Securitisation and European Natural Gas Policy

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‘This thesis is the result of the author’s original research. It has been composed by the author and has not been previously submitted for examination which has led to the award of a degree.’

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Abstract

European energy policy is generally regarded as one of the most longstanding failures of the process of integration. However in recent years there has been an intensification of efforts to establish an internal market for gas and work towards a common energy policy. In parallel to these developments, concerns about energy security have reappeared on the political agenda after a long absence, partly due to rising oil prices, energy dependence and the recent disruptions of gas supplies from Russia.

This expansion of EU energy policy activity in parallel to increased energy security concerns suggests a possible linkage between the two. The aim of this thesis is to examine this relationship through the perspective of securitisation theory, utilising but also extending the framework of the Copenhagen School. More specifically, it aims to analyse the process through which natural gas supplies in the European Union were securitised and explore its impact on the pace of European integration.

Discourse analysis and process tracing, enriched with a set of elite-interviews are used to answer these questions. Two case-studies of energy security, concerning the internal market and the security of supply standards are explored in a comparative manner. The analysis demonstrates that while high levels of securitisation have had a negative impact on negotiations for the former, they have had a positive impact and have accelerated the europeanisation of the later.

Table of Contents

List of Tables and Figures

Tables

Figures

Acronyms and Abbreviations

ACER	Agency for Cooperation of Energy Regulators
BP	British Petroleum
CEER	Council of European Energy Regulators
CS	Copenhagen School
DECC	Department for Energy and Climate Change
DG COMP	Directorate General for Competition
DG RELEX	Directorate General for External Relations
DG TREN	Directorate General for Transport and Energy
EC	European Communities
ECT	Energy Charter Treaty
EDF	Electricité de France
EEA	European Economic Area
EFET	European Federation of Energy Traders
ENTSO-E	European Network of Transmission System Operators (Electricity)
ENTSO-G	European Network of Transmission System Operators (Gas)
ERGEG	European Regulators' Group for Electricity and Gas
ESS	European Security Strategy
EU	European Union
G8	Group of Eight
GDF	Gaz de France
GECF	Gas Exporting Countries Forum
GIE	Gas Infrastructure Europe
GLE	Gas LNG Europe
GSE	Gas Storage Europe
GTE	Gas Transmission Europe
IEA	International Energy Agency
ISO	Independent System Operator

ITRE	Industry, Transport, Research and Energy (Parliament Committee)
LNG	Liquified Natural Gas
MEP	Member of the European Parliament
NATO	North Atlantic Treaty Organisation
NESCO	Network of Energy Security Correspondents
OAPEC	Organization of Arab Petroleum Exporting Countries
OECD	Organisation for Economic Co-operation and Development
OPEC	Organization of the Petroleum Exporting Countries
RWE	Rheinisch-Westfälisches Elektrizitätswerk
SGST	Second Generation of Securitisation Theorists
TSO	Transmission System Operator

Units of Measurement

Bcm	Billion Cubic Metres
Mtoe	Million Tonnes of Oil Equivalent
R/P	Reserves-to-production
Tcm	Trillion Cubic Metres
TJ (GCV)	Terajoules (Gross Calorific Value)

Conversions between units are based on the guidelines accompanying the BP Statistical Review of World Energy (2012).

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Introduction

European Union energy policy has frequently been described as the "the most spectacular failure of the process of integration" (McGowan, 1989: 547-48; George, 1996: 152). Despite the fact that two of the original treaties of European integration focused on energy issues, the Member States have traditionally been reluctant to allow the European Union (EU) to play a significant role within the sector (Padgett, 1992: 55; Matlary, 1996: 12-19; Duffield and Birchfield, 2011: 1-5). However, in recent years there has been an expansion of energy policy activity within the European Union. Efforts to develop an internal market for electricity and gas have been intensified and significant progress has been achieved towards establishing a common internal and external energy policy. Indicative of a change in the pace of integration are a range of new directives in the areas of renewable energy, energy efficiency, emissions trading, and external energy relations, among others (Birchfield and Duffield, 2011).

This accelerated progress in a previously neglected area of EU policymaking has sparked renewed academic interest and policy debate about what is driving it. Unsurprisingly, economic imperatives and particularly the motivation to increase the EU's competitiveness in the global economy feature heavily in such explanations, as has often been the case in the history of European integration (Padgett, 2003). In addition, the demand for basing energy use on more environmentally sustainable sources to curtail the impact of climate change has also been identified as an important driver for cooperation alongside the economic reasoning (Buchan, 2009).

The focus of this thesis is on a third rationale for explaining recent policy developments – energy security. Security concerns in the area of energy are of course not new in Europe. In the 1970s, the world experienced two oil crises as a result of OAPEC production cuts, causing global economic instability and pushing Europe into recession. However, the period of relative stability that followed for much of the 1980s and 1990s saw security slip down the agenda, in the absence of

any perceived immediate threats to European energy. The turn of the century led to the gradual resurfacing of security woes in the energy sector (Youngs, 2009: 1). Rising oil prices, greater energy dependence, and increased competition for resources with India and China were some of the recent trends that intensified the calls for greater European cooperation to master what Müller-Kraenner described as the 'new energy crisis' (Müller-Kraenner, 2008). The twin gas supply disruptions between Russia and the EU in 2006 and 2009 were sharp reminders, if any were needed, of the high stakes and uncertainties in the energy sector, which are further exacerbated by the current global economic downturn.

This expansion of EU energy policy activity in parallel to increased energy security considerations suggests a possible linkage between the two. However, the relationship between them remains remarkably under-researched. Instead, some have attempted to measure and quantify EU energy security with the view to prescribe ways to increase it (Bahgat, 2006; Correljé and Van der Linde, 2006; Weisser, 2007; Umbach, 2010), which often results in contradictory policy recommendations, for instance, on whether to cooperate or compete with Russia (Baran, 2007; Smith, 2008; Grätz, 2009). Similarly, while a majority of studies unequivocally accept that a heightened sense of insecurity driven by energy concerns and political trends is conducive to closer European cooperation in this area; this interaction is assumed rather than systematically explored. As a result, exclamation points, like the recent Russian gas supply disruptions are seen as 'game changers', at the expense of studying actors like the European Commission, framing battles between key protagonists, and historical processes and continuities, whose influence is arguably of much greater importance and enduring theoretical value.

To study energy security in the European Union this thesis utilises but also extends the constructivist framework developed by the 'Copenhagen School of Security Studies'. The Copenhagen School's flagship concept is 'securitisation', which is used to explain how issues are upgraded in the security agenda of states and international institutions, irrespective of the objective significance of a threat (Wæver, 1995; Buzan et al., 1998). Accordingly, securitisation occurs when a political actor successfully convinces an empowering audience that there is of existential threat, which justifies the adoption of 'emergency' measures outside the formal and established procedures of politics. In other words, "In naming a certain development a security problem, the "state" can claim a special right, one that will, in

the final instance, always be defined by the state and its elites" (Buzan et al., 1998: 54).

The pioneering work of the Copenhagen School has provided the concept of security with a "more coherent theoretical basis" (Hyde-Price, 2000: 28) and inspired numerous empirical investigations since the publication of their seminal book *Security: A New Framework for Analysis* in 1998. These have overwhelmingly focused on states, with scholars finding it more challenging to adapt it to study institutions, such as the European Union, with its complexity of actors and processes[1]. The idea of securitisation potentially acting as a vehicle to promote europeanisation, defined in terms of the quality of negotiations and outputs at the European level is inherent in the framework and has received some empirical support (Huysmans, 2000) but limited theoretical reflection.

The analysis of European energy security over the last four decades in this thesis offers an opportunity to reflect on the strengths and weaknesses of securitisation and its relationship with europeanisation. In this sense, this thesis is seeking to make a number of both empirical and theoretical contributions to knowledge. More specifically, this thesis addresses two main questions:

1. To what extent have natural gas supplies to the European Union been securitised and how has this process occurred?
2. What effect has the level of securitisation had on EU energy policy negotiations and to what extent has it facilitated or hindered its europeanisation?

These questions will be operationalised through two case studies of EU policies towards natural gas, namely the attempts to develop a single market for gas and the attempts to harmonise security of supply standards and crisis response mechanisms. These case studies will be examined through the use of two methods – discourse analysis and process tracing and enriched with a set of elite interviews. Discourse analysis will be used to identify attempts to securitise gas supplies, examine the extent to which these attempts were accepted by relevant audiences and to track the form that securitisation has taken at different points in time. Process tracing will used to examine the policy negotiations in each case study and examine whether

[1] Notable exceptions are Neal (2009) and Leonard (2010) on the securitisation of migrants and the development of FRONTEX.

securitisation has had an impact on how consensual the negotiations are and whether this has enabled or constrained europeanisation.

The analysis proceeds as follows. The first chapter sets out the theoretical framework used to guide the empirical analysis in this thesis. It begins by situating the Copenhagen School's securitisation theory within the development of the academic discipline of Security Studies and explaining the core assumptions and concepts of the theory. It then draws from recent innovations in securitisation theory to develop a theoretical framework which addresses some of the limitations of the Copenhagen School which, it is argued, provides a better basis for the examination of securitisation within the EU policy process. This chapter concludes with a discussion of the research design and methods used in this thesis.

Chapter two examines the changing context of European gas supplies. It begins with an overview of how gas markets are traditionally structured and how gas came to play an important role within the EU energy mix. This is followed by an examination of changes in supply, demand and dependence trends over time, and the causes and effects of disruptions to gas supplies. Throughout this chapter a distinction is drawn between EU-wide trends and national differences which play an important role in whether individual Member States are likely to accept securitising moves and proposals to europeanise natural gas policy.

Chapter three presents the findings of an analysis of EU energy discourse between 1979 and 2010. It examines whether there have been shifts in the threat constructions of EU institutions and gas sector actors. Analysis is based on the examination of the level of securitisation, the extent of intersubjective agreement and the form that securitisation takes, across three relatively distinct periods.

The following two chapters present the main findings of case studies on EU policy developments within the natural gas sector. These involve detailed reconstructions of policy processes in both case studies to facilitate the analysis and comparison of the proposals, negotiations and outcomes. Chapter four focuses on the attempts to liberalise and integrate national gas markets in an attempt to develop a single European market for natural gas. Similarly, chapter five focuses on the attempts to harmonise security of supply standards and develop EU crisis response mechanisms.

This thesis concludes with a discussion of the main findings from the empirical research in order to directly address the two research questions. It compares the outcomes and negotiations in the two case studies in order to strengthen findings about the impact that securitisation has had on the europeanisation of natural gas policy and to assess the utility of the analytical framework set out in chapter one.

1 Securitisation Theory: A Revised Framework for Analysis

The aim of this chapter is to set out a theoretical framework and research design to guide the empirical research in this thesis. The first section sets out the core assumptions of the Copenhagen School's securitisation theory and explains the key concepts used. The second section highlights some the shortcomings of the Copenhagen School's theory and uses this as a basis for the development of a theoretical framework that is more suited to examining the relationship between securitisation and europeanisation. The third section sets out the research design and methods that will be used in the chapters that follow.

1.1 The Copenhagen School

One of the most influential approaches to emerge within the field of Security Studies in recent years is the Copenhagen School's theory of securitisation[2]. This theory, originally developed by Ole Wæver (Wæver, 1995) and later by Barry Buzan and Jaap de Wilde (Buzan et al., 1998), was a self-conscious attempt to adopt a 'middle-ground' position in debates within Security Studies between so-called 'traditionalists' who sought to confine the field to the study of military threats to the state (Walt, 1991), and 'wideners' who advocated an expansion of the security agenda to encompass a broader range of threats and actors (Ullman, 1983). Whereas both traditionalists and wideners set out to 'objectively' determine what is or is not a security issue, the Copenhagen School instead focus on the process through which issues are socially constructed as security threats within discourse through a process which they call securitisation.

[2] The Copenhagen School is a name given by Bill McSweeney (1996) to the group of scholars based at the Copenhagen Peace Research Institute (COPRI) during the 1990s. Throughout this chapter the moniker is taken to refer to Ole Wæver, who first developed the securitisation approach (Wæver, 1995) and his collaborative work with Barry Buzan and Jaap de Wilde (Buzan et al., 1998).

The Copenhagen School define securitisation as "the intersubjective establishment of an existential threat with a saliency sufficient to have substantial political effects" (Buzan et al., 1998: 25). Focusing on this process, the Copenhagen School argue, allows Security Studies to overcome many of the limitations of attempting to identify what is or is not objectively a security issue. It allows for the study of both the process of securitisation and the political consequences of the use of security rhetoric. In doing so, it aims to reorientate Security Studies research around the core questions of, "who securitizes, on what issues (threats), for whom (referent objects), why, with what results, and, not least, under what conditions (i.e., what explains when securitization is successful" (Buzan et al., 1998: 32).

In the terminology of the Copenhagen School, securitisation occurs when a securitising actor claims that a referent object is existentially threatened, a relevant audience accepts this claim and extraordinary measures to alleviate this threat are legitimised. An attempt to present a referent object as existentially threatened is known as a securitising move which only becomes a successful securitisation if a relevant audience accepts the move. Success is more likely to occur if the securitising actor meets a series of facilitating conditions. As a first step towards setting out the theoretical framework for this research, the remainder of this section aims to explain precisely what the Copenhagen School mean by these various terms.

The first key concept and philosophical underpinning of the Copenhagen School framework is the *security speech act*. When an actor attempts to securitise an issue by claiming that an issue is an existential threat, they are engaging in what is referred to in language theory as a speech act. Speech acts are the basis of all linguistic communication, but what makes them of interest in the securitisation framework is that they are part of a theory of language that is intertwined with a theory of action (Searle, 1969: 17). As Ole Waever explains, a speech act "is not of interest as a sign that refers to something more real; the utterance *itself* is the act. By saying it, something is done (as in betting, giving a promise, naming a ship)" (Wæver, 1995: 55). What the security speech act 'does' according to the Copenhagen School is to lift issues above everyday politics:

> "In security discourse, an issue is dramatized and presented as an issue of supreme priority; thus, by labelling it as *security*, an agent claims a need for and a right to treat it by extraordinary means" (Buzan et al., 1998)

The political significance of a securitising move is that it attempts to transform how political actors relate to that issue, by moving it beyond the restrictions of normal deliberative and democratic politics into a more exceptional realm of security politics. If a move is successful in highlighting the severity and immediacy of a threat, then an audience may accept the suspension of the rules of normal politics in order to deal with the threat. When attempting a securitising move based on this speech act an actor is claiming three things: that a set of conditions represents an existential threat; that this is a threat to the survival of a particular referent object; and that existing measures are insufficient to deal with the threat meaning that extraordinary measures should be adopted.

The emphasis on *existential threats* derives from the Copenhagen School's view that within International Relations, security has a specific meaning associated with power politics, namely threats to the survival of the state (Buzan et al., 1998: 21, 46). Where the Copenhagen School deviate from Realism however, is that they are open to the possibility of existential threats emerging within a wide range of issue areas. They argue that in each issue area, "the essential quality of existence will vary greatly [and] therefore, so will the nature of existential threats" (Buzan et al., 1998: 21-22). *Referent objects* differ from existential threats as they are the (social) objects or values whose survival is threatened. In principle anything may be referent object, but in practice the range of objects is more limited. But rather than arbitrarily assigning degrees of importance to an object a priori, the Copenhagen School treat this as an empirical question. *Extraordinary measures* are the possible outcome of a successful securitisation. As with existential threats the specific nature of these measures will vary depending on the issue, but essentially they involve measures to secure the survival of a referent object. Due to the critical nature of the existential threat, this may involve "emergency action" (Buzan et al., 1998: 26) which involves "breaking the rules" (1998: 33) of normal political procedures.

The Copenhagen School argue that there are three types of actor involved in this process: securitising actors, audiences and functional actors. The *securitising actor* is the actor who makes the claim about an existential threat to a referent object. In principle any actor may attempt to securitise an issue, but in practice political elites are the most likely securitising actors (Buzan et al., 1998: 40). *Audiences* by contrast are, "those the securitizing act attempts to convince to accept exceptional procedures because of the specific security nature of some issues" (Buzan et al., 1998: 41).

They are arguably the most important actors within the securitisation process since they must accept the securitising actor's claim that there is an existential threat to a referent object before a securitising move translates into a successful securitisation. Finally, *functional actors* do not attempt to securitise an issue and are not the relevant audience but nonetheless have some influence over the securitisation process. One example that the Copenhagen School give is of a polluting company which attempts to resist attempts to portray damage to the environment as a security issue (Buzan et al., 1998: 36).

The success or failure of securitising moves is shaped, but not determined by a set of internal and external facilitating conditions, derived in part from the felicity conditions within speech act theory (Austin, 1962). The sole 'internal' condition is that the securitising actor must follow the rules of the security speech act itself, or in other words, utilise the rhetoric of "existential threat, point of no return, and a possible way out" (Buzan et al., 1998: 33). As discussed above, the use of such rhetoric is the basic foundation of the framework, so more than just being a facilitating condition it is clearly seen by the Copenhagen School as a necessary condition for securitisation to occur.

Drawing in particular from Bourdieu's (1991 [1982]) discussions of speech act theory, the Copenhagen School also identify two 'external' conditions. The first condition emphasises the social capital of the securitising actor in relation to the audience. "Security", they argue, "is very much a structured field in which some actors are placed in positions of power by virtue of being generally accepted voices of security, by having the power to define security" (Buzan et al., 1998: 31). As a result the securitising actor will be more likely to succeed if they possess the recognised authority to 'speak security'. The second external condition focuses on the "features of the alleged threats that either facilitate or impede securitization" (Buzan et al., 1998: 33). When making claims about existential threats, if a securitising actor can refer to objects associated with the threat such as tanks on a border (military threat) or melting ice caps (environmental threat) then this may help them to make their case for securitisation (Buzan et al., 1998: 33).

The idea of facilitating conditions can give the impression that if a securitising actor meets all of these conditions then securitisation will be successful. This would reintroduce a level of objectivism into a theory which was explicitly designed to

move beyond this (Wæver, 2000: 8). To address this, the Copenhagen School argue that due to the socially constructed nature of securitisation and the inherent open-endedness and indeterminate nature of the political, these conditions can only ever influence rather than determine the success (or failure) of the process. They base this argument on debates within speech act philosophy between Derrida, Butler and Bourdieu:

> "There is a performative force to the speech act; to use Bourdieu's own concepts, it has a magical efficiency, it makes what it says. A speech act is interesting exactly because it holds the insurrecting potential to break the ordinary, to establish meaning that is not already within the context–it reworks or produces a context by the performative success of the act. Although it is important to study the social conditions of successful speech acts, it is necessary always to keep open the possibility that an act that had previously succeeded and for which the formal resources and position are in place may fail and, conversely, that new actors can perform a speech act that had previously not been expected to perform" (Buzan et al., 1998: 46-47, fn. 5)

1.2 Theoretical Framework

The Copenhagen School's securitisation approach has established itself as one of the widely used approaches within Security Studies (McDonald, 2008: 565-66). It has been used to analyse securitisation dynamics in cases as diverse as US Environmental Policy (Floyd, 2010), the UK's decision to invade Iraq (Roe, 2008), Greek terrorism (Karyotis, 2007), HIV/AIDS (Elbe, 2006) and transnational crime (Emmers, 2003). Even those who are not sympathetic to their approach often define themselves in relation to the School (e.g. Bigo, 2002; Booth, 2007). It has not been without its critics however. In recent years there have been various attempts to develop, extend and revise the theory in order to address various shortcomings in the original formulation (e.g. M. C. Williams, 2003; Balzacq, 2005; Stritzel, 2007; McDonald, 2008). This section draws from and expands upon these various critiques in order to develop a theoretical framework that is to be applied in this thesis.

1.2.1 Levels of Securitisation: Beyond Existential Threats

The first main criticism of the securitisation framework which is relevant to the analysis of energy security at the European level, is that by focusing on existential threats it adopts a very narrow perspective on what security is. Critics argue that by focusing on existential threats, they neglect other possible conceptions of security, such as those promoted by some of the wideners discussed at the beginning of this chapter. The Welsh School in particular consider this to be ethically problematic (Wyn Jones, 1999). They claim that focusing on existential threats to survival has the effect of reifying a particular concept of security based on Realist IR theory which, despite the Copenhagen School's claims to the contrary, "freezes security in a statist framework, forever militarised, zero-sum and confrontational" (Booth, 2007: 165).

Beyond these ethical considerations, the exclusive focus on existential threats may also be empirically problematic. Critics of the Copenhagen School have argued that in practice many current security policies are not actually responses to existential threats but are instead orientated towards less exceptional forms of threat (Stritzel, 2007: 367). Williams for instance argues that since the end of the Cold War, Western security policies and institutions have become increasingly orientated towards the management of risks rather than the elimination of existential threats to survival (M. J. Williams, 2008). The War on Terror is frequently cited as such an example of the growing prominence of risk management within security policies (Rasmussen, 2004; van Munster, 2005). In a related critique, Ciută argues that by focusing on existential threats, the Copenhagen School undermine their own claim to study the social construction of security (Ciută, 2009: 308). Adopting a standpoint based on hermeneutical approaches to social science, he criticises the Copenhagen School for privileging analyst interpretations of what security is over those of the actors actually involved in the process (Ciută, 2009: 310).

There is an ongoing debate about how Security Studies in general, and securitisation theory in particular should attempt to conceptualise, study and understand risks and their relationship to threats (C.A.S.E. Collective, 2006: 467-69). Van Munster for instance, argues that risk and risk management should be regarded as a particular form of securitisation which should be fully incorporated into the Copenhagen School's approach (2005). Corry by contrast argues that existential threats and risks refer to different types of harm, and should therefore by distinguished analytically as

separate processes of securitisation and riskification, each embodying their own logics of extraordinary and precautionary action respectively (Corry, 2012). Ciută for his part sets out a framework based on hermeneutics for tracking the emergence of new understandings of security based on how actors construct security meaning in different contexts (Ciută, 2009). An alternative perspective has been offered by Michael Williams, who suggests that securitisation theory should explore the potential within Morgenthau's concept of intensification (M. C. Williams, 2011: 216-18). This approach seeks to incorporate lower level threats within the securitisation framework, and provides a useful means of examining whether the 'intensity' of a particular threat has shifted over time. Crucially however he, like the Copenhagen School, still views existential threats as the ultimate expression of a security threat:

> "however far in a pragmatic direction securitization theory moves, and even if the languages, discourses, or symbolic technologies are not explicitly those of extremity, the effect of emergency in the sense of a fundamental breaking of rules remains central for security analysis, since it provides the limit condition, or perhaps even an ideal-type, that allows the identification processes within and/or below its ultimate expression" (M. C. Williams, 2011: 218).

Such an approach has several analytical benefits. Firstly, it provides a means of moving past the Copenhagen School's sharp distinction between 'normal' and 'security' politics which sidelines lower level threats and has been criticised as theoretically untenable (Acharya, 2006). Secondly, it allows for the incorporation of lower level threats which is compatible with the theoretical arguments of the Copenhagen School while avoiding some of the limitations of Ciuta's approach.

Using this idea, this thesis proposes to construct an analytical scale for evaluating different *levels of securitisation* that can be used as a conceptual foundation for guiding empirical analysis of securitisation in this research and beyond. It begins with the Copenhagen School separation between existential threats and the absence of such threats, but attempts to move beyond this by elaborating on some of the grey areas in between. This allows for the accommodation of lower level threats which may nonetheless be regarded as distinctive forms of securitisation.

- *Existential* – immediate, direct threats to survival;
- *Urgent* – threats which are below the level of existential threats as they do not involve a threat to survival as such, but are nonetheless urgent and immediate;
- *Potential* – threats which are not urgent and immediate, but which are important enough to warrant political action[3];
- *Latent* – security concerns are an important part of political debate but they are not regarded as serious threats;
- *Absence (of threat)* – an absence of security concerns or, security concerns are subordinated to other concerns

When using this scale in order to examine the level of securitisation there are three key points to consider. Firstly, it must be remembered securitisation at any of these levels is still *intersubjectively* constructed. It can be useful to highlight instances where the securitising actor and audience(s) have accepted securitisation at different levels, but ultimately securitisation must be gauged based on the level of agreement between these actors. Secondly, this scale is not necessarily one-directional and incremental leading from the absence of threats through to existential threats. The process can equally work in reverse, in what the Copenhagen School call desecuritisation, i.e. the process through which security threats return to normal politics. Thirdly, there is also no reason to assume that an issue must go through each of these stages in order to become securitised. An issue may move gradually between these stages, or there may be a rapid (de)intensification of threat. This is ultimately an empirical question, and this scale provides the conceptual tools to facilitate such an analysis. This is particularly important when examining long-term securitisation processes. This scale is utilised in chapter three of this thesis, when examining EU energy discourse.

1.2.2 Responses to Securitisation: Beyond Extraordinary Measures

The second main criticism of the Copenhagen School is that they assume that the most likely response to the emergence of security threats is the adoption of extraordinary measures which 'break the rules' of normal politics. Some have observed that the response to some existential threats may be quite normal measures

[3] This is the essence of 'risks' within much of the literature, but see Corry for an alternative view (Corry, 2012)

such as the reallocation of governmental resources or minor regulatory changes (Caballeo-Anthony and Emmers, 2006: 7; Salter, 2011: 121). Lower down the scale of threats, Van Munster argues that a likely response to growing risks may be to "intervene before the situation reaches to the point of extremity in which exceptional measures are called for" (van Munster, 2005: 8). In a similar vein, Corry argues that the identification of risks generally leads to 'precautionary measures', which aim to increase the resilience of a referent object through, for instance, the adoption of a safety margin (Corry, 2012: 247-49).

The Copenhagen School themselves offer little guidance as to what counts as an 'extraordinary measure'. Examples that they give such as, "secrecy, levying taxes or conscription, placing limitations on otherwise inviolable rights, or focusing society's energy and resources on a specific task" (Buzan et al., 1998: 24), are all measures which may be accepted as legitimate in certain circumstances without appeals to an existential threat. Wæver concedes that extraordinary measures are not well specified within the theory, but notes that it is inherently difficult to conceptualise these more precisely since in practice the measures adopted vary considerably depending on the threat and situation in which securitisation takes place (Wæver, 2003: 27). Measures to address the threat of rising sea levels are very different, for example, to those used to address the threat of an invasion.

The type of measures which can be adopted as a result of securitisation may also vary depending on the policy making context (Christou, et al., 2010). In the case of the EU, Neal argues that there are few opportunities for adopting 'extraordinary measures' in a policy making arena which is based on developing common rules between Member States rather than exercising classical sovereign authority (Neal, 2009: 337). Based on research examining the impact of securitisation on the development of FRONTEX, Neal suggests that while the EU is not able to adopt extraordinary measures, it does have "an extensive capacity for institutionalization, normalization and regulation" (Neal, 2009: 351)[4].

Another way to consider this problem is to not view extraordinary measures as part of the process of securitisation. The Copenhagen School argue that when identifying instance of successful securitisation they, "do not push the demand so high as to say

[4] Huysmans reaches similar conclusions in his research on complicity of the European Union in the securitisation of migration (Huysmans, 2000).

that an emergency measure has to be adopted, only that the existential threat has to be argued and just gain enough resonance for a platform to be made from which it is possible to legitimize emergency measures or other steps that would not have been possible had the discourse not taken the form of existential threats, point of no return and necessity" (Buzan et al., 1998: 25). Although this still offers little guidance as to which measures have been legitimised, it does suggest that securitisation stops at the point of discourse and audience acceptance, while the adoption of measures is a potential outcome rather than part of the process itself. This has the advantage of allowing securitisation theory to be used as a possible explanation of particular policy outcomes even if they are not 'extraordinary'[5].

This is the approach adopted for the purposes of this research. Europeanisation is understood as a possible outcome of securitisation rather than part of the process itself. Europeanisation is understood here as, "*the emergence and development at the European level of distinct structures of governance*, that is, of political, legal, and social institutions associated with political problem solving that formalize interactions among actors and of policy networks specializing in the creation of authoritative European rules" (Risse et al., 2001: 3, emphasis in original). Although other more rigid definitions of europeanisation are available in the literature, this looser form of europeanisation is more suited to an exploratory study into the relationship between securitisation and policymaking at the EU level.

It is useful to set out a series of indicators for identifying the extent and type of EU level action. The first indicator is *policy change*, in the form of EU rules which are binding on Member States. This may, for instance, involve the creation of common policies, the harmonisation of national policies and standards, or the removal of national rules to economic exchange. Following the definition of Risse, et al., above, these must be authoritative rather than guidelines or statements of intent. Moreover, to be consider truly binding these rules should involve compliance by the Member States. The second indicator is *authority change*, which takes place when national

[5] For an alternative perspective on the role of 'extraordinary measures', see Roe (2008), Salter (2008) and Floyd (2010). These authors all argue that policy measures should be used as a means of judging the ultimate success or failure, and therefore include their adoption as part of a 'full' securitisation. This raises important questions about the conceptualisation of success and failure in securitisation theory, and this is an important area which remains undertheorised (Karyotis and Judge, 2012). However such questions are beyond the scope of this thesis. Furthermore, incorporating 'measures' as part of the process of securitisation is not well suited to an exploratory study which aims to identify the role of securitisation in the legitimisation of measures. Instead it is important to keep the explanans and explanandum separate, at least for analytical purposes.

competences are transferred to the EU level. This may involve the ability to impose decisions on Member States or require them to change policies in line with rules already agreed at the EU level. It may also involve a greater role for EU institutions in the coordination of national bodies. Unlike the levels of securitisation discussed above, these indicators are not based on a scale or more or less europeanisation, but are instead used to identify multiple aspects of europeanisation. This allows the empirical case studies in chapters four and five to focus on identifying what measures were adopted, and the ways in which these correlate with the level of securitisation.

1.2.3 Process of Securitisation: Audience, Beliefs and Context

A third criticism of the Copenhagen School is about their concept of the audience. While a central claim of the theory is that securitisation only occurs when a securitising actor manages to convince the relevant audience, the Copenhagen School offer little guidance as to who the audience will be in any given situation (McDonald, 2008: 572-73). Unlike securitising actors and functional actors, they give no specific examples of an audience (Leonard and Kaunert, 2010: 59). This has led many critics to conclude that the concept of the audience is so radically under-theorised as to be effectively outside of the theory (Balzacq, 2005; Stritzel, 2007: 362-63).

The under-theorised nature of the audience has led Balzacq to develop an alternative conception of securitisation theory which attempts to set out the conditions under which an audience is likely to accept a securitising move as legitimate. He argues that one of the principle weaknesses of the Copenhagen School is that they place too much emphasis on the securitising actor successfully deploying a 'security speech act'. This forms the basis of the first of the Copenhagen School's facilitating conditions but, as discussed in the first section of this chapter, this is in fact a necessary condition for the Copenhagen School – a securitising move has not taken place unless a securitising actor utilises the rhetorical structure of existential threat. Beyond the criticisms of existential threat discussed above, Balzacq argues that this over-emphasis on the 'internal' linguistic dimensions of securitisation neglects 'external' conditions, which means that they neglect the audience within the theory and fail to provide the conceptual tools for investigating the conditions which make audience acceptance more or less likely.

Audience acceptance, Balzacq argues, is partly dependent on the context of a securitising move. When an actor attempts to securitise an issue this leads the actor to evaluate the claim. Balzacq argues that, "when the concept 'security' is used, it forces the audience to 'look around' in order to identify the conditions (the presumed threats) that justify its articulation" (Balzacq, 2005: 182; 2010a: 13). In order to succeed a securitising actor has to ensure that there is a degree-of-fit between their claim and their context. This context can of course be the cultural or social context, but it also includes the material context and "external or brute threats" (Balzacq, 2010a: 12). In certain respects this can be seen as an extension of the Copenhagen School's original formulation of the third facilitating condition, however Wæver later sought to clarify that this condition did not refer to changes in material conditions, but instead referred to "conditions historically associated with a threat" (Wæver, 2003: 15). Balzacq goes further than this, by opening up the possibility that material conditions may play a greater role in influencing whether an audience accepts a securitising move or not than the Copenhagen School suggest.

Based on the critique of Balzacq and others it is important to specify who the most relevant audiences are within EU policymaking and what contextual conditions may play a role in the acceptance or rejection of securitising moves. In relation to the first point, there has been a longstanding debate within EU studies about which actors exercise power and influence within the EU[6]. Intergovernmentalists for instance, generally claim that the process of European integration is driven and controlled by the Member States (e.g. Moravcsik, 1993; Moravcsik and Schimmelfennig, 2009). In contrast, neo-functionalists and other supranational theories argue that spill over effects between policy areas, cross-border exchanges and the entrepreneurial role of EU institutions play a more significant role (e.g. George, 1991; Niemann and Schmitter, 2009; Sandholtz and Stone Sweet, 1998). More recent theoretical perspectives tend to view the EU as a system of multi-level governance in which authority is shared and the national and European levels are increasingly interconnected (e.g. Jachtenfuchs, 2001; Marks, 1992). This can lead to the emergence of relatively distinct policy networks made up of, "a cluster of actors, each of which has an interest or "stake" in a given…policy sector and the capacity to help determine policy success or failure" (Peterson and Bomberg, 1999: 8).

[6] A systematic survey of the extensive literature on this subject is beyond the scope of this thesis. For recent surveys of European integration theory, see Cram (2001), Rosamond (2000), Pollack (2010) and Schimmelfennig and Rittberger (2006).

Reading across these various perspectives can make it difficult to know where to look for relevant audiences. Balzacq argues that in order to identify relevant audiences we should look for those who have, "a direct causal connection with the issue [and] the ability to enable the securitizing actor to adopt measures in order to tackle the threat" (Balzacq, 2010a: 9). This suggest that the key question to ask is not who ultimately drives the process of integration, but which actors must be convinced that there is a threat in order for policy measures to be adopted? Within the EU legislative process, relevant audiences must therefore include the Council and Parliament since they, through the co-decision procedure, ultimately decide whether legislation is passed and whether the Commission's proposals are amended. Formally the Council is a single audience to be persuaded since it takes its decisions on the basis of a qualified majority of the Member States and therefore has the ability to enable the adoption of measures even if there is not unanimous agreement between the Member States. However, since Member States may have different views of whether there is a threat and may form a blocking majority within Council negotiations, they also constitute significant audiences in their own right.

It is important to note, however, that these relevant audiences are not the only significant actors within the EU policy process or within the process of securitisation. With the exception of intergovernmentalism, the various perspectives on EU integration mentioned above argue that actors other than the Commission, Parliament and Member States may all play a significant role in particular issue areas. Most notably, interest groups play an important role in lobbying the various EU institutions (Coen, 2007; Eising, 2007; Dür, 2008). The Copenhagen School and their critics similarly argue that securitising actors and audiences are supplemented by functional actors which may play a role in influencing the acceptance or rejection of a securitising move (Buzan, et al., 1998: 36). As a result, this research also examines the discourses and roles played by private actors, such as gas companies or industry bodies, in the securitisation process and EU policymaking.

With regards to which aspects of the context matter, Balzacq offers little explicit guidance, and notes that, "context itself is difficult to unpack" (Balzacq, 2010b: 37). Nonetheless, identifying the relevant context in energy policy is relatively straightforward. Important material conditions may include trends in supply, demand and dependence. Trends towards increasing demand, a lack of future supplies or increasing dependence may contribute to securitising moves, and be

mobilised in support of them. While it is important to consider these trends at the European level it is also important to consider differences in national trends since this may play a role in whether a qualified majority of Member States agree with a securitising move or not. Additionally, if their supplies are temporarily disrupted for any reason then this may make particular Member States more likely to accept securitising moves. All of these contextual factors are examined in chapter two of this thesis.

1.3 Research Design

1.3.1 Case Selection

As set out in the introduction, this thesis looks to address two research questions. Firstly, to what extent have natural gas supplies to the European Union been securitised and how has this process occurred? Secondly, what effect has the level of securitisation had on EU energy policy negotiations and to what extent has it facilitated or hindered its europeanisation? These questions will be operationalized through two case studies of EU energy policy. In the empirical literature on securitisation, case studies are the most commonly used and most effective research strategy (Balzacq, 2010b: 32). This research is based on two case studies of EU energy policy, namely the attempts to develop a single market for gas and the attempts to harmonise security of gas supply standards and crisis response mechanisms. The two case studies were chosen according to a 'most different case' methodology. Although these cases share certain similarities since they are both concerned with the internal dimension of energy policy and are both concerned with regulating aspects of gas trade in Europe, they differ in one crucial aspect. Single market legislation appears to have progressed more slowly than security of supply policy, and comparison between the two areas may thus be expected to shed some light on the relationship between securitisation and Europeanisation.

The case studies will be examined through the use of two methods – discourse analysis and process tracing. Discourse analysis will be used to address the first research question: *To what extent have natural gas supplies to the European Union been securitised and how has this process occured?* It will be used to identify attempts to securitise gas supplies, examine the extent to which these attempts were

accepted by relevant audiences and to track the form that securitisation has taken at different points in time. Process tracing will be used to address the second research question: *What effect has the level of securitisation had on EU energy policy negotiations and to what extent has it facilitated or hindered its europeanisation?* By tracing the EU policy process over time, this research aims to establish whether changing levels of securitisation within discourse has led to a change in the quality of negotiations and outcomes. In particular, this research was designed to investigate whether intersubjective agreement between actors is reflected in a shift from adversarial to consensual negotiation, and in legislative outcomes which are closer to the Commission's initial legislative drafts.

1.3.2 Discourse Analysis

The first method utilised in this research is discourse analysis. According to the Copenhagen School, in order to identify and analyse securitisation, "[t]he obvious method is discourse analysis, since we are interested in when and how something is established by whom as a security threat" (Buzan et al., 1998: 176). In his survey of appropriate methods for studying securitisation, Balzacq concurs, arguing that it is well suited to the task of examining processes of securitisation, because,

> "discourse analysis helps students to map the emergence and evolution of patterns of representations which are constitutive of a threat image. In this sense, discourse is a vehicle of meaning, a meaning which is rarely self-evident but has to be charted by the analyst" (Balzacq, 2010b: 39).

There are many forms of discourse analysis which differ in terms of ontological assumptions, level of analysis and research purpose (Glynos et al., 2009: 5-6). However rather than engaging in sophisticated techniques, this research follows the approach suggested by the Copenhagen School which is simply, "Read, looking for arguments that take the rhetorical and logical from defined here as security" (Buzan et al., 1998: 177). Where it differs is that, based on the theoretical framework set out above, it does not only track instances of existential threats but also looks for evidence of threat discourses below the level of exceptionality.

The boundaries of the discourse are confined to the EU level. Although this runs the risk of downplaying national level discourses, it would have been practically impossible to examine the statements of each individual Member State, national gas

company and national energy regulator in sufficient depth while also engaging in the historical analysis of securitisation. Furthermore, this would also have encountered substantial data problems as the necessary documentation to account for national discursive shifts is often not readily available. A focus on the EU level best meets the needs of examining discourses of EU gas policy.

Relevant documents were identified through database searches on the various online document registers of the EU institutions, the online Archive of European Integration (AEI), energy industry websites and offline searches at the European Documentation Centre at the University of Glasgow. The criteria for selection was that the document had to be specifically about gas policy, or involve an explicit articulation about the extent to which gas supplies were secure, or had to be a response to such a document. Additional documents were identified through references within documents these documents to others related documents.

Analysis of the discourse is subdivided into three relatively distinct periods: 1979-1998, 1999-2005 and 2006-2010. These periods were arrived at inductively from a linear reading of the various texts, and each involve a particular dynamic of securitisation or desecuritisation. Separating this longer time span into shorter periods serves a methodological purpose in that it allows for the comparison of subjective and intersubjective discourses across time.

1.3.3 Process Tracing

The second method used in this research is process tracing, which is widely used in political research and has recently been recognised as a useful tool within securitisation studies (Balzacq, 2010b: 46-50). Process tracing, "allows for the study of causal processes – causal chains or causal mechanisms that connect the independent and the dependent 'variables'" (Lupovici, 2009: 202). To do this, researchers using this method convert, "historical narrative into an *analytical* causal explanation couched in explicit theoretical terms" (A. L. George and Bennett, 2004: 210).

The main data used for the policy tracing was official documents from the EU institutions and policy position papers from European bodies of the gas industry and energy regulators. Official documents were identified from the same sources as used for data collection for the discourse analysis. Indeed there is considerable overlap in

the documents used for both aspects of the research. This is to be expected because although articulations of threat are analytically separate from policy positions, in practice they are interlinked (Hansen, 2006: 25-26). These searches aimed to find all publicly available documents connected with the legislative processes examined in the case studies.

Official documents were supplemented by the European energy industry trade publication *Platts EU Energy* (formerly Financial Times EC Energy Monthly). This publication has reported on European energy policy and market developments since 1989 and has covered all of the legislative packages in both case studies extensively. As a result it was used as an important means of supplementing official documents. Access was obtained during a research trip to the British Library in February 2011.

To supplement official and secondary sources, thirteen semi-structured interviews with key EU, UK and energy sector officials were conducted during the course of this research. The first ten interviews were carried out in Brussels in June and July of 2011, followed by additional interviews in Glasgow, Vienna and London until April 2012. The officials interviewed were based in the European Commission Directorate-Generals for Energy, Climate and Competition, the UK Department for Energy and Climate Change (DECC), Eurogas and the Austrian Energy Regulator E-Control. A list of all interviewees is provided in the appendix. In order to respect the confidentiality of interviewees they are identified by their institutional affiliation and the date and location of the interview only. Officials agreed to be interviewed provided that their comments were anonymous, although none of the officials had any objection to being quoted, subject to their approval. Most officials agreed to the interviews being recorded with the exception of interviews 1, 5 and 8 in which notes were taken.

All interviewees were contacted because of their active involvement in the policy processes studied in these case studies. They were identified from official documentation, online searches of the European Commission staff directory and through snowballing. Twenty-three other officials from the Commission, Member State governments and the energy sector and four MEPs active in the ITRE (Industry, Transport, Research and Energy) committee over the past decade were also contacted but either did not respond or refused to be interviewed. These potential interviewees were unable to meet due to their busy schedules or were

unwilling to meet because of the sensitivity of this policy area. The other issue encountered was the difficulty of identifying and contacting officials involved in earlier policy processes.

The objective in all of the interviews was to obtain insights into the inner workings of the policy processes from some of the key actors involved (Lilleker, 2003: 208). Interviews were in a semi-structured format due to both the nature of the participants and the aims of the interviews. When interviewing elites, a semi-structured format is more appropriate than overly structured interviews which strive for direct comparability between responses (Rossman and Rallis, 2003). Elites can become frustrated by standardised questions which limit them chances for expression and tend to favour the more interactive form of questioning available in the semi-structured format (Fielding and Thomas, 2001: 124; Lilleker, 2003; Balzacq, 2010b: 45-46). Also, as the core aim of the interviews was to obtain insights into policy processes beyond the data that was available through official documents, a semi-structured format was considered appropriate for allowing the interviewer to probe, elaborate and clarify the issued raised, and to identify additional lines of enquiry for subsequent interviews and documentary analysis.

1.4 Conclusion

This chapter set out the theoretical framework and methods utilised in this thesis. This was developed on the basis of critiques of the Copenhagen School's securitisation framework which, it is argued, make it more suited to the examination of the possible link between securitisation and europeanisation. It developed a research design based on the comparison of two case studies of EU energy policy and discussed the methods and data that will be used to address the research questions of this thesis. The next chapter lays the groundwork for the analysis of securitisation and europeanisation by identifying the main features of how European gas markets and policies developed in Europe prior to the period analysed in the case studies in chapters four and five, and tracking the major trends in gas supply, demand and dependence.

2 European Gas in Context

In the previous chapter, it was argued that processes of securitisation and desecuritisation do not occur in a vacuum, but are instead situated within a material and historical context which places various potential constraints on the likelihood of success and failure. This chapter situates the development of European gas markets and EU internal gas policy within these contexts and examines changes in supply, demand and dependence dynamics across the 1990-2010 period. Through an analysis of both general European trends and distinctive national trends, this chapter highlights key points of convergence and divergence in material conditions within Member States. In doing so, it points to possible reasons why particular Member States may support or resist attempts to securitise or desecuritise natural gas supplies.

The first section examines the special characteristics of gas supplies in comparison to other primary energy sources and the manner in which gas markets have developed in Europe. It begins by showing how the main end uses and means of transporting gas play an important role in the structure of natural gas markets globally. It then examines the market structures and gas policies that emerged in Europe prior up to and including the 1990s. This is done in order to map out the initial conditions for EU policy developments between 1990 and 2010, which are examined in detail in chapters four and five.

In the second section the changing supply and demand situation for gas is examined. It begins by assessing energy and gas demand at the global, European and national levels. The main reasons behind current demand and future trends are outlined while the different roles that gas plays in the energy mixes of each member state are examined. This is followed by an examination of the gas supply situation in Europe. The main internal and external sources of gas supplies are set out before assessing the potential for additional future supplies from current and new external suppliers.

The third and final section focuses on dependence and short-term supply disruptions. It sets out and evaluates the different levels of import and source dependence in

Europe and its Member States while outlining future trends based on the latest projections for supply and demand. In then turns to the issue of short-term gas disruptions and outlines the different types of disruption and the impact of recent disruptions on European and member state gas supplies.

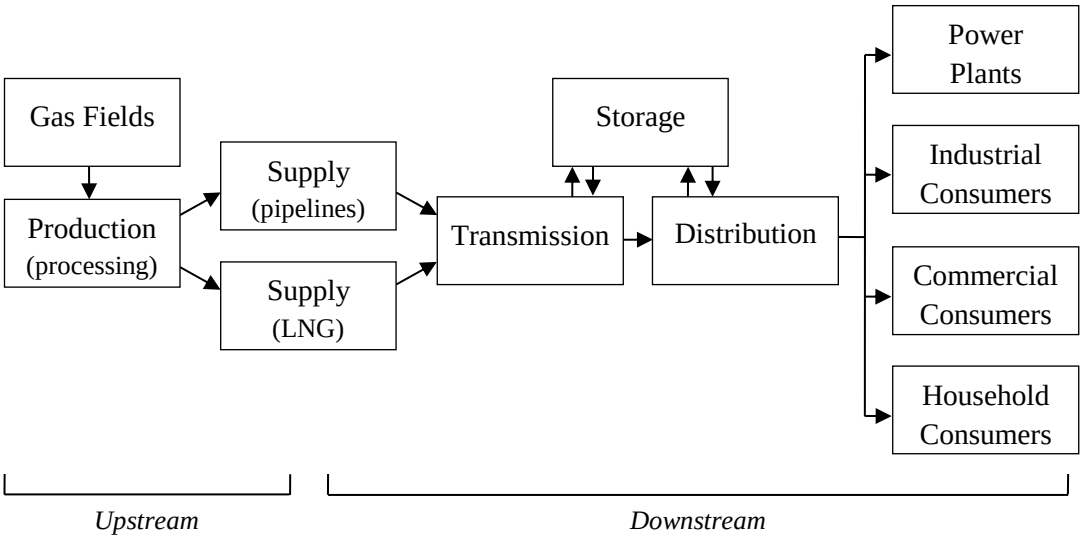
2.1 Natural Gas: Characteristics and Markets

Energy is an essential component of economic activity. Large energy resources are required for industrial production, transport and electricity generation for households and businesses alike. However different energy sources or fuels vary greatly in terms of what role they play within broader patterns of energy use and how supplies are transported from producers to consumers. Both of these characteristics play an important role in how energy markets are structured, and therefore set the parameters for attempts by government actors to implement policies to regulate their use.

Different fuels play different roles in the developed economies largely due to their intrinsic properties. More than many other fuels, natural gas is a flexible fuel that is used mainly for electricity generation and various industrial and residential heating purposes. It has certain advantages over other fuels, most notably that it is less polluting and emits less CO_2 during combustion than other hydrocarbons such as coal and oil (Müller-Kraenner, 2008: 7). However natural gas is not indispensable for any sectors of economic activity and therefore does not have any captive markets. The main example of a captive market for energy is the transport sector which is based primarily on petroleum[7]. Gas in contrast has no such markets and is often a substitutable fuel that can be quickly replaced with alternative fuels in most applications. For instance, most modern gas-fired power stations have the ability to switch to fuel oil or coal as required, while a variety of fuel types can be used for heating purposes. As a result, natural gas has to compete directly with other energy sources to a greater extent than many other fuel types which have captive markets or cannot be substituted (Percebois, 1986: 330).

[7] Compressed and liquefied gas has been used as a transport fuel in some parts of the world such as Pakistan, Argentina, Brazil, India and China (NGV Global, 2012). Nonetheless, there are currently significant technical and distribution barriers to it becoming a major fuel in this sector (see IEA, 2009a: 371).

Figure 2.1: Gas supply chain



The second difference is in how each energy source is transported from producers to consumers. There are two main ways of transporting energy – through flexible transport routes (sea and land), or through fixed networks. Bulk oil supplies for instance are generally transported by super tankers to refining plants located near to consumers which then transport quantities either by pipeline or through flexible methods. Gas and electricity by contrast are network based, requiring transmission networks in order to transfer supplies from producers or hubs to local distribution networks which in turn transfer supplies from this system to consumers (see figure 2.1). In the case of electricity such networks are generally sufficient since most production takes place within easy reach of the consumers connected to these networks. Gas on the other hand is often, like other primary energy sources such as oil, produced in locations beyond the scope of transmission networks. As a result, they usually require an additional network of large capacity, long-distance transit pipelines to transfer bulk quantities of gas from these 'upstream' fields to 'downstream' transmission and distribution networks, often crossing several national borders in the process. Gas can also be liquefied (LNG) and transported over long distances by sea before being regasified downstream and fed into local transmission and distribution networks. However, while this technology has existed since the 1960s and used globally, the majority of gas transfers are pipeline based.

Like most primary energy sources but unlike electricity, gas can be stored. It is generally stored either within pipeline networks (linepack), above ground in liquefied form, or more commonly underground in depleted oil and gas fields which generally

allow the largest storage capacities. It can then be released into transmission and distribution networks in response to demand pressures or supply disruptions. However, liquefied and underground storage is capital intensive and more expensive than the storage of oil. Underground storage also has specific geological requirements, meaning that storage is not always viable in every setting.

2.1.1 Market Structures

The substitutability and infrastructure dependence of gas has several implications for how gas markets have traditionally been structured. Firstly, gas has normally been traded on the basis of long-term contracts between the upstream and downstream elements of the gas supply chain. This has facilitated investment in transit pipelines which are high cost investments with long construction durations. Secondly, gas networks and markets have traditionally been developed on a national basis, and have traditionally been dominated by a few publicly owned companies active in most aspects of the gas supply chain. This in turn has implications for how gas supplies have traditionally been secured for these national markets.

Contracts for the supply of gas have traditionally been negotiated to cover a period of 20-25 years. They usually involved take-or-pay obligations which require transmission companies to pay for a contracted quantity of gas that producers send through transit pipelines regardless of whether they take the gas or not. Such obligations do not tend to cover the full quantity of gas, and in certain contracts there are renegotiation clauses to allow the different parties to regularly amend agreements based on shifting market circumstances (Percebois, 1986: 331). What this ensured was that producers would always be able to receive a return on their investment since even if demand for gas fluctuated, the downstream companies would still be required to pay for the contracted volumes. However these contracts also benefited the downstream companies by ensuring that they had a reliable source of supply on a long-term basis.

In addition to these take-or-pay commitments, gas prices were also linked to oil prices rather than according to supply and demand pressures. This practice was initially designed in order to allow natural gas to gain a foothold in the broader energy market at a time when oil prices were low, making gas an attractive alternative to other primary energy sources. This pricing policy benefited both the

upstream and downstream elements of the gas chain, since it allowed them to develop the gas business in competition with other primary energy sources at a time when oil prices were low. However it also meant that changes in the gas price were almost entirely dependent on developments in the oil market rather than shifts in the supply or demand of gas. Of course the actual price paid for gas and the formula used to calculate oil-indexing varies between contracts depending on negotiations between downstream gas companies and upstream producers.

The main reason for these contractual arrangements is the high costs and long lead times involved in developing gas fields and constructing transit pipelines which can be as long as 4000km, often crossing several national borders. Long-term, take-or-pay contracts have traditionally been used to facilitate the required investments by sharing commercial risk between the upstream and downstream elements of the gas business. By providing producers with guaranteed long-term demand and the transmission companies with guaranteed long-term supplies, these contracts have allowed all parties involved to recover the cost of their investment. Based on these arrangements, security of supply was guaranteed by enabling the development of the gas industry, by ensuring the availability of supplies and by providing certainty about future availability by locking producers and consumers into a long-term relationship for the duration of the contract. Furthermore it meant that once supply contracts were concluded, further supplies could be contracted from the producers since the means of transport was already in place.

The dominance of long-term contracts and fixed pipelines means that national gas markets have, at least in the earliest stages of development, tended to be dominated by a few vertically integrated gas companies (Estrada et al., 1995: 12-13). Vertically integrated companies are so called because they own and operate almost all aspects of the supply chain except production. They are often wholly or partly owned by national governments due to the strategic importance of gas (as with other energy supplies) to the national economy. Although several vertically integrated companies may coexist within national markets it is far more common for a single company to dominate and have a monopoly on domestic production, imports of gas from external sources, transmission, distribution and sales. In certain settings separate companies are responsible for particular aspects of the supply chain. Some distribution networks are owned and operated by smaller local companies or municipal governments, while production may be the responsibility of oil companies which

operate oil fields with gas deposits. However the general trend has been for single companies active in most aspects of the gas supply chain to dominate national markets.

One of the benefits of this model for security of supply according to downstream gas companies is that it allows them to maximise their bargaining power vis-à-vis producers when negotiating supply contracts. Since downstream companies typically supply all or most of a national market, they are able to offer upstream companies guaranteed levels of demand, which allows them to negotiate favourable terms. National governments which own or support these companies also have various means of improving their bargaining position through, for instance, reciprocal trade arrangements with producer states. This can help national gas companies to acquire new and additional supplies of gas from external sources on more favourable terms. However, since supplies are contracted by a small number of companies to meet national demand and prices are determined by developments in the oil market rather than the gas market, there is little prospect for competition between gas companies.

2.1.2 The Development of the European Gas Industry

The traditional gas market structure of long-term contracts, vertically integrated companies and national markets has been closely followed in the development of the European natural gas industry. Until the 1950s natural gas did not play a major role in the energy mix of Western Europe. However the discovery of the Groningen gas field in the Netherlands in 1959 and the development of natural gas fields in other European states, encouraged the development of national transmission networks (Odell, 1988: 480). During the 1970s, the oil price hikes encouraged Western European countries to diversify their energy mix away from excessive reliance on crude oil to alternatives sources such as natural gas.

Supplies from each of the main producers to national markets during the 1970s and 1980s were contracted on a long-term, take-or-pay basis. National markets were dominated by vertically integrated and usually state-owned companies which played a key role in negotiating with suppliers to bring large volumes of gas to Western Europe. In France the government nationalised the energy industry in 1946 and established Gaz de France as the national gas company. It was tasked with the

development and operation of the national transmission and distribution networks and was granted a monopoly on gas imports (IEA, 1996a). Elsewhere this role was occupied by Gasunie in the Netherlands, Distrigaz in Belgium, ENI/SNAM in Italy, and OMV in Austria (De Paolo, 1996: 97; Thomas, 1999: 43-44). In Italy and Austria, separate companies operated the distribution networks but in the case of Austria these were also state-owned. This was also the case in Eastern Europe in the former Comecon countries. In Hungary OKGT was responsible for all aspects of the oil and gas supply chain with the exception of imports and exports which were handled by another state-owned company Mineralimpex (IEA, 1999a). PGNiG was responsible for the whole supply chain in Poland while this role was filled by Transgas in Czechoslovakia (IEA, 2001).

The main exception to this arrangement was in Germany where as of 1996 there were three gas importers, eleven gas producers, eighteen transmission companies and 711 distribution companies Germany (IEA, 1998). The majority of these companies were privately owned, although some of the Länder and municipal governments had stakes in local firms (Jochem et al., 1996: 70-71). Despite this complexity the German market was still dominated by a few large companies most notably Ruhrgas. Following the reunification of Germany the formerly state-owned east German gas industry was privatised as a new company VNG which was bought by a consortium which included Ruhrgas, its main national rival Wintershall, British Gas, Gazprom and Esso/Shell (Thomas, 1999: 59).

Although national markets in Europe have tended to be dominated by a single vertically integrated company, practices of co-ownership with oil companies and the formation of consortiums have been common. Aside from the VNG example, ExxonMobil and Royal Dutch Shell each retain a 25% stake in Gasunie, while the private French oil company Elf (now part of Total) shares ownership of the transmission system in south-west France with GdF primarily because the main supply to this network is from Elf's own Lacq gas field (Thomas, 1999: 51, 70). It has also been common for companies from different Member States to cooperate with each other during negotiations with suppliers. These companies have often operated as an informal consortium with the backing of national governments in order to secure supplies on acceptable terms. When negotiating import contracts with the Soviet Union, companies such as GdF, Ruhrgas, ENI/SNAM banded together in order to exercise greater bargaining power, while during negotiations

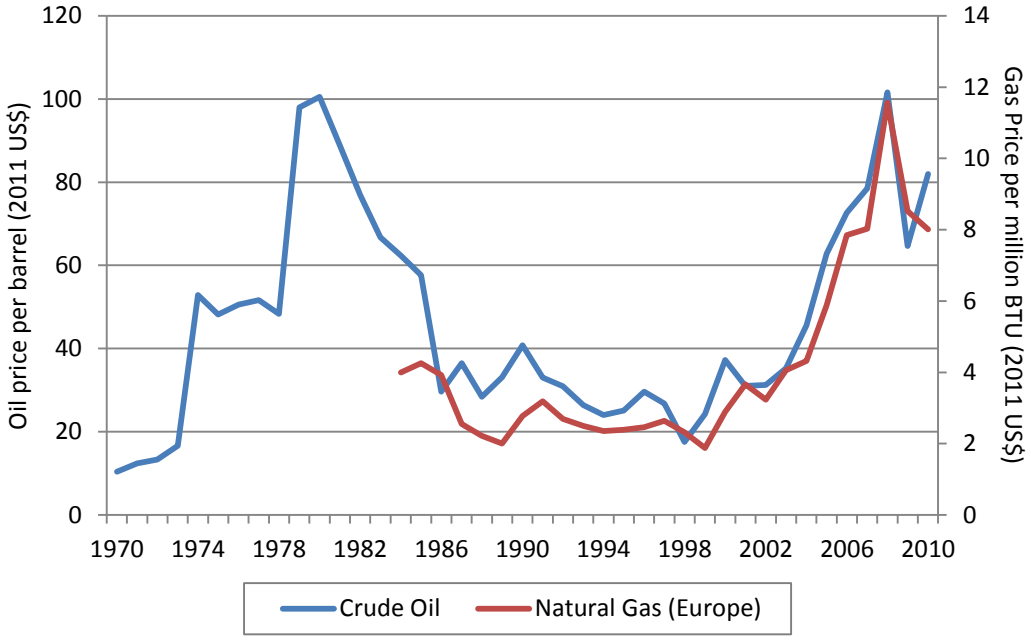
with Norway Distrigaz and Gasunie replaced ENI/SNAM in the consortium. Other companies such as OMV in Austria have also participated in these negotiations as independent buyers (Estrada et al., 1988: 98).

In the late 1980s and early 1990s there were some shifts away from this model in Europe, with some states opting to part privatise state-owned companies while often retaining a golden share[8] and maintaining the company's monopoly position in national markets. British Gas was privatised by the UK government in 1986 as a vertically integrated company before being unbundled a decade later (Barnett, 1995: 113). Italy reduced its investments in ENI/SNAM during the 1990s while retaining a 35% share (Thomas, 1999: 65). Between 1991 and 1995 Hungary's OKGT and Mineralimpex were integrated into a new company MOL and privatised with the state retaining a golden share (IEA, 1999a: 64). Following the dissolution of Czechoslovakia in 1992, the Czech Republic privatised its distribution companies in 1994 (IEA, 2001: 20). These changes were not uniform across Europe however and in most cases did not alter the dominance of national markets by a few companies or reliance on long-term take-or-pay contracts between suppliers and producers.

By the mid 1990s, national gas markets in Europe had developed along the lines of the traditional gas market model discussed above. Supplies were secured through long-term contracts between national gas companies and suppliers, while most national markets were concentrated in the hands of a few vertically integrated monopolies responsible for most aspects of the gas business within national borders. Gas prices were determined by the negotiating power of national gas companies (or cross-national consortiums) when signing contracts with producers and were linked to changes in the oil price (see figure 2.2). This also meant that in most Member States, the security of gas supplies was primarily the responsibility of these gas companies (IEA, 1995). These companies would be responsible for ensuring that sufficient counter-measures were in place to cope with supply disruptions and contracting for alternative supplies if there was a prolonged disruption from any of their main suppliers.

[8] Golden shares allow the holder to outvote all other shareholders in exceptional circumstances. They are generally held by governments in what they regard as strategic industries, giving them a veto over company decisions.

Figure 2.2: Global oil price vs. average European gas price



Source: BP (2012)

2.2 European Gas Demand and Supplies

The next step in contextualising attempts to securitise gas supplies and to develop EU level gas policy is to examine the changing supply and demand situation in Europe and individual Member States. This is crucial for understanding the future development of gas in Europe; particularly whether Member States will be able to secure adequate supplies to meet demand. It is also important for highlighting some of the similarities and differences between the Member States in terms of the role that gas plays in their energy mix.

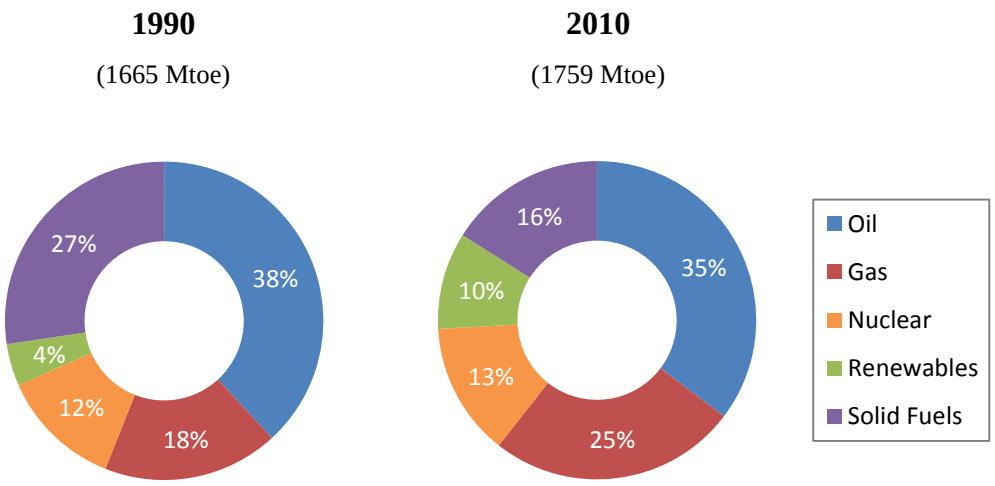
2.2.1 Energy and Gas Demand

The future availability of supplies will depend in large part on the development of demand. Increases in demand will put greater pressure on current supply sources and make the need to bring additional supplies on stream even more pressing. According to projections by the IEA and EIA, global energy demand is expected to increase by as an average of 1.6% per year to 2035 based on the assumption that there are no changes in current energy policies (EIA, 2011: 9; IEA, 2011a: 70-71). Even if efforts are made to limit consumption globally the IEA projects at least a 0.8% increase each year. Most of the increase in energy demand under both scenarios

comes from non-OECD countries where the EIA expects a 2.3% per annum increase in demand, with OECD demand only increasing by 0.6% per year (EIA, 2011: 9).

Global gas demand is similarly expected to increase, following broadly the same trends. The EIA expects the same 1.6% per year annual growth in gas demand year (EIA, 2011: 43), while the IEA expects at least 1.7% per year growth (IEA, 2009a: 74, 156). Much of the increase in demand stems from the rapid economic growth of China and India. Chinese energy consumption more than doubled over the 1990-2010, increasing at a higher rate than most other non-OECD countries. The IEA projects that its primary energy demand will almost double again by 2035 (IEA, 2011a: 593). It also expects that there will be a fivefold increase in Chinese gas demand over the same period, assuming no new policies are implemented (IEA, 2011a: 592-3).

Figure 2.3: EU27 energy mix



Source: (Eurostat, 2012b)

The comparison to these global trends, EU demand is expected to grow at a slower pace. IEA projections to 2030 indicate that primary energy demand is expected to only increase by 0.1% per year until 2030 (IEA, 2009a: 76). Gas demand is expected to either increase by an average of 0.8% per annum, however under different reference scenarios based on increasing energy efficiency it predicts that EU gas demand could drop by 18% by 2030 (IEA, 2009a: 373; 2011a: 159). While gas demand in Europe is not expected to rise substantially over the next few decades, the role of gas in Europe's energy mix has changed considerably over the past twenty

years (see figure 2.3). While energy consumption in the EU27 only increased by 5% between 1990 and 2010, gas consumption increased by 50% over the same period. Much of the reason for this increase has been the rapid expansion of gas-fired power generation following the repeal of a European ban in 1990 (IEA, 2011a: 564). As a result, gas now accounts 25% of all fuel consumed in the EU compared to 18% two decades ago.

Table 2.1: Role of gas in Member State energy mixes (%)

	1990	*2000*	*2010*	*1990-2010*
UK	22%	39%	40%	+18%
Portugal	0%	8%	18%	+18%
Lithuania	29%	35%	46%	+17%
Spain	6%	12%	21%	+15%
Italy	25%	33%	40%	+15%
Denmark	11%	22%	23%	+12%
Ireland	22%	25%	33%	+11%
Belgium & Lux.	16%	21%	26%	+10%
Hungary	32%	42%	42%	+10%
Greece	1%	6%	10%	+9%
Czech Rep	10%	19%	19%	+9%
Germany	15%	22%	23%	+8%
Austria	21%	23%	27%	+6%
Poland	8%	11%	14%	+6%
France	12%	14%	17%	+5%
Slovakia	26%	32%	29%	+3%
Finland	9%	12%	12%	+3%
Sweden	1%	1%	3%	+2%
Netherlands	40%	40%	39%	-1%
Bulgaria	22%	16%	13%	-9%
Romania	46%	42%	36%	-10%

Source: (BP, 2012)

There are however significant differences between the Member States (see table 2.1). Energy consumption has fallen considerably in several eastern Member States mainly as a result of greater energy efficiency. In Bulgaria, Estonia, Latvia, Lithuania and Romania there have also been sizeable reductions in national gas consumption during the last two decades (Eurostat, 2012b). In contrast most western Member States have considerably expanded their gas consumption. Member States which only began to develop national gas markets during the 1990s such as Spain account for some of this expansion, but there has also been an increase in many of

the larger markets in Europe. Throughout the development of gas market in Europe, gas consumption has been heavily concentrated in the larger western Member States (see table 2.2). In addition to the Netherlands and UK as the two largest producer states, France, Germany and Italy account for the vast majority of European gas consumption.

Table 2.2: Gross inland consumption (bcm) and share of EU27 consumption

	1990		*2000*		*2010*	
UK	58.3	16%	98.0	21%	86.0	18%
Germany	69.7	19%	97.3	18%	84.9	18%
Italy	47.4	13%	83.0	15%	67.0	15%
Netherlands	43.0	12%	54.9	10%	48.9	10%
France	28.2	8%	49.8	8%	39.3	9%
Total		67%		73%		70%

Source: (IEA, 2011b)

2.2.2 Gas Supplies to Europe

In order to evaluate developments in the supply situation in Europe it is important to take two main factors into account – the level of proven reserves and the level of production. Proven reserves are estimated quantities of gas which, based on current technology and economic conditions, are in principle 'recoverable'. The level of proven reserves therefore varies over time due to changes in these conditions and through the discovery of new natural gas fields[9]. Production levels are the total quantity of gas extracted from these reserves at any given time. These levels may vary as a result of policy decisions by governments, corporate strategies by producer companies, the levels of investment in technology to extract gas volumes and crucially the level of demand for gas resources at any given time.

Europe's proven reserves and production levels for natural gas are low and in decline. Throughout the 1980s and 1990s reserves varied between 3.4 and 4 tcm, but since 1999 they have declined substantially, dropping to 2.3 tcm by 2010. Production increased across Europe until it reached a peak of 232bcm in 2001 before declining to 175bcm (BP, 2012). According to projections to 2035 by the EIA, EU production will continue to decline on average by 0.9% each year (EIA, 2011: 51). Proven reserves and production vary widely across Europe with gas fields located in

[9] They also vary depending on the reliability of reserve reporting. See Bentley (2002: 195-98) for an overview of some of the problems with proven reserve data.

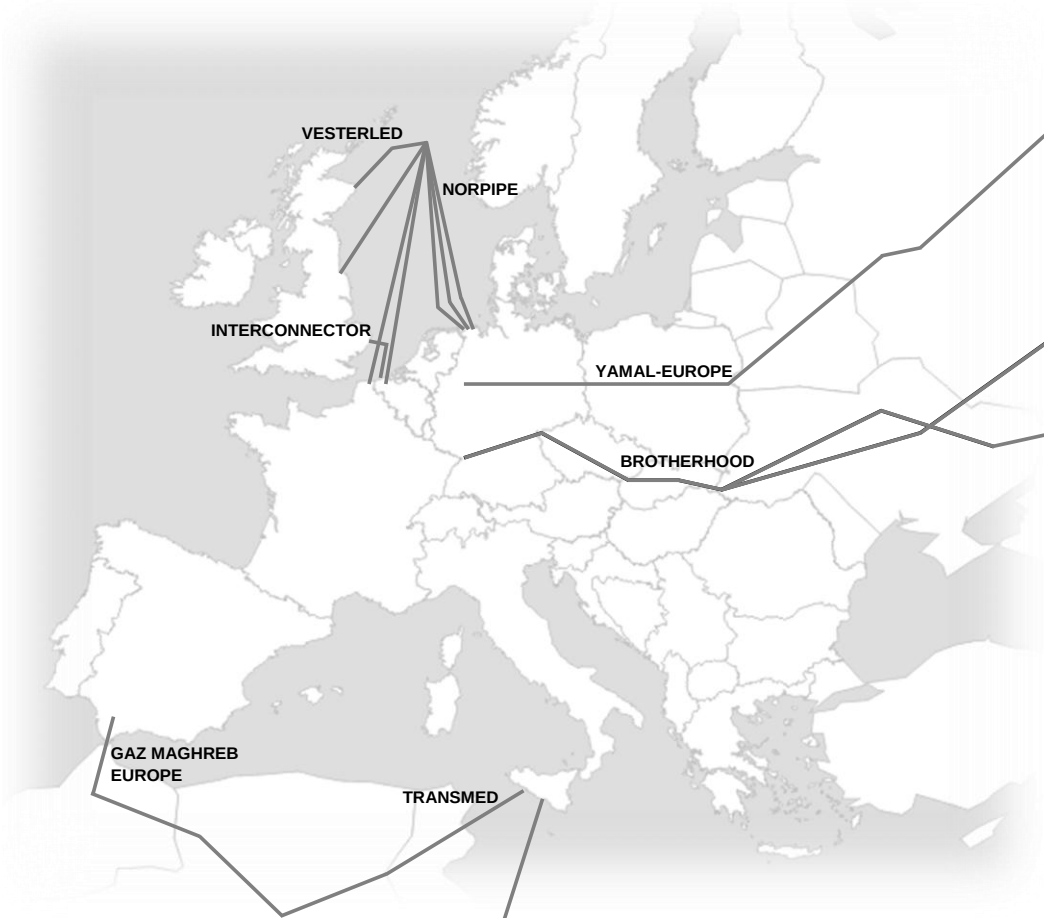
many of the current 27 Member States. These reserves however have not been sufficient to meet overall European gas demand at any point since the development of national gas markets. Four of these producers – the Netherlands, the UK, Romania and Denmark are worth examining in more detail.

The Netherlands has consistently had the largest reserves out of any member state, accounting for 47% of European reserves, and 41% of gas production in 2010 (BP, 2012). These reserves are in decline due to increased production rates since 1990 and the lack of substantial new discoveries. During this time proven reserves have dropped from 1.8 to 1.1tcm while annual production has increased from 61 to 71bcm (BP, 2012; Eurostat, 2012b). Much of this production is used to supply the Dutch gas market, but the Netherlands has also long been a major exporter of gas to other Member States. Since the 1960s it has exported to Belgium, France, Germany and Italy, and in recent years it has also exported to Luxembourg and the UK (Eurostat, 2012b). The other member state with substantial reserves is the UK, and in 2010 it accounted for 33% of gas production in the EU. Unlike the Netherlands it was only briefly self-sufficient in gas between 1996 and 2003 and its reserves are declining at a much faster rate. Prior to 1998 the UK did not export significant quantities of gas instead using it almost exclusively for domestic consumption. Following the connection of the UK to the continental transmission network in 1998 it began to export large volumes to Europe leading to substantially increased production levels in the early 2000s. At this point proven reserves were at their highest recorded level at 1.3tcm, but by 2010 proven reserves dropped dramatically to 0.2tcm (BP, 2012).

The two remaining states with significant reserves are Denmark and Romania, although neither have had particularly large reserves historically. In 1990 Denmark had 0.1tcm of reserves, which has halved over the past twenty years due to a 165% increase in production rates during this period. Romania is the only member state where proven reserves have substantially increased over this time, rising from 0.1tcm in 1990 to 0.6tcm in 2010. But production levels have more than halved over the same period, declining from 28.3bcm to 10.9bcm (BP, 2012). While these reserves and production levels are comparatively low, they have meant that both states have been able to meet most of their gas demand through domestic production. Romania has managed to meet between 70 and 84 percent of its needs over this period, while Denmark has been completely self-sufficient and also able to supply all of its immediate neighbour Sweden's gas demand (Eurostat, 2012b). These states are the

exception to the main trend however. At no point since the development of national gas markets has domestic production been sufficient to meet the Europe's total natural gas demand meaning that most Member States have had to import large quantities of gas from three main external sources.

Figure 2.4: Major transit pipeline routes to Europe



Map by author based on material in IEA (2008). This map only covers the major transit routes, and does not include any transmission and distribution networks or interconnectors between Member States.

The main supplier to Europe has historically been the Soviet Union and, since the end of the Cold War, Russia. Supplies to Western Europe began in 1968 with the construction of the Brotherhood pipeline (see figure 2.4) to Austria through Czechoslovakia and Ukraine, which also allowed the transmission of gas to most of the Eastern Bloc (Hannigan and McMillan, 1983: 43; Stern, 1984: 46)[10]. Until 1999 this was the only pipeline connecting Russia to Western Europe, with an annual

[10] Most Russian gas destined for Eastern Europe came through the Soyuz pipeline which was constructed at the same time and is connected to the Brotherhood pipeline system (Hannigan and McMillan, 1983: 43)

capacity of 30bcm. During the 1980s the Northern Lights pipeline was constructed, connecting the Urengoy gas field to Belarus and the Ukraine with a capacity of 27.9bcm (Borisocheva, 2007: 7). This allowed the construction of trunk lines to Poland and Lithuania in the late 1980s. In 1999 the Yamal-Europe pipeline through Belarus and Poland to Germany became operational, reaching full capacity in 2005. This pipeline, with a maximum capacity of 33bcm (only 17bcm is currently utilised), was until recently the only transit route from Russia which bypassed Ukraine (Borisocheva, 2007: 7)[11].

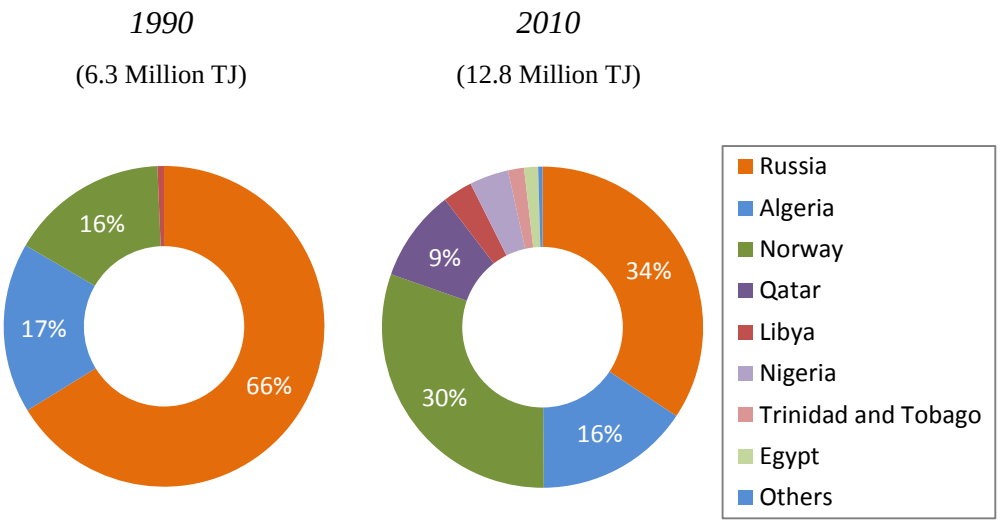
Most remaining gas to Europe is supplied by Algeria and Norway. The former began exporting LNG supplies to the UK and France in 1964, before the construction of the Transmed pipeline to Italy in 1983. This was followed in 1996 by a second pipeline under the Mediterranean Sea to Spain – the Gaz Maghreb Europe pipeline (Hayes, 2004: 1-3). The latter began supplying Western Europe in 1977 with direct supplies to West Germany and the UK through the Norpipe and Vesterled pipeline systems (IEA, 1996a: 225).

In 1990 these three suppliers accounted for 99% of all natural gas imports to the EU27 from external sources (see figure 2.5)[12]. By 2010 this had dropped to 80%, with several other suppliers entering the European market. This does not mean that supplies from the three main sources have decreased however, since gas consumption has increased over this time. Between 1990 and 2010 there has been a slight increase in Russian gas imports, while Algerian imports have nearly doubled and Norweigan imports have increased almost fourfold (Eurostat, 2012b). As can be seen in figure 2.5, this means that while Russia accounted for two thirds of imports from external sources in 1990 it now accounts for just over a third. Algeria has meanwhile managed to maintain most of its share of imports, while Norway now accounts for almost the same share of imports as Russia.

[11] The recently constructed Nord Stream pipeline through the Baltic Sea to Germany also bypasses the Ukraine but it is not yet complete and falls outwith the scope of this thesis.

[12] Imports from external sources were calculated based on the total imports from identifiable external suppliers of gas in Eurostat statistics (see Eurostat, 2012b). Although Eurostat also reports on total import figures for the EU27 and each member state, those figures include imports from other EU Member States, most notably the four states discussed above. Focusing on external sources gives a better indication of the role that these non-EU states play in Europe's gas supplies without duplicating the above discussion on Europe's domestic production. Regardless of which measure is used however, the trend is the same – these three suppliers account for 83% of *total imports* in 1990 and 62% in 2010.

Figure 2.5: EU27 natural gas supplies from external sources



Source: Eurostat (2012a)

Based on current projections there appears to be no real shortage of natural gas available from these three suppliers. As of 2010 Russia has the largest proven reserves of natural gas in the world with 44.8 tcm[13]. Algeria and Norway trail Russia somewhat with 4.5 tcm and 2 tcm respectively, but together these three suppliers control 27% of global proven reserves (BP, 2012). Based on these countries' 2010 reserve-to-production ratios, which is a simple measure of how many years of they can maintain supplies remain at current production levels and assuming no new discoveries, Russia has 76 years of supplies remaining while Algeria has 56 and Norway has 19[14]. There is however some doubt as to whether Russia will be able to substantially increase supplies to the EU over the coming decades. Production in Russia's main Siberian fields is in decline and Gazprom currently has to make up any shortfalls by buying gas from Turkmenistan (Noël, 2008: 5). Much will depend on whether it is able to develop new fields in western Siberia and the large Shtokman field. The former is expected to come online in the next few years, while the latter

[13] There is some disagreement about whether the figure is accurate however. Bentley notes that the Russian proven reserves figures are only updated sporadically and casts some doubts over the accuracy of Russian reporting (2002: 197), while the International Energy Agency suggests that under different measuring systems the figure is approximately 26 tcm (IEA, 2011a: 303). Nonetheless, this would still mean that Russia has the largest reserves according to the BP Statistical Energy Review (and therefore the Oil and Gas Journal) assuming reported figures for other producers are accurate.

[14] Reserve-to-production ratios are admittedly a rather crude measure of how long supplies will last. According to Hubbert peak theory, hydrocarbon production tends to follow a bell-curve which means that production peaks far earlier than the R/P figure reveals and therefore places strong limits on the future availability of supplies. However these ratios are only used to give an indication of the different reserve and production levels between these three suppliers. An examination of whether they have reached peak gas or not is outside the scope of this thesis.

should be operational by 2020 but there have already been major delays in bringing both online (Noël, 2008: 5-6; IEA, 2011a: 304-08).

Beyond the three main suppliers, Europe is in a favourable situation regarding potential supplies. At least two thirds of the world's gas reserves are located in the regions bordering Europe and are located within reach of potential transit pipelines (Buchan, 2009: 103). There is also the potential for additional volumes from further afield to be transported by LNG tankers. In recent years various additional suppliers have began to export gas to the EU, with the largest volume of new supplies coming from Qatar. As of 2010, Qatar has the third largest gas supplies in the world and began exporting LNG supplies to Europe in 1997 (BP, 2012). Since then, the volume of supplies has gradually increased to 0.3 million TJ in 2008. There has been a more rapid expansion in the last few years with volumes reaching 1.1 million TJ in 2010. There have also been large expansions in imports from Egypt, Libya, Nigeria and Trinidad and Tobago during the 2000s. Together these suppliers (excluding Qatar) have a combined share of 10% of EU27 imports from external sources in 2010 (Eurostat, 2012b).

In summary, there has been a major expansion in European gas demand and the role of gas in the energy mix between 1990 and 2010. Significant differences exist between western and eastern Member States however. While gas consumption has increased in the former it has decreased in many of the latter. Supplies to the EU have long been concentrated among three major suppliers – Russia, Algeria and Norway – however between 1990 and 2010 there has been a degree of diversification with other gas producers supplying gas to European markets.

2.3 Energy Dependence and Supply Disruptions

Demand and supply trends important for understanding the past and future development of natural gas markets in Europe. However another important contextual consideration is the level of dependence. This can take two main forms. If a state or any other political unit is unable to meet its energy needs solely through its own internal production and therefore has to import supplies from external sources then it is typically referred to as *import dependent*[15]. In cases where a state is

[15] Import dependence is calculated by dividing net imports (total imports-total exports) by gross inland consumption + international bunkers.

reliant on a specific external source for all or most of its supplies of a particular form of energy then it is *source dependent*[16].

In most academic and governmental literature on energy policy, both types of dependence are frequently discussed as core components of energy security (APERC, 2007). Most attempts to quantify energy security include import dependence as a key indicator, while many attempts to examine the energy security situation in particular regions or states lend their support to measures which reduce import or other forms of dependence (Turton and Barreto, 2006; Belkin and Morelli, 2007). In the majority of cases the basic reason for using dependence as an indicator of energy security is that if supplies are disrupted there will be a greater impact on the availability and affordability of energy if the affected state has a high level of dependence than a lower level of dependency.

It should be emphasised however that whether dependence of any kind is regarded as a security threat or risk is ultimately dependent on the whether it is socially constructed as such, rather than being an objective and incontestable fact. There has for instance been a long-standing debate in the USA about whether energy *independence* or *interdependence* should be the guiding principle of energy policy, particularly with regards to oil. Advocates of energy independence regard high levels of dependency as either a security threat in its own right or as a contributing factor in other security threats. Generally they argue that the USA should attempt to become self-sufficient by satisfying as much energy demand as possible through domestic production. Proponents of energy interdependence argue instead that since supplier and consumer states are bound together through mutually beneficial energy trade, dependence is not in and of itself a security concern. Instead such interdependence can foster more harmonious political and economic relations between consumer and producer states. The overlaps between these interpretations of energy dependence and conflicting neo-mercantalist and neo-liberal theories of International Political Economy are striking (Dannreuther, 2010).

The main themes of the independence-interdependence debate are also evident in EU energy discourse and policy making and will be examined more fully in later chapters. But the crucial point for now is that what these two perspectives disagree

[16] There is no standard way of calculating source dependence. In this section it is calculated as total imports from the source divided by gross inland consumption. Note that this is a different measure than the 'share of external imports' used in the above section on 'Gas supplies to Europe'.

about is not the level of energy dependence. Import and source dependence are objective facts which can be calculated using basic energy statistics. What they disagree about is what these facts mean. What level of dependence is acceptable? Do current levels of dependence constitute a threat? What policies should be pursued in order to alleviate or manage these issues? Answers to these questions cannot be found by analysing energy statistics since there is no universally accepted threshold for when dependence becomes negligible, acceptable or threatening. Answers to these questions depend on the social meanings that are attached to these statistics by political actors, and will be explored in later chapters.

Nonetheless these figures are important in order to understand attempts to construct dependence as threatening, not least of all because it reveals important differences in the level and type of dependence in each member state. This section examines the import and source dependence situation in Europe as a whole before turning to these national differences. It concludes by discussing the issue of gas supply disruptions in Europe by reviewing the impact of the recent 2006 and 2009 disruptions on the Russia-Ukraine route, and how they varied between Member States.

2.3.1 European Dependence

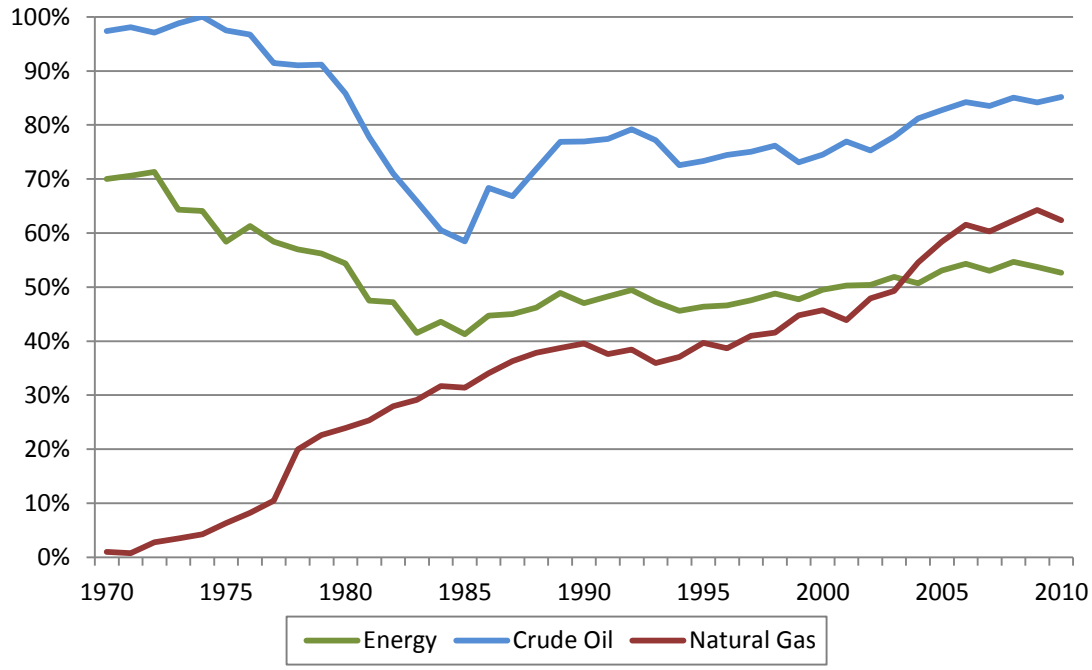
The European Union is currently import dependent for natural gas, energy and oil. In 2010 the EU27 as a whole was 62% dependent on external sources of natural gas (Eurostat, 2012a: 69). The European gas industry association Eurogas predicts that by 2030 the EU27 will be more than 70% dependent (Eurogas, 2010: 10). The IEA expects import dependence to be even higher, reaching 83% by the same date (IEA, 2009a: 120). Over the same time period, it is expected that overall energy dependence will increase from 53% to 65% and oil dependence will increase from 85% to 93% (Commission, 2007b: 3; IEA, 2009a: 117; 2012a: 64, 69).

The current and projected levels of natural gas import dependence are unprecedented in the history of European integration (see figure 2.6). The rapid expansion of imports during the late 1970s and 1980s led to an increase in dependence[17] from 3%

[17] Since the aim of this section is to place current and projected dependence levels in the context of the history of European integration these figures are based on the membership of the EU/EEC in each year rather than the current 27 Member States. As a result some variation is a result of enlargement, but it should be noted that available figures for all 27 Member States follow broadly the same trend for natural gas in particular because, as discussed above, western Member States account for the overwhelming majority of gas consumption in the EU27.

during the first oil crisis to 23% by the second crisis and 40% by 1990. Throughout the 1990s gas dependency continued to rise to 46% before rapidly expanding after the 2004 enlargement to a high of 64% in 2009.

Figure 2.6: European energy dependence



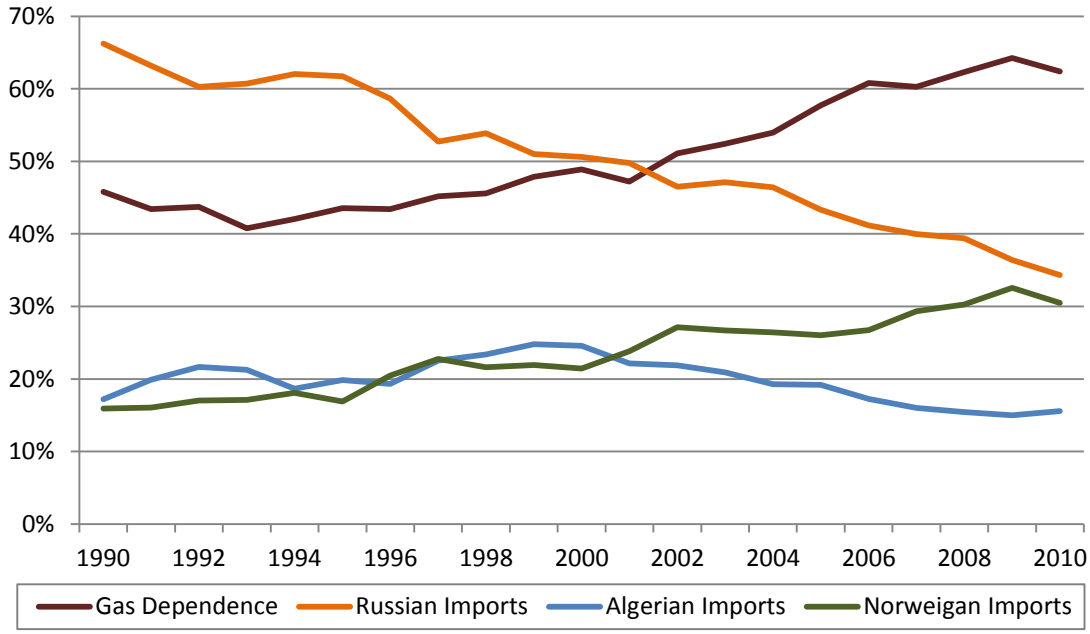
Source: Authors own calculations based on Eurostat figures. Dependence figures are cumulative, based on membership of EU/EEC in each year (i.e. 6 Member States in 1970, 27 Member States in 2010).

By contrast the current and projected dependencies on energy and crude oil remain below the levels reached during the 1970s. Energy dependence was at its highest in 1972 when it reached 71% before falling to a low of 41% by 1985. Since then, energy dependence has gradually been on the increase, eventually reaching a high of 55% in 2008. Oil dependence has followed much the same pattern and at least until the 2000s has been the main driving force behind increasing energy dependence. Between 1974 and 1985, oil dependence fell from a high of 100% to a low of 58%. However following the enlargement of the EEC to include Spain and Portugal in 1986, oil dependence began to increase, reaching 77% by the end of the Cold War. During the 1990s crude oil dependence fluctuated between 73% and 79% before increasing during the 2000s from 75% in 2000 to 85% in 2010. As a result of these fairly gradual increases, energy and oil dependence in 2010 returned to the same level as in 1980 following the second oil crisis. It is worth noting that the EU27's current gas dependence is now at similar levels to its crude oil dependence in the early 1980s when it reached its lowest levels over the last forty years. However in

2004 the EU27's gas dependence moved above its total energy dependence for the first time and this trend is set to continue.

The clear trend is for increased import dependence in natural gas, energy and oil over the next few decades. However while EU27 natural gas dependence has increased, particularly in the last twenty years, this has not been accompanied by a similar increase in source dependence. Instead dependence[18] on Russia decreased from 31% to 21% between 1990 and 2010 (see figure 2.7). This does not of course mean that supply volumes from Russia have decreased. As discussed above there has been a slight increase in the total volume of Russian supplies to the EU27 over the same period. At the same time however, additional supplies to Europe have been sourced from alternative producer states, most notably Norway which now accounts for 19% of Europe's gas supplies. In 1990 Norwegian gas only accounted for 7% of European gas consumption but rapidly increased during the 2000s. Meanwhile the role of Algerian gas has only slightly increased from 8% in 1990 to 10% in 2010. What this means in terms of source dependence is that Europe has become less dependent on a single source of gas now that Russian and Norwegian gas account for similar amounts of European gas consumption.

Figure 2.7: EU27 import and source dependence



Source: Eurostat, 2012a

[18] Figures for source dependencies were calculated as the share of each producer's exports to the EU27 in gross inland consumption.

2.3.2 National Dependence

These two broad trends towards increasing import dependence and decreasing source dependence only tell part of the story however since these dependences are not spread evenly across the Member States. Since at least 1990, most Member States have been at least 60% import dependent, with some this figure reaching nearly 100% in some Member States. As discussed above, there are four Member States with significant reserves of their own. Romania and the UK have considerably lower levels of import dependence than the other Member States, while the Denmark and the Netherlands are net exporters of gas and therefore have no import dependence (see table 2.3)[19]. What makes this particularly significant however is that the Netherlands and UK, as discussed in the above 'Energy and Gas Demand' section, have over the past two decades accounted for almost a third of all gas consumption in the EU.

There are greater differences between the levels of source dependence in each member state. Focussing again on Russia as the largest gas supplier to the EU27 there is a relatively clear division between western and eastern Europe[20], with many Member States from the latter highly dependent on Russian imports in order to meet their gas needs (see table 2.4)[21]. Most strikingly, at various points over the last twenty years Russia has been the sole gas supplier to Bulgaria, Estonia, Finland, Latvia, Lithuania and Slovakia. It has also been the dominant supplier to Austria, the Czech Republic, Greece, Hungary and Poland. The only member state from Eastern Europe that has not been source dependent on Russia is Romania, and between 1990 and 2010 its dependence has actually decreased from 21% to 16%.

[19] Negative figures indicate that the member state is a net exporter of natural gas. Figures over 100% indicate that the member state imported more gas than was required to meet demand during that year, for instance to fill storage.

[20] For the purposes of looking at source dependence, 'western' and 'eastern' Europe refers to geographic location of Member States rather than the EU15 and EU12.

[21] Excludes Member States who, prior to 2005, imported less than 5% of their gas from Russia (Belgium, Denmark, Ireland, Luxembourg, the Netherlands, Portugal, Spain, Sweden and UK) and those which do not have developed gas markets (Cyprus and Malta).

Table 2.3: EU Member States: natural gas import dependence (%)

	1990	*2000*	*2010*		*1990*	*2000*	*2010*
Austria	86	81	74	Latvia	108	102	62
Belgium	101	99	99	Lithuania	100	100	100
Bulgaria	100	94	95	Luxembourg	100	100	100
Czech R.	91	100	85	Netherlands	-77	-49	-62
Denmark	-51	-65	-68	Poland	76	66	69
Estonia	100	100	100	Portugal	0	100	100
Finland	100	100	100	Romania	21	20	17
France	94	100	93	Slovakia	105	99	100
Germany	76	79	82	Slovenia	95	99	99
Greece	0	99	100	Spain	74	102	99
Hungary	58	75	79	Sweden	100	100	100
Ireland	0	72	93	UK	13	-11	38
Italy	65	81	91				

Source: Authors own calculations based on Eurostat figures (2012a)

Table 2.4: Russian natural gas imports as a share of consumption (%)

	1990		*2000*		*2010*	
	Gas	*Energy*	*Gas*	*Energy*	*Gas*	*Energy*
Slovakia	105	26	99	33	100	29
Latvia	113	35	102	31	62	21
Lithuania	103	31	100	30	100	38
Hungary	58	18	67	26	57	22
Austria	83	18	65	15	83	20
Bulgaria	101	20	94	15	95	12
Czech Rep.	91	10	78	15	76	14
Estonia	100	12	100	14	100	10
Finland	100	8	100	11	100	11
Italy	29	8	30	10	18	7
Romania	21	10	20	8	16	5
Germany	38	6	39	8	37	8
Slovenia	95	13	60	8	47	6
Poland	76	7	54	6	62	8
Greece	0	0	73	5	52	6
France	32	4	29	4	14	2

Source: Authors own calculations based on Eurostat figures (2012a). Sorted by average imports as share of energy consumption between 1990 and 2010.

By contrast most of the Western Member States have more diversified gas supply sources and are therefore less dependent on Russian gas. Although France and Italy have higher levels of dependence on Russian gas than most of Western Europe, dependence has decreased during the last twenty years. However Germany stands out as the western member state with the highest level of dependence on Russian gas. It has consistently imported just over 35% of its gas from Russia over the last twenty years. Such a figure is not wholly atypical, considering that France and Italy nearly reached this level in 1990, but unlike these two Member States Germany has maintained its level of source dependence on Russia throughout the past twenty years.

Cutting across this east-west variation in source dependence, there are considerable differences in the role of Russian gas in each Member States' overall energy consumption. In otherwise highly source dependent Member States such as the Czech Republic, Estonia, Finland, Greece and Poland, Russian imports have consistently accounted for less than 15% of total energy consumption. The role of Russian gas in France's energy mix is also exceptionally low, while also remaining low in Germany. However in three of the six Member States which are 100% dependent on Russian gas the role of Russian gas in their overall energy mix is considerably higher. Russian gas has consistently accounted for at least 20% of total energy consumption in Latvia, Lithuania and Slovakia, although in Latvia this has declined markedly from a high of 35% to 21% over the two decades. Due to the relatively large role that gas plays in the energy mixes of Austria, Bulgaria and Hungary, Russian gas has consistently accounted for between 15% and 20% of energy consumption, although in Bulgaria this declined from 15% in 2001 to 12% in 2010.

2.3.3 Supply Disruptions

What this analysis shows is that while Europe and most of its Member States are highly import dependent, there are significant variations in the level of source dependence. Although dependence on Russian gas has declined in recent years, some Member States remain entirely dependent on external sources of supply. One of the major consequences of national dependence variation is that each Member State has different levels of exposure in the event of gas supply disruptions. Throughout the history of gas use in Europe, supplies have been disrupted on a

number of occasions. Most of these disruptions have involved a temporary reduction in supplies for a short period of time rather than a complete interruption of gas flows, and have had little impact on European consumers.

Disruptions occur for a variety of technical, economic and political reasons. Technical disruptions occur when supply facilities or key infrastructure are disrupted as a result of accidents, natural catastrophes or adverse weather conditions. For instance supplies from Russia were disrupted in 1981 because of a 33% production cut over three months due to a particularly harsh winter in Siberia (Stern, 1984: 54). Economic disruptions can occur as a result of commercial disputes between companies for a variety of reasons, most notably during the renegotiation of supply and transit terms. Political disruptions may occur due to political instability in producer states or if key infrastructure is subject to attack by terrorist groups or other sub-national groups. Producer states may withhold supplies due to disputes with transit or consumer states, while transit states may disrupt supplies bound for consumer states as part of a political or commercial dispute with producers. By cutting production or disrupting supplies, producer states can impose economic costs and politically influence consumer or transit states.

Politically, the most significant disruptions have occurred during the 2000s, when Russian supplies to Europe were disrupted on three separate occasions as a result of commercial disputes between Russia and the transit states Belarus and Ukraine. In each case the dispute was over the prices paid by these states for Russian gas, the transit fees paid by Gazprom, and the accumulated debt of the gas industry in these transit states to Gazprom built up during the 1990s and 2000s. The origin of these disputes lies in the years following the break-up of the Soviet Union. Following the split, newly independent Soviet states continued to receive gas supplies from Russia at prices which are a similar level to those paid by Russian consumers. This price was significantly below the price paid by EU consumers through the long-term oil-indexed contracts they had signed with the USSR which were now fulfilled by Russia. The Russian gas company Gazprom accepted these arrangements in Belarus and Ukraine for different reasons. In Belarus low prices were conditional on the privatisation of the Belarusian transit and transmission network and the creation of a joint venture between Beltrangaz and Gazprom to own these networks (Yafimava and Stern, 2007: 2). No such arrangement existed in the Ukraine, but it was and is the main transit state for Russian gas supplies to Europe. Throughout the 1990s,

Russia experienced severe economic problems and was reliant on the currency earnings from gas exports to the EU, meaning that it continue to subsidise Ukraine consumers in order to ensure that supplies flowed westward. Ukraine for its part was also facing severe economic difficulties and frequently failed to pay for gas supplies from Russia, accumulating large debts to Gazprom (Stern, 2006: 2-3). It did disrupt supplies to the Ukraine on a few occasions during the 1990s as a result of these growing debts, but it ensured that these disruptions were short so they didn't have any significant impact on supplies to European consumers (Pirani et al., 2009: 8).

In the early 2000s the rise in global oil prices led to a rise in European gas prices due to the pricing arrangements for long-term contracts (see section 2.1.2 above). This led to a greater disparity between gas prices in the EU and the transit states. Gazprom therefore had greater incentives to try and address this disparity by increasing prices in transit states to match EU prices minus transit costs (netback prices) (Stern, 2006: 3-7; Pirani et al., 2009: 7). Unsurprisingly Belarusian and Ukrainian gas companies did not want to pay this higher price.

Following the privatisation of the Belarusian network, negotiations on the joint venture between Gazprom and Beltransgaz broke down because of disagreements about how much the venture was worth, with the Gazprom valuation considerably below that of Beltransgaz and the Belarussian government. Gazprom threatened to increase gas prices if Belarus did not sign the agreement. When Belarus refused to at the start of 2004, Gazprom stopped supplies to via the Northern Lights pipeline. Once Belarus had used all other gas supplies it began to extract gas from the Yamal-Europe pipeline that was destined for Western Europe. As a result Gazprom stopped those supplies as well. This led to a 36 disruption in supplies to Europe beginning on February 18th. The dispute was settled with Beltransgaz accepting a slight increase in the supply price (Yafimava, 2010: 3-4).

In the Ukraine, attempts to resolve longstanding debt issues led to an agreement to form a consortium of Gazprom, the Ukrainian transit company Naftogaz and some European gas companies which would own, operate and upgrade the Ukrainian transit network (Stern, 2006: 2-3; Pirani et al., 2009: 5). However following the Orange Revolution in Ukraine the consortium agreement collapsed, reopening the debt issues. In similar circumstances to the Belarussian disruption, Gazprom threatened to increase supply prices if the consortium was not formed, while the

Ukraine stated it would increase transit tariffs in response. When Ukraine refused to pay the higher supply prices, supplies on the Brotherhood pipeline were shut off for three days at the beginning of 2006 which led to a short-fall in supplies to Europe.

Following these disruptions, Russia and Gazprom continued to put pressure on Belarus and the Ukraine to pay the full European gas price as oil prices continued to rise throughout the 2000s. By 2007 Belarus had agreed a timetable for transition to netback pricing, but the Ukraine refused to do so. The dispute continued into 2008 with little sign of agreement before Gazprom announced its intention to go ahead with the price rise at the start of 2009 declaring that supplies would be shut-off if no agreement was reached (Pirani et al., 2009: 5). As a result of the failure of Gazprom and Naftogaz to agree on revised terms, supplies were through the pipeline were reduced on January 6th before being stopped entirely the following day. Deliveries only restarted following the signing of a new ten year contract between the two states (Pirani et al., 2009: 26).

Table 2.5: Impact of Russia-Ukraine supply disruptions on EU Member States

	2006		*2009*	
	Reduction in imports	*Dependence on Russia*	*Reduction in imports*	*Dependence on Russia*
Austria	33%	70%	66%	68%
Bulgaria	Unknown	88%	100%	96%
Czech Republic	Unknown	75%	71%	86%
France	25-30%	20%	15%	15%
Germany	Unknown	38%	10%[22]	43%
Greece	Unknown	83%	80%	65%
Hungary	40%	60%	45%	69%
Italy	24%	27%	25%	28%
Poland	14%	46%	33%	51%
Romania	20%	30%	34%	28%
Slovakia	33%	103%	97%	99%
Slovenia	33%	60%	50%	47%

Sources: Figures for shortfalls in Russian imports are from (BBC News, 2006; Stern, 2006: 8-9; Commission, 2009d: 64-76; Pirani et al., 2009; Gas Coordination Group, 2009b). Russian dependence figures are author's own calculations based on annual Eurostat figures for 2005 and 2008 (2012b).

[22] 60% shortfall in Southern Germany

The impact of the two Russia-Ukraine disruptions varied considerably between Member States, based in large part on their dependence on Russian gas imports in order to meet their gas and energy consumption needs (see table 2.5). In 2006 the greatest shortfall in supplies was in Hungary which lost 40% of Russian imports, while Austria, Slovakia and Slovenia lost a third of supplies. The disruption also had an impact on Western Europe with reduced supplies to France, Germany and Italy. Most of the affected Member States had in excess of 50% dependence on Russian gas imports in 2005. In 2009 the impact of the disruption was more severe since supplies were reduced over nearly three weeks during a cold winter in Eastern Europe. Once again Slovakia was hit hardest along with Bulgaria which lost almost its entire gas supply. Many other Member States lost at least a third of their Russian supplies prompting them to enact emergency measures to substantially reduce demand and draw from alternative supplies in other European Member States.

2.4 Conclusions

This chapter has sought to place recent developments in European gas markets and EU gas policy into context. The first section set out the special characteristics of gas supplies in comparison to other primary energy sources and the manner in which gas markets developed in Europe until the 1990s. It argued that the national gas markets in Europe have closely followed the traditional model for gas market development. National markets have been concentrated in the hands of a few vertically integrated monopolies responsible for most aspects of the gas business. These companies have been responsible for securing adequate gas supplies by signing long-term take-or-pay contracts with producers.

The second section examined changes in the demand and supply situation for Europe. It concluded that there has been a major expansion in European gas demand and the role of gas in the energy mix between 1990 and 2010, with Russia, Algeria and Norway supplying the majority of gas supplies. There are however significant differences between the Member States however, with western Member States accounting for most of the expansion in gas consumption.

The third section assessed the levels of import and source dependence and the impact that recent disruptions have had on gas supplies. It argued that there has been a fairly uniform trend towards increasing gas import dependence for the EU as a whole and for the majority of Member States. There are however greater differences in the level of source dependence. While EU source dependence on Russia decreased between 1990 and 2010, many of the eastern Member States have remained almost completely dependent on Russian supplies. As a result, the interruption of gas supplies from Russia in 2006 and 2009 had a greater direct impact on the availability of gas supplies in these Member States than in Western Europe.

To be clear, the aim of this chapter was not to assess the objective existence of threats to the security of energy or gas supplies. As argued in chapter one what is or is not a security threat is a social construction, and whether a set of conditions constitutes a threat to some referent object can only be examined by looking at how the referent object is valued and framed within discourse and what policy actions are enacted to deal with identified threats. The question of whether or not gas supplies have been securitised will be the focus of the following chapter.

3 Discourses of European Gas Security

This chapter aims to address the first research question of this thesis: *To what extent have natural gas supplies to the European Union been securitised and how has this process occurred?* It does this through the historical analysis of European energy policy discourse between 1979 and 2010. By examining key statements by the main actors involved in this policy area this chapter tracks change and stability in how gas supplies are represented within discourse, focusing in particular on constructions of threat and the means through which security of supply should be achieved.

This historical approach to discourse analysis, as set out in chapter one, was adopted in order to address a major shortcoming of most empirical examinations of securitisation which focus on short-term framing contests between securitising actors and audiences and as a result have a tendency to overemphasise the extent of discursive change. By adopting a historical approach it is possible to track whether there are indeed major shifts in threat and authority constructions, and whether certain elements of these constructions remain relatively stable over time.

The chapter is divided into five sections. The first section sets out the initial conditions for European energy discourse by briefly discussing the response of the EU to the 1970s oil crises. This provides the context for examining the discourse throughout the rest of this chapter. The next three sections focus on three distinct periods of EU energy discourse – 1979-1998, 1999-2005 and 2006-2010. Each section examines the discourses of the different policy actors in order to gauge the extent to which gas supplies were securitised during this period. The final part of this chapter summarises the main findings about the degree of change in subjective and intersubjective understandings of threat and authority across the three periods in order to assess whether or not gas supplies have been securitised or not within European policy-making.

3.1 The 1970s Oil Shocks

European energy policies in the 1970s were largely defined by the oil price shocks in 1973 and 1979. The first shock came when, in response to Western support for Israel during the Yom Kippur War, Saudi Arabia and other Arab members of OPEC announced that oil supplies to those states would be embargoed. This second shock followed the disruption of supplies during and immediately after the Iranian revolution. With the outbreak of war between Iran and Iraq in 1980 almost all supplies from both of these countries were disrupted. These supply disruptions pushed up oil prices causing substantial economic hardship in developed Western economies where oil occupied a particularly prominent role in the energy mix. Western Europe was severely affected as it was almost completely dependent on oil imports unlike the United States which was able to meet much of its oil needs through domestic productions.

Prior to the oil shocks there was virtually no trace of an EU energy policy, with almost all important policy decisions on energy matters taken solely by the Member States. In 1968 however the Commission took the first steps towards a Community energy policy when it formulated guidelines for the cooperation of Member States. In these guidelines it proposed the development of a single market for energy, combined with European measures to cope with supply disruptions, as the two key components of a Community energy policy (Commission, 1968: 6, 11). Although the Commission expressed some concerns about the "risks arising from the great dependence of the Member States on imports and from insufficient diversification of the sources of supply" (Commission, 1968: 6) this was not its main focus. Instead it focused primarily on the major disparities in the cost of energy between the Member States and argued that this was "increasingly distorting consumption in industries with high energy consumption", maintaining that this could only be addressed by incorporating energy into the broader Community goal of moving towards a single market (Commission, 1968: 5).

In the wake of the first crisis the Member States did not respond in a coordinated manner or make any moves towards such an EU energy policy. Instead individual states pursued their own policies in isolation from each other and scuppered any attempt to develop a Community energy policy (Deese and Miller, 1981: 202; Yergin, 1991: 627). The UK and France engaged in active diplomatic efforts to

court the members of OAPEC, with France in particular seeking to distance itself from the United States' support of Israel. Germany maintained its support of United States policy but merely expressed it's 'disappointment' at the supply disruption rather than actively criticising OAPEC (Mendershausen, 1976). The Netherlands meanwhile was more forthright in its support of the United States and its criticism of the OAPEC states and as a result remained embargoed. When other Member States considered restricting oil exports to the Netherlands, which would have violated the restrictions in the Rome Treaty on imports and exports within the Community, the Dutch government threatened to reciprocate by shutting off gas exports to the rest of Europe (Yergin, 1991: 628).

Such responses were clearly in tension with the Commission's proposals to establish a single market for energy, let alone EU level measures to manage supply disruptions. This did not mean however that Member States were completely opposed to the idea of cooperating during supply disruptions. Following the first oil shock, the U.S. Secretary of State Henry Kissinger proposed the establishment of cooperative mechanisms through the OECD to respond to disruptions to oil supplies. This led to the establishment of the International Energy Agency (IEA) through an agreement between sixteen Western developed states which included all the EC Member States with the exception of France (Scott, 1994). While the Member States were not opposed to cooperation, they did not view the European Community as the most appropriate forum for dealing with energy security issues.

3.2 In the Shadow of Oil – Desecuritisation of Natural Gas (1979-1998)

3.2.1 Commission

During and immediately after the second oil price shock in 1979 the Commission's energy discourse was almost completely dominated by oil security concerns. In 1979 it issued proposals for new community energy objectives which proposed targets to limit Member States dependence on all external sources of energy to 50% and to reduce energy consumption within the Community (Commission, 1979). By the 1980s, the Commission focused on assessing whether energy sources other than oil were susceptible to the same security concerns, and whether diversifying Europe's

energy mix by increasing the role of these other sources could improve oil and energy security (Commission, 1980e). Gas, as a developing energy source in Europe, was the focus of a series of reports by the Commission which sought to reassure Member States that gas supplies were far more secure than oil supplies in both the short and long term (Commission, 1980c: 4; 1984a: 5; 1984b: 9; 1986: 4). In the short-term the Commission argued that the likelihood of significant temporary gas supply disruptions was very low and that the European gas industry was well equipped to deal with any such disruptions. It based its assessment on the gas industries own projections concluding that all Member States, including those which were most dependent on external sources of gas, would be able to cope even if multiple sources of gas supplies were disrupted simultaneously (Commission, 1981: 1; 1982b: 7). In the long-term, the Commission argued that an increase in dependence on external sources of gas would not pose no potential risks to Europe or individual Member States (Commission, 1980c: 4; 1986: 12). Although they expected import dependence to increase in the short-term, eventually reaching similar levels to its projections for oil by 2000 they argued that such increases would not be 'excessive' (Commission, 1986: 4, 12). It stated that increasing import dependence would not pose any security problems provided that there was sufficient diversification of sources of gas supplies in Member States (Commission, 1985a: 18).

The portrayal of gas supplies as secure did not stop the Commission issuing several recommendations to Member States for national measures they could adopt in order to maintain or improve the security of their gas supplies. In the short-term they suggested measures such as interruptible contracts, the development of spare production capacity, greater levels of interconnection between Member States and storage of gas or substitute fuels (Commission, 1981: 2; 1982b: 8; 1984a: 13). Longer-term, the Commission argued that the diversification of external sources of natural gas should be "vigorously pursued" by Member States (Commission, 1982a: 5). They also argued that domestic gas exploration, development and production should be encouraged (Commission, 1980c: 2, 5; 1981: 5; 1986: 3), not in order to reduce import dependence, but to allow for temporary increases in domestic production during short-term supply disruptions if necessary (Commission, 1984a: 5).

All of these measures were national in focus however and the Commission largely refrained from proposing EU level measures during the early 1980s, instead focusing on formulating broad community energy objectives as it had during the 1970s oil price rises. At one point it raised the possibility of putting in place minimum gas stock levels in each member state, but did not put forward any formal proposals (Commission, 1984a: 11). It also continued to make the case, as it had prior to the oil crises, for the development of a single gas market, emphasising the potential benefits this would have for the short-term security of supply:

> "To the extent that the Community can become a common gas market, and that Member States were willing to help each other out in case of need, the burden on individual Member States of ensuring adequate supplies to individual users in case of a supply disruption [would be reduced]"
>
> (Commission, 1984a: 13)

However this 'desecuritising move', i.e. the attempt to argue that there was an absence of threats to gas, also has to be seen in the context of engrained concerns about the security of oil supplies, particularly in the early 1980s. An increase in gas imports, the Commission argued, would allow the community to diversify its energy mix away from excessive dependence on oil (Commission, 1980c: 8; 1981: 4; 1982b: 1; 1984a: 2; 1985a: 29-30). It was a means of responding to security of oil supply concerns as well as an attempt to desecuritise gas supplies. If Member States did not accept the argument that gas supplies were secure, then it is unlikely that they would see an increasing role for gas as a suitable means of improving their energy security.

During the late 1980s and 1990s, the Commission continued to argue that gas supplies were more secure than oil supplies. This was despite noting that European gas production was in decline and import dependence was set to rise to 60% by 2010 (Commission, 1990b: 3-4; 1992: 24; 1995a: 1, 3). It also continued to give the gas industry most of the credit for what it regarded as a high level of security of supply (Commission, 1995a: 1, 3). However while gas supplies were still discussed in terms of security, such concerns did not dominate Commission discourse to the same extent as the early 1980s. Following it's White Paper on 'Completing the Internal Market' (1985b), the Commission began instead to place greater emphasis on other aspects of energy policy. While energy was deliberately omitted from that White Paper, in other statements the Commission attempted to shift the focus of energy discourse to

the role of energy in Europe's global competitiveness and the competitiveness of European industries within the common market[23].

The main policy implication of these competitiveness concerns was that Europe should work towards the creation of a single energy market, with the Commission arguing that this was essential for reducing energy costs within the Community and ensuring the free movement of energy products between Member States (Commission, 1985a: 17; 1988: 5-6). This did not mean that energy security concerns were entirely absent from the Commission's discourse at the time. In its 1988 report on incorporating energy into the revitalised single market programme, the Commission stressed that improving Europe's global competitiveness should not come at the expense of diversifying energy supplies (Commission, 1988: 8). It also argued, in a report on the relationship between a single energy market and the security of supply that the increased trade in energy products between the Member States would allow Europe's indigenous energy resources to be more efficiently exploited which would reduce dependence on external sources of energy (Commission, 1990b: 4). However for the Commission, security of supply was not the main rationale behind the incorporation of energy into the single market programme. Instead competitiveness concerns were given priority:

> "Just as the internal market is essential for improving Community security of supply, energy is also essential for the completion of a successful internal market. The gains have been estimated as high as 0.5% of Community GNP. The efficient allocation of energy supplies is not only necessary for the competitiveness of Community industry as a whole. It is a key requirement if industries are to be able to compete fairly within an internal market with access to energy resources on the same basis as their competitors" (Commission, 1990b: 5)[24]

This shift to competitiveness concerns can be seen as an extension of how the Commission had represented gas and energy supplies earlier in the period. By initially downplaying threats to gas supplies the Commission was attempting to decouple gas from salient concerns about oil supplies. The shift in emphasis away

[23] The environmental impact of energy use was also discussed to a greater extent than before, however it was still regarded as a low priority for the Commission (Commission, 1988: 24-25; 1997: 2).
[24] A similar statement appears in Commission (1988: 6).

from security of supply concerns towards competitiveness concerns continued the process of desecuritisation by other means.

3.2.2 European Parliament

The Parliament's discourse during this period indicates a similar shift away from a near exclusive focus on security of oil supply concerns during this period. However the pace and form of discursive change differed in several respects. In the wake of the second oil price shock Parliament discourse focused almost exclusively on fears about security of supply. In 1980 it issued a resolution in response to the Commission's proposed community energy policy guidelines where it criticised the Member States for their "inability to place genuine Community interest above short-term national advantage" and stated that "the dangers inherent in an energy shortage can be averted only by united action within the Community" (Parliament, 1980: 42-43). In a follow up report in 1983 the Parliament oil supply disruptions were presented as both a 'potential threat' and as a source of 'constant uncertainty'. It was argued in the report argued that:

> "the first precondition of an effective energy policy in the Community should be for the Community and each of its Member States to realize that they are facing a challenge unprecedented since the birth of Europe, a challenge of energy supply; they must therefore declare a state of manifest vulnerability and commit themselves to taking the necessary measures demanded by such a situation"
>
> (Parliament, 1983a: 15)

The Parliament largely agreed with the Commission's proposed response to the twin potential threats of 'excessive dependence' on oil and supply disruptions, arguing that every effort should be made to reduce dependence. However it went further than the Commission in calling on the Member States to strive towards energy self-sufficiency (Parliament, 1986: 205). In its 1980 resolution it stated that "the main aim of the Community's energy policy is the achievement of maximum independence with regard to imported oil" (Parliament, 1980: 42). Parliament continued to make these arguments even after oil markets began to stabilise during the 1980s. When the aforementioned 1983 report was presented to Parliament, rapporteur Daniel Percheron argued that the European Community should use this

opportunity, "to give Europe the means of progressing towards self-sufficiency in energy, which is one of the preconditions for prosperity and freedom" (Parliament, 1983b: 213-14).

In order to reduce dependence the Parliament sought to encourage energy saving schemes, the development of 'indigenous sources of energy' and diversification of Europe's energy mix (Parliament, 1984). Whereas the Commission emphasised diversification of energy types, the Parliament focused on ways to increase domestic production of energy in keeping with its calls for greater self-sufficiency. This also had an impact on the way in which it wanted Europe's energy mix to diversify. In its 1980 resolution it supported diversification towards nuclear and renewable energy sources (Parliament, 1980: 43). However initially it was less enthusiastic about diversification towards gas. While Parliament supported efforts to develop European gas production, it was not in favour of diversifying towards gas if this would lead to an increase in energy import dependence. An increased role for nuclear and renewables by contrast could be met domestically.

However by 1983 gas began to become more favoured by Parliament as a potential means of diversifying away from oil. This was because nuclear energy, as well as the possibility of increased use of coal, were opposed by several MEPs and party groups due to concerns about the environmental damage that both of these sources could cause (Parliament, 1983b). Indeed these concerns about the impact of energy use on the environment became increasingly salient in Parliamentary discourse throughout this period as security of supply concerns receded. When the Commission first began to speak about competitiveness issues in energy policy these were sidelined in favour of environmental considerations. For instance, in its 1989 resolution on the internal energy market it argued that energy policy at the European level should:

> "give priority consideration on principle to minimizing the environment and safety risks associated with energy generation and consumption rather than concentrate on reducing costs, especially as environment and safety risks do not yet receive sufficient attention in all the Member States" (Parliament, 1989: 514)

Initially, competitiveness considerations were quite low down Parliament's list of priorities and it was unconvinced that a single energy market would produce the

benefits that the Commission expected. It was particularly sceptical about the claim that establishing a European energy market would reduce energy costs (Parliament, 1989: 514). However during debates about the development of an internal gas market in the 1990s[25], competitiveness concerns began to play a greater role in Parliamentary discourse. During the plenary debates on the Commission's 1995 energy green paper, competitiveness concerns were far more prominent, particularly in speeches made by MEPs who sat on the ITRE[26] committee (Parliament, 1995a). they placed greater emphasis on the need to ensure the more efficient use of energy resources and competition within the gas and electricity industries than previously (Parliament, 1995b).

However there was still considerable resistance among many MEPs to the moves away from security of supply concerns towards issues of competitiveness, particularly with regards to gas. They did not claim that there were urgent or potential threats to gas supplies, agreeing with the Commission that gas supplies were currently secure and that this was largely as a result of the efforts of the gas industry (Parliament, 1996a). However it was for this reason that they were suspicious of attempts to reorientate gas policy away from security of supply. While Parliament was open to the possibility of increasing competitiveness in the electricity sector, they were concerned that to do so in gas could lead to less security of supply by undermining the traditional means of securing supplies – namely through long-term contracts with external suppliers (Parliament, 1996b).

3.3.3 Council

Like the Commission and Parliament, the Member States viewed the security of oil supplies as the main focus of energy policy at the beginning of this period. In line with their response to the first oil shock they did not support efforts to europeanise energy matters. In response to the Commission's proposed energy policy objectives, the Council rejected setting limits on the amount of energy which could be imported from external sources and removed all references to energy trade and pricing in their final resolution (Council, 1980c). Yet they continued to emphasise that there were urgent threats to the security of oil supplies and supported the attempts to reduce oil consumption.

[25] These will be discussed in detail in the following chapter.

[26] ITRE are the European Parliament responsible for energy matters and draft Parliamentary resolutions on these issues.

Statements later in the 1980s further confirm this. In response to the proposals for new energy policy objectives they argued that "there was considerable uncertainty as to the long-term prospects for supply and demand" and echoed the Commission's calls for Member States to take both measures to ensure short and long term security of supply (Council, 1986). As with previous statements this included calls for diversification of both supply sources and energy types. In terms of which energy types to promote, the Council focused primarily on solid fuels rather than gas, but argued that it was necessary to "maintain the share of natural gas in the energy balance on the basis of a policy aimed at ensuring stable and diversified supplies and continuing and, if need be, stepping up, natural gas exploration and production in the Community" (Council, 1986: 11). They accepted the Commission's assessment that the security of gas supplies had improved substantially throughout the 1980s and that the level of diversification was sufficient at least until the mid-1990s (Council, 1987: 5-6).

The Council was initially quite open to incorporating competitiveness concerns into energy policy. In response to the Commission's 1988 paper on the internal energy market, they supported the idea that energy could make a greater contribution to the competitiveness of the European economy. However they qualified this by stating that in doing so it was important to ensure that the need to secure long-term investments to ensure the continued delivery of supplies to Europe was taken into account (Council, 1988: 4-5). During the 1990s they increasingly expressed such concerns, arguing that the gas industry had a good record in ensuring the security of supplies, attributing this success to long term contracts between Member States and external suppliers (Council, 1996a, 1997a, 1997b). Some Member States also expressed concerns about growing import dependence on external sources of gas (Council, 1996a, 1996b). Like the Parliament however the Council as a whole did not argue that the security of gas supplies were threatened, but that attempts to liberalise gas markets could undermine the existing basis for security of supply.

3.3 Liberalisation and the Security of Natural Gas Supplies (1999-2005)

3.3.1 Commission

During the previous period, increasing security of supply had been listed as one of the benefits of developing an internal market for gas but had largely been subordinated to the desire to increase European competitiveness. Following the oil prices rises in 1999 these concerns about competitiveness remained at the forefront of the Commission's discourse. They highlighted the fact that the oil price rises were pushing up gas prices due to the dominance of long-term contracts based on oil-indexed prices (de Palacio, 2000b; Commission, 2001a: 2). Warning that high energy costs would inevitably push up production costs, the Commission reiterated its argument that it was important to increase efficiency within the energy sector by introducing more gas-to-gas competition in order to improve Europe's competitiveness (Commission, 2000b: 67, 82; 2001a: 2). However it increasingly began to highlight the potential benefits of market integration for the security of gas supplies. By increasing the range of potential energy supplies and ensuring that gas could flow more easily between Member States, the Commission argued that there would be more opportunities to diversify supplies (Commission, 1999: 7). It emphasised however that more had to be done to integrate gas markets in order for these benefits to be realised (Commission, 2000b: 71; 2001a: 21).

In addition to attempts to link competitiveness and security of supply concerns together, the Commission also warned about the emergence of potential threats to the security of energy supplies (Commission, 1999; 2000b: 3). The tripling of oil prices in 1999, it argued, demonstrated that the energy use in the community was subject to a variety of physical, economic, political and social 'risks' (Commission, 2000b: 76-77; 2002c: 8). These risks were not represented as urgent or existential threats from an external enemy[27], instead they emanated from the 'energy environment' itself, and were represented as potential threats which could emerge based on changing patterns

[27] Indeed possible 'enemies', namely external suppliers who could shut off supplies to Europe, were framed as mutually dependent on the EU and the Commission emphasised that "for both Russia and Algeria, the track record in keeping supply lines open even in politically tense periods is excellent. Despite several political crises and difficult supply circumstances, there has never been any major problems related to gas supplies from Russia or Algeria, which are both considered by the European gas industry to be long-standing, reliable suppliers" (Commission, 1999: 5)

of energy use. However, the guiding logic behind most of these risks was the potential for energy supplies to be disrupted or for prices to suddenly rise, both of which the Commission argued, could cause substantial economic hardship for the European economy (Commission, 2000b: 75-76).

The language of risk introduced in the green paper came to define most Commission statements on energy policy throughout this period (e.g.Commission, 2003c: 6; 2003d: 13-14; de Palacio, 2004: 3). This was particularly the case for gas supplies which, in contrast to the previous period, the Commission began to regard as increasingly insecure. Increasing dependence on external sources of gas was framed as a "new structural weakness" in the EU energy system which had the potential to become just as important as the existing structural weakness of oil dependence (Commission, 2000b: 1, 20-22, 43-44)[28]. They also argued that increasing gas consumption meant that the potential impact of supply disruptions was more acute as this would mean greater shortfalls in energy supply. The Commission argued that these trends in the gas sector posed similar economic risks to the European economy as found in the oil sector, namely price rises, panic buying and market volatility (Commission, 2002c: 11-12).

Aside from the renewed emphasis on security of energy supply 'risks' and the growing prominence of gas, what is distinctive about Commission threat constructions during this period is that they placed greater emphasis on the European dimension of these potential threats and involved major reconsiderations about the most appropriate way to allocate authority for managing gas security issues. In a 2002 paper on oil and gas security the Commission argued that, "the main supply risks of individual Member States is often a common risk shared with other countries" (Commission, 2002c: 51). While accepting that there were major differences between the levels of gas dependence, consumption and production between the Member States, it downplayed these differences in order to focus on the risks posed to the emerging internal energy market[29] (Commission, 2002c: 43, 50). This involved the presentation of the internal market as a referent object that needed

[28] Both of these dependencies were regarded as 'structural weaknesses' because Europe had no means of replacing these supply sources through domestic production if necessary. As a result the Commission noted it would a 'basic fact' for several decades that had to be taken into account in formulating energy policy (Commission, 2000b: 11-28).

[29] At this point the first package of market legislation had been passed meaning that the first stages of an internal market for electricity and gas had been set up. This will be examined in chapter four.

protection during supply disruptions, while also portraying 'uncoordinated' national measures as something which would put this shared referent object at risk:

> "Uncoordinated action by the Member States in the event of an energy crisis is likely to jeopardise the proper functioning of the internal market in gas. For the proper functioning of the internal gas market and security of supply, it is essential that Member States should act in solidarity in extraordinary supply situations"
>
> (Commission, 2002c: 17)

In making these claims, the Commission did not argue that the development of an internal market for gas was itself a threat to the security of gas supplies. Indeed it continued to argue, as it had during the previous period, that the development of a single market over time would have a positive impact on the security of gas supplies as it would allow Member States to have access to a greater number of suppliers and therefore to diversify their supplies (Commission, 2000b: 71; 2001a: 21). Instead it argued that in this 'new regulatory environment' new potential threats to the security of supplies were emerging which required a change in what policies and instruments are needed in order to secure gas supplies (Commission, 2002c: 44). Whereas in the previous period the Commission credited the gas industry for maintaining a high level of supply security, it now argued that it was no longer suited for fulfilling this role:

> "In the new internal market in gas which requires the industry to restructure in order to create an integrated market in which new companies will emerge in an increasingly competitive environment, there will no longer necessarily be a single player which will assume overall responsibility for security of supply. The question is all the more urgent as dependency on gas imports will increase significantly in the decades to come. Security of supply in the gas sector therefore *cannot be left entirely to the industry* which is itself dependent on its external suppliers from an extremely limited number of supplier countries"
>
> (Commission, 2002c: 5, emphasis added)

The Commission was concerned that Member States and industry had so far failed to take this 'new reality' into account during the development of the internal energy market, and that roles and responsibilities for security of supply would have to be

reallocated. It argued that failure to do so would lead to uncertainty about who should act and therefore increase the risk of a crisis (Commission, 2002c: 11-12). For the Commission the key risk was that the gas industry would neglect security of supply leaving Member States to adopt 'extraordinary measures' at the national level in the event of a disruption, and therefore interfere with the internal market.

Statements from the Commission during this period clearly qualify as securitising moves, which involve constructions of potential threats to gas supplies and the European economy and claims about the need to take action to mitigate these threats. This involved a major shift from the previous period when it had regarded gas supplies in Europe as secure due to the actions of the gas industry and national measures. It now portrayed this means of securing gas supplies as a threat to the internal market, which it considered vital for addressing concerns about Europe's competitiveness since energy costs were such an important factor in production costs.

3.3.2 Market Participants

The energy industry was very active during this period in resisting the Commission's attempts to portray energy supplies in general, and gas supplies in particular as threatened. It rejected the view that changing patterns of energy use or the development of a 'new regulatory environment' in the form of an internal energy market would lead to the emergence of new risks. Short-term disruptions were downplayed as highly unlikely (EFET, 2002b: 1; Eurogas, 2003: 5; GTE, 2003b: 3) while the argument that long-term increases in dependency represented a 'structural weakness' was similarly rejected:

> "There is no fundamental problem connected with increased dependence on natural gas. Gas importation is not a difficulty in principle and should not be viewed as a strategic danger" (Eurogas, 2003: 2).

Industry actors did not regard market volatility and the possibility of price rises as potential threats. In their view these were unproblematic features of how markets operate and argued that they served the important function of sending price signals to market actors, allowing them do deal with any threats to gas supplies more effectively than governmental action (EFET, 2002b: 1; Eurogas, 2003: 1). Indeed they argued that any reallocation of roles and responsibilities was unnecessary, and

that decisions about whether to diversify supplies, the balance between short and long term supply contracts and other possible ways of securing supplies were best taken by market participants (Eurogas, 2003: 4; GTE, 2003b: 2-3). The gas industry cited its own record in securing supplies and argued that:

> "Gas production, supply and transport companies will continue to play the main role in delivering security of supply because they have a fundamental economic interest in competing successfully with other energy sources, and developing the gas business" (Eurogas, 2003: 1)

Industry also rejected the Commission's claims that the adoption of national measures to deal with supply disruptions constituted a threat to the internal market. Instead they made the counter-argument that attempts to develop EU measures would lead to 'sub-optimal solutions' that would inevitably fail to take account of differences that exist between national markets (Eurelectric, 2003: 1; Eurogas, 2003: 3; GTE, 2003b: 2).

3.3.3 European Parliament

Following the oil price rises the Parliament came to accept the Commission's arguments that security of gas supply and competitive markets went hand in hand, rather than being opposing concerns. In 2000 the ITRE committee issued a report on the liberalisation of energy markets in which it argued that the internal market would bring both competiveness and security benefits, by promoting greater diversification and reducing gas prices (Parliament, 2000a). Although the resulting resolution noted that "the Member States must ensure that competition is not achieved at the expense of security of supply" during the preceding debate MEPs argued that the security of gas supplies had been maintained in spite of moves to liberalise European gas markets (Parliament, 2000c). One prominent member concluded that "the fears of the pessimists that liberalization would lead to cuts in security of supply have been confounded" (Parliament, 2000b). During the debates on the oil price rises, gas was barely mentioned and several MEPs were dismissive of suggestions that these price rises were similar to the 1970s oil shocks (Parliament, 2000b, 2000d).

While there was a consensus between the Commission and Parliament on the need to improve European competitiveness and the conditions for ensuring the security of gas supplies, there was considerably less agreement on the issue of supply

disruptions. The ITRE committee rejected the possibility of a physical disruption as low risk and argued that if they did occur, the effects would be manageable under current circumstances (Parliament, 2003c: 42; 2003e: 27). It shared industry's view that market volatility was part of the normal operation of a market based economy. This belief in the self-correcting nature of markets also informed their views on the 'structural weaknesses' of import dependency, where they took the view that this would only be a problem in cases where the market was underdeveloped:

> "risks to security of supply will not necessarily rise in line with a rise in natural gas consumption in Europe. On the contrary, with the expansion of the gas sector, provided there is consistent liberalisation at the same time, the number of producers, suppliers, dealers etc. will increase" (Parliament, 2003e: 28)[30]

Central to Parliament's rejection of the Commission's claims was that they argued that market forces would be sufficient for ensuring an adequate level of security. Any European interference in the market, they argued, would weaken the level of preparedness of the gas industry and therefore decrease security of supply (Parliament, 2003e: 27-28). During the plenary debate, MEPs were similarly critical of the Commission's arguments. As one prominent member of ITRE argued:

> "Unlike with oil, there have been to date no major crises in the supply of natural gas, nor is there any cause for concern that one is to be expected in the foreseeable future. […] There were those who said that, by opening up the market, we were jeopardising the security of energy supply; are we not now proving that they were right? Why do we not let the opening up of the market do its work? It is itself a contribution to the security of supply and directly involves enterprises in sharing responsibility for it." (Parliament, 2003c)[31]

It is notable that Parliament expressed almost identical views to most of the energy industry during this period. Like industry their criticisms of the Commission's claims about potential threats seem to stem from their rejection of the idea of reallocating roles and responsibilities and granting a greater role for the Commission in the security of gas supplies. For while they rejected the idea of European

[30] Most other Parliamentary committees issued similar views in their reports (Parliament, 2003c: 39-40; 2003d: 2; 2003e: 35).
[31] Bernard Rapkay (PSE)

'interference' in the market, they were more accepting of national measures being adopted to prepare for or deal with supply disruptions (Parliament, 2003c):

> "What level of security they are aiming to achieve by this, however, must also be left to the discretion of the Member States. This is a political decision, which, as we have seen, follows on from a cost-benefit analysis. The EU has neither a mandate to take such a decision on behalf of all Member States, nor are such common standards sensible. It is likely that the result of the assessment would be quite different in the different Member States" (Parliament, 2003e: 29-30)

3.3.4 Council

The Council was also in agreement with the Commission's arguments about the relationship between competitiveness and security of supply concerns during this period (Council, 1999; 2001a: 7). With the launch of the Lisbon Agenda in 2000, the Council had committed the EU, "to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion" (Council, 2000a). It issued conclusions which stated that increasing competitiveness and market liberalisation were important for ensuring the security of supplies (Council, 2000b: 9).

The Council also agreed with the Commission that increasing gas import dependence could be a cause for concern but did not portray share its view that this was a potential threat (Council, 2001a: 8). It supported an increased role for gas in the EU's energy mix, arguing that would not be detrimental to the security of energy supplies as a whole (Council, 2000b: 10). While increasing oil and gas dependence were included in the European Security Strategy (ESS), they were not regarded as 'key threats' to the EU (Council, 2003k: 3)[32]. The ESS made no reference to the 'threat' of short-term supply disruptions or to market volatility. The Council did not respond directly to the Commission's claim that the adoption of emergency measures by Member States during supply disruptions could 'threaten' the internal market[33].

[32] Instead, the ESS identified terrorism, the proliferation of weapons of mass destruction, regional conflict, state failure and organised crime were as the 'key threats' to the European Union (Council, 2003k: 3-5).

[33] They did emphasise however that national measures should be preferred to European measures in order to respect differences between the Member States (Council, 2001a: 7).

3.4 The Intensification of Gas Security Risks (2006-2010)

3.4.1 Commission

During this period the Commission increasingly portrayed gas supplies as threatened. In 2006 it issued a green paper on a common EU energy policy followed by a 2007 white paper. In both documents the Commission made many of the same claims about potential threats as they had during the previous period. It expressed increasing concern about the rises in oil and gas prices, which had nearly doubled between 2004 and 2006 arguing that this was set to continue for the foreseeable future (Commission, 2006e: 3)[34]. Import dependence was portrayed as an ever greater risk, with the Commission warning that it could increase to 70% for energy 80% for gas and 90% for oil over the next 20-30 years (Commission, 2006e: 9; 2007b: 3-4).

Additionally, it warned that the potential threat of supply disruptions was growing due to increased global competition for supplies. What made this particularly worrying for the Commission was that several Member States were almost completely dependent on a gas supplies from Russia and there was no means of responding collectively to supply disruptions (Commission, 2007b: 3-4; 2009c: 2). Following the 2009 supply disruption, the Commission described the 'unprecedented' but expressed its frustration at repeatedly warning about the lack of preparedness within the EU to deal with supply disruptions (Commission, 2009a: 14; 2009c: 2).

The Commission continued to emphasise the benefits of the internal market for both competitiveness and security of supply (Commission, 2006f: 2; 2006e: 5, 8). However while it continued to argue that the development of a European gas market would create more opportunities for diversifying supplies, this would not be sufficient for responding to supply disruptions, arguing that:

> "Consideration should be given on how best to react to external energy crises. Recent experiences with respect to both oil and gas have shown the need for the Community to be able to react quickly and in a fully co-ordinated manner to such events" (Commission, 2006e: 16)

[34] These concerns were also the main topic of a later communication(Commission, 2008d)

On this basis the Commission placed greater emphasis on the need for "solidarity" between Member States during supply disruptions (Commission, 2006e: 5, 8). The language of solidarity was present in statements during the previous period, but had been accompanied by the portrayal of Member State responses to supply disruptions as potential threats to the functioning of the internal market. In discussions about 'solidarity' the Commission no longer referred to unilateral actions by Member States as a potential threat, but merely as a less effective means of dealing with supply disruptions:

> "While each Member State is responsible for its own security, solidarity between Member States is a basic feature of EU membership. With the internal market for energy, specific national solutions are often insufficient. Strategies to share and spread risk, and to make the best use of the combined weight of the EU in world affairs can be more effective than dispersed national actions. For these reasons, energy security is an issue of common EU concern" (Commission, 2008c: 3)

This framing responded to many of the criticisms from other actors during the previous period. Many of the concerns raised by the Parliament, Council and market participants focused on what they saw as an unnecessary challenge to the authority of Member States. While it continued to portray potential threats to the security of gas supplies as shared risks it placed greater emphasis on how Member States could assist each other during supply disruptions rather than considering this to be something which should be managed at the EU level.

3.4.2 Market Participants

The gas industry continued to argue that there were no potential threats to the security of gas supplies. In policy statements they did not view import dependence as a problem, instead arguing that the best way to ensure the security of supplies would be to develop the internal market in order to attract new investments and additional gas imports (Eurogas, 2006d: 1). Following the 2006 supply disruption it expressed no concerns about supply disruptions, and it continued to speak out against attempts to develop 'solidarity' between Member States at the European level. Instead, it argued that Member States should be responsible for their own security of

supply and should be based on developing the internal gas market and commercial agreements rather than government control (Eurogas, 2006c: 3-4).

The energy regulatory body ERGEG was more supportive of the Commission's arguments. It argued that increasing import dependence was the, "main driving force behind the issue of security of gas supply" and that, "increasing import dependence will make the gas supply more vulnerable to geopolitical factors" (ERGEG, 2008: 4-5). It was concerned about the potential threat of Russia disrupting supplies for political reasons, which it considered more likely due to growing competition for supplies from China and India. In its view the most effective response would be to continue developing the internal market and to allow Member States which were most dependent on Russia to adopt additional measures to cope with disruptions (ERGEG, 2008: 5, 17).

Following the 2009 disruption there was little change in the positions taken by market participants. Although ERGEG argued that the crisis had "revealed serious weaknesses and a high degree of risk exposure" they also emphasised that Eastern Europe had been the most exposed, and argued that this was primarily because of a lack of market and network integration (ERGEG, 2009). They did not consider a need for greater government intervention, and argued that "Market mechanisms should continue even under strained gas supply situations, with government intervention as a last resort" (ERGEG, 2009).

Although Eurogas described the disruption as "unprecedented" they emphasised the role that industry had played in bringing the crisis to an end and to defend the role of the industry in ensuring security of supply (Eurogas, 2009b). They agreed with ERGEG that the crisis had not affected Western Europe due to their more developed markets (Eurogas, 2009b). The disruption did not, in their view, demonstrate that European gas supplies were insecure:

> "Worldwide gas reserves are abundant and commercially accessible. Provided that external policy, market, and regulatory frameworks are in place to keep Europe an attractive market in a world marked by increasing global competition for gas, and the needed investment is realized, then Eurogas is confident in gas supplies meeting future demand in Europe. Moreover, recent events notwithstanding and certainly every step ought to be taken to prevent future disputes between Gazprom and Naftogas disrupting Europe's supplies,

> Eurogas considers that gas producers and supply routes to Europe are reliable overall" (Eurogas, 2009a: 1)

GIE's response to the disruption was similar to that of Eurogas. They argued that effective price signals had not come from the most affected areas and that there were gaps in important infrastructure which meant that the market was not able to respond as effectively as it should. However it did not regard gas supplies as insecure (GIE, 2009a: 4; 2009b: 1). Instead it argued that the response of the gas industry showed that market participants were best placed to respond to supply disruptions (GIE, 2009a: 1; 2009b: 2).

3.4.3 European Parliament

Parliament began to deviate more sharply from the arguments of the gas industry during this period. Following the 2006 supply disruption, it began to increasingly consider gas supplies to be threatened. During the plenary debate on the Russia-Ukraine gas disruption many MEPs expressed their concerns about the crisis, with some senior members describing it as a "wake-up call", which demonstrated that the EU was vulnerable due to its overdependence on Russia as a supplier[35]. Only one member sought to downplay the disruption, emphasising the good relations that the EU had previously had with Russia and the Ukraine[36]. There was extensive criticism of the divergent and at times contradictory approaches of various Member States to security of supply policy[37] (Parliament, 2006c). In the resolution they argued that, "recent disputes over gas prices between Russia and its neighbours, but also the recent increase in the price of crude oil, have emphasised the vulnerability of the supply and distribution of energy" and called on the Commission to work towards developing a common European energy policy (Parliament, 2006d).

Parliament was very supportive of the Commission's arguments about how to ensure the security of gas supplies. It agreed that a "fully functioning internal market" was "an essential part of the maintenance of security of supply" and called for "enhanced solidarity between Member States in order to deal with difficulties related to the physical security of infrastructure and security of supply" (Parliament, 2006d). Although individual MEPs emphasised the importance of subsidiarity following the

[35] Jacek Emil Sayusz-Wolski, (PPE-DE), Giles Chichester (PPE-DE)
[36] Rebecca Harms (Verts/ALE Group)
[37] Fanute Budreikaite (ALDE Group), Reino Paasilinna (PSE), Helmuth Markov (GUE/NGL), Fariusz Maciej Gabowski (IND/DEM), Alejo Vidal-Quadras (PPE-DE)

2006 supply disruption, there were no such calls during the debates on the Green Paper or during February 2007 (Parliament, 2006e, 2006c, 2007b, 2007a). Following the 2009 gas disruption, Parliament was critical of the Member States for not responding effectively to the 2006 disruption (Parliament, 2009b). It reiterated its call for greater solidarity among the Member States in the face of what it perceived as Russian aggression, stating in its subsequent resolution that "solidarity must become a major European concern at European, regional and bilateral level" and that "damaging energy supply in a Member State afflicts the European Union as a whole" (Parliament, 2009c).

3.4.4 Council

There was no immediate shift in the Council's discourse following the 2006 disruption. It maintained its support for integrating and liberalising the European gas market in order to improve the security of supplies (Council, 2006n: 14). It also accepted that European energy policies would have to deal with a range of concerns including growing import dependence and high oil and gas prices. However, while it noted that there were "security risks affecting producing and transit countries as well as transport routes", this was not portrayed as an immediate or potential threat (Council, 2006n: 12). The Council did not seek to prioritise security of supply considerations, and instead issued a statement about the need for 'balance' between different energy policy objectives (Council, 2006n: 12).

Council statements suggest that at most there were some latent concerns about possible threats to the security of supplies. However much of the reason for this low level of securitisation was that there were considerable differences between the Member States over what they considered the main goals of a community energy policy to be. Poland submitted plans for developing a European Energy Security Treaty that would ensure that there were effective means of responding to supply disruptions. It argued that this should be based on the principle of collective security between Member States whereby, "a threat to the energy security of one of them will be considered a threat to the energy security of all of them" (Council, 2006l: 4). The French government also submitted plans for a reorientation of European energy policy, but these focused instead on promoting sustainable development while downplaying security of supply concerns (Council, 2006b).

During 2007 and 2008 however it gradually began to accept that there was, "[a] need to enhance security of supply for the EU as a whole as well as for each Member State" (Council, 2007b: 12). It became more open to the idea of findings way to ensure 'solidarity' between Member States (Council, 2007b: 13). However it did not necessarily understand 'solidarity' in the same way as the Commission and Parliament. It argued that improving energy security required that solidarity was supported by responsibility from each Member State:

> "Responsibility, because each Member State, which is primarily responsible for its security of supply, must not only take all measures required at national level to guard against the risk of a supply disruption but also be prepared to contribute to any solidarity measures. Solidarity, insofar as any Member State which is confronted with a sudden and temporary disruption in its energy supply must be able to rely on the support of the other Member States and the Union. It is only on this condition that solidarity mechanisms can be put in place at European level" (Council, 2008q: 4)

The 2009 disruption, which the Council portrayed as an "unprecedented interruption of gas supplies [...] which has caused great economical harms and suffering the citizens of the EU and of neighbouring countries and damaged the credibility of both parties", only served to strengthen these views (Council, 2009d: 3). Following the resolution of the dispute between Russia and the Ukraine, the Council stated that the supply disruption indicated "the weaknesses of EU energy security and the EU's energy situation" (Council, 2009c: 1). While continuing to emphasise the need for responsibility as well as solidarity and praising the efforts of market participants to mitigate the crisis it was more supportive of a role for the EU in responding to the common threat of supply disruptions (Council, 2009c: 1-2; 2009a: 13; 2009d: 3).

3.5 Conclusions

The aim of this chapter was to examine whether natural gas supplies in the European Union have been securitised through the analysis of European energy policy discourse between 1979 and 2010. It has argued that there was a very gradual desecuritisation of natural gas supplies between 1979 and 2005, followed by rapid securitisation between 2006 and 2010.

Initially energy discourse was dominated by concerns about the insecurity of oil supplies following the 1970s oil price shocks. Gas supplies were represented as a secure energy source and as an important means of addressing this insecurity through the diversification of the European energy mix. This did not mean that security of gas supply concerns disappeared entirely during this time however. Although there was intersubjective agreement that there were no threats to gas supplies, during the 1990s the Council and Parliament expressed concerns that introducing competition into gas markets may result in less secure supplies by undermining the traditional gas market model based on long-term contracts and vertically integrated national gas companies. This meant that although there was clear agreement that supplies were secure, latent security of supply concerns prevailed into the 1990s.

Following oil price rises in 1999, the Commission began to portray energy supplies as susceptible to a range of potential risks, most notably due to increasing dependence and the potential for supply disruptions. However these claims did not find much support amongst the Council, Parliament and industry. As their previous concerns about competitive markets had receded, they increasingly considered gas supplies to be secure. This began to change following the disruption of supplies from Russia at the beginning of 2006. There was a greater willingness first on the part of the Parliament and later the Council to regard gas supplies as insecure. They came to regard competitive markets as a necessary but not sufficient condition for ensuring the security of supplies and increasing accepted the Commission's claims about the detrimental impact that supply disruptions could have on European economies.

This examination of European energy discourse offers us some insights into the extent to which gas supplies have been securitised within Europe. It demonstrates the value of the framework set out in chapter one that attempted to conceptualise different *levels of securitisation* to allow for the analysis of non-existential, lower level threats. At no point have actors within EU policymaking argued that there are existential threats to gas supplies. Rather they have portrayed supplies at various points as latent, potential or, following the 2009 disruption, as urgent threats. This provides some insights into the process of securitisation but what it doesn't tell us is what impact these had on the policy process. That is the focus of the following two chapters on the internal gas market, and security of supply standards and crisis response mechanisms.

4 Towards a Single European Gas Market

This chapter looks to build on the examination of securitisation in the previous chapter by turning to the question of what effect securitisation had on policy negotiations for the internal gas market. It assesses the extent to which securitisation had facilitated or hindered the development of EU gas policy. As discussed in chapter two, national gas markets have traditionally been dominated by a few vertically integrated monopolies responsible for most aspects of the gas business. Security of supply has been assured by these companies using their sizeable bargaining power to secure gas supplies and investment in transit pipelines through the signing of long-term contracts with producers. Attempts to develop an internal market for natural gas represent an alternative liberal approach to gas markets and the means of securing supplies. Supporters of the liberal approach argue that by integrating these separate gas markets and developing competition between gas companies, this will lead to lower gas prices and greater supply flexibility.

The first section examines the policy processes leading to the adoption of the first gas market directive in 1998. The Commission's proposals for this directive were very limited as it anticipated that there would be considerable opposition from the gas industry and Member States due to engrained concerns about undermining the traditional model for ensuring the long-term security of gas supplies. The prevalence of such concerns among key actors in the policy process led to the adoption of an even more limited directive after six years of difficult and contentious negotiations. While as a result of this legislation, the EU took its first steps towards a liberal approach to security of supply with several Member States going beyond the minimum requirements of the directive, there was little integration of national markets, leading to a highly variable and fragmented European gas market.

The second section focuses on the second 'acceleration' directive adopted in 2003. The Commission was more successful during these negotiations, due to emerging

evidence of the dysfunctional nature of market liberalisation and integration following the first package and the prominence of concerns about Europe's overall competitiveness as a result of the Lisbon agenda. The gas industry and resistant Member States were unable to prevent the adoption of a package of unified measures for gas and electricity which largely reflected the proposals put forward by the Commission for the first package. However the directive also institutionalised measures such as infrastructure exemptions which appeared to place further limits on the move towards a liberal approach to security of supply. Furthermore, implementation of the directive was slow and a Commission led competition inquiry into the gas sector found considerable evidence that market liberalisation and integration was very limited, largely due to the actions of incumbent gas companies and the efforts of some Member States to strengthen their own national champions, further limiting the development of a liberal approach to security of supply.

The third section focuses on the third gas market directive adopted in 2009. The Commission's energy sector inquiry uncovered clear evidence that market integration and liberalisation were not proceeding according to plan and provided the Commission with a political rationale for a third package. Despite this however, it had to contend with what proved to be an unfavourable political environment marked by increasing security of supply concerns due to the 2006 gas crisis, the expansion of Russia's Gazprom into the European market and the increasing level of dependency of Member States from Eastern Europe on Russian gas. While the Commission put forward ambitious proposals for the mandatory ownership unbundling of vertically integrated gas companies, it was unable to pass these measures in the face of significant opposition from Member States. Moreover, the limited outcomes of the gas negotiations had a knock on effect on the negotiations of complementary measures in electricity where despite security concerns not being as prominent, the proposals for mandatory ownership unbundling were also unsuccessful.

4.1 First Package (1992-1998)

In February 1992, the Commission put forward proposals for directives setting out common rules on the internal market in gas and electricity. Throughout the 1980s the Commission had attempted to 'desecuritise' European energy policy through the incorporation of policy goals other than security of supply into its discourse, and by arguing that increasing dependence on gas should not be regarded as a strategic

danger since it offered a useful way of diversifying the EU's energy mix away from oil (see chapter three). These proposals were the culmination of this process, and were intended to contribute to the Commission's broader goals of increasing Europe's economic competitiveness:

> "improving electricity and gas production and supply efficiency, in both the amount of primary energy used as well as the use of capital resources, must be considered an important policy objective in the completion of the internal market. A more efficient European energy sector will lead to a more efficient allocation of resources which will have beneficial effects on economic growth and on employment in general" (Commission, 1992: 3)

The Commission was not blind to security of supply concerns however. Rather, they argued that by introducing competition and liberalising energy markets and business practices, security of supply could be strengthened:

> "a more efficient and integrated and competitive electricity and gas market will also have a positive effect on the structure of the Community's electricity and gas industry, allowing for new entrants, more diversity of fuels and technologies and an increase in the trade of energy products between Member States and thus a higher level of security of supply" (Commission, 1992: 3)

The Commission[38] recognised early on that developing an internal market in the energy sector would be politically very difficult to achieve. Energy was not explicitly discussed in their 1985 white paper on completing the internal market (Commission, 1985b), and in their 1988 white paper on the subject the Commission highlighted the 'strategic nature' of the sector as a potential barrier to including energy within the overall internal market framework (Commission, 1988: 7-9). This was particularly the case for gas, due to the fact that most supplies had to be imported from outside the European Community. Electricity on the other hand was generally produced within the EU in relatively close proximity to consumers using a variety of fuel sources.

[38] Prior to the proposals for common rules on energy markets, the Commission managed to adopt other legislation which began the liberalisation process. Firstly, they persuaded the Council to repeal legislation which prohibited the use of gas for the purposes of power generation, therefore opening up the possibility for higher levels of gas consumption within Europe. Secondly, they adopted some legislation on gas transit between Member States. However this did not involve any radical changes to the structure or practices of gas markets or industry.

These potential difficulties meant that within the Commission itself, there were conflicting views about how to proceed. One aproach was to use its powers on competition to attempt to force open the market. DG Competition favoured the use of a Commission decision on the basis of article 90(3) which would not have required the approval of the Member States. They argued that the emphasis should be on the withdrawal of special rights for particular, often state owned, companies to import and export energy and to construct infrastructure. They also argued that all customers which used over 1mcm/y should be allowed access to energy networks (FT Energy, 1991c). The other approach was to gradually open the markets in negotiation with the Council. DG Energy favoured this approach, as it expected most Member States to be highly resistant. Third-party access to networks should be introduced in a more gradual manner and any measures relating to exploration and production should be excluded from the gas proposals (FT Energy, 1991c) [39]. Eventually the college of Commissioners agreed to pursue the more gradual approach, but left open the option of issuing a directive unilaterally under article 90(3) if there was inadequate progress during the negotiations (Brittan, 1992; FT Energy, 1992f)[40].

The central component of both the electricity and gas proposals were provisions for third-party access to networks. This would require the owners of the gas network to allow other companies to use their networks provided they paid a published and regulated tariff, and met any technical requirements[41]. It would therefore open up the market to gas-to-gas competition, adding to the competition that already existed between gas and other fuels. The Commission argued that this measure would lead to "competitive pressure on gas suppliers to operate efficiently and minimise costs", and lead to a reduction in gas prices (Commission, 1992: 25).

In order to give industry time to adapt to these new market conditions, the Commission proposed an initial limit on which consumers would be eligible for accessing the networks (Commission, 1992: 8, 25). In the gas proposals they

[39] These internal disputes meant that the college of Commissioners was unable to finalise the proposals in time for the November 1991 Energy Council as originally planned, forcing the Energy Commissioner Cardoso e Cunha to deliver a verbal presentation to the Member States in lieu of formal proposals two months later (FT Energy, 1991d).

[40] DG Competition also launched legal proceedings against Belgian, Danish and French import/export monopolies for gas (FT Energy, 1991a).

[41] The Commission defines third-party access as "a regime providing for an obligation, to the extent that there is capacity available, on companies operating transmission and distribution networks for electricity and gas to offer terms for the use of their grid, in particular to individual consumers or to distribution companies, in return for payment" (Commission, 1993b: 6)

proposed limiting access to all industrial users which consumed 25 mcm/yr, and all distribution system operators that represented over 1% their Member State's overall gas consumption. This therefore excluded a significant number of industrial users and all household consumers, meaning that national gas markets would not need to be completely open to the third-party access provisions. But within these limits, Member States would be required to ensure that companies which owned and operated networks did not discriminate between users seeking to gain access to their networks (Commission, 1992: 41-42).

In the gas proposals, the Commission put forward an additional limit on the scope of market opening by allowing certain companies to receive derogations from third-party access. Many companies had contractual obligations due to existing 'take-or-pay' contracts which they may be forced to break if allowing third-party access was allowed. As a result they could incur penalties which could cause them serious financial difficulties. As a result, the Commission set out provisions for granting derogations from third-party access for these companies, which would allow them to fulfil their existing obligations by discriminating in favour of their own capacity requirements. In the proposals, derogations could be decided on by Member States but would be subject to Commission rejection or approval. It is important to note that this was regarded as a temporary measure by the Commission, who clearly felt that 'take-or-pay' contracts acted as a barrier to gas-to-gas competition. Although the Commission recognised their importance during the initial stages of setting up a gas market, they argued that there should be a gradual move away to "other ways of risk sharing" through the development of the internal market:

> "In an interconnected European gas market such a need will exist to a much lesser extent in the future as both the offtake security for the producer and the security of supply for the consumer will be increased" (Commission, 1992: 27)

Finally, and in addition to third-party access, the Commission also proposed changes to the structure of energy companies by unbundling them into separate divisions based on the activities they perform (Commission, 1992: 9). These separate divisions would be required to have separate management and keep separate accounts which would be made publically available. Unbundled accounts would

allow the real costs of supplies, transit and distribution in particular to be seen, and to expose any cross-subsidisation between activities (Commission, 1992: 22, 46-47).

4.1.1 Negotiations

As anticipated, the Commission proposals were very controversial for most actors involved in the gas sector. The gas industry had been heavily critical of introducing the concept of third-party access to the gas market since it was first discussed at the end of the 1980s[42] (FT Energy, 1989c: 3-4). The prevailing view within industry, in contrast to the Commission, was that third-party access would, as one Ruhrgas representative put it, "destroy the economic foundation of long term security of supply" (FT Energy, 1989a). Such claims about liberalisation leading to more, rather than less insecurity were prominent in industry rhetoric throughout the negotiations, often taking on a securitising tone by linking liberalisation to trends towards increasing European dependence on external sources of supply:

> "The obligation to conform with TPA, is built essentially on the principle of short-term competition. It is not adapted to European problems nor to the growing dependence of Western Europe on gas sources outside the Community" (GdF executive quoted in FT Energy, 1993d).

> "TPA is a consequence of internal market thinking without looking at other goals. One of the main goals of the European Community should be to have a reliable supply of energy at a time of increasing dependence on external sources. TPA will jeopardise that" (Gasunie chairman quoted in FT Energy, 1993f).

Eurogas, the European-level body for the gas industry, made more specific arguments against third-party access based. They feared that it would undermine the basis of long-term contracts which had been the basis of the security of gas supplies up until that point. Since market shares would no longer be guaranteed for suppliers, they argued that the bargaining power of European gas companies vis-à-vis external suppliers would be reduced (FT Energy, 1994f) and investments in new infrastructure would be reduced (FT Energy, 1991b, 1995a). This would mean that prices would be more likely to rise and therefore argued that the basic principle of

[42] Prior to the 1992 proposals, the emphasis was on common carriage rather than third-party access. For a discussion for the differences between these two ideas see (Stern, 1992)

gas-to-gas competition was not in the interests of gas consumers. Instead they argued that the existing approach whereby market prices were determined by substitute fuels, most notably oil, should be preserved (FT Energy, 1994b: 11; 1994f).

While the Member States had invited the Commission to come forward with proposals for an internal market in gas and electricity, they were highly critical of the proposed directive. Most of the Member States, with the exception of the UK, seemed to share the gas industry's concerns about third-party access with many arguing against the proposals on the basis of security of supply. The Netherlands for instance argued that it would "compromise security of energy supplies" (FT Energy, 1992b: 7), while Belgium wanted third-party access dropped from the proposals altogether as its priority was to develop an energy policy geared towards security of supply on the basis of centralised state control (FT Energy, 1992d: 2). Large member states, most notably France, (FT Energy, 1992g: 5; 1993d), Germany (FT Energy, 1992c: 3; 1994b: 10-11), and Spain (FT Energy, 1992e) were similarly against the proposals. As a result at the May 1992 Energy Council these states called on the Commission to withdraw and redraft their proposals (FT Energy, 1992b: 7).

Whether the gas industry had genuine concerns about the impact of liberalisation on security of supply is open to question. In interviews, industry representatives stated that such concerns were genuine (Interview 8, 2011). However it is clear that neither the Commission nor the UK government were convinced by industry's arguments at the time:

> "It is said, that investment might be discouraged, the consumer will have to bear the risk and will even have to pay higher prices, not to mention the alleged risk to security of supply. I do not believe that this criticism is justified […] When people talk about security of supply I very often have the feeling that they really mean security of demand and a guaranteed return on investment" (Brittan, 1992)[43]

> "Gas has always been much more political, the industry have been much more conservative, much less willing to embrace change and new ideas [than electricity], very resistant to attempts to introduce market mechanisms. And they used the sort of threat of 'this is going to undermine our security of

[43] Leon Brittan was the Competition Commissioner between 1989 and 1995

> supply', but we all knew that it was just an argument they were using because they had their relationships with the producers which they didn't want to upset" (Interview 11, 2011)

It is also not the case that Member States felt that there was an immediate threat to security of supply. Indeed, it was generally agreed that at the time there was a high level of security of gas supplies within Europe (Council, 1996a). They did however have major concerns that this high level of security would be undermined by the development of gas-to-gas competition.

Negotiations for both electricity and gas proved to be highly contentious, with the whole process taking more than six years to complete. After the Commission put forward amended proposals, which toned down some of the more contentious proposals, they reached an agreement with the Council that gas should only be negotiated after the completion of the electricity negotiations. It was generally agreed that it would be less difficult to reach agreement on electricity than the more politically contentious gas market, and the Commission hoped that by establishing broad principles for the internal energy market during the electricity negotiations, these could then be applied as a model in the more difficult gas negotiations (Interview 11, 2011). The electricity negotiations were themselves highly contentious, but by the time the gas negotiations began in 1996 there were some signs that this strategy had began to pay off. Most notably the Netherland had began its own domestic process of liberalisation its energy industries, meaning that it switched from opposing the Commission proposals to become one of its most active proponents. The voting situation in the Council had also changed slightly with the addition of Austria, Finland and Sweden in 1995, with the latter two clearly within the pro-liberalisation camp. So, while the gas negotiations were clearly marked by disputes about how to ensure long-term security of supply, the balance in the Council had shifted slightly more in favour of liberalisation than during the electricity negotiations.

4.1.1.1 Third-party access and regulation

Facilitating access to networks for third-parties was the linchpin of the Commission's proposals, but as seen above it was the most controversial. Before the gas and electricity proposals were split, the Council and Parliament argued that in addition to the regulated third-party access called for in the Commission proposals, less

regulated forms of network access should be allowed under the directive in order to give Member States time to adapt (1993a, 1993c). The Commission was initially opposed to a 'two speed' approach, arguing that this could lead to fragmentation, with different systems operating in each Member State (FT Energy, 1993b). However in order to make progress in the negotiations, they substantially rewrote their proposals to remove most of the details for the regulation of third-party access[44], allowing Member States to adopt a system of negotiated access (Commission, 1993b: 6; FT Energy, 1993e). This allowed for access to networks to be negotiated between companies rather than based on clearly published and regulated tariffs as envisaged in the original proposals. This concession was particularly important for Member States such as Germany which already had a system whereby access could be negotiated and did not have an independent energy regulator to oversee conditions of access to the networks.

However this system of negotiated third party access still went too far for France which wanted to preserve its own model based on their national energy companies' (EdF and GdF) import/export monopoly for gas and electricity and the requirements for them to fulfil certain public service obligations, including security of supply (FT Energy, 1994c). As a result, during the electricity negotiations they proposed what became known as the Single Buyer model, under which EdF would have exclusive rights to buy electricity from generators and sell it to distributors[45]. Unsurprisingly having already offered concessions by allowing for negotiated third-party access, the UK government and the Commission were against any further watering down of network access rules (FT Energy, 1994d). DG Competition in particular were strongly against this model, stating that it was contrary to the EU treaties as it essentially amounted to an import monopoly and warned that it could be tested in the courts (Van Miert, 1994). This was one of the central issues that held up the electricity negotiations and was only resolved when Germany agreed to support the French governments position in exchange for an agreement on reciprocity (Padgett, 2003: 234).

At the beginning of the gas negotiations, the Council expressed its desire to avoid a repeat of the electricity negotiations and reach agreement on a single network access

[44] These included requirements for publishing network access tariffs and technical information publicly, so that potential network users were aware of the costs.

[45] Note of course that this would include its own unbundled divisions for generation and distribution under the unbundling requirements of the electricity directive.

model (FT Energy, 1996b). However it quickly became apparent that several Member States could not except this (Council, 1996b). The positions taken during the electricity negotiations resurfaced with Germany again calling for a negotiated third-party access system with support from Austria, and France calling for a version of the single buyer model with support from Belgium (1997a, 1997b). The Dutch presidency was in favour of the negotiated system, but along with Germany and the UK it was completely opposed to the single buyer model, and did not include it in its compromise text during the negotiations (FT Energy, 1997c, 1997d). Their case was strengthened by a report from the Council legal service which ruled that the single buyer model was incompatible with the European treaties (FT Energy, 1997e: 4). The eventual outcome was that the Single Buyer model was dropped, and the final act allowed a straight choice between regulated and negotiated third-party access. In this respect, the gas directive went further than electricity while it was still short of the Commission's original proposals.

4.1.1.2 Market opening

While the debates over the system of access were less contentious for gas than they had been for electricity, the scope and pace of market opening caused considerable problems during the negotiations. The gas industry's continued opposition to third-party access meant that Member States were under pressure to open gas markets more slowly than in electricity. The Dutch presidency, backed by Germany, Sweden and the UK set out proposals for the progressive extension of market opening over a decade. This would begin with the initial Commission proposal of full opening for all users who consumed over 25mcm/y one year after the directive came in to force, followed by progressive reductions in this threshold to 10mcm/y after five years and 1mcm/y after ten years (FT Energy, 1997d: 4). This however was opposed by Member States such as Austria, France, Greece, Italy, Luxembourg and Spain who wanted to exclude more customers from market opening, allowing them more time to adapt (1997e: 3; 1997f: 1).

In order to reach agreement, the pro-liberalisation camp made two concessions. The first was to allow derogations for Member States classified as emergent markets. Some states had only recently began to develop national gas markets and were heavily dependent on a single supplier through recently signed long term contracts and were concerned about putting those supplies at risk by opening their markets too

quickly. It was agreed to apply derogations to Austria, Finland and Greece, which allowed them greater flexibility in meeting the market opening requirements. The second concession was to exclude distribution system operators (DSOs) from market opening. The Commission had included these in their proposals alongside large industrial users as a means of allowing "other industrial users and domestic user [to] benefit indirectly from TPA" (Commission, 1992: 10), and in the negotiations they had the backing of the UK, Netherlands and Germany (FT Energy, 1996c: 1-2). France and Belgium however were opposed since their DSOs held take-or-pay contracts and they were concerned that if forced to allow third-party access then these companies might not be able to meet public service obligations (FT Energy, 1996c: 1-2). As with the derogations for emergent markets, removing DSOs from third-party access obligations made it more likely that agreement could be reached.

However this was not enough to assuage all Member States and opposition to the Dutch presidency proposals continued, with France the most vocal critic. Under the proposals, third-party access would only apply to gas-fired power generators and large industrial users subject to certain thresholds (Council, 1997a: 5). In many other Member States a lot of the market opening obligations could be met solely by allowing gas-fired power plants as particularly large-scale consumers to switch suppliers. But in France, gas did not feature prominently as a fuel for electricity production meaning that they would have more difficulty in meeting these obligations. As a result the specific thresholds were subject to long and protracted negotiations. It was agreed during the Luxembourg presidency that the phased introduction of market opening would take place over twenty years rather that the proposed twenty, with a staged opening of 20% of the market after one year, 28% after five years and 33% after twenty years, which largely mirrored the expected percentage opening in the electricity directive while allowing a much greater amount of time for Member States to adapt (FT Energy, 1997k). The scope of eligible customers eventually followed a similar pattern to the Dutch proposals but would also be introduced over twenty years and Member States would be allowed to restrict market opening if it went too far beyond the minimum opening requirements in the directive[46].

[46] Opening could be restricted to 30% after one year, 38% after five years and 43% after ten years.

4.1.1.3 Long-term contracts

While opposition to third-party access was clearly present in the negotiation of systems of access and the scope and pace of market opening, much of the opposition was based on the desire of Member States and industry to ensure that they had ample time to adapt to the new arrangements, rather than representing a clear rejection of these arrangements. However when it came to the issue of long-term take-or-pay contracts, the gas industry and the majority of Member States wanted to ensure that long-term take-or-pay contracts would be preserved under the directive, since they considered these to be the foundation of long-term security of supply. In successive Council conclusions the Member States reiterated the importance of such contracts (Council, 1997a: 5) and in the recitals of the final act they stated that "long-term take-or-pay contracts are a market reality for securing Member States' gas supply" (recital 30). The Commission on the other hand clearly advocated a gradual move away from take-or-pay contracts to "other ways of risk sharing" (Commission, 1992: 27)[47].

The Commission's proposed derogations for companies facing economic difficulties as a result of take-or-pay commitments raised two issues during the negotiations. Firstly should national authorities or the Commission have the competence for deciding on these derogations? Secondly could derogations only apply to existing contracts or also to future contracts? The pro-liberalisation states Netherlands and the UK opposed any changes to the Commission proposals (FT Energy, 1996c, 1997c), whereas Germany did not consider any derogations to be necessary. However the majority of Member States were in favour of these derogations, and initially argued that this should be a matter for Member States alone rather than the Commission (FT Energy, 1996c, 1997e). Germany was against the application of rigid criteria for deciding on derogations, preferring to take decisions on a case-by case basis (FT Energy, 1997d: 7; 1997i). Nonetheless attitudes shifted over the course of the negotiations and it was agreed that although Member States could apply derogations, these could be subject to amendment by the Commission through comitology.

[47] In its initial proposals the Commission makes no positive reference to long-term take-or-pay contracts in the recitals except to say that "specific provision must be made for safeguards in case of natural gas undertaking being in economic difficulties because of the impossibility to respect take-off volumes which are part of 'Take or Pay' obligations" (Commission, 1992: 40)

However during the negotiations, the scope of these derogations was extended to include future contracts in addition to existing contracts. This had been opposed by the UK and Ireland, and went against the Commission's plans to reduce the emphasis on these contracts within the gas industry (FT Energy, 1997e). Early in the negotiations it was proposed that Member States should decide on existing contracts, while the Commission would ultimately be in charge of future contracts (FT Energy, 1997d: 4), but this was rejected by the Commission and the Dutch Presidency as inconsistent and likely to limit the amount of harmonisation between Member States (1997d: 4; 1997f: 2). Due to the strong backing of the majority of Member States for preserving this core element of the traditional gas trade, it was therefore agreed that both existing and future contracts could receive derogations ultimately on the basis of Commission decisions.

4.1.1.4 Unbundling

The issue of unbundling was largely side-lined by the far more contentious negotiations about third-party access. Nonetheless, some concerns were raised early on about the Commission's proposals for transmission, distribution and storage to be unbundled into separate divisions. It was unclear if, in addition to the unbundling of accounts, each division had to have separate management or even become separate legal entities under a parent company. Such management and legal unbundling was opposed by some Member States and the Parliament early on in the electricity negotiations (FT Energy, 1992g; 1993c: 2) and in their revised proposals the Commission proposed accounting unbundling only (Commission, 1993b: 7, 9, 10). In contrast to many of the other provisions in the electricity directive, negotiations on accounting unbundling were not contentious and the Commission's proposals were accepted with limited changes. During the gas negotiations however, there was more extensive discussion about the form, scope and transparency of unbundling provisions[48].

The gas industry was keen to ensure that no legal unbundling would be required. They argued that breaking up gas companies into separate divisions would increase market volatility and expose those parts which held take-or-pay contracts would be

[48] Early in the gas negotiations the Council stated that, "[w]hile there is general agreement in principle on a degree of unbundling of accounts further work is needed to define the limits of the activities to be unbundled and the correct balance as between the requirements of transparency and confidentiality of commercially sensitive information, without creating unnecessary bureaucratic procedures" (Council, 1996b: 5-6)

more exposed to financial difficulties (FT Energy, 1996b: 3). On more technical grounds they argued that there was no clear distinction between their transmission, distribution and storage divisions since gas was often 'stored' in transmission and distribution lines as part of the normal functioning of the gas network (FT Energy, 1996c: 2). They also expressed concerns about accounts being made publicly available, arguing that this would reveal too much commercial information to external suppliers and undermine the bargaining position of European gas companies.

Most of the Member States broadly agreed with Eurogas' arguments. They agreed that unbundling should be restricted to accounting, mirroring the electricity directive. The UK and Netherlands wanted to go further by introducing some form of 'Chinese Walls' to restrict the flow of information between the separate divisions in order to limit anti-competitive behaviour (FT Energy, 1997e: 4)[49]. Possibly to counter these moves to go further than the Commission proposals, the other Member States argued that unbundling provisions should be extended to include production which the UK and the Netherlands, as the two main gas producing states, rejected (FT Energy, 1996d: 5; 1997e: 4). The UK argued that production should be exempt as it did not consider it relevant for creating competition, since the point of unbundling was to allow users to know how much it costs to use the network, which only required transmission, distribution and storage unbundling. France disagreed however, saying that unbundling should be applied across the whole supply chain in order to prevent any kind of cross-subsidisation (FT Energy, 1996d: 5). The French position was in line with the Commission's original proposals and was backed by the majority of Member States (FT Energy, 1997e: 4). At the December 1997 council production unbundling and the Chinese walls proposals were dropped in order to reach a political compromise (FT Energy, 1997l: 4). With regards to the publication of accounts, it was agreed early on that these should not be made available publically as had been required in the electricity directive[50]. The main reason for this was that there were concerns that published accounts would reveal too much commercial information to external suppliers and undermine the bargaining position of European gas companies (FT Energy, 1996c: 2). It was agreed however that companies should keep these accounts on file for the use of dispute settlement authorities.

[49] This proposal would likely involve management, and possibly legal unbundling.
[50] See Directive 96/92/EC, article 14.2

4.1.2 Outcomes

The end result of the long negotiations was an even more limited directive than initially proposed by the Commission. Negotiated third-party access was accommodated alongside the preferred regulated variety, derogations for companies from third-party access were extended to future long-term take-or-pay contracts, and if Member States opted for the minimum requirements, by 2018 gas markets would still only be a third open. The final act also involved little in the way of explicit europeanisation, instead focusing almost completely on liberalising national markets. Proposed harmonising provisions for network access tariff-setting were dropped early in the process. In terms of competence, the directive did create new Commission powers for deciding on whether exemptions could be granted for long-term contracts.

Although the directive itself was quite limited, it did at least begin the process of liberalisation in Europe (Interview 11, 2011). By 2001 most Member States[51] had transposed the directive into national law, with only France failing to do so. Implementation was incomplete in Germany, and the Commission launched infringement proceedings against both Member States in 2001 (Platts, 2001a; Commission, 2001b: 8). Market opening went further than the minimum requirement of 20% by 2000 in all Member States except France, with Denmark the only country not to go further than 33% opening within the first year (see Table 4.1). Half of the twelve Member States to which the directive applied went beyond the accounting unbundling requirement, with the UK adopting full ownership unbundling of the transmission network. Third-party access was introduced in all Member States, with only Austria, Germany and the Netherlands opting for negotiated, rather than regulated access[52]. However, most Member States did not go as far in gas as they had in electricity (Commission, 2001b: 9). All Member States went beyond the minimum unbundling requirements for electricity, with a majority opting for at least legal unbundling, and Germany stood out as the only Member State which adopted negotiated third-party access.

[51] Finland, Greece and Portugal were classified as emerging markets and therefore granted derogations (Commission, 2001b: 4)

[52] In the Netherlands, distribution networks were subject to regulated TPA, while access to transmission networks was negotiated on the basis of guidelines issued by the regulator making this in reality a mixed system (Commission, 2001b: 9)

While most Member States exceeded the minimum requirements, there was considerable variation across all of these indicators, and significant differences in how open national markets were to competition. This is illustrated by the large disparities between the UK and Member States such as Denmark, Luxembourg and Sweden. While the UK had 100% market opening and high levels of industrial users that had switched supplies since liberalisation began, the other three hardly transported any gas by third-party access, had low levels of switching and 90-100% of the gas was controlled by a single company. Other Member States had been slightly more successful. Third-party access was emerging in Ireland, Italy and the Netherlands, and their volume switching rates were higher than most other Member States. Germany on the other hand was in a peculiar situation, since it was theoretically a 100% open market, but with minimal amounts of third-party access gas, and low switching rates. France was only 20% open, but had slightly higher levels on both these measures.

Table 4.1: Implementation and evaluation of the first gas market directive by 2001

	Market opening	*TSO unbundling*	*TPA regime*	*TPA share*	*Volume switched*[53]	*Concentration*[54]
Austria	49%	Accounts	Negotiated	<5%	<5%	80%
Belgium	59%	Legal	Regulated	<2%	<5%	Unknown
Denmark	30%	Legal	Regulated	0%	0%	90%
France	20%	Accounts	Regulated	3%	10-20%	90%
Germany	100%	Accounts	Negotiated[55]	2%	<5%	54%
Ireland	75%	Management	Regulated	25%	30-35%	Unknown
Italy	96%	Legal	Regulated	16%	10-20%	75%
Lux.	51%	Accounts	Regulated	0%	0%	100%
Neth.	45%	Accounts	Negotiated	17%	>30%	80%
Spain	72%	Legal	Regulated	7%	5-10%	75%
Sweden	47%	Accounts	Regulated	0%	<5%	100%
UK	100%	Ownership	Regulated	100%	90%	50%

Sources: Commission (2001b: 9, 21; 2003b: 22). Figures for 'market opening' are for 2000 and figures for 'gas controlled by largest company' are for 2002.

4.2 Second Package (2001-2003)

Such concerns about the highly fragmented nature of market opening for both electricity and gas continued into the 2000s, with the Commission arguing in its first

[53] Large users only.
[54] Gas controlled by largest company.
[55] In Germany there no separate regulator was established, with this function performed by the Ministry. In all other Member States the regulators and the Ministries shared responsibility

benchmarking report that the existing arrangements were causing considerable problems:

> "An uneven playing field is developing which affects both energy customers, for whom there are considerable variations in the level of customer choice and in prices, and energy companies, since the degree of threat from competitors varies considerably which may lead to unfair competition in the European market" (Commission, 2001b: 7)

As a result they put forward proposals for a second package to address these issues. The Commission proposed that regulated third-party access should apply across both the electricity and gas markets, removing the options of negotiated third party access and the single buyer model. The one exception was on gas storage, where it allowed for the possibility of negotiated access. It also set out proposals for regulating cross-border trade in electricity, but refrained from doing so for gas. The main reason for this was that the voluntary guidelines that the regulation was based on had already been agreed in the Florence forum for electricity, whereas discussions in the Madrid forum for gas were in the process of catching up having started a year later. However the most fundamental change was the requirement for Member States to set up an independent regulator with harmonised powers across the EU. The level of harmonisation envisaged was fairly limited. Regulators would be required to fix or approve tariffs and mechanisms for allocating network capacity, and would also play a role in reporting on the levels of supply, demand, competition and security of supply within national markets (Commission, 2001a: 55, 59-60). Nonetheless the central requirement was that it should be independent of the gas industry.

On long-term take-or-pay contracts, the Commission decided not to propose any new measures. Debates about derogations for take-or-pay contracts had proven to be one of the most contentious aspects of the first directive negotiations, but had resulted in the Commission being granted oversight powers over Member State or national regulatory decisions. As a result, it is likely that they decided not to reopen this contentious area as it may derail the reforms required in other areas. Instead they called for Member States to consider gas release programmes, to sell off some of the gas bound up in long-term contracts, therefore opening up pipeline capacity and supplies to third parties (Commission, 2001a: 31). This was not proposed as an

amendment to the existing directive, with the Commission leaving the Member States to decide whether or not they wanted to set up such programmes.

Finally the Commission sought to extend market opening and unbundling beyond the requirements of the first directive. They proposed that the electricity and gas markets should be fully opened by 2005, with all non-domestic customers free to switch gas suppliers by 2004[56]. Legal unbundling was proposed for transmission and distribution system operators, meaning that these networks could still be owned by a company active in other areas of the gas industry as long as they were managed and operated as separate companies with separate management and legal standing. Accounting unbundling was proposed for the storage and LNG parts of the business, while the Commission also allowed Member States to exempt small distribution system operators from the legal unbundling requirements.

4.2.1 Negotiations

In comparison to the first directive, the Commission's proposals were met with a much more open policy environment with the majority of actors in favour of further action. Objections based on the traditional understanding of security of supply were rarely used in order to put a break on further liberalisation, with negotiations instead focused on how to accelerate the development of an internal market while allowing Member States and industry sufficient time to adapt.

The Commission for their part downplayed the security of supply aspects of the internal market programme instead emphasising competition concerns (Commission, 2001a). This is in spite of the Commission expressing such concerns about growing threats to security of supply in broader energy discourse at the time, most notably in their 2000 green paper and 2002 proposals for a directive on security of supply (see chapters 3 and 5). For instance in a speech in November 2001 the Transport and Energy Commissioner Loyola de Palacio set out the objectives of the second package:

> "neither market opening, competition nor market integration are goals in themselves. The objectives are competitive prices, better service and consumer protection, particularly in the case of the most vulnerable – in short, a better deal for the citizen" (de Palacio, 2001: 5)

[56] One year earlier for electricity.

The emphasis on competition was more in keeping with prevailing discourses beyond energy policy at the time. The Commission presented a report at the Lisbon Council in March 2000 where it called for the full liberalisation and integration of the energy market by 2004 (Haase, 2008: 24). There was broad support for efforts to push forward with the liberalisation programme, as part of the broader Lisbon strategy to improve the competitiveness of the EU. There was some resistance, particularly from France and Germany who would be required to make the most changes on market opening and regulated third-party access respectively. Nonetheless the Council still issued a call to "speed up liberalisation in areas such as gas, electricity […] to achieve a fully operational internal market in these areas" [Lisbon reference]. Similarly the Parliament mirrored these calls and backed the Lisbon strategy, stating that "delays in implementing internal market directives in some Member States are damaging the entire EU market and are therefore unacceptable" (Parliament, 2000a: 6-7). For the EU institutions, it appears, security of supply concerns had receded into the background:

> "At that point the focus was not primarily on security of supply. It was very much the competition angle. How to bring about functioning gas and electricity markets, what industry structures you needed, the regulatory arrangements… there were obviously provisions in there about security of supply but it was not foremost in our minds at the time" (Interview 11, 2011)

Outside of the EU institutions, the gas industry continued to resist market liberalisation but abandoned the use of security of supply rhetoric. This may represent a certain amount of strategic adaptation on the part of industry, but is also due to broader changes taking place within the sector. Industry had began the process of adapting their commercial strategies to take account of the path set out in the first directive (Interview 8, 2011). Gas Infrastructure Europe (GIE) was set up by infrastructure owners to represent their interests, initially under the umbrella of Eurogas and then established as a separate entity in 2002. Representing electricity and gas traders, the European Federation of Energy Traders (EFET) was set up in 1999 (EFET, 1999: 1). While Eurogas and GIE represented established gas companies, EFET represented various companies with a stated commitment to liberalised markets. As a result the traders supported the majority of the Commission's proposals, whereas the incumbents were still somewhat opposed to

the proposals. However, even within these organisations differences emerged among members, with French and German companies the most opposed.

4.2.1.1 Third-party access and regulation

Divisions within industry were most obviously felt on the issues of regulated third-party access and independent regulators. EFET agreed with both of these aspects of the proposals (EFET, 2002a). It stressed the need to "avoid the imposition of unnecessary bureaucracy in the European gas market", which it cited as one reason for rejecting the nTPA option as in its view it led to more (EFET, 1999: 1, 3). Both Eurogas and GTE shared EFET's concerns about the potential for 'excessive regulation', and rejected the need for national regulators which they felt could undermine incentives for transmission system operators to invest in new infrastructure (Eurogas, 2001b: 2-3; GTE, 2002: 2). However unlike EFET they both defended negotiated third-party access, arguing that it had not been shown that it undermined the functioning of the internal market.

Divisions between traders and incumbent gas companies reflected different sets of priorities, with traders seeking to develop spot market trading, and incumbents wanting to ensure the preserve traditional gas trading. However there were also differences along national lines inside Eurogas and GTE, with German members leading the opposition to the Commission proposals (Eurogas, 2001b: 2-3; GTE, 2002: 2). Before the proposals were tabled, both Eon and Ruhrgas had made it clear that they opposed both of these measures (2001b, 2001d). Ruhrgas in particular was critical of the pressure being exerted by the energy traders for these measures, stating that "Unlike Ruhrgas and other gas companies, traders do not assume any responsibility for investments or for security of supply. Ruhrgas is opposed to conditions which impair the gas industry's ability to invest" (FT Energy, 2001b: 11).

Parliament as a whole was largely in favour of the proposed measures. In contrast to his electricity counterpart the rapporteur for the gas directive Bernard Rapkay argued that it was not necessary to abolish negotiated third-party access, or establish an independent regulator. In his report he stated:

> "Your rapporteur considers the issue of national regulatory authority versus self-regulation, negotiated versus regulated access to the market to be secondary. This dispute about how energy markets should be regulated is

motivated by concise financial interests, not different regulatory philosophies. What is important is the content of this regulatory factor, its binding nature and legal claims concerning the details of regulation. Neither a thorough analysis of the different systems, nor their objectively measurable successes will make us conclude that either an association agreement according to the German model (so far) or a national regulatory authority - these vary considerably from one country to another - is the optimal solution" (Parliament, 2002b: 12)

Despite Rapkay's own reservations, the ITRE committee accepted the Commission's proposals and also proposed that a group for the harmonisation and coordination of gas regulators across Member States should be set up by the Commission (Parliament, 2002a: 88).

The Council was also broadly supportive of the Commission proposals, stating early in the negotiations that "Non discriminatory third party access to the grid without transparent and published tariffs is not feasible" (Council, 2001a: 12). They stopped short of offering full support primarily because of opposition from Germany.

4.2.1.2 Long-term contracts

As noted above, the Commission did not propose any changes to the existing provisions allowing a derogation for take-or-pay contracts from third-party access. However, debates about the role for such contracts within the gas market continued into the negotiations. Within the energy industry EFET was alone in arguing against the need for derogations. It argued that the main effect of long-term contracts was that it allowed incumbents to frustrate the market by keeping gas supplies and pipeline capacity to themselves rather than allowing it to be traded on the open market (EFET, 1999: 4). The incumbent gas companies no longer opposed third-party access and the development of spot markets as they had early in the first directive negotiations. GdF vice-president Jean-Marie Dauger for instance argued that long-term contracts would have to adapt to take account of the new market reality of limited spot trading (FT Energy, 2001c). But they continued to argue that such contracts were important for securing infrastructure investment:

"One of the main concern of GTE is that the regulatory framework should not hamper the development of the necessary new infrastructures, particularly those infrastructures which will be needed for maintaining a high degree of

security of supply for Europe and to improve the flexibility of the European network, and/or are in effective competition with competing infrastructures (pipelines or LNG terminals). In this respect, some GTE Members are of the opinion that *the Gas Directive should explicitly allow Member States to put in place specific rules or tariffs for access to such infrastructures* […] GTE believes that *long-term transmission contracts will remain necessary in some circumstances for developing new infrastructures*, and that the market will require from TSOs long-term transmission contracts in parallel with shorter-term contracts" (GTE, 2002: 2, emphasis added)

GTE's suggestion that for rules and tariffs for access to new infrastructure of course works against the principles of third-party access advocated by the Commission. However this appeared to gain some traction with the Member States themselves. A few months after the publication of GTE's paper on the subject, the Council began negotiations on including an article on allowing derogations for new and significantly expanded infrastructure from third-party access and regulation by national authorities (Council, 2002e)[57]. Formally this measure was to ensure that assistance was available for infrastructure where investment may be at risk due to the requirements of the internal market. Derogations would be granted by the regulatory authorities and be subject to Commission oversight on the same basis as the take-or-pay derogations set up under the first directive. They would be decided on a case-by-case basis based on whether the infrastructure would contribute to increased competition or security of supply within the Member State, and whether it was owned by a company that was legally separate from the system operator where the infrastructure would be built. Most Member States supported these provisions, and discussion focused on whether regulatory authorities or governments should be responsible for national decisions on derogations (Council, 2002f: 10). In their common positions, the Council decided to grant those powers to national governments, while retaining Commission powers to grant or refuse derogations (Council, 2002g, 2003b).

The Parliament for its part, did not raise any major objections to the provision for new infrastructures except that the ITRE committee considered wholly independent national regulators to be the most appropriate body for taking such decisions, but this was rejected by the Parliament as a whole (Parliament, 2003a: 14-16). Instead it

[57] There was no mention of this measure in previous Council documents (Council, 2002c)

focused its efforts on introducing a requirement for regulatory authorities to require gas-release programmes to free up gas supplies that were bound up in long-term contracts, rather than leaving this as a voluntary decision for the Member States (Parliament, 2003a). The Commission on the other hand was against such exemptions for new infrastructures: "it was always thought that exemptions wouldn't be needed. We didn't want to put them in; we didn't want to have them at all" (Interview 2, 2011). However during the negotiations the Commission did not argue against such exemptions, most likely because of the political consensus on the directive that had emerged on the directive.

4.2.1.3 Market opening and reciprocity

The pace of market opening was the only issue that became politicised during the debates. As with the first package Eurogas continued to argue that gas markets should be opened more gradually than electricity. They pointed out that the latter had a two year head start on gas and that industry needed more time to adapt to the new arrangements. However these arguments did little to persuade the Parliament who were highly supportive of the Commission's plans for 100% by 2004. They considered this necessary in order to really begin the process of integrating the 15 separate markets for electricity and gas (Parliament, 2002c). Parliament noted that although the overall percentage of the European gas market that was open was 79%, this was largely down to the high levels of opening in Germany, Italy and the UK which accounted for some two-thirds of the market. They also called for the removal of the reciprocity clause set up in the first directive, since they regarded this as much of the reason for the high degree of variation between different Member States.

For the Council as a whole, it was broadly accepted early in the negotiations that full market opening should take place. The negotiations instead centred on the pace of market opening, which was the central issue for France. When the Commission had proposed a target of 2004 for full market opening at the Lisbon summit in 2000, the French government had rejected this as unfeasible (FT Energy, 2000). It had only opened 20% of its market a year after the first directive came into force whereas all other Member States had went beyond this minimum requirement. Politically, market liberalisation became a key election issue in the French presidential elections with President Jacques Chirac and Prime Minister Lionel Jospin standing against each other. While this delayed agreement on market opening, following the election

the French government were not able to get agreement on their preferred date of 2009 for full market opening (Council, 2002g: 21). Instead they succeeded in delaying full market opening to 2007 in exchange for agreeing to market opening for large industrial users by 2004.

4.2.2 Outcomes

The negotiations of the second gas directive can largely be regarded as a success for the Commission. In each of its three main proposals it managed to achieve its aims, and was successful in negotiating a common approach for electricity and gas. The move to regulated third-party access and the requirement to establish an independent national regulator put in place measures that went beyond the Commission's original intentions during the first package. Reaching agreement on market opening may have been delayed by the French presidential election, and the deadlines for opening were later than the Commission had hoped, but nonetheless involved a rapid acceleration of market opening over the 33% by 2018 deadline agreed for the first gas directive. Legal unbundling was also agreed without too many problems. The only area where the Commission had to concede some ground was in putting in place exemptions from third-party access for new infrastructure and the existing derogations for companies with take-or-pay commitments remained in place. Nonetheless, the legislation agreed appeared to represent a move in the direction of an economic liberal approach to security of supply.

However moves in this direction were short lived. Implementation proved to be slow with most Member States failing to meet main requirements of the directive by the July 2004 deadline (see table 4.2). Only six national markets were fully open to industrial consumers, with limited further progress throughout 2005 and 2006. Nine Member States had below 80% opening, including France. The application of the new TSO unbundling rules was patchy at best. Only nine Member States had implemented these by 2004. By 2005, France, Germany[58] and Poland had also moved to legal unbundling, while Denmark, Italy, the Netherlands and Sweden had adopted ownership unbundling (Commission, 2005b: 81). Nonetheless, half of all Member States had failed to meet the requirements a year after the implementation deadline (Commission, 2005c: 12). In electricity by contrast, all Member States except Cyprus had implemented these rules in the electricity sector by 2005

[58] At this point Germany had not legally unbundled all of its TSOs, only the largest five.

(Commission, 2005b: 79). Germany continued to lag behind with regards to network access and regulation, failing to put in place an independent regulator until 2005 (Commission, 2007c: 29). As a result of the poor level of implementation, the Commission launched infringement proceedings against almost all Member States (Commission, 2005a, 2006b, 2006c, 2006d).

Table 4.2: Implementation of the second gas market directive by 2004

	Market opening	*TSO unbundling*	*TPA regime*	*National Regulator*	
				Independent?	*Regime*
Austria	100%	Legal	Mixed	Yes	Ex-ante
Belgium	83%	Legal	Regulated	Yes	Ex-ante
Czech R.	0%	Accounts	Mixed	Yes	Ex-ante
Denmark	100%	Ownership	Regulated	Yes	Ex-post
Estonia	80%	None	Regulated	Yes	Ex-ante
France	37%	Accounts	Regulated	Yes	Ex-ante
Germany	100%	Management	Negotiated	No	None
Hungary	0%	Legal	Regulated	Yes	Ex-ante
Ireland	85%	Management	Regulated	Yes	Ex-ante
Italy	100%	Legal	Regulated	Yes	Ex-ante
Latvia	0%	Legal	Negotiated	Yes	Ex-ante
Lithuania	80%	Accounts	Regulated	Yes	Ex-ante
Lux.	72%	Management	Regulated	Yes	Ex-ante
Neth.	60%	Management	Mixed	Yes	Ex-ante
Poland	34%	Accounts	Regulated	Yes	Ex-ante
Slovakia	33%	Legal	Mixed	Yes	Ex-ante
Slovenia	50%	Accounts	Negotiated	Yes	Ex-ante
Spain	100%	Legal	Regulated	Yes	Ex-ante
Sweden	51%	Accounts	Regulated	Yes	Ex-post
UK	100%	Ownership	Regulated	Yes	Ex-ante

Sources: Commission (2004: 7, 13-14).

Beyond formal implementation, the Commission was also concerned about the low level of competition, particularly for gas (Commission, 2004: 6) (see table 4.3). As a result of these concerns, DG Competition decided to launch an inquiry into the electricity and gas sectors in June 2005. This was the first time that new powers which DG Competition had been given in 2003 to conduct inquiries into anti-competitive behaviour within any sector of the economy was used. Reflecting the sensitive nature of the gas sector, the original plan was to confine the inquiry to electricity, however the UK Government asked DG Competition to extend the enquiry to gas due to concerns it had about lack of competition (Interview 1, 2011; Interview 11, 2011). Conducting the inquiry allowed the Commission to find out a lot more about the actual conduct of the market.

Table 4.3: Liberalisation of national gas markets by 2004 (%)

		Market share of largest three companies		*Cumulative volume switching*	
	Gas controlled by largest company	*Large industrial*	*Small commercial and households*	*Large industrial*	*Small commercial and households*
Austria	>90	-	-	5-20	<5
Belgium	100	100	100	20-50	5-20
Czech R.	99	54	57	<5	<5
Denmark	90	92	100	20-50	<5
Estonia	100	100	100	<5	<5
France	64	-	-	5-20	<5
Germany	50	-	-	<5	<5
Hungary	100	77	79	5-20	<5
Ireland	40	100	100	>50	<5
Italy	80	54	33	20-50	<5
Latvia	100	100	100	<5	<5
Lithuania	43	100	100	<5	<5
Lux.	100	95	93	<5	<5
Neth.	Unknown	-	83	<5	5-20
Poland	100	-	-	<5	<5
Slovakia	97	100	100	<5	<5
Slovenia	100	-	-	<5	<5
Spain	85	72	90	>50	<5
Sweden	100	-	-	<5	<5
UK	25	53	77	>50	20-50

Sources: Commission (2004: 32; 2005c: 15; 2005b: 58)[59]

The inquiry revealed that in practice almost all markets were dominated by incumbent gas companies, and that there had been very little change in national market structures since liberalisation began, regardless of the level of formal opening (Commission, 2007a: 38). Prior to the sector inquiry the Commission was already aware of the high level of concentration. As can be seen table 4.3 in the majority of Member States in 2004 the largest (incumbent) gas company controlled almost the entire gas supply through long-term contracts, while the largest three companies tended to dominate the market for industrial and household consumers of gas. However the inquiry revealed that the incumbents also completely dominated the emerging spot market for trading gas (Commission, 2007a: 41-42). There was little opportunity for other companies to enter into the market, which meant that there was little opportunity for genuine competition to develop (Commission, 2007a: 47).

[59] Data based on voluntary responses by Regulators and Member States. As a result, data for some Member States is not available

The inquiry also revealed evidence to suggest that incumbent gas companies were deliberately preventing the integration of national markets by confining themselves to their own national markets possibly on the basis of collusion with incumbents from other Member States (Commission, 2007a: 68-9), and dominating the purchase of capacity on cross-border connections under long-term arrangements (Commission, 2007a: 73-75). In Europe the two main axes for the delivery of gas run from North to South (delivering British, Dutch and Norwegian gas southwards) and East to West (delivering Russian gas westward). The inquiry found that both of these axes were fully booked by incumbents until at least 2017, preventing incumbents from being able to trade across borders and undermining efforts to create competition national and across Europe. These findings encouraged DG Competition to launch anti-trust investigations into various companies across Europe in 2007 and 2008 including Eni, RWE, Gaz de France and Eon, the latter two for suspected collusion not to sell gas in each other's markets in order to maintain their respective dominant positions.

4.3 Third Package (2007-2009)

The sector inquiry highlighted the lack of integration between national electricity and gas markets, and demonstrated that competition was being restricted by the efforts of incumbent energy companies to foreclose national markets and limit cross border trade. This gave the Commission the evidence it needed to propose a third package of measures which otherwise would not have been possible (Interview 11, 2011). However this did not mean that they faced a particularly receptive political environment for their proposals. Instead the policy-making environment had become increasingly securitised following the 2006 gas disruption which caused temporary shortfalls in supplies to central and eastern Member States in particular. The higher levels of dependence on Russian gas within these countries combined with growing concerns about whether Europe would have access to sufficient supplies in the long-term meant that there was a growing sense of vulnerability about Europe's energy security.

This ensured that when putting forward proposals the Commission had to reconcile the potentially competing concerns of increasing competition and addressing the fears about energy security while continuing to push for its own liberal approach to long-term security of supply. In January 2007 it published the final report on the sector inquiry alongside its first strategic energy review which set out proposals for a

European Energy Policy that placed a third package for the internal gas and electricity market at its heart (Commission, 2007b). This was followed by specific proposals in September, where the Commission set out a case for new legislation that sought to address each of the above concerns:

> "a competitive EU-wide electricity and gas market is crucial to ensure the security of Europe's energy supply, as only a Europe-wide and competitive market generates the right investment signals and offer fair network access for all potential investors, and provides real and effective incentives to both network operators and generators to invest the billions of Euros that will be needed in the EU over the next two decades" (Commission, 2007e: 1)

The first and main measure proposed was that transmission networks should be fully unbundled from supply and production activities in both gas and electricity. This meant that energy companies would have to sell their transmission networks or, if the energy company was state owned, put under the control of a separate public body from the supply business. Recognising the political difficulties involved in such a move the Commission also put forward a second option which would allow companies to retain ownership of their networks, but cede control of them to an independent system operator (ISO) who would be responsible for operation of the network including investment decisions. However this second option could only be a temporary measure on the way to mandatory ownership unbundling. Underpinning this proposal was the claim that only ownership unbundling would provide sufficient incentives for investment:

> "a company that remains vertically integrated has an in-built incentive both to under-invest in new networks (fearing that such investments would help competitors to thrive in "its" home market) and – wherever possible – to privilege its own sales companies when it comes to network access. This damages the EU's competitiveness and its security of supply and prejudices the attainment of its climate change and environmental objectives" (Commission, 2007e: 5)

As an additional measure, the Commission put forward proposals for a so-called third country clause which prohibited companies from third-countries owning European energy companies unless the country was granted a derogation by the

Commission[60]. This clause, which was not part of the Commission's original plans for the third package, was added in to the September proposals at the last minute in response to concerns about Gazprom in particular acquiring unbundled European transmission networks. The stated aim of the proposal was to ensure that companies from third-countries would be subject to the same unbundling rules as European companies in order to prevent them from frustrating competition within the internal market.

Secondly, the Commission proposed the creation of new bodies for the cooperation of transmission system operators, ENTSO-E and ENTSO-G for electricity and gas respectively. The aim of these proposals was to facilitate market integration by institutionalising the existing industry bodies ETSO and GTE and giving them a specific role in the harmonisation of network codes on balancing, tariffs and network interoperability to remove some of the technical barriers to market integration. They would also be required to develop 10 year investment plans for the European network, with a particular emphasis on cross-border interconnections.

Thirdly, they proposed reforms of market regulation through the further harmonisation of national regulatory authorities in order to promote convergence in the regulatory regimes across the European Union. But the major change proposed was the establishment of a European agency for the cooperation of national regulatory authorities (ACER) which would institutionalise ERGEG and give it the power to take binding regulatory decisions on limited issues of cross-border trade in electricity and gas. It would be able to step in if national authorities were unable to agree on how to regulate cross-border pipelines, and would be responsible for regulatory decisions on whether cross-border infrastructure should be granted exemptions from third-party access[61]. Finally, it would monitor transmission system operator cooperation on network codes and the implementation of their long-term investment plans.

[60] In the proposals article 7a states that, "Without prejudice to the international obligations of the Community, transmission systems or transmission system operators shall not be controlled by a person or persons from third countries".

[61] As with the existing arrangement under the second package, these exemptions would still be subject to Commission approval.

4.3.1 Negotiations

Out of all the proposals, the idea of mandatory ownership unbundling and the third-country clause were by far the most controversial. While there were some disagreements about the proposals to institutionalise the cooperation of TSOs and national regulators, these measures were both passed without too many problems. Discussions about appropriate regulation of the internal market were in large part subordinated to the question of mandatory ownership unbundling and whether alternative forms of unbundling may require stronger regulatory oversight. The only area of disagreement among the Member States was whether ACER should be involved in decisions about granting derogations from third-party access for cross-border infrastructure, which a few Member States considered 'too political' to be given to a supranational authority (Platts, 2008a). In Parliament certain members proposed that ACER should be strengthened to give it wider ranging powers over national regulatory decisions. However neither of these concerns led to substantial changes to the Commission's initial proposals. The regulators, industry, Parliament and Council had all accepted these proposals in principle before the publication Strategic Energy Review, and since they involved the institutionalising and strengthening of already existing voluntary bodies they were not particularly controversial.

4.3.1.1 Unbundling and the third-country clause

Precisely because of the controversial nature of ownership unbundling the Commission may have been expected to not pursue it, particularly in the gas sector. By the beginning of 2007 only seven Member States had unbundled the ownership of their transmission networks for gas, whereas eleven had done so for electricity (Commission, 2007b: 7). DG Energy anticipated that many of the Member States, most notably France and Germany who had previously opposed unbundling in prior negotiations, would resist strengthening these measures. Initially they were hesitant about proposing mandatory unbundling, but DG Competition had, as a result of the sector inquiry findings, come to the conclusion that such measures were the only viable option for facilitating genuine competition within the energy sector. In a preliminary report on the inquiry in 2006 it warned that if the existing provisions on legal unbundling were not fully implemented then mandatory ownership unbundling would have to be put in place (Commission, 2006a: 8). In the lead up to the

Commission issuing its proposals for a third package the Competition Commissioner Neelie Kroes reiterated her support for this stronger measure on numerous occasions (Kroes, 2006: 4; 2007a: 3). DG Competition was influential in convincing DG Energy to pursue ownership unbundling (Interview 1, 2011), but recognising the political difficulties in getting Member States to agree to further unbundling, the ISO option was included as a fall-back position.

Among market participants the association for the cooperation of energy regulators ERGEG were the most vocal advocates of effective unbundling. After the Commission signalled its intention to put forward such proposals ERGEG issued reports which backed ownership unbundling and made the case that the ISO option would be a less favourable option requiring extensive regulation to ensure that unbundling was effective in preventing discrimination and developing genuine competition (ERGEG, 2007a: 36-7). Central to its arguments was the claim that under the ISO model there would be tremendous practical difficulties in making clear investment decisions and deciding how profits from the operation of the transmission network should be shared between the two companies (ERGEG, 2007b: 22). However while most regulators were in favour of ownership unbundling, some national bodies were opposed (Interview 4, 2011). The German regulator Bundesnetzagentur for instance, took the same line as the German government in opposing unbundling, however there was no uniform link between the positions of government and energy regulators throughout Europe. For instance, the Austrian regulator E-Control was very active in lobbying for ownership unbundling whereas the Austrian energy ministry was firmly opposed (Interview 4, 2011).

Within the energy industry, divisions which emerged during the second package remained. EFET had been a consistent advocate of 'effective unbundling' arguing that legal separation was insufficient for ensuring that there was no discrimination. It had long supported the ideal of full ownership unbundling, while accepting other models short of this provided that sufficient regulatory safeguards were put in place, a position it maintained following the preliminary report on the sector inquiry (EFET, 2003, 2005, 2006b). Eurogas in contrast argued that further unbundling should only be considered once legal unbundling had been implemented in all Member States (Eurogas, 2006a: 3). It also challenged the Commission's claims that ownership unbundling would lead to higher levels of investment, and warned that:

> "Several companies are concerned that mandatory ownership unbundling would lead to the weakening of European energy companies, which would reinforce the existing imbalance with non-EU players, in particular natural gas producers, who have a determining influence on the worldwide natural gas market since they are not subject to the same rules as European energy companies as they are totally or partially state-owned and protected from foreign competition through monopoly rights" (Eurogas, 2007: 2)

While industry was divided about the whether further unbundling was needed, they developed a common position about a regional approach to market integration. The electricity industry body Eurelectric made the case that if the Commission was serious about the integration of electricity and gas markets then unbundling would not be the best approach as it was too national a measure to be effective. Instead it called for a greater emphasis on the regional cooperation of TSOs on cross-border issues (Eurelectric, 2007: 2-3). This idea also appealed to Eurogas and EFET, both of which had previously argued that the development of regional markets represented a practical step towards market integration across Europe (Eurogas, 2007: 1-2). Furthermore it also appealed to some of the energy regulators who, especially through ERGEG, had been working since 2003 to develop regional markets for electricity and gas:

> "we could see at the beginning that the Commission would not succeed with this, so we thought they should have some exit strategy or some other proposal. So we were thinking more about stronger regional cooperation, maybe the TSOs cooperate [...] we quite liked this because there we thought if you had like five TSOs in a joint company then you also have quite strong independence from the individual vertically integrated companies. So we thought this would work. And we tried to promote this as an exit strategy if this whole ownership unbundling discussion didn't succeed" (Interview 12, 2011)

Regardless of its practical merits, the regional approach served several political functions. Firstly it provided an alternative arrangement to ownership unbundling that could allow the gas industry to maintain ownership and some limited control over transmission networks. Secondly, by framing it as a more 'European' measure

than 'nationally focused' unbundling, the industry directly challenged the rationale behind the Commission's proposals.

Prior to the proposals the Parliament also indicated that it was strongly in favour of ownership unbundling as "the most effective tool to promote investments in infrastructures in a non-discriminatory way, fair access to the grid for new entrants and transparency in the market" (Parliament, 2007c: 4), and made little mention of the regional approach advocated by industry. Although the resolution did not call for completely different unbundling provisions electricity and gas, they did warn that this was "not straightforward" in the latter since Europe was increasingly reliant on imported gas from third-countries which were not subject to the same market rules as European companies. During debates in Parliament Anne Lapperouze argued that "ownership unbundling of the networks could make European gas companies more fragile", and that "After it has been imposed – if this option proves to be the wrong one – the damage could harm European companies and, ultimately, the security of supply". Others, such as Jana Bobošíková focused their comments on Gazprom:

> "This liberal approach would be entirely valid if we were speaking about goods for general consumption. When it comes to strategic, location-specific, natural resources upon which we are completely dependent, however, the situation is completely different. Do we know how to prevent the domination of deregulated markets by companies connected to the main producing countries? Do we know how to prevent markets from being dominated by the Russian state-owned company Gazprom?" (Parliament, 2007d)

While these were isolated comments, they nonetheless indicated that certain MEPs had concerns about the influence of Gazprom in European markets. These concerns made their way into the resolution which stated that "no third country company should be allowed to purchase energy infrastructure unless there is reciprocity with that country" (Parliament, 2007c: 5).

Similar divisions were also evident among the Member States. After the Commission presented its proposals at the February Energy Council, the Council could only conclude that there should be "effective separation of supply and production activities from network operations" (Council, 2007c: 5) but did not agree that there should be full ownership unbundling. Prior to the June Energy Council the German Presidency invited Member States to make written submissions on whether

they agreed with the Commission that such measures were necessary, and whether they felt that there should be different arrangements in place for electricity and gas (Council, 2007f: 3). This revealed that there were serious divisions on both questions. A hard core of Member States, primarily those who already had ownership unbundling in place for both sectors, backed the Commission proposals, with the majority of those arguing that there should be no distinction made between electricity and gas on this issue. However another group led by France[62] was opposed. Even more worrying for the Commission was that while 11 Member States supported ownership for electricity, only 8 supported the same measures in gas[63].

Some Member States stated that they were opposed to unbundling as it involved illegal interference in the internal working of private companies and amounted to expropriation of company property. However the majority of Member States which opposed ownership unbundling in the gas sector were rather more concerned about the impact this would have on security of supply. Bulgaria, Estonia, and Lithuania, who were each dependent on Russia for at least 90% of their gas supplies, argued that enforced unbundling would leave them vulnerable to dominance by Gazprom (Council, 2007n: 2; 2007r: 2; 2007v: 2). The Czech Republic was in a similar position, and cited concerns that ownership unbundling would both weaken their bargaining position with Russia, and increase the likelihood that Gazprom would buy up European networks, therefore locking in European dependence (Council, 2007l: 2). These same fears were also expressed by larger Member States such as France and Poland:

> "This model leads to particular vulnerability for operators in the energy industry, these being responsible for ensuring the security of our energy supply, since they may, if ownership unbundling is applied, find themselves at the mercy of investors who do not attach the same importance to the interests of European consumers. This is particularly worrying in the case of gas, of which Europe is a major importer" (Council, 2007j: 4)

[62] Germany was also opposed, but in its role as Council President it refrained from stating these views publically at the time.

[63] These positions are based on the written responses from 20 of the 27 Member States. In addition to the German Presidency, Ireland, Latvia, Luxembourg, Malta and the Netherlands did not make any submissions. See document reference 9905/07 ADD1-ADD20 (listed in bibliography under Council of the European (2007b-?)

> "Pursuing activities towards internal market liberalisation, the EU must bear in mind the possibility of unfair competition on the part of external suppliers, which operate in a non-liberalised environment and do not have to obey the same rules concerning TPA, investment protection, etc. Moreover, there should be no doubt that the liberalisation activities to be taken must take into account the need to ensure energy security" (Council, 2007s: 2)

However a group of Member States in favour of ownership unbundling, led by the UK and Denmark, made the case that there should not be separate rules for electricity and gas, and also argued that ownership unbundling would strengthen the security of supplies:

> "Further unbundling is also crucial for the EU's security of gas supplies. As the EU is becoming increasingly dependent on imported gas supplies it is important that there is no hoarding of capacity but, on the contrary, maximum use is made of existing pipeline capacity; that the investments in gas infrastructure and facilities that are needed to meet consumers' needs are made; and that there is a well functioning wholesale gas market so that suppliers have access to gas at competitive prices. Effective unbundling is required to achieve all these objectives" (Council, 2007g: 2)

Following this meeting, the Danish government sent a letter to the Commission signed by Belgium, Denmark, Finland, the Netherlands, Romania, Spain, Sweden and the UK, stating their support for mandatory ownership unbundling and urging the Commission to persevere with its plans to include this in their proposals (Danish Government, 2007; Platts, 2007a). In response Austria, Bulgaria, Cyprus, France, Germany, Greece, Luxembourg, Latvia and Slovakia sent a similar letter opposing the measures which also stated that the ISO option was unacceptable as in their view it was another form of ownership unbundling and was therefore not a viable alternative (Platts, 2007b)

While this show of support from the pro-unbundling camp and the endorsement from Parliament convinced DG Energy to proceed with its proposals for mandatory ownership unbundling it was clear that they would face considerable opposition, particularly on gas. In response they decided to address the concerns about the potential for Gazprom to acquire unbundled networks and developed the third-country clause in consultation with DG RELEX and DG Trade (Commission,

2007d). A range of possible protective mechanisms were discussed as possible ways to place limits on foreign investments in European energy companies. These included proposals to adopt similar measures to the Control of Foreign Investments in the United States (CIFIUS) or Russian measures on strategic sectors which place a 50% limit of foreign investments (Interview 7, 2011). On the basis of these discussions that Commission decided to propose a ban on third-country ownership unless an agreement between the Community and the third-country was put in place.

The precise aims of this clause are unclear. Formally it applied to all third countries, however both inside the Commission and among other actors it was well known that it was specifically targeted at Russia, and became known colloquially as the 'Gazprom clause' (Interview 4, 2011). Although it addressed the specific problem of reciprocity, it also functioned as a way of reassuring particular Member States and the Parliament that ownership unbundling would not lead to a loss of control over their transmission networks in an attempt to win their support for ownership unbundling. Regardless of the exact intentions of the Commission, the clause was met with a mixed reception. The Gazprom chairman and Russian Deputy Prime Minister Dimitry Medvedev stated that such a measure would "contradict the principle of the open market" and warned that they may respond with similar measures if the clause was passed (Platts, 2007c). Other third-countries, most notably the United States which had extensive investments in European energy industries, expressed similar concerns (Interview 4, 2011; Interview 7, 2011).

While the clause had the backing of the Parliament (Parliament, 2007e) and may have helped to reassure some Member States about Gazprom dominance, it opened up new divisions among other Member States who were more in favour of investments from Gazprom and other third-country companies. They emphasised that rather than banning third-country investments as a default position, the clause should be reformulated to make it clear that it was only to ensure that companies from third-countries were subject to the same market rules as European companies (Council, 2007ab: 5). This also raised concerns among certain Member States about competence. The UK, who were fairly relaxed about the potential for third-country companies owning energy companies within its borders, were opposed to granting the Commission any major role in such decisions. They considered the need for specific derogation agreements to be wholly impractical and told other Member

States to "protect yourselves" by adopting national measures to protect industries on the grounds of national security (Interview 11, 2011).

The clause also had a broader impact on the negotiations for unbundling. The anti-ownership unbundling camp[64] put forward a proposal for 'effective and efficient unbundling' in January 2008 (Platts, 2008b; Council, 2008c: 2). Rather than ownership unbundling, or the transfer of control to an independent system operator, this so-called 'third way' involved increasing the degree of legal and management separation between transmission and supply with stronger national regulation. The advocates of this third way argued that under their proposals there would be no need for a third-country clause and as a result opposed it (Council, 2008c: 4). The Commission and pro-ownership unbundling Member States initially rejected this third way as a viable alternative, arguing that it would not lead to substantial progress on the existing arrangements and would not lead to 'effective and efficient' unbundling (Council, 2008c: 3-4).

In response to criticisms of the third-country clause and to continue its push for mandatory ownership unbundling, the Commission issued a paper to Member States in order to clarify what it hoped to achieve with this measure (Commission, 2008a; Platts, 2008c). It stated that the clause was only intended to ensure that the rules on unbundling would apply to all companies operating within the EU, rather than to prevent any investment from third-countries. It also argued that under the 'third way' the clause was even more important because third-country owners would have "even more means to undermine efforts to diversify sources of supply or to cause a severe market disruption than an unbundled TSO" (Commission, 2008a: 4).

In the parallel negotiations in Parliament, it was becoming increasingly apparent that fears about Gazprom were beginning to undermine their previously strong advocacy of mandatory ownership unbundling. While the rapporteurs for both electricity and gas expressed a clear preference for full ownership unbundling in their reports to the Parliament (Parliament, 2008a: 100; 2008b: 100), MEPs from Member States in the 'third way' camp drew particular attention to these fears (European Parliament, 2008):

[64] With the exception of Cyprus who were assured they would be granted a derogation

> "even MEPs who were very strongly in favour of ownership unbundling only said 'Oh in gas that's not a big problem, because in gas the situation is different. We are dependent on Russian gas supplies, we are dependent on not only Russian, but external supplies. The situation is different and so on and so on'. So there even MEPs who as I said were very much in favour of ownership unbundling accepted a , let's say, more restricted unbundling option in order to support the gas companies, to support you know poorer gas companies who could otherwise be bought up by Gazprom" (Interview 4, 2011)

These concerns about Gazprom became particularly prominent during the first reading debates and led to different positions being adopted for electricity and gas. In electricity the Parliament backed the Commission proposals for mandatory ownership unbundling with the ISO option as a temporary derogation (Parliament, 2008c). For gas they instead opted for a straight choice between ownership unbundling and the ISO option (Parliament, 2008d). According to interview sources, this was primarily a result of the gas industry using the 'Gazprom threat' to convince MEPs to oppose mandatory unbundling (Interview 4, 2011). These efforts were only partly successful however. Despite advocating different approaches to electricity and gas, Parliament opposed the 'third way' option for unbundling in both sectors, arguing that it would lead to excessive regulatory requirements which would be "expensive and difficult to implement".

Certain Member States continued to push for the 'third way' option however and eventually the Commission and the pro-ownership unbundling camp were forced to admit defeat at the end of 2008. In its common position the Council insisted that Member States be entitled to have a free choice between all three options in both electricity and gas, with no requirement for an eventual move to ownership unbundling (Council, 2008z: 5). During negotiations between the Parliament and the Czech Presidency in early 2009, the former eventually dropped their insistence on mandatory ownership unbundling for electricity and accepted that Member States could be free to choose any of the three unbundling options in both markets (Platts, 2009f, 2009e). Agreement was later reached on the third country clause which was altered so that the Commission could only offer an opinion on the decision by national regulators about whether a third-country company could own or operate a transmission system within its borders. The revised clause also included a requirement that regulators must include an assessment of whether granting

certification would "put at risk the security of energy supply of the Member State and the Community".

4.3.2 Outcomes

The outcome of the third package has to be seen as a mixed result for the Commission. On the one hand it was successful in its proposals for institutionalising the cooperation of both energy regulators and transmission system operators, with only minor changes. The powers of national regulatory authorities were also harmonised in line with their proposals, all of which indicates that some steps were taken towards a liberal understanding of security of supply. However on the central issue of unbundling the Commission had to back down in the face of Member State opposition. The so-called third-country clause was not effective in persuading those Member States opposed to ownership unbundling to back the proposals, however a revised version of the clause was adopted that allowed Member States to decide on whether companies from third-countries could own or operate a national transmission system. Nonetheless, such measures would have been possible within national legislation regardless of whether they were included within the directive.

4.4 Conclusions

This chapter has attempted to examine whether security of supply concerns enabled or constrained the adoption of measures to liberalise and integrate European energy market, and whether a liberal understanding of security of supply emerged during this time. Throughout the negotiations for the three packages, various concerns about security of supply have acted as a major brake on the Commission's ability to construct a liberalised and integrated market in order to increase European competitiveness and long-term security of supply. Such concerns have also enabled the development of several measures that do more to preserve the status quo even as markets have slowly been opened to competition.

The Commission's first package proposals were themselves very limited as they correctly anticipated that there would be considerable opposition from the gas industry and Member States due to engrained concerns about undermining the existing economic nationalist model for ensuring the long-term security of gas supplies. During the negotiations, there were extensive amendments to the proposals

on regulated third party access, it was agreed to open markets at an even slower pace than in the case of electricity and Member States managed to put in place measures to protect existing and future long-term take-or-pay contracts.

Negotiations for the second package were far less contentious leading to an agreement on full market opening, legal unbundling, the establishment of independent national regulators and regulated third-party access in all Member States at a much accelerated pace. However, as revealed by the sector inquiry in 2007, this was not enough to develop genuine competition within the European market, as incumbent gas companies colluded with other incumbents to prevent new entrants from gaining access to the market and dominated cross-border capacity which limited the possibilities for the integration of national markets.

In an unfavourable political environment marked by increasing security of supply concerns, the Commission's third package proposals failed to make major changes on the central issue of unbundling. Member States from Eastern Europe in particular were heavily resistant to changes to the unbundling regime which they argued would have left them more exposed to dominance by Russian gas giant Gazprom. These concerns spilled over into the electricity negotiations which, despite security of supply concerns not being as pronounced, also resulted in very limited changes to unbundling.

5 European Security Standards and Crisis Response Mechanisms

While the overall aim of the internal market legislation was to integrate national markets and alter the conditions under which gas was supplied and traded, the Commission also considered it necessary to ensure that these developments did not endanger the security of supply. This chapter focus on these attempts through the examination and comparison of the 2004 directive and 2010 regulation on the security of natural gas supplies. In doing so it addresses the second research question of this thesis: what effect has the level of securitisation had on policy negotiations and to what extent has it facilitated or hindered the development of EU policy in this case?

The first section examines the policy process leading to the adoption of the 2004 security of gas supply directive. The result of the negotiations for this directive was a largely voluntary agreement which required no major changes to national policies, no substantial europeanisation and no transfer of competences from the national to the European level. All of the Commission's proposals on harmonised security of supply standards, compulsory gas stocks, crisis response mechanisms and long-term contracts were significantly watered down during the negotiations in response to extensive criticisms from the Council, Parliament and industry. The major reason for this was that none of these other actors accepted the Commission's argument that supply disruptions were a potential threat which should be dealt with at the EU level and instead regarded the development of a competitive gas market as sufficient for ensuring security of supply.

The second section focuses on the policy process before and after the Commission's proposals for a revision of this directive which led to the adoption of a regulation in 2010. In the pre-proposal stage, the potential threat of supply disruptions did not lead to the Council to support revisions to the original directive. After the 2009 supply disruption however, new proposals were put forward by the Commission as a

matter of urgency. In a highly consensual negotiating environment, the Commission was successful in having most aspects of its proposal accepted leading to a more central role for the EU in this area.

5.1 Security of Gas Supply Directive (2002-2004)

Before the EU took the initial steps towards developing an internal gas market in 1998, security of supply was primarily the responsibility of the national gas industry in most Member States. Supply security was, as discussed in chapter two, based on the traditional gas model of government-supported and vertically integrated national gas companies negotiating long-term contracts with suppliers. It was generally assumed that the reliability of supplies was ensured through the interdependence between suppliers and consumers and that supply disruptions would be minimal provided that good national gas companies maintained good relations with their suppliers. As a result, most Member States did not have formal policies[65] for coping with supply disruptions, but instead relied on informal arrangements with their national gas companies to ensure that sufficient counter-measures could be adopted if disruptions occurred for any reason.

Between the Member States there were considerable differences in what provisions national gas companies made for coping with supply disruptions (IEA, 1995: 141-95). Companies would often attempt to ensure that supplies were sufficiently diversified so that supply short-falls from one source could be replaced by increased flows from alternative suppliers. When arranging long-term supply contracts, they would often negotiate clauses allowing them to take additional supplies during supply disruptions if they were available. Germany for instance negotiated such contracts with the Netherlands, while Austria had a contract in place with Norway (IEA, 1995: 257, 87). Several Member States such as France and Germany had large storage facilities which they could use to replace gas volumes temporarily (IEA, 1995: 283-84). National gas companies could take advantage of flexibility within their national markets to reduce demand during disruptions. Many companies offered large consumers lower-price contracts with clauses enabling them to interrupt

[65] There were some exceptions to this general approach. In the UK for instance, the 1976 Energy Act allowed the Secretary of State to take emergency measures during supply disruptions and set security for supply criteria for British Gas to follow (IEA, 1995: 341-42).

contracts in order to free up supplies for customers who were not on interruptible contracts.

The EU had no role in responding to gas supply disruptions and, in contrast to oil[66], it did not require Member States to maintain minimum levels of gas storage. As discussed in chapter three, the Commission argued that the move towards an internal market for natural gas meant that the EU needed to rethink how it approached security of supply. It argued that the restructuring of the market meant that it was necessary to ensure that there was a clear understanding of roles and responsibilities for ensuring security of supply and being prepared to respond to the potential threat of supply disruptions. It therefore proposed a security of supply directive in 2002 that sought to harmonise security standards and develop crisis response mechanisms.

The first Commission proposal was that Member States adopt transparent national policies on security of supply, and accept some harmonisation of security standards and measures (Interview 3, 2011). There were four main elements to these proposals. Firstly, Member States would be required to set out the roles and responsibilities of market participants and national governments. The aim was both to take account of changes in the gas sector due to liberalisation and to make obligations transparent so they did not distort the functioning of the internal market (Commission, 2002c: 16). Secondly, Member States would have to put in place measures to cope with disruptions to their largest source of gas for a period of 60 days. These measures would have to ensure that supplies to all customers who could not easily switch to other fuels were not interrupted. Thirdly, the Commission proposed a list of recommended measures that Member States could adopt to meet these standards (Commission, 2002c: 57). The only compulsory measure was national gas stocks, and it issued indicative targets for each Member State to take into account their national differences (Commission, 2002c: 16, 58-59). Fourthly, the Commission wanted to ensure that security of supply policies did not create new barriers for small and new market participants entering national markets (Commission, 2002c: 46). As a result they proposed that participants who had less than a 10% share of national markets and companies who had only entered national markets during the last five years should not be required to fulfil national security of supply obligations. If Member States wanted to impose such obligations on small or

[66] The EU had, by this point, adopted three directives on maintaining minimum crude oil and petroleum stocks in 1968, 1972 and 1998.

new market participants then they would have to apply to the Commission to remove the exemption.

The second proposal was that the Commission should be given powers to coordinate Europe's response in the event of a major disruption of gas supplies. Article 8 of the proposed directive would allow the Commission to issue recommendations to Member States and the gas industry through the comitology procedures about what measures they could take to cope with disruptions and assist other Member States. If these measures were insufficient due to the severity of the disruption, the Commission may issue binding decisions about what actions Member States and gas companies should take. In both cases the Commission could recommend or require any measure deemed necessary. In the proposals the Commission identified the release of gas stocks, the reallocation of pipeline capacity and the reallocation of supplies from interruptible customers. The only formal limit to the Commission's actions would be to ensure that any measures adopted would restrict competition in the internal energy market as little as possible. The proposal does not set out explicit criteria for what constitutes an 'extraordinary gas supply situation', other than to say that it includes "a major interruption of gas supplies from one of the European Union's principal gas suppliers" (Commission, 2002c: 61). Formally this meant that the Commission could choose when it was necessary to take action.

Finally, the Commission sought to revisit the issue of long-term supply contracts in the internal market. As discussed in chapter four, the role of long-term take-or-pay contracts had been one of the most contentious issues in the negotiation of the first gas market directive. One of the major outcomes of those negotiations was that existing and future long-term contracts could be exempted from the general requirement of third-party access by the Commission. This issue was also revisited during the second gas market directive negotiations in the form of exemptions for new infrastructure, further institutionalising this particular aspect of the traditional gas market model. In its proposals on security of supply the Commission adapted its position to take this consensus on long-term contracts into account while seeking to grant itself some powers over these contracts.

The Commission stated that it saw value in long-term contracts as a means of bringing new supplies to the EU to allow for greater levels of diversification (Commission, 2002c: 18, 49). However it wanted to ensure that these contracts did

not distort competition, "either via the inclusion of restrictive conditions, or by significantly foreclosing markets" (Commission, 2002c: 49). It therefore proposed that Member States should be required to report contracts of over one year in length to the Commission (Commission, 2002c: 57). It would have the power to issue recommendations if there were insufficient long term contracts to ensure long-term supplies to the community, or on any issues relating to contract duration and gas pricing. Furthermore, if the Commission considered that Member States had not taken adequate steps then it could issue binding decisions through comitology (Commission, 2002c: 60).

5.1.1 Negotiations

After submitting its proposals the Commission was heavily criticised by the Council, Parliament and industry. When the Commission formally presented its joint proposals for oil and gas to the Council in early 2003, only the Greek presidency supported the Commission (Interview 3, 2011). The remaining 14 Member States were against the proposals with several arguing that they should be rejected outright (Platts, 2003). As discussed in chapter three, during the early 2000s there was little intersubjective agreement that the security of gas supplies were threatened. Although the Commission framed supply disruptions as a potential risk to the functioning of the internal market, other actors did not consider it likely that supply disruptions would occur. There was also broad agreement that security of gas supplies could be achieved through the development of the internal market. For both of these reasons there was little support for adopting additional measures.

The timing and intention behind the proposals was also criticised. The Commission issued its proposals while the negotiations for the second gas market directive were still ongoing. Some Member States argued that any legislation on the security of gas supplies should not be considered until after reports on the implementation of the market directive were published (Council, 2003i: 12, 18). Others were concerned that there was too much overlap with the market directive due to the proposals to harmonise security standards (Council, 2003i: 2).

5.1.1.1 National policies and harmonised security standards

The proposal for the establishment of national policies on security of gas supply was initially rejected by the Member States. Although some of the larger Member States

such as the UK and Netherlands had their own general policies in place they did not consider it necessary change their national policies to take account of market liberalisation (Council, 2003g: 3; 2003i: 12). The proposals were also difficult for other states which had voluntary arrangements in place with their gas industry for ensuring security of supply and did not see a need to formalise these arrangements. The Commission managed to convince Member States that the liberalisation and integration of European gas markets meant that there was a need for some changes but that these would be minimal (Interview 3, 2011).

However, while Member States came to accept the need for national policies to be put in place, there was considerable disagreement about the form these should take. Opposition to the need for major policy changes remained in place, and most Member States were opposed to any significant harmonisation of policy instruments or standards. In its initial drafts, the Greek Presidency suggested amending the security of supply standards so that they only covered household and small/medium commercial consumers. They also suggested revising the disruption criteria to 20% of total supply rather than the proposal for the largest supplier. It emphasised that these were minimum standards which Member States could go beyond if desired (Council, 2003d: 4-5). They did not however alter the Commission's proposals requiring gas storage to play a role in meeting these standards.

By May no agreement was reached on these revised standards, and Member States remained adamant that the directive should not require or imply that storage or any other policy instrument was compulsory. In submissions to the May Council, most Member States expressed their opposition to national policies being 'harmonised' in any manner (Council, 2003i). There were two main elements to their opposition. Firstly, they insisted that security of supply was a matter for national governments rather than the European Union. Secondly, the most liberalised Member States such as the UK objected to any interference in the choice of instruments since they argued that in liberalised gas markets these could and should only be chosen by market participants (Council, 2003g: 5-6; Interview 11, 2011). As a result of this opposition the Council's draft conclusions in May amended the proposals for article 3 and 4 to emphasise that although Member States should be required to adopt general policies and security standards, the content of these policies should be left entirely to the Member States (Council, 2003c: 6; 2003d: 3).

The emphasis that the Member States placed on market forces was also evident when discussing the proposed exemptions for new or small market participants from security of supply obligations. Initially the Greek Presidency suggested slight amendments to what qualified as a new or small market participant so that there would be fewer exemptions (Council, 2003c: 5-6; 2003d: 3). During formal meetings in May 2003, Belgium, Denmark, the Netherlands and the UK all rejected the idea of exemptions arguing that in order to uphold the principles of fair competition all market participants should be subject to the same obligations (2003f: 3; 2003g: 4; 2003i: 9, 13, 18). Many Member States argued that this aspect of the Commission's proposals was not about security of supply specifically, but was instead an attempt to amend aspects of the second gas market directive under the guise of security provisions. Since it was agreed by almost all Member States that the directive should focus exclusively on security of supply issues without amending the second market liberalisation directive, these provisions were entirely removed from the Council's drafts. This also meant the removal of the proposed Commission powers to decide on whether small or new market participants had to fulfil national security of supply obligations. In it's May 2003 conclusions the Council concluded that, "Market forces are in general considered to be sufficient to ensure both security of gas supply and a level playing field regarding security of supply obligations" (Council, 2003h: 6).

Following the initial round of Council negotiations, the Parliament's ITRE committee prepared its draft report on the proposals. The report largely mirrored the discussions that were going on in the Council at the time. It was heavily critical of the proposal as a whole but did not object to the requirement for Member States to adopt 'general policies'. What it objected to, in line with the discussions in the Council, were the proposals to harmonise security of supply standards and instruments. The Parliament's rapporteur Peter Mombaur argued in his draft report that:

> "What level of security [Member States] are aiming to achieve by this however, must also be left to the discretion of the Member States. This is a political decision […] The EU has neither a mandate to take such a decision on behalf of all Member States, nor are such common standards sensible" (Parliament, 2003b: 28)

As a result, the report removed the 60 day security of supply standard, emphasising that standard setting should be left to the Member States (Parliament, 2003b: 11-13). The report was also very critical of the general approach of the directive which it considered to be too interventionist. Like the UK, Mombaur rejected the idea that governments should choose the instruments to use in order to secure supplies. He and the ITRE committee instead sought to emphasise the role of market participants in meeting security standards and sought to defend the current arrangements in place between national governments and the gas industry:

> "security of supply must start from the gas companies' own responsibility. The directive, however, starts from the odd assumption that in a competitive market the organisation of security of supply cannot be left to industry. By placing the chief responsibility on state authorities, the Commission proposal weakens the preparedness undertakings to take their own precautions" (Parliament, 2003b: 26).

They proposed removing any reference to reallocating roles and responsibilities, instead proposing that general policies should "as far as possible be compatible with a functional internal market in natural gas" (Parliament, 2003b: 7). Like the Council, ITRE also removed any references to exemptions for small or new market participants on the grounds that this would be discriminatory. In their view, exemptions for some participants would place greater and unjustifiable obligations on large incumbents (Parliament, 2003b: 10-11).

It is likely that the common stance of the Council and Parliament on security of supply policy and harmonisation was influenced by the opposition of the gas industry to most aspects of the Commission's proposals (Interview 3, 2011). Before the Commission issued proposals the gas industry actually argued that there was a need for clarity on roles and responsibilities in light of the changes to the structure of the gas industry required by market liberalisation. Indeed the Commission cited the support of GTE and Eurogas when putting forward it's proposals (Commission, 2002c: 45). However when the industry called for greater clarity it also emphasised that this should not involve excessive government intervention:

> "As a result of changing market conditions, the responsibilities for adequate security of supply rest on several market participants […] Furthermore, Eurogas considers that although there is a role for a public policy framework

with clearly defined output standards, as far as possible market instruments should be used to meet the dynamics of security of supply obligations" (Eurogas, 2002: 3)

Industry argued that although the Commission's proposals would help to clarify roles and responsibilities for security of supply, they seemed to suggest that government actions would be preferred over decisions taken by market participants. Eurogas was particularly critical of the suggestion that the gas industry could no longer be relied on to ensure the security of supplies. They argued that industry would continue to ensure the security of supplies, "because they have a fundamental economic interest in competing successfully with other energy sources and developing the gas business" (Eurogas, 2003: 1). GTE meanwhile was concerned that governments could place new obligations on TSOs which, they argued, would distort competition since this would impose additional costs on companies which owned transmission networks (GTE, 2003b: 3). Both Eurogas and GTE were opposed to a general requirement for Member States to use gas storage to meet security standards. They argued that decisions on storage levels, like any other instrument, should be left entirely to market participants (Eurogas, 2001a: 3-4; 2003: 3; GTE, 2003b: 2; 2003c: 1, 3). Unsurprisingly, the gas industry was also united in opposition to exemptions for new and small market participants, arguing that these were discriminatory and would distort competition (Eurogas, 2003: 3; GTE, 2003b: 3; 2003c: 2)[67].

Industry was generally supportive of the adoption of security standards, in line with its arguments about the need to clarify roles and responsibilities. However they emphasised that any standards should be developed between national governments and gas companies, and that there should be no significant harmonisation of standards (Eurogas, 2003: 3; GTE, 2003b: 2). They argued that harmonisation would fail to take into account different national circumstances and impose unnecessary costs on market participants. They were also concerned about the proposal to ensure protection for 'non-interruptible' customers. Both GTE and Eurogas argue that this category was far too broad as it would include larger consumers who had sufficient market information to decide whether or not they wanted to pay for high levels of

[67] The only energy industry body to support exemptions for small and new market participants was EFET who argued that such exemptions were a necessary practical measure for ensuring that security of supply measures did not interfere with the internal market. However they also emphasised that these exemptions should, "have a limited duration to avoid market distortions in the longer term" (EFET, 2002b: 2)

security of supply depending on their commercial needs. In their view, security of supply should not be regarded as a public good for most consumers in a liberalised market, but was instead a commodity which consumers could choose to pay for (Eurogas, 2003: 3; GTE, 2003b: 3).

5.1.1.2 Community response mechanisms

From the outset, Member States were strongly opposed to a major Commission role during supply disruptions and dismissed the proposal early in the negotiations. The major concern for most Member States was that the proposals would give the Commission carte blanche to adopt any measures, such as requiring the release of gas stocks or interrupting supplies to customers (Council, 2003i: 19). The Netherlands was, as with the harmonisation proposals, the most vehemently opposed, arguing that:

> "This opens the door to interference with contracts for transport, delivery, services and storage, creating uncertainty for market players and aggravating the investment climate. That is unacceptable" (Council, 2003i: 13)

Nonetheless the Commission continued to press for some role in coordinating national responses during major disruptions even if it did not have the power to require Member States to adopt specific measures (Council, 2003e: 7). As a result there was some discussion in the Council about what criteria had to be satisfied before the Commission could issue recommendations to Member States. The Greek Presidency suggested that a major supply disruption could be a situation when the European Union was likely to lose 20% of its gas supplies from external sources for more than 60 days, however no agreement was reached (Council, 2003d: 7).

Parliament was similarly opposed to the idea that the Commission could decide on crisis measures whenever supplies were disrupted. In the ITRE committee's report, they argued that the Commission should only be able to act if the Member States called for this themselves rather than being able to act on its own initiative. It therefore proposed that the Commission be granted the power to take decisions during major supply disruptions, but that the Member States would be able to decide if a disruption was significant enough to warrant European action (Parliament, 2003b: 18-19). This would involve some transfer of competences to the Commission, however it is clear from the report that the ITRE committee considered

this to be a last resort if industry and the Member States were struggling to cope with a supply disruption. They criticised what they termed, "The Commission's 'planned economy' approach" on the grounds that it may impact on the ability of the European gas industry to secure additional supplies from external sources, since it may place additional obligations on suppliers during supply disruptions (Parliament, 2003b: 26).

These concerns about a so-called 'planned economy' approach are identical to those expressed by industry. GTE were against any Commission decisions which would impact directly on, "the sanctity of contracts and the sovereignty of transmission companies over their assets" (GTE, 2003b: 3). Eurogas went further is stating that 'planning' by the Commission would be less effective that allowing the market to respond to supply disruptions:

> "Envisaged redistribution of gas throughout the EU, in the event of an "extraordinary gas situation", presupposes that gas (releases from storage) and capacity (provision of pipeline capacity) are available. If so, markets following price mechanisms and international companies can respond more quickly and efficiently than any public authority" (Eurogas, 2003: 4)

5.1.1.3 Long-term contracts

It is likely that there was a degree of strategic thinking on the part of the Commission when it proposed measures on long-term contracts. Although it wanted to increase the amount of gas traded on the spot-market in order to allow for gas-to-gas competition, it had to take account of the fact that several Member States viewed long-term contracts as crucial for the security of gas supplies. One interviewee from the UK government suggests that the Commission included this proposal partly to placate such Member States (Interview 11, 2011). It is certainly the case that several Member States welcomed that the Commission now viewed long-term contracts as an important aspect of the gas trade in Europe (Council, 2003i: 13). However many felt that the Commission's new found support did not go far enough, considering that long-term contracts were not mentioned as one of the recommended measures for national security policies. As a result, early drafts from the Greek Presidency added long-term contracts to the list in article 3 (Council, 2003c: 6-7; 2003d: 3-4).

However this was not the main source of contention during the negotiations. Instead the key issues during the Council negotiations were that the proposals would grant the Commission some competence on gas supplies to the Member States and would also give them access to a considerable amount of information about commercial contracts. Member States which were in favour of market liberalisation argued that allowing the Commission to issue recommendations or take decisions about the level of long-term contracts would fundamentally undermine the principles of the internal gas market (Council, 2003g: 4-5) (Council, 2003i: 12). Both the Netherlands and the UK argued that in a liberalised market, there should be minimal governmental intervention in the decisions taken by market participants:

> "We were up in arms over that because we have no control over contracts – there's no way we can tell suppliers, the shippers, what contracts they take out. And you know I said to the Commission 'we can't do this, we have no way of doing this'. And I think quite a lot of other countries realised that they couldn't make it happen either, you know, it was the actual industry that negotiated contracts" (Interview 11, 2011).

Member States were also reluctant to pass contract information onto the Commission. From the outset the Commission proposal for the reporting of all contracts over one year was rejected as unacceptable. Reporting contracts of this length would have meant that the Commission would have had access to information about almost all gas contracts in Europe since, as discussed in the previous chapter, spot-market trading of gas was not well developed in most national markets at this point. It is likely that some Member States were uneasy about this since that would have in effect extended the reporting requirements of the market liberalisation legislation and given the Commission a means of identifying barriers to third party access. What is certain is that pro-liberalisation states were in favour of the Commission being able to monitor long-term contracts, provided that commercially sensitive information was excluded (Council, 2003d: 6). Since the Commission and pro-liberalisation states insisted that the Commission should have some role in monitoring the supply base in Europe, early discussions focused on what contracts lengths may be included (Council, 2003e: 7). However no agreement was reached by May, with discussions ranging from 5 to 25 years (2003c: 5; 2003i: 5).

Parliament also took issue with the length of contracts set out in the proposals, with the ITRE committee insisting in its report that 15 years should be the threshold (Parliament, 2003b: 6). The stated reason for this was that shorter contracts were only relevant for the retail sector (distribution) and not security of supply, and should therefore not be included in the proposed directive (Parliament, 2003b: 6). It agreed with the argument put forward in Council, that the supply base of national markets was up to national market participants and the Commission should have no role in deciding the level of long-term contracts (Parliament, 2003b: 16-17). However it went further than the Member States by removing all additional reporting requirements

As with the other proposals, it is likely that industry actors played an important role in seeking to water down the Commission's original plans. Early in the negotiations they voiced their concerns about both Commission competences over the role of long-term contracts in the supply profile of Member States and what information could be shared with the Commission. Both GTE and Eurogas reiterated their stance that long-term contracts were vital for securing adequate gas supplies, but argued that decisions about the role of these contracts should be left to market participants (Eurogas, 2003: 4; GTE, 2003b: 3). Both bodies also took issue with the idea that one year contracts should be regarded as 'long-term', with GTE stating that this would be, "absolutely inadequate taken into account the lead time in investment in new and existing infrastructures" (GTE, 2003b: 3). Eurogas also argued that this was inadequate and that the length of supply contracts should be left to industry actors (Eurogas, 2003; Interview 8, 2011).

5.1.2 Outcomes

The result of the negotiations for this directive was a largely voluntary agreement which required no major changes to national policies, and no substantial transfer of competences from the national to the European level. Although Member States accepted that it would be beneficial to adopt 'general policies' for security of supply, the proposals were amended to ensure that no substantial policy changes would be required. The directive merely required that Member States define the roles and responsibilities for security of supply within their territory and published these policies. Member States were free to decide what standards and instruments to adopt for ensuring security of supplies. In contrast to the Commission's original proposals,

the final act did not require Member States to have access to strategic storage. The only requirement was that Member States had to ensure they could ensure continued supplies to household customers if supplies were interrupted, however Member States were free to set whatever disruption period they wanted to protect customers for. As a result the directive required no substantial harmonisation of national policies and security standards.

Other proposals were significantly cut back. The Council decided to accept that the Commission should be able to convene a Gas Coordination Group during major supply interruptions. The group would involve Member State and industry representatives and could issue guidance to Member States to help them deal with supply disruptions. However, the purpose of this group was primarily to exchange information and was not given any powers to issue binding decisions Member States and industry. The Council also decided that the group should only meet at the request of Member States or if there was a disruption of 20% of total gas imports to the EU over a period of eight weeks. The final act required Member States to report long-term contracts that lasted more than 10 years, rather the original 1 year duration proposed by the Commission. The only reporting requirement was the remaining duration of these contracts, with no requirements to publish volumes or contract details. The power of the Commission to issue recommendations and binding decisions on the level of these contracts was also removed.

Even though the directive did not require substantial changes to national policies, implementation was very poor (Interview 11, 2011). Although most Member States transposed the directive into national law by the May 2006 deadline, in most cases they failed to meet all of the requirements of the directive. Only two Member States communicated what emergency measures they would adopt during supply disruptions by the deadline, and by the end of 2007 only nine had done so (Commission, 2009d: 5). Unlike the internal market legislation, the Commission refrained from launching infringement proceedings against most Member States. Although proceedings were launched against Ireland, Luxembourg and Romania in 2006 these were closed a year later (Commission, 2009d: 5). According to interview sources, one of the major reasons for this was that the directive was so vague that it almost impossible for the Commission to pursue Member States (Interview 13, 2012).

5.2 Security of Gas Supply Regulation (2006-2010)

Two years after the gas supply directive was passed, the Commission indicated its intention to revise the directive in light of the 2006 supply disruption. This process, lasting nearly five years eventually culminated in the adoption of a replacement regulation. However this process was split into two discrete periods. During the first, stretching from 2006 to 2008, the Commission engaged in a largely unsuccessful process of 'softening up' where it attempted to convince the Council of the need for revised measures. This period would most likely have extended to the end of 2010 if it wasn't for the further, more serious, supply disruption at the start of 2009. As discussed in chapter three, the gradual securitisation which took place over this time became more intense in response to this disruption. This started a series of rapid formal and informal negotiations between the EU institutions about how to ensure that Europe could cope with future disruptions.

5.2.1 'Softening up'

5.2.1.1 Russia-Ukraine supply disruption and the 2006 proposals

Within the Commission there was considerable uncertainty as to whether they should become involved or whether this was a matter for the Member States (Interview 2, 2011). There were certainly formal barriers to their involvement. The 2004 directive had not yet come into force and the operating procedures for the Gas Coordination Group had not been written and approved. Commission sources claim that one of the major reasons why the procedures had not been written immediately after the directive was approved was because even though the Commission considered supply disruptions to be a potential risk, they did not expect supplies to be disrupted in the short term (Interview 2, 2011; Interview 3, 2011). Despite this, the Transport and Energy Commissioner Andris Pieblags decided to convene the group, although it did not actually meet before Gazprom and Naftogaz reached an agreement to end the dispute (Stern, 2006; Eurogas, 2006b; Interview 2, 2011: 14).

Although such a disruption was not anticipated by the Commission during the negotiations for the 2004 directive, it was used as a focusing event which pushed security of supply concerns back onto the political agenda (Interview 5, 2011). At a press conference following the first meeting of the Gas Coordination Group

Commissioner Piebalgs argued that although the 2004 directive was significantly weaker than the Commission's original proposals, it provided, "at least the basis of an appropriate mechanism to deal with such situations". As a result he stated the Commission's intention to start a discussion on a "more collective and cohesive policy on security of energy supply" (Piebalgs, 2006: 2). In March 2006 the Commission released a green paper on a common energy policy where it argued that the 2004 directive should be re-examined to ensure it was effective in responding to supply disruptions, and raised the possibility of issuing new legislative proposals if necessary (Commission, 2006e: 8-9). Compulsory gas stocks, which had proven so controversial for several Member States during the negotiations for the 2004 directive, were singled out by the Commission as one of the most effective ways of responding to supply disruptions.

While the response of the Parliament and Council to the Green Paper was on the whole supportive, the same cannot be said for the Commission's proposals to revise the 2004 directive and develop compulsory gas stocks. Neither issue is mentioned in the ITRE committee report or the Parliamentary resolution on the Green Paper (Parliament, 2006b, 2006a). Only the Parliament's Foreign Affairs committee called for new measures to deal with supply disruptions and on developing gas stocks (Parliament, 2006a: 22-24). The Council also expressed little support for any new measures. Although they stated that it was important to ensure, "the availability of effective mitigating measures and coordination mechanisms in the event of a supply crisis", they also stated that this should remain the responsibility of Member States (Council, 2006k: 5).

This is not to say that all Member States were opposed to EU-level measures or any revision of the 2004 directive. Some Member States such as Italy, Belgium and Portugal were in favour of strengthening European level crisis response mechanisms, but emphasised that any such measures had to take subsidiarity into account (2006c: 4; 2006d: 3-4; 2006f: 3). Belgium, Germany and Latvia supported having a greater role for strategic stocks in order to cope with supply disruptions, while Finland was against this (Platts, 2006; 2006e, 2006f). Nonetheless there was no clear consensus among the Member States in favour of revising the 2004 directive and no major shift in the Council's formal position on crisis response mechanisms or gas stocks (Council, 2006a, 2006g, 2006i).

As a result of the rather tepid response of the Parliament and Council, the Commission acknowledged that "further EU intervention is generally not welcomed" and that there was little basis for putting forward new proposals (Commission, 2006g: 26). It accepted that there was no clear consensus in favour of revising the existing security of supply legislation, and that the existing directive should be implemented before considering any new measures on supply disruptions and gas stocks (Commission, 2006g: 16, 27). In its 2007 Strategic Energy Review the Commission refrained from proposing any such measures. Instead it merely noted that strategic stocks could play a valuable role in ensuring the security of supplies and that it would monitor the implementation of the 2004 directive (Commission, 2007b: 11).

5.2.1.2 Second Strategic Energy Review

During 2007 and 2008, the intensification of threat continued. As discussed in chapter three, the Council began to claim that there was a need to improve security of supply in the EU (Council, 2007b: 12). Taking advantage of these concerns the Commission issued a second Strategic Energy Review in November 2008 where it stated its intention to put forward proposals for a revision of the 2004 directive in 2010 after consultation with Member States, Parliament and market participants (Commission, 2008c: 11). It also issued a report on the directive where it set out its views on how to amend the existing provisions on supply standards, national policies and measures and crisis response mechanisms.

The Commission was concerned with the major differences in how each Member State had chosen to implement the security of supply standards, arguing that inconsistency between Member State policies could interfere with the functioning of the internal market and the ability of Member States to assist each other during supply disruptions. It proposed that Member State policies should be assessed on the basis of risk assessments to avoid both of these potential problems, and suggested some harmonisation of supply standards. It argued that this would allow Member States to build up a "supply security margin" that could be used to ensure supplies to protected customers while also allowing Member States to assist each other during supply disruptions (Commission, 2008b: 8-9).

The Commission emphasised however that the actual measures taken to meet the security of supply standards would be up to Member States (Commission, 2008b: 8-

11). It explicitly backed away from proposing compulsory gas stocks, accepting that this could be prohibitively expensive in most cases (Commission, 2008c: 11). While this was probably based on political, as much as economic considerations, it was also in line with the findings of a report on gas storage in Europe which Ramboll Oil and Gas completed for the Commission just before the Second Strategic Energy Review was issued (Ramboll Oil & Gas, 2008). The Commission did however argue that commercial storage should be promoted, and included storage as one of the 'suggested instruments' for Member States to meet their security of supply standards (Commission, 2008b: 10-11).

The Commission also argued that there was a need to revise the existing crisis response mechanism as it considered it to be ineffective and cumbersome. The threshold for automatic community action was, it argued, excessively high and was not activated during the 2006 disruption (Commission, 2008b: 6). It suggested that during supply disruptions it may be more useful to allow for regional actions prior to EU intervention if national responses were not sufficient (Commission, 2008b: 9). While it considered the Gas Coordination Group to be a useful forum for discussing how to respond to supply disruptions, it argued that this should be supplemented by pre-defined emergency plans so as to avoid ad-hoc responses (Commission, 2008b: 4).

5.2.2 Negotiations

Before the EU institutions and gas market participants could respond to the Commission's pre-proposals, supplies on the Russia-Ukraine route were interrupted once more in January 2009. As discussed in chapter two, this disruption was considerably more serious than in 2006, and led to the interruption of supplies to Europe for almost three weeks. In response to the disruption, the Commission convened the Gas Coordination Group and dispatched monitors to both the Russia-Ukraine border with the agreement of both governments in order to identify the causes of the disruption (Barroso, 2009). The gas industry worked to redirect supplies to the worst affected areas in Eastern Europe and a consortium of companies backed by the German and Italian governments attempted to work with Gazprom and Naftogaz to resume supplies (Pirani et al., 2009: 47-49). Member States adopted a variety of measures to assist other Member States, such as the UK exporting additional gas to mainland Europe and Greece sharing gas from its LNG terminal

with Bulgaria (Platts, 2009c; Gas Coordination Group, 2009c: 1). The disruption also led some Member States to take more exceptional measures. Bulgaria and Slovakia both restarted nuclear reactors to reduce their gas demand in violation of their accession treaties to the EU (Platts, 2009b, 2009d; EurActiv, 2009a, 2009b). Eventually the dispute ended after Gazprom and Naftogaz signed a new ten-year supply and transit contract with gas flows returning to normal on 22nd January (Pirani et al., 2009: 19).

This disruption acted as a catalyst for a substantial shift in EU energy policymaking, with the Commission, Council and Parliament all in complete agreement about the need to develop new legislation to address the security of gas supplies (Interview 9, 2011). The extraordinary Energy council convened on January 12th to discuss the crisis and called for the Commission's proposed revision of the 2004 security of gas supply directive to be accelerated as a matter of urgency (Council, 2009d: 1). The Parliament also called for the rapid adoption of new legislations in a resolution issued at the beginning of February (Parliament, 2009c: 12; Interview 4, 2011). The Commission responded by signalling its intention to propose a regulation rather than a revised directive, which was accepted by the Council (Council, 2009e: 13). The Commission later stated that the main reason for this was that a directive could take a long time to implement in contrast to a regulation which would be immediately binding of Member States and market participants (Commission, 2009b: 31-32; Interview 9, 2011).

Unlike the other legislative proposals discussed above and in the previous chapter, most of the 'negotiations' for this regulation took place on an informal basis between participants in the Gas Coordination Group before the Commission issued its formal proposals. According to one Member State source, there was a great deal of "flexibility" in these discussions: "we knew what we wanted the end game to be, it was just a question of how we achieve it" (Interview 13, 2012). The sharing of 'best practice' among the Member States was actively encouraged by the Commission and was used to strengthen their proposals (Interview 13, 2012). Austria for instance gave a presentation on its own national emergency plans, while the UK presented its regional arrangements with Ireland (Interview 4, 2011; Interview 12, 2011; Interview 13, 2012). Even market participants in the group who were more sceptical about the need for new legislation such as Eurogas accepted the need to be constructive in light

of the clear consensus that had emerged between the Commission, Parliament and Council (Eurogas, 2009b: 2; Interview 8, 2011).

These informal negotiations meant that when the Commission put forward its formal proposals in July 2009 at an accelerated pace, many of the main policy proposals had already been discussed in depth by the Member States and the gas industry. A few months after the proposals were issued the Council expressed their support for most of the measures (Council, 2009b: 2). The Commission's proposals focused on the same areas as the 2004 directive, namely, setting out a framework for national security of supply policies, harmonising security standards, setting up community response mechanisms and setting out requirements on long-term contracts.

5.2.2.1 National policies

In its formal proposals, the Commission set out detailed provisions for national security of supply policies. It proposed that Member States should designate either the national regulator or a government agency as a 'competent authority' for implementing the measures in the regulation and coordinating with competent authorities in other Member States (Commission, 2009c: 10). This authority would be responsible for conducting national risk assessments, drawing up 'preventative action' and 'emergency' plans and sharing these with neighbouring Member States to ensure consistency. The preventative action plan would set out the measures needed to alleviate identified risks, while the emergency plan would set out in advance the roles, responsibilities and measures for responding to supply disruptions. The Commission specified three crisis levels to be incorporated into these plans, and proposed that only at the most serious level (emergency) should non-market measures be allowed (Commission, 2009c: 10).

No major criticisms were made of these proposals and they were passed unaltered. These proposals involved a degree of harmonisation since they involved detailed provisions for how Member State policies should be set up. In line with the Commission's pre-proposals, these proposals do not dictate to Member States which measures they should adopt in their emergency plans, only that they should rely on market-based measures as much as possible. There are, for instance, no provisions for compulsory storage, as the Commission had proposed for the 2004 directive.

The supply disruption had actually briefly renewed discussions about the possibility of requiring Member States to hold compulsory gas stocks. During the disruption Energy Commissioner Piebalgs told a press conference, "I know the EC said that it was an excessive measure [...] but we can clearly see the countries where there have been strategic stocks are clearly benefiting from this situation and even helped other countries" (Platts, 2009a: 2). However industry bodies argued against this proposal because while they argued that storage had been very useful during the crisis, developing strategic storage would lead to a lack of investment in commercial storage which would, in turn, increase the need for strategic storage (GIE, 2009a: 2). As a result they argued in favour of encouraging the development of commercial storage (Eurogas, 2009b: 5). The disruption was also not enough to overcome differences within the Council (2009c: 4). As a result this was dropped from the Commission's proposals in February (Platts, 2009g).

5.2.2.2 Harmonised security standards

The Commission proposed two standards that went much further than those found in the 2004 directive. The first was the infrastructure standard (also known as N-1), which would require Member States to ensure that they if the largest infrastructure (i.e. transit pipeline) was disrupted then other infrastructure had to be able to allow for the delivery of enough gas to meet total gas demand (Commission, 2009c: 12-13). The second was the supply standard which stated that even if supplies were disrupted, Member States had to be able to maintain gas supplies to 'protected customers' for a period of 60 days (Commission, 2009c: 13-14). Protected customers had to include all household customers, but Member States were free to extend these under certain conditions (Commission, 2009c: 10).

Of all the Commission proposals, the security of supply standards took up the most time during negotiations (Interview 4, 2011; Interview 9, 2011). Although there were no disagreements about the need for harmonised standards, there were extensive discussions about making sure that Member States would be able to implement these standards and that there was some flexibility built in to take account of national differences (Interview 13, 2012).

The N-1 standard was problematic for some of the eastern Member States who had less diversified supplies and were dependent on a single pipeline for their gas supplies (Interview 4, 2011). The problem for countries like Bulgaria, Slovakia and

Slovenia was that if supplies were disrupted on that pipeline then it would prove impossible for them to meet the N-1 standard without substantial and costly investment in new connections (Interview 13, 2012). However since the proposal already allowed for this standard to be met on a regional basis, the Council supported this standard early on (Council, 2009b: 5; Interview 4, 2011). While the Parliament's ITRE committee were not as convinced about the N-1 standard they decided not to challenge the Council's common position in order to allow the regulation to pass quickly (Platts, 2010a).

Supply standard raised similar issues since meeting these standards could prove to be very costly, particularly for eastern Member States; however the other issue was over whether these should be rigid standards or minimum requirements. Some of the larger Member States already had higher supply standards, either by maintaining supplies for more than 60 days or by protecting a wider range of customers, and did not want to reduce them (Interview 9, 2011). The concern was however that if Member States adopted higher standards then they may be less willing to share gas with other Member States during supply disruptions and privilege their own markets. To accommodate these different concerns, the Council and the ITRE committee reached a compromise during discussions in early 2010 before Parliament's first reading. The duration of the supply standard was reduced to 30 days, but Member States were permitted to set higher standards (Platts, 2010c). It was also agreed that in national preventative action and emergency plans, competent authorities would have to state how higher standards could be reduced during regional or Europe-wide emergencies.

5.2.2.3 Community response mechanisms

In the Second Strategic Energy Review, the Commission had argued that the existing threshold of a 20% reduction in supplies for 8 weeks was too high and suggested that regional measures could be enacted prior to taking action at the EU level. In its formal proposals it proposed both of these ideas. It suggested reducing the threshold to 10% reduction in daily gas imports from external sources and said that this could apply to the EU as a whole or to regions. In this case the Commission would declare a Community (or Regional) Emergency and coordinate the responses of the relevant Competent Authorities through the Gas Coordination Group (Commission, 2009c: 16-17). As was the case under the 2004 directive, the competent authorities could

request that the Commission convene the Gas Coordination Group. The proposal also included provisions which prevented any market participant or Competent Authority from restricting the flow of gas at any time. The Commission would have the power to monitor this and require competent authorities to change their national crisis levels, which would legally prevent them from adopting emergency measures.

The issue of how to allocate authority during supply disruptions raised concerns for the Council and Parliament. The emphasised that market participants should be allowed to respond to supply disruptions in the first instance before either Member States or the Gas Coordination Group became involved (Council, 2009b: 3; Parliament, 2009a: 18-20). This had already been stated in the Commission's proposal, but both institutions sought to emphasise this aspect of the proposal for both how the Community and individual Member States should respond during a disruption.

There was wide support for the regional element of the proposal, with the ITRE committee suggesting that in addition to the Community threshold there should be a 10% regional disruption threshold which would allow the Commission to declare a regional emergency (Parliament, 2009a: 32). However automatic thresholds at the regional and Community level were removed from the final act. Likewise, the Commission proposed powers over national crisis levels were removed. Part of the reason for this is that at the end of the negotiations some Member States raised late concerns about the Commission's powers (Interview 9, 2011). While this meant that the Commission was unsuccessful in obtaining competences over this aspect of policy, one Member State source suggests that this should not be interpreted as a failure. In particular the Commission retained its ability to challenge national emergency levels which, this source argues, should have fundamentally the same effect as the proposed measures (Interview 13, 2012). In the case of supply disruption response, even though the Commission did not gain competences, it was successful in obtaining a major role in coordinating the responses of competent authorities if requested by the Member States.

5.2.2.4 Long term contracts

Connected to the issue of information exchange was the question of what information on long term contracts should be given to the Commission. Under the previous directive the Member States agreed to share information on the remaining

duration of contracts that were over 10 years in length, but did not agree to any further reporting requirements or to the Commission's proposals to issue binding rules on the level of these contracts within national gas markets. For this regulation however the Commission proposed that all long term contracts under one year, including those currently being negotiated with third-country suppliers, should be submitted to the Commission for review. This information should include contract duration, but should be extended to contract volumes, delivery points and the level of take-or-pay agreements within the contract. The Commission did not propose any new powers, but it considered this to be important information for the purposes of managing supply situations.

Surprisingly considering the Member States' long standing resistance to giving the Commission access to this information, there was agreement with the basic idea of this proposal. Some of this information had already been shared with the Commission during the supply disruption which gave the Member States less reasons to reject the proposals. Some concerns were raised about the commercial sensitivity of the data in the Council and Parliament, but Member States agreed to share this data through their competent authorities in aggregate form to protect individual companies (Parliament, 2009a: 28; Interview 9, 2011; Interview 13, 2012). No objections were raised to the length of the contracts, even though this would include many contracts which were not 'long-term' based on the traditional length of gas transit contracts (see chapter 2).

There were however two issues which caused some disagreement. First, there was resistance to reporting take-or-pay obligations within these contracts. Based on the available data it is difficult to offer a clear assessment of this, but one possible reason may be that some Member States did not want to upset their established relationships with suppliers (Interview 13, 2012). Second, Member States refused to hand over information on contracts which were currently being negotiated. One Commission source claims that this was not a problem for the Commission because, "at the end, you don't want information for any other purpose than to prepare measures for the future or to provide this information to the Council and the Parliament" (Interview 9, 2011). In the final act, both of these elements were removed, while the other reporting requirements in the proposal were retained.

5.2.2 Outcomes

The end result of these negotiations was an overall success for the Commission. Most elements of their formal proposals were accepted without amendment. The proposed harmonisation of national policies, supply standards and long-term contract reporting were all accepted by the Council and Parliament with only minor changes to the Commission's original proposals. The Commission was however not successful in transferring competences to the EU level in most aspects of the proposal.

This regulation is, at the time of writing, in the final few months of the implementation stage. Although this precludes a final assessment of the Member State compliance with the rules there are indications that the Member States are on track to meet all agreed requirements. All Member States have informed the Commission of who their competent authority is, and have submitted information on their public service obligations which both of which have been published on the DG Energy website. They are due to publish their preventative action and emergency plans by December 2012. Sources indicate that Member States have been actively involved in sharing plans and risk assessments, and that they are on track to meet the relevant deadlines (Interview 9, 2011; Interview 13, 2012). The Gas Coordination Group was formally modified in line with the regulation in August 2011. It can be tentatively concluded that compliance with European rules is high in this case.

5.3 Conclusion

This chapter has sought to examine the impact of securitisation on policy negotiations and outcomes in EU legislation for security standards and crisis response mechanisms. It did this through the comparison of the 2004 directive and 2010 regulation on security of gas supply. Evidence suggests that the level of securitisation had an impact on both legislative processes. In the case of the 2004 directive the low level of securitisation meant the Member States and Parliament did not consider there to be any need for EU level policies in this area. All of the Commission's proposals on harmonised security of supply standards, compulsory gas stocks, crisis response mechanisms and long-term contracts were significantly watered down during the negotiations. This led to a lowest common denominator agreement with little significant europeanisation.

In the pre-proposal stage of the 2010 regulation, the potential threat of supply disruptions initially did not lead to significant changes in the Council's position which did not consider any need to revisit the original directive. After the 2009 supply disruption however, the Council was belatedly convinced of the need for new measures which led to the rapid acceleration of the Commission proposals. Negotiations were completed rapidly and most aspects of the Commission's proposals were adopted with only minor changes. There was a significant and unchallenged harmonisation of national policies and supply standards, while the Commission also gained access to information on long-term contracts. The one area where the Commission was not successful was in the transfer of competences. It was tasked instead with a coordinating role on security of supply, which is in line with their original proposals.

6 Conclusion

This thesis has set out to examine the relationship between the securitisation of natural gas supplies and the development of EU energy policy. This conclusion aims to synthesise the findings of the previous chapters in order to address the two research questions set out at the start of this thesis:

1. To what extent have natural gas supplies to the European Union been securitised and how has this process occurred?
2. What effect has the level of securitisation had on EU energy policy negotiations and to what extent has it facilitated or hindered its europeanisation?

6.1 Securitisation of Natural Gas Supplies

This research has found evidence of the gradual desecuritisation of natural gas supplies between 1980 and 2005, followed by a more rapid securitisation of natural gas supplies between 2006 and 2010. Based on the analysis of discourse in chapter three, it was argued that the 1970s oil crises cast a long shadow over European energy policy throughout the 1980s. All other aspects of energy policy were subordinated to attempts to ensure that oil supplies, as the primary energy source in Europe, were secure. Between 1980 and 1999 the Commission repeatedly argued that gas supplies were not threatened to the same extent as oil supplies. Instead they were represented as a useful means of diversifying Europe's energy mix away from over-reliance on oil. Not only did this provide Member States with an immediate response to the continuing threat of oil insecurity; it also allowed the Commission to shift energy policy discussion back to broader concerns such as converging Member State energy policies and developing a common market for energy products.

This did not mean however that security of supply concerns entirely disappeared from the EU energy discourse. Although the Council and Parliament did not consider gas supplies to be threatened during the 1990s they continued to express

some concerns about the security of supplies in light of the Commission's proposals for developing an internal gas market between 1992 and 1998. As shown in chapter four, the European gas industry and some Member States were concerned that the development of an internal gas market may have a detrimental impact on what they regarded as a high level of security of supply by undermining the traditional gas market model based on long-term contracts and vertically integrated national gas companies. This did not mean that these actors considered gas supplies to be under threat, but it did mean that latent security of supply concerns prevailed into the 1990s.

Between 2000 and 2005 the Commission switched from emphasising the lack of threats to gas supplies to framing all energy use as insecure and susceptible to a range of potential physical, economic, political and environmental threats. Increasing energy, oil and gas dependence, combined with potential supply disruptions were explicitly framed as 'structural weaknesses', 'vulnerabilities' and 'risks', in order to justify the development of European policy measures across the energy sector. While this was the first step towards the securitisation of gas supplies, it only represented a securitising move. It was not accompanied by intersubjective agreement about the level of threat as the Council, Parliament and gas industry explicitly rejected the Commission's arguments about threat, risk and vulnerability throughout this period. This lack of securitisation was also evident during the negotiation of the second internal gas market directive and the security of supply directive during this period. The latent security of supply concerns which were present during the negotiations for the first gas market directive had, as discussed in chapters four and five, receded into the background.

There was a reversal of this trend towards desecuritisation from 2006 onwards. Following the disruption of gas supplies on the Russia-Ukraine route at the beginning of 2006, intersubjective agreement emerged between the Commission, Parliament and Council that gas supplies were at risk. The Parliament was the first to accept that supplies were threatened, portraying Russia as an 'enemy' which could exploit Europe's 'vulnerabilities' through the use of its 'gas weapon'. Increasing numbers of Member States began to express such concerns in the lead up to the 2009 supply disruption, which was followed by near unanimous agreement after supplies were shutoff.

Analysis of discourse also indicates that while at no point have threats to the security of gas supplies been intersubjectively understood as existential threats to survival, there have been important shifts between levels of securitisation. During the 1990s the gas industry highlighted what they regarded as the 'latent threats' to the security of supplies which would arise if the traditional gas market model was changed through the liberalisation and integration of European gas markets. In the early 2000s the Commission began to view energy issues in general and gas in particular through a risk framing which identified a variety of 'potential threats' which, they argued, stemmed from ongoing changes in the energy context. During the 2006-2010 period when the 'potential threat' of gas supply disruptions was realised in practice, a gradual consensus emerged among the EU institutions that gas supplies faced 'urgent threats' which required the adoption of urgent countermeasures.

This research also sought to 'contextualise' these securitising moves through an examination of changes in the material context and what Balzacq calls 'brute threats'. Between 1980 and 2010, gas consumption and the share of gas in the energy mix has substantially increased in Europe as a whole and in Member States from Western Europe in particular. Across this time gas import dependence has also consistently increased year on year. Since 2000 increases in European gas import dependence have accelerated, bypassing energy import dependence in 2004, and are projected to increase over the coming decades. Source dependence on Russia, which has consistently been Europe's largest gas supplier, has decreased over this time. However this been the result of Member States in Western Europe meeting their rising gas needs through additional supplies from alternative sources such as Algeria and Norway rather than due to any reduction in consumption. Member States in Central and Eastern Europe in contrast remained highly dependent on Russian gas between 1990 and 2010.

In addition to these dependence trends, the three supply disruptions between 2004 and 2009 have to differing degrees had a direct impact on the availability of gas supplies to Europe. As discussed in chapter two, the 2004 and 2006 disruptions only lasted 36 hours and did not force national gas companies and governments in Europe to stop supplies to consumers. The 2009 disruption on the other hand lasted three weeks resulting in major supply shortfalls. The impact was most severe in those Member States which had the greatest dependence on Russian imports, leading them

to adopt various emergency measures to reallocate available supplies and in some cases interrupt customers.

These changes in the material context and the emergence of 'brute threats' played an important role in the process of securitisation. As discussed in chapter three, they were used by the Commission in particular as 'resources' to support their securitising moves. They were also used, as discussed in chapter four, to support the claims of the gas industry that market liberalisation would undermine security of supply. The two Russia-Ukraine supply disruptions also served as focusing events which could be exploited by the Commission to push threats to the security of supplies onto the political agenda. However, we should be cautious about viewing these contextual factors and brute threats as 'causes' of securitisation in any deterministic sense. As discussed in chapter two, actual and projected rises in dependence are not new developments, but have been a constant feature of European energy policy throughout the 1990s and early 2000s when supplies were not securitised. Likewise, there is a history of minor disruptions to gas supplies bound for Europe which occurred during the period of gradual desecuritisation, including the 2004 Russia-Belarus disruption. This indicates that these factors did not in and of themselves lead to the securitisation of supplies.

Instead of viewing these as 'causes', the impact that changes in the material context and the emergence of brute threats had on securitisation should instead be viewed through the composition of the most important audience, namely the Council. As highlighted in chapter two, there are long standing and significant differences in the levels of gas use, import dependence and source dependence between the Member States, leading to different levels of exposure to supply disruptions from particular sources. Eastern enlargements in 2004 and 2007, meant that the balance of interests among the Member States shifted considerably, making the Council more susceptible to securitising moves. Most of the new Member States had greater levels of source dependence on Russia than western Member States, meaning that they were more likely to accept Commission arguments that growing dependence constituted a threat. As a result when supply disruptions occurred, they had the greatest impact on eastern Member States. These national differences did not 'cause' securitisation, but they altered how receptive the audience was to securitising moves.

These empirical findings have important theoretical implications for the study of securitisation. They highlight some of the limitations of a Copenhagen School understanding of securitisation and demonstrate the utility of adopting a theoretical framework which draws from more recent critiques of the school. The finding that the level of securitisation shifted at a gradual pace between 1980 and 2010 demonstrates the importance of examining long-term processes of securitisation. Conventional Copenhagen School analyses would have been unable to examine these processes due their focus on short-term episodes of dramatic discursive and policy change.

6.2 Europeanisation of Natural Gas Policy

Turning now to the second question, this research shows evidence of the incremental europeanisation of natural gas policy. In both cases, policy outcomes have moved ever closer to a liberal understanding of how gas supplies should be secured based on an integrated European gas market with harmonised security of supply standards and provisions for a collective response during supply disruptions. There has been a gradual development of binding rules at the European level, and the Commission has been granted some new competences in order to enforce the collective agreements which Member States have signed up to. However the developed of EU policy has proceeded at different paces in these two cases.

In chapter four it was seen that the development of an internal market for natural gas has been a very slow process. The first gas directive set less ambitious targets for market opening and involved less stringent rules on third party access to transmission and distribution networks than were required under the accompanying electricity directive. Although this began the process of liberalising markets, gas markets remained national, with almost no integration. The second gas directive was more ambitious and brought the legislation for the internal gas market in line with the internal electricity market. This directive required legal unbundling of vertically integrated gas companies, the establishment of an independent national regulator, regulation of third-party access to gas networks and full opening of national markets to gas-to-gas competition. In the case of the third directive, the Commission sought to establish European level organisations for the cooperation of transmission companies and national regulators. In addition it proposed an extension of the unbundling requirements under the previous directive and sought to extend these

rules to companies from third-countries with the so-called 'Gazprom clause'. The Commission was successful in gaining approval for the first two measures and was also successful with the latter two, subject to some modifications.

There has also been a gradual move towards harmonised security of supply standards and European crisis response mechanisms for gas. As shown in chapter five, the Commission's original proposals in 2002 were almost completely rejected, resulting in an agreement which required no substantial harmonisation of national policies. Proposals for Commission competence over the allocation of compulsory national gas stocks were also rejected, and the final directive required almost no changes to national security of supply policies. The proposals for an urgent replacement regulation in 2009 following the second Russia-Ukraine supply disruption were by contrast far more successful for the Commission. Proposed measures on harmonising national security of supply policies and standards were agreed as was a greater Commission role in the coordination of national authorities during supply disruptions.

Through a comparison of the negotiations this research has found that the level of securitisation has played an important role in whether the negotiations have been divisive or consensual. However the precise impact of securitisation differs between the two case studies. While higher levels of securitisation have had a negative impact on negotiations for the internal gas market, they have had a positive impact on negotiations for security of supply standards and crisis response mechanisms.

As discussed in chapter four, the Commission's proposals for the first gas directive were more limited than those for the electricity directive, as they correctly anticipated that they would face considerable opposition from the gas industry and Member States due to ingrained concerns about undermining the traditional model for securing gas supplies. These concerns meant that negotiations for this directive were protracted and difficult and meant that some barriers to the development of a liberal understanding of gas security were put in place. In particular Member States were granted the power to put in place measures to derogate companies which held long-term contracts from the third-party access rules. The second gas directive negotiations in contrast were far more consensual as a result of diminishing concerns about threats to security of gas supplies. Negotiations were completed at a much faster pace than the first directive and, with the exception of France and Germany,

the Member States were supportive of the Commission's proposals. The Council did succeed in introducing an industry-supported measure on further derogations for new infrastructure projects from third-party access, which would appear to further strengthen the traditional model for securing gas supplies. However in contrast to the earlier long-term contract derogations these were placed under the supervision of the Commission instead of being left to Member States.

Negotiations for the third gas directive took place as security of supply concerns were again moving up the political agenda. In contrast to the first gas directive proposals when the Commission deliberately issued less ambitious proposals than in the electricity directive, in this case it opted to address these security of supply concerns directly within its proposals. It included the third-country clause in order to address the concerns that more onerous unbundling requirements may be resisted by Member States in Eastern Europe due to their fear that Gazprom may acquire parts of their transmission and distribution networks, locking them into their already high dependence on Russian gas. As the most controversial and divisive measures, unbundling and the third-country clause dominated the negotiations. Policy debates regarding these measures were difficult, leading to the adoption of alternative unbundling arrangements and changes to the Gazprom clause which granted national regulators the power to decide on derogations rather than the Commission. However, it is important to note that even if negotiations were divisive, the unbundling measures still involved strong regulatory oversight over unbundling and other measures establishing organisations for the cooperation of transmission companies and national regulators were not blocked as a result of these difficult negotiations on unbundling.

In chapter five by contrast it was shown that the impact of securitisation on negotiations was different in the legislation to harmonise security standards and crisis response mechanisms. Negotiations for the security directive were contentious and difficult primarily because there was no intersubjective agreement about threats to the security of supplies. Instead there was near unanimous agreement between the Parliament, Council and gas industry that there was no reason to accept changes to national policies. During the negotiations the directive was subject to extensive amendments on national policies, crisis measures and information about long-term contracts. The negotiation of the subsequent security regulation however took place during the gradual intensification of threat following the 2006 supply disruption. At

first there was little indication that the Member States were willing to soften their stance, which forced the Commission to drop its plans to revise the 2004 directive to compulsory gas stocks as a key harmonising measure. However following the 2009 supply disruption there was widespread acceptance among the EU institutions that the security directive should be replaced. Despite the Commission issuing proposals which were more harmonising than its 2002 proposals, the negotiations were highly consensual leading to a rapid agreement with minimal changes to ensure that Member States were given ample opportunities to respond to supply disruptions. This research further demonstrates the limitations of the Copenhagen School perspective and the benefits of the theoretical framework used in this thesis. The finding that policy outcomes have moved in a more europeanising direction is an important finding because it illustrates that extraordinary measures are not the only possible outcome of attempts to securitise policy issues. The europeanisation of policy outputs represents a major policy change in the context of European policy for natural gas. Furthermore, the finding that securitisation has had different impacts on the policy negotiations demonstrates the utility of detailed analysis of the different roles which securitisation can play within policy processes. It demonstrates that it cannot be assumed that successful securitisation will enable policy change, particularly when securitisation has not reached the level of existential threats.

Appendix: List of Interviews

Most interviewees requested that their identities should remain anonymous regardless of whether their comments were quoted directly or paraphrased. As a result they are identified by their institutional affiliation, and the date of interview.

Interview 1 — Brussels, 17th June 2011
Commission Official (DG Competition)

Interview 2 — Brussels, 23rd June 2011
Commission Official (DG Energy)

Interview 3 — Brussels, 24th June 2011
Commission Official[68]

Interview 4 — Brussels, 28th June 2011
Commission Official (DG Energy)

Interview 5 — Brussels, 4th July 2011
Commission Official (DG Energy)

Interview 6 — Brussels, 5th July 2011
Commission Official (DG Energy)

Interview 7 — Brussels, 5th July 2011
Commission Official (DG Energy)

Interview 8 — Brussels, 6th July 2011
Eurogas Official

Interview 9 — Brussels, 6th July 2011
Commission Official (DG Energy)

Interview 10 — Brussels, 8th July 2011
Commission Official (DG Energy)

Interview 11 — Glasgow, 21st July 2011
UK Government Official (DECC)

Interview 12 — Vienna, 3rd October, 2011
E-Control Officials

Interview 13 — London, 2nd April 2012
UK Government Official (DECC)

[68] This interviewee requested that I do not disclose the specific DG they work in for confidentiality reasons.

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