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Perspectives on the green construction of the new European Energy Policy

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Abstract

The EU has been one of the main actors involved in the construction process of an international climate change regime, adopting it as an identity sign in the international arena. This activism has reverted in the European political agenda and in the one of its Members States. Therefore, climate change has become a driver for the EU growing participation in energy policy and for its governance evolution. In this context, much attention has been paid to the climate and energy policies integration agreed after the 2007 spring European Council. Apparently, this decision meant a decisive step towards the incorporation of the environmental variable in the energy policy-making. Moreover, the Action Plan [2007-2009] "Energy Policy for Europe" outlined priority actions in a variety of energy-related areas, implying the *new* European Energy Policy commencement. Against this background, there is still much left to understand about its formulation and its further development. Rooted on the Environmental Policy Integration approach, this paper traces the increasing proximity between environment and energy policies in order to understand the *green contribution* to the European Energy Policy construction.

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Introduction

Since early 1950s, energy has represented the European integration starting point, whose origin stems from the European Coal and Steel Community and the EUROATOM treaties[1]. Paradoxically, the integration process has never developed so far as to lay the foundations for a full-fledged and coherent Common Energy Policy, being until now one of the weakest integration areas. However, more recently, the arrival of outstanding topics such as Climate Change [CC] have broken-through the barriers that traditionally hindered Brussels' performance in energy policy. The EU has been one of the main actors involved in the construction process of an international CC regime [Costa 2008], adopting it as an identity sign in the international arena [Escribano & Solorio, 2010]. This activism has reverted in the European political agenda and in the one of its Members States. Over the last years, the "EU has begun the process of moving towards a sustainable, secure, and competitive energy future" [Piebalgs, 2009: 2]. Therefore, CC has become a driver for the EU growing participation in energy policy [Henningsen 2008] and for its governance evolution.

In this context, much attention has been paid to the climate and energy policies integration agreed after the 2007 spring European Council. Apparently, this decision meant a decisive step towards the environmental variable incorporation in the energy policy-making. In the European Council's words, "[g]lobal warming, together with the need to ensure security of supply and enhance business competitiveness, make it more vital and pressing for the EU to put in place an integrated policy on energy combining action at the European and the Member States' level" [European Council, 2007: 13]. Moreover, the Action Plan [2007-2009] "Energy Policy for Europe" outlined priority actions in a variety of energy-related areas, implying the new European Energy Policy [EEP] commencement [Herranz & Zapater, 2010]. This outgrowth was considerably reinforced with the Lisbon Treaty revision, especially concerning the Title XXI on Energy that consolidated its governance pooling tendency.

[1] Paper to be published in Sauer & Sauerova (eds.), "Towards a Green Economy: Young Researchers Perspective", LITOMYSL Seminar Publishing, Prague.

Against this background, there is still much left to understand about the EEP formulation and its further development. Rooted in the Environmental Policy Integration [EPI[2]] approach, this paper traces the increasing proximity between environment and energy policies with the intention of answering the following question: Which has been the *green contribution* to the EEP construction? The structure of this work is divided in four sections. Section 1 zooms on the EPI developments within energy. Section 2 analyzes the most recent EEP developments. Section 3 presents the Lisbon Treaty novelties on energy governance. And finally, Section 4 intends to shed light in the above-presented question.

EPI and energy

It is well-known that EPI into energy policy becomes necessary in order to limit its ecological impact [Collier, 2002]. CC has come to add more pressure in this process. While this issue has been moving to the mainstream part of the international political agenda, Europe has also been reaching 'a higher gear' to improve its energy practices [Henningsen, 2008]. In the following pages, I will present a categorization on the EPI evolution within energy. My aim is to show that, even within the evolving scenarios, there are identifiable phases that have influenced the EEP as nowadays is known. Additionally, this last trait defines the endurance of the EEP environmental dimension.

Phase 1: Environmental Awakening

From its early beginnings, the European integration has demonstrated the capacity to respond to emergent problems [Jordan et al 1999]. Thus, with the growing concern about environmental issues in the 1970s, the Community did not delay in paying attention to the energy chain's environmental impact. The Commission's reflections as well as the Council's resolutions showed this incoming reality [e.g. Commission of the European Communities, 1972, 1974; European Council, 1974, 1975]. However, the 1970s oil crisis generated energy security to become the Europe's policy paramount goal. Notwithstanding, this scenario also provoked the Member States' understanding on the necessity to formulate together policies on energy [Zapater, 2002], facilitating thus the implementation of EPI. In this period a considerable set of energy

[2] Based on Ute Collier [1994: 36], this paper understands EPI as a concept aiming at: "achieving sustainable development and prevent environmental damage; removing contradictions between policies as well as within policies; and realising mutual benefits and the goal of making policies mutually supportive".

environmental-related measures was approved, mainly focused on energy efficiency [Andersen, 2000]. On the other hand, the renewable energy development was delayed given the immediate need to solve the supply problems, limiting the Community performance regarding research and technological development programs [Twidell & Brice, 1992]. Overall, however, this EPI beginning phase implied the first step towards the incorporation of the environmental variable in energy policy-making and the existence of EPI-related instruments years before the Single European Act [SEA].

Phase 2: Environment Institutionalization

The year 1986 was meaningful for the European integration as well for EPI issues. The SEA arrival marked the revival of the construction process by means of the Community reinforcement in its internal market performance [McGowan 1995], but also the institutionalization of other areas such as the environmental policy. In fact, the main characteristic of this policy is its rapid expansion, triggering important governance modifications in the following Treaty revisions. Paradoxically, the initial years of environment competence were distinguished by an EPI lack of remarkable results. Notwithstanding, there was a hot topic emerging at the international level: CC. Consequently, in 1989 the first high-level intergovernmental meeting devoted to CC took place [Oberthür & Pallemaerts, 2010], representing the starting point of a process destined to transform Europe's energy policy. All in all, this EPI second phase represented the institutionalization of environmental policy as a path to benefit from the flexibility of the competence system regarding the intervention in the energy field.

Phase 3: Climate Change 'Activation'

CC 'activation' provided an opportunity for the EU growing participation in energy policy. Thus, since the first EU target for stabilizing carbon dioxide emissions has been adopted in the Joint Council of Energy and the Environment in October 1990, the European climate policy has been permanently evolving to get closer to energy policy [Skjærseth, 1994]. Hence, with the intention to present the European Community negotiators with arguments for the Rio Conference in 1992, the Commission proposed for the first time a "Climate Package" that included: a directive proposal on renewable electricity; regulatory measures in the field of efficiency and energy savings as well as a tax on energy-using products. Certainly, this package was diluted by the Council, finally adopting ALTENER and SAVE demonstration programs and excluding the possibility of taxation

on energy use and a regulatory framework for renewable electricity [Andersen, 2000; Henningsen, 2008]. However, EPI's third phase involved the emergence of the climate policy at the heart of the EU agenda and the creation of a new stage for energy policy in Europe [Andersen, 2000].

Phase 4: Environment Integration

EPI saw its legal translation with the Maastricht revision and the incorporation of the TEC article 6 [article 11 with the Lisbon Treaty revision], which contains the integration principle as an EU guiding objective [Lenschow 2002]. Notwithstanding, the opening of the denominated "Cardiff Process" in 1998 represented a step forward to its practical application. It was calling to Council formations to prepare strategies and programs focused on integrating the environmental considerations in its own policies. Regarding energy, the Commission maintained that "given the important impact on the environment, environmental integration cannot be achieved without adapting energy policy" [Commission 1998: 3]. This way, energy efficiency and renewable energy sources came to form the cornerstone of a sustainable energy system [Collier 2002]. Soon, new environmental measures were adopted at the EU level as the renewable electricity directive, the biofuels directive or the directive establishing a scheme for greenhouse gas emission allowance trading. That is, EPI's fourth phase was characterized by an environmental governance reinforcement that impelled the EU influence on energy policy by means of its environmental competence.

Phase 5: EEP Commencement

The EEP emerged, importantly, from the need to go further on the European efforts against CC. In 2005 the European Council perceived *"the need to demonstrate that the EU's commitment to meet Kyoto […] is practical and not just a paper one"* [Piebalgs 2009: 2]. In this context, the Commission began pushing forward the energy's debate with the paramount goal of laying down the foundations of a new EEP of global character [European Commission, 2006, 2007]. In a watershed, the 2007 spring European Council enhanced the threefold strategic objective - increasing security of supply; ensuring competitiveness of European economies and the availability of affordable energy; and promoting environmental sustainability and combating CC (European Council, 2007: 11) - proposed by the Commission. Moreover, the Action Plan [2007-2009] Energy Policy for Europe was adopted "as a milestone in the creation of an Energy Policy

for Europe and as a springboard for further action" [Council of the European Union, 2007: 13]. Overall, there was the imperative goal to achieve integration between climate and energy policies "in a mutually supportive way" [Council of the European Union, 2007: 11]. The European Council recognized the EPI importance stating that "a substantive development of energy efficiency and of renewable energies will enhance energy security, curb the projected rise in energy prices and reduce greenhouse gases emissions" [European Council, 2007: 20]. Thus, EPI's last phase not only defined the EEP commencement, but also illustrated the continuity of the environmental component.

The EEP Evolution

A particular feature of the emergent EEP is its flexibility. In fact, "the Energy Action Plan will be kept under regular review within the context of an annual examination by the European Council" [European Council, 2007: 14]. Apparently this measure left the control to the Member States. However, in parallel, the Council called the Commission to implement the elements contained in the Action Plan and also to put forward an updated Strategic Review to serve as basis of the new Action Plan [European Council, 2007].

Against this background, the Commission released the well-known 20-20-20 proposal. There, the Commission not only conveyed the 2007 as the turning point for the EU climate and energy policy, but outlined a set of measures designed to reach the *threefold twenty* - renewable energy, energy efficiency and greenhouse gas emissions reductions- [Commission, 2008]. Certainly, the economic crisis context was an added obstacle during the legislative process. However, after the hard inter-governmental negotiations, the "Climate and Energy Package" became law in early 2009. The package comprises four main measures: (1) A revision of the Emissions Trading System [EU ETS]; (2) An 'Effort Sharing Decision' governing emissions from sectors not covered by the EU ETS, such as transport, housing, agriculture and waste; (3) Binding national targets for renewable energy; and (4) A legal framework to promote the development and safe use of carbon capture and storage. With all the above-mentioned, it represents the most concrete EEP expression.

The Lisbon Treaty Novelties

As seen, the EU has developed a number of measures in order to pursue the energy trinity [label given to the threefold strategic objective, see Escribano, 2010]. That is, the energy chapter's inclusion in the Lisbon Treaty simply implied the recognition of the work that the EU has been undertaking thanks to the institutional flexibility. This novel chapter asserts that:

> "Union policy on energy shall aim […] to: (a) ensure the functioning of the energy market; (b) ensure security of energy supply in the Union; (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and (d) promote the interconnection of energy networks" [TFEU, Article 194].

Regarding its decision-making process, the new energy article has been accompanied with the ordinary legislative procedure [TFEU, Article 194, paragraph 2]. The energy governance was also clarified with the establishment of a catalogue among exclusive and shared competences between the EU and its Member States, whereas the TFEU recognizes energy within the last category together with other related areas such as the internal market, environment or transport policy [TFEU, Article 4]. All in all, the reality is that after decades of integration, the EU scarcely posses an emergent, sector-based EEP that, given its horizontal character, has only allowed specific actions in this area, something reflected in these developments [Zapater, 2009].

Additionally, the renewed legal framework outlines the borderline between the EU and its Member States' performance. In this sense, following the TFEU, the Member States' limit falls in the extent that the Union has not exercised its competence [TFEU, Article 2]. Notwithstanding, the EU regulatory capacity is counterbalanced with an exception in Article 194, whereas the adopted 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" [TFEU, Article 194, Paragraph 2]. Certainly, this Member States' reservation draws a boundary to the EU energy performance. However, it is worth remarking that the current institutional set-up permits, more than ever, improving the coordination of national energy policies and among the different EU policies concerning energy. That is, even if nowadays the EU does yet not enjoy a full-fledged Common Energy Policy, there are still steps forward to be taken into consideration.

Conclusions

The study hereby presented the fundamental role of the *green contribution* to Europeanize the energy governance. The EPI trajectory has demonstrated that CC has been a key driver to set the basis of the new EEP. In this sense, CC has facilitated the establishment of common positions between the EU and its Member States. Notwithstanding, it is certainly difficult to evaluate the environmental importance against the other objectives of the energy *trinity*. CC has not been the only key to push forward Brussels' performance in energy, so it is relevant to take also into consideration the influence of energy security and competitiveness. Against this background, there are a couple of factors that in the near future could be helpful to measure the value of the EEP environmental component. On the one hand, the EU faces the challenge to develop the *coherence* within all the policies involving energy, where the governance framework drawn with the Lisbon revision acquires notable relevance. On the other hand, the flexibility that defines the EEP will be a survival test. All in all, the Action Plan will be renovated soon under an economic crisis background. Therefore, will the energy *trinity* evolve against its environmental dimension?

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References

ANDERSEN, S. (2000): "EU Energy Policy: Interest Interaction and Supranational Authority", Arena Working Papers, 00 (5).

COLLIER, U. (1994): Energy and environment in the European Union. Aldershot: Avebury.

------(2002): "EU Energy Policy in a Changing Climate", en Environmental Policy Integration greening sectoral policies in Europe, ed. Lenschow A., Earthscan Publications Ltd, UK, USA, 175-92.

Commission of the European Communities (1972): Necessary progress in community energy policy.

------(1974): Towards a new energy policy strategy for the European Community.

European Commission (1998): Strengthening environmental integration within Community energy policy.

------(2006): A European strategy for sustainable, competitive and secure energy.

------(2007): An energy policy for Europe.

------(2008): 20 20 by 2020 Europe's climate change opportunity.

COSTA, O. (2008): "Is climate change changing the EU? The second image reversed in climate politics". Cambridge Review of International Affairs, Volume 21, Number 4, pp. 527-544.

ESCRIBANO, G. (2010): 'Convergence Towards Differentiation: The Europeanization of Mediterranean Energy Corridors", Mediterranean Politics, 15(2).

ESCRIBANO, G. & SOLORIO, I (2010): "Morocco and the European Union: bridging opportunities through the Mediterranean Solar Plan. An overlook of Morocco's challenges and opportunities", Paper presented at the Emuni Research Souk, Autonomous University of Barcelona.

European Council (1974): Council Resolution of 17 September 1974 concerning a new energy policy strategy for the Community.

------(1975): Council Resolution of 3 March 1975 on energy and the environment.

------ (2007): Action Plan (2007-2009) An Energy Policy for Europe.

European Union (2008), “Consolidated Version on the Treaty on the Functioning of the European Union”.

HENNINGSEN, J. (2008): “EU energy and climate policy – two years on”, EPC Issue Paper, num. 55. European Policy Centre, September 2008.

HERRANZ, A. & E. ZAPATER (forthcoming): “A toda luz y a medio gas: Relaciones energéticas entra la Unión europea y su entorno próximo”, in La Unión Europea más allá de sus fronteras ¿Hacia la transformación del Mediterráneo y Europea oriental?, Madrid, Tecnos.

JORDAN, A., R. BROUWER & E. NOBLE (1999): “Innovative and responsive? A longitudinal analysis of the speed of EU environmental policy-making, 1967-97, Journal of European Public Policy, 6: 3, pp. 376-98.

LENSCHOW, A. (2002): “Greening the European Union: An Introduction”, en Environmental Policy Integration: greening sectoral policies in Europe, ed. Lenschow A., Earthscan Publications Ltd, UK, USA, pp. 3-21.

MCGOWAN, F. (1996): Energy Policy in the EU –Diversity or Convergence?, en Francis McGowan, European Energy Policies in a Changing Environment, PHYSICA-VERLAG, pp. 1-20.

OBERTHÜR, S. & M. PALLEMAERTS (2010): The EU's Internal and External Climate Policies: an Historical Overview. In S. Oberthür & M. Pallemaerts (Eds.), The New Climate Policies of the European Union: Internal Legislation and Climate Diplomacy. Brussels: VUB Press.

PIEBALGS, A. (2009): “How the European Union is preparing the “third industrial revolution with an innovative energy policy”. EUI Working Papers, RSCAS 2009/11.

SKJÆRSETH, J. B. (1994): The Climate Policy of the EC: Too Hot to Handle? Journal of Common Market Studies, 32(1), pp. 25-45.

TWIDELL, J. & R. BRICE (1992): Strategies for implementing renewable energy. Lessons from Europe, Energy Policy, pp. 464-479.

ZAPATER, E. (2002): La gestión de la seguridad de aprovisionamiento energético en la Unión Europea: ¿Una cuestión política o económica?, Editorial Dykinson, Madrid.

------(2009): “La seguridad energética de la Unión Europea en el contexto de la nueva política energética y el tratado de Lisboa”, in La Energía del Siglo XXI: Perspectivas europeas y tendencias globales, Morata, F. (Coord.), IUEE, Barcelona, pp. 49-79.