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**Bilateralism vs. Multilateralism: An  
Analysis of the Evolution of EU Energy  
Policy for a Post-Lisbon Europe**

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It is my intention through this paper to explore and analyse the development of EU energy policy following the acceptance of the Lisbon Treaty. To my mind, at best an overlap, at worst a conflict exists between approaches of bilateralism and multilateralism within the new Europe. Unilateralism may have been consigned to the annals of history for the large part and the assumption that we live in a multilateral Europe may be ubiquitous, however, there are many indications that perhaps it is, in fact, bilateralism which dominates modern EU energy policy, despite the best intentions of its proponents. I intend to look at the development of energy policy with a focus upon one of the EU's key actors – Germany – and one of its key neighbours – Russia. I analyse energy policy both at the “high” political level including elites and nation states and at the “grassroots” level, including interest groups, citizens and public opinion. As a founding member state and one of the most influential and powerful states within Europe, Germany is an ideal choice. Moreover, Germany is a prime example of the clash between bilateral and multilateral perspectives due to the ‘special relationship’ which exists between Germany and Russia in numerous spheres and Germany’s role as a key EU member. I consider mainly the sphere of energy security and the inception and development of the Nordstream gas pipeline project, analysing to what extent post-Lisbon EU energy policy constrains or, conversely, aids the actions of our key actor and our key neighbour state. Thus, it is my aim, with the help of a thorough case study of the key actors in the project – Germany and Russia, to ascertain and analyse in how far EU-Russian energy policy relations can be characterised as bilateral (between individual EU member states and Russia) or multilateral (between groups of EU member states or the whole EU and Russia) respectively and what implications my conclusions have for the evolution of EU energy policy post-Lisbon. The case study includes theoretical approaches grounded in political science, international relations and sociology and the paper includes my own primary research on the roles of foreign representations following the Lisbon Treaty.

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## Introduction

We live in a world that is simultaneously global *and* local, and this paradox characterises much of modern governance. In other words, using the terms which we use to define the world around us, our representatives operate on both a national level and an international level, often trying to combine two spheres which present fundamentally different challenges. Therefore, what lies behind this piece of work is the assumption that a potential theoretical conflict between layers of national and international (supranational) governance remains relatively unexplored. The nation state ‘container’ has constituted a more or less absolute frame of reference for citizens since the 19<sup>th</sup> century and although it can never be said to have existed in pure isolation from the international sphere, I maintain that the concept has never been fundamentally challenged to the extent that it is today. This is not to say that the nation state is doomed. My contention is rather that more considered reflection on the interaction of these two layers is necessary and that resorting to an either/or choice between taking a bilateral approach (more focused in general on national interests) and a multilateral approach (more focused in general on international or supranational interests) is counterproductive. This is especially true for energy policy where it is senseless and often impossible to choose one or the other approach. Nevertheless, this paper takes a provocative position and points out a conflict (even a war at times) between the bilateralism and multilateralism which constitute and are reflected in EU energy policy and also argues that we are seeing the gradual dominance of multilateralism. By juxtaposing one approach against the other in this provocative fashion, I hope to reveal valuable insights which have perhaps been missed in the past.

In this piece of work I focus my attention on the instruments of European governance (especially those emerging following the acceptance of the Lisbon treaty) and taking the Nordstream gas pipeline project as a case study, I try to demonstrate that we are not moving towards an “either/or” situation whereby *either* national interests *or* international (supranational) interests must be given

precedence, but rather that one can and does complement the other in many cases. As such, I look at the history of the Nordstream project from its initial inception to its current state and analyse the significance of history as a concept for this venture and for EU energy policy as a whole. I look at ideas and perceptions of history, memory and of the main actors and try to ascertain the roles played by Germany, as a major European partner and the majority non-EU partner, and by Russia, in overcoming the many barriers associated with this project and managing to ensure that the controversial pipeline became not only a bilateral venture but a true example of bilateralism evolving into multilateralism and thus, I argue, can be seen as a microcosm of EU energy policy as a whole. I pay special attention to the salience of the economic factor, as reflected by my theoretical focus on complex interdependence theory, which, I believe, plays a greater role than ever now that world economic systems have converged to a large extent and are compatible and interconnected. It is my aim to track the evolution of the EU's approach to energy policy, especially in the field of energy security by looking at how the Nordstream project – as a long and complicated venture encompassing many years where fundamental changes have taken place within the EU – fits into the larger picture of EU energy policy.

The field of energy security has gained rapidly in significance as the realisation has set in over the last 40-50 years especially that the world's resources are finite and that in a world of scarce resources, the people who control those precious reserves are potentially able to wield great power and influence which often does not correspond with their position. European societies are well aware both of the volatility of energy markets (due to the high domestic prices for goods such as fuel) and of the increasing importance of ensuring security of supply. Moreover, thanks to the media and the recent crises involving Ukraine especially, the European public is well aware of such famed statistics as the EU's reliance on Russia for a quarter of its gas and that 10 European member states depend on Russia for at least 60% of their gas.<sup>1</sup> The OPEC embargo of 1973 against the USA clearly demonstrated how dependant and how vulnerable it was possible to

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<sup>1</sup> "Briefing: Gas Security in the EU", APPG Briefing, 2009, p.1

become when diversity and reliability of supply was not adequately taken into consideration. Thus, nowadays energy security has become a top priority for administrations worldwide and the Nordstream project represents a significant although controversial step forwards in this area. Thus, energy policy has evolved from an area of more or less exclusive national competence to a “hot topic” with an ever growing number of powerful stakeholders involved. Formerly the preserve of private or state energy companies, now energy has taken on an overtly political character, encompassing national security and having a very real effect on the average citizen. However, I will draw the reader’s attention to the relative absence of any accepted definition of what constitutes energy security and the lack of agreement even on the nature of energy as a private, public or common good.

I therefore argue that EU energy policy, as constituted in part by the energy policies of the individual EU members, is evolving from bilateralism in the past whereby nations acted largely individually in order to conclude the most advantageous deal possible, to an environment increasingly characterised by supranational constraints and the burgeoning realisation of needing to act more frequently in a multilateral fashion (although not exclusively). Collective action dilemmas in the wake of some nations’ bad experiences in Russia are seeing many member states lean more towards multilateralism, accepting smaller short-term gains by sacrificing potentially more lucrative deals which could be concluded bilaterally in the hope of collectively avoiding potential larger costs. More importantly, however, with the onset of globalisation, the European integration project and the increase in transnational connections which characterise the modern world, I look at the place that bilateralism occupies in the world today, seeking to divine answers from the way in which the Nordstream project has evolved and the way in which EU foreign and energy policy are evolving along with it. I address the question of whether the nation state is still relevant (especially for our actors) by looking at instances when, for example, Germany facilitated a transition from bilateralism to multilateralism in the Nordstream project, or when Poland considered rejecting the dominant EU line

and tried to conclude a bilateral gas deal with Gazprom, to the detriment of other EU members.

In chapter 2, I have included primary research on the changes experienced by the foreign representations of EU states (embassies, consulates, various private sector actors) following Lisbon and seek to ascertain whether there can be said to be a conflict between emerging an emerging EU foreign policy passing on instructions and directives, and the existing foreign policies of the nation states who are used to fully controlling their foreign representations. Although this chapter does not touch on the Nordstream project directly, it is a vital addition to the paper as I seek to analyse what changes are occurring in terms of governance on the front line especially. Foreign representations should feel the impact of changes introduced by Lisbon relatively quickly and as such the research is incredibly useful when trying to get an early indication of how the conflict between bilateralism and multilateralism is playing out on the ground. Energy policy is not situated in a vacuum and thus the background of post-Lisbon foreign policy is of great relevance especially as energy takes on an ever more acute political and security dimension.

With the Treaty of Lisbon and the treaties and agreements in the energy sector which led up to it, some significant changes have occurred in the field of energy and I attempt to summarise them, picking the most important changes such as the drive towards a single, integrated EU market for energy and the necessity for all bilateral agreements to be scrutinised by the European Commission. Moreover, the Cold War has been over for a long time, and when considering how perspectives of bilateralism and multilateralism are developing and seeking to answer why they are developing in this or that particular way, it is necessary to take great account of the global geo-political situation and how this backdrop affects decision making. During the Cold War, the bi-polar system reigned and it was the heyday of the zero-sum game mindset. However nowadays we must recognise that Russia's resurgence, its establishment as an energy superpower and the idea, championed by Marshal Goldman, that the Mutually Assured Destruction (MAD) of the Cold War era, although redundant nowadays, has not

been replaced by a 'Mutually Assured Restraint' (MAR) must all be taken into account. Goldman's argument is that whilst the previous geo-political situation included an unwillingness and a dread by both sides of the consequences of using their weapons against one another, the new geo-political situation is considerably more flexible and Russia, for instance, is prepared to use the 'energy weapons' which now define this 'Petrostate', as Goldman calls it.<sup>2</sup> With such a geo-political backdrop the natural desire of EU institutions to expand their roles via neo-functionalist positive spill-overs, thereby strengthening the multilateral character of the union, comes more into play.

Finally, I look at prospects for the future and, proceeding from the experience of the Nordstream project, muse on the possibilities to overcome the inertia of the integration process, overcoming 'fragmented multilateralism' (which I later define as smaller multilateral blocks within the larger multilateral block), and the chances of applying the insights gained from the Nordstream experience to EU foreign policy as a whole and energy policy in particular. The role of interest groups in shaping policy in the energy sector is considered as well as an analysis of the state of public opinion and European attitudes towards energy. All in all, the paper argues that whilst a conflict does exist (and indeed, is being played out) between approaches of bilateralism and multilateralism in EU energy policy, this does not necessarily have to be the case. Over the course of 5 chapters, I progressively build my argument, showing how the Lisbon Treaty is faring in practice and how the changes look on paper; how public opinion stands with regards to the two perspectives of bilateralism and multilateralism; how history can play a role in determining the course of energy policy; how energy is a difficult concept to define; how Nordstream could serve as an example of transitioning from bilateralism to multilateralism; and finally I make some predictions of my own for the future.

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<sup>2</sup> Goldman, Marshall, I., "Petrostate - Putin, Power and the New Russia", Oxford University Press: New York, 2010, p.178

## ***Research Questions***

The research questions formulated below will serve to guide this paper, enabling me to break down a complex problem into more manageable parts, whilst still retaining focus. The questions serve as an outline, and although they do not cover every point mentioned in the paper, they represent a logical train of thought which holds the work together.

1) Will a strengthened EU energy policy come into conflict with existing bilateral agreements? Do bilateral relations still matter in this age of challenges to the nation state? Is it appropriate to speak of a “war” between approaches of bilateralism and multilateralism in EU energy policy?

2) Why is history important in explaining the significance of the Russia-Germany partnership for EU energy policy and for the Nordstream project in particular? Can it be said that from a social constructionist perspective, history and perceptions determine the nature of EU energy policy?

3) Can we extrapolate a model of future EU – Russian relations from the energy sector following Lisbon, when all the necessary treaty amendments have come into force? How can theories of complex interdependence and neo-functionalism help us to conceptualise and understand an evolutionary shift from bilateralism to multilateralism in energy security?

## ***Methodology***

In this paper, I draw on a full range of resources in Russian, English and German across all formats. Some examples of sources which make up the bulk of this paper are: official reports from the German and Russian governments; EU reports; white papers; EU journals; treaties and agreements etc. Papers and reports from NGOs; experts; academics as well as the opinions and conclusions of supra-national and international organisations and a wide selection of academic literature dedicated to political, IR and sociological theory and ranging from academic journals, to books, articles, newspaper pieces, conference speeches and much more. The faculty libraries, the national libraries, JSTOR

and the internet have all been of vital importance in collecting the preparatory information required for such a research paper and tools of primary research such as interviews and content analysis were employed whilst conducting my own primary research on the work of foreign representations in Russia (chapter 2). Many secondary sources were also invaluable; Eurobarometer, for example, was used in order to facilitate an analysis of European public opinion in chapter 3. With this research it was my aim to ascertain whether I could identify evidence of conflict between the two perspectives of bilateralism and multilateralism within the various nation state representations abroad. The paper itself is broken down into 5 chapters, each of which is divided according to sub-headings in order to make reading and comprehending some very demanding topics a little more straightforward.

## **Chapter 1 – The Role of the Lisbon Treaty in Energy Policy and Energy Security**

### **Theoretical Background - What is Multilateralism?**

It is important to note that one unquestioned and encompassing definition of multilateralism does not exist. Debate rages on about how precisely to define the term and thus there is room for elucidation of this issue. For the purposes of this paper I will take Keohane's definition of multilateralism as "...the practice of co-ordinating national policies in groups of three or more states, through ad hoc arrangements or by means of institutions."<sup>3</sup> Of course, the boundary between state and private actors in the business world is, in real life, somewhat blurred so this paper will consider 'states' to refer to both private and public sector actors belonging to one particular state. It is clear without significant further discussion that the EU as a body, generally conforms to Keohane's definition (due to the presence of institutions such as the European Council, Commission, Parliament, Court of Justice etc. and the varying levels of policy co-ordination in a number of spheres) and can, therefore, be referred to tentatively as an institution based

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<sup>3</sup> Bouchard, Caroline and Peterson, John., "Conceptualising Multilateralism. Can we all just get along?", Mercury, E-Paper No.1, Feb. 2010, p.6

upon multilateral relations. I will refer to the EU as a single actor, based overwhelmingly on multilateral practices which, however, is in a constant state of evolution. Being characterised thus does not preclude the fact that the EU (as a supranational institution which exists simultaneously with the national institutions that comprise it) is capable of acting both in a bilateral and a multilateral way with both external and internal partners.

As regards bilateralism as a political term, I will take a common definition from the Free Online Dictionary, which reflects a broad and straightforward definition of the concept: “Bilateralism: Affecting or undertaken by two sides equally; binding on both parties: a bilateral agreement; bilateral negotiations.”<sup>4</sup> Bilateralism itself will be mainly used as a contrasting point to the more complex and revealing analysis of multilateralism as a concept, as a practice and as a probable goal towards which the EU is moving in the field of energy policy.

In terms of theory, I intend to use mainly complex interdependence theory and neo-functionalism in order to explain the evolution of EU energy policy from bilateralism to multilateralism in the sector of energy. Although we cannot proclaim the death of realism as a useful theory of international relations for this analysis, following the Cold War it is clear that international society has become more complex than the state of anarchy and pure self-interest that realism is predicated upon.

With regards to neo-functionalism, I use Haas’ definition of neo-functionalism as,

*...the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations, and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states.*<sup>5</sup>

Thus I employ neo-functionalist logic to explain the evolution of EU energy policy as a facet of broader EU integration and through the positive spill-over concept. Moreover, the concept of neo-functionalism provides a comprehensible backdrop for my claims that a struggle is taking place between approaches of bilateralism

<sup>4</sup> “Bilateralism”, Def. 2, <http://www.thefreedictionary.com>, - retrieved on 10/4/11

<sup>5</sup> Haas, E. B. “The Uniting of Europe: Political, Social, and Economic Forces 1950-57”, Stanford University Press: CA, 1958, p.16

and multilateralism and therefore between those who wish to strengthen the pre-existing nation states and those who see more interdependence and the devolution of the nation state as the future.

The other main theoretical concept that I will employ throughout this work is Keohane and Nye's idea of 'complex interdependence'. Theoretically, this notion is relatively straight forward and takes note of the increase in economic relations between states and the decrease in applications of military force. As the density of the network of complex, transnational relations increases, according to the authors the probability is higher that we will see cooperation between states. The theory thus combines elements of realist (state interests, military force etc.) and liberal thought (primacy of the economic motive) in seeking to describe the more complex and globalised world that is in emergence.

Lastly, it should be noted that this piece of work does not pretend to challenge or re-write theoretical definitions, rather it is my aim to expound elements of theory in order to illuminate actual events. Therefore, I do not claim to be comprehensive in my choices of theory or my interpretations thereof; instead I take what I believe to be most relevant and useful for my purposes and employ it in order to gain a better understanding of the evolution of EU energy policy in the field of energy security especially. This brief review of theory does not include all approaches that I use in the work, however, it does introduce the two main theoretical concepts which will guide the thrust of the piece.

## **The Pre-Lisbon Picture**

Before looking specifically at Lisbon, it is useful to review two of the most important aspects of European policy in the field of energy which existed alongside the treaty and which shaped negotiation in the field of energy before the acceptance of the treaty. Lisbon serves largely as an update and an amalgamation of the steps that had gone before it; therefore, in order to establish and better understand the general thread and direction running through EU energy policy, it is wise to review the building blocks of this policy area. The two

most salient points for discussion are the Energy Charter Organisation and the Third Energy Package.

The Energy Charter Organisation and the treaty creating it were set-up on EU initiative in 1994 and came into force in 1998. All 27 EU member states are signatories to the treaty and it has now become part of the *acquis communautaire* of the European Union. In founding this organisation the EU recognised even in the early 90s the need for a generic framework within which energy related issues could be discussed, regulated and (hopefully) solved. The organisation is not an official institution of the EU and, in fact, retains an international character despite its origins, including members from more than 50 states. The existence of such an organisation, could, in theory, undercut criticisms of both bilateral and multilateral methods as it is a binding codex of sorts applicable to deals of a bilateral or multilateral nature. The character of the treaty or deal is not the important factor, rather the organisation is concerned as to whether any potential deal conforms to the comprehensive set of rules and regulations agreed to by its (full) members; it is not overtly supporting one or the other method of concluding deals and is just as applicable to multilateral deals as it is to their bilateral equivalents. However, the reality of the organisation is somewhat different and the body took a significant blow in 2009 following the effective withdrawal of Russia after the country's failure to ratify the treaty (despite initially accepting it in principle) due largely to objections to the necessity of opening up domestic pipeline networks. In a 2010 speech given at St. Petersburg State University in Russia, the Secretary General of the Energy Charter Secretariat, André Mernier, noted that, "...one can say that European energy foreign policy is dominated by bilateralism. It cannot be denied that in the field of energy the EU does not speak with one voice; this is probably because many member states do not want this."<sup>6</sup>

Moreover, the EU's Third Energy Package which, by 3/3/11, has been implemented across the EU, makes for stark changes in the relationship between

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<sup>6</sup> Speech given by André Mernier at the conference "Energetika XXI: Economy, Policy, Ecology" at St. Petersburg State University on Thursday 14<sup>th</sup> of October, 2010 ([http://www.encharter.org/fileadmin/user\\_upload/SG\\_s\\_speeches/SG\\_SPb\\_14.10.10\\_ENG.pdf](http://www.encharter.org/fileadmin/user_upload/SG_s_speeches/SG_SPb_14.10.10_ENG.pdf)) – retrieved on 10/2/11

the EU and Russia. Doctor Andrey Konoplyanik – a consultant to the board of Gazprombank - succinctly sums up the implications of the Third Energy Package in a 2011 interview:

*If we look at the 3rd Energy Package (EP), then we see certain clauses that are further exporting EU legislation to neighbouring countries. The 3rd EP demands that companies from these countries that wish to invest and do business in the EU, should be organised in their mother states according to EU market legislation. Moreover, a violation of these 3rd EP provisions can lead to the mother companies from these third countries receiving penalties amounting to up to 10% of their global turnover. This of course has a direct affect on the costs and risks the external suppliers need to take. On the other hand, these external suppliers have the privilege to take their decisions independently, based on their sovereign rights, and are not obliged to implement decisions, for example, from Brussels.<sup>7</sup>*

This package thus extends the inter-EU regulations applying to member states with regards to decoupling of transmission networks for example, to non-EU suppliers such as Russia as well placing restrictions and checks on the abilities of non-EU states to purchase elements of infrastructure in the EU. This is, in my opinion, a very wise move on the part of the EU, aimed at incrementally drawing Russia further into the legal framework and the standardised rules which the EU has adopted for itself. In this way the EU strengthens its own momentum on the evolutionary path towards the idealist, harmonious ‘one voice’ multilateral outcome in the field of energy that has been previously mentioned. If Russia as the EU’s main and long-term supplier of gas can be gradually convinced to accept EU norms in this area then the Union can worry less about the potential opportunistic actions of member states favouring bilateral approaches. The benefits for Russia are also tangible as a level playing field may well enable the EU as a whole to agree to the long-term, locked-in contracts which Russia favours as a means to ensure its own budgetary stability when faced with investment in an immovable transmission network. Put simply, a generic and accepted framework could provide stability which would benefit both sides and contribute to the network of complex interdependencies which may go a long way to paving the way for long-term stability based on multilateralism.

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<sup>7</sup> Interview with Dr. Andrey Konoplyanik, Eurasia Energy Observer, 8 March 2011, <http://www.eurasia-energy-observer.com/news/new/interview-with-andrey-konoplyanik>, -retrieved on 10/4/11

## Lisbon's Changes

The Treaty of Lisbon states that energy will remain one of a number of shared competences between the union and member states.<sup>8</sup> Therefore, both the strategic importance of energy *and* its invariably international nature are emphasised as both the nation state and the EU seek to exert influence on this policy area. The Union does not have exclusive competence in this area and therefore energy is set apart from other spheres such as the customs union or competition law. Although undoubtedly important, these areas do not constitute any serious national security threat in the same way that energy conceivably can nowadays. Thus we can see that the treaty reflects in many ways the battle being waged between nation states clinging to competences which have accrued in strategic importance over recent years and the integration process which pushes for a greater multilateral focus.

In general, the Treaty of Lisbon signifies a sort of 'business as usual' approach with few major, ground-breaking changes evident on the surface at least. Nevertheless, upon closer inspection there are some noteworthy developments which build on earlier treaties or make significant new changes. For example, the treaty makes an interesting amendment, allowing for stronger multilateral action if the supply of some products is threatened:

*87) In Article 100, paragraph 1 shall be replaced by the following: '1. Without prejudice to any of the other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy.'*<sup>9</sup>

The emphasis on solidarity is in direct response to the gas crisis which erupted as a consequence of the spat between Ukraine and Russia in 2006. The overriding idea here is that through a clause referring specifically to solidarity, the chances of the self-interest of individual bilateral agreements winning over multilateral community interests will be reduced. The thread that can be identified

<sup>8</sup> Official Journal of the European Union C306, Volume 50, 17/12/07, p.49

<sup>9</sup> Official Journal of the European Union C306, Volume 50, 17/12/07, p.74

throughout successive treaties and amendments is a thread whereby the EU pushes for more competence in the area of energy and more legitimacy to speak together but in one voice, but also whereby nation states weigh up the potential gains and losses of exploiting the current disharmony in energy policy and cutting deals with neighbours individually and sometimes in contradiction to EU regulations. For most member states of the European Union this question is not a zero-sum game, as was the prevailing trans-Atlantic wisdom during much of the Cold War, rather it is a question of risks and potential payoffs. In other words, the EU is well aware that Russia's Gazprom has sizeable 'carrots' to offer and wishes to take these incentives out of the equation. The problem therein is that one's memory of past crises can be notoriously short and fickle especially when one is faced with considerable and tangible benefits. The oil company BP, for example, were 'burned' in Russia on a number of occasions, including the infamous incident with Sidanco in the late 90s, yet in 2011 they signed the ground-breaking deal with Rosneft to explore Arctic reserves.

Lisbon also changed the voting process in the Council of the European Union and in the area of energy the voting system was changed from unanimity under Nice to qualified majority voting (QMV). This represented one of the broad changes introduced by Lisbon in a number of policy areas and, in real terms, should equate to a more stream-lined and efficient decision making process. Taking into account the lack of unification in the field of energy and the disharmony between national energy policies as well as, on the most fundamental level, disagreements between what constitutes energy security and whether or not energy can be referred to as a European common good, QMV should bring about a greater opportunity to make changes and to drive forward policy changes in this area.

Although Lisbon did not make specific revolutionary changes in the field of energy security, the implications of the treaty are far-reaching and will affect the way that the EU deals with energy partners such as Russia. Moreover, the changes introduced by the First, Second and Third Energy Packages, the Energy Charter Treaty, the Treaty of Lisbon and all previous or future treaties are

governed by the updated Article 351 from the Treaty on the Functioning of the European Union which, when talking about agreements concluded by member states, reads:

*To the extent that such agreements are not compatible with the Treaties, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.<sup>10</sup>*

This Article, together with the updated clauses brought in by Lisbon, provides the basis on which, for example, the EU was able to rebuff Poland's aspirations to conclude a bilateral, gas supply deal with Gazprom which included a controversial non re-export clause and which flouted the changes introduced by Lisbon aimed at developing a single European market in gas:

*The 'Gazprom clause' prevents importing countries from reselling surplus gas to their neighbours when they receive more than they need.[...] The Commission also points to foreign companies' lack of access to the Yamal pipeline, which brings Russian gas to Germany from Poland's border with Belarus.<sup>11</sup>*

It is on the basis of Article 351 and the accumulated provisions of the treaties that the Commission is obligated to assess bilateral deals conducted by EU member states to evaluate their consistency with treaty obligations and EU law. Upon inspection, the Polish-Russian agreement was found to be in contravention of provisions on storing gas and on the single market for energy and the deal was thus blocked. Poland has been forced to modify the contents of the agreement, allowing the resale of gas in theory at least.

The creation of a foreign ministry for the EU (with the High Representative for Foreign Affairs, Lady Catherine Ashton) and a President of the European Council under Lisbon, both herald great changes in the sphere of EU energy policy:

*In the EU's external representation for furthering cooperation and dialogue with non-EU countries and regions, however, a hybrid negotiating format has been put in place. The negotiation team here is tripartite: the high representative and the energy commissioner flanked by the presidency of the Council of the European Union. A clear example in this regard is the EU–US Energy Council, which was established in November 2009. During a summit of this Council in November 2010,*

<sup>10</sup> Treaty on the Functioning of the European Union, Article 351

<sup>11</sup> "Commission slams Poland over 'Gazprom clause'", EurActiv, 15 July 2010, <http://www.euractiv.com/en/energy/commission-slams-poland-over-gazprom-clause-news-496352> - retrieved on 4/5/11

*the EU was represented by High Representative Ashton with energy Commissioner Oettinger in a secondary role.*<sup>12</sup>

Although formally excluded from the legislative process in the field of energy, the European Council and its President have made forays into the area and the presence of a President figure has made it possible to bring energy matters into Council meetings more often and to push non-legislative areas such as the EU 2020 strategy.<sup>13</sup> Whereas the Parliament is a clear winner from the Lisbon treaty (as a result of the democratic deficit question and its ‘rubber stamp’ function) the President of the Council and the High Representative for Foreign Affairs are the less high-profile beneficiaries. Although an exact demarcation between the responsibilities of the Directorate General for Energy, the President of the European Council and the High Representative for Foreign Affairs is still lacking, the President and the High Representative have each been given the ability to, in one way or another, influence and shape energy policy. Whether this is through direct channels, indirect channels, by means of agenda-setting or through relations with the European public, both of these positions give energy a higher profile within the EU and signal the Union’s drive for a more comprehensive multilateral framework in this area.

It must be noted, however, that despite these amendments and the introduction of new treaties and regulations, the EU continues to experience difficulties in trying to unify the fragmented energy policies of its 27 member states. This problem is compounded by the fact that, in many cases, it is leading member states such as France and Germany which are forging ahead on the bilateral front. As Judy Dempsey notes in the *New York Times*, “So far, the Union has had limited success in forging a common energy policy as the big member countries — Germany, Italy and France — continue to negotiate their own bilateral contracts with Russia, with minimum transparency.”<sup>14</sup> Nevertheless, it will take time for the changes introduced with Lisbon to both take effect and to be fully

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<sup>12</sup> Braun, Jan, Frederik, “EU Energy Policy under the Treaty of Lisbon Rules”, EPIN Working Paper No. 31, Feb 2011, p.7

<sup>13</sup> Braun, Jan, Frederik, “EU Energy Policy under the Treaty of Lisbon Rules”, EPIN Working Paper No. 31, Feb 2011, p.7

<sup>14</sup>“Europe Seeks to Block Polish Gas Contract”, *New York Times*, 10 October 2010, <http://www.nytimes.com/2010/10/11/business/energy-environment/11gazprom.html> - retrieved on 2/2/11

understood. The consequences of the creation of two entirely new positions, for example, will perhaps only be fully appreciated in a longer time-frame, since directly after the inception of the President and High Representative for instance, there will likely be much jostling for power and the necessity to redefine borders and responsibilities. It is likely to be only in the long-term perspective that their respective contributions to unifying the energy policy of the member states can be properly analysed.

All of these changes, however, point at a more assertive EU, creating new branches to deal with external energy policy especially, most likely in the hope that, incrementally, more responsibilities can be wrestled from the member states. The member states retain their rights to decide on most matters of national energy policy but when it comes to more common, shared concerns such as transmission networks, security of supply and ensuring the presence of a functioning internal gas market, the realisation is slowly dawning (as a result of numerous crises i.e. Ukraine, amongst other things) that these areas are best handled multilaterally.<sup>15</sup>

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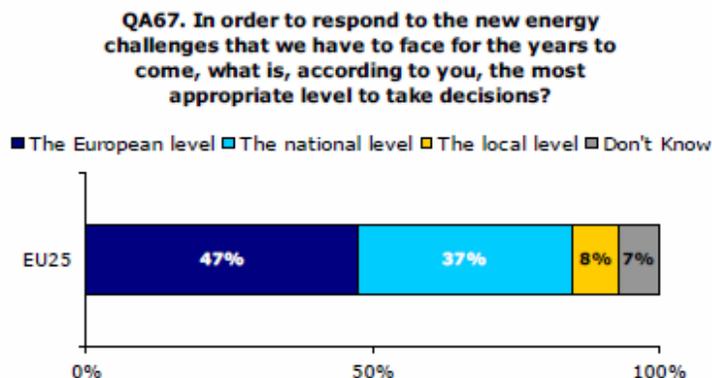
<sup>15</sup> Braun, Jan, Frederik, "EU Energy Policy under the Treaty of Lisbon Rules", EPIN Working Paper No. 31, Feb 2011, p.9

## Chapter 2 – Public Opinion and the Work of Foreign Representations in Russia

### Public Opinion

In order to add depth to the analysis it is instructive to consider European public opinion with regards to energy. If the European public can be said to support a multilateral approach to energy with the EU at the helm then this provides another source of legitimacy for the path towards greater multilateralism which I argue that EU energy policy is taking. Eurobarometer carries surveys from 1973 up until the present day and the two figures presented below are both taken from a 2006 Eurobarometer report on energy. The first figure (figure 1) shows that almost half of those surveyed are in favour of a European-led approach to energy, as opposed to national or local. This statistic adds weight to the EU's attempt to unify the energy policies of its member states and adds legitimacy to my assertion that energy security is best handled on the multilateral level.

Figure 1



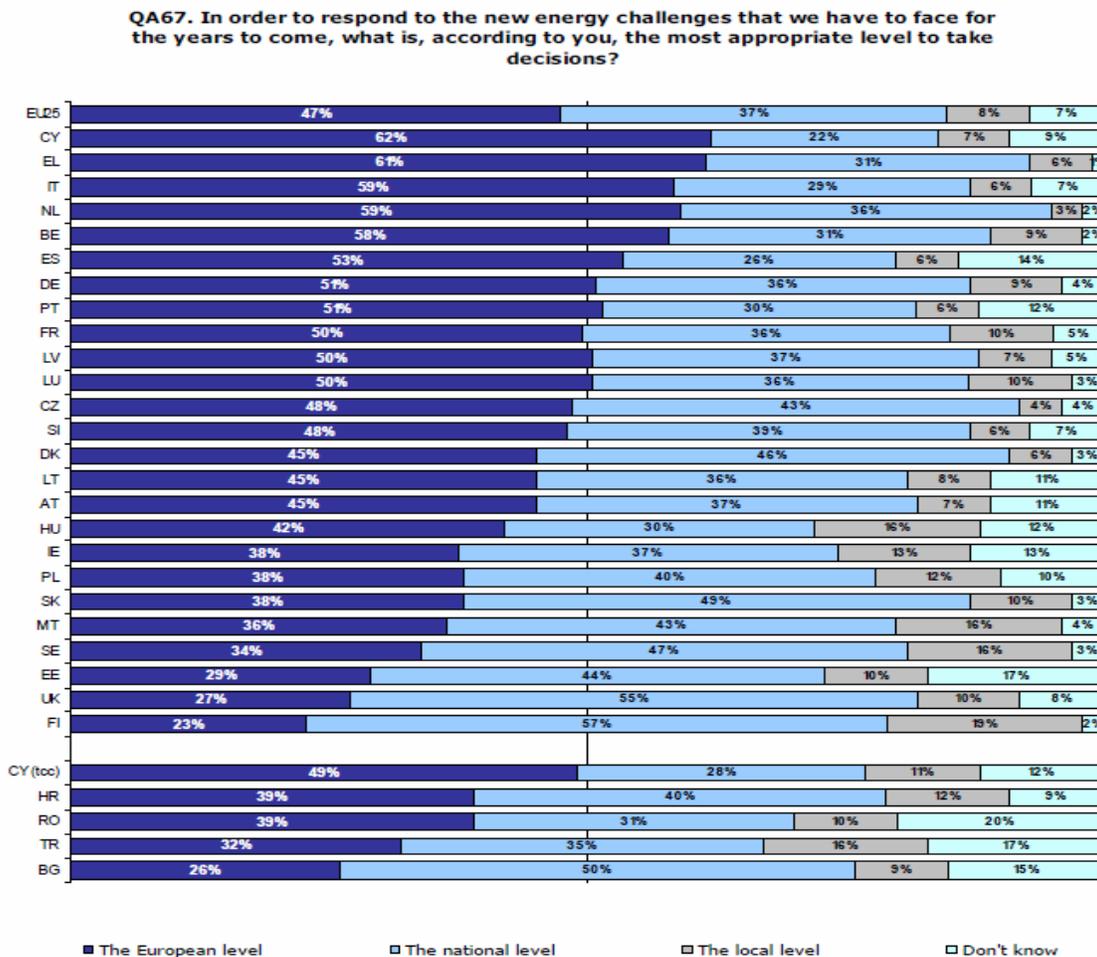
16

Moreover, when we look at the next set of statistics (figure 2) which include the member states of the European Union, breaking down the above question by country, 17 out of 25 member states favour a Europe-led energy policy and Germany features within the top third of the most enthusiastic countries. The local level fares surprisingly badly across the board but this may be due to limited

<sup>16</sup> “Attitudes towards Energy”, Special Eurobarometer 247, Jan 2006, p.4

awareness amongst EU citizens of the often small- to medium-sized projects carried out on the local or regional levels. All in all, according to the survey based upon responses by citizens of the respective member states, the majority of European Union countries seem to support a unified, European energy policy. It seems that there is recognition of both the increasingly global character of energy and of the need for multilateral action.

**Figure 2**



17

If we look at a more recent Eurobarometer survey from 2011 (figure 3), where slightly different but still relevant questions were asked, we can identify an

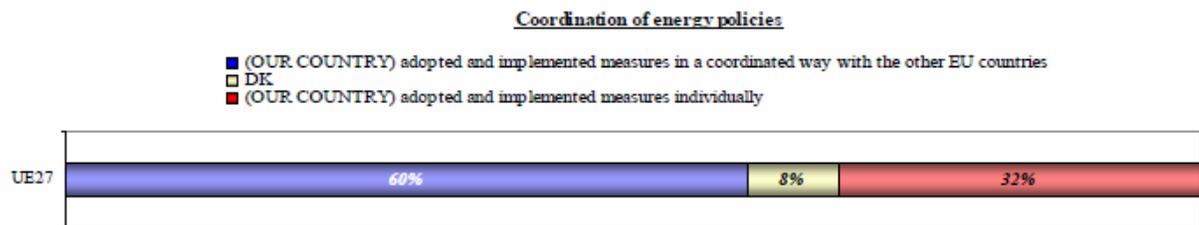
<sup>17</sup> “Attitudes towards Energy”, Special Eurobarometer 247, Jan 2006, p.5

intensification of the trend towards greater acceptance of multilateralism among representatives of European societies:

### Figure 3

*Q1 In winter 2008, some European Union Member States were faced with significant energy supply problems, in particular an interruption in gas deliveries. As a citizen, would you say that you would be better protected when facing an energy supply risk if...?*

#### 1. European average



18

Although influenced by both the question, mentioning supply interruptions, and the recent memory of gas crises involving Ukraine between 2006-2009, the trend is nevertheless steady in both surveys, showing an increased desire for a more co-ordinated (i.e. multilateral) EU foreign energy policy.

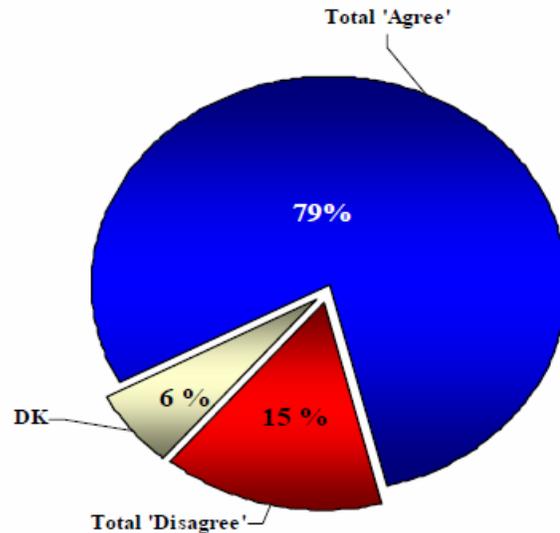
Moreover, there is strong support for the clause on solidarity (figure 4), introduced by the Lisbon Treaty and which was mentioned at the beginning of the paper:

<sup>18</sup> “The Europeans and energy”, European Parliament Eurobarometer, Jan 2011, p.7

**Figure 4**

**Assistance in the name of European solidarity**  
*Q 2 Please tell me whether you totally agree, tend to agree, tend to disagree or totally disagree with each of the following statements concerning the question of energy supplies within the EU?*

*It is desirable that (OUR COUNTRY) provides assistance to another EU Member State facing significant energy supply problems in the name of European solidarity between Member States*



19

The data from the 2011 survey (figures 3 and 4) shows strong public support for multilateral action, whether it be in the form of a co-ordinated foreign energy policy or solidarity amongst member states in the case of disruptions in supply. By implication, bilateral action becomes almost irrelevant in times of crisis with only 32% of people still supporting bilateral (i.e. individual, national) action over a co-ordinated EU energy policy. Somewhat cynically, successive crises and the volatility of the energy market in general could be utilised by the EU in order to take a more assertive stance for a co-ordinated energy policy. In principal there is little public opposition to multilateral co-ordination and it seems that crises precipitated by both external partners and sometimes by member states themselves, serve to bolster the image of the multilateral camp.

<sup>19</sup> “The Europeans and energy”, European Parliament Eurobarometer, Jan 2011, p.8

## **Foreign Representations – Undermining the Multilateral Block?**

The work of foreign institutions in Russia is, or soon will be undergoing a large change as the acceptance of the Lisbon Treaty foresees the creation of new agencies which, in theory, may begin to clash in their responsibilities with the existing apparatus of foreign representation developed by the respective, pre-existing nation states. It may be the case that much of the work of foreign institutions in our case study, Russia, occurs largely on a bilateral basis between two nation states, not including the EU to a great extent or it could be that the EU's increased influence is already beginning to be felt. Either way, this situation warrants further consideration and research. For the purposes of this paper this primary research serves as background information which, along with the remarks on public opinion, provide a deeper appreciation of the impact and dynamics of the Lisbon Treaty. Although in many ways this section of the paper could itself spawn into another, completely separate thesis, the constraints of time, space and accessibility mean that the conclusions drawn here, in this part of the paper, should only be regarded as useful additional information and indeed secondary to the main case study on the Nordstream pipeline. Nevertheless, if more EU influence is being felt in foreign representations, then this could signal the first large step towards the devolution of foreign policy responsibilities to the supra-national organisation and the consolidation of the multilateral practices on which the EU is based in the area of energy policy. On the other hand, if bilateral ties are still dominating the playing field then can we really speak of a more assertive EU, and, in fact, are these ties undermining the increased competencies of the EU? I have spoken of the 'natural' evolution of a well-grounded bilateral approach (as in the Nordstream project) into an encompassing multilateral approach but the question is whether, using the indicator of the work of foreign institutions in Russia, we can really claim that what is going on from day to day on the ground following the Lisbon treaty supports or undermines this potential transformation. It is the preliminary aim of this part of the paper to explore this transformational process, if it indeed exists, in greater detail. The

answers gained from this chapter will provide a revealing insight into the dynamics of the bilateralism – multilateralism conflict in the wider area of foreign policy as a whole and will provide essential clues as to the initial impact of the Treaty of Lisbon on energy policy.

### ***Outline***

Arriving in Russia as a foreigner interested in international relations and politics, one rapidly notices the acute lack of direct representation of the EU in Russia. Numerous EU member states have embassies, consulates or representations of some sort here but this seemed, at first glance, to serve the purpose of representing a single member state's interests, rather than the interests of the entire EU community. With the adoption of the Lisbon Treaty, one of the largest and most fundamental modifications was the de facto creation of a European President and Foreign Ministry (or European External Action Service, as it should be known) from nothing. This represents a fundamental and far-reaching change in the actions, dynamics and capabilities of Europe as a whole. All at once, the interests and projects of individual nation states on the international arena may begin to overlap and perhaps even to conflict with the interests of the European project as a whole. Is it possible that nation state governments can pursue private, individual, bilateral projects and initiatives and at the same time pursue an overarching multilateral, supranational foreign policy? Will this sort of overlapping of competencies lead to an undermining of the greater European project? Could it lead to massive inefficiencies? How can a nation state, for example, realise two aims which may be divergent when both exert strong influence over the administration, either in the sense of voter pressure or in the sense of international "peer" pressure from the EU or even legal pressure? It is with these contradictions in mind that the study was undertaken. Studying the work of foreign institutions in Russia and their relation to the EU could potentially provide very valuable insights for the overall argument of this paper that bilateralism and multilateralism can function together, as I believe the Nordstream project demonstrates.

## **Methods**

The question quickly arose as to how it is possible to carry out any sort of analysis of such a complex, multi-layered and difficult problem. Firstly, gaining access to relevant sites was challenging and in many cases impossible, secondly one must consider that there are 27 EU member states and if it is even possible to select some illuminating examples? The answer was to narrow down the field and look at the work of various EU diplomatic and trade missions with a presence in Russia. The first aim was to establish precisely how these organisations carry out their work in Russia. This may seem like a rather simple goal but much of the work which goes on in diplomatic and trade circles occurs behind closed doors and is never reported and thereby rarely comes to light. Therefore, my first strategy was to attempt to arrange a set of interviews with relevant agencies and/or government departments. My first port of call was the British Consulate General in St Petersburg, which although I was unable to enter, did allow me to conduct a brief telephone interview. I pursued a strategy of “shallow cover”, announcing my intent but not my comprehensive goals as I was concerned that by declaring my assumptions at the outset, I may in fact provoke a train of thought in the respondent which could bias the interview or, at worst, which could lead to their reluctance to speak to me.<sup>20</sup>

The second interview was a logical progression of the first and occurred only thanks to the first as I was put in contact with a representative of the UK Trade and Investment (UKTI) department of the British Consulate in St Petersburg. Again, this was conducted over the telephone and the same strategy was adopted with regards to “shallow cover”.<sup>21</sup>

The third interview was a secondary source taken from a popular and comprehensive online resource for a German audience about Russia (<http://www.russlandjournal.de>) and describes some interesting features of a bilateral chamber working in Russia and Germany.

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<sup>20</sup> G.A. Fine, “Ten Lies of Ethnography: Moral Dilemmas of Field Research”, *Journal of Contemporary Research*, 1993, Vol. 22, No.3, pp.274

<sup>21</sup> G.A. Fine, “Ten Lies of Ethnography: Moral Dilemmas of Field Research”, *Journal of Contemporary Research*, 1993, Vol. 22, No.3, pp.276

The fourth interview was part of a structured, public question and answer session with the British Consul General which took place at St Petersburg State University. This useful coincidence allowed me to overcome the problem of gaining access to such a busy and in-demand figure.

After collecting my interviews I proceeded with the task of coding and memo writing using grounded theory and began to develop a picture of emerging categories. From this point, the scale and multitude of interactions started to become quite expansive, hence my decision to attempt to represent the main areas of interaction visually in a spider diagram with attendant labels and explanations (see appendix, figure 1).

It was decided to trial a hybrid design of both quantitative and qualitative methods because there were perhaps some aspects of the research which may be illuminated well with some limited quantitative methods included. I took some qualitative data and, using content analysis, transformed it into quantitative data in order, I hoped, to have a broader appreciation of a potentially very complex topic.<sup>22</sup> The last stage of my research therefore involved the content analysis of articles related to the work of international (EU) actors in Russia. With an idea of categories gleaned from my interviews with specialists, I was able to predict and rapidly identify some of the items which were to appear in this piece. The article is from the main English language newspaper in St Petersburg, *The St Petersburg Times*, on UKTI's strategy within Russia and their decision to plough more resources and attention into the Russian market.

Having progressively, from interview to interview, gained an insight into the 'how' question, it was my intention to delve further into slightly deeper, more analytical questions which would aid me in my own eventual analysis of the issues surrounding my initial assumptions presented at the outset of this section. Lastly, it should be mentioned that much difficulty was encountered in gaining access to the desired sites and as such the range of sites described hereafter is severely limited. Whereas I intended to collect primary data from a range of

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<sup>22</sup> Martin, J., "Organisational Culture: Mapping the Terrain", Thousand Oaks: Sage, 2002, pp.228

European representations in Russia, in almost all cases I was either turned away or else not answered at all. Moreover, my own personal constraints on time and limits on resources meant that such promising avenues as collecting primary data from the new EU foreign ministry or from the Delegation of the EU in Russia had to be sacrificed. Since this part of the paper serves only as an informative background to the Lisbon Treaty and its broader implications for foreign policy, it is my hope that the necessarily limited nature of this part of the research nevertheless fulfils its aim.

### ***What types of Ties Exist?***

As a consequence of the research, I was able to identify some of the particular categories of bilateral ties which exist between Russia and the respective EU member states. This step was taken in order to provide me with a broad overview of what fields would actually appear in the course of my subsequent research. The following groupings and sub-groupings are not by any means exhaustive, but they are the key categories defined from my own personal experience in this field:

- Diplomatic ties* (1-functional diplomatic: visas, assistance to nationals abroad etc; 2-“high” diplomatic: representations, official receptions, bilateral negotiations)
- Cultural ties* (1-presentational cultural: presenting cultural aspects of one’s home country in order to develop international knowledge and understanding; 2-educational: e.g. The British Council, Goethe Institut etc.)
- Business ties* (1-promotion of FDI, 2-informative role, pre-entry to market, 3-Tourism)

### ***Governmental vs. Non-Governmental Actors***

It rapidly became apparent in my research that I would encounter areas directly linked with nation state governments as well as areas that sat partially or fully outside of the jurisdiction of the respective nation state; a peculiar situation also inherent in the case study of the Nordstream project upon which this paper is partly based. UKTI provided me with the first idea to move outside of the scope

of purely governmental agencies, by recommending that I also speak to a representative of the Russo-British Chamber of Commerce (RBCC). Whereas from my interview with a representative of the British Consulate in St Petersburg, I had learnt that much of the work in the Consulate revolves around developing diplomatic ties through the representation and presentation of various elements of British culture to the Russian public, from my interview with the RBCC, I ascertained that much of the detailed financial work takes place, strictly speaking, outside of the sphere of governmental control. The RBCC is a private actor, representing its members who are from the private business world and thereby conducting research, providing consultancy/support and identifying opportunities in Russia. It must be noted, therefore, that much of this work is bereft of an overarching aim or strategy. The RBCC consults with UKTI and with the Consulate General in some spheres, however, weekly meetings and coordination of strategy, for example, do not take place. The RBCC is subordinate to its roots as a market actor and could conceivably fly in the opposite direction to avowed government objectives and strategies. This also goes for their relationship to the EU. The RBCC is bound by laws, as is everyone else, but as a market actor providing representation for other market actors, they are in no way committed to following a grand European strategy, should one emerge. Their responsibility is to their members exclusively and if a bilateral project between, for example, a Russian company and a British company looks promising, then they may well be inclined to ignore EU level reservations or suggestions in the name of profit. This is particularly interesting in the case of Nordstream as I have already pointed out some significant disharmony between member states on the issue, yet perhaps it is precisely this combination of the public and the private sectors (epitomised by Gazprom most overtly and by the less overt government links and/or open support of the European national energy giants involved) which creates the *most* unique mutual dependency. All of the actors involved in the project are not only tied together by matters of profit but also by state to state ties and geo-political concerns.

As for governmental actors vs. non-governmental actors, from my research it seems that there is no struggle being waged between the two groups but that their work, although overlapping in some areas, is largely complementary and one's work reinforces the other's work. This is evident from in-vivo code 18 in my first interview (see appendix), when the representative of the RBCC points to UKTI's role as an initial resource to turn to for general knowledge and "how to" information, contrasted with the in-depth and quite specific work of the RBCC in consultation, market research etc., "...UKTI tend to be more focussed on the first steps and the "how to" of doing business here for the first time" (Comment SK18)

### ***The EU as the Key Architect***

Throughout my research it began to become apparent that the EU's lack of direct representation in Russia did not necessarily mean that the nation states were all running their own agendas irrespective of developments in the capacities and competencies of the EU. My interview with a representative from UKTI flagged up the dependency of the agency upon a framework already established and agreed upon in advance by the EU. In this particular case, the EU Directorate for Trade in conjunction with the foreign policy arms of the EU had founded agreements such as the Partnership and Cooperation Agreement (PCA) and the Common European Economic Space (CEES) which provide the starting point for the activities of nation states' representations. But referring back to my original thoughts, I wondered whether this relationship, with the actions of the EU taking place on a level above the projects between individual nation states, was a sort of 'pick and mix' affair, whereby the nation states take and support what is valuable to their personal interests whilst failing to adequately support the spirit of increased EU competences. Strictly speaking, the results of my research do not bear out this cynical speculation but perhaps this is because everyone to whom I spoke is connected somehow with an official, governmental position. Nevertheless, I did not manage to find any clear-cut examples of when national projects or initiatives have undercut or undermined the developing EU competencies. It seems that all ships are sailing in the same general direction towards increased international cooperation and the managed blurring of borders

within the Union. The article which I have included from The St. Petersburg Times, reporting on UKTI's increased focus on Russia as an area of special developmental interest, along with the EU's avowed intention to replace the PCA and strengthen the concept of 'common spaces', would seem to indicate that perhaps although overlapping in the policies of nation states and the EU is possible, serious undermining of the greater EU interest is unlikely because the desire to cautiously embrace Russia in some spheres seems to be shared by both EU and nation states alike. It would be interesting to see what would happen in the case that a strengthened EU foreign policy arm openly engages in conflict with Russia on a major issue such as Nordstream; would then the nation states involved in the project support the burgeoning EU edifice to which they are attached or would they instead hold to the private, bilateral (in the narrowest sense of the term) projects which they have established? This is a particularly interesting question with regards to the Nordstream project. As mentioned in the previous chapter, the EU, whilst in some ways supporting Nordstream (e.g., recognition of the project's special status as part of the TEN-E), in fact endorses the Nabucco project and supports diversifying sources of supply; a move which would take trade away from Russia. At the same time, three key EU states have direct interests in the Nordstream project and are actively working both to further the endeavour and to bring on-board other EU members. Here we can perceive a very clear conflict and the conflict is not so much, as it may first appear, a conflict between approaches of bilateralism and multilateralism. In fact, it has already been mentioned that a multilateral approach is both beneficial and necessary in the question of international gas transit especially. Rather, the question is about the *direction* of the multilateral approach adopted by the EU. The signing of the Lisbon Treaty, of the EU Energy Charter and the inextricable mutual dependence developed between EU states clearly demonstrate the recognition that energy as a facet of foreign policy is generally best handled multilaterally, yet the sticking point is not the EU itself, but rather the differing perceptions of Russia as a partner and Russia's refusal to sign up to the Energy Charter and thus provide a standardised framework for matters relating to energy does nothing to resolve

this problem. Thus member states with closer ties to Russia, such as Germany feel comfortable including Russia in a multilateral project of potential great significance for the EU, whilst others with less favourable experiences with the energy giant bemoan the unpredictability of an allegedly unreliable partner which is not playing by the same rules that they do. Here perceptions play an enormous and deciding role.

### ***The Post-Lisbon Picture – Evolution?***

Having gained an insight into how the relationship between all of the various actors actually functions, it is now appropriate to cast an eye onto the somewhat speculative question of how this relationship will change following the acceptance of the Lisbon Treaty. Of course, I note that this is largely speculation on behalf of both myself and my sources because the transformations which have been occasioned by Lisbon, such as the introduction of the EU External Action Service, are only in the process of taking place and some have not even progressed past the planning and deliberation stage. However, our question and answer session with the British Consul allowed me to pose this very question and the answer was enlightening. It seems that the Consul General foresees a transformation occurring, however only in limited areas and regions where it makes sense in terms of efficiency to combine national interests with the larger EU representation. It was suggested that this would be a slow, evolutionary process over the course of perhaps the next ten years or so, whereby the EU representations would firstly strive to establish “legitimacy and credibility” (Comment SK51) in the spheres that were of relatively little importance to the individual nation states, before progressing to a potentially higher level. The Consul General mentioned a potential duplicating of functions as a sort of period where the potential new EU institutions could prove themselves before any real power was ceded,

*“I envisage, at first, a gradual duplicating of functions between the EU representations as they emerge and the national embassies...” (Comment SK50)*

It is interesting here to note that this approach hints at a very cautious and pragmatic mindset within government – a ‘wait and see’ strategy if you will.

However, it seems that sovereign governments will be reluctant to pass on real responsibilities of any significant gravity to Brussels and that even with a stronger EU hand in foreign policy, bilateral ties are destined to remain the order of the day for a time yet; as the British Consul pointed out,

*“Consulates and embassies usually pursue [their] own national agendas and [they] rarely, explicitly pursue EU aims...” (Comment SK45)*

I would imagine that it would require some sort of deeply shocking event with wide-ranging and severe repercussions before EU members are ready to fully exchange the comfort and relative safety of bilateral ties for a riskier, pan-European strategy. However, the source of these comments must be taken into account since it is well known that the UK is generally more euro-sceptic than most EU members and therefore the Consul's comments regarding the persistence of bilateralism may in fact be wishful thinking and indeed may turn out in the same way as the British Prime Minister's (David Cameron's) failed avowal to freeze the UK's contribution to the EU budget in 2010.<sup>23</sup>

The interesting point to be remarked upon is that we cannot talk of an either/or situation. When the Nordstream project first emerged, EU energy policy was in disarray and bilateral agreements dominated, yet towards the end of the very same project we have seen circumstances, in some cases reaching crisis level, pushing the more sceptical member states towards a greater appreciation for a multilateral approach in this area. Perhaps, therefore, the project represents a great opportunity for EU energy policy. If the EU could overcome the ambiguity it has projected and fully endorsed and supported the Nordstream project, this would add a sense of strength to EU policy in this area, providing legitimacy for Russia as a partner and may, in turn, spur on Russia to cooperate more productively with the EU, thus providing a pay-off for the initial risk of supporting the project by encouraging sceptical member states to overcome their objections, to allow themselves to be drawn into the fold and therefore bringing the EU one step closer to speaking with one voice in this sector. Of course, this outcome would ultimately depend greatly on the success of the project itself. Germany's

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<sup>23</sup> The Prime Minister publically fought a proposed increase in the UK's contribution to the EU budget and ended up accepting the original proposal, much to his (and his party's) embarrassment.

drive to make the project multilateral in order to overcome obstacles has already resulted in many more European partners being included, but if this sort of attitude could be adopted on an EU level, then perhaps not only could the EU move one step closer to speaking with one voice, but by embracing the complex interdependencies inherent in the energy sector and in our modern world, then Russia could be brought more close to the Union and the increased density of dependencies may make it a more promising partner.

In conclusion, my research into the work of foreign institutions in Russia does not completely support the original assumptions, although it is clear that much cooperation does occur on a bilateral level without the direct involvement of the EU. Whilst this may be true, the key question was whether these sort of exclusive, bilateral arrangements could undermine the burgeoning, larger EU framework which is coming more and more into play. Although it seemed that this would be the case, in fact my research seems to suggest that although overlaps do exist, the work of individual embassies, consulates or other non-governmental actors does not conflict with the greater EU level. However, it must be noted that this conclusion is tentative and limited because, firstly, the EU's direct activities in Russia have reduced since the 90s when Russia was more willing to accept EU financial support and the conditions attached to it. With the emergence of a more assertive Russia, this relationship soured somewhat, naturally resulting in a reduction in areas of EU activity. Secondly, to talk about EU foreign policy is perhaps premature because, following Lisbon, an EU diplomatic service and a more assertive and coherent EU foreign policy is currently being built ex nihilo. Therefore, as was noted previously, many of the responses and analyses relating to these issues are necessarily speculative and not based in well-grounded fact or experiences.

Despite these two problems it seems that, for the current time at least, the tentative conclusion holds. Maybe it is the case that conflicts and incidences of undermining are rare simply because direct EU involvement is relatively small, but more comprehensive research would be required in order to support this statement. It must also be remarked that an entire separate research paper could

be dedicated to this question and a much broader and more inclusive range of primary sources would be necessary to put any conclusions beyond doubt. Although the content analysis carried out clearly shows the lack of presence of general EU areas of interest in the media surrounding EU states' activities in Russia, a deeper and more wide-ranging analysis would be necessary in order to expand this thought further and attention would have to be paid to the work of the Delegation of the European Union in Russia especially which was conspicuous by the absence of any mention of this body throughout the interviews. For the time being, and with the facts and opinions currently available in my research, we can conclude preliminarily that the majority of ties between Russia and EU nations are indeed bilateral and that EU involvement, although increasing, is rather in the background. Moreover however, I have been presented with no clear incidence where this exclusive bilateral relationship has been an impediment or a hindrance to developing EU competencies and responsibilities above the member states. When we draw the attitude of the EU to the Nordstream project into the analysis we are struck once again with a strong feeling of ambiguity. On the one hand the EU and some of its member states support Nordstream to an extent, whilst on the other representatives of EU institutions make no secret of their support for Nabucco and the desire to move away from a situation of dependence on Russia. It would seem that post-Lisbon, the EU is moving slowly and incrementally, avoiding grand gestures and plays for extra competences in the field of energy policy in favour of the sort of transitional period of which the British Consul spoke in the interview. If this is the case, the Nordstream project and other similar projects, as elements constituting EU foreign policy in the field of energy, will serve as chances for the EU to demonstrate its value and potential role to the more sceptical member states especially. With each success the calls for greater EU competences in this sector could become stronger and eventually we could see the smooth transition of national policies in the field of energy into a unified, multilateral EU energy policy.

## Chapter 3 - A History of Nordstream

### Nordstream's Predecessor

Before dealing exclusively with the Nordstream project it is necessary to point out that the idea of constructing pipelines in order to link up Russia (or the USSR) and Europe is not a new or revolutionary one. In fact, the Nordstream project has important antecedents and it is fruitful to compare the inception and development of the pipelines created in the late 1970s (and the controversy surrounding them) with events surrounding the current pipeline project so as to gain a better appreciation of the evolution of energy policy as a whole. The original idea for a pipeline from the Soviet Union to Europe was a response to the acute realisation of heavy dependence on the Middle East which dawned following the oil crisis of 1973. Objection to America's decision to resupply the Israelis during the Yom Kippur war prompted the OPEC nations to implement an embargo on exports to America which precipitated a lasting rise in world oil prices. Lasting for around 5 months in all, the crisis refocused attention on the need to diversify energy supplies and therefore put energy security back at the top of the political agenda. In the wake of the Middle East's perceived growing unreliability (compounded by the Iranian revolution of 1979), the Soviet Union seemed an acceptable choice as an energy supplier,

*Chastened by the 1973 Arab embargo, customers in Western Europe in particular began to search for ways to reduce their dependence on the now uncertain imports from the Middle East. The Germans were especially eager to gain access to other sources, and the Soviets could ship them natural gas – a cleaner fuel than oil – via an overland pipeline. Most of all, it was reassuring that petroleum and gas from the USSR would be unaffected by OPEC embargoes or sea blockades. To top it off, because of their outsider status, the Soviets were usually willing to undercut market prices.<sup>24</sup>*

Predictably, however, opinions differed on the matter, with many European nations, including the USA's usually staunch ally, Great Britain, coming out in favour of the pipeline and others being effectively coerced by the Reagan administration into opposition. With the effects of the economic crisis being

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<sup>24</sup> Goldman, Marshall, I., "Petrostate - Putin, Power and the New Russia", Oxford University Press: New York, 2010, p.47

sharply felt across Europe, American allies such as Britain's Prime Minister, Margaret Thatcher, opted for jobs and economic deals for British companies over Cold War ideological concerns. Thus many European nations disregarded apparent US unilateralism and acted simultaneously in what we could characterise as a quasi-multilateral manner. Thatcher, when choosing to defy her traditional ally and friend, Reagan, did so because of the tangible economic and political benefits that would come from the inevitable export deals to the USSR, hinging on the pipeline's approval. This is a very clear bilateral concern, developing trade between two nations as individual participants. One must also add that this cooperation at once took on a multilateral character also, even if this was more incidental than planned with a particular goal in sight. Clearly the primary strategy for European governments was to secure jobs in a climate of intense economic uncertainty and a mammoth project like the Soviet pipeline to Europe demanded the expertise in technical areas that only Western companies could offer. With the Americans out of the bidding altogether, the Europeans could not resist the very tangible spoils which were on offer. Nevertheless, in pursuing the bilateral route the Europeans, inadvertently perhaps, also presented a multilateral front to the rest of the world and laid the foundations for the strengthened energy policy to come. Indeed these are foundations built on political concerns above all and this thus provides a starting point for the increasing politicisation and securitisation of energy policy. In the modern world these two elements are more and more often being dealt with in a multilateral fashion. A consensus had been built to oppose the US on this issue and bilateral agreements were thus reinforced by the addition of a multilateral dimension, despite the fact that no coherent EU energy policy existed at the time. Moreover, and as will be discussed further later on in the paper, there is more scope for opening up channels of influence to tackle the attendant objections when a broader range of actors are involved. Thus, multilateralism can be used as a strategy to overcome obstacles inherent in transnational cooperation.

For the Reagan administration the pipeline represented a long-term threat to the security of the USA and of the NATO alliance. The president believed that the

pipeline was the first step on a dangerous road to European dependence on their Cold War adversary and thus that it could, at some point, leave America's European allies open to, at best, influence, at worst, blackmail from the Soviet Union. The Soviet invasion of Afghanistan in 1979 did little to help the European cause, but by this point the negotiation process had already begun rolling. The declaration of martial law in de facto Soviet-run Poland prompted the USA to try to actively derail the pipeline project through the application of far-reaching sanctions on American oil and gas technology destined to be used in the new pipeline.<sup>25</sup> Predictably, the Europeans were unfazed by this and held to their contracts with the Soviets. It is also interesting to note that Reagan opposed the pipeline for many reasons, one of the largest being because it was being partly financed by European capital provided to the Soviet Union by European banks. At the same time the USA was selling record amounts of grain to the Soviet Union, arguing only that because the payments for grain were in cash, this would drain the USSR's ability to finance military projects. In fact, despite the consternation at Europe's decision, "President Reagan [has] promised American farmers that the Soviets in 1982 will receive the biggest shipment ever of U.S. grain."<sup>26</sup>

The crisis continued with the US threatening legal action against European firms which supplied the pipeline and demanding that the entire issue of East-West trade be reviewed, including the terms on which loans were supplied to the Soviet Union. By 1982 the point was reached whereby it was clear to all that the only beneficiary from the continuing disharmony within NATO was the Soviet Union itself. On November 13, 1982, following negotiations on the sanctions imposed by the US government in response to the Europeans' defiance of US wishes, the sanctions were lifted and the pipeline construction went ahead.<sup>27</sup> In 1985 the first Soviet-European pipeline was completed. The Europeans had

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<sup>25</sup> Crawford, Beverly, "NATO Alliance Negotiations over the Soviet Pipeline Sanctions", Institute for the Study of Diplomacy: Washington, Georgetown University, 1993, p.11

<sup>26</sup> Brown, Lester, R., "U.S. and Soviet Agriculture: The Shifting Balance of Power in Soviet Foreign Policy in a Changing World", Robbin F. Laird and Erik P. Hoffmann ed., Aldine Publishing Company: New York, 1986, p.416

<sup>27</sup> Crawford, Beverly, "NATO Alliance Negotiations over the Soviet Pipeline Sanctions", Institute for the Study of Diplomacy: Georgetown University: Washington, 1993, p.12

stuck to their guns and although minor concessions had been made to the USA, nothing of a fundamental character had changed in the European position. The pipeline would go ahead and the Europeans were fully aware (thanks to studies by the IEA amongst others) that they would thus become more dependent on the Soviet Union; a dependence which could only increase in the foreseeable future and which would tie energy more than ever to politics.

The Soviet – EU pipeline is, thus, an early example of multilateral, transnational cooperation in the sphere of energy, based upon a number of bilateral agreements and a tacit, partial EU-wide position. I characterise this position as more bilateral than multilateral because of the absence of a strong EU and of other multilateral institutions as well as the absence of a framework (e.g. Nordstream AG) through which the cooperation is carried out. Partly using European finance and European expertise, the Soviet Union had constructed a gas pipeline to supply Europe and successfully built up a relationship that would see Soviet natural gas exported to everyday European consumers on a contractual basis. Ideological matters were thus subordinated to immediate economic concerns and it is this economic dimension which, according to my argument, provided the main impetus for this project and which bolstered the European side in its risky defiance of the world's economic powerhouse. My argument thus incorporates the idea that economic factors can provide a remarkable platform (especially in the wake of globalisation and increasing transnational interdependence) from which to transcend the boundary between bilateral and multilateral approaches. A brief history of the Nordstream project will demonstrate that once large ideological considerations (of the variety that existed during the Cold War) have fallen, and economic, free market motives are allowed to come into full bloom, a bilateral approach such as the one adopted at the outset of the Nordstream pipeline can easily, profitably and, most importantly, *naturally* be turned into a multilateral approach which benefits all partners. My contention that this is, in our modern environment, a natural transition is based upon the idea that because our modern world and especially the European Union is built on more regulatory and legal constraints than nation states have

traditionally been used to dealing with, and because these constraints prevent or hamper actions that are clearly unilateral or bilateral in a manner pejorative to the larger group, then the logical and most efficient choice is to share not only expertise in every sphere (including technical as well as legal and environmental) but also risk. With the Cold War over, commentators proclaiming the existence of a zero-sum game in East-West relations find themselves long outdated.

## **Nordstream**

The Nordstream project itself began in 1997 with the creation of the joint company North Transgas Oy by Gazprom and the Finnish company Neste (which later became Fortum). The aim was to build an underwater gas pipeline linking Russian and Germany via the Baltic Sea and therefore reducing the costs of transit and eliminating the political problems which could arise from transiting gas. The initial link and spark for the project can therefore reasonably be claimed to be the strong Russia and its EU neighbour, Finland. After feasibility studies, Fortum withdrew from the project in 2005 and Gazprom was left as the only shareholder. Later in the same year the North European Gas Pipeline Company was formed together with BASF (Wintershall is a wholly owned subsidiary of BASF). N.V. Nederlandse Gasunie came on board as a partner in 2007 and GDF Suez S.A. joined initially as a minority shareholder in late 2008. By February 2010 all the necessary environmental permits had been obtained and construction of the underwater pipeline began on 09/04/10.<sup>28</sup>

Once traditional political concerns regarding over-dependence on Russian gas had been largely allayed, the main threats to the project were environmental concerns and disputes over national jurisdictions in the Baltic Sea. In this respect, Sweden was one of the main obstacles to the successful progression of the project as the Swedes expressed sentiments (sometimes echoed by their government) that a platform to be built in Sweden's exclusive economic zone could be used for spying purposes and present a real security threat. Eventually

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<sup>28</sup> "Russia Starts Nordstream Europe Gas Route Project", <http://uk.reuters.com/article/2010/04/09/nordstream-idUKLDE6381ES20100409?sp=true> – retrieved on 9/2/11

Nordstream AG withdrew their application for the construction of a platform, "...statements from the pipeline consortium proved somewhat reassuring for the Swedish public, and the debate in Sweden gradually centred more on the environmental issues, Nordstream AG nonetheless withdrew its application for the riser platform in April 2008."<sup>29</sup> In the following chapter, I consider to what extent Nordstream can be said to be a model for the possible future path of EU energy policy as well as the difficulties in defining energy security and the role of interest groups such as those which played a great role in the Sweden issue.

## Why is history important?

With a historical background of both Nordstream and one its main predecessors, we are led to ask the question: why is history important to us? Of course, a certain amount of background information is required in order simply to understand the subsequent more analytical segments but in this paper, history plays a still greater role. The events previously detailed and the world around us as a whole are often understood as objective reality and our decisions as subjective choices of free will. However, according to Pierre Bourdieu this is not the case and, in fact,

*Bourdieu proposed the Habitus as an alternative to explaining social action in terms either of existential free choice, on Sartre's model, or of unconscious submission to structural law, as the structuralists would have it. The Habitus described how objective reality, as measured by the statistical chances of a particular course of action meeting with success, became internalised into a structure of aspirations and dispositions, an implicit sense of what could or could not be reasonably achieved, so as to generate a set of objectively determined practices, which were experienced, at the subjective level, as free choices.<sup>30</sup>*

Bourdieu maintains that the individual forms certain dispositions and aspirations (durable patterns of perception, thought and action) according to the objective surroundings which are encountered. In simple terms, what has occurred in the past fundamentally influences the choices we make and even creates the framework in which we make decisions, thus indicating that our choices at the

<sup>29</sup> Whist, Bendik-Solum, "Nordstream: Not Just a Pipeline – An Analysis of the Political Debates in the Baltic Sea Region Regarding the Planned Gas Pipeline from Russia to Germany", FNI Report 15/2008, p.32

<sup>30</sup> Lane, Jeremy F., "Pierre Bourdieu: A Critical Introduction", Pluto Press: London, 2000, p.49

subjective level are far from free. Therefore, drawing, for example, on Maurice Halbwachs' theory of collective memory, we can recognise the distorting capability of memory (both individual and collective) in shaping our perceptions of history. According to Halbwachs, we perceive events through certain frameworks of memory and, belonging to certain groups, an individual or a group is capable, at any moment, of reconstructing that memory. Society places ideas and reflections in opposition to recollections and does not oppose its past to its present but rather opposes its past to the past of other similar groups.<sup>31</sup> Therefore, not only do our surroundings from birth leave an indelible print upon our decision-making which undermines so-called free will, but even an abstract concept such as a group's collective memory cannot be considered to be objectively set-apart from the decision-making process. A good deal of energy policy analysis takes place on the personal level and, indeed, in this respect we must look to history as the individual is clearly not an objective embodiment of free will, living in a vacuum. In this way, the implications for the future direction of energy policy and the reasons for that direction are both directly and indirectly, consciously and unconsciously tied to the past. It is also worth noting that the habitus concept points to a distinctly personal level of analysis which, however, is not the focus of this paper. Nevertheless, the personal level of analysis is important especially when considering a project involving Russia. Russia as a country is, of course, familiar with cults of personality and most scholars of political science recognise the nature of the contemporary Russian state as being somewhere between democracy and authoritarianism. Simply the popularity of former President Vladimir Putin attests to the enduring Russian fascination with and, to some extent, subordination to strong and charismatic personalities. For this reason I have included the habitus concept however, since this paper is not focused on analysing energy policy from the personal level of analysis, the inclusion of the concept is more instructive than fundamental.

Building upon the previous points, we must also consider history from a social constructionist perspective in order to understand many events. History

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<sup>31</sup> Halbwachs, Maurice, "On Collective Memory", University of Chicago Press: Chicago, 1992, p.184

cannot be considered in isolation and the first Soviet-EU pipeline represents, in Luckmann and Berger's terms, a social interaction (or group of interactions) that colours all subsequent interactions.

*...the reality of everyday life is ongoingly reaffirmed in the individual's interaction with others. Just as reality is originally internalized by a social process, so it is maintained in consciousness by social processes.[...]... [reflecting] the basic fact that subjective reality must stand in a relationship with an objective reality that is socially defined.*<sup>32</sup>

Thereby the perception of Russia becomes of seminal importance in the formation of EU energy policy as a whole. Not only does Habitus invariably influence how one acts both on an individual level and on a group level but one's perception is socially defined by means of the interactions that have been accumulated. Following this thought one could argue that the partners who had worked with the Soviet Union on the first pipeline would be expected to be more favourably disposed to working with Russia on Nordstream and that this attitude would be reflected in the energy policy formation process on the higher EU-wide level. Whether Russia, as the EU's main supplier of gas, is perceived as reliable or not is thus not only a matter of current and recent reality but also a complex mixture of Habitus, collective memory and a socially defined objective reality. In the case of Germany, for example, whilst Russia and Germany had a tumultuous relationship up until the end of the Cold War, after this event the historical legacy of the GDR, migration flows and other factors have led to the situation that the German-Russian historical relationship (especially over the last 20-30 years) has become much closer than could have been expected.

Lastly, at this point it is appropriate to complement the habitus concept and the previous concepts with the notion of path dependence, explained by Liebowitz in the following words: "Most generally, path dependence means that where we go next depends not only on where we are now, but also upon where we have been."<sup>33</sup> The legacy of history which has been previously mentioned as well as the previous, Soviet-era pipeline in particular all create a self-reinforcing pattern

<sup>32</sup> Berger, Peter L., and Luckmann, Thomas., "The Social Construction of Reality: A Treatise in the Sociology of Knowledge", Penguin:London, 1991, p.169

<sup>33</sup> Liebowitz, S; Margolis, Stephen, "Encyclopaedia of Law and Economics", 2001 p. 981

which inexorably colours future decisions. For example, the decision to go ahead with the first Europe-USSR pipeline built a gas dependency between the EU and the future Russian Federation which would prove almost impossible to reverse. The investment in infrastructure alone makes any deviation from the general direction of dependency unlikely. Moreover, a relationship is build both on the personal and functional levels and the prospect of fundamentally altering such an enormous enterprise becomes daunting and in some cases even dangerous.

When comparing the two pipelines, we can see that whilst the Soviet pipeline, partly at least, took on a quasi- multilateral character from the outset, with a number of bilateral agreements forming a sort of multilateral front to the USA, the Nordstream project began on a firmly bilateral footing (as will be discussed further in the subsequent chapter). Those who objected to Nordstream and talked of scrapping the project – and here we mainly talk of Poland and the Baltic states – made reference implicitly to the notion of a larger European identity. Looking at some popularly held ideas of European identity, as discerned by Dirk Jacobs and Robert Maier, we can identify three strands:

*The first one wants Europe (again) to be an important power factor in the world. The second one, in partial opposition to the first one, conceives a social Europe, underlining human rights and democracy. A third one, in opposition to both former projects, attempts to defend the existing national states or would even prefer to strengthen them.*<sup>34</sup>

In seeking to derail the Nordstream project, I would argue that the rhetoric produced by Poland and the Baltic states in particular, focussed on the EU's position as a powerful actor in the world and, somewhat ironically, at the same time on the desire to strengthen the nation state's role. Not only this, but it was argued that the pipeline was against the whole EU integration project as it would cause the former transit countries to be neglected, economically especially. What is more, I believe that these notions of identity were coupled with concepts such as "Otherness" – defining oneself in opposition to another, so that one's own

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<sup>34</sup> Jacobs, Dirk and Maier, Robert, "European Identity: Construct, Fact and Fiction" in *A United Europe: The Quest for a Multifaceted Identity*, Gastelaars, M., and Ruijter, A., ed., Maastricht: Shaker, 1998, p.14

identity cannot be said to exist independently – and Edward Said’s Orientalism, in the wider sense, which is characterised by, “...subtle and persistent Eurocentric prejudice against Arabo-Islamic peoples and their culture”<sup>35</sup>, in order to invoke ideas of a pan-European struggle against an aggressive, imperialistic “Other” – in this case, Russia, as represented by Gazprom. In an article in *Die Welt* from 2007, ex-Chancellor Schröder claimed that, “the EU is hostage of a nationalistic anti-German, anti-Russian policy”.<sup>36</sup> Even if much of the rhetoric emanating from these states in particular was disguised as environmental concerns, the underlying concerns are apparent and, indeed, in my opinion, fuelled the German-Russian decision to expand the project to encompass more European states, multilaterally and with greater interdependence in the hope that this would help to overcome the objections as well as foster more stable interactions thanks to the increased density of the complex interdependency between nations.

## Chapter 4 – Nordstream as a Model of Bilateralism or Multilateralism?

Nordstream is a benchmark in many ways for multilateral, transnational cooperation which has grown on the basis of a strong bilateral relationship. There are 5 major shareholders in the project, representing 5 countries: OAO Gazprom (51%, Russia), Wintershall Holding GmbH (15.5%, Germany), E.ON Ruhrgas AG (15.5%, Germany), N.V.Nederlandse Gasunie (9%, Netherlands), GDF SUEZ S.A. (9%, France)<sup>37</sup>. The initial impetus for the project was a bilateral one however, moving from a Finnish-Russian venture to a German-Russian venture, which because of energy’s significance in the national security sense, could not be characterised as an entirely private sector undertaking. Remaining briefly with the nature of the actors in the project, from the Russian side at least Gazprom

<sup>35</sup> Windschuttle, Keith, “Edward Said’s “Orientalism revisited”, *The New Criterion*, January 17 1999, <http://www.newcriterion.com/articles.cfm/enough-said-3743> - retrieved on 1/5/11

<sup>36</sup> “Ex-Kanzler Schröder kritisiert Polen” [Ex-Chancellor Schröder Criticises Poland], *Die Welt*, 12 September 2007, [http://www.welt.de/welt\\_print/article1177079/Ostsee-Pipeline\\_Ex-Kanzler\\_Schroeder\\_kritisiert\\_Polen.html](http://www.welt.de/welt_print/article1177079/Ostsee-Pipeline_Ex-Kanzler_Schroeder_kritisiert_Polen.html) - retrieved on 4/5/11

<sup>37</sup> “Facts and Figures”, Nordstream AG, <http://www.nord-stream.com/the-pipeline/facts-figures.html> - retrieved on 6/2/11

has moved from complete state ownership (having changed from the Ministry of Gas into the joint stock corporation, Gazprom in August 1989) following the break-up of the Soviet Union to an increasingly odd mixture of both the private and public sector. As Tatiana Mitrova et al. point out, Gazprom's management is, "...a management increasingly focused on profit maximisation, answerable not only to the state but to other shareholders..."<sup>38</sup> Therefore, the project represents the complex interaction of entities which defy simple categorisation as either private or public, and is quite ground-breaking in this regard. Although we can see that the Soviet-EU pipeline was similar in some respects to the Nordstream project, the latter represents a further step, institutionalising cooperation through the creation of a separate entity representing the consortium and displaying a stronger multilateral focus due to the more complex nature of the transnational web of dependencies which characterises governance today. Whereas in the former project the matter was essentially individual western governments choosing to ignore a unilaterally imposed embargo for personal benefit, the matter now involves shared ownership and shared risk and is, thus, a much closer form of cooperation. The participants are not tied together in a bilateral fashion (i.e. 1-1), rather they are all tied to one another and in some way to the European whole.

However, the difficulty revealed here is that we talk of the EU as a single multilateral block and thereby assume the presence of one voice, yet this is not the case. Whilst I am arguing that evolution has taken place from dominant bilateralism in EU energy policy - especially during the period from the late 1950s until the early 1970s when national interests were exceptionally varied and there seemed little need for a common energy policy - (or at least *acceptance* of the largely bilateral activities of member states which is what constituted EU energy policy as such in the past, before a separate and well-defined edifice had been set-up to define European energy policy as a whole) to gradually increasing multilateralism, I must acknowledge that the EU also suffers at present from the

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<sup>38</sup> Mitrova, Tatiana., Pirani, Simon., Stern, Jonathan., "Russia, the CIS and Europe: gas trade and transit" in *Russian and CIS Gas Markets and their Impact on Europe*, Simon Pirani ed., Oxford University Press: Oxford, 2009, p.396

evolution into what I call, 'fragmented multilateralism', whereby the incomplete state of European integration leads to the formation of blocks of players within the greater EU block; so in some areas these sub-blocks adhere to the 'one voice' pure multilateral principle whilst in others they do not and it is precisely this fragmentation which enables outside parties to destabilise intra-EU harmony and the multilateral principles on which the Union is based.

## How to Define Energy and Energy Security

It is important at this juncture to take a step back and look at the concept that surrounds the Nordstream project: energy security. When explaining how Nordstream can function as a model we must recognise that the field of energy security is a unique field in many respects. Cross-border, transnational projects are not new and although the scale of Nordstream is large, this alone does not suffice to characterise it as a unique model. Yet the field in which the project exists – that of energy security – is unusual in so far as there exists no common definition of the parameters of energy security or of the nature of energy. Of course, definitions of these things exist in national and supranational policy documents, but I mention the ideas from the perspective of public/private goods. If we look to Sandler for a widely-held definition of the first term we can see that public goods are defined as,

*...[possessing] benefits that are nonrival and nonexcludable. Benefits are nonrival when a unit of the good can be consumed by one agent without detracting, in the least, from the consumption opportunities still available for others from the same unit of the good. Nonrivalry of benefits is alternatively defined in terms of zero marginal cost of extending the good's benefits to other consumers.<sup>39</sup>*

Proceeding from this definition, it is difficult to categorise gas and energy in general as a purely public good as it can both be consumed by more than one person at the same time and it is possible to exclude people from its consumption. In Sandler's terms, it is both rivalrous (diminishable) and excludable. Indeed, in fact a private good is diminishable (i.e. one person's consumption will affect others') and excludable (i.e. people can be excluded from

<sup>39</sup> Sandler, Todd, "Regional Public Goods, Aid, and Development", School of Economic, Political, & Policy Sciences, University of Texas, October 2007, p.2

consumption) but in some ways, gas transit for example, has more in common with a club good such as the international space station (see figure 8 below). Whereas public goods include things such as national security or street lighting, a stereotypical example of a private good is a candy bar. It is important to note that these categories are not black and white, however, and that many incremental definitions and concepts exist, covering exceptions and areas difficult to conceptualise. For example, Sandler mentions regional public goods and defines them as, “..[providing] benefits to individuals in two or more nations in a well-defined region. The regional basis may be geological – e.g., nations along a river or on a plain or seacoast.”<sup>40</sup> and Hal R. Varian mentions a good such as education which is an inherently private good, both partially diminishable and excludable, but which is provided by many countries publically.<sup>41</sup> Figure 5 below succinctly presents the conflicting definitions:

**Figure 5**

Benefits	Rival	Partially rival	Non-rival
Excludable	Pure private goods Food Cars, fuel	Club goods Intelsat International Space Station Canals, waterways	Weather-monitoring stations
Non-excludable	Common goods Free access pasture Open pathways Hunting grounds Air corridors	Impure public goods Ocean fisheries Pest control	Pure public goods Pollution-control Disease-eradication programs Strategic weapons Sound financial practices Basic research
Partially excludable	Impure public goods Information dissemination Extension services		

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The important point to be drawn from this mass of definitions and categories is that energy as a whole is a hotly contested area in terms of definitions and it thus represents the clear conflict between bilateral and multilateral approaches. Unlike a concept such as human rights which is administered multilaterally and over which, in the western world at least, there is no scope for separate agreements to

<sup>40</sup> Sandler, Todd., “Regional Public Goods, Aid, and Development”, School of Economic, Political, & Policy Sciences, University of Texas, October 2007, p.3

<sup>41</sup> Varian, Hal R., Microeconomic Analysis Third Edition, W. W. Norton & Company: New York, 1991, p.415

<sup>42</sup>“Public goods for economic development”, United Nations Industrial Development Organisation, Vienna, 2008, p.8

be negotiated, undermining or tampering with those principles, energy is mired by an eclectic mixture of both bilateral and multilateral approaches at times at war with one another and often undermining one another. Human rights, from the Universal Declaration of Human Rights adopted by the UN in 1948, to the European Convention of Human Rights adopted in 1953 and which applies to all Council of Europe Members (including Russia), is a field in which (at least in the European sphere) there is no serious conflict over the fundamental principles. In the field of energy, by contrast, each state, even in the European Union, has to some degree, its own conception of what energy and energy security should be and selfishness plays a large role here. A prime example can be found when looking at the Nordstream project and some of the objections raised by the Baltic States and Poland centring on the potential economic losses which would be incurred by them as a result of the projected loss of transit fees occasioned by the development of the Nordstream pipeline. The EU as an institution, however, seems, through its support for the Energy Charter Treaty, the Energy Packages and the changes introduced in the Lisbon Treaty, to be actively pushing for the recognition and acceptance of energy as a common European good, putting the institution at times, in direct conflict with the positions of its respective member states.

## **Nordstream's 'Evolution' from Bilateralism to Multilateralism**

The Nordstream website, when describing the project's significance, notes that the "Successful implementation of Nord Stream will set an example for efficient multilateral cooperation in trans-national projects, in particular related to the assessment of environmental impact in a transboundary context."<sup>43</sup> It is the very complexity and enormity of the project (not only in the technical sense but also in the legal sense and in the political sense) that lends itself well to engendering an evolution from the bilateral idea at the outset to the multilateral cooperation that

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<sup>43</sup> "Project Significance", Nordstream AG, <http://www.nord-stream.com/en/the-pipeline/project-significance.html> - retrieved on 5/2/11

we see today. Given the increases in export volumes as well as the increases in gas prices, the cost of failure in the question of gas transit has become so high as to demand re-evaluation of the methods by which projects are realised.<sup>44</sup> In this sense, the relationship upon which the Nordstream project is based – that of gas transit – is unusual because as Mitrova et al. put it, “International gas transit creates unusual multilateral mutual dependence relationships...”<sup>45</sup> These relationships involve win/win or lose/lose outcomes but are unusual in the sense that there is no win/lose outcome because disruptions to supply cause losses on all sides. Thus, the relationships that can potentially be created in international gas transit tend to favour the multilateral approach because there is little risk of “free-riding” due to the aforementioned outcomes which do not include a win/lose outcome and due to the enormity of the risk associated with international gas transit.

If we consider the question of gas transit from a theoretical point of view, leaving aside for a moment questions of bilateral or multilateral approaches underpinning the project, an obvious juncture from which to begin any analysis would be Keohane and Nye’s concept of complex interdependence. According to this concept, “The existence of transnational relations increases ‘societal interdependence’ and makes countries more ‘sensitive’ to one another. They make policy processes more ‘pluralistic’, ‘complex’ and fragmented.”<sup>46</sup> This approach draws on the complex transnational links which exist between states and posits that whilst the use of military power and coercion is decreasing, an increase in economic and other forms of interdependence makes cooperation between states more likely; of course, this idea is founded on the assumption that we are speaking about a region where complex interdependence is the dominant paradigm. Where complex interdependence does not exist, the potential for conflict between, for example, a block based on complex

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<sup>44</sup> Mitrova, Tatiana., Pirani, Simon., Stern, Jonathan., “Russia, the CIS and Europe: gas trade and transit” in *Russian and CIS Gas Markets and their Impact on Europe*, Simon Pirani ed., Oxford University Press: Oxford, 2009, p.429

<sup>45</sup> Mitrova, Tatiana., Pirani, Simon., Stern, Jonathan., “Russia, the CIS and Europe: gas trade and transit” in *Russian and CIS Gas Markets and their Impact on Europe*, Simon Pirani ed., Oxford University Press: Oxford, 2009, p.428

<sup>46</sup> Moravcsik, Andrew, “Robert Keohane: Political Theorist” in *Power, Interdependence and Nonstate Actors in World Politics*, Helen V. Milner and Andrew Moravcsik ed., Princeton University Press: Princeton, 2009, p.247

interdependence and a block not based upon it, still remains. The advent of the European Union and regional associations in today's post-bipolar world has only increased the amount of transnational interdependencies – a fact which provides a very revealing backdrop both for the Nordstream project and for EU energy policy as a whole. According to Keohane and Nye, writing during the 1970s at a time of increased economic integration within the EU, the economic factor gains primacy within this theoretical construction. Taking into account the aforementioned nature of international gas transit as an inherently multilateral endeavour and considering the complex interdependence that exists amongst European states (to a greater or lesser degree) on almost all issues, I believe that traditional bilateralism, usually based on the more selfish impulses of states, has faded in its relevance and continues to do so. Scope and potential still exists for bilateral agreements to be concluded but these complex and multiple layers of interdependence (especially in the economic area) make the conclusion of any bilateral agreement at odds with the overarching aims or principles of the block based upon complex interdependence, unlikely.

## **The Role of Interest Groups in the Evolution from Bi- to Multilateralism**

Moreover, we must, at this point, cast a glance upon the various conduits carrying pressure “from below” which influence and develop this interdependence. One of the most important developments in this area is the rise of the interest group. Especially after the Lisbon Treaty, and in the hope of addressing the “democratic deficit”, special attention is being paid to including civil society groups in the decision-making process, “Further specifications were made in the Treaty of Lisbon, the articles of which stipulate that European institutions should seek dialog with citizens and maintain consultations with civil society organisations.”<sup>47</sup> This effort is more generically in response to “...the growth in the number of states, the activities of government and groups within the

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<sup>47</sup> Tarasenko, Anna, “Particularities of the European Policy toward Social Nongovernmental Organizations” in *European Politics and Society: Studies By Young Russian Scholars Volume 2*, Elena Belokurova ed., Intersocis: St. Petersburg, 2009, p.5

state, and the number of potential areas of conflict...”, which mean that, “...the climate for international organizations has been favourable in the post Second World War period.”<sup>48</sup> As a result of this favourable climate, interest groups and groups from civil society have flourished and the EU has recognised the opportunity to utilise them for its own political legitimacy needs. Following Truman, we can define an interest group thus, “...any group in society may function as an interest group and any of them may function as a political interest group.”<sup>49</sup> For our purposes, the influence of an individual interest group is best measured by a simple analysis of its respective goals and achievements and the effectiveness of interest groups as a whole, by their visibility in a specific sphere.<sup>50</sup>

If we look at the area of litigation in the European Court of Justice and take into consideration that judgements first began in 1994, then we can observe a steady rise in the number of judgements, reflecting in turn, a rise in the visibility and influence of interest groups. Although it is not clear from figure 6 below, which interest groups are involved (or indeed, *if* they are involved), the fact that the institution is being used more frequently would give us basis to suppose a rise in the number of interest groups involved.

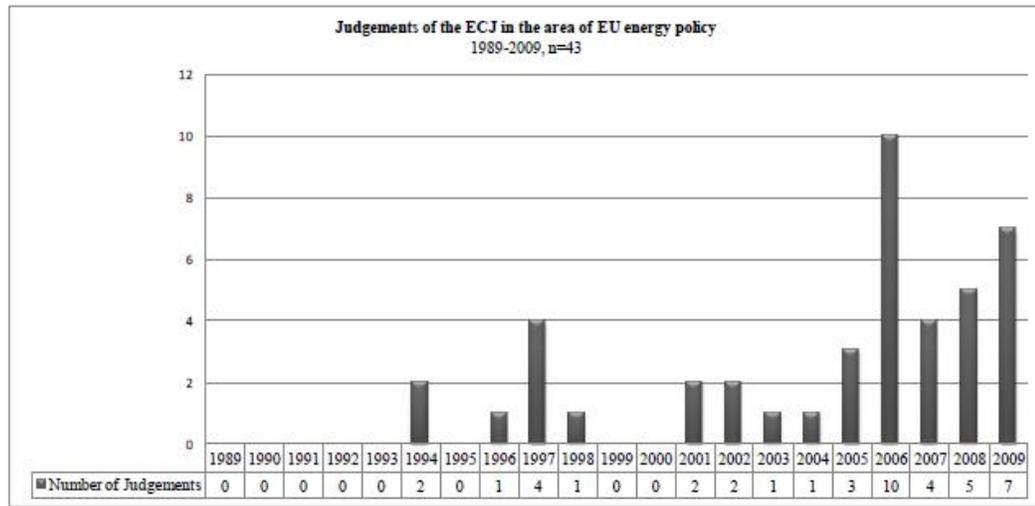
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<sup>48</sup> Archer, Clive, “International Organizations Third Edition”, Routledge: New York, 2001, p.29

<sup>49</sup> Truman D.B., “The Governmental Process”, Westport: Greenwood Press, 1981, p.35

<sup>50</sup> A particular sphere has been chosen in order to facilitate a simpler analysis, as seeking to empirically ascertain the visibility of interest groups in general would be too great an undertaking for this piece of work.

**Figure 6**



51

Furthermore, looking at the statistics below in figure 7, we can see that behind member states, companies occupy the second place in terms of judgements:

<sup>51</sup> Stepiņa, Inese, “Interests shaping EU energy policy at the European Court of Justice”, Paper submitted 14 August 2010 for ECPR Graduate Conference, Dublin, 2010, p.8

**Figure 7 - Political Actors in the area of EU energy policy at the ECJ: applicants and defendants**

Applicant v defendant/Origin	England and Wales	United Kingdom	Austria	Belgium	European Commission	European Parliament	Italy	Lithuania	Netherlands	Germany	Total	%
EC v MS					19						19	44
Company v MS	1		1				3				5	12
EC, MS v MS					4						4	9
Company v EU institution				1			2			1	4	9
Company v state/municipal company		1							1	1	3	7
EP v Council of the EU						2					2	7
Association v EU institution		1									1	2
Association, company v MS									1		1	2
Parliamentarians of MS								1			1	2
MS v company									1		1	2
EC v company					1						1	2
Company v company										1	1	2
<b>Total</b>											<b>43</b>	<b>100</b>

<sup>52</sup> (Abbreviations: EC = European Commission, MS = Member State, EP = European Parliament)

According to the table, 38% of political actors bringing litigation forward in the ECJ, belong to non-traditional, non-overtly political bodies such as companies, associations or municipal companies. From this one example it is easy to conclude that the power of interest groups, as measured by their visibility in a particular sphere, is significant. When we consider the Nordstream project and the interest groups directly involved with the endeavour, we can spot a wide array of mostly European actors from the private sector:

**Environmental Studies**

 Rambøll (Denmark) is preparing the Environmental Impact Assessment (EIA)

 Marin Mätteknik (Sweden) carried out environmental studies like seabed surveys

 Institut für Angewandte Ökologie (Germany) is conducting additional Baltic Sea studies

<sup>52</sup> Stepiņa, Inese, “Interests shaping EU energy policy at the European Court of Justice”, Paper submitted 14 August 2010 for ECPR Graduate Conference Dublin 2010, p.10

 DoF (Norway) conducted seabed surveys

 PeterGaz (Russia) conducted seabed surveys

 Det Norske Veritas (DNV) (Norway) is an independent company tasked with controlling and certification

#### **Technical Engineering and Construction**

 Saipem Energy Services S.p.A. (formerly Snamprogetti S.p.A.) (Italy) has the lead for the technical engineering process

 SAIPEM (Italy) will be responsible for pipe-laying

 Europipe (Germany) is manufacturing the majority of the pipes needed (75% for the first line and 65% for the second line)

 OMK (Russia) is manufacturing 25% of pipes needed for both lines

 Sumitomo (Japan) is manufacturing 10% of the pipes needed for the second line

 EUPEC (France) is responsible for logistics (concrete coating, pipe storage, transport)

 PeterGaz (Russia) technical engineering, Russian part

 PetrolValves (Italy) will supply valves

#### **Gas Purchasers**

 DONG Energy A/S

 E.ON Ruhrgas AG

 Gaz de France S. A.

 GAZPROM MARKETING AND TRADING, UK

 WINGAS GmbH<sup>53</sup>

What started out as a bilateral venture between Germany and Russia, based on a solid long-term customer-supplier relationship, has thus expanded into a pan-European venture. In seeking to explain this metamorphosis, I have referred to the nature of gas transit and increasing interdependence but it is also wise to look at the opposition to the project in order to help to explain why so many interest groups have been included.

Before delving into the EU's often ambiguous relationship with the Nordstream project and the nature of EU opposition, it should be noted that the project is nevertheless designated as a 'priority energy project' for the EU. A press release from the Nordstream consortium states that, "The EU Commission has therefore

<sup>53</sup>"Partners and Contractors", Nordstream AG, <http://www.nord-stream.com/our-company/partners-and-contractors.html> – retrieved on 1/5/11

declared that the planned pipeline under the Baltic Sea is a priority energy project and it has confirmed the special status of the project as part of the Trans European Network (TEN-E).<sup>54</sup> The EU, as a unified political unit has therefore recognised the significance of the Nordstream project despite reservations amongst some member states and continuing reservations amongst the highest echelons of the Union. The fact is that gas diversification, in principle, is necessary especially given the past disruptions involving Ukraine, however, many members would prefer diversification and security of supply to be achieved by sourcing new suppliers of gas, rather than by effectively cutting out problematic transit countries. The root of the problem is Russia's historical perception among some EU members as unreliable and in some cases even hostile and imperialistic in its behaviour. Germany has played a key role in this respect by both backing two major German companies taking part in the project and publicly throwing governmental support behind the endeavour. In a video message from 9/4/10, the German Chancellor, Angela Merkel, endorsed the project and called it "...an outstanding example of how energy companies are well able to implement also complex projects and ensure the infrastructure matches the market."<sup>55</sup> Merkel has been vital in allaying Poland's fears especially, even suggesting building an additional branch of the pipeline from the Baltic Sea to Poland – an offer which was subsequently rejected, however, by the Polish government. Most importantly, however, we can speculate that it was upon the initiative of the German side – a country which, we must not forget, is most used to dealing on a multilateral level due to both the nature of its political system and its unique history following two World Wars – that interest groups from so many other countries were brought on board. Logically, proceeding from the complex interdependence model, if there are problems with the project such as the environmental objections levied by Sweden and Denmark for example, then it makes sense to overcome these issues by seeking to tie Sweden and

<sup>54</sup> Nordstream AG, Press Release from 4/10/06, [http://www.nord-stream.com/en/press0/press-releases/press-release/browse/13/article/the-pipeline-through-the-baltic-sea-is-a-priority-energy-project-for-the-european-union.html?tx\\_ttnews\[backPid\]=24&cHash=8fd58597af](http://www.nord-stream.com/en/press0/press-releases/press-release/browse/13/article/the-pipeline-through-the-baltic-sea-is-a-priority-energy-project-for-the-european-union.html?tx_ttnews[backPid]=24&cHash=8fd58597af), - retrieved on 4/4/11

<sup>55</sup> Video Message by Angela Merkel from 9/4/10, Bundesregierung Online, [http://www.bundesregierung.de/Content/EN/Artikel/2010/04/2010-04-09-video-ostseepipeline-ausschiftung\\_en.layoutVariant=Druckansicht.html](http://www.bundesregierung.de/Content/EN/Artikel/2010/04/2010-04-09-video-ostseepipeline-ausschiftung_en.layoutVariant=Druckansicht.html), -retrieved on 3/4/11

Denmark into the fate of the project as a whole, therefore using the interest groups as conduits through which influence can be transmitted to a higher political level. In other words, by bringing more European partners into the fold, and thereby changing the nature of the project from a primarily bilateral undertaking to a multilateral venture, the objections and concerns of others on “soft” issues such as the environment can be better allayed and this also opens up more channels of communication with other European states which could also facilitate the overcoming of more serious objections (i.e. military, economic) such as those submitted by Poland and the Baltic states.

When we consider the controversial and difficult nature of the project from the Russian side, it is important to note the seminal importance of the strong bilateral relationship between Russia and Germany for the Russian side as well. More than any of the other partners in the consortium, Germany provides direction, momentum and legitimacy for the project which is still received with relative hostility by some EU member states. Christian Hacke notes that, “Deutschland besitzt für Putin eine Schlüsselrolle, weil er über Berlin auch die Zusammenarbeit mit der Europäischen Union gestalten möchte.”<sup>56</sup> In this way the Nordstream project is, for the Russian side, in some way a vehicle for neofunctionalist positive spill-overs, whereby a successful bilateral relationship with Germany has allowed Russia to develop multilateral, trans-national relationships with the other partners and indeed even goes so far as to influence and form other aspects of the EU-Russian relationship. For example, looking to the future, the successful implementation of the Nordstream project could facilitate EU attempts to bring Russia back to the negotiating table regarding signing the Energy Charter Protocol, especially because Nordstream is still classed as an exception from the post-Lisbon requirement to de-couple transmission networks from producers. Although Russia has made its objections to this agreement clear, the relationships developed with a number of key EU partners by means of this project are two-way and allow both Russia to more so set the agenda with the

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<sup>56</sup> Hacke, Christian, *Die Aussenpolitik der Bundesrepublik Deutschland – Von Konrad Adenauer bis Gerhard Schröder*, Ullstein Verlag: Frankfurt, 2003, p.467 – Translation: “Germany plays a key role for Putin because it is through Germany that he can shape the form of cooperation with the EU.”

EU on some issues and for the important EU states involved in the project to use their closer relationship with Russia to push the European agenda on other issues.

Moreover, Nordstream can be characterised as a somewhat pioneering model in the sense that it involved politicians and former politicians on a level which had not been seen before (at least not overtly) and that these personalities again often represented interest groups. The most obvious example of this is the much discussed involvement of the former German Chancellor, Gerhard Schröder in the project and his continuing presence on the board of Gazprom. A further example (other than Schroeder) is the again controversial involvement of the former Finnish Prime Minister as a consultant working for the Nordstream project. According to a press release from the Nord Stream Consortium, “Paavo Lipponen will advise Nord Stream on the Environmental Impact Assessment (EIA) and permit application in Finland. He will provide independent consultations according to his expertise in Finnish administrative and decision-making procedures within the energy sector.”<sup>57</sup> Thus Nordstream is in many ways an anti-realist model, rejecting traditional notions of self-serving bilateralism in favour of the “fragmented multilateralism” to which I have previously referred. In this way, the project is a microcosm of the EU’s own internal struggle to speak with one, multilateral voice. Moreover, the project is thus a sort of “half-way-house” and represents an evolutionary step, in a sector where EU integration is not so far progressed, towards the multilateral principles which function in selected other areas. We cannot, therefore, expect to divine a clear-cut model of whether the project, as a microcosm of EU policy in the energy sector, represents distinct bilateralism or distinct multilateralism. The point is that Nordstream exists within an environment of evolutionary institutional change and thus tinkers with traditional, fixed notions of cooperation such as bilateralism and multilateralism, settling on a sort of mixture of the two and combining some elements of each as necessary in order to overcome the difficulties which both

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<sup>57</sup> Nordstream AG, Press release from 15/8/08, [http://www.nord-stream.com/en/press0/press-releases/press-release/browse/5/article/paavo-lipponen-to-advise-nord-stream.html?tx\\_ttnews\[backPid\]=24&cHash=25b9c2d79d](http://www.nord-stream.com/en/press0/press-releases/press-release/browse/5/article/paavo-lipponen-to-advise-nord-stream.html?tx_ttnews[backPid]=24&cHash=25b9c2d79d), -  
retrieved on 4/4/11

incomplete European integration and the historical backdrop of Russia's relations with some European states, can create.

## Chapter 5 – Perspectives for the Future

In terms of the energy relationship between the EU and Russia in general, it is not wise to seek to choose either bilateral or multilateral approaches, but in view of Russian resurgence and the proven tendency of Russian companies to adopt 'divide and conquer' strategies, bilateral agreements must be closely monitored if not excluded completely during the transformational process whilst achieving the integration within the EU itself necessary for a true multilateral approach. Moreover, the very conflicted nature of these Russian "national champions" such as Gazprom and Rosneft, which despite being partly capitalised are clearly still subject to a greater deal of state influence and protectionism than their EU counterparts, means that the EU cannot treat deals with Russian companies in the energy sector as standard deals between private sector bodies. Not only is the energy sector becoming more strategic as resources dwindle but the Russian state giants are, arguably, privileged to advantages which European companies do not possess as they are, in theory, strictly demarcated from the state. Since there is, as of yet, no level playing field in this area any bilateral agreements must be carefully scrutinised and where possible the community should continue the drive to speak with one, unified voice.

From my perspective there are two main possible scenarios for the development of EU policy in the area of energy:

- 1) The energy sector could serve as a sort of inspirational model, spurring on integration in the wider EU project and cementing the EU's existing multilateral character. This outcome depends heavily on the nation states recognising and acting upon the clear benefits of delegating responsibilities in the energy sector to the supranational level. Because international, multilateral cooperation is required in the energy sector and***

- not just desirable (the Nordstream project, passing through 5 exclusive economic zones is a prime example of this) and because of energy's increasingly strategic character, achieving positive results in this area both on the side of the EU and on the side of non-EU partners (such as Russia in our case study) could conceivably serve to revitalise the European integration project, provide new perspectives for cooperation with non-EU partners and herald the arrival of a new balance between the role of the nation state and the role of the EU.*
- 2) *The energy sector remains contested and disharmony grows partially as a result of the failure of hallmark projects such as Nordstream or Nabucco. In this scenario, the nation states continue to fight the transference of competences in the energy sector to the EU, preferring to keep not only the responsibilities for the character of their national energy sectors but also seeking each to act as individual, unconstrained actors both within the EU and with EU partners. This would not only signal troubled times for the burgeoning EU single market in energy but would also undermine the new institutions created by Lisbon such as the President of the Council and the Foreign Ministry. The repercussions of re-introducing a measure of anarchy to the international energy sphere could even lead to a reappraisal of the EU project as a whole, with the member states who could benefit most from undertaking bilateral approaches (perhaps because of natural deposits or existing, historical ties with non-EU partners) abandoning other areas where the EU had previously exercised multilateral control. All in all, this could lead to a serious stalling of the entire EU project.*

The EU must (as it has done in the past by recognising the value of economic integration as a means to create neo-functional spillovers leading to further integration in other spheres) recognise the primacy and enduring potential of the economic motive. The question is: How can the EU make the multilateral option in the energy sphere more attractive for the member states? The experience of being ‘burnt’ by the Russian bear, so to speak, is not sufficient as, firstly, not all member states have had this experience and can draw on it and, secondly, because historical memory of such events can be notoriously fickle and short-lived when elites are faced with large potential profits. The EU must consider whether it is possible to develop any other incentive or somehow tie energy security into some other policy area so as to achieve the objective through the ‘back door’. The central problem here is that in some respects the EU is one actor and in others it is regarded as many separate actors. For example, in the economic sense the EU is one actor within the WTO, yet energy is not regulated by the WTO and here the one voice of the EU fades weakly into the background. Whilst such disharmony continues to exist, the Russian preference for dealing on a bilateral basis will always find accommodation amongst sympathetic and perhaps opportunistic EU member states. We have established that Russia prefers to work on a bilateral basis and in an opportunistic fashion in order to, logically, exploit and profit from the lack of a comprehensive and unified EU energy policy. This move is predictable and in many ways, not at all reprehensible. The EU, however, should respond to this move in the most innovative fashion possible, proposing and pushing for far-reaching unification in the hope that any deal that is eventually reached between EU members will remain strong enough to provide meaningful unity in the field of energy, thus preventing the opportunistic moves to play one member off against another by using bilateral ‘carrots and sticks’ for which Russia has become known.

## **Converting Bilateral to Multilateral**

For an interesting perspective on the future, it is fruitful to look back at the past as Clive Archer does in his seminal work, “International Organizations”. In

seeking to extrapolate from the Nordstream project an idea of what the future of EU energy policy could look like and how perspectives of bilateralism and multilateralism could function together, we can refer back to Archer's observations regarding national jurisdiction over rivers, as international areas for transit, where borders cannot easily be demarcated:

*During the nineteenth century, the states of Europe were, of necessity, fashioning new means for co-operation over the issues of peace and conflict and were faced with a growing need to co-ordinate action in the socio-economic areas of life.[...]the Treaty of Paris (1856) established a European Danube Commission to supervise the free navigation of that river, independent of national control...<sup>58</sup>*

Thus, in this complex question, bilateral agreements were recognised as being of limited value and the nation states chose to administer the issue of the territoriality of rivers on a multilateral basis. As Archer further points out, the original basis for such multilateral arrangements were non-controversial, mostly technical questions which could not efficiently be solved on a bilateral level.<sup>59</sup> This is one of the founding ideas of the European Union, with nation states willing to give away competences in certain, non-critical areas, in order to benefit from the collective solution of a problem difficult to solve individually. This kind of arrangement where bilateral agreements in highly transnational areas or areas dominated by dense complex interdependency and the intersection of layers of national interest, are transformed gradually into more expansive multilateral arrangements, is the idea that can be taken both from the Soviet pipeline project and from Nordstream. However, such arrangements require a high level of maturity from elites and make it necessary to define exactly what such a framework means to each participant. In our case, looking at Germany as a member of the EU, we must pose the question of how Germany (elites especially) perceive such multilateral bodies as the EU itself, or indeed, even Nordstream. If these bodies are perceived by the elites as fora based on the interaction of equal members, then we can argue for a position evolving towards a more complete version of multilateralism and integration, however, if such bodies are perceived as arenas for Germany to wield its power, then we must

<sup>58</sup> Archer, Clive, "International Organizations Third Edition", Routledge: London, 2001, p.11

<sup>59</sup> Archer, Clive, "International Organizations Third Edition", Routledge: London, 2001, p.12

look more towards the bilateral perspective and the associated concepts such as selfishness and realism. Such thoughts bring us back generally to whether bilateral relations and states still matter and perhaps it is useful to ask this question once more following the above speculation on Germany's position.

Germany is often said to operate on a highly multilateral basis in the international arena and this may be a consequence of such historically salient events such as the two World Wars. Given the country's former 'pariah' position following the two devastating conflicts, it is easy to understand why any German government would be more than keen to be seen as cooperating in an equal, democratic and multilateral forum, so as to avert the obvious suspicions (which were of course more relevant immediately post-War) of a return to warring ways and perhaps also as a sort of cathartic penance born from the subconscious shame of having instigated two major conflicts. If we compare France – a victor nation in the two World Wars and a major European state – with Germany – the losing side in both wars and a major European state – and look at the indicator of membership in international organisations, we can see that France participates in the following international organisations:

*ADB (nonregional member), AfDB (nonregional member), Arctic Council (observer), Australia Group, BDEAC, BIS, BSEC (observer), CBSS (observer), CE, CERN, EAPC, EBRD, EIB, EMU, ESA, EU, FAO, FATF, FZ, G-20, G-5, G-7, G-8, G-10, IADB, IAEA, IBRD, ICAO, ICC, ICCT, ICRM, IDA, IEA, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, InOC, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC, MIGA, MINURSO, MINUSTAH, MONUSCO, NATO, NEA, NSG, OAS (observer), OECD, OIF, OPCW, OSCE, Paris Club, PCA, PIF (partner), Schengen Convention, SECI (observer), SPC, UN, UN Security Council, UNCTAD, UNESCO, UNHCR, UNIDO, UNIFIL, Union Latina, UNITAR, UNMIL, UNOCI, UNRWA, UNTSO, UNWTO, UPU, WCO, WFTU, WHO, WIPO, WMO, WTO, ZC<sup>60</sup> (89)*

And Germany in the following:

*ADB (nonregional member), AfDB (nonregional member), Arctic Council (observer), Australia Group, BIS, BSEC (observer), CBSS, CDB, CE, CERN, EAPC, EBRD, EIB, EMU, ESA, EU, FAO, FATF, G-20, G-5, G-7, G-8, G-10, IADB, IAEA, IBRD, ICAO, ICC, ICCT, ICRM, IDA, IEA, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC, MIGA, NATO, NEA, NSG, OAS (observer), OECD, OPCW, OSCE, Paris Club, PCA, Schengen Convention, SECI (observer), SICA (observer), UN, UN Security Council*

<sup>60</sup> CIA World Factbook, "France: Government: International Organization Participation", <https://www.cia.gov/library/publications/the-world-factbook/geos/fr.html> - retrieved on 2/5/11

(temporary), UNAMID, UNCTAD, UNESCO, UNHCR, UNIDO, UNIFIL, UNMIL, UNMIS, UNRWA, UNWTO, UPU, WCO, WHO, WIPO, WMO, WTO, ZC<sup>61</sup> 80

Counting participation leads to a total of 89 for France and 80 for Germany, which although at first a surprising conclusion, can probably be explained away by France's status as a former colonial power, causing it to have a number of interests and justifications for taking part in organisations with no obvious connection to the French nation, as well as by Germany's late return to the international arena, joining the UN only in 1973. Despite the fact that both Germany and France can boast relatively equal participation in international organisations,

*German security policy [is] based on a comprehensive concept of security, i.e. multilateral in nature, as is noted in the German Ministry of Defence's "White Paper 2006." Since the late 1990s German foreign policy has also assumed a more markedly multilateral thrust, as evidenced e.g. by the coalition agreements concluded by Germany's ruling parties since 1998. With an approach to development policy that sees its role as part of a "global structural policy," and with a stepped-up engagement in international environmental policy, Germany has - in other policy fields as well - openly embraced the multilateral momentum that emerged in the 1990s.<sup>62</sup>*

This confirms the original supposition that Germany is, in terms of its Habitus and the path dependencies into which it is locked, a multilateral actor and this makes it an especially important actor for the future of EU energy policy and for the future of EU integration as a whole. The EU is a long way from unification and it will be important for Germany to retain its multilateral focus, championing such hallmark arrangements as Nordstream in an effort not only to line its own pockets and ensure its own security of supply but also to provide an example for the rest of the EU and to draw both other EU member states and EU neighbours such as Russia into the web of complex interdependencies that could eventually grow so dense as to provide unparalleled stability and a reason both to proceed with integration and to justify the shift away from bilateralism and the temptation to argue for the reassertion of the nation state.

<sup>61</sup> CIA World Factbook, "Germany: Government: International Organization Participation", <https://www.cia.gov/library/publications/the-world-factbook/geos/gm.html> - retrieved on 2/5/11

<sup>62</sup> Stetten, Jürgen, "Multilateral institutions: Building new alliances, solving global problems" in *Compass 2020 – Germany in International Relations, Aims, Instruments, Prospects*, Berlin, 2007, p.8

## The Role of Globalisation

Another useful concept from the array of paradigms examined is to be found in conceptualisations of globalisation. Globalisation, in the sense which Roland Robertson describes is revealed to be a set of tendencies structuring the world as a single place and covers a whole host of processes from the development of transnational corporations and brands to the muted cultural heterogeneity of the European Union project.<sup>63</sup> In the light of the Lisbon treaty, which is essentially a watered-down constitution for Europe, we can perceive multi-layered processes of globalisation, from the drive towards a single European energy market to the ongoing push for unified European social policy. The European project engenders both aspects of Robertson's globalisation: global interdependency (a system of global institutions) and global consciousness (awareness of globality in everyday life). Even if the EU institutions are not global in the full sense of the word, they do cover 27 states and there is distinct awareness of some degree of globality across the EU block – for instance, it would be difficult to find an EU citizen who is unaware of the freedom of movement across EU borders.

The concept of Glocalisation is also a relevant one for our discussion. The Lisbon treaty foresees a stronger, more centralised and more accountable Europe, however, we can also clearly discern the federal roots running throughout the document. One area of work which has always been evident in Europe and whose success has partly been due to financial support from the Union is the increased prominence of and role for regions. Thus, nowadays we see the paradoxical tendency for the world to become a smaller and more homogenous (structurally at least) place through globalisation, juxtaposed against the increasing autonomy and strength of regions leading perhaps to a heterogeneity of the regions akin to the heterogeneity we can perceive within the globalisation process with regards to multiculturalism. With greater autonomy to create conditions favourable for foreign direct investment, for example, each region gains the ability to tap into the immense power of globalisation to establish itself

<sup>63</sup> Robertson, Roland, "Globalization Theory 2000+: Major Problematics", in *Handbook of Social Theory*, G. Ritzer and B. Smart ed., London: SAGE Publications, 2001, Chapter 34, p.459

as a global brand, or attract foreign specialists for example. At the same time as some groups within society deride the ability of transnational corporations to reach across borders and pick and choose the most favourable conditions for their operation in a true maximisation of available utility sense, we see regions taking on a role more independent from the state and no longer competing as a part of their home state with another state unit, but instead competing with and forging links with other regions, regardless of their nationality or geographical positions.

When we go on to consider the effects of both globalisation and glocalisation on the Nordstream project, we can see that in some ways, the project is a product of these processes. Were it not for the ability of companies and interest groups to operate across borders and the increasing complex dependencies between nations, then the project would most likely never have come to fruition. Nowadays, with these increasing interdependencies permeating every sphere of a nation state's activity, it is becoming increasingly difficult (especially for states belonging to a multilateral block such as the EU) to act in a bilateral manner because more and more cross-border projects are characterised by an ever-growing number of stakeholders and interest groups; the reality of the modern world is therefore, thus: if a transnational project of any significance is to be realised there are so many interests which much be addressed and satisfied so as to make any foray into bilateralism a wasted venture.

Moreover, the EU should maintain its focus on the regions and promote globalisation across the entire EU zone. It is understandable that the nation states are reluctant to cede more powers to Brussels (even when it can be demonstrated to be largely in their interest, such as the aforementioned international energy question), so it could be a wise strategy to proceed ahead on some of the more difficult issues at a lower level, i.e. between the regions. The intent here is not to deceive the nation states into accepting more EU control, but to provide actual, tangible examples of the benefits of multilateral cooperation. These sort of examples could be more easily realised on a smaller, inter-regional scale and could potentially serve as an impetus for the nation

states to lend more credence to the notion of multilateralism both in the energy sector and in general.

## Conclusion

In conclusion, a potential conflict certainly exists between approaches of bilateralism and approaches of multilateralism in the energy sector but the EU is moving to take a more encompassing multilateral approach. The Nordstream project provides an example of one way in which the two perspectives can work together, facilitating one another, if not in complete harmony then at least productively. Two main issues have come to the surface throughout this paper, one of them being the heated disagreement over what energy security and energy actually mean and how they should be defined and the second being the EU integration project itself. The EU has its own conception of energy, the member states (due largely to the unfinished integration project) have their own conceptions and non-EU partners in turn have their own conceptions. Moreover, the disharmony regarding the definitions of energy and energy security are largely a consequence of the internal disharmony with which the EU lives due to its nature as an evolving, unfinished project. Layers of transnational interdependency have increased in number and complexity to a dramatic extent, positive neo-functionalist spill-overs from the integration project are well in evidence and globalisation rages on both from above and below but to a large extent the EU is still trying to catch up. The EU expanded its activities in the foreign policy arena in general through the official introduction of the European External Action Service (EEAS) on 01/10/10; after all, “One of the main arguments for Lisbon was to make EU foreign policy more coherent and integrated.”<sup>64</sup> Nevertheless there is some duplication of the functions of national diplomatic services and it will be some time before the EEAS can hope to shift the balance of power in its favour, if at all. For now, when looking at the evolution of EU energy policy, although we can identify a trend towards greater multilateralism in the field of energy (both because of the nature of international

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<sup>64</sup>“Q&A: EU External Action Service”, BBC News, 7 December 2010, <http://www.bbc.co.uk/news/world-europe-11941411> - retrieved on 31/01/11

energy transit and because of past historical experience in this area), we must remember that development is dynamic and constant and tied up heavily with the fate of the EU integration project as a whole. The energy sphere (especially the transportation of gas) naturally tends towards multilateral approaches due to the transnational nature of the enterprise and thus this sector represents a promising area of EU energy policy which, if handled correctly, could be held up as the inspiring example of multilateralism which drives greater progress in the policy area as a whole. However, the path to this outcome is littered with obstacles and “intermediate” outcomes will be the order of the day for some time to come.

The Nordstream project provides somewhat of a blueprint for how perspectives of bilateralism and multilateralism can function in relative harmony in order to achieve a single goal. In this case, the strong bilateral ties between Russia and Germany, developed on the back of the historical experience of East Germany and the GDR as well as the decision to tie Germany to Russia in a long-term supplier-customer relationship, facilitated the eventual multilateral character and acceptance of the pipeline project. The path dependencies locked in following the first Europe-USSR pipeline especially as well as the habitus of elites from the Russian side especially provided particularly solid ground from which to undertake such a daunting project as the effort to ‘multilateralise’ the Nordstream endeavour. Moreover, favourably disposed public opinion towards Russia as a consequence of the historical legacy of the GDR and significant dependencies between the two states has helped, over time, to forge a ‘special relationship’ between Germany and Russia. These, factors work in conjunction with the increasingly salient economic motive. The economic motive drove the first USSR-Europe pipeline project and overcame the attendant ideological barriers as well as significant opposition and the economic motive continues to dominate now and, in fact, has taken on a great deal more significance as the economic systems of the EU and Russia are more compatible than ever. In this way the sphere of energy could learn from the EU integration project itself, focusing on creating economic gains and links before moving into more controversial and difficult questions of security and politics. Moreover, by including interest groups

and increasing, institutionally speaking, the number and significance of EU actors with a say (either directly or indirectly) in EU energy policy, the Union, by means of the Lisbon Treaty especially is incrementally and cautiously trying to wrestle more competences from the member states in this area. Moreover, the closeness and depth of ties between certain states such as Germany and Russia could help to make EU energy policy more encompassing, co-ordinated and multilateral both internally and with external partners. Historical experience and perceptions especially play a great role in determining the course of EU energy policy and using the existing strong interdependencies between selected states (EU and non-EU) in order to build the initial bridges which could lead to a more multilateral EU energy policy is a wise strategy to intensify the EU's efforts to speak with one voice in this policy area. The Treaty of Lisbon includes provisions which both consolidate and build upon the EU's existing competences in the area of energy and with the EU's increasing profile in foreign affairs in general, as well as in energy policy in particular, the Union could grow to become the stabilising, strong and co-ordinating force for its member states in the turbulent and volatile world of energy.

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