale and positive and negative spillovers (cross-border effects).

On energy, the Treaty²⁵ – as is the case with most other policies – foresees a shared competence between the EU and member states. There are, however, two exceptions to this rule. National sovereignty is explicitly acknowledged for the deployment of a state's natural resources and for determining the national energy mix. This is despite the number of specific and concrete rules that have been set out at the EU level on coal, gas, renewable energies, uranium and electricity.²⁶ The question may arise as to whether this approach is sustainable in a common energy market model. Nonetheless, it is hard to foresee a major treaty revision within the foreseeable future. The logic of “regional energy cooperation approaches” would be to attempt to close the gap between the reality of the market and the EU energy policy “constitution”.²⁷

²⁵ Art. 194 TFEU.

²⁶ Although there is hardly an explicit EU policy on oil and oil products, the general rules of the internal market are all applicable to this energy source as well.

²⁷ See, e.g., Jean-Michel Glachant and Nicole Ahner, “In Search of an EU Energy Policy for Mediterranean Renewables Exchange...”, cit.

The Schengen blueprint could be helpful as a model for allowing pioneering member states to commit to and promote ad hoc common policies “escaping” formal and procedural EU requirements. Ahner et al.²⁸ mention three criteria for assessing the legal feasibility in the energy context: pre-emption, primacy and subsidiarity. They conclude that the last of these is the most significant in areas of shared competence and that the value-added test of such an arrangement in energy would probably be the most relevant one.

The test would inextricably be linked to the political feasibility of action at the EU level. As mentioned before, on specific and technically detailed policy implementation for meeting the low-carbon objectives, that feasibility might be highly questionable. Regional approaches could hence be particularly suitable when a number of neighbouring member states are involved and when there are no negative spillovers to non-contracting states (unless they could join later).

Benefits for the participating states could come in two areas: 1) system adequacy and the related security of supply issues that arise from the challenges of integrating a large amount of intermittent renewables and 2) enhancing economies of scale and efficiency in encouraging new investments in RES generation. Negative spillovers are distortions to competition.

If regional energy cooperation approaches are seen as a way forward, the European Commission might want to consider developing some kind of a framework for regional cooperation, detailing what is permissible according to EU treaties. For example, it could give ACER some responsibilities in this area, especially regarding the issues about system impacts and market designs. A mechanism to maintain the paradigm of the internal energy market should be a *conditio sine qua non* for any model navigating the road toward a low-carbon energy economy.

²⁸ Nicole Ahner, Jean-Michel Glachant and Adrien De Hauteclocque, “Legal Feasibility of Schengen-like Agreements in European Energy Policy: The Cases of Nuclear Cooperation and Gas Security of Supply”, in *Florence School of Regulation Policy Briefs*, No. 2010/02 (June 2010), <http://hdl.handle.net/1814/20785>.

7. A Way Forward

On the basis of the discussion in the preceding paragraphs, a possible way forward could take place along the following lines. The revitalisation of the regional approaches to energy policies presents a way to renew the energy governance at the EU level. Regional approaches seem to be the best solution to cope with energy issues at the European level for different reasons. First, there is the strategic nature of energy as perceived by each European country, and the consequent need to maintain a certain degree of national sovereignty over such a critical sector. The content of Article 194 of the Lisbon Treaty reflects this. Second, the extended nature of energy policy itself, with its broad spectrum of different areas in terms of policy objectives (liberalisation/competitiveness, sustainability, security of supply), industrial sectors (i.e. electricity, gas, renewables, energy efficiency), and activities (regulation, investments, policy development, R&D). These two main reasons contribute to generating strong heterogeneity and significant divergences in terms of energy priorities between European countries and regions, as highlighted not only by the various fora and initiatives currently in place in Europe, but also by the delay in the implementation of some key EU energy policies.

There are, however, a number of risks and challenges that will have to be faced when applying the regional approaches. There is a possibility of fragmentation when different regional energy approaches follow their own course, leading to diverging paths and levels of integration and further calling into question the paradigm of a single European energy market. Another risk could come from the various regional energy approaches generating significant strategic policy deviations from the wider EU key policy objectives. This risk would emerge especially when independent and disconnected regional clusters come to diversify regional energy policies in response to the specific needs of each country/region. Finally, regional energy approaches risk creating different poles of competence and responsibility with overlapping and duplications at institutional levels, thus complicating energy governance rather than facilitating it.

Therefore a condition for using regional approaches would be to allow their development in a clear, coherent and consistent set of principles. The key issue would then be how to establish a governance structure that ensures a sufficient degree of flexibility while

maintaining a certain level of guidance to lead the different regional approaches towards the common and converging European objectives. Although the term “Schengenisation” is used in the paper, we are not suggesting following this concept, as the energy domain presents significantly different features compared to Schengen.

An alternative might be found in looking at the cooperative model established in the framework of the European Defence Agency. The EDA acts as a catalyst to promote cooperation and new initiatives in order to improve defence capabilities, as member states are free to participate in and are in line with, for instance, the Pentalateral forum; hence, top-down political guidance is accompanied by bottom-up practical solutions. In energy terms, one could mention the role of ACER, in which such an approach could be considered as well.

It goes without saying that some kind of top-down framework is necessary. Based on the examples of the existing regional energy fora mentioned, such a framework could be based on various elements:

- The degrees of existing cross-border energy market integration, in both physical and commercial terms. It makes no sense to have the Baltic region in the same group as the Iberian Peninsula, or to exclude the Dutch market from the Belgian one.
- Member states could, if they wish, be part of more than one regional approach. This would especially be relevant for the larger member states, realizing that sometimes a “natural” division already exists within a large market.²⁹
- The Commission should set out the global principles and guidelines, with regard not only to policy (such as the basics of the 2030 Framework), but also to market rules (such as the Guidelines on State Aid in Energy and Environment).
- If necessary, the Commission could also be somewhat more specific in policy instrumentation terms by inviting/requiring the regions to develop cross-border balancing zones or markets or joint generation and/or system adequacy approaches and assessments.
- Market monitoring in order to assess market developments in line with the wider EU energy market objectives would become a necessary condition. The Commission

²⁹ The southern part of the German power market is more integrated with Austria and Switzerland than with the northern part of the German market.

could set a number of criteria for assessing these developments, and ACER could and should be mandated with the task of monitoring.

8. Recommendations

The following recommendations issue from the ideas presented and analysed above.

- Practical, bottom-up approaches to regional energy cooperation should be allowed, facilitated and promoted to help the EU move towards a “more united and effective Europe.”
- This will require that the existing regional fora will need to come forward with a short-term agenda for addressing the challenges of system and generation adequacy and their related supply-security concerns.
- The European Commission should give further guidance in the form of a communication or regulation.
- In parallel, the European Commission, in cooperation with member states, should assist member states’ efforts to advance practical solutions to implementing the low-carbon agenda in the 2020 and 2030 frameworks, and in accordance with the rules of the internal energy market. ACER’s role should be explicitly addressed in this context.
- Regional energy cooperation approaches should be further studied, both in their legal context and in their practical and pragmatic applications, as a basis for further consideration and discussion.

While regional approaches may appear “counter-intuitive” with respect to the objective of a more united and effective Europe, they may constitute the most promising way forward towards a more integrated Europe and thereby be a safeguard against further fragmentation.

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Imagining Europe

As the unprecedented financial crisis and ensuing economic recession push Europe to the brink, a critical question arises as to what the foreseeable trajectories for EU governance are in the decades ahead. The crisis has already accelerated EU policy and institutional evolution in key policy areas, but the integration project remains torn apart by centrifugal political and economic forces. The “Imagining Europe” series aims at delineating what kind of governance models the EU could head towards, and which of these models is best suited for the purpose of a more united, effective and legitimate EU. In particular, the research sheds light on the degree and nature of integration at the “core” of Europe and the relationship of that core with those member states (current and future) which opt to remain outside it. It does so by exploring five policy areas: fiscal and monetary policy, infrastructure and communications, security and defence, migration and citizenship, and energy and environment.