



NOTA DI LAVORO

95.2014

**Towards a European Energy Union
The Need to Focus on Security of
Energy Supply**

By **Simone Tagliapietra**, Fondazione Eni
Enrico Mattei (FEEM)

Energy: Resources and Markets

Series Editor: Giuseppe Sammarco

Towards a European Energy Union

The Need to Focus on Security of Energy Supply

By Simone Tagliapietra, Fondazione Eni Enrico Mattei (FEEM)

Summary

Energy has been at the core of the EU integration since its inception. However, following the path of a shooting star, the key role of energy gradually declined over time, to the level of being basically left out from the Treaties, at least up to Lisbon. The EU has struggled to circumnavigate this “energy-gap” of the Treaties by legislating on energy-related issues by making use of its shared competences in the areas of internal market and environment. However, this effort has resulted in a very fragmented EU energy policy, also characterized by the absence of a major element: security of energy supply. After the 2014 Ukraine crisis a new momentum has emerged in the EU about the urgent need of creating a truly European energy policy, with both the new President of the EU Council and the new EU Commission calling for the creation of a EU Energy Union. This paper argues that the EU should seize this historical opportunity to fill the main long-lasting gap of its energy policy: security of energy supply. To this end, the paper proposes a set of new actions that might be undertaken in this field, also outlining that the most feasible option to the development of a new EU Energy Union seems to be the formation - through a scheme of differentiated integration - of a smaller coalition of Member States committed to quickly advance the integration of their energy policies under the principle that only by acting together the EU will be able to meet the growing energy challenges of the future.

This paper represents the sixth outcome of the FEEM research project “The rise of Turkey and the new Mediterranean. Challenges and opportunities for energy cooperation in a region in transition”. This project analyses how energy could represent a major tool to strengthen the economic, political and social integration in the enlarged Euro-Mediterranean region. The aim of this paper is to provide a different perspective on the issues previously analysed in the project (i.e. the evolution of the Southern Gas Corridor, the new gas realities of the Eastern Mediterranean, the EU-Turkey energy relations after the Ukraine crisis, etc.), by framing them into the wider discussion on the development of a truly European energy security strategy.

Keywords: EU Energy Policy, EU Energy Security, EU Energy Union

JEL Classification: Q40, Q42, Q48

Address for correspondence:

Simone Tagliapietra

Fondazione Eni Enrico Mattei

Corso Magenta 63

20123 Milano

Italy

E-mail: simone.tagliapietra@feem.it

The opinions expressed in this paper do not necessarily reflect the position of
Fondazione Eni Enrico Mattei

Corso Magenta, 63, 20123 Milano (I), web site: www.feem.it, e-mail: working.papers@feem.it

*«L'Europe se fera dans les crises
et elle sera la somme des solutions apportées à ces crises»*

Jean Monnet, *Mémoires*

Introduction

Energy has been at the heart of the European construction since its inception. With the Treaty of Paris of 1951 and the Treaty of Rome of 1957, Europe's Founding Fathers foreseen that energy might have represented a major instrument to build cooperation and solidarity among European states. However, after that initial momentum the role of energy in the European construction gradually weakened over time. None of the successive amending Treaties provided to the EU the competences necessary to deal with energy issues in a comprehensive and effective way, and the Treaty of Lisbon did not significantly altered this picture.

Due to this "energy-gap" of the Treaties, the EU has struggled to legislate on energy issues by making use of its shared competences in the areas of internal market and environment. This effort has resulted in a very fragmented European energy policy, basically focused only on the creation of a common energy market and on the achievement of decarbonisation targets.

In this context security of energy supply has been for a long time a sort of unexplored area at the EU level, particularly because of the reluctance of Member States of ceding part of their sovereignty to the EU over an issue considered as highly strategic for their respective national interests. After the 2014 Ukraine crisis a new momentum has emerged at the EU level about the urgent need of creating a truly European energy policy, with the new President of the EU Council calling for the launch of an EU Energy Union, and with the new President of the EU Commission creating a post of Vice President for Energy Union on its new team.

This paper argues that if this unprecedented high-level political momentum will be effectively followed-up in the near future, the EU should primarily seize this historical opportunity to fill the major long-lasting gap of its energy policy: security of energy supply.

To this end, the paper proposes a set of new actions that might be undertaken in this field, also outlying that the most feasible option to the development of a new EU Energy Union seems to be the formation of a smaller coalition of Member States, committed to the principle of giving-up part of their sovereignty in the field of energy to the EU (and most notably security of energy supply) in order to better achieve common goals through a scheme of differentiated integration already applied, for instance, to the Economic and Monetary Union and the Banking Union.

Section 1 provides an historical overview on the role of energy in the European construction. Section 2 describes how the EU has struggled to develop an EU energy policy, even without specific competences, particularly focusing on the progress of the internal energy market. Section 3 outlines the most recent developments of the European energy policy and the rise of the energy-climate nexus. Section 4 analyses the reasons behind the European energy policy's security of energy supply vacuum. On the basis of this analysis, section 5 outlines the need to prioritize the issue of security of energy supply in the framework of a new EU Energy Union, also proposing a set of specific actions, while section 6 closes the ring by sketching a potentially-optimum path towards the realization of an EU Energy Union.

1. Energy: from epicentre to perimeter of the EU construction?

Energy has been placed at the core of the European construction since its very beginning. In fact, with the European Coal and Steel Community (ECSC) created by the Treaty of Paris in 1951 and the European Atomic Energy Agency (Euratom) created by the Treaty of Rome in 1957, Europe's Founding Fathers had foreseen that energy might have represented a major instrument to build cooperation and solidarity among European states.

The rationale behind the two initiatives was similar: to provide a common policy with a precise set of rules and instruments based on exclusive supranational powers conferred to a central institution: the High Authority in the case of the ECSC and the Supply Agency in the case of Euratom.

These two institutions, together with the European Economic Community (also created by the Treaty of Rome in 1957), have represented the foundations of what later became the European Union (EU) as we know it today.

However, after this initial momentum the role of energy in the European construction gradually weakened. In fact, none of the successive Treaties (e.g. the Single European Act of 1986, the Treaty of Maastricht of 1992, the Treaty of Amsterdam of 1997 and the Treaty of Nice of 2001) provided to the EU the competences necessary to deal with energy issues in a comprehensive and effective way.

Only the Treaty of Maastricht briefly mentioned the issue, by inserting energy at the very end of its list of twenty action areas¹. A mention that was also extremely feeble and vague.

The Treaty of Lisbon of 2007 has not completely changed this situation. The Treaty recognizes (for the first time) energy as one of the EU's shared competences and allocates to the issue a dedicated Energy Title (XXI), represented by Article 194 TFEU². The Article outlines the four aims of the EU policy on energy: «i) ensure the functioning of the energy market; ii) ensure security of energy supply in the Union; iii) promote energy efficiency and energy saving and the development of new and renewable forms of energy; iv) promote the interconnection of energy networks»³. The Article also specifies that these aims shall be pursued «in a spirit of solidarity between Member States»⁴. However, following this fragment of “community-method”, the Article rapidly shifts to the “intergovernmental-method” by clarifying that «such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply»⁵. In sum, the Article represents a precarious equilibrium between two drivers: national sovereignty over natural resources and energy mix on the one hand and shared EU competence for the rest on the other hand.

¹ Article 3, Treaty on European Union (TEU), OJ 1992/C 191.

² Consolidated versions of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), OJ 2008/C 115.

³ Article 194, TFEU.

⁴ *Ibidem*.

⁵ *Ibidem*.

Article 194 TFUE, as well as the overall historical evolution of energy in the EU Treaties, exemplifies the reluctance of EU Member States to give up to the EU their sovereignty over energy policy. This trend is mainly due to the fact that Member States generally consider energy as an own strategic realm, comparable to the one of foreign policy. Furthermore, another major element seems to prevent Member States from ceding their sovereignty on energy: the divergent interests of Member States themselves due to their different energy mixes and their consequently different security of supply priorities.

In sum, as Andoura, Hancher and Van Der Woude (2010) appropriately outline, «however paradoxical it may appear, energy seems to be the only sector where the Communities, in their almost 60 years of legal development, have been moving from a high degree of integration down to a lower level, never being able to regain the common vision and courage of their founding years»⁶.

2. Filling the Treaties' energy gap: the EU legislative struggle and its focus on the internal (energy) market

Considering the lack of specific provisions concerning the energy field in the Treaties, the Community struggled to develop a European energy policy by making use of the general provisions of the Treaties themselves. The recourse to these general provisions has allowed the Community to carry out a consistent legislation on energy-related issues, resulted in a consistent body of over five hundreds legislative acts and documents such as Directives, Communications, Decisions, Regulations, Guidelines, Working Documents, Memorandums, Green Papers and White Papers (see Annex 1).

This intense activity, although far from being a common policy as the one pursued by the ECSC and Euratom Treaties, has allowed the EU to advance the development of its energy policy, albeit in a very fragmented way. This development has been very slow, particularly because the Community has been forced to progress very cautiously in order to avoid the risk of being accused of lacking legitimacy from Member States.

On the basis of the general provisions of the Treaties, the Community has made use of its shared competences in the areas of internal market and environment to legislate on energy related issues, ultimately imposing its authority in the sector even without any specific competence. This “encirclement strategy” was particularly made possible by the Single European Act of 1986 that, in order to facilitate the achievement of the internal market, increased the number of cases in which the Council could decide by a qualified majority instead of unanimity⁷.

Since the 1990s the Community adopted a series of Directives aimed at liberalizing the European electricity and gas markets, with the final aim to open-up national markets to competition and to create a truly integrated internal European energy market in the framework of the European single market integration process. The underlying idea behind

⁶ Sami Andoura, Leigh Hancher and Marc Van Der Woude (2010), *Towards a European Energy Community: a Policy Proposal*, Notre Europe, Brussels, p. 14.

⁷ Due to this new provision, it was no longer necessary unanimity for the measures aimed at the domestic market, with the exception of the tax provisions and those relating to the free movement of persons.

this effort has been that the completion of the internal European energy market would increase competitiveness and improve service quality, guarantee fair prices for consumers, improve interconnection and thus also bolster security of energy supply.

The first major step towards the liberalization of European electricity and gas markets arrived with the first Electricity⁸ and Gas⁹ Directives adopted respectively in 1996 and in 1998. Both the Directives required Member States to progressively liberalize electricity and gas markets and to gradually expand the categories of customers qualified to choose their providers of electricity and gas.

Considering the different speed of implementation of these Directives among the various Member States, the Community adopted a second round of Electricity¹⁰ and Gas¹¹ Directives in 2003, with the aim of requiring national electricity and gas markets to be liberalised by 2004 for large consumers and by 2007 for all consumers.

Notwithstanding the fact that basically all Member States were still not in compliance with a number of norms of the current legislation, the Community adopted in 2009 a Third Internal Energy Market Package, consisting of three Directives¹² and two Regulations¹³ targeting a full liberalization of national electricity and gas markets and, consequently, the completion of the internal European energy market.

The adoption of this Third Energy Package just six years after the launch of the precedent legislation was due to the need of accelerating investments in trans-European energy networks to enhance cross-border trade and access to diversified sources of energy. This need particularly emerged after 2005, when a series of political moves and legislative acts started to progressively change the European approach to energy policy.

3. The leap forward of EU energy policy since 2005 and the rising importance of the energy-climate nexus

During the British presidency of the EU in 2005, Prime Minister Tony Blair pushed the European energy policy issue to the top of the EU's agenda. In the context of a rapidly changing international landscape, the United Kingdom hosted in October 2005 an informal

⁸ Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity.

⁹ Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas.

¹⁰ Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC.

¹¹ Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC.

¹² i) Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC; ii) Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

¹³ i) Regulation (EC) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003; ii) Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005; iii) 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.

summit at Hampton Court, with the aim «to try and set a clear direction on how Europe responds to the challenge of globalization»¹⁴. During the summit the EU heads of state and government discussed a plan presented by the British Prime Minister to create a true European energy policy¹⁵ and agreed on the need of advancing the EU action in this field¹⁶.

Following-up the summit's conclusions, the Commission published in March 2006 a Green Paper on developing a common and coherent European energy policy entitled "A European Strategy for Sustainable, Competitive and Secure Energy"¹⁷. As the title suggests, the paper delineated a European energy policy structured on three key pillars, which continue to remain fundamental also today. Furthermore, the paper outlined six priority areas for implementing a European energy policy, ranging from the completion of the internal market through to the implementation of a common external energy policy.

The Green Paper received the praise of the European Council of March 2006, which called for «an Energy Policy for Europe, aiming at effective Community policy, coherence between Member States and consistency between actions in different policy areas and fulfilling in a balanced way the three objectives of security of supply, competitiveness and environmental sustainability.»¹⁸ The European Council therefore invited the Commission to prepare further actions.

The Commission reacted to the endorsement of the European Council by issuing in January 2007 the so-called "Energy and Climate Package", a set of measures centered on the Communication "An Energy Policy for Europe"¹⁹ aimed at establishing a new European energy policy in line with the one proposed in the Green Paper (and thus focused on combat climate change, increase the EU' energy competitiveness and boost the EU's energy security of supply). The European Council of March 2007 endorsed the package²⁰, which was then finally adopted by the European Parliament in December 2008 after months of tough negotiations between Member States.

In addition to the definition of the triple paradigm sustainability-competitiveness-security characterizing the European energy policy, an important advancement included in the "Energy and Climate Package" was represented by the EU's commitment to reach specific targets related to greenhouse gas reduction, renewable energies and energy efficiency: the well-known "20-20-20" energy policy targets²¹.

The rapid evolution of the European energy policy since 2005 has been rather unprecedented in comparison with the previous decades. In this short period of time, the EU

¹⁴ Tony Blair's declaration, *Press conference at EU informal summit Hampton Court*, 27 October 2005.

¹⁵ Dieter Helm, *European energy policy: Securing supplies and meeting the challenge of climate change*, Paper prepared for the UK Presidency of the EU, 25 October 2005.

¹⁶ EurActiv, *Blair calls for stronger EU energy policy co-operation*, 31 October 2005.

¹⁷ *A European Strategy for Sustainable, Competitive and Secure Energy*, Green Paper of the Commission, COM(2006) 105 final.

¹⁸ European Council of 23/24 March 2006, Presidency Conclusions No 7775/1/06 REV1, Brussels, 18 May 2006.

¹⁹ *An energy policy for Europe*, Communication from the Commission to the European Council and the European Parliament, COM(2007) 1 final, 10 January 2007.

²⁰ European Council 8/9 March 2007, Presidency Conclusions No 7224/07 (CONCL 1), Brussels, 9 March 2007.

²¹ By 2020: reducing by 20% the emissions of greenhouse gases, increasing by 20% the energy efficiency in the EU, reaching 20% of renewable energy sources in total energy consumption in the EU.

Member States agreed for the first time on the need for a common action towards the increasingly challenging energy and climate issues. This agreement paved the way for an innovative and ambitious approach to the European energy policy, which ultimately resulted in the adoption of the “20-20-20” energy policy targets and in the adoption of the Third Internal Energy Market Package.

However, the results just mentioned also reflect the long-lasting limits of the European energy policy. In fact, they outline how the European energy policy basically remains focused on the development of the internal energy market, with the only addition of measures adopted in the context of the European climate policy. This is of course due to the fact that, as previously illustrated, on the basis of the Treaties’ energy gap the only way for the Community to legislate on energy related issues has been to make use of its shared competences in the areas of internal market and environment.

Due to the controversial structure of Article 194 TFUE previously illustrated, the Treaty of Lisbon -albeit recognizing energy as one of the EU’s shared competences- has not substantially altered this picture. In fact, since the introduction of the Treaty the EU has not made any significant additional achievement on energy policy.

In 2011 the Commission adopted the Communication “Energy Roadmap 2050”²², strengthening its environmental targets to the level of envisaging an emissions’ cut of over 80% by 2050. The European decarbonisation path was further detailed by the Commission in 2014, with the adoption of the Communication “A policy framework for climate and energy in the period from 2020 to 2030”²³, focused on the reduction of greenhouse gas emissions (by 40% below the 1990 level by 2030), on the increase of renewable energy use (at least 27% of the EU’s energy consumption by 2030), on the increase of energy efficiency (27% energy savings target for 2030) and on the reform of the EU emissions trading system. This set of provisions was finally endorsed by the European Council of October 2014²⁴.

The risk of this situation is the advancement of an incomplete European energy policy, focused exclusively on the development of the internal energy market and on the progress towards a low-carbon economy, excluding the third element of the European energy policy’s “sustainability - competitiveness - security” paradigm: security of energy supply.

4. Security of energy supply: the missing element of the EU energy policy

The excursus on the evolution of the European energy policy just presented has shown how the Community (and subsequently the Union) has been able to partially fill the “energy gap” of the Treaties by adopting a wide range of legislation concerning the energy sector on the basis of the Treaties’ general provisions regarding the internal market and the environment.

²² *Energy Roadmap 2050*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions, COM(2011) 885 final.

²³ *A policy framework for climate and energy in the period from 2020 to 2030*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions, COM(2014) 015, final.

²⁴ European Council of 23/24 October 2014, Conclusions on 2030 Climate and Energy Policy Framework, SN 79/14, Brussels, 24 October 2014.

This process inevitably resulted in a very fragmented EU energy policy, both under the internal market and the environment perspectives. However, the largest vacuum in this process is certainly represented by the security of energy supply element.

In fact, security of energy supply has been for a long time a sort of unexplored area at the EU level. Only with the already mentioned Green Paper “A European Strategy for Sustainable, Competitive and Secure Energy”²⁵ of 2006 the Commission placed security of energy supply among the three founding pillars of the EU energy policy. In particular, considering the EU’s high level of dependency on external energy suppliers, the Green Paper outlined the need to ensure uninterrupted energy supply also by establishing a mechanism for rapid solidarity between Member States in the case of crisis (for instance composed by emergency oil and gas stocks) under the supervision of a European Energy Supply Observatory.

After this first step, the Commission adopted in 2008 the Communication “Second Strategic Energy Review - An EU Energy Security and Solidarity Action Plan”²⁶, with which the Commission proposed an Action Plan based on the following points: «i) Infrastructure needs and the diversification of energy supplies; ii) External energy relations; iii) Oil and gas stocks and crisis response mechanisms; iv) Energy efficiency; v) Making the best use of the EU’s indigenous energy resources.»²⁷

This vision was further explored by the Commission in 2011, with the Communication “The EU Energy Policy: Engaging with Partners beyond Our Borders”²⁸, an act that proposed a new strategy based on three axes: «i) Promote transparency between Member States on energy agreements with non-EU countries; ii) Help coordinate both policy toward specific partner countries and positions to be taken in international organisations; iii) Promote comprehensive energy partnerships with key partner countries.»²⁹

In 2012 the European Parliament and the Council followed-up this proposal of the Commission, by adopting a Decision establishing an information exchange mechanism on intergovernmental agreements between Member States and third countries in the field of energy³⁰.

Finally, in 2014 the Commission adopted the Communication “European Energy Security Strategy”³¹, (re)proposing a series of measures (in truth already outlined in 2008 and 2011) to tackle the EU’s security of energy supply challenges such as: i) Increase energy efficiency; ii) Increase energy production and diversify suppliers countries and routes; iii) Complete the

²⁵ Op. cit., note 17.

²⁶ *Second Strategic Energy Review - An EU Energy Security and Solidarity Action Plan*, Communication from the Commission to the European Parliament and the Council, COM(2008) 781.

²⁷ *Ibidem*, p. 5.

²⁸ *The EU Energy Policy: Engaging with Partners beyond Our Borders*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions, COM(2011) 539 final.

²⁹ *Ibidem*, p. 15.

³⁰ Decision No 994/2012/EU of 25 October 2012 establishing an information exchange mechanism with regard to intergovernmental agreements between Member States and third countries in the field of energy.

³¹ *European Energy Security Strategy*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions, COM(2014) 330 final.

internal energy market; iv) Speak with one voice in external energy policy; v) Strengthen emergency and solidarity mechanisms and protect critical infrastructure.

This sizeable series of legislative activity on the issue of security of energy supply outline the growing awareness of the EU on the need for a common action on energy security. A great contribution to the inception and development of this awareness has been provided by a series of energy security crises experienced by the EU since 2006.

In particular, the Russian-Ukrainian-European gas crises of 2006 and 2009 represented a key stimulus to the EU to take an action in this field. The latest Communication adopted by the Commission in this field confirms the trend, having been launched as a response to the 2014 Ukraine crisis and the related unprecedented standoff between the EU and the Russian Federation.

However, the effectiveness of this intense legislative activity remains extremely limited. In fact, the theoretic common approach on security of energy supply proposed by the EU continues to collide with the actual nationalist approach adopted by Member States in this field. An approach reflected by the Treaties themselves, considering that -according to Article 194 TFEU- each Member State has the right to autonomously determine its energy mix and its energy security of supply architecture.

This situation clearly elucidates that the absence of the security of energy supply element in the EU energy policy is fundamentally due to a political reason: the reluctance of Member States of ceding part of their sovereignty to the EU over an issue considered as highly strategic for their respective national interests.

In this context, it appears that only a new, strong political momentum could significantly change the situation, boosting the development of a truly European security of energy supply strategy. This is unlikely to occur in a situation of general stability, when a business-as-usual approach tends to characterize the EU (energy, but not only) policy making.

On the contrary, this might well occur in a situation of urgency determined by a sudden change in the external environment, as the perception of external threats might ultimately lead the EU Member States to strengthen their union.

In the case of energy, a situation of emergency has arisen at the EU level in the aftermath of the 2014 Ukraine crisis. In fact, the profound political rift materialized between the EU and the Russian Federation over Ukraine has led to an unprecedented reconsideration of the EU-Russia energy partnership at the EU level. In this new, challenging, situation many European leaders have called for the rapid development of a common EU strategy on security of energy supply³².

On the basis of an explicit request of the EU Council, the Commission adopted in May 2014 the already mentioned Communication "European Energy Security Strategy"³³, outlining the need of implementing many of the measures already proposed by the Commission itself in 2008.

³² European Council, Conclusions, EUCO 7/1/14 REV1, 29/21 March 2014.

³³ Op. cit., note 28.

However, this time the reaction of the EU has not been limited to this, rather traditional, outcome. In fact, the new President of the Commission Jean-Claude Juncker announced in early September 2014 his intention to insert on its forthcoming Commission a new post for Vice President for Energy Union (in addition to the Commissioner for energy and climate): a move that represents a major upgrading for energy in the EU institutional structure³⁴.

This move was favored also by the fact that EU leaders elected Polish Prime Minister Donald Tusk on 30 August, 2014 to be the next President of the EU Council. President Tusk expressed several times during the Ukraine crisis the need for a truly European energy policy, ultimately calling for the establishment of a European energy union³⁵.

If this unprecedented high-level political momentum towards a real “Europeanization” of energy policy will be effectively followed-up in the near future, the EU should primarily seize this historical opportunity to fill the major long-lasting gap of its energy policy: security of energy supply.

Such a development would not only be beneficial for the EU energy sector, but also for the overall role of the EU in the neighbourhood and beyond.

5. Towards a EU Energy Union: the need to focus on a security of energy supply strategy

With his Mission letter, the new European Commission’s President Juncker asked the future Vice President for Energy Union to focus on the following areas: «i) To ensure the achievement of energy and climate targets for 2020 and 2030; ii) To complete the internal energy market; iii) To coordinate specific actions to strengthen energy security on a European scale, by diversifying sources and routes of energy imports and by pooling the EU’s negotiating power; iv) To mobilise additional public and private investment in energy networks, as well as in renewable energy and energy efficiency; v) To make Europe the world number one in renewable energy.»³⁶

On the basis of the historical trends previously discussed, it is possible to expect a further action of the EU on the development of the internal energy market and on achievement of climate goals, including renewable energy and energy efficiency targets.

However, notwithstanding the vital importance of these issues, the consistency of the new path towards the European Energy Union will be finally measured by the effective achievements on the security of energy supply front (and most notably on gas). Let’s try to figure out which new actions might, eventually, be undertaken in parallel to the ones already proposed by the Commission’s “European Energy Security Strategy” reviews of 2008 and 2014 to really make the difference in this field.

i) To adopt a realistic and inclusive approach

The fundamental prerequisite to any effective European security of energy supply strategy is realism. As far as energy security is concerned, over the last years the EU has sometimes

³⁴ EurActiv, *The Juncker team revealed*, September 4, 2014.

³⁵ Donald Tusk, *A united Europe can end Russia’s energy stronghold*, Financial Times, April 21, 2014.

³⁶ Jean-Claude Juncker, *Mission Letter to the Vice President for Energy Union*, September 10, 2014, Brussels.

gave the impression of following unfeasible targets, losing credibility among stakeholders both within and beyond its borders.

The Southern Gas Corridor is an emblematic example of this trend. Since many years the EU has promoted an overly optimistic vision on the opportunity of bringing major volumes of Caspian and Middle Eastern gas to Europe via Turkey. This *grandeur* paved the way for the failure of the large-scale Nabucco project and, consequently, for the rise of a smaller-scale pipeline project, TANAP, substantially far from the initial concept of the Corridor itself³⁷.

A more realistic approach might be sustained by a more inclusive attitude towards key stakeholders both internally and externally. Including private companies and investors in the formulation of a European security of energy supply strategy seems to be a fundamental element to guarantee the effectiveness of the strategy itself.

ii) To develop solid partnerships with strategic third countries

A new European security of energy supply strategy will be more effective if based on a solid relationship between the EU and the most strategic third countries involved in the game.

Also in this case the evolution of the Southern Gas Corridor could provide a good example to explain the point. After years of strong cooperation between the EU and Turkey on the Southern Gas Corridor, the failure of Nabucco and the emergence of the TANAP project ultimately outlined a divergence in the way the two players perceived not only the Corridor but also their energy relations. The EU has not made significant efforts to re-launch this partnership, putting at risk the potential future developments of this strategic Corridor. In fact, with the recently discovered gas reserves of the Kurdistan Region of Iraq and Israel, the Corridor could well gain a new momentum. However, after the failure of Nabucco the support of Turkey should not be taken for granted by the EU, as the country might prefer to secure its own energy supply on a bilateral basis with gas producing countries. A solid partnership with Turkey would thus be essential for the European security of gas supply, particularly considering that Turkey is basically the only country through which the EU could diversify its gas supplies via pipeline³⁸.

iii) To effectively promote interconnections between Member States

Security of energy supply is characterized by two, mutually depended, dimensions: external and internal. As far as the internal dimension is concerned, it is of course important to reduce the dependency on external energy suppliers by promoting energy efficiency, renewable energy and the development of local energy resources. Furthermore, in this field a key element is represented by the development of key interconnections between Member States, in order to allow a physical solidarity within the EU. This action should be particularly applied to electricity and gas infrastructure.

³⁷ See: Simone Tagliapietra (2014), *Turkey as a Regional Natural Gas Hub: Myth or Reality? An Analysis of the Regional Gas Market Outlook, beyond the Mainstream Rhetoric*, Nota di Lavoro 2014.002, Fondazione Eni Enrico Mattei, Milano.

³⁸ See: Simone Tagliapietra (2014), *The EU-Turkey Energy Relations After the 2014 Ukraine Crisis. Enhancing The Partnership in a Rapidly Changing Environment*, Nota di Lavoro 2014.075, Fondazione Eni Enrico Mattei, Milano.

Just take the example of the European gas market. In addition to the Southern Gas Corridor, the only way for the EU to diversify its gas supply portfolio is represented by new liquefied natural gas (LNG) imports. Today about 60 percent of the EU' LNG capacity is located on its southern shores, among Spain, France, Italy, Portugal and Greece³⁹. The paradox is that the role of these terminals in the current EU gas security of supply architecture is far below its potential, considering -for instance- the lack of major interconnections between Spain and the rest of Europe, or Italy and the rest of Europe.

The development of proper interconnections should thus be strongly promoted by the EU. A first step in this direction might be represented by the realization of reverse-flow systems in the current infrastructure.

For instance, to date along the gas transmission route connecting the UK and Italy, only the UK-Interconnector pipeline and the network in Belgium can currently flow gas in both directions, as the TENP and TransitGas systems in Germany and Switzerland, as well as the Italian network, to date can move physical flows only from North to South only. Applying a reverse-flow system in this infrastructure allowing South to North gas flows would enable Southern suppliers -such as the perspective Southern Gas Corridor suppliers- to compete with Northern suppliers (mainly Russia and Norway) in the wider European gas market in a context of diversification of gas supply portfolios both at the micro (large wholesalers and operators) and macro (countries) levels.

iv) To set-up new financial schemes to support the development of strategic energy infrastructure

Trans-European energy networks, such as electricity or gas interconnectors, are meant to serve several European countries at one fell swoop and for this reason it is not possible to expect a single country to embark alone in the financing of such kind of projects. This is the reason why an action of the EU in this field is needed not just in terms of coordination and supervision, but most notably in terms of (co-)financing.

In July 2014 President Juncker called for a EUR 300 billion public-private investment programme to revive the European economy, on the basis of existing budget resources, the European Investment Bank and the private sector⁴⁰. Part of these resources might be used to co-finance strategic energy infrastructure projects within the EU, such as the ones previously mentioned, with the ultimate aim of consolidating the internal dimension of security of energy supply.

For instance, the EU could make use of part of these financial resources to act as a catalyst in order to attract institutional investors (such as pension funds, insurance companies, mutual funds and sovereign wealth funds) into the financing of European energy infrastructure projects by providing special lending, guarantees and equity investments able to lowering the risk profiles of the projects.

³⁹ EU' LNG annual nominal capacity by country (as of 2014): Spain 60.3 bcm/year; UK 52.3 bcm/year; France 23.75 bcm/year; Italy 14.7 bcm/year; Netherlands 12 bcm/year; Portugal 7.9 bcm/year; Belgium 9 bcm/year; Greece 5.3 bcm/year. Data source: Gas Infrastructure Europe (GIE).

⁴⁰ EurActiv, *EU's Juncker calls for 300 bn euro investment programme*, July 15, 2014.

The launch of a new and solid project bond initiative, designed to enable the issuance by project companies, generally public private partnerships (PPPs), of long-term well-rated bonds instead of relying only on bank lending, might also be considered in this framework. In fact, the participation of the European Commission and the European Investment Bank might mitigate some of the risk associated with a project bond issued to finance a specific project. Member States, infrastructure managers or companies might therefore be able to access a competitive source of finance and consequently improve the cost of financing such projects. Such an initiative might thus act as a catalyst to re-open the debt capital market, currently largely unexploited for infrastructure investments following the financial crisis, as a significant source of financing in the European energy infrastructure sector⁴¹.

6. Creating the EU Energy Union, following the examples of the Economic and Monetary Union and the Banking Union

At this point, the crucial question is: how can the EU promote such actions, considering the limits imposed by the Treaty of Lisbon over the energy mix and the structure of energy supply?

As stated before, it's basically all about the political willingness of Member States to do so. An ancient English proverb says that *If there is a will, there is a way*, and this is exactly the case. Of course, due to divergences of interests among Member States in the energy field, it is difficult today to expect a unanimous consensus of all Member States on a new European security of energy supply strategy or, generally speaking, on a truly effective European Energy Union. For this reason the amendment of the Energy Title of the Treaty of Lisbon is an option that cannot be even taken into consideration.

The only way forward seems to be represented by the formation of a smaller coalition of Member States, committed to the principle of giving-up part of their sovereignty in the field of energy to the EU in order to better achieve common goals.

This kind of differentiated integration, permitted by the Treaty of Lisbon, has already been used -albeit in different forms- to create the Economic and Monetary Union, the Fiscal Compact, the Banking Union and other justice and home affairs, and has proved to be a good catalyst for advancing the European integration by allowing some Member States to move forward immediately in a specific field and, at the same time, by ensuring to all other Member States the opportunity to join the initiative in any moment.

Such a differentiated integration can be carried out in various ways, such as enhanced cooperation under the EU Treaty, intergovernmental coordination with or without the use of EU structures, and cooperation outside the EU based on international law⁴².

It is guaranteed that the Brussels bureaucratic machinery would easily find out the best institutional setting for a new European Energy Union. What is really needed now is a team

⁴¹ See: Simone Tagliapietra (2013), *Financing the European Energy Infrastructure of the Future. New Horizons Between the Connecting Europe Facility and the Europe 2020 Project Bond Initiative*, in Review of International Environment, Energy and Economics, Fondazione Eni Enrico Mattei, September 27, 2013.

⁴² See: Nicolai von Ondarza (2013), *Strengthening the Core or Splitting Europe? Prospects and Pitfalls of a Strategy of Differentiated Integration*, RP 2, Stiftung Wissenschaft und Politik, Berlin.

of far-sighted European political leaders, willing to put together their energy (security) policies with the profound conviction that only by acting together the EU will be able to meet the growing energy challenges of the future.

ANNEX 1

EU legislative acts and documents in the field of energy: the milestones

<i>Year</i>	<i>Legislative act / Document</i>
1968	Council Decision of 20 December 1968 Imposing an Obligation on Member States of the EEC to Maintain Minimum Stocks of Crude Oil and/or Petroleum Products, 68/416/EEC.
1968	First guidelines for a Community energy policy. Memorandum presented by the Commission to the Council. COM (68) 1040 final, 18 December 1968.
1972	Necessary progress in Community energy policy. Communication from the Commission to the Council. COM (72) 1200 final, 4 October 1972.
1972	Regulation (EEC) No 1056/72 of the Council of 18 May 1972 on notifying the Commission of investment projects of interest to the Community in the petroleum, natural gas and electricity sectors.
1972	Regulation (EEC) No 1055/72 of the Council of 18 May 1972 on notifying the Commission of imports of crude oil and natural gas.
1973	Council Directive 73/238/EEC of 24 July 1973 on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products.
1974	Council Resolution of 17 September 1974 concerning a new energy policy strategy for the Community.
1981	The Development of an Energy Strategy for the Community. Communication from the Commission to the Council. Mandate of 30 May 1980. COM (81) 540 final, 2 October 1981.
1988	The internal energy market. Commission Working Document. COM (88) 238 final, 2 May 1988.
1990	Council Directive 90/547/EEC of 29 October 1990 on the transit of electricity through transmission grids.
1991	Council Directive 91/296/EEC of 31 May 1991 on the transit of natural gas through grids.
1994	Directive 94/22/EC of the European Parliament and of the Council on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons.
1995	For a European Union Energy Policy - Green Paper COM(94) 659, January 1995.
1995	An Energy Policy for the European Union - White Paper COM(95) 682, December 1995.
1996	Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity.
1998	Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas.
2003	Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC.
2003	Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC.

- 2006 A European Strategy for Sustainable, Competitive and Secure Energy - Green Paper COM(2006) 105, March 2006.
- 2006 Commission Decision of 7 November 2006 establishing the composition of the Gas Coordination Group, 2006/791/EC.
- 2007 An energy policy for Europe. Communication from the Commission to the European Council and the European Parliament. COM(2007) 1 final, 10 January 2007.
- 2008 Towards a secure, sustainable and competitive European energy network - Green Paper, COM(2008) 782 final.
- 2008 Second Strategic Energy Review - An EU Energy Security and Solidarity Action Plan. Communication from the Commission to the European Parliament and the Council. COM(2008) 781].
- 2009 Directive 2009/72/EC 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.
- 2009 Directive 2009/73/EC of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.
- 2009 Regulation (EC) No 713/2009 of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators.
- 2009 Regulation (EC) No 714/2009 of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003.
- 2009 Regulation (EC) No 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005.
- 2010 Energy 2020 - A strategy for competitive, sustainable and secure energy. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions. COM(2010) 639, final.
- 2011 The EU Energy Policy: Engaging with Partners beyond Our Borders. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions, COM(2011) 539 final.
- 2011 Energy Roadmap 2050. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions. COM(2011) 885 final.
- 2012 Decision No 994/2012/EU of 25 October 2012 establishing an information exchange mechanism with regard to intergovernmental agreements between Member States and third countries in the field of energy.
- 2014 A policy framework for climate and energy in the period from 2020 to 2030. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions. COM(2014) 015, final.
- 2014 European Energy Security Strategy. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions. COM(2014) 330 final.

Source: own elaboration on EUR-Lex.

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